

# Senate Bill 1537 - Section 39 Exemption Intake Form Full content

## Part A: Process for Requesting Adjustments

1. City Name  
Milwaukie
2. Please describe the local process for reviewing requests to adjust development and design standards for applications for the development of housing. Include links or references to code sections of application review procedures. If procedures for requesting adjustments vary between development and design standards under Section 38 (4) & (5), please indicate so and explain which procedures apply for different standards.

Milwaukie Municipal Code (MMC) [19.911](#) includes the applicability and requirements for applications for variances (adjustments) for both development and design standards. Variances provide relief from specific code provisions that have the unintended effect of preventing reasonable development or imposing undue hardship. Variances are intended to provide some flexibility while ensuring that the intent of each development standard is met. Except for specific situations listed as ineligible variances in [MMC 19.911.2.B](#), a variance may be requested to any standard or regulation in Titles 17 or 19 of the MMC, unless otherwise specified in the code. Note that the Milwaukie zoning code also provides alternative, discretionary means of compliance, rather than a variance process, in a few instances. This distinction is addressed below (downtown design review, planned unit development, multi-unit residential development, and off-street and bicycle parking modifications) and within the submittal as applicable.

Variance applications are evaluated through either a [Type II or III review](#), depending on the nature and scope of the variance request and the discretion involved in the decision-making process. Variance applications may be combined with, and reviewed concurrently with, other land use applications. One variance application may include up to three variance requests. Each variance request must be addressed separately in the application. If all of the variance requests are Type II, the application will be processed through a Type II review. If one or more of the variance requests is Type III, the application will be processed through a Type III review. Additional variance requests must be made on a separate variance application.

Type II variances allow for limited variations to specifically identified numerical standards and are identified with specific allowances in [19.911.3.B](#), such as lot width and depth, minimum setbacks, maximum lot coverage, etc. There are specific approval criteria for Type II variances [19.911.4.A](#). Type II applications include public notice with the Planning Manager as decision-maker as described in [MMC 19.1005](#).

All other variances, outside of the Type II variances, are reviewed as Type III applications with specific approval criteria in [19.911.4.B](#). Type III variances are variances that do not qualify for Type II variance review, with no limitation on the percentage or amount of variance that may be requested. Type III variances allow for larger or more complex variations to standards that require additional discretion and warrant a public hearing consistent with the Type III review process. Any variance request that is not specifically listed as a Type II variance per Subsection 19.911.3.B must be evaluated through a Type III review per Section [19.1006](#). Type III 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 [19.1006](#). The criteria for a Type III variance may be found in [MMC 19.911.4.B](#).

- **Downtown Development.** Development in the Downtown Mixed Use Zone (DMU) is regulated by the base zone standards in [MMC 19.304](#), the downtown site and building design standards in [MMC 19.508](#), and the design review process outlined in [MMC 19.907](#), which describes what type of development is exempt from review or subject to Type I, Type II, or Type III review.
  - Variances cannot be granted for the downtown design standards of Section [19.508](#). Applications unable to meet one or more standards must meet the applicable downtown design guideline(s) in Subsection [19.508.4](#) instead and use the Type III discretionary downtown design review process outlined in [MMC 19.907.3](#).
  - Variances can be granted for the downtown development standards of Section [19.304](#) unless otherwise specified, through the variance review process in Section [19.911](#).
  - Multi-unit residential development in the DMU is reviewed per the downtown development regulations described here. Multi-unit residential development proposed in residential zones is reviewed per [MMC 19.505.3](#) described below.
  
- **Planned Unit Development.** As described in [MMC 19.311](#), the purpose of a planned unit development is to: provide a more desirable environment than is possible through the strict application of Zoning Ordinance requirements; To encourage greater flexibility of design and the application of new techniques in land Development; To provide a more efficient, aesthetic, and desirable use of public and private common open space; To promote variety in the physical development pattern of the City; To encourage a mix of housing types and to allow a mix of residential and other land uses; and To provide an alternative discretionary review process for projects requiring more flexibility than what would be provided through the standard clear and objective development review or land division process.
  - [Section 19.311.3](#) allows for a reduction in minimum area, width, depth, frontage and setback requirements and an increase to maximum density. A Type IV quasi-judicial

procedure requires public notice and an opportunity for written and/or verbal comment at a public hearing before the Planning Commission and the City Council, per [MMC 19.1007](#). Approved PDs may be modified through a Type I or Type II administrative procedure, depending on the level of variation requested per [MMC 19.311.15](#).

- **Multi-unit residential development in residential zones (Moderate Density and High Density Residential zones – R-MD and R-HD respectively).** Variances can be granted for the base zone standards of Sections [19.301](#) and [19.302](#) unless otherwise specified, through the variance review process in Section [19.911](#). Multi-unit residential development in residential zones is subject to the design standards as described in [MMC 19.505.3](#). Two possible review processes are available for review of multi-unit residential development in residential zones: objective and discretionary. An applicant may choose which process to use. The objective process uses clear objective standards that do not require the use of discretionary decision-making; applications are reviewed through an administrative Type I process per [19.1004](#) with the Planning Manager as decision-maker. The discretionary process uses design guidelines that are more discretionary in nature and are intended to provide the applicant with more design flexibility; applications are reviewed through the Type II process per [19.1005](#) with public notice and the Planning Manager as decision-maker. Regardless of the review process, the applicant must demonstrate how the applicable standards or guidelines are being met.
- **Off Street Parking.** There are no minimum quantity requirements for off-street vehicle parking, but there are parking maximums, per [MMC 19.605.1](#). Modifications to these quantity maximums are not variances; rather [19.605.2](#) provides a process for modifications and quantity determinations through a Type II process, with public notice and Planning Manager approval.
  - **Minimum quantity requirements for bicycle parking are provided in [19.609.2](#). Modifications to these quantity requirements are not variances; rather [19.609.3](#) provides a process for modifications and quantity determinations through an alternative Type I process, with Planning Manager approval. Factors taken into consideration are specific to the proposed use and/or site, such as the proximity of bicycle infrastructure, availability of shared bicycle parking, and/or special characteristics of the customer, client, employee, or resident population that affect bicycle parking demand. Variances to design and location requirements of bicycle parking are subject to Type III variance review per [MMC 19.911](#).**

