



## ADJUSTMENT REVIEW APPROVAL CRITERIA

**9.8030 Adjustment Review - Approval Criteria.** The planning director shall approve, conditionally approve, or deny an adjustment review application. Approval or conditional approval shall be based on compliance with the following applicable criteria.

- (1) **Lot Standards Adjustment.** Where this land use code provides that the lot standards may be adjusted, the standards may be adjusted upon finding that the proposed lot dimensions are consistent with the purpose of the applicable zone and suitable for the area.
- (2) **Setback Standards Adjustment.** Where this land use code provides that the setback standards applicable to specific zones may be adjusted, the standards may be adjusted upon finding that the proposed setback is consistent with the following applicable criteria:
  - (a) Minimum and Maximum Front Yard Setback Adjustment. The minimum or maximum required front yard setback may be adjusted if the proposal achieves all of the following:
    1. Contributes to the continuity of building facades along the street.
    2. Creates an attractive pedestrian environment along all adjacent streets
    3. Is compatible with adjacent development.Maximum front yard setbacks may be adjusted without any requirement for pedestrian amenities if the location of the front yard is unsafe or intrinsically unsuitable for pedestrians or to protect disruption to significant natural resources.
  - (b) Minimum Setbacks for Park Improvements in PRO Zone. The minimum required special setbacks for park improvements may be adjusted upon a finding that the proposal achieves all of the following:
    1. Consistent with EC 9.2600 Purpose of PRO Park, Recreation and Open Space Zone.
    2. Is compatible with adjacent development.
  - (c) Minimum Setbacks for Drive-Through Facility Service Areas and Stacking Lanes. Standards establishing a minimum setback for service areas and stacking lanes may be adjusted upon a finding that the proposal achieves all of the following:
    1. Is compatible with adjacent development.
    2. Creates an attractive pedestrian environment along all adjacent streets.
    3. Where necessary, provides visual separation between adjacent development.
- (3) **Landscape Standards Adjustment.** Where this land use code provides that the landscape standards may be adjusted, the standards may be adjusted upon finding that the proposed landscape is consistent with the following applicable criteria:
  - (a) General Landscape Standards. Standards establishing a minimum percent of landscape area on the development site, may be adjusted upon a finding that the proposal achieves all of the following:
    1. Where necessary, provides visual separation between adjacent development.
    2. Provides clearly defined entries and pedestrian pathways.
    3. Enhances and softens structural elements.
    4. Breaks up large expanses of parking.
    5. Protects and enhances the value of adjacent or on-site natural areas.
    6. In the case of multiple-family developments, buffers dwellings from views that are unattractive and creates areas for outdoor privacy for residents.

