ORDINANCE NO. 6042

AN ORDINANCE AMENDING ORDINANCE NO. 4441, WHICH ADOPTED THE CITY OF ALBANY DEVELOPMENT CODE, BY AMENDING THE ALBANY DEVELOPMENT CODE AND ADOPTING FINDINGS

WHEREAS, from time to time it is appropriate to amend the Albany Development Code to address changing conditions or laws, to clarify the intent of the standards, and to ensure that it remains responsive to community needs; and

WHEREAS, a notice of the proposed amendments and planning commission and city council public hearings was sent to the Oregon Department of Land Conservation and Development on April 5, 2024, published in the Albany Democrat-Herald on April 27, 2024, and mailed to Benton County and Linn County on April 29, 2024; and

WHEREAS, on May 13, 2024, the Albany Planning Commission held a public hearing regarding the proposed amendments, deliberated on the proposed amendments, and recommended approval based on the findings of fact presented in the staff report and evidence presented during the public hearing; and

WHEREAS, on June 12, 2024, the Albany City Council held a public hearing on the proposed amendments, reviewed the findings of fact, considered testimony presented at the public hearing, and deliberated.

NOW, THEREFORE, THE PEOPLE OF THE CITY OF ALBANY DO ORDAIN AS FOLLOWS:

Section 1: The Albany Development Code text is hereby amended as shown in attached Exhibit A for the following articles: Article 1 Administration and Procedures, Article 2 Review Criteria, Article 3 Residential Zoning Districts, Article 4 Commercial and Industrial Zoning Districts, Article 5 Mixed Use Zoning Districts, Article 8 Design Standards, Article 9 On-Site Development and Environmental Standards, Article 10 Manufactured Home Development Standards, Article 11 Land Divisions and Planned Developments, and Article 22 Use Categories and Definitions (Planning file DC-03-24).

Section 2: The findings of fact and conclusions included in the staff report and attached as Exhibit B are hereby adopted in support of the decision.

Section 3: A copy of this ordinance shall be filed in the office of the city clerk of the City of Albany and these changes shall be made to the Albany Comprehensive Plan and Albany Development Code.

Passed by the Council: June 12, 2024

Approved by the Mayor: June 12, 2024

Effective Date: July 12, 2024

Mayor

ATTEST:

Allison R. Liesse

City Clerk

Proposed additions to the Albany Development Code are shown in red underline and deletions in ~~strike-out~~. Sections not being amended are not shown unless needed for context.

Staff Comments are provided throughout the document to explain proposed amendments. These comments will not be included as adopted amendments to the Albany Development Code.

ARTICLE 1[1]
ADMINISTRATION AND PROCEDURES

1.000 Overview. This Article establishes the framework for the review and processing of land use applications and legislative land use proposals, as well as ministerial actions. This Article is intended to enable the City, applicants, and the public, where applicable, to reasonably review applications and participate in the local decision-making process in a timely and effective way.
The list below is a summary of the topics covered in this chapter.

- General Administration of Title 20
- Review Procedures Generally
- Pre-Application Conferences and Neighborhood Meetings
- Application Submittal and Completeness Review
- Review Type Procedures
- Expirations, Extensions, and Modifications
- Appeals
- Conduct of Quasi-Judicial Hearings
- Conduct of Legislative Hearings
- Enforcement

These headings precede subtopics that can help the user locate information. The table of contents contains a complete listing of the material covered in this Article.

Staff Comments:

- Table 1.100-1 – Procedure by Application Type – Adding Tree Removal associated with the development of housing, which were not originally included in the table. It was not included in the table.

**** No changes are proposed to Section 1.010 to 1.090, so those sections are not provided. ****

LAND USE REVIEW PROCEDURES GENERALLY

1.100 Applicability of Review Procedures. Except for those activities and developments listed in Section 1.105, all land use and development permit decisions will be made by using the procedures contained in this Article. The procedure "type" assigned to each application governs the decision-making process for that permit or application. There are six types of permit/application procedures as described in subsections (1) through (6) below. Table 1.100-1 lists the City's land use and development applications and corresponding review procedure(s).

(1) Type I Procedure (Ministerial Staff Review). A Type I procedure is used in applying City land use standards and criteria that do not require the use of discretion, interpretation, or the exercise of policy or legal judgment (i.e., clear and objective standards). Type I decisions are made by the Director without public notice and without a public hearing. Appeals of Type I decisions are to Circuit Court under writ of review.

(2) Type I-L Procedure (Staff Review with Notice). A Type I-L procedure is used for some tentative plats and when applying discretionary land use standards that regulate the physical characteristics of a use which is permitted outright. Type I-L decisions are made by the Director and require public notice and an opportunity

[1] Entire article replaced with Ordinance 5947, January 1, 2021.

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for appeal to a local hearing body. With the exception of Historic Resource decisions which are appealed to the Landmarks Commission, appeals of Type I-L decisions are heard by the Planning Commission.

(3) Type II Procedure (Staff Review with Notice of Decision). A Type II procedure is used when the land use standards and criteria require some discretion, interpretation, or policy or legal judgment. The Director is the person designated in accordance with ORS 227.175 to make Type II decisions. Type II decisions require public notice and an opportunity for appeal to a local hearing body. With the exception of Historic Resource decisions which are appealed to the Landmarks Commission, appeals of Type II decisions are heard by the Planning Commission.

(4) Type III Procedure (Quasi-Judicial Review—Public Hearing). A Type III procedure is used when the land use standards and criteria require discretion, interpretation, or policy or legal judgment or for large projects. Quasi-Judicial decisions implement established policy but typically involve discretion. Type III decisions are made by the Planning Commission, Hearings Board or Landmarks Commission and require public notice and a public hearing, with an opportunity for appeal to the City Council.

(5) Type IV-Q Procedure (Quasi-Judicial Review—City Council Public Hearing). The Type IV-Q procedure is used when the land use standards and criteria require discretion, interpretation, or policy or legal judgment and is the procedure used for site-specific land use actions initiated by an applicant. The application is heard by the Planning Commission, Hearings Board, or Landmarks Commission. If the recommending body makes a favorable recommendation, the City Council will hold a hearing and make a final decision. If the Planning Commission, Hearings Board, or Landmarks Commission recommends against a proposal, the City Council will only consider the proposal on appeal by the applicant. Appeal of the City Council's Type IV-Q decisions are heard by the state Land Use Board of Appeals.

(6) Type IV-L Procedure (Legislative Review). Legislative review procedures are used to review proposals to amend the Albany Comprehensive Plan, the City's land use regulations, and large-scale changes to the Comprehensive Plan or Plan Maps, and involve the creation, revision, or implementation of broad public policy. Legislative proposals are first considered by the Planning Commission, which makes a recommendation to City Council. City Council makes the final decision on a legislative proposal through the enactment of an ordinance. Appeals of legislative decisions are heard by the state Land Use Board of Appeals.

Table 1.100-1 – Procedure by Application Type

Application / Action	Procedure Type	Decision Body	Pre-App Conference Required	Neighborhood Mtg Req.	Applicable Section
Adjustments	III	HB or PC	No	No	2.070
Annexations					
• Annexations mandated by state law	I	CDD	No	No	2.095
• All other annexations	IV-Q and IV-L	See 2.095	Yes	No	2.095
Comprehensive Plan and Map Amendments					
• Quasi-Judicial	IV-Q	PC or CC	Yes	No	2.210
• Legislative	IV-L	CC	Yes*	No	2.210
• Corrections to Comp Plan map	I	CDD	No	No	2.225
Conditional Use	II or III	CDD HB or PC	Yes	See 1.140	2.240
Development Code Amendments					
• Corrections to Development Code	I	CDD	No	No	2.280
• All other amendments	IV-L	CC	Yes*	No	2.280
Interpretations	I, I-L, II, III	See 1.040	Yes*	No	1.040

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Application / Action	Procedure Type	Decision Body	Pre-App Conference Required	Neighborhood Mtg Req.	Applicable Section
Land Divisions and Planned Developments					
• Cluster development	III	PC	Yes	Yes	11.430
• Land division (partition or subdivision) – preliminary plat	I-L	CDD	Yes	See 1.140	11.170
• Land division – final plat	I	CDD	No	No	11.170
• Planned development – preliminary review	III	PC	Yes	Yes	11.260
• Planned development – final approval	I	CDD	No	No	11.260
• Planned development – major changes	III	PC	Yes	Yes*	11.350
• Planned development – minor changes	I	CDD	No	No	11.350
• Property line adjustment	I	CDD	No	No	11.110
• Expedited land divisions***	N/A (ORS 197.360)	CDD	No; Recommended	No	11.600
• Middle housing land division***	N/A (ORS 197.365)	CDD	No; Recommended	No	11.610
Manufactured Home Park (excluding Planned Developments)	I-L	CDD	Yes	See 1.140	10.210
Modifications					
• Modification of Approved Site Plan Review and Conditional Use Applications	Same procedure and decision body as original decision		Yes*	No	1.330
• Modification of Condition of Approval	Same procedure and decision body as original decision		Yes*	No	1.340
Nonconforming Use					
• Nonconforming use review – change of use within same use category (see 2.345(1)(a) for criteria)	I	CDD	No	No	2.350
• Nonconforming use review – all other situations	II	CDD	Yes	No	2.350
Recreational vehicle park	I-L or III	CDD or PC	Yes		10.530
Signs					
• Standard Sign Permit	I	CDD	No	No	13.610
• Sign Variance	II	CDD	Yes	No	13.710
Site Plan Review	I or I-L	CDD	Yes*	See 1.140	2.415
Vacations	IV-Q or IV-L	CC	Yes*	No	2.620
Variance					

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Application / Action	Procedure Type	Decision Body	Pre-App Conference Required	Neighborhood Mtg Req.	Applicable Section
• Major Variance	II	CDD	Yes	No	2.670
• Minor Variance	I-L	CDD	Yes*	No	2.670, 2.694
Zoning Map Amendments					
• Quasi-judicial zoning map amendments	IV-Q	PC or CC	Yes	No	2.720
• Legislative zoning map amendments	IV-L	CC	Yes*	No	2.720
OTHER APPLICATION TYPES					
Floodplain					
• Floodplain Appeals	II	See 6.091	Yes*	No	6.091
• Floodplain Development Permit	I, I-L, II, III	See 6.093	Yes*	See 1.140	6.093
• Floodplain Variance	II	CDD	Yes*	No	6.092
Hillside Development					
• Hillside review for development that only requires a building permit	I	CDD	No	No	6.190
• Hillside review for all other	I, I-L, II, III	See 6.190	No	See 1.140	6.190
Historic Resources**					
• Designation of a resource or district	IV-Q or IV-L	LC and CC	No	No	7.040
• Amendments to Exist. Districts	IV-L	CC	No	No	7.040
• Local Historic Inventory Removal (outside districts, not on National Register, demolished or removed resources)	I	CDD	Yes*	No	7.040
• Individual Property Re-Rating	III	LC	Yes*	No	7.040
• Historic review of Ext. Alterations – no change in character; not visible	I	CDD	No	No	7.120
• Historic review of Ext. Alterations – all other, including all non-residential	III	LC	Yes*	See 1.140	7.120
• Substitute materials	III	LC	Yes*	See 1.140	7.180
• New construction	I-L	CDD	Yes*	No	7.240
• Demolitions / Relocations – contributing structures	III	LC	Yes*	See 1.140	7.310
Natural Resource Impact Review					
• Natural Resource review without concurrent land use review	I or I-L	CDD	No	No	6.300
• Natural Resource review for all other	I, I-L, II, III	See 6.300	Yes*	See 1.140	6.300
• Natural Resource minor variance	I-L	CDD	No	No	6.450
• Natural Resource major variance	II	CDD	Yes*	No	6.450

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Application / Action	Procedure Type	Decision Body	Pre-App Conference Required	Neighborhood Mtg Req.	Applicable Section
Special Use Permit	I	CDD	No	No	10.440 and 10.470
Tree Removal					
• Site Plan Review for tree removal (5 or more trees 8" in diameter on contiguously owned property 20,000 sf or greater)	I-L	CDD	Yes*	No	9.204 and 9.205
• Site Plan Review for tree removal associated with development of housing	I	CDD	No	No	9.206
Willamette River Greenway					
• Greenway development review	II	CDD	Yes	No	6.520
LEGEND: City Council **(CC)**, Director **(CDD)**, Hearings Board **(HB)**, Landmarks Commission **(LC)**, Planning Commission **(PC)**.					
* Unless waived by the Community Development Director. ** Additional application review procedures applicable to Historic Resources are found in Article 7. In cases of conflict with the procedures in Article 1, the procedures in Article 7 shall prevail. ***Application review procedures for Expedited and Middle Housing Land Divisions are found in Article 11 Sections 11.600 through 11.630.					

[Ord. 5966, 11/12/21; Ord. 5968, 1/14/22; Ord. 6004, 12/28/22; Ord. 6024, 12/29/23]

Staff Comments for 1.105 Activities Exempt from Land Use Review:

- Clarifying when activities are exempt from land use review. In particular, separating parking and site circulation changes from building expansions.
- Removing specific situations that do not require Site Plan Review and adding a reference to activities and developments that do not require land use review in other areas of the code. This will fix some loopholes and provide standards in one location.
- Moving former (14) to (4) and noting expedited and middle housing land divisions are not land use actions per State Law, but applications are required.

1.105 When a Type I - IV Application is Not Required. Activities and developments listed below do not require a Type I - IV land use application but are ~~nevertheless~~ still subject to the provisions of the Code, including, but not limited to setbacks, lot coverage, building height, design standards, on-site development standards, and public improvement and environmental standards. Compliance with city standards will be verified as part of the building permit review process.