## Part B: Design and Development Adjustments – Section 38 (4) & (5)

### **Section 38 (4) - Development Standards**

#### **Section 38 (4)(a) - Side or rear setbacks, for an adjustment of not more than 10 percent.**

1. Do existing land use regulations apply this development or design standard to housing? **Yes**
2. If 'yes' to the above, is the city applying for an exemption to the Section 38 mandatory adjustment for this standard? **Yes**
3. Does the existing local process provide a pathway for an adjustment to this standard everywhere it applies to housing, consistent with SB 1537? **Yes**
4. Describe the local process or processes which allows an applicant to request an adjustment, and the extent to which the city provides an adjustment to the standard. Include links or references to applicable code sections. Where the local process or processes either do not allow or only partially allow adjustments to the standard, please indicate precisely how it does and does not conform to SB 1537. If the applicant has selected "not applicable" to any of the questions above, write "N/A" in the text box below.

*As identified in [19.911.3.B](#), Type II variances are allowed for up to 40% reduction to a side yard width standard and up to 25% reduction to a front, rear, or side yard width standard. There is no requirement related to the city's tree code that would limit these variances.*

*There is also a specific provision for the development of middle housing that includes at least one unit of affordable housing that meets specific exemption standards. For this type of residential development, for a Type II variance, the minimum setbacks are reduced to 10 ft for front, rear, and street side yards, and to 5 ft for side yards. To reduce setbacks beyond these amounts, a Type III variance would be required, with no limitations on the amount of adjustment requested.*

*The Type II variance approval criteria are found in [19.911.4.A](#). The criteria include identification of any impacts of the variance and proposed mitigation, if required. Reductions beyond those identified as a Type II variance are permitted via Type III review per [19.911.3.C](#), with approval criteria identified in [19.911.4.B](#). There are no limitations on the amount of adjustment requested.*

**Section 38 (4)(b) - 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.**

1. Do existing land use regulations apply this development or design standard to housing? **Yes**
2. If 'yes' to the above, is the city applying for an exemption to the Section 38 mandatory adjustment for this standard? **Yes**

3. Does the existing local process provide a pathway for an adjustment to this standard everywhere it applies to housing, consistent with SB 1537? **Yes**
4. Describe the local process or processes which allows an applicant to request an adjustment, and the extent to which the city provides an adjustment to the standard. Include links or references to applicable code sections. Where the local process or processes either do not allow or only partially allow adjustments to the standard, please indicate precisely how it does and does not conform to SB 1537. If the applicant has selected "not applicable" to any of the questions above, write "N/A" in the text box below.

*Reductions of up to 10% to minimum vegetation standards for all types of development are allowed via a Type II variance per [19.911.3.B](#). There is no limitation to this variance related to tree preservation or tree canopy, but the residential tree code must be met if applicable to the proposal. Any variance beyond the Type II limitation for reduction to minimum vegetation, to minimum required open space, or to minimum size of a common area would be reviewed as a Type III variance, per [MMC 19.911.3.C](#). As noted above, any variance request that is not specifically listed as a Type II variance per Subsection 19.911.3.B shall be evaluated through a Type III review per Section [19.1006](#). Type III approval criteria are found in [19.911.4.B](#). There are no limitations on the amount of adjustment requested in a Type III application.*

#### **Section 38 (4)(c) - Parking minimums.**

1. Do existing land use regulations apply this development or design standard to housing? **No. Per [Table 19.605.1](#), the city only regulates maximum parking for all development. Footnotes found at the bottom of the table are holdovers from a prior code revision and will be removed in a future code amendment application.**

#### **Section 38 (4)(d) - Minimum lot sizes, not more than a 10 percent adjustment, and including not more than a 10 percent adjustment to lot widths or depths.**

1. Do existing land use regulations apply this development or design standard to housing? **Yes**
2. If 'yes' to the above, is the city applying for an exemption to the Section 38 mandatory adjustment for this standard? **Yes**
3. Does the existing local process provide a pathway for an adjustment to this standard everywhere it applies to housing, consistent with SB 1537? **Yes**
4. Describe the local process or processes which allows an applicant to request an adjustment, and the extent to which the city provides an adjustment to the standard. Include links or references to applicable code sections. Where the local process or processes either do not allow or only partially allow adjustments to the standard, please indicate precisely how it does and does not conform to SB 1537. If the applicant has selected "not applicable" to any of the questions above, write "N/A" in the text box below.

*Per [19.911.3.B](#), Type II variances are allowed for reduction in minimum lot width, depth, and frontage standards of up to 10%. Variances to minimum lot size would be reviewed as a Type III variance, per*

**MMC 19.911.3.C.** *There is no limitation on minimum lot size related to maximum density; this was a recent code amendment adopted on February 18, 2025 per OR 2249 and reflected in the online code. Type III variance approval criteria are found in 19.911.4.B. There are no limitations on the amount of adjustment requested in a Type III application.*

**Section 38 (4)(e) - 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.**

1. Do existing land use regulations apply this development or design standard to housing? **Yes**

*Maximum lot size applies only to Townhouses in the R-MD zone, where the standard is a minimum lot size of 1,500 sq ft and a maximum lot size of 2,999 sq ft, EXCEPT for a townhouse on a corner lot where the maximum lot size is 3,500 sq ft. Per 19.911.3.B, Type II variances are allowed for reduction in minimum lot width, depth, and frontage standards of up to 10%. Variances to maximum lot size would be reviewed as a Type III variance, per MMC 19.911.3.C. Type III variance approval criteria are found in 19.911.4.B. There are no limitations on the amount of adjustment requested in a Type III application.*

**Section 38 (4)(f) - Building lot coverage requirements for up to a 10 percent adjustment.**

1. Do existing land use regulations apply this development or design standard to housing? **Yes**
2. If 'yes' to the above, is the city applying for an exemption to the Section 38 mandatory adjustment for this standard? **Yes**
3. Does the existing local process provide a pathway for an adjustment to this standard everywhere it applies to housing, consistent with SB 1537? **Yes**
4. Describe the local process or processes which allows an applicant to request an adjustment, and the extent to which the city provides an adjustment to the standard. Include links or references to applicable code sections. Where the local process or processes either do not allow or only partially allow adjustments to the standard, please indicate precisely how it does and does not conform to SB 1537. If the applicant has selected "not applicable" to any of the questions above, write "N/A" in the text box below.