- (b) Basic Landscape Standard (L-1). The standards of EC 9.6210(1) may be adjusted if the proposal enhances a development site by providing attractive, open landscaped areas where distance is the primary means of separating different uses or developments.
  - (c) Low Screen Landscape Standard (L-2). The standards of EC 9.6210(2) may be adjusted if the proposal achieves at least one of the following:
    1. A landscape treatment that uses a combination of distance and low-level screening (minimum 30 inches, maximum of 42 inches) to separate uses or development and the screening is adequate to soften the impact of the use or development.
    2. In those instances where visibility between areas is more important than a total visual screen, the alternative landscape treatment is appropriate for the site.
  - (d) High Screen Landscape Standard (L-3). The standards of EC 9.6210(3) may be adjusted if the proposal uses landscape screening to provide a physical and visual separation between uses or development.
  - (e) High Wall Landscape Standard (L-4). The standards of EC 9.6210(4) may be adjusted if the proposal continues to provide extensive screening of both visual and noise impacts to protect adjacent users.
  - (f) Partial Screen Fence Landscape Standard (L-5). The standards of EC 9.6210(5) may be adjusted where the proposal achieves at least one of the following:
    1. A moderate level of screening, adequate to soften the impact of the use or development.
    2. In those instances where visibility between areas is more important than a total visual screen, the alternate landscape treatment is appropriate for the site.
  - (g) Full Screen Fence Landscape Standard (L-6). The standards of EC 9.6210(6) may be adjusted if both of the following are achieved:
    1. The proposal provides a tall, complete visual separation to protect abutting uses.
    2. Living plant landscaping is not practical for the site.
  - (h) Massed Landscape Standard (L-7). Adjustments may be made to the standards of EC 9.6210(7) if the proposal provides a landscape treatment appropriate for interior yards of large development sites adjacent to arterial and collector streets or to non-residential uses adjacent to residential development as the case may be.
- (4) Building Orientation and Entrance Standards Adjustment.** Where this land use code provides that building orientation and entrance standards may be adjusted, the standards may be adjusted upon finding that the proposal complies with one of the following:
- (a) Promotes compatibility with adjacent property.
  - (b) Creates building orientations and entrances that achieve all of the following:
    1. Support and augment the building setback, massing and architectural details.
    2. Achieve an attractive streetscape with a strong building presence on existing and future streets.
    3. In the case of multiple-family developments, provides socialization benefits to residents.
- (5) Underground Utilities Standard Adjustment.** Where this land use code provides that the underground utility standard may be adjusted, the standards may be adjusted upon finding that one or more of the following exist:
- (a) Underground utility placement would be unreasonably onerous to the applicant.
  - (b) Underground utility placement would be disruptive to significant natural resources.
- (6) Large Commercial Facilities Standards Adjustment.** Where this land use code provides that the large commercial facilities standards may be adjusted, the standards may be adjusted upon finding that the design contributes to one or more of the following:
- (a) Improving the appearance and function of large commercial facilities.
  - (b) Encouraging efficient use of land resources and urban services.
  - (c) Encouraging mixed use.
  - (d) Supporting transportation options.
  - (e) Promoting detailed, human-scale site and building design.

- (7) **Large Multi-tenant Commercial Facilities Standards Adjustment.** Where this land use code provides that the large multi-tenant commercial facilities standards may be adjusted, the standards may be adjusted upon finding that the design achieves all of the following:
- (a) Provides for pedestrian safety, comfort and convenience.
  - (b) Produces visual clarity of circulation paths and building entrances for the pedestrian.
- (8) **Multiple-Family Standards Adjustment.** Where this land use code provides that the multiple-family standards may be adjusted, the standards may be adjusted upon finding that the design achieves all of the following:
- (a) Maximum Building Dimension. The requirements set forth in EC 9.5500(6)(a) may be adjusted if the proposal creates building massing and/or facades that:
    1. Create a vibrant street facade with visual detail.
    2. Provide multiple entrances to building or yards.
  - (b) Building Articulation. The requirements set forth in EC 9.5500(7) may be adjusted if the proposed building design:
    1. Utilizes architectural masses, features or details to distinguish elements of the building.
    2. Defines entryways in appropriate scales.
  - (c) Open Space. The requirements set forth in EC 9.5500(9) may be adjusted if the proposal will achieve better overall compliance with the purpose of the open space standards than what would result from strict adherence to the standards.
  - (d) Block Requirement. The requirements set forth in EC 9.5500(10) may be adjusted if the proposal achieves at least one of the following:
    1. Provides an equivalent or greater degree of vehicular and pedestrian circulation.
    2. Traditional block patterns that reduce the apparent scale of large developments by breaking the site up into smaller land units. (See also EC 9.6810 Block Length.)
  - (e) Site Access and Internal Circulation. The requirements set forth in EC 9.5500(11) may be adjusted in accordance with the criteria in this subsection. In the case of an adjustment, all of the following standards apply:
    1. Sidewalks may be designed as curbside walks only along those portions of the private streets providing parallel on-street parking.
    2. Street trees may be placed in tree wells or adjacent to the sidewalk.
  - (f) Vehicle Parking. The requirements set forth in EC 9.5500(12) may be adjusted if the proposal achieves to the same degree as would strict compliance with the standards all of the following:
    1. Limitations on the use of continuous parking drives in large-scale multiple-family developments.
    2. Limitations on the size of individual parking lots in multiple-family development.
    3. Minimal negative aspects of parking uses in multiple-family developments.  
Where cost considerations preclude parking beneath or within residential buildings, combinations of partial and interrupted parking drives; on-street parking; and small, dispersed parking courts are an acceptable alternative.
- (9) **Bicycle Parking Standards Adjustment.** Where this land use code provides that the bicycle parking standards may be adjusted, the standards may be adjusted upon finding that the design achieves all of the following:
- (a) Consistency with EC 9.6100 Purpose of Bicycle Parking Standards; and
  - (b) Shared bicycle parking remains convenient and clearly visible for users.
- In cases where the standard for required bicycle parking for a development site would require in excess of over 1,500 bicycle spaces, the applicant may also seek an adjustment by submitting for city review a Bicycle Management Program. The Bicycle Management Program shall address how the applicant will encourage bicycle use and the rationale for requesting an adjustment. City approval of the Bicycle Management Program shall constitute the granting of an adjustment.