Activities and development within special purpose districts must comply with the regulations described in Article 4 (Airport Approach), 6 (Natural Resources), and 7 (Historic), as applicable, and may require a land use application as described in each respective section.

Activities and development on a site containing a nonconforming use may require a Nonconforming Use Review in accordance with Article 2. [Ord. 5966, 11/12/21]

(1) Agricultural uses permitted outright in Articles 3, 4 and 5.

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(2) New ~~detached~~ single dwelling units, two primary units, accessory dwelling units, ~~and duplexes~~ or middle housing dwelling units, and additions to existing single dwelling units or ~~duplexes~~middle housing dwelling units, except where specifically identified as requiring land use review ~~conditional use or site plan~~ approval in Articles 3, 4 and 5.

[Ord. 5968, 1/14/22]

(3) Activities and development that are not identified as requiring a land use review as specified elsewhere in the Albany Development Code~~Residential accessory buildings up to 750 square feet and walls not greater than 12 feet tall or that meet the standards in Section 3.080(9)~~.

~~(4) Non-residential accessory buildings of any size in the NC, CC, RC, IP, LI, HI and PB zones and non-residential accessory buildings up to 750 square feet in the CB, HD, ES, LE, MS, MUC, MUR, OP and WF zoning districts.~~

(4) Expedited land divisions and middle housing land divisions are not a land use action per Oregon law; however, an application is required. See application review procedures in Article 11, Sections 11.600 through 11.630. [Ord. 5968, 1/14/22; Ord 6004, 12/28/22]

(5) Routine property maintenance.

~~(6) New parking areas or expansions to existing parking areasthat are less than 1,000 square feet in area and do not modify site circulation or access, do not require Site Plan Review as stated in Section 2.430.~~

~~[Ord. 6018, 6/30/23; Ord. 6024, 12/29/23]~~

~~(7)~~(6) Restriping an existing parking lot in compliance with parking stall dimensions provided in ~~Section~~Table 9.120-1 ~~with no additional parking spaces and~~ that does not include other site or circulation modifications that require Site Plan Review approval per Section 2.430. ~~modify site circulation or access~~.[Ord. 6024, 12/29/23]

~~(8)~~(7) A change internal to a building or ~~other~~ structure ~~or~~ when the use is permitted through a land use review ~~Site Plan Review use~~ and does not include other site or circulation modifications that require Site Plan Review approval per Section 2.430.~~, and/or additions to an existing building that are less than 2,000 square feet or less than 50 percent of existing building area, whichever is less, and that do not:~~

~~(a) Provide three or more parking spaces or additional loading areas; or~~

~~(b) Modify site circulation or access.~~

[Ord. 6018, 6/30/23, Ord. 6024, 12/29/23]

(~~9~~8) An emergency measure necessary for the safety or protection of property when authorized by the City Manager with written notice to the City Council.

(~~10~~9) Any temporary use of land of up to a 30-day duration (such as a promotional event, festival, carnival, or outdoor sale) that conforms with all other requirements of this Code and other applicable City regulations, public health, and safety requirements, some of which may further limit such uses in terms of location, scope, and duration.

(~~11~~10) The establishment, construction, alteration, or maintenance of a public facility authorized by the Director of Public Works, including streets, highways, traffic control devices, drainage ways, sanitary and storm sewers, pump stations, water lines, electrical power or gas distribution lines, or telephone or television cable systems. This includes construction of staging areas of less than six months' duration but does not include major substations, treatment facilities, storage tanks, reservoirs, and towers.

(11~~2~~) Excavation and fill for foundations and all other excavation or filling of land involving 50 cubic yards or less that does not adversely affect drainage patterns and is not located in the special flood hazard area.

(12~~3~~) In middle housing zoning districts, new middle housing, including middle housing created through internal conversation of, or addition to, existing dwellings, and additions to existing middle housing.

[Ord. 5968, 1/14/22]

~~(14) Expedited land divisions and middle housing land divisions (see application review procedures in Article 11, Sections 11.600 through 11.630). [Ord. 5968, 1/14/22; Ord 6004, 12/28/22]~~

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****** No changes are proposed to Section 1.110 to 1.150, so those sections are not provided. ******

Staff Comments:

- 1.160 Application Submittal Requirements. Updating submittal requirements to better align with the digital submittal process.

1.160 Application Submittal.

(1) Submittal Requirements. Type I – IV-Q land use applications must be submitted on forms provided by the City. A land use application may not be accepted in partial submittals. All information supplied on the application form and accompanying the application must be complete and correct as to the applicable facts. Unless otherwise specified, all of the following must be submitted to initiate completeness review under ADC 1.170:

(a) Explanation of intent, nature, and proposed use(s) of the development, pertinent background information, and other information that may have a bearing in determining the action to be taken, including detailed findings when required by the provisions of this Code.

(b) Signed statement that the property affected by the application is in the exclusive ownership or control of the applicant, or that the applicant has the consent of all partners in ownership of the affected property.

(c) Property description and assessor map parcel number(s).

(d) Additional information required by other sections of this Code because of the type of proposal or the area involved.

(e) ~~Duplicates of the above information as required by the Director~~.

(f) Application fees.

(g) A report documenting the results of any mandatory neighborhood meeting prepared in accordance with ADC 1.140(5).

(2) Application Intake. Each application, when received, will be date-stamped with the date the application was received by the City, and designated with a receipt number and a notation of the staff person who received the application.

(3) Administrative Standards for Applications. The Director is authorized to establish administrative standards for application forms and submittals, including but not limited to plan details, information detail and specificity, number of copies, scale, and the form of submittal.

****** No changes are proposed to Section 1.165 to 1.630, so those sections are not provided. ******

Staff Comments:

- 1.740 Code Enforcement. Correcting incorrect code references.

ENFORCEMENT

1.710 Inspections. The Director or designee may make periodic and routine inspections of properties and premises within the corporate limits of Albany. The purpose of these inspections shall be to determine whether there is compliance with the laws, rules, and regulations designed to protect the health, safety, and welfare of the public. The Director is also empowered to make such inspections upon receiving complaints, specific or general information, or observations indicating the existence of hazardous conditions or non-compliance with such rules, regulations, and laws. If any authorized officer or employee of the City of Albany is denied access to any property or premises for the purposes of making an inspection provided for in this ordinance, then the officer or employee shall not inspect the premises unless and until he has obtained from the City's municipal judge a search warrant for the inspection of the premises.

1.720 Search Warrants. A search warrant for inspections can only be issued under the terms of this ordinance when an affidavit has been filed with the City's municipal court showing probable cause for the inspection by stating:

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(1) The purpose and extent of the proposed inspection;

(2) The ordinance or ordinances that form the basis for the inspection; and

(3) Whether it is a routine or periodic inspection, an inspection initiated by complaint, other specific or general information, or an observation concerning the property or premises or the area in which it is situated.

It shall be unlawful for any person, firm, or corporation to hinder, delay, or obstruct the inspection of premises based on a search warrant issued under the terms of this ordinance.

1.730 Abatement. The location, erection, construction, maintenance, repair, alteration or use of a building or other structure in violation of this ordinance shall be deemed a nuisance and may be abated as such.

1.740 Code Enforcement. The Director or designee may enforce the provisions of this ordinance using the remedies provided in Sections 1.76~~1~~0 through 1.76~~9~~0 herein and elsewhere within the Albany Municipal Code. The enactment of this ordinance shall not invalidate any prior, existing, or future prosecutions for violation of the Development Code regulations committed under a previous ordinance.

1.750 Legal Proceedings by City Attorney. In addition to the remedies prescribed herein, the City Attorney, upon request from the City Council or Director, shall cause to be instituted any civil action, suit, or other legal means considered appropriate to remedy violations of this ordinance.

1.760 Suits in Equity to Enjoin Violations. If any existing or proposed structure or use violates this ordinance, the City Attorney or any affected person may sue to enjoin the violation.

1.770 Enforcement by Chief of Police. The Chief of Police or his or her designee(s) shall have the power to help enforce the provisions of this ordinance.

1.780 Penalty. In addition to the remedies set forth above, the general penalties and procedures set forth in Chapter 1.04 of the Albany Municipal Code apply to any and all violations of this Development Code. The City may elect to pursue such procedure instead of or in addition to any remedy set forth above.

1.790 Violation of a Land Use Approval. Violation of any condition or requirement of any land use approval constitutes a civil infraction when that violation does not, in and of itself, constitute a separate violation of the Albany Municipal Code.

****** No changes are proposed to the remaining Sections in Article 1, so the content is not provided. ******

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ARTICLE 2 REVIEW CRITERIA

2.010 Overview. The Development Code provides nondiscretionary and discretionary standards for the City to use in evaluating how land use proposals comply with the use and development requirements of the Code. The nondiscretionary criteria provide clear and objective standards for certainty in most situations. Discretionary criteria provide flexibility by allowing more subjective standards and objectives and allow modification of regulations in response to specific site conditions. This chapter contains the criteria for evaluation of the following land use applications:

- Adjustments
- Annexations
- Comprehensive Plan and Map Amendments
- Conditional Uses
- Development Code Amendments
- Nonconforming Situations
- Site Plan Review
- Vacations
- Variances, Major
- Variances, Minor
- Zoning Map Amendments

[Ord. 5445, 4/12/00; Ord. 5720, 8/12/09; Ord. 5947, 1/1/21]

**** No changes are proposed to Section 2.020 to 2.290, so those sections are not provided. ****

Staff Comments Nonconforming Situations:

2.330(5)(a), Threshold for required site improvements.

- Adding site improvements to the type of alteration that triggers improvements to nonconforming development,
- Removing required landscaping as an exclusion to the threshold calculation as landscaping is a required improvement in Categories 1 and 2,
- Revising language to be consistent within the section.

NONCONFORMING SITUATIONS

2.300 Purpose. This section provides standards and procedures for the continuation of lots, developments, and uses that are lawfully established but do not comply with current Code standards ("nonconforming situations"). The Code is intended to protect public health, safety, and general welfare, while allowing reasonable use of private property.

2.310 Nonconforming Situations, Generally.

(1) Applicable Provisions. In addition to the general requirements in this section, properties are subject to the standards and procedures for the type (or types) of nonconforming situations applicable to the property.

(a) Non-conforming lots are subject to Section 2.320.

(b) Non-conforming developments are subject to Section 2.330.

(c) Non-conforming uses are subject to Sections 2.340 through 2.350.

(2) Nonconforming Situations Must be Lawfully Established. Uses or developments that were not lawfully established do not have a legal right to continue as nonconforming situations as defined by this Code and must be removed.

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(3) Documentation that a Nonconforming Situation was Lawfully Established. The property owner or applicant must document that a nonconforming situation was legally established on its present site. Evidence that the situation was allowed depends on the type of nonconforming situation. For nonconforming lots, the property owner or applicant must document when the lot was lawfully created by providing land division records meeting the requirements of the State of Oregon. For development or uses, the property owner or applicant must provide building, land use, or development permits. For development or uses which did not require a permit when lawfully established, the property owner or applicant must provide other evidence which clearly shows the date the development or use was established such as dated aerial photographs. In addition, for nonconforming uses, the property owner or applicant must document that the use has been maintained over time. Evidence that a use was maintained over time might consist of building permits, utility hookups, tax records, business licenses, lease agreements, business receipts, or telephone directory listings.

(4) Dangerous Buildings or Intentional Destruction. Except as provided in Subsection 2.330(2), any nonconforming use or development dependent upon a building or structure that has been declared a "dangerous building" and ordered demolished pursuant to the Albany Dangerous Building Code (AMC Title 18) will be considered terminated upon that declaration and order. Nonconforming uses or nonconforming developments that have been intentionally destroyed by the owner shall lose their legal nonconforming status.

(5) Allowances That Apply to All Nonconforming Situations. The following allowances apply to all nonconforming situations.

(a) Their status is not affected by changes in ownership.

(b) Legal nonconforming uses may continue to operate.

(c) They may be changed to conforming situations by right or with an applicable land use approval. Once a conforming situation occupies a site, the nonconforming rights are lost, and a nonconforming situation may not be re-established.

(d) Normal maintenance and repair are allowed.

(e) Changes that conform to the base zone development standards of the site may be made.

(f) Except as specified herein, a nonconforming situation shall maintain compliance with any conditions of approval.

2.320 Nonconforming Lots. Except as specified below, a legal lot or a legally established lot of record that does not meet the dimensional or area requirements of the zoning district in which it is located may be developed, subject to the other applicable requirements of the Code. In middle housing zoning districts, all middle housing types except duplexes must meet the minimum lot size and/or density requirements applicable to that housing type within the zoning district. [Ord. 5968, 1/14/22]

2.330 Nonconforming Development.

(1) Nonconforming Development, Generally. Nonconforming developments may continue unless specifically limited by other regulations in this Code. A nonconforming development or portion thereof may be enlarged or altered in a way that satisfies the current requirements of this Code or moves in the direction of conformity. A nonconforming development shall not be enlarged or altered in a way that increases its nonconformity.

(2) Damage or Destruction of a Nonconforming Development. When a nonconforming development is damaged or destroyed by fire or other causes beyond the control of the owner, it may be replaced in-kind within the footprint of the destroyed improvement within three years in a residential zone or five years in any other zone, provided doing so is not otherwise precluded by the regulations of the Albany Municipal Code. The replacement improvements shall not increase the degree of nonconformity beyond that of the previously existing improvements.