*In the Moderate Density Residential Zone, per MMC 19.301.5.B, additional building lot coverage allowances (additional 10 percentage points) are included for residential development (except townhouses and cottage clusters) where portions of the structure(s) that are less than 20 ft are allowed to exceed the listed lot coverage standard. Type II variances to exceed this allowance are prohibited, so any variance to this standard would be processed as a Type III variance per MMC 19.911.3.C. The same provision and allowances are found in the High Density Residential zone, per*

**19.302.5.B.** *Type II variances to exceed this allowance are prohibited, so any variance to this standard would be processed as a Type III variance per [MMC 19.911.3.C.](#)*

*For townhouses and cottage clusters, per [19.911.3.B.](#), Type II variances are allowed for up to 10% to the building lot coverage standard. There are no limitations on these variances related to tree preservation or canopy standards. Tree code standards still must be met. Type II variance approval criteria, generally related to impacts from the variance, are found in [19.911.4.A.](#) Variances beyond those permitted as a Type II variance are subject to the Type III variance process in [MMC 19.911.3.C.](#) There are no limitations on the amount of adjustment requested in a Type III application.*

**Section 38 (4)(g)(A)(i)\* - [\*For manufactured dwelling parks, middle housing, multifamily housing or mixed-use residential housing only] Requirements for bicycle parking that establish 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.**

1. Do existing land use regulations apply this development or design standard to housing? **Yes**
2. If 'yes' to the above, is the city applying for an exemption to the Section 38 mandatory adjustment for this standard? **Yes**
3. Does the existing local process provide a pathway for an adjustment to this standard everywhere it applies to housing, consistent with SB 1537? **Yes**
4. Describe the local process or processes which allows an applicant to request an adjustment, and the extent to which the city provides an adjustment to the standard. Include links or references to applicable code sections. Where the local process or processes either do not allow or only partially allow adjustments to the standard, please indicate precisely how it does and does not conform to SB 1537. If the applicant has selected "not applicable" to any of the questions above, write "N/A" in the text box below.

***Minimum quantity requirements for bicycle parking are provided in [19.609.2](#). Modifications to these quantity requirements are not variances; rather [19.609.3](#) provides a process for modifications and quantity determinations through an alternative Type I process, with Planning Manager approval. Factors taken into consideration are specific to the proposed use and/or site, such as the proximity of bicycle infrastructure, availability of shared bicycle parking, and/or special characteristics of the customer, client, employee, or resident population that affect bicycle parking demand. Variances to design and location requirements of bicycle parking are subject to Type III variance review per [MMC 19.911.3.C](#) and [19.911.4.B](#). There are no limitations on the amount of adjustment requested in a Type III application.***

**Section 38 (4)(g)(A)(ii)\* - [\*For manufactured dwelling parks, middle housing, multifamily housing or mixed-use residential housing only] Requirements for bicycle parking that establish the location of the spaces, provided that lockable, covered bicycle parking spaces are within or adjacent to the residential development.**

1. Do existing land use regulations apply this development or design standard to housing? **Yes**
2. If 'yes' to the above, is the city applying for an exemption to the Section 38 mandatory adjustment for this standard? **Yes**
3. Does the existing local process provide a pathway for an adjustment to this standard everywhere it applies to housing, consistent with SB 1537? **Yes**
4. Describe the local process or processes which allows an applicant to request an adjustment, and the extent to which the city provides an adjustment to the standard. Include links or references to applicable code sections. Where the local process or processes either do not allow or only partially



allow adjustments to the standard, please indicate precisely how it does and does not conform to SB 1537. If the applicant has selected "not applicable" to any of the questions above, write "N/A" in the text box below.

***Minimum quantity requirements for bicycle parking are provided in [19.609.2](#). Modifications to these quantity requirements are not variances; rather [19.609.3](#) provides a process for modifications and quantity determinations through an alternative Type I process, with Planning Manager approval. Factors taken into consideration are specific to the proposed use and/or site, such as the proximity of bicycle infrastructure, availability of shared bicycle parking, and/or special characteristics of the customer, client, employee, or resident population that affect bicycle parking demand.***

***Variances to design and location requirements of bicycle parking are subject to Type III variance review per [MMC 19.911.3.C](#) and [19.911.4.B](#).. There are no limitations on the amount of adjustment requested in a Type III application.***

**Section 38 (4)(g)(B)\* - [\*For manufactured dwelling parks, middle housing, multifamily housing or mixed-use residential housing only]**

**For uses other than cottage clusters, building height maximums that are in addition to existing applicable height bonuses, if any, and are not more than an increase of the greater of one story or a 20 percent increase to base zone height with rounding consistent with methodology outlined in city code, if any.**

1. Do existing land use regulations apply this development or design standard to housing? **Yes**
2. If 'yes' to the above, is the city applying for an exemption to the Section 38 mandatory adjustment for this standard? **Yes**
3. Does the existing local process provide a pathway for an adjustment to this standard everywhere it applies to housing, consistent with SB 1537? **Yes**
4. Describe the local process or processes which allows an applicant to request an adjustment, and the extent to which the city provides an adjustment to the standard. Include links or references to applicable code sections. Where the local process or processes either do not allow or only partially allow adjustments to the standard, please indicate precisely how it does and does not conform to SB 1537. If the applicant has selected "not applicable" to any of the questions above, write "N/A" in the text box below.