**(10) Motor Vehicle Parking and Loading Standards Adjustment.** Where this land use code provides that the motor vehicle parking standards may be adjusted, the standards may be adjusted upon finding the applicable corresponding criteria are met.

(a) Number of Required Off-Street Parking Spaces. Adjustments may be made to the required number of off-street parking space provisions of EC 9.6410 based on the following criteria:

1. The minimum required off-street parking spaces may be reduced by up to 50 percent when the applicant for a development can demonstrate, in a parking-traffic study prepared by a traffic engineer, that both of the following conditions exist:
  - a. The use of alternative modes of transportation, including transit, bicycles, and walking, and/or special characteristics of the customer, client, employee or resident population will reduce expected vehicle use and parking space demand for this development, as compared to standard Institute of Transportation Engineers vehicle trip generation rates and minimum city parking requirements.
  - b. A Transportation Demand Management (TDM) Program has been approved by the city that contains strategies for reducing vehicle use and parking demand generated by the development and establishes benchmarks by which the program's effectiveness will be measured annually.
2. In the case of an existing use proposing to provide a transit stop and related amenities such as a public plaza, pedestrian sitting areas, transit-supportive development, and additional landscaping, the number of required off-street parking spaces may be reduced by up to 10 percent.
3. Except within a /TD overlay zone, an adjustment that approves installation up to 150 percent of the minimum spaces required by EC 9.6410(3) Minimum Number of Required Off-Street Parking Spaces may be allowed, if all of the following are met:
  - a. Additional parking is necessary to meet the parking demand for a specific use.
  - b. Shared use of parking is not available or adequate to meet the demand.
  - c. At least 60 percent of the parking lot is allocated and striped for compact cars.
  - d. An employee-based Transportation Demand Management Program has been approved by the city.

(b) Loading and Drive - Through Design Standards. Adjustments may be made to the standards of EC 9.6415 based on the following.

1. The minimum depth required in EC 9.6415(1) for a specially designed area may be adjusted upon a determination that a lesser minimum is adequate to prevent the extension of the line-up of automobiles into the public right-of-way.
2. An adjustment may be granted to the loading and service drive off-street maneuvering space requirement of EC 9.6415(3) for property located on a local street where existing or projected traffic volumes do not exceed daily traffic counts of 750 vehicles.

(c) Parking Area Standards. Adjustments may be made to the landscape standards of EC 9.6420(3) upon finding that the proposed landscape is consistent with the following applicable criteria:

1. Provides visual separation, as needed, between adjacent development.
2. Provides clearly defined parking area entrances and on-site pedestrian circulation.
3. Enhances and softens the appearance of parking structures.
4. Breaks up large expanses of parking.
5. Protects or mitigates the loss of significant trees or other natural features on or adjacent to the development.

(d) Shared Off-Street Parking. The shared off-street parking space requirements of EC 9.6430 may be adjusted as follows:

1. Joint Use at Different Times. The joint use of required facilities at different times may be allowed provided all of the following exist:
  - a. The applicant shows there will be no substantial conflict in the principal operating hours of the buildings or uses for which the joint parking use is proposed.

- b. The parking facility will be within 1/4 mile or 1,320 feet of buildings or uses it will serve.
- c. The parties involved in the joint parking facility agree to the joint use arrangement in a legal document approved by the city attorney.
- d. The legal document is recorded in the office of the Lane County recorder and a copy filed with the city's Building and Permit Services Division.