(3) Nonconforming Residential Densities. Existing dwelling units may continue, may be removed or enlarged, and amenities may be added to the site provided the building and development site do not move further out of conformance with the applicable standards.

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(4) Roadway Access. The owner of a nonconforming driveway approach or access to a public street or highway, upon receiving land use or development approval, may be required as a condition of approval to bring the nonconforming access into conformance with the standards of the applicable roadway authority.

(5) Required Improvements. When a proposed project includes alterations that are over the threshold in Subsection (a), the project shall provide the required improvements listed in Subsection (b) for the area specified in Subsection (c).

(a) Threshold. The project requires a Type I-L, Type II, or Type III land use approval as specified in Article 1 of this Code and cumulative value of one or more building improvements or expansions, and/or site improvements exceeds $150,000, excluding the costs associated with the following alterations and improvements intended to bring the site or building into compliance with applicable regulations:

i. Alterations required by fire/life safety standards;

ii. Alterations required to remove existing architectural barriers, as required by the Americans with Disabilities Act;

iii. Seismic improvements;

iv. Improvements to on-site stormwater management facilities in conformance with code standards;

v. Energy efficiency or renewable energy improvements; and

~~vi. Required landscaping; and~~

~~vii.~~vi. Removal or remediation of hazardous substances conducted under ORS 465.200-545 and 900.

The value of ~~a~~ proposed building improvements or expansions, and/~~or~~ site improvements ~~or expansion~~ will be the value stated on the application for building permits or calculated by the Building Official, whichever is higher. The cumulative value of the alterations is based on the value of improvements on the entire project site over the preceding three-year period (from date of application submittal), not individual building permits.

(b) Required improvements. Ten percent of the cost of all improvements proposed in excess of the threshold in Subsection (a) must be allocated toward improvements that bring the site into compliance with standards listed below unless all of the standards listed below can be met at lesser cost. Category 1 improvements must be brought into compliance first. Improvements within a category can be made in any order. If improvements required to comply with this subsection are proposed after approval of the Type I-L, Type II, or Type III land use review (e.g., in conjunction with the building permit), those improvements shall not be subject to an additional Type I-L, Type II, or Type III land use review or additional required improvements under Subsection (a).

Category 1

- Pedestrian facilities connecting the development to a public sidewalk (if a public sidewalk is abutting the property).
- Access to public streets in accordance with Section 12.100.
- Parking lot design and circulation standards in accordance with Sections 9.120 and 9.130.
- Bicycle Parking in 9.030 and Electric Vehicle Charging Capacity in 9.050.

[Ord. 6018, 6/30/23]

Category 2

- If the site is within the Willamette River Greenway, funds will be used to enhance the natural areas closest to the waterfront in accordance with the criteria in Section 6.540.
- Front yard landscaping standards in accordance with Article 9, unless there is not enough physical room, and a Minor Variance is approved;
- Buffering and screening standards in accordance with Article 9, unless there is not enough

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physical room, and a Minor Variance is approved;

- Parking lot landscaping improvement standards in accordance with Section 9.150;
- Screening of refuse containers [Ord. 6018, 6/30/23]

(c) Area of required improvements.

i. Except as provided in subsection ii, below, required improvements must be made for the entire site.

ii. Required improvements may be limited to a smaller area if there is a ground lease for the portion of the site where the alterations are proposed. The area of the ground lease will be considered as a separate site for purposes of required improvements provided the applicant submits a signed ground lease or excerpts from the lease document showing that there is at least one year remaining on the ground lease and submits a legal description of the boundaries of the lease.

2.340 Nonconforming Uses.

(1) Continued Operation. Nonconforming uses may continue to operate on a site. Except as provided in Subsection (2), changes in operations, such as changes in ownership, hours of operation and the addition or subtraction of accessory uses, are allowed.

(2) Hours of Operation in Residential Zones. Nonconforming uses in residential zones may not extend their hours of operation into the period of 10 p.m. to 7 a.m.

(3) Discontinuation or Abandonment of Nonconforming Use. A nonconforming use that is discontinued for a period of more than three years in a residential zone (listed in Article 3) or five years in any other zone shall be deemed abandoned and shall no longer be allowed as a legal nonconforming use. For purposes of calculating the time period, a use is discontinued on a site when:

(a) The use no longer physically occupies the site;

(b) For nonresidential uses, the use ceases operation. For example, the site is no longer actively in use for the sale of merchandise, the manufacture or warehousing of products, or the provision of services; as evidenced by the removal of signs, goods, stock, or office equipment, or the disconnection of telephone or utility service or similar indications;

(c) Any lease or contract under which the nonconforming use has occupied the site is terminated;

(d) A request for final reading of water and power meters is made to the applicable utility or the utility bill account indicates inactivity;

(e) The use ceases operation as a result of damage or destruction by fire or other causes; and/or

(f) An event occurs similar to those listed in Subsections (a) – (e), above, as determined by the Director.

(4) Application of Code Criteria and Standards to Nonconforming Use. Once the City deems a nonconforming use abandoned pursuant to Subsection (3), any subsequent use of the subject lot shall conform to the current standards and criteria of this Code applicable to the use. After the City has deemed a nonconforming use abandoned, the use shall not be allowed to resume, in whole or in part, under the same or different ownership or management; any such activity is a violation of this Code and subject to enforcement proceedings.

Staff Comments:

- 2.345 Nonconforming Use Review Procedures Criteria. Providing reference that Site Plan Review may be required and removing parking space thresholds from the Type I and Type II procedures.

2.345 Nonconforming Use Review - Procedures for Expanding or Changing a Nonconforming Use on a Site. A nonconforming use is reviewed through either a Type I or Type II procedure as described below. Changes to the development site or building may require Site Plan Review; see Section 2.430.

(1) Type I Procedure. The following situations will be processed through a Type I procedure, as established in Section 1.210.

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(a) Changes of use within the same use category. Changing to a different use within the same use category, such as a change from one type of Manufacturing and Production use to another type of Manufacturing and Production use, is permitted if all of the following criteria are met:

i. The nonconforming use was not created lawfully;

~~ii. The new use requires no more than two new parking spaces;~~

~~iii.~~ii. The new use does not result in new construction or expansions in floor area to provide space for nonconforming uses or an expansion to outside storage areas;

~~iv.~~iii. If hours of operation or staffing levels were specified in an earlier land use approval, the new use does not propose increases in hours of operation or staffing levels; and

~~v.~~iv. The new use is not within or abutting a residential zoning district.

(2) Type II Land Use Review. The following changes to nonconforming uses will be processed through a Type II procedure as established in Section 1.230 and subject to the applicable review criteria in Section 2.350.

(a) A change to another use in the same use category that:

~~i. Requires three or more new parking spaces;~~

ii. Is within or abutting a residential zoning district;

iii. Proposes to increase ~~in~~ the hours of operation or staffing levels above levels that were specified in earlier land use approvals (if applicable); or

iv. Includes expansions to outside storage areas or new construction or expansions in floor area to provide space for nonconforming uses.

(b) Within an industrial zoning district, a change from a legal nonconforming use to a commercial use that is not otherwise permitted in the base zone.

(3) A change to another nonconforming use in a different use category, such as changing from a Manufacturing and Production use to a Contractor and Industrial Service use, is prohibited except as specified in subsection (2)(b), above.

Staff Comments related to Site Plan Review:

- 2.415 Procedure. Combining the Procedure section with the Applicability section and removing types of development that do not go through a traditional land use review but are reviewed through building permits.
- 2.430 Applicability. Clarifying when development activities require Site Plan Review.

SITE PLAN REVIEW

2.400 Purpose. Site Plan Review is intended to promote functional, safe, and attractive developments that maximize compatibility with surrounding developments and uses and with the natural environment. It mitigates potential land use conflicts through specific conditions attached by the review body. The review focuses on the layout of a proposed development, including building placement, setbacks, parking areas, external storage areas, open areas, and landscaping. [Ord. 5445, 4/12/00; Ord. 5767, 12/7/11]

2.410 Section removed by Ordinance 5767 adopted December 7, 2011.

2.415 Procedure. An application for Site Plan Review shall be reviewed through either a Type I or Type I-L procedure, as indicated below.

(1) Single dwelling unit detached, two primary detached units, and middle housing development: Type I procedure.

(2) Multiple-dwelling unit development, units above or attached to a business, and manufactured home parks: Type I-L procedure.

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(3) Non-residential development: Type I-L procedure.

[Ord. 5832, 4/9/14; Ord. 5947, 1/1/21; Ord. 5968, 1/14/22; Ord. 6004, 12/28/22]

2.420 Relationship to Other Regulations. When a land use application is approved based on review criteria in this Code, the applicant must still comply with other applicable codes, ordinances, statutes, and regulations.

[Ord. 5445, 4/12/00]

2.430 Applicability. In general, Type 1 or Type I-L Site Plan Review is intended for all new development within the city that specifically requires Site Plan Review as listed in Articles 3, 4 and 5. It applies to new construction, additions or expansions, site modifications, and changes in land use categories. Sites that contain ~~a~~ legal nonconforming ~~use~~ situations will be processed in accordance with Section 2.300 through 2.~~340~~350.

(1) Any activity or development that requires Site Plan Review as indicated in Table 1.100-1, Procedure by Application Type in Article 1, and the Schedules of Permitted Uses and Special Conditions in Articles 3, 4 and 5, unless specifically exempt in Section 1.105.

~~(2) A change of use or reuse of a building or site when the use is allowed through Site Plan Review, and provides three or more new parking spaces, additional loading areas, or that modifies site circulation or access.~~

~~(3)~~(2) Expansions to existing development including n~~N~~ew structures and ~~Building~~ additions~~,~~ whether attached or detached, totaling more ~~greater~~ than 2,000 square feet or ~~greater~~ more than 50 percent of existing building area, whichever is less~~, or any expansion that provides three or more new parking spaces, additional loading areas, or modifies site circulation or access~~.

(3) New parking or loading areas or expansions to existing parking or loading areas or site modifications (excluding buildings) greater than 1,000 square feet or that provide more than two new parking spaces. ~~(contiguous) or m~~

(4) Modifications that change site circulation or access as identified below and similar actions.

(a) Creation, modification, and/or removal of a driveway or pedestrian connection to the street system.

(b) Modification of allowable movements at a driveway connection to the street system.

(c) Creation, extension, closure, and/or alteration of the direction of a travel aisle or walkway.

(5) Conversion of existing off-street parking areas to uses other than bicycle parking or transit-oriented facilities.

(6) Temporary placement of a manufactured home or modular building for: (a) night watchman; (b) business office space during construction or remodeling; (c) building space for education, non-profit, and government agencies. (See Section~~s 10.470~~ 10.490.)

~~(6)~~(7) Tree Felling as specified in 9.205 and 9.206.

[Ord. 5445, 4/12/00; Ord. 5767, 12/7/11; Ord. 5832, 4/9/14; Ord. 5886, 1/6/17; Ord. 5947, 1/1/21; Ord. 5968, 1/14/22; Ord. 6018, 6/30/23; Ord. 6024, 12/29/23]

2.440 Section removed by Ordinance 5767 adopted December 7, 2011.

2.450 Review Criteria – All Site Plan Review Applications. Site Plan Review approval will be granted if the review body finds that the application conforms with the Albany Development Code and meets all of the following criteria that are applicable to the proposed development.

(1) The application is complete in accordance with the applicable requirements.

(2) The application complies with all applicable provisions of the underlying zoning district including, but not limited to, setbacks, lot dimensions, density, lot coverage, building height, and other applicable standards.

(3) Activities and developments within special purpose districts comply with the regulations described in Articles 4 (Airport Approach), 6 (Natural Resources), and 7 (Historic), as applicable.

(4) The application complies with all applicable Design Standards of Article 8.

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(5) The application complies with all applicable Design Standards of Article 10.

(6) The application complies with all applicable On-Site Development and Environmental Standards of Article 9.

(7) The Public Works Director has determined that public facilities and utilities are available to serve the proposed development in accordance with Article 12 or will be made available at the time of development.

(8) The Public Works Director has determined that transportation improvements are available to serve the proposed development in accordance with Article 12 or will be available at the time of development.

(9) The proposed post-construction stormwater quality facilities (private and/or public) can accommodate the proposed development, consistent with Title 12 of the Albany Municipal Code.

(10) The proposal meets all existing conditions of approval for the site or use, as required by prior land use decision(s), as applicable.

(11) Sites that have lost their nonconforming status must be brought into compliance and may be brought into compliance incrementally in accordance with Section 2.330.

[Ord. 5947, 1/1/21; Ord. 5966, 11/12/21]

2.455 Review Criteria – Additional Criteria for Non-Residential Applications (including the non-residential portion of a mixed-use development). Site Plan Review approval will be granted if the review body finds that, in addition to meeting the review criteria in 2.450, the application meets all of the following criteria that are applicable to the proposed development.

(1) The transportation system can safely and adequately accommodate the proposed development.

(2) Parking areas and entrance-exit points are designed to facilitate traffic and pedestrian safety and avoid congestion.

(3) The design and operating characteristics of the proposed development are reasonably compatible with surrounding development and land uses, and any negative impacts have been sufficiently minimized.

[Ord. 5947, 1/1/21]

2.460 Conditions of Approval. The City may attach conditions to the approval of a Site Plan Review application in order to ensure that the proposal will conform to the applicable review criteria. Conditions of approval should be specific to the proposal and the facts set in the staff report for the application. In addition to conditions of approval, a list of general Code provisions that apply to the application may be attached to the approval. [Ord. 5445, 4/12/00; Ord. 5767, 12/7/11]

2.465 Approved Plans are Final. Projects shall be completed according to the approved site plan and landscape plan. Modifications to approved plans are subject to the standards in Section 1.330.