***Variances to maximum building height in residential zones, the Neighborhood Mixed Use zone, and the Small-scale Mixed Use Zone would be reviewed as a Type III variance, per [MMC 19.911.3.C](#) and [19.911.4.B](#).. There are no limitations on the amount of adjustment requested in a Type III application.***

***Building height bonuses are available in the General Mixed Use Zone per [19.303.4.B.3](#), and are administered with a specific variance via [MMC 19.911.7](#). There are no limitations on the amount of variance requested through this process.***

***Unlike in the General Mixed Use, using building height bonuses in the Downtown Mixed Use Zone is permitted by right, per [19.304.5.B](#). However, exceeding building height beyond allowed bonuses in the Downtown Mixed Use Zone is administered via a specific variance via [MMC 19.911.6](#).. There are no limitations on the amount of variance requested through this process.***

**Section 38 (4)(g)(C)\* - [\*For manufactured dwelling parks, middle housing, multifamily housing or mixed-use residential housing only] Unit density maximums, not more than an amount necessary to account for other adjustments under this section.**

1. Do existing land use regulations apply this development or design standard to housing? **Yes**
2. If 'yes' to the above, is the city applying for an exemption to the Section 38 mandatory adjustment for this standard? **Yes**
3. Does the existing local process provide a pathway for an adjustment to this standard everywhere it applies to housing, consistent with SB 1537? **Yes**
4. Describe the local process or processes which allows an applicant to request an adjustment, and the extent to which the city provides an adjustment to the standard. Include links or references to applicable code sections. Where the local process or processes either do not allow or only partially allow adjustments to the standard, please indicate precisely how it does and does not conform to SB 1537. If the applicant has selected "not applicable" to any of the questions above, write "N/A" in the text box below.

*Maximum density standards apply to single detached dwellings, townhouses, manufactured dwelling parks, and multi-unit dwellings. Maximum density standards do not apply to middle housing (except townhouses).*

*MMC 19.911 allows variances to maximum density. Per [19.911.3.B.12](#), there is a Type II variance for increases of up to 25% over maximum density. A Type III variance would be required for any increases over 25%, per [19.911.3.C](#). There are no limitations on the amount of adjustment requested in a Type III variance application.*

**Section 38 (4)(g)(D)(i)\* - [\*For manufactured dwelling parks, middle housing, multifamily housing or mixed-use residential housing only] Prohibitions, for the ground floor of a mixed-use building, against residential uses except for one face of the building that faces the street and is within 20 feet of the street.**

1. Do existing land use regulations apply this development or design standard to housing? **Yes**
2. If 'yes' to the above, is the city applying for an exemption to the Section 38 mandatory adjustment for this standard? **Yes**
3. Does the existing local process provide a pathway for an adjustment to this standard everywhere it applies to housing, consistent with SB 1537? **Yes**
4. Describe the local process or processes which allows an applicant to request an adjustment, and the extent to which the city provides an adjustment to the standard. Include links or references to applicable code sections. Where the local process or processes either do not allow or only partially allow adjustments to the standard, please indicate precisely how it does and does not conform to SB 1537. If the applicant has selected "not applicable" to any of the questions above, write "N/A" in the text box below.

*Per [MMC 19.304.3.A.1](#), this standard exists in the Downtown Mixed Use zone (DMU) for developments along Main St south of Scott St. Constructing residential dwellings on the first floor in this area would be administered via a Type III variance per [19.911.3.C](#) because although it is a limitation on a use, it is specific to the location of the use, not the use itself. There are no limitations on the variance request, subject to meeting the approval criteria.*

**Section 38 (4)(g)(D)(ii)\* - [\*For manufactured dwelling parks, middle housing, multifamily housing or mixed-use residential housing only] Prohibitions, for the ground floor of a mixed-use building, against 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 local governments.**

1. Do existing land use regulations apply this development or design standard to housing? **Yes**
2. If 'yes' to the above, is the city applying for an exemption to the Section 38 mandatory adjustment for this standard? **Yes**
3. Does the existing local process provide a pathway for an adjustment to this standard everywhere it applies to housing, consistent with SB 1537? **Yes**
4. Describe the local process or processes which allows an applicant to request an adjustment, and the extent to which the city provides an adjustment to the standard. Include links or references to applicable code sections. Where the local process or processes either do not allow or only partially allow adjustments to the standard, please indicate precisely how it does and does not conform to SB 1537. If the applicant has selected "not applicable" to any of the questions above, write "N/A" in the text box below.

*Per [MMC 19.304.3.A.1](#), this standard exists in the Downtown Mixed Use zone (DMU) for developments along Main St south of Scott St. Lobbies for upper level dwellings are allowed on the ground floor only if a commercial use is located along a majority of the property's street frontage. Allowing a development that does not meet this standard would be administered via a Type III variance per [19.911.3.C](#) because although it is a limitation on a use, it is specific to the location of the use, not the use itself. There are no limitations on the variance request, submit to meeting the approval criteria.*

### **Section 38 (5) - Design Standards**

**Section 38 (5)(a) - Facade materials, color or pattern.**

1. Do existing land use regulations apply this development or design standard to housing? **Yes**
2. If 'yes' to the above, is the city applying for an exemption to the Section 38 mandatory adjustment for this standard? **Yes**
3. Does the existing local process provide a pathway for an adjustment to this standard everywhere it applies to housing, consistent with SB 1537? **Yes**

4. Describe the local process or processes which allows an applicant to request an adjustment, and the extent to which the city provides an adjustment to the standard. Include links or references to applicable code sections. Where the local process or processes either do not allow or only partially allow adjustments to the standard, please indicate precisely how it does and does not conform to SB 1537. If the applicant has selected "not applicable" to any of the questions above, write "N/A" in the text box below.