2. Joint Use Simultaneously. The simultaneous joint use of required facilities may be allowed provided all of the following exist:

- a. No more than 2 uses under separate ownership or occupancy shall be involved.
- b. The uses will occur on the same development site.
- c. It can be reasonably anticipated that a number of customers or clients will be served by both uses while on the development site.

The determination of the number of required off-street parking spaces under 1. or 2. of this subsection shall be based on a review of Table 9.6410 Required Off-Street Motor Vehicle Parking, operating characteristics and the conditions noted above.

(e) Special Event Permanent Parking Facilities. The standards of EC 9.6435 for permanent parking facilities for special events may be adjusted provided the proposal results in the development of attractive, safe, and efficient special event parking areas.

**(11) Vision Clearance Area - Approval Criteria for Adjustment Review.** The vision clearance standards of EC 9.6780 may be adjusted if it is determined that no feasible alternative to the intersection to address vision clearance is available, and any of the following conditions exist:

- (a) Traffic can safely approach and enter the intersection or street given existing traffic control devices or other physical conditions of the area.
- (b) Topographic conditions are so extreme or structures exist such that it is not practical to provide required vision clearance.
- (c) Additional traffic control structures or facilities may be required to provide for adequate public safety.

**(12) Streets, Alleys, and Other Public Way Standards Adjustment.** As set out below, specific standards set forth in EC 9.6815 through 9.6830 pertaining to streets may be adjusted if the corresponding criteria are met.

(a) Street Connectivity Standards. As an alternative to compliance with the standards of EC 9.6815(2) Street Connectivity Standards (a)-(d), the applicant may, at his or her expense, provide to the city a local street connection study that demonstrates how the proposed street system meets the intent of street connectivity provisions of this land use code as expressed in EC 9.6815(1), and how undeveloped or partially developed properties within a quarter mile can be adequately served by alternative street layouts. Approval of the street connection study by the city shall constitute an adjustment to the standards of EC 9.6815(2). The requirements of subparagraphs (b) and (c) may be adjusted if it is demonstrated that a connection cannot be made because of the existence of one or more of the following conditions:

- 1. Physical conditions preclude development of the connecting street. Such conditions may include, but are not limited to, topography or likely impact to natural resource areas such as wetlands, ponds, streams, channels, rivers, lakes or upland wildlife habitat area, or a resource on the National Wetland Inventory or under protection by state or federal law.
- 2. Buildings or other existing development on adjacent lands, including previously subdivided but vacant lots or parcels, physically preclude a connection now or in the future, considering the potential for redevelopment.

(b) Cul-de-Sacs.

- 1. An adjustment to the requirement of EC 9.6820(1) may be granted if it is shown that topographic constraints, existing development, or natural features prevent the construction of a bulb.

2. The limitation of a 400 foot maximum length for a cul-de-sac in EC 9.6820(4) may be adjusted if all of the following conditions exist:
  - a. The physical shape of the property prevents alternative development patterns and there are no practical alternative street layouts available that would meet street connectivity.
  - b. The physical conditions of the property preclude the ability to achieve the density permitted according to the zoning of the property with a cul-de-sac of only 400 feet. Such conditions may include, but are not limited to, topography or the existence of natural resource areas such as wetlands, ponds, streams, channels, rivers, lakes or upland wildlife habitat area, or a resource on the National Wetland Inventory or under protection by state or federal law.

**(13) Tree Preservation and Removal Standards Adjustment.** Except as otherwise provided in EC 9.6885(3) Adjustments to Standards, the tree preservation and removal standards of EC 9.6885(2) may be adjusted, and the number of trees required to be preserved may be reduced based on compliance with all of the following criteria of (a), (b), (c), and (d), and one of the conditions of (e) exists:

- (a) The proposed adjustment to the tree preservation and removal standards is the minimum necessary to implement the development proposal.
- (b) The proposal includes an approved replanting or restoration program or plan that mitigates the loss of trees or impacts to other natural features.
- (c) The proposal is otherwise in compliance with all applicable standards.
- (d) Alternative proposals have been evaluated, and there is no feasible alternative.
- (e) One of the following conditions exists:
  1. Compliance with tree preservation and removal standards is not feasible, or would result in degradation of steep slopes, significant wildlife habitat, or water bodies due to the topography or other natural features of the development site; or
  2. An adjustment to the tree preservation and removal standards is necessary in order to achieve the minimum residential density under this land use code; or
  3. The existing trees required to meet the minimum preservation standard are unlikely to survive the level and type of anticipated development due to susceptibility to windthrow or other natural causes of failure.