[Ord. 5720, 08/12/09; Ord. 5947, 1/1/21]

Staff Comments related to 2.490 Application Contents:

- Removing 'conceptual' in front of landscape plan so a full landscape plan is submitted for land use review and will not hold up issuance of a building permit,
- Adding a requirement for submittal of a storm drainage report when more than 5,000 square feet of impervious surface will be added during development.

2.490 Application Contents. A Site Plan Review application must include:

(1) A completed application form. The application shall be signed by the subject property's owner(s) and/or the owner's legal representative(s). If a legal representative is used as a signatory, written proof of ability to be a signatory shall be furnished to the City. The owner's name(s) and address, and the applicant's name, address, and signature shall also be provided. [Ord. 5886, 1/6/17]

(2) A written narrative describing the proposed development and explanation of how the development satisfies applicable Albany Development Code standards and review criteria, including information

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required by Article 6 – Natural Resource Districts. [Ord. 5767, 12/7/11; Ord. 5886 1/7/17]

(3) One set of conceptual drawings, including floor plans, lighting details, and building elevations and materials. When solar panels are proposed to comply with the large parking area standards in Section 9.130, provide solar panel specifications including kilowatt production and proposed location. [Ord. 6018, 6/30/23]

(4) A ~~conceptual~~ landscape plan showing the type and location of proposed landscaping and screening, including parking lot landscaping and when applicable, the tree canopy calculations, and any vegetated post-construction stormwater quality facilities. [Ord. 5842, 1/1/15; Ord. 6018, 6/30/23]

~~(4)~~(5) A storm drainage report when 5,000 square feet of new or replaced impervious surface is added for all phases of development. The storm drainage report must include infiltration feasibility as outlined in the Engineering Standards.

~~(5)~~(6) A site plan showing the following applicable information:

(a) Assessor's map and tax lot number and lot and block description or other legal description.

(b) Lot dimensions and total lot area.

(c) North arrow.

(d) Location of all existing and proposed structures, including minimum distances from all structures to property lines.

(e) Percentage of the lot covered by all existing and proposed structures and paved areas. Clearly identify the boundaries and total square footage of all new and/or replaced impervious surfaces. [Ord. 5842, 1/1/15]

(f) Adjacent zoning designations and land uses including approximate location of buildings, accesses, streets, sidewalks, curbs, easements, and utilities.

(g) Locations and dimensions of rights-of-way of all abutting streets (whether public or private) and existing and proposed driveways.

(h) Size and location of all utilities.

(i) Locations, dimensions, and nature of any existing and proposed easements.

(j) Location of any non-access strips.

(k) Natural drainage patterns, flow arrows showing existing and proposed drainage patterns, and existing and proposed finished grade contours at 1-foot intervals, or at a larger interval if approved by the City Engineer.

(l) Clearly identify any existing and proposed swales, ditches, or other drainage ways.

(m) Location, size, type and capacity of the existing and proposed drainage system including pipe size, slope, and detention facilities. Show existing and proposed finished grade elevations at collection points and property lines. Include the location, size, and capacity of the downstream drainage system that would serve the proposed development. Also provide any supporting calculations. [Ord. 5842, 1/1/15]

(n) Location, size, type and capacity of all existing and proposed post-construction stormwater quality facilities. Clearly identify all impervious surfaces and contributing areas draining to each facility. [Ord. 5842, 1/1/15]

(o) Typical cross sections at adjacent property boundaries showing pre-and post-development conditions and clearly identify any changes in elevation at the property line not captured in the typical section.

(p) Location and species of trees larger than 25 inches in circumference (approximately 8 inches in diameter) measured at 4-1/2 feet above mean ground level from the base of the trunk. To obtain the circumference of a tree with multiple trunks, add the individual trunks circumferences, which are greater than 6 inches in circumference. Identify any trees proposed for protection and the method of protection. [Ord. 5842, 1/1/15]

(q) Location and dimensions of delivery and loading areas.

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(r) Location and dimensions of parking and circulation areas.

(s) Location and dimensions of trash disposal areas.

(t) Location of proposed signs. [Ord. 5338, 1/28/98; Ord. 5445, 4/12/00]

(u) Location and type of proposed pedestrian amenities and common areas (when applicable).

(v) Location of airport height restrictions.

(w) Location of floodplains.

(x) Location of hillsides with slopes greater than 12 percent.

(y) Location of wetlands.

(z) Location of riparian corridors.

(aa) Location of Willamette Greenway.

(bb) Location of historic districts, structures, and sites on the City's adopted Local Historic Inventory, including individually designated National Register Historic Landmarks and archaeological sites. [Ord. 5720, 8/12/19]

2.500 Appeals. A Site Plan Review decision is a limited land use decision and may be appealed in accordance with Sections 1.220 and 1.410. [Ord. 5445, 4/12/00; Ord. 5947, 1/1/21]

****** No changes are proposed to the remaining Sections in Article 2, so the content is not provided. ******

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ARTICLE 3
RESIDENTIAL ZONING DISTRICTS

3.010 Overview. The residential zones are intended to preserve land for housing. This Code preserves the character of neighborhoods by providing seven zones with different density standards. The site development standards allow for flexibility of development while maintaining compatibility within the City's various neighborhoods. These regulations provide certainty to property owners, developers, and neighbors by stating the allowed uses and development standards for the base zones. Sites within overlay districts are also subject to the regulations in Articles 6 and 7. [Ord. 5673, 6/27/07]

The list below is a summary of the topics covered in this article.

- Zoning Districts
- Schedule of Permitted Use
- Development Standards

ZONING DISTRICTS

3.020 Establishment of Residential Zoning Districts. In order to regulate and segregate the uses of lands and buildings and to regulate the density of development, the following residential zoning districts are established:

(1) RR—RESIDENTIAL RESERVE DISTRICT. The RR District is intended to recognize areas which, because of topography, level of services, or other natural or development factors are best served by a large lot designation. This district may be applied on an interim basis until urban services become available. The minimum lot size is five acres.

(2) RS-10—RESIDENTIAL SINGLE-DWELLING UNIT DISTRICT. The RS-10 District is intended primarily for a lower density residential environment. The average minimum detached single-dwelling unit lot size is 10,000 square feet. [Ord. 6004, 12/28/22]

(3) RS-6.5—RESIDENTIAL SINGLE-DWELLING UNIT DISTRICT. The RS-6.5 District is intended primarily for low-density urban residential development. The average minimum detached single-dwelling unit lot size is 6,500 square feet. [Ord. 6004/12/28/22]

(4) RS-5—RESIDENTIAL SINGLE-DWELLING UNIT DISTRICT. The RS-5 District is intended primarily for low- to moderate-density residential development. The average minimum detached single-dwelling unit lot size is 5,000 square feet. [Ord. 5673, 6/27/07; Ord. 6004, 12/28/22]

(5) RM—RESIDENTIAL MEDIUM DENSITY DISTRICT. The RM District is primarily intended for medium-density residential urban development. New RM districts should be located on a collector or arterial street or in Village Centers. Multiple dwelling and townhouse development may not exceed 25 units per gross acre. [Ord. 5673, 6/27/07; Ord. 6004, 12/28/22; Ord.6024, 12/29/23]

(6) RMA—RESIDENTIAL MEDIUM DENSITY ATTACHED DISTRICT. The RMA District is intended primarily for medium- to high-density urban residential development. Most units, whether single- or multiple dwelling or middle housing, will be attached. New RMA districts should be located on a collector or arterial street or in Village Centers. Development may not exceed 35 units per gross acre. [Ord. 5673, 6/27/07; Ord. 6004, 12/28/22, Ord. 6024, 12/29/23]

(7) HDR—HIGH DENSITY RESIDENTIAL DISTRICT. The HDR District is intended primarily for high-density urban residential development. This district supports the highest residential density in the city, as development in the HDR district must achieve a density of at least 25 units per gross acre and may not exceed 50 units per gross acre. The HDR district allows a variety of housing types along with other compatible uses. [Ord. 6010, 7/1/23]

(8) HM—HACKLEMAN-MONTEITH DISTRICT. The HM district is intended primarily to preserve the existing residential character of the Hackleman and Monteith National Register Historic Districts. Conversion of single-dwelling unit residential structures to non-residential

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or multiple-dwelling unit residential uses is not allowed.
[Ord. 5555, 2/7/03; Ord. 5673, 6/27/07; Ord. 5968, 1/14/22; Ord. 6004, 12/28/22, Ord. 6024, 12/29/23]

****** No changes are proposed to Sections 3.030-3.040, so they are not provided.******

3.050 Schedule of Permitted Uses. The specific uses listed in the following schedule are permitted in the zones as indicated, subject to the general provisions, special conditions, additional restrictions, and exceptions set forth in this Code. A description of each use category is in Article 22, Use Categories and Definitions.

A number appearing opposite a use in the "special conditions" column indicates that special provisions apply to the use in all zones. A number in a cell particular to a use and zone(s) indicates that special provisions apply to the use category for that zone(s). The conditions follow the schedule of uses, in Section 3.060.

The abbreviations used in the schedule have the following meanings:

Y	Yes; use allowed without land use review procedures but must meet development standards in this article and may be subject to special conditions.
S	Use permitted that requires a site plan approval prior to the development or occupancy of the site or building.
CU	Use permitted conditionally under the provisions of Sections 2.230-2.265 through a Type III procedure.
CUII	Uses permitted conditionally through the Type II procedure.
PD	Use permitted only through planned development approval.
CD	Use permitted only through cluster development approval.
N	No; use not permitted in the zoning district indicated.

Some zones have two abbreviations for a use category (ex. Y/CU). Refer to the special condition number to determine what review process is required based on the details of the use.
[Ord. 5673, 6/27/07; Ord. 5947, 1/1/21]

Staff Comments Related to Table 3.050-1 Schedule of Permitted Uses:

- (20) Single Room Occupancy (SRO) Developments: House Bill 3395 went into effect January 1, 2024. The law requires cities to approve Single Room Occupancy (SRO) development with up to 6 units on each lot zoned for single dwelling detached housing. An SRO development is a residential development with no fewer than four attached units that are independently rented and lockable and provide living and sleeping space for the exclusive use of on occupant, with common area sanitary or food preparation facilities that are shared with other units in the occupancy. SRO development must also be allowed where multiple dwelling units are permitted. The City's current SRO definition calculates SRO density at one dwelling unit for every 2 units/rooms or fraction thereof. Add SROs development to the Schedule of Permitted Uses.
- (22) and (23) Affordable Housing and Converting commercial to residential: New state laws require affordable housing and residential uses in more situations.
- Other minor clarifications are proposed to the use descriptions in Table 3.050-1 for consistency with the rest of the ADC.

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Table 3.050-1
SCHEDULE OF PERMITTED USES

Uses Allowed in Residential Zoning Districts									
USE CATEGORIES (See Article 22 for use descriptions.)	**Spec. Cond.**	**RR**	**RS-10**	**RS-6.5**	**HM**	**RS-5**	**RM**	**RMA**	**HDR**
RESIDENTIAL: Dwellings									
Single-Dwelling Unit ~~detached~~	1, 22, 23	Y	Y	Y	Y	Y	Y	N	N
Primary Residence with one accessory dwelling unit	4	Y	Y	Y	Y	Y	Y	Y	N
~~2 detached p~~Two Primary ~~dwelling u~~Units	2	N	PD/CD	PD/CD	S	PD/CD	Y	Y	N
Duplex, Triplex, and Fourplex	3, 22, 23	Y	Y	Y	Y	Y	Y	Y	Y
Townhouse	22, 23	Y	Y	Y	Y	Y	Y	Y	Y
~~Triplex or Fourplex~~	~~3~~	~~Y~~	~~Y~~	~~Y~~	~~Y~~	~~Y~~	~~Y~~	~~Y~~	~~Y~~
Cottage Cluster	3	Y	Y	Y	Y	Y	Y	~~Y~~N	Y
Single Room Occupancy Development	20, 22, 23	Y	Y	Y	Y	Y	Y	Y	Y
Multiple-Dwelling Units	3, 22, 23	N	N	N	N	N	S	S	S
RESIDENTIAL: Care or Treatment									
Assisted Living		CU	CU	CU	CU	CU	CU	CU	CU
Child or Adult Care Home	6	Y	Y	Y	Y	Y	Y	Y	Y
Daycare Facility		CU	CU	CU	CU	CU	CU	S	S
Residential Care or Treatment Facility (6 or more residents)		CU	CU	CU	CU	CU	CU	S	S
Residential or Group Care Home (5 or fewer residents)		Y	Y	Y	Y	Y	Y	Y	Y
RESIDENTIAL: Miscellaneous Use~~s Categories~~									
Manufactured Home Parks ~~(see Article 10)~~	10, 22	N	N	S	N	S	S	S	S
Accessory Buildings~~, Garages or Carports~~	9	Y/S	Y/S	Y/S	Y/S	Y/S	Y/S	Y/S	Y/S
Bed & Breakfast	7	CUII	CUII	CUII	CUII	CUII	CUII	S	S
Home Businesses ~~(See 3.090-3.160 to determine if CU)~~	21	Y/CU	Y/CU	Y/CU	Y/CU	Y/CU	Y/CU	Y/CU	Y/CU
Rooming or Boarding Houses		N	N	N	CU	N	S	S	Y
Subdivision Sales Office	1	N	Y	Y	N	Y	Y	Y	Y
Unit(s) Above or Attached to a Business	17, 22, 23	N	N	N	N	N	N	N	Y
Temporary Residence	8	S	S	S	S	S	S	S	S
INSTITUTIONAL									
Basic Utilities		CU	CU	CU	CU	CU	CU	CU	CU
Community Services	24	CU	CU	CU	CU	CU	CU	CU	CU
Educational Institutions	13	CU	CU	CU	CU	CU	CU	CU	CU
Hospitals		N	N	N	N	N	CU	CU	CU
Jails & Detention Facilities		N	N	N	N	N	N	N	N
Parks, Open Areas, and Cemeteries	14	S/CU	S/CU	S/CU	CU	S/CU	S/CU	S/CU	S/CU
Religious Institutions	13	CU	CU	CU	CU	CU	CU	CU	CU
COMMERCIAL – Limited Use Types									
Entertainment and Recreation: Indoor Outdoor	18	CU CU	CU CU	CU CU	CU N	CU CU	CU CU	CU CU	CU CU
Offices	17, 19	PD/CD	PD/CD	PD/CD	PD/CD	PD/CD	PD/CD	PD/CD	S
Recreational Vehicle Parks (See Article 10)	5, 10	N	N	N	N	N	CU	CU	CU
Restaurants, no drive-thru	17, 19	PD/CD	PD/CD	PD/CD	PD/CD	PD/CD	PD/CD	PD/CD	S
Retail Sales and Service	17, 19	PD/CD	PD/CD	PD/CD	PD/CD	PD/CD	PD/CD	PD/CD	S
Self-Serve Storage	15	N	N	N	N	N	S	N	N
OTHER CATEGORIES									
Agriculture: Crop Production On-site Sales of Site-Produced Seasonal Goods Plant Nurseries and Greenhouses		Y Y S	Y S S	Y CU S	N N N	Y CU S	Y CU S	Y CU S	Y CU S
Antennas, owned and operated by FCC licensed		Y	Y	Y	Y	Y	Y	Y	Y