*Design standards related to façade materials, color or pattern are found in the Downtown Mixed Use zone (DMU). As discussed above, Development in the Downtown Mixed Use Zone (DMU) is regulated by the base zone standards in [MMC 19.304](#), the downtown site and building design standards in [MMC 19.508](#), and the design review process outlined in [MMC 19.907](#), which describes what type of development is exempt from review or subject to Type I, Type II, or Type III review.*

- *Variations cannot be granted for the downtown design standards of Section [19.508](#). Applications unable to meet one or more standards must meet the applicable downtown design guideline(s) in Subsection [19.508.4](#) instead and use the Type III discretionary downtown design review process outlined in [MMC 19.907.3](#). There is no limitation on the amount of adjustment provided through the discretionary downtown design review process, provided the guidelines are met.*

*Design standards related to facade materials in the commercial mixed use zones are found in [MMC 19.505.7](#). If a development does not meet these standards, then the application requires a Type III variance per [MMC 19.911.3.C](#) and the approval criteria in [19.911.4.B](#).. There are no limitations on the amount of adjustment requested in a Type III application.*

### **Section 38 (5)(b) - Facade articulation.**

1. Do existing land use regulations apply this development or design standard to housing? **Yes**
2. If 'yes' to the above, is the city applying for an exemption to the Section 38 mandatory adjustment for this standard? **Yes**
3. Does the existing local process provide a pathway for an adjustment to this standard everywhere it applies to housing, consistent with SB 1537? **Yes**
4. Describe the local process or processes which allows an applicant to request an adjustment, and the extent to which the city provides an adjustment to the standard. Include links or references to applicable code sections. Where the local process or processes either do not allow or only partially allow adjustments to the standard, please indicate precisely how it does and does not conform to SB 1537. If the applicant has selected "not applicable" to any of the questions above, write "N/A" in the text box below.

***Façade articulation standards apply to residential development in the residential zones and to all development in the Downtown Mixed Use Zone.***

***Design standards related to façade articulation in the Downtown Mixed Use zone (DMU) is regulated by the base zone standards in [MMC 19.304](#), the downtown site and building design standards in [MMC 19.508](#), and the design review process outlined in [MMC 19.907](#), which describes what type of development is exempt from review or subject to Type I, Type II, or Type III review.***

- ***Variances cannot be granted for the downtown design standards of Section [19.508](#). Applications unable to meet one or more standards must meet the applicable downtown design guideline(s) in Subsection [19.508.4](#) instead and use the Type III discretionary downtown design review process outlined in [MMC 19.907.3](#). There is no limitation on the amount of adjustment provided through the discretionary downtown design review process, provided the guidelines are met.***

***Façade articulation standards apply to single detached dwellings and middle housing (not ADUs or manufactured dwellings in a manufactured dwelling park). For the applicable housing types, façade articulation is required for dwellings with 30 feet or more of width of street facing façade. For applicable housing types, departure from the established façade articulation standards is permitted via Type III variance, per [MMC 19.911.3.C](#) and the approval criteria in [19.911.4.B](#). There are no limitations on the amount of adjustment requested in a Type III application.***

**Section 38 (5)(c) - Roof forms and materials.**

1. Do existing land use regulations apply this development or design standard to housing? **Yes**
2. If 'yes' to the above, is the city applying for an exemption to the Section 38 mandatory adjustment for this standard? **Yes**
3. Does the existing local process provide a pathway for an adjustment to this standard everywhere it applies to housing, consistent with SB 1537? **Yes**
4. Describe the local process or processes which allows an applicant to request an adjustment, and the extent to which the city provides an adjustment to the standard. Include links or references to applicable code sections. Where the local process or processes either do not allow or only partially allow adjustments to the standard, please indicate precisely how it does and does not conform to SB 1537. If the applicant has selected "not applicable" to any of the questions above, write "N/A" in the text box below.

*Design standards related to roof form and materials are found in the Downtown Mixed Use zone (DMU), and are applicable to all types of development. As discussed above, development in the Downtown Mixed Use Zone (DMU) is regulated by the base zone standards in [MMC 19.304](#), the downtown site and building design standards in [MMC 19.508](#), and the design review process outlined in [MMC 19.907](#), which describes what type of development is exempt from review or subject to Type I, Type II, or Type III review.*

- *Variances cannot be granted for the downtown design standards of Section [19.508](#). If a development does not meet these standards, then the application requires a Type III Downtown Design Review application where the design guidelines must be met as detailed in [MMC 19.508.4.J](#). Applications unable to meet one or more standards must meet the applicable downtown design guideline(s) in Subsection [19.508.4](#) instead and use the Type III discretionary downtown design review process outlined in [MMC 19.907.3](#). There is no limitation on the amount of adjustment provided through the discretionary downtown design review process, provided the guidelines are met.*

*Design standards related to roof form and materials in the commercial mixed use zones for mixed use development are found in [MMC 19.505.7](#). If a development does not meet these standards, then the application requires a Type III variance per [MMC 19.911.3.C](#) and the approval criteria in [19.911.4.B](#). There are no limitations on the amount of adjustment requested in a Type III application.*

**Section 38 (5)(d) - Entry and garage door materials.**

1. Do existing land use regulations apply this development or design standard to housing? **No**

**Section 38 (5)(e) - Garage door orientation, unless the building is adjacent to or across from a school or public park.**

1. Do existing land use regulations apply this development or design standard to housing? **Yes**
2. If 'yes' to the above, is the city applying for an exemption to the Section 38 mandatory adjustment for this standard? **Yes**
3. Does the existing local process provide a pathway for an adjustment to this standard everywhere it applies to housing, consistent with SB 1537? **Yes**
4. Describe the local process or processes which allows an applicant to request an adjustment, and the extent to which the city provides an adjustment to the standard. Include links or references to applicable code sections. Where the local process or processes either do not allow or only partially allow adjustments to the standard, please indicate precisely how it does and does not conform to SB 1537. If the applicant has selected "not applicable" to any of the questions above, write "N/A" in the text box below.