**(14) Overlay Zone Development Standards Adjustment.** Where this land use code provides that the applicable overlay zone standards may be adjusted, the standards may be adjusted upon finding that the adjustment of the standards will result in a development that is consistent with the purpose of the overlay.

**(15) S-H Historic Zone Standards Adjustment.** In addition to the allowed adjustments to standards provided elsewhere in this land use code, any standard applicable to an S-H Historic Zone may be adjusted upon finding that the proposal is consistent with the purpose of the applicable zone and is suitable for the area.

**(16) /BW Broadway Overlay Zone.** A standard applicable within the /BW Broadway Overlay Zone may be adjusted upon a finding that the proposed adjustment is consistent with:

- (a) The purposes of the /BW Broadway Overlay Zone as set forth in EC 9.4070; and
- (b) The applicable adjustment criteria in another subsection of EC 9.8030, if any.

If there is no subsection within EC 9.8030 that pertains to the type of standard being considered, adjustment may be permitted based solely on compliance with EC 9.8030(16)(a).

**(17) S-RN Royal Node Special Area Zone Standards Adjustment.** A standard applicable within the S-RN Royal Node Subarea LDR, MDR, RMU, CMU or MSC may be adjusted upon a finding that the proposed adjustment:

- (a) Is consistent with the purposes of the S-RN Royal Node Special Area Zone as set forth at EC 9.3800; and
  - (b) Meets the applicable adjustment criteria in another subsection of EC 9.8030, if any.
- If there is no EC 9.8030 subsection that pertains to the type of standard being considered, adjustment may be permitted based solely on compliance with EC 9.8030(17)(a).

- (18) S-CN Chase Node Special Area Zone Standards Adjustment.** A standard applicable within the S-CN Chase Node Special Area Zone Subarea C, HDR/MU or HDR may be adjusted upon a finding that the proposed adjustment:
- (a) Is consistent with the purposes of the S-CN Chase Node Special Area Zone as set forth at EC 9.3100; and
  - (b) Meets the applicable adjustment criteria in another subsection of EC 9.8030, if any. If there is no EC 9.8030 subsection that pertains to the type of standard being considered, adjustment may be permitted based solely on compliance with EC 9.8030(16)(a).
- (19) Improvements, Streets and Alleys.** The paving requirement at EC 9.6505(3)(b) may be adjusted if the site developer has shown that a street or alley adjacent to the development will not be impacted by the development.
- (20) Public Accessways.** The public accessway standards of 9.6835(1) may be adjusted if the developer has shown that pedestrian and bicyclists traveling to and from nearby residential areas, transit stops, neighborhood activity centers, and other commercial and industrial areas are already being provided safe, convenient and direct access. "Nearby" means within 1/4 mile that can reasonably be expected to be used by pedestrians, and within 2 miles that can reasonably be expected to be used by bicyclists.
- (21) Hospital Development Site Standards Adjustment.** Except for standards for uses located on property zoned R-1, R-1.5 or R-2, standards applicable to a hospital development site may be adjusted provided the proposal is compatible with surrounding development. Standards for uses on R-1, R-1.5 or R-2 property within a hospital development site may only be adjusted through the Type III conditional use permit process based on the criteria at EC 9.8090. Regardless of the process, height limitations at EC 9.2171(16) and EC 9.2751(14) are not subject to adjustment.

*(Section 9.8030, see chart at front of Chapter 9 for legislative history from 2/26/01 through 6/1/02; amended by Ordinance No. 20267, enacted November 12, 2002, effective December 11, 2002; Ordinance No. 20271, enacted November 25, 2002, effective December 25, 2002; Ordinance No. 20275, enacted January 13, 2003, effective February 12, 2003; Ordinance 20285, enacted March 10, 2003, effective April 9, 2003; and Ordinance 20297, enacted August 11, 2003, effective September 10, 2003; and Ordinance 20299, enacted October 22, 2003, effective November 21, 2003.)*