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member of Amateur Radio Service									
Communication Facilities	16	N	N	N	N	N	N	N	N
Kennels	11	S	CU	CU	N	CU	CU	N	N
Satellite Dish and Other Antennas	12	Y	Y	Y	Y	Y	Y	Y	Y

Y = Yes, allowed, no Site Plan review required
CD = Cluster Development, see Art. 11
CU = Conditional Use approval required, Type III procedure
CUII = Conditional Use approval required, Type II procedure
N = No, not allowed
PD = Planned Unit Development, see Art. 11
S = Site Plan Review required

Staff Comments for Special Conditions in 3.080:

- (8) Temporary Placements. Adding references to the temporary dwelling placement standards in Article 10, Sections 10.440 through 10.510.
- (9)(e) Residential Accessory Buildings. Removing the requirement that the color of accessory building be similar to the primary residential structure.
- (20) SRO Development. Adding language to describe where SRO's area allowed, how many units, and how density is calculated.
- (22) Affordable Housing. House Bill 2984 and Senate Bill 8, passed in 2023, require cities to allow affordable housing if the land is owned by a public body or nonprofit organized as a religious corporation, or on land zoned to allow commercial, religious assembly or public uses without requiring a zone change or conditional use permit; and the housing affordability is enforceable for a duration of no less than 30 years. (ORS 197A.445)
- (23) Commercial conversion to Residential. House Bill 2984 also requires cities to allow buildings or portions of buildings in commercial use to convert to residential uses.
- (24) Emergency Shelters. Adding text stating that applications for emergency shelters sited under ORS 197.782 and ORS 197.783 are not a land use decision.

SPECIAL CONDITIONS

3.080 General. Where numbers appear in the column labeled "special conditions" or in a cell in the Schedule of Permitted Uses, the corresponding numbered conditions below shall apply to the particular use category as additional clarification or restriction.

(1) One subdivision sales office is allowed in a subdivision for two years from the date it opens if the following requirements are met:

(a) The purpose of the office must be to sell lots or houses in the subdivision.

(b) The sales office must be placed on one or more of the lots in the subdivision.

(c) The sales office must be established within one year of the date the final subdivision plat is signed.

(d) At the time an application for the sales office is submitted, the owner of the subdivision must own all of the lots within 100 feet of the lot where the sales office will be located. The "owner of the subdivision" is the owner of more than 50 percent of the lots in the subdivision.

(e) The building must be placed in accordance with Section 3.190, Table 3.190-1 Development Standards.

(f) A manufactured building, a modular building, or a building constructed on the site is allowed for ~~the~~ an-office use. If a manufactured building is used, it must be placed in accordance with the standards for "Placement on Individual Lots" listed in Article 10. If a modular building is used, it must be removed from the property within two years of the date a building permit is issued for the sales office. If a manufactured or site-built building is used, the building does not have to be removed from the lot.

(g) Building permits must be obtained for the building. Manufactured and modular buildings must have

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the appropriate State of Oregon insignia that shows the appropriate construction standards are met.

(h) The sales office permit may be renewed once up to a year.

(2) When more than one single-dwelling unit detached residence is located on a property of record in a residential zoning district and the buildings were legally constructed, the property may be divided in conformance with Article 11, even if the resulting lots do not meet the required minimum lot area and dimensional standards for the zoning district, if required setbacks and lot coverage can be met.
[Ord. 5338, 1/28/98; Ord. 5673, 6/27/07; Ord. 6004, 12/28/22]

(3) Duplexes, triplexes, fourplexes, cottage clusters, and multi-dwelling unit development may be divided so that each unit can be individually owned by doing a land division in conformance with Article 11. The total land area provided for the development as a whole must conform with the requirements of Article 3, Table 3.190-1, however, the amount of land on which each unit is located does not need to be split equally between the individual units - one may be larger and one smaller.
[Ord. 5673, 6/27/07; Ord. 5947, 1/1/21; Ord. 5968, 1/14/22; Ord. 6004, 12/28/22]

(4) Where ~~detached~~ single-dwelling units ~~residences~~ are permitted outright, one accessory dwelling unit (ADU) may be allowed on each lot that has a single legally established ~~detached~~ single-dwelling unit ~~residence~~, called the "primary residence". The ADU shall comply with the following standards:
[Ord. 5968, 1/14/22; Ord. 6004, 12/28/22]

Accessory dwelling units shall be incidental in size to the primary residence and meet the following standards:

(a) The size of an ADU does not exceed 50 percent of the gross floor area of the primary residence (excluding garages or carports) or 900 square feet, whichever is less. (Note: ADUs greater than 900 square feet that were legally constructed before July 1, 2007, may remain.) [Ord. 5949, 1/1/21]

(b) All required building permits have been obtained. If the primary residence is on the Local Historic Inventory, historic review may be required.

(c) The lot was legally established. [Ord. 5338, 1/28/98; Ord. 5673, 6/27/07; Ord. 5966 11/12/21]

(d) Detached ADUs must also meet the following development standards:

Front Setback: Greater than or equal to the location of the front wall of the primary residence; and

Interior Setback: 5 feet for one-story; 8 feet for two-story; and

Maximum Height: 24 feet to the ridge of the roof. [Ord. 5673, 6/27/07; Ord. 5949, 1/1/21]

(5) In the RM, RMA, and HDR Districts, the following criteria must be met in addition to the Conditional Use criteria for permitting RV overnight parks: [Ord. 6010, 7/1/23]

(a) The entire site must be located within 750 feet of the Interstate 5 right-of-way.

(b) The RV park access is limited to the Interstate 5 frontage road or streets servicing primarily industrial or commercial development.

(6) "Child Care Homes" that include the day or nighttime care of no more than sixteen children, including the children of the provider or the care and treatment of adults for less than 24-hours are considered a residential use of the property and are allowed outright in zones that allow residential dwellings per the Oregon Revised Statutes (ORS). See ADC Section 22.200.
[Ord. 5673, 6/27/07; Ord. 5968, 1/14/22; Ord. 6004, 12/28/22]

(7) Bed and Breakfast facilities shall:

(a) Be owner occupied.

(b) Be limited to a maximum of four guest bedrooms.

(c) Except for driveway spaces, not contain guest parking facilities in the front setback area or within 10 feet of any interior residential lot line. [Ord. 5742, 7/14/10]

(8) Temporary residences in conjunction with construction, emergency repair, or a night watchman are permitted with a Special Use Permit subject to the standards in Sections 10.440 through 10.510 ~~but are limited to one year in duration~~. [Ord. 5673, 6/27/07]

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Staff Comments: Changes are intended to make the language clearer and easier to understand.

(9) The definitions of "Accessory Building" and "Accessory Use" in Article 22 shall apply. The Director shall have authority to initially interpret application of these terms to any proposed activity or structure. See also Table 3.230-1 for Accessory Structure Standards.

Accessory buildings in residential districts ~~that are~~ more than 750 square feet ~~or larger~~ and/or ~~with~~ have walls taller than 12 feet that meet the following standards ~~are not subject to Site Plan Review. They~~ will be processed as Type I staff decision. Residential ~~A~~accessory buildings not meeting the standards in this section require Site Plan Review.

Applicants must submit a completed Residential Accessory Structure Checklist with ~~I~~information ~~must be submitted~~ that shows the standards below will be ~~are~~ met. ~~The information shall be submitted at the time~~when the applicant applies for building permits. The ~~determination of whether the standards are met will be made by the~~ Community Development Director or his/her designee will determine whether the standards are met. [Ord. 5767, 12/7/11; Ord. 5947, 1/1/21: Ord. 6024, 12/29/23]

(a) The proposed building ~~does not exceed the height~~is not taller than ~~of~~ the tallest building on any adjacent property. For this section, building height ~~means the height of the building at its~~is measured at its highest point, usually the ridge of the roof, but excluding chimneys and other protrusions from the roof.

(b) The ~~square footage of the~~ proposed building's footprint ~~of the proposed building does not exceed~~is not more than the ~~square footage~~size ~~of the~~ building footprint of the ~~foundation of the~~ largest building on adjacent property.

(c) The ~~amount of land that will be covered by buildings if the proposed building is constructed does~~maximum lot coverage by zone provided in Table 3.190-1 is not exceeded ~~the applicable lot coverage restrictions of the Development Code~~.

(d) The proposed building meets or exceeds the applicable setback requirements for the primary residence as listed in Table 3.230-1. [Ord. 5947, 1/1/21]

(e) The materials used on the proposed building ~~(e.g., siding and roofing), and the color of those materials,~~ shall be similar to those used on the primary residential structure (e.g., cement board lap siding is similar to wood lap siding).

(f) If the proposed building is located in any of the special purpose districts listed in Articles 6 and 7 of the Development Code, the building must also be reviewed for conformance with the requirements of the applicable district and may require a land use review application.

~~Accessory buildings not meeting the standards in this section require Site Plan Review.~~

An accessory ~~garage or other non-residential~~ building may not be located on a vacant developable residentially zoned property unless the following conditions are met ~~on a property without a residence cannot be the primary use of a residentially zoned property except as described below~~. The purposes of this limitation are to preserve the opportunity for residential land to be used for housing, and to avoid a non-residential building on residential property for use as commercial storage. Non-residential structures on residentially zoned land will be allowed when the following conditions are met:

(g) The structure will not preclude the use of the property for housing or other uses allowed in the zone; and

(h) ~~The structure must meet the requirements of Section 3.080(9) or be approved through the Site Plan Review process;~~

(i) The structure is not used for a commercial purpose.~~; and~~ [Ord. 5968, 1/14/22]

(j) Exception in the RR zone: Buildings used for farm or agricultural product or equipment storage are permitted ~~in the RR zone~~. [Ord. 5281, 3/26/97; Ord. 5673, 6/27/07; Ord. 5947, 1/21/20]

(10) Manufactured home and RV park standards are located in Article 10. Manufactured home parks, RV parks and manufactured homes on individual lots are not allowed within the National Register Historic Districts or on land within 100 feet of a historic district, or on land adjacent to a property on the Local Historic Inventory. [Ord. 5673, 6/27/07]

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(11) Kennels in residential districts shall be restricted to properties containing a minimum of two acres. This restriction does not apply to indoor veterinary hospital kennels. [Ord. 5673, 6/27/07]

(12) Antennas and satellite dishes are subject to the following standards:

(a) Antenna or antenna supports may not be located within any front setback area or within any required landscape buffer yard. [Ord. 5742, 7/14/10]

(b) Antennas shall not extend higher than fifteen feet above the peak of the roof.

(c) Dish antennas exceeding 12 feet in diameter are not permitted.

(d) Dish antennas exceeding 36 inches in diameter may not be roof mounted.

(e) Dish antennas shall not exceed 15 feet in height from surrounding grade to the highest point of the structure or dish.

(f) Dish antennas located within ten feet of a residential lot line or located so as to be visible from a public street shall be screened up to a height of six feet with a solid screen fence, wall, hedge, or other landscaping.

(g) Antenna used to display sign messages shall conform to all district sign regulations in addition to the above.

(h) Antenna not in conformance with the above may be considered by Conditional Use review, Type II process. [Ord. 5886, 1/6/17]

(13) Original Conditional Use approval for education and religious institutions includes the following secondary uses: educational activities; sports and other recreational activities; religious activities; political activities; meals programs; before and after school or full-time childcare activities; fundraising activities; and cultural programs. Such uses will not be required to go through the land use process if all of the activities which constitute the use (excluding parking and travel to and from the site) take place on the site and there is no external noise audible or light visible between 10:30 p.m. and 7:00 a.m.