***[MMC 19.505.2](#) regulates garages and carports for single detached dwellings and plexes. The standards apply to all new attached garages and carports on properties with a single-family detached dwelling, residential home, or duplex when the street-facing façade of the garage, or columns of the carport, are located within 50 ft of the front property line. Variances to the standards are permitted through a Type III variance per [MMC 19.911.3.C](#) and the approval criteria in [19.911.4.B](#). There are no limitations on the amount of adjustment requested in a Type III application.***

***Standards for garages in townhouse development are in Subsection 19.505.5. Garages on the front façade of a townhouse, off-street parking areas in the front yard, and driveway accesses in front of a townhouse are prohibited unless specific standards are met per 19.505.5.F. Per 19.505.5.F.2, if the specific standards for garages on the front façade of a townhouse are not met, then off-street parking areas must be accessed on the back façade or located in the rear yard. A variance to this standard is not provided as the development of a garage is prohibited if the standards are not met.***

**Section 38 (5)(f) - Window materials, except for bird-safe glazing requirements.**

1. Do existing land use regulations apply this development or design standard to housing? **Yes**
2. If 'yes' to the above, is the city applying for an exemption to the Section 38 mandatory adjustment for this standard? **Yes**
3. Does the existing local process provide a pathway for an adjustment to this standard everywhere it applies to housing, consistent with SB 1537? **Yes**
4. Describe the local process or processes which allows an applicant to request an adjustment, and the extent to which the city provides an adjustment to the standard. Include links or references to applicable code sections. Where the local process or processes either do not allow or only partially allow adjustments to the standard, please indicate precisely how it does and does not conform to SB



1537. If the applicant has selected "not applicable" to any of the questions above, write "N/A" in the text box below.

***In the DMU zone, the street-facing facades of residential and mixed-use buildings must meet standards for windows related to materials and window elements, regulated through the windows design element in [19.508.4.F](#). This code section includes specific approved window materials and prohibited window elements, such as opaque or mirrored glazing. Development in the Downtown Mixed Use Zone (DMU) is regulated by the base zone standards in [MMC 19.304](#), the downtown site and building design standards in [MMC 19.508](#), and the design review process outlined in [MMC 19.907](#), which describes what type of development is exempt from review or subject to Type I, Type II, or Type III review. Variances cannot be granted for the downtown design standards of Section [19.508](#). If the development cannot meet the standard, then it must meet the applicable downtown design guideline(s) in Subsection [19.508.4](#) instead and use the Type III discretionary downtown design review process outlined in [MMC 19.907.3](#). There is no limitation on the amount of adjustment provided through the discretionary downtown design review process, provided the guidelines are met.***

***Design standards related to window materials in the commercial mixed use zones are found in [MMC 19.505.7](#). If a development does not meet these standards, then the application requires a Type III variance per [MMC 19.911.3.C](#) and the approval criteria in [19.911.4.B](#). There are no limitations on the amount of adjustment requested in a Type III application.***

**Section 38 (5)(g) - Total window area, for up to a 30 percent adjustment, provided the application includes at least 12 percent of the total facade as window area.**

1. Do existing land use regulations apply this development or design standard to housing? **Yes**
2. If 'yes' to the above, is the city applying for an exemption to the Section 38 mandatory adjustment for this standard? **Yes**
3. Does the existing local process provide a pathway for an adjustment to this standard everywhere it applies to housing, consistent with SB 1537? **Yes**
4. Describe the local process or processes which allows an applicant to request an adjustment, and the extent to which the city provides an adjustment to the standard. Include links or references to applicable code sections. Where the local process or processes either do not allow or only partially allow adjustments to the standard, please indicate precisely how it does and does not conform to SB 1537. If the applicant has selected "not applicable" to any of the questions above, write "N/A" in the text box below.

***Window/glazing area standards apply in residential zones, commercial mixed use zones, and the Downtown Mixed Use Zone.***

***Development in the Downtown Mixed Use Zone (DMU) is regulated by the base zone standards in [MMC 19.304](#), the downtown site and building design standards in [MMC 19.508](#), and the design review process outlined in [MMC 19.907](#), which describes what type of development is exempt from review or subject to Type I, Type II, or Type III review.***

- ***Variances cannot be granted for the downtown design standards of Section [19.508](#). Applications unable to meet the window/glazing standard in [19.508.4.D](#) must meet the applicable downtown design guideline(s) in Subsection [19.508.4](#) instead and use the Type III discretionary downtown design review process outlined in [MMC 19.907.3](#). There is no limitation on the amount of adjustment provided through the discretionary downtown design review process, provided the guidelines are met.***

***Design standards related to façade transparency in the commercial mixed use zones are found in [MMC 19.505.7.C.4](#). If a development does not meet these standards, then the application requires a Type III variance per [MMC 19.911.3.C](#) and the approval criteria in [19.911.4.B](#). There are no limitations on the amount of adjustment requested in a Type III application.***

***Minimum glazing requirements, known as Eyes on the Street (15% of street facing facades and facades facing common courtyards) apply to single detached dwellings, plexes, cottage clusters, and townhouses. Departure from the minimum glazing standards is permitted via***

*Type III variance per [MMC 19.911.3.C](#) and the approval criteria in [19.911.4.B](#). There are no limitations on the amount of adjustment requested in a Type III application.*

**Section 38 (5)(h)(A)\* - [\*For manufactured dwelling parks, middle housing, multifamily housing or mixed-use residential housing only] Building orientation requirements, not including transit street orientation requirements.**

1. Do existing land use regulations apply this development or design standard to housing? **Yes**
2. If 'yes' to the above, is the city applying for an exemption to the Section 38 mandatory adjustment for this standard? **Yes**
3. Does the existing local process provide a pathway for an adjustment to this standard everywhere it applies to housing, consistent with SB 1537? **Yes**
4. Describe the local process or processes which allows an applicant to request an adjustment, and the extent to which the city provides an adjustment to the standard. Include links or references to applicable code sections. Where the local process or processes either do not allow or only partially allow adjustments to the standard, please indicate precisely how it does and does not conform to SB 1537. If the applicant has selected "not applicable" to any of the questions above, write "N/A" in the text box below.