Expansion of an education or religious institution includes the addition of building area, increase in parking lot coverage, or expansion of athletic facilities. Any expansion must be reviewed through the Conditional Use Type II process (CUII). [Ord. 5673, 6/27/07]

(14) Public park development activity subject to Conditional Use review includes major development; expansions of activities and development within parks which currently generate substantial traffic; or construction of major structures such as swimming pools, lighted ball fields, and community centers. Conditional Use review is not required, however, for construction of play equipment, tennis courts, bike paths, picnic shelters, restrooms, landscaping, and similar activities within existing improved parks. [Ord. 5947, 1/1/21]

(15) Self-Serve Storage is subject to the following standards:

(a) Freestanding facilities shall be limited to sites of one to three acres in size and maximum building coverage shall be limited to 50 percent of the parcel.

(b) Building setbacks shall be as follows: front - 25 feet, interior - 20 feet. No fencing is permitted in front setbacks and a minimum ten-foot landscape buffer yard is required adjacent to all residential zones. No barbed wire fencing is permitted in residential districts. [Ord. 5742, 7/14/10]

(c) The minimum driveway width between buildings shall be 20 feet for one-way drives and 24 feet for two-way drives.

(d) The maximum storage unit size shall be 500 square feet.

(e) All outdoor lighting shall be shielded to prevent reflection on adjacent properties.

(f) Repair of autos, boats, motors and furniture, and the storage of flammable materials shall be prohibited on the premises and rental contracts shall so specify.

(g) Outside storage of vehicles and materials is prohibited within this use category and no other business activity other than the rental of storage units shall be conducted on the premises. [Ord. 5673, 6/27/07]

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(16) Public and Commercial Communication Facilities are not allowed in residential zoning districts, except when the applicant can provide supportive documentation or evidence, to the satisfaction of the Community Development Director, that, if such a facility is not allowed, there will be a gap in service that denies service to an area within the community. (This decision is a Conditional Use, Type III land use decision.) Article 8 for telecommunication facility design standards also apply.

[Ord. 5886, 1/6/17]

Such a tower will also be subject to the following conditions:

(a) The base of the antenna and any structures associated with the antenna shall be set back from the property lines of the property on which they are sited a distance of not less than 30 feet.

(b) The land on which the facility is sited shall be screened from adjacent land along its full perimeter, by providing screening, as defined in ADC Section 9.250.

[Ord. 5281, 3/26/97; Ord. 5445, 4/12/00]

(17) Planned Developments allow for limited commercial uses to serve the residents within the development; see Section 11.270. Cluster Developments greater than 50 acres may develop up to 2 acres with neighborhood commercial and office uses through a Conditional Use review. [See Section 11.510(2).] [Ord. 5673, 6/27/07; Ord. 5947, 1/1/21]

(18) In all residential zones, indoor entertainment and recreation uses are limited to athletic, exercise or health clubs, gyms or spas, and similar uses. Examples of outdoor entertainment and recreation uses include sports fields, clubhouses, tennis and golf facilities, swimming pools, and similar uses.

[Ord. 5673, 6/27/07]

(19) In the HDR zone, office, restaurant, and retail sales/service uses are subject to Site Plan Review, provided they are limited to the ground floor of mixed-use buildings, with residential uses on the upper floors, and limited to 5,000 square-foot maximum floor area. All other office and retail sales/service uses must be considered through Planned Development and Cluster Development review, pursuant to Section 3.080(17).

[Ord. 6010, 7/1/23]

(20) One SRO development with no less than four and no more than six SRO units is permitted per property zoned to allow single dwelling units. SRO development is also permitted as multiple dwelling unit development, but each SRO unit is considered 0.5 dwelling units when calculating multiple dwelling unit density. Accessory Dwelling Units are not permitted with SRO developments.

(21) See 3.090-3.160 to determine if CU review is required.

(22) Affordable housing as defined below will be permitted through Site Plan Review when the following standards are met.

(a) The development is on property zoned for commercial uses, religious assembly, or public lands OR is owned by one of the following:

i. A local, state, or special government body, as defined in ORS Chapter 174; or

ii. A nonprofit corporation that is organized as a religious corporation or is organized as a public benefit corporation whose primary purpose is the development of affordable housing; or

iii. A housing authority as defined in ORS 456.005; or

iv. A manufactured dwelling park nonprofit cooperative, as defined in ORS 62.803.

(b) As used in this section, "affordable housing" means residential dwellings that are subject to an affordable housing covenant as provided in ORS 456.270 to 456.295 for a duration of no less than 30 years and meet either i, ii, or iii below.

i. Each unit on the property is made available to own or rent to households with incomes of 80 percent or less of the area median income (AMI); or

ii. All units on the property are made available to rent or own to households with incomes with a collective average of 60 percent or less of the AMI; or

iii. A manufactured dwelling park that serves only households with incomes of 120 percent or less of the AMI.

(c) Does not apply on lands where:

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i. The development cannot be adequately served by water, sewer, storm water drainage or streets; or
ii. The property contains a slope of 25 percent or greater; or
iii. The property is within a 100-year floodplain; or
iv. The development of the property is constrained by land use regulations based on statewide land use planning goals relating to: natural disasters and hazards; or natural resources, including air, water, land, or natural areas, but not including open spaces or historic resources.

(f) Height Bonus. An affordable housing development proposal that meets the standards in this special condition and is located outside of a National Register historic district, will be granted the following height bonuses as applicable.

Maximum Zone Heights:	Height Increase Allowance:
Less than 50 feet	Up to 12 feet
50 feet to 75 feet	Up to 24 feet
More than 75 feet or None	Up to 36 feet

(23) The conversion of a building or a portion of a building from commercial to residential use will be permitted through Site Plan Review.

(24) Applications for emergency shelters sited under ORS 197.782 and ORS 197.783 are not a land use decision.

******No changes are proposed to Section 3.085-3.160, so the content is not provided. ******

DEVELOPMENT STANDARDS

3.190 Purpose. Development standards are intended to promote site planning and design that consider the natural environment, site intensity, building mass, and open space. The standards also promote energy conservation, needed privacy, safe and efficient parking areas for new development, and improve the general living environment and economic life of a development. Table 3.190-1, on the following page, summarizes the basic development standards. It should be used in conjunction with the sections immediately succeeding the table, which address special circumstances and exceptions. See Article 8 for design standards for single-dwelling unit, middle housing, and multiple dwelling developments.

[Ord. 5445, 4/12/00, Ord. 5768, 12/7/11; Ord. 5947, 1/1/21; Ord. 5968, 1/14/22]

Staff Comments for Table 3.190-1 Residential District Development Standards:

- Creating a row for Duplex development.
- Adding Single Room Occupancy Dwellings to the table.

TABLE 3.190-1

RESIDENTIAL DISTRICT DEVELOPMENT STANDARDS

STANDARD	RR	RS-10	RS-6.5	HM	RS-5	RM	RMA	HDR
Minimum Property Size or Land Requirements by Unit Type (1)(18)								
Single dwelling unit ~~detached~~ (SDU) ~~and Duplex~~ (1)	5 acres (15)	10,000 sf	6,500 sf	5,000 sf	5,000 sf	3,500 sf	~~SDU:~~ N/A ~~Duplex: 3,500 sf~~	~~SDU:~~ N/A ~~Duplex: None~~
Townhouse (1)(16)(19)(20)	1,500 sf	1,500 sf	1,500 sf	1,500 sf	1,500 sf	1,500 sf	1,500 sf	None (20)
Two primary ~~detached~~ units on one property (1)	N/A	N/A	N/A	7,000 sf	N/A	3,500 sf	3,500 sf	N/A
Duplex (1)	5 acres (15)	10,000 sf	6,500 sf	5,000 sf	5,000 sf	3,500 sf	3,500 sf	None

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RESIDENTIAL DISTRICT DEVELOPMENT STANDARDS								
STANDARD	**RR**	**RS-10**	**RS-6.5**	**HM**	**RS-5**	**RM**	**RMA**	**HDR**
Triplex (1)(16)(20)	5 acres	10,000 sf	6,500 sf	5,000 sf	5,000 sf	5,000 sf	5,000 sf	None (20)
Fourplex (1)(16)(20)	5 acres	10,000 sf	7,000 sf	7,000 sf	7,000 sf	7,000 sf	7,000 sf (17)	None (20)
Cottage Cluster (1)(16)(20)	5 acres	10,000 sf	7,000 sf	7,000 sf	7,000 sf	7,000 sf	7,000 sf	None (20)
Multiple-dwelling units~~:~~ Studio and 1-bedroom units (1)(20)	N/A	N/A	N/A	N/A	N/A	2,000 sf/ unit	1,500 sf/ unit	None (20)
2-and 3-bedroom units (1)(20)	N/A	N/A	N/A	N/A	N/A	2,400 sf/ unit	1,800 sf/ unit	None (20)
4~~+~~or more bedroom units (1)(20)	N/A	N/A	N/A	N/A	N/A	3,000 sf/ unit	2,200 sf/ unit	None (20)
Single Room Occupancy Development	5 acres (15)	10,000 sf	6,500 sf	5,000 sf	5,000 sf	500 sf/unit	500 sf/unit	500 sf/unit
Minimum Lot Widths: (18) Townhouse All other uses	 20 ft N/A	 20 ft 65 ft	 20 ft 50 ft	 20 ft 35 ft	 20 ft 40 ft	 20 ft 30ft	 None None	 None None
Residential Density (20):								
Minimum Density (units per gross acre)	None	None	None	None	None	None	None	25
Maximum Density (units per gross acre)	(20)	(20)	(20)	(20)	(20)	25 (20)	35	50
Setbacks (4)(18):								
Minimum Front (4)	20 ft	20 ft	15 ft	15 ft	15 ft	15 ft	12 ft	10 ft
Maximum Front Setback	None	None	None	None	None	(14)	(14)	(14)
Minimum Interior: single-story (4)	5 ft	5 ft	5 ft	5 ft	5 ft	10 ft (5)	10 ft (5)	10 ft (5)
Minimum Interior: two or more stories (4)	8 ft	8 ft	8 ft	6 ft	6 ft	10 ft (5)(6)	10 ft (5)(6)	10 ft (5)
Minimum Building Separation	(12)	(12)	(12)	(12)	(12)	(12)	(12)	(12)
Min. Garage or carport vehicle entrance (10)	20 ft	20 ft	20 ft (7)	20 ft (7)	20 ft (7)	20 ft (7)	20 ft (7)	20 ft (7)
Maximum Height (8)	30 ft	30 ft	30 ft	30 ft	30 ft	45 ft	60 ft	75 ft
Maximum Lot Coverage (9)(18)	20% (11)	50%	60%	60%	60%	70%	70%	75%
Minimum Open Space	N/A	N/A	N/A	N/A	N/A	(13)	(13)	(13)
Min. Landscaped Area (18)	None	(2)	(2)	(2)	(2)	(3)	(3)	(3)

N/A means not applicable.

(1) Section 3.220 bonus provisions may reduce minimum lot size and area requirements of units.

(2) All yards adjacent to streets.

(3) All yards adjacent to streets plus required open space.

(4) Additional setbacks may be required, see Sections 3.230-3.330 and the buffer matrix at 9.210; exceptions to Setbacks for Accessibility Retrofits are in Section 3.263; Zero-Lot Line standards are in Sections 3.265 and 3.270; Setbacks for cottage clusters are in Section 3.192.

[Ord. 5832, 4/9/14; Ord. 5947, 1/1/21; Ord. 5968, 1/14/22]

(5) Except for single-dwelling units, SRO developments with up to 6 units, ~~homes~~ or middle housing, which ~~must~~ have a minimum setback of 3 feet for one-story dwellings and 5 feet for two-story dwellings.

[Ord. 5968, 1/14/22; Ord. 6004, 12/28/22]

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(6) More than 3 stories = 10 feet plus 3 feet for each story over 3 per unit requirements. Multiple-dwelling unit developments must also meet the setbacks in Section 8.270(3). [Ord. 5974, 1/1/21; Ord. 6004, 12/28/22]

(7) Garage front setback for non-vehicle-entrance = 15 feet, except in RR and RS-10 zoning districts where the setback shall be 20 feet.

(8) See exceptions to height restrictions, Section 3.340.~~;~~ Maximum height for cottage clusters is in Section 3.192. [Ord. 5968, 1/14/22]

(9) Lot coverage for single-dwelling units ~~detached~~ and middle housing development shall only include the area of the lot covered by buildings or structures.~~;~~ Lot coverage for townhouses is calculated based on the overall townhouse project, rather than each townhouse lot.~~;~~ Cottage clusters are exempt from maximum lot coverage standards.[Ord. 5968, 1/14/22; Ord. 6004, 12/28/22]

(10) See Table 3.230-1 for garages with alley access. [Ord. 5947, 1/1/21]

(11) Maximum lot coverage for parcels 20,000 square feet or less is 50%. The configuration of any development on a lot 20,000 square feet in size, or less, in an RR zoning district that covers more than 20 percent of the parcel on which it is proposed, should be located such that it does not preclude a later division of the parcel.

(12) The minimum separation between multi-dwelling unit buildings on a single parcel shall be 10 feet for single-story buildings and 20 feet for two-story or taller buildings.~~;~~ Minimum building separation for cottage clusters is in Section 3.192. [Ord. 5968, 1/14/22; Ord. 6004, 12/28/22]

(13) Ten or more units require open space. See Section 8.220.

(14) See Section 8.240 for standards.

(15) A property line adjustment between two existing RR properties may be allowed as long as no new lots are created and the resulting properties are at least 20,000 square feet and approval of a septic system has been obtained by Benton County.

(16) Triplexes, fourplexes, townhouses, and cottage clusters are not permitted on lots that are nonconforming with respect to the minimum lot size applicable to that housing type within the zoning district (see ADC 2.320). [Ord. 5968, 1/14/22]

(17) In RMA, a fourplex with one or more studio or 1-bedroom units shall meet the minimum lot size standards for multi-dwelling unit development, except in no case shall the minimum lot size required for a fourplex exceed 7,000 square feet. [Ord. 5968, 1/14/22; Ord. 6004, 12/28/22]

(18) If a duplex, triplex, fourplex, or cottage cluster has been divided by a middle housing land division, the development standards that are applicable to the lot shall apply to the middle housing parent lot, not to the middle housing child lots. [Ord. 5968, 1/14/22]

(19) The minimum property size for townhouses specified in Table 3.190-1 is the minimum allowable size for an individual townhouse lot; the number of units permitted on a given site (i.e., the maximum density) is established in accordance with subsection 3.191(1). [Ord. 5968, 1/14/22]

(20) Lot sizes in the HDR zone are controlled by the allowed density range of 25 units to 50 units per gross acre. Maximum density for the RR, RS-10, RS-6.5, HM, and RS-5 District is controlled by minimum lot size requirements for each zone. Except for townhouses, middle housing development is not subject to maximum density requirements in the RM District. [Ord. 6010, 7/1/23]

Staff Comments:

3.191 (1) Maximum Density: Clarify how townhouse development density is calculated.

3.191 Development Standards for Townhouses. Townhouses shall meet the standards in subsections (1) and (2) below. Townhouses shall also meet the applicable design standards in ADC Sections 8.110 through 8.170.

(1) Maximum Density.

(a) In the RR, RS-10, RS-6.5, RS-5, and HM districts, the maximum permitted density for a townhouse project shall be based on the total area of the townhouse project ~~development site (including all townhouse lots and other tracts)~~. For the purposes of calculating density, the ~~gross~~ net area required for each townhouse unit shall be as follows:

- RR: 1.25 acres per townhouse unit
- RS-10: 2,500 square feet per townhouse unit

Proposed additions to the Albany Development Code are shown in red underline and deletions in ~~strike-out~~. Sections not being amended are not shown unless needed for context.

- RS-6.5, RS-5, HM: 1,700 square feet per townhouse unit

(b) In the RM, RMA, and HDR districts, the maximum permitted density for a townhouse project is based on the number of units permitted per gross acre, as follows:

- RM: 25 units per gross acre
- RMA: 35 units per gross acre
- HDR: 50 units per gross acre [Ord. 6010, 7/1/23]

(2) Number of Attached Dwelling Units.

(a) Minimum. A townhouse project must contain at least two attached units.

(b) Maximum. The maximum number of townhouse units that may be attached together to form a group is specified below.

- RR, RS-10, RS-6.5, and HM districts: maximum of 4 attached units per group
- RS-5 district: maximum of 6 attached units per group
- RM and RMA districts: maximum of 10 attached units per group
- HDR district: no maximum [Ord. 5968, 1/14/22; Ord. 6010, 7/1/23]

Staff Comments:

3.192 (5) Maximum Cottage Footprint: Clarifying that up to 200 SF of attached garages in cottage clusters is exempt from the maximum cottage building footprint.

3.192 Development Standards for Cottage Clusters. Cottage clusters shall meet the standards in subsections (1) through (5) below. Cottage clusters shall also meet all of the design standards in ADC Section 8.175.

(1) Definition. A cottage cluster is a grouping of detached dwelling units (cottages) that includes a common courtyard. All cottages within a single cottage cluster must share a common courtyard. A cottage cluster project may include more than one cluster and more than one common courtyard.

(2) Minimum Density. The minimum density for a cottage cluster project is 4 units per gross acre.

(3) Setbacks.

(a) Front Setback. The minimum front setback to cottages and all other structures is 10 feet.

(b) Building Separation. Cottages shall be separated by a minimum distance of six (6) feet. The minimum distance between all other structures, including accessory structures, shall be in accordance with building code requirements.

(c) All other setbacks, including to garage or carport entrances, are provided in Tables 3.190-1 and 3.320-1.

(4) Building Height. The maximum building height for all structures is 25 feet.

(5) Maximum Footprint. The maximum footprint of ~~E~~each cottage ~~shall have a building footprint of~~ must be less than 900 square feet. ~~Individual a~~Attached garages or carports up to 200 square feet ~~shall be~~are exempt~~ed~~ from the ~~calculation of~~ maximum ~~building~~ footprint for each cottage. Detached garages, carports, or accessory structures are not included in the maximum footprint of each cottage.

[Ord. 5968, 1/14/22]

******No changes are proposed to Section 3.200-3.370, so the content is not provided. ******

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Staff Comments:

- 3.390 Screening of Refuse Containers. Adding a requirement to add a cover of at least 8 feet in height over refuse areas to prevent contaminated water from entering the storm system. The cover over trash refuse areas helps eliminate rainwater from washing pollutants into the private storm system, as required by the Oregon Department of Environmental Quality (ODEQ), in compliance with the MS4 (Municipal Separate Storm Sewer Permit) program.

OUTSIDE STORAGE

3.380 General. In any district, outside storage or display of materials, junk, parts, or merchandise shall not be permitted in required front setbacks or buffer areas.

3.390 Screening of Refuse Containers. The following standards apply to all residential development, except for refuse containers or disposal areas serving four or fewer dwellings. Any refuse container or refuse disposal area which would otherwise be visible from a public street, customer or resident parking area, any public facility, or any residential area, shall be screened from view by placement of a sight-obscuring fence, wall or hedge at least 6 feet in height. All refuse materials shall be contained within the screened area and the disposal area must be covered. The cover must be at least 8 feet in height. No refuse container or refuse disposal area shall be placed within 15 feet of a dwelling window.

[Ord. 5673, 6/27/07; Ord. 5968, 1/14/22]

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ARTICLE 4
COMMERCIAL AND INDUSTRIAL ZONING DISTRICTS

4.010 Overview. The zones created in this article are intended to provide land for commercial, office and industrial uses. The differences among the zones, in the permitted uses and development standards, reflect the existing and potential intensities of commercial and industrial development. The site development standards allow for flexibility of development while minimizing impacts on surrounding uses. The regulations in this article promote uses and development that will enhance the economic viability of specific commercial and industrial areas and the city as a whole. Development may also be subject to the provisions in Article 8, Design Standards, Article 9, On-Site Development and Environmental Standards, and Article 12, Public Improvements. Sites within overlay districts are also subject to the provisions in Article 6, ~~Special Purpose~~ Natural Resource Districts, and Article 7, Historic Overlay Districts. [Ord. 5555, 2/7/03]

The following list is a summary of the topics covered in this article:

- Zoning Districts
- Schedule of Permitted Uses
- Development Standards
- Airport Approach Overlay District

ZONING DISTRICTS

4.020 Establishment of Commercial and Industrial Zoning Districts. In order to regulate and segregate the uses of lands and buildings and to regulate the density of development, the following commercial and industrial zoning districts are created:

(1) OP – OFFICE PROFESSIONAL DISTRICT. The OP district is intended to provide a vertical or horizontal mix of professional offices, personal services, live-work, residential and limited related commercial uses in close proximity to residential and commercial districts. The limited uses allowed in this district are selected for their compatibility with residential uses and the desired character of the neighborhood. OP is typically appropriate along arterial or collector streets as a transitional or buffer zone between residential and more intense commercial or industrial districts.

(2) NC – NEIGHBORHOOD COMMERCIAL DISTRICT. The NC district is intended primarily for small areas of retail establishments serving nearby residents' frequent needs in convenient locations. The NC District is typically appropriate for small clusters or service centers located at intersections within residential neighborhoods. Businesses should fit into the residential pattern of development and not create land use, architectural or traffic conflicts. Generally, uses located within NC Districts should have as their primary market area the population within a one-half mile radius.

(3) CC – COMMUNITY COMMERCIAL DISTRICT. The CC district recognizes the diversity of small to medium-scale businesses, services and sites mostly located on arterial streets and highways. Design guidelines, building location and front-yard landscaping will provide a coordinated and enhanced community image along these major transportation corridors as they develop or redevelop. Sound and visual buffers should be used to mitigate impacts on nearby residential areas.

(4) RC – REGIONAL COMMERCIAL DISTRICT. The RC district is intended primarily for developments that serve the wider Albany region. RC allows a wide range of retail sales and service uses and is typically appropriate for developments that require large sites near Interstate 5. Design guidelines, building location and front-yard landscaping will provide an enhanced community image along major transportation corridors. These uses often have significant impacts on the transportation system. Sound and visual buffers may be required to protect nearby residential areas. RC districts may not be appropriate in all locations.

(5) TD – TRANSIT DISTRICT. The TD district is intended primarily for regional transit facilities and related uses. This district is suitable as a major office employment center because of easy access to mass transit. Mixed-use development including a multi-modal transportation facility, a park-and-ride facility, and office

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space should be developed within this district.

(6) EMP – EMPLOYMENT DISTRICT. The EMP district is intended primarily for a range of office uses, limited manufacturing, and high-tech/research activities and uses. Uses in this district complement or support more intensive industrial activities and uses while also providing a transition between industrial areas and general commercial or residential areas. The limited industrial and manufacturing activity allowed in the EMP district is intended to minimize hazardous impacts from heavier industrial uses while also providing a buffer between other industrial areas and nearby residential or commercial uses.
[Ord. 6010, 7/1/23]

(7) IP – INDUSTRIAL PARK DISTRICT. The IP district is intended primarily for light manufacturing, high-tech, research and development, institutions and offices in a quality environment. Uses are characterized by attractive building architecture and landscaped yards and streetscapes, and the absence of objectionable external effects. The district is designed for industrial and business parks containing offices together with clean, non-polluting industries. IP is located along or near highly visible corridors to provide a positive image and a transition to residential or natural areas from heavier industrial uses.

(8) LI – LIGHT INDUSTRIAL DISTRICT. The LI district is intended primarily for a wide range of manufacturing, warehousing, processing, assembling, wholesaling, specialty contractors and related establishments. Uses will have limited impacts on surrounding properties. This district is particularly suited to areas having good access to highways and perhaps to rail. LI may serve as a buffer around the HI district and may be compatible with nearby residential zones or uses.

(9) HI – HEAVY INDUSTRIAL DISTRICT. The HI district is intended primarily for industrial uses and support activities that are potentially incompatible with most other uses and which are characterized by large amounts of traffic, extensive shipping of goods, outside storage or stockpiling of raw materials, by-products, or finished goods, and a controlled but higher level of noise and/or pollution. This district is located away from residential areas and has easy access to highways and perhaps to rail.
[Ord. 5555, 2/7/03]

****** No changes are proposed to Sections 4.030-4.040, so they are not provided.******

4.050 Schedule of Permitted Uses. The specific uses listed in the following schedule (Table 4.050-1) are permitted in the zones as indicated, subject to the general provisions, special conditions, additional restrictions, and exceptions set forth in this Code. A description of each use category is in Article 22, Use Categories and Definitions. The abbreviations used in the schedule have the following meanings: [Ord. 5947, 1/1/21]

Y Yes; use allowed without review procedures but may be subject to special conditions.

S Use permitted that requires a site plan approval prior to the development or occupancy of the site or building.

CU Use considered conditionally through the Type III procedure under the provisions of Sections 2.230-2.260.

CUII Uses considered conditionally through the Type II procedure under the provisions of Sections 2.230-2.260. [Ord. 5742, 7/14/10]

PD Use permitted only through Planned Development approval.

N No; use not allowed in the zoning district indicated.

X/X Some zones have two abbreviations for a use category (ex. Y/CU). Refer to the special condition to determine what review process is required based on the details of the use.

A number opposite a use in the "special conditions" column indicates that special provisions apply to the use in all zones. A number in a cell particular to a use and zone(s) indicates that special provisions apply to the use category for that zone(s). The conditions are found following the schedule, in Section 4.060.
[Ord. 5555, 2/7/03]

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Staff Comments, Schedule of Permitted Uses (Table 4.050-1) Special Conditions:

- (15) Community Services: Updating Community Services Uses for consistency with the Article 22 use description and changing the land use review type to reflect the changes.
- (27) SRO Development: House Bill 3395 requires cities to allow SRO development where single and multiple dwelling unit development is permitted.
- (28) Affordable Housing: House Bill 2984 and Senate Bill 8, passed in 2023, require cities to allow affordable housing if the land is owned by a public body or nonprofit organized as a religious corporation, or on land zoned to allow commercial, religious assembly or public uses without requiring a zone change or conditional use permit; and the housing affordability is enforceable for a duration of no less than 30 years. House Bill 2984 also requires cities to allow buildings or portions of buildings in commercial use.
- (29) Commercial land for affordable housing: House Bill 3395, codified as ORS 197A.460 requires cities to allow residential use of commercial and mixed-use lands for affordable and moderate-income housing. This provision does not apply to vacant lands or land added to the UGB within the last 15 years.