***Building orientation standards (at least one primary building entrance must face a public street or provide a pedestrian walkway) apply to single detached dwellings and plexes in the residential zones, development in the commercial mixed use zones, and development in the Downtown Mixed Use zone.***

***For single detached dwellings and plexes within 50 ft of the front lot line, at least one main entrance must meet the specific standards in [19.505.1.3](#). If a development does not meet these standards, then the application requires a Type III variance per [MMC 19.911.3.C](#) and the approval criteria in [19.911.4.B](#). There are no limitations on the amount of adjustment requested in a Type III application.***

***Development in the Downtown Mixed Use Zone (DMU) is regulated by the base zone standards in [MMC 19.304](#), the downtown site and building design standards in [MMC 19.508](#), and the design review process outlined in [MMC 19.907](#), which describes what type of development is exempt from review or subject to Type I, Type II, or Type III review.***

- *Variances cannot be granted for the downtown design standards of Section [19.508](#). Developments must meet the standard related to building entrances in [19.508.4.E](#). If the development cannot meet the standard, then it must meet the applicable downtown design guideline(s) in Subsection [19.508.4](#) instead and use the Type III discretionary downtown design review process outlined in [MMC 19.907.3](#). There is no limitation on the amount of adjustment provided through the discretionary downtown design review process, provided the guidelines are met.*

*In a commercial mixed use zone, all new buildings must meet the standards for primary building entrances in [19.303.4.E](#). If a development does not meet these standards, then the application requires a Type III variance per [MMC 19.911.3.C](#) and the approval criteria in [19.911.4.B](#). There are no limitations on the amount of adjustment requested in a Type III application.*

**Section 38 (5)(h)(B)\* - [\*For manufactured dwelling parks, middle housing, multifamily housing or mixed-use residential housing only] Building height transition requirements, not more than a 50 percent adjustment from the base zone.**

1. Do existing land use regulations apply this development or design standard to housing? **Yes**
2. If 'yes' to the above, is the city applying for an exemption to the Section 38 mandatory adjustment for this standard? **Yes**
3. Does the existing local process provide a pathway for an adjustment to this standard everywhere it applies to housing, consistent with SB 1537? **Yes**
4. Describe the local process or processes which allows an applicant to request an adjustment, and the extent to which the city provides an adjustment to the standard. Include links or references to applicable code sections. Where the local process or processes either do not allow or only partially allow adjustments to the standard, please indicate precisely how it does and does not conform to SB 1537. If the applicant has selected "not applicable" to any of the questions above, write "N/A" in the text box below.

***Building height transition standards (required step back for any street-facing portion of the building above the base maximum height) apply in the***

**General Mixed Use zone (GMU) along 37th Ave and Monroe St and in the Downtown Mixed Use zone (DMU).**

**Development in the Downtown Mixed Use Zone (DMU) is regulated by the base zone standards in [MMC 19.304](#), the downtown site and building design standards in [MMC 19.508](#), and the design review process outlined in [MMC 19.907](#), which describes what type of development is exempt from review or subject to Type I, Type II, or Type III review.**

- **Variances cannot be granted for the downtown design standards of Section [19.508](#). Developments must meet the standard related to building height transitions in [19.508.4.H](#). If the development cannot meet the standard, then it must meet the applicable downtown design guideline(s) in Subsection [19.508.4](#) instead and use the Type III discretionary downtown design review process outlined in [MMC 19.907.3](#). There is no limitation on the amount of adjustment provided through the discretionary downtown design review process, provided the guidelines are met.**

**In a commercial mixed use zone, all new buildings must meet the standards for building height transitions in [19.303.5](#). If a development does not meet these standards, then the application requires a Type III variance per [MMC 19.911.3.C](#) and the approval criteria in [19.911.4.B](#). There are no limitations on the amount of adjustment requested in a Type III application.**

**Section 38 (5)(h)(C)\* - [\*For manufactured dwelling parks, middle housing, multifamily housing or mixed-use residential housing only] Requirements for balconies and porches.**

1. Do existing land use regulations apply this development or design standard to housing? **Yes**
2. If 'yes' to the above, is the city applying for an exemption to the Section 38 mandatory adjustment for this standard? **Yes**
3. Does the existing local process provide a pathway for an adjustment to this standard everywhere it applies to housing, consistent with SB 1537? **Yes**

4. Describe the local process or processes which allows an applicant to request an adjustment, and the extent to which the city provides an adjustment to the standard. Include links or references to applicable code sections. Where the local process or processes either do not allow or only partially allow adjustments to the standard, please indicate precisely how it does and does not conform to SB 1537. If the applicant has selected "not applicable" to any of the questions above, write "N/A" in the text box below.

***Development in the Downtown Mixed Use Zone (DMU) is regulated by the base zone standards in [MMC 19.304](#), the downtown site and building design standards in [MMC 19.508](#), and the design review process outlined in [MMC 19.907](#), which describes what type of development is exempt from review or subject to Type I, Type II, or Type III review.***

- ***Variances cannot be granted for the downtown design standards of Section [19.508](#). Developments must meet the standard related to resident open space in [19.508.4.L](#). Required private open space may be provided in the form of a porch, deck, balcony, patio, terrace, or other private outdoor area. If the development cannot meet the standard, then it must meet the applicable downtown design guideline(s) in Subsection [19.508.4](#) instead and use the Type III discretionary downtown design review process outlined in [MMC 19.907.3](#). There is no limitation on the amount of adjustment provided through the discretionary downtown design review process, provided the guidelines are met.***

***Balconies or porches are identified as a means of meeting the private open space standards for multi-unit residential development in residential zones (moderate density residential and high density residential). Variances can be granted for the base zone standards of Sections [19.301](#) and [19.302](#) unless otherwise specified, through the variance review process in Section [19.911](#). Multi-unit residential development in residential zones is subject to the design standards as described in [MMC 19.505.3](#). Two possible review processes are available for review of multi-unit residential development in residential zones: objective and discretionary. An applicant may choose which process to use. The objective process uses clear objective standards that do not require the use of discretionary decision-making; applications are reviewed through an administrative Type I process per [19.1004](#) with the Planning Manager as decision maker. The discretionary process uses design guidelines that are***

*more discretionary in nature and are intended to provide the applicant with more design flexibility; applications are reviewed through the Type II process per [19.1005](#) with public notice and the Planning Manager as decision maker. Regardless of the review process, the applicant must demonstrate how the applicable standards or guidelines are being met.*

*For single detached dwellings and plexes, porches and/or balconies are not required. However, they are identified as a means of meeting the articulation requirements in [19.505.1.C.1](#), the main entrance requirement in [19.505.1.C.3](#), and is identified as one of the detailed design elements (require a minimum of 5 from the list) in [19.505.1.C.4](#). If a development does not meet the articulation and/or main entrance standards, then the application requires a Type III variance per [MMC 19.911.3.C](#) and the approval criteria in [19.911.4.B](#). There are no limitations on the amount of adjustment requested in a Type III application. If a development does not meet the detailed design standards, then there is a Type II variance per [19.911.3.B](#) in cases where a unique and creative housing design merits flexibility from the requirements of that subsection.*

*For cottage cluster housing, porches and/or balconies are not required. However, they are identified as a means of meeting the articulation requirements in [19.505.4.D.4.a](#), the main entrance requirement in [19.505.4.D.4.c](#), and is identified as one of the detailed design elements (require a minimum of 5 from the list) in [19.505.4.D.4.d](#). If a development does not meet these standards then the application requires a Type III variance per [MMC 19.911.3.C](#) and the approval criteria in [19.911.4.B](#). There are no limitations on the amount of adjustment requested in a Type III application.*

*For townhouse development, porches and/or balconies are not required. However, they are identified as a means of meeting the articulation requirements in [19.505.5.C.1.a](#), the main entrance requirement in [19.505.5.C.3](#), and is identified as one of the detailed design elements (require a minimum of 5 from the list) in [19.505.5.C.4](#). If a development does not meet these standards, then the application requires a Type III variance per [MMC 19.911.3.C](#) and the approval criteria in [19.911.4.B](#). There are no limitations on the amount of adjustment requested in a Type III application.*



**Section 38 (5)(h)(D)\* - [\*For manufactured dwelling parks, middle housing, multifamily housing or mixed-use residential housing only] Requirements for recesses and offsets.**

1. Do existing land use regulations apply this development or design standard to housing? **Yes**
2. If 'yes' to the above, is the city applying for an exemption to the Section 38 mandatory adjustment for this standard? **Yes**
3. Does the existing local process provide a pathway for an adjustment to this standard everywhere it applies to housing, consistent with SB 1537? **Yes**
4. Describe the local process or processes which allows an applicant to request an adjustment, and the extent to which the city provides an adjustment to the standard. Include links or references to applicable code sections. Where the local process or processes either do not allow or only partially allow adjustments to the standard, please indicate precisely how it does and does not conform to SB 1537. If the applicant has selected "not applicable" to any of the questions above, write "N/A" in the text box below.

*For multi unit residential development in residential zones (moderate density residential and high density residential), the design element is for building façade design, which requires breaking up street-facing facades into wall planes. This can be achieved by including porches or decks; recesses; or extending an architectural bay (standard). The design guideline allows windows and doors to provide articulation, or the use of building materials, color, and/or fenestration.*

- *Variances can be granted for the base zone standards of Sections [19.301](#) and [19.302](#) unless otherwise specified, through the variance review process in Section [19.911](#). Multi-unit residential development in residential zones is subject to the design standards as described in [MMC 19.505.3](#). Two possible review processes are available for review of multi-unit residential development in residential zones: objective and discretionary. An applicant may choose which process to use. The objective process uses clear objective standards that do not require the use of discretionary decision-making; applications are reviewed through an administrative Type I process per [19.1004](#) with the Planning Manager as decision maker. The discretionary process uses design guidelines that are more discretionary in nature and are intended to provide the applicant with more design flexibility; applications are reviewed through the Type II process per [19.1005](#) with public notice and the Planning Manager as decision maker. Regardless of*

***the review process, the applicant must demonstrate how the applicable standards or guidelines are being met.***

***In the DMU zone, the street-facing facades of residential and mixed-use buildings must meet wall structure and building façade details, including vertical and horizontal articulation. In particular, this is regulated through the element called wall structure and building façade detail in [19.508.4.B](#). Development in the Downtown Mixed Use Zone (DMU) is regulated by the base zone standards in [MMC 19.304](#), the downtown site and building design standards in [MMC 19.508](#), and the design review process outlined in [MMC 19.907](#), which describes what type of development is exempt from review or subject to Type I, Type II, or Type III review.***

- Variances cannot be granted for the downtown design standards of Section [19.508](#). If the development cannot meet the standard, then it must meet the applicable downtown design guideline(s) in Subsection [19.508.4](#) instead and use the Type III discretionary downtown design review process outlined in [MMC 19.907.3](#). There is no limitation on the amount of adjustment provided through the discretionary downtown design review process, provided the guidelines are met.***

***For single detached dwellings and plexes, recesses and offsets are not required. However, they are identified as one of the detailed design elements (require a minimum of 5 from the list) in [19.505.1.C.4](#). If a development does not meet the detailed design standards, then there is a Type II variance per [19.911.3.B](#) in cases where a unique and creative housing design merits flexibility from the requirements of that subsection.***

***For cottage cluster housing, recesses and offsets are not required. However, they are identified as one of the detailed design elements (require a minimum of 5 from the list) in [19.505.4.D.4.d](#). If a development does not meet these standards then the application requires a Type III variance per [MMC 19.911.3.C](#) and the approval criteria in [19.911.4.B](#). There are no limitations on the amount of adjustment requested in a Type III application.***

***For townhouse development, recesses and offsets are not required. However, they are identified as one of the detailed design elements (require a minimum of 5 from the list) in [19.505.5.C.4](#). If a development does not meet these standards, then the application requires a Type III variance per [MMC 19.911.3.C](#) and the***

*approval criteria in [19.911.4.B](#). There are no limitations on the amount of adjustment requested in a Type III application.*

**Part C: Previous 5 years of Adjustments - Option 1 (90% Approval) & Option 2 (Testimonial)**

In order to grant an exemption, a local government must demonstrate one of two criteria:

1. The local government has granted 90 percent of received adjustment requests within the previous 5 years, or
2. The adjustment process applied by the local government is flexible and accommodates project needs as demonstrated by testimonials from developers who have utilized the adjustment process within the previous five years.

HAPO has published a template spreadsheet to enable applicants to provide five years of permits that included a requested adjustment to design or development standards under Section 38 (4) and (5). The HAPO-provided guidance document provides information on how to appropriately count requested and approved adjustments.

**See attached spreadsheet.**