TABLE 4.050-1
SCHEDULE OF PERMITTED USES

Commercial, Office and Industrial Zoning Districts										
Use Categories (See Article 22 for use category descriptions.)	**Spec. Cond.**	**OP**	**NC**	**CC**	**RC**	**TD**	**EMP**	**IP**	**LI**	**HI**
INDUSTRIAL USE CATEGORIES										
Contractors and Industrial Services		N	N	S-1	N	S-1	S-1	S-1	S-1	S
Manufacturing and Production	2	S/CU	N	S/CU,3	N	S/CU	S/CU-26	S/CU	S/CU	S
Small-scale Manufacturing	2	S/CU	N	S/CU	S/CU	S/CU	S/CU-26	S/CU	S/CU	S/CU
Railroad Yard		N	N	N	N	S	N	N	S	S
Warehousing and Distribution		N	N	N	N	N	CU	CU	S	S
Waste and Recycling Related	4	N	N	CU	N	N	N	N	S/CU	S/CU
Wholesale Sales		N	N	N	N	N	S-5	S-5	S	N
COMMERCIAL USE CATEGORIES										
Adult Entertainment		N	N	S-6	N	N	N	N	CU-6	N
Entertainment and Recreation: Indoor Outdoor	7	 N N	 N N	 S-7 S	 S-7 S	 S N	 S/CU-7 N	 S/CU-7 N	 CUII-7 CU-7, 11 N-7	 CU-7 CU
Offices, Traditional Offices, Industrial		S S	S N	S S	S N	S N	S S	CUII-8 S-8	N S-9	N S
Parking		N	N	S	S	S	S	S	S	S
Recreational Vehicle Park		N	N	CU	N	S	N	N	S	N
Restaurants, no drive-thru w/ drive-thru or mostly delivery	25	CUII N	S CU-10	S S	S S	S N	S CU	S CU	N N	N N
Retail Sales and Service		S-11	S-11	S	S	S	S-11	S-11	S/CU/N -11	N
Self-Serve Storage	12	N	N	S	S	N	N	CU	S	S-13
Taverns, Bars, Brewpubs, Nightclubs	25	CUII	CUII	S	S	S	CU	CUII	CUII	CUII
Vehicle Repair		N	N	S	S	N	N	N	S	N
Vehicle Service, Quick gas/oil/wash		N	N	S	S	N	N	CU	N-14	N
INSTITUTIONAL USE CATEGORIES										

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Commercial, Office and Industrial Zoning Districts										
Use Categories (See Article 22 for use category descriptions.)	**Spec. Cond.**	**OP**	**NC**	**CC**	**RC**	**TD**	**EMP**	**IP**	**LI**	**HI**
Basic Utilities		CU	CU	CU	CU	CU	CU	S	S	S
Community Services	~~15~~	S/CU (15)	S/CU (15)	S/~~CU~~	S/~~CU~~	S/~~CU~~	S/CU (15)	S/CU (15)	~~CU~~S	N
Daycare Facility		CU	CU	S	N	N	S	S	CU	N
Educational Institutions	16	N	N	CU	N	CU	S/CU	S/CU	S/CU	N
Hospitals		CU	N	N	N	N	CU	CU	CU	N
Jails and Detention Facilities		N	N	N	N	N	N	N	CU	N
Parks, Open Areas, and Cemeteries	17	CU	CU	CU	N	CU	CU	CU	CU	N
Religious Institutions	16	CU	CU	S	N	N	CU	CU	CU	N
Use Categories (See Article 22 for use category descriptions.)	**Spec. Cond.**	**OP**	**NC**	**CC**	**RC**	**TD**	**EMP**	**IP**	**LI**	**HI**
RESIDENTIAL USE CATEGORIES										
Assisted Living Facility		CU	CU	CU	N	N	N	N	N	N
Home Businesses (See 3.090-3.180 to determine if CU.)		Y/CU	Y/CU	Y/CU	Y/CU	Y/CU	Y/CU	Y/CU	Y/CU	Y/CU
Residential Care or Treatment Facility		S	S	S	N	N	N	N	N	N
Single Dwelling Unit ~~Detached,~~	20, 27	Y-19	S-19	N	N	N	N	N	N	N
Middle Housing	20, 28	CU-19	S-19/N	N	N	N	N	N	N	N
Multiple Dwelling Unit	27, 28	CU, 29	N, 29	N, 29	N, 29	N	N	N	N	N
Units Above or Attached to a Business	27, 28	S, 29	S, 29	S, 29	CU	S	S	S	S	N
Residential Accessory Buildings	21	Y/S	Y/S	N	N	N	N	N	N	N
OTHER USE CATEGORIES										
Agriculture (on Vacant Land)	22	N	N	N	Y	N	Y	Y	Y	Y
Satellite Dish, Other Antennas, & Communication Facilities <50 ft.	23	Y	Y	Y	Y	Y	Y	Y	Y	Y
Communication Facilities >= 50 ft.	23	N	N	CU	S	CU	CU	CU	S	Y
Kennels	24	N	N	N	CU	N	N	N	S	N
Non-Residential Accessory Buildings	18	S-18	Y/S-18	Y/S-18	Y/S	Y/S-18	Y/S-18	Y/S-18	Y/S-18	Y
Passenger Terminals		N	N	S	CU	S	CU	CU	CU	N
Rail And Utility Corridors		CU	CU	CU	CU	S	CU	CU	S	S

Y = Yes, allowed, no Site Plan Review required
CU = Conditional Use review, Type III procedure
CUII = Conditional Use review, Type II procedure
N = No, not allowed
S = Site Plan Review required

SPECIAL CONDITIONS

4.060 General. Where numbers appear in the "Special Conditions" column or in a particular cell in the Schedule of Permitted Uses, the corresponding numbered conditions below shall apply to the particular use category as additional clarification or restriction:

(1) Contractors and Industrial Services in the CC, TD, IP, EMP, and LI zones.

(a) Limited Uses. Salvage or wrecking operations are prohibited in the CC, TD, IP, EMP, and LI zones. See Section 4.290 for outside storage standards.

(b) Prohibited Uses in EMP. The following Contractors and Industrial Services uses are prohibited in the EMP zone: salvage or wrecking of heavy machinery, metal, and building materials; towing and vehicle storage; overnight or long-term equipment storage; heavy truck servicing and repair; tire retreading or recapping; and solid fuel yards. [Ord. 6010, 7/1/23]

(2) Manufacturing and Production. The environmental performance standards of Article 9 may limit the

placement of certain uses in some districts. If the site is located within 300 feet of residentially zoned land, the use may require a Conditional Use approval.

(3) Manufacturing in the CC zone. Manufacturing uses in CC must have a retail storefront and sell their products to the public on site.

(4) Waste and Recycling Related Uses in the CC, LI, and HI zones.

(a) Limited uses in CC. Only processing and sorting operations conducted within enclosed structures less than 5,000 sq. ft. in total area are considered with a Conditional Use review.

(b) Limited uses in LI. Processing and sorting operations conducted within enclosed structures less than 5,000 sq. ft. in total area are allowed with Site Plan Review. Salvage yards, junkyards, and refuse transfer stations are not permitted. All other material and recycling operations are considered through a Conditional Use review.

(c) Limited uses in HI. Processing and sorting operations conducted within enclosed structures less than 5,000 sq. ft. in total area and all other material and recycling operations, excluding salvage yards and junkyards, are allowed with Site Plan Review. Salvage yards, junkyards, sanitary landfills, and refuse transfer stations require a Conditional Use review. [Ord. 5947, 1/1/21]

(5) Wholesale Sales in the IP and EMP zone. This use is allowed in IP and EMP only if all operations and storage are conducted entirely within enclosed buildings. [Ord. 6010, 7/1/23]

(6) Adult Entertainment. Where allowed, Adult Entertainment uses shall meet the following standards:

(d) An adult entertainment use shall not be established or expanded within 300 feet of the district boundary line of any residential zoning district.

(e) An adult entertainment use shall not be established or expanded within 300 feet of any other adult entertainment use.

(f) An adult entertainment use shall not be established or expanded within 300 feet of the property line of a church, school, or public park.

(g) Exceptions to the above may be considered by the Major Variance procedures.

[Ord. 5947, 1/1/21]

(7) Indoor Entertainment and Recreation in the CC, RC, IP, EMP, LI and HI zones.

(a) Limited uses in CC. Indoor firing ranges or gun clubs, coliseums, and stadiums are not permitted.

(b) Limited uses in RC. Indoor firing ranges or gun clubs are not permitted.

(c) Limited uses in IP and EMP. Exercise and health clubs or gyms are permitted through Site Plan Review. Convention centers, coliseums and stadiums are considered through a Conditional Use Type III review. All other indoor entertainment uses are not permitted. [Ord. 6010, 7/1/23]

(d) Limited uses in LI. Indoor firing ranges or gun clubs, pool halls, paint gun facilities, cheerleading, tumbling, gymnastics, fairgrounds, coliseums and stadiums are considered through a Conditional Use Type II review. Exercise and health clubs or gyms are considered through a Conditional Use Type III review and must meet the additional criteria in Special Condition (11)(b). All other indoor entertainment uses are not permitted.

[Ord. 5742, 7/14/10; Ord. 5832, 4/9/14]

(e) Limited uses in HI. Indoor firing ranges or gun clubs, pool halls, paint gun facilities, motor racetrack, coliseums and stadiums are considered through a Conditional Use review. All other indoor entertainment uses are not permitted. [Ord. 5947, 1/1/21]

(8) Offices in the IP zone. Traditional Offices intended to serve customers on site are considered through the Conditional Use Type II review. Industrial Offices are permitted through Site Plan Review. See Article 22 for Office examples. [Ord. 5832, 4/9/14]

(9) Offices in the LI zone. Traditional Offices intended to serve customers on site are not allowed. Industrial Offices are permitted through Site Plan Review. See Article 22 for Office examples.

[Ord. 5832, 4/9/14]

(10) Restaurants in the NC zone. Drive-through restaurants are allowed in NC provided there are no more

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than two drive-through windows, and there is no speaker service (for ordering).

(11) Retail Sales and Services in the OP, NC, EMP, IP and LI zones.

(a) Limited uses in OP, NC, EMP, and IP. The only retail uses allowed are convenience-oriented retail and personal services-oriented retail intended to serve nearby residences and employees. Businesses are limited to a 5,000-square-foot maximum business footprint, except for businesses located within buildings in the OP and NC zones constructed prior to February 7, 2003, there is no business footprint limit. See Article 22 for examples of convenience-oriented and personal service-oriented businesses. Vehicle repair-oriented services, motor vehicle sales, large equipment sales, and bulk sales are prohibited. [Ord. 5923, 2/8/19; Ord. 6010, 7/1/23]

(b) Retail Sales and Service Uses in Existing Buildings in the LI zone. To encourage the reuse of buildings constructed prior to April 9, 2014, in the LI zone, Repair-Oriented Retail Sales and Service uses as described in Section 22.140 will be permitted through Site Plan Review. Personal Service-Oriented uses and Sales and Service-Oriented Retail Sales uses as described in Section 22.140 may be permitted through a Conditional Use review. Retail Sales and Service uses permitted in accordance with this subsection are subject to the following additional review criteria:

i. The street system has adequate capacity to accommodate the use through the horizon year of the current Transportation Systems Plan; and

ii. The development will not alter the existing building or site in a way that would discourage or preclude its later conversion back to an industrial use; and

iii. The new commercial user shall acknowledge that industrial uses have a right to operate free from the new use complaining about externalities typical of industrial uses.

[Ord. 5832, 4/9/14; Ord. 6018, 6/30/23]

(12) Self-Serve Storage. These facilities are subject to the following standards:

(a) The minimum driveway width between buildings is 20 feet for one-way drives and 24 feet for two-way drives.

(b) The maximum storage unit size is 1,000 square feet.

(c) All outdoor lighting shall be shielded to prevent glare and reflection on adjacent properties.

(d) Repair of autos, boats, motors, and furniture and the storage of flammable materials are prohibited on the premises, and rental contracts shall so specify.

(13) Self-Serve Storage in the HI zone. Self-Serve storage units are allowed in HI only on sites less than 3 acres.

(14) Truck Stops/Fuel Sales in the LI zone. This use is classified as Contractors and Industrial Services, rather than Vehicle Service, Quick.

(15) Community Service Uses. Community Service uses that may have significant off-site impacts like noise, such as public swimming pools, public safety facilities, and homeless shelters, may be considered through the Conditional Use process. Applications for emergency shelters sited under ORS 197.782 and ORS 197.783 are not a land use decision. [Ord. 5947, 1/1/21]

(15) Non-Residential Accessory Buildings over 750 square feet in the OP zone and over 2,000 square feet in all other zones except HI require Site Plan Review. [Ord. 5742, 7/14/10]

(16) Single-Dwelling Units, ~~Detached~~ and Middle Housing, ~~Units~~.

(a) In the OP zone, single-dwelling units ~~detached residences~~ are allowed outright. Middle housing ~~residences~~ requires a Conditional Use review. One accessory dwelling unit (ADU) may be allowed per legally established single-dwelling unit ~~detached residence~~, called the "primary residence". The ADU shall comply with the standards for ADUs in ADC 5.070 (15).

[Ord. 5968, 1/14/22]

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(b) In the NC zone, single-dwelling units~~detached residences~~, individual SRO dwellings, duplexes, and townhouses require Site Plan Review. All other middle housing is prohibited. One accessory dwelling unit (ADU) may be allowed per legally established single-dwelling detached residence, called the "primary residence". The ADU shall comply with the standards for ADUs in ADC 5.070(15). [Ord. 5742, 7/14/10; Ord. 5947, 1/1/21; Ord. 5949, 1/1/21; Ord. 5968, 1/14/22]

(17) ~~Existing~~ Single-Dwelling Units ~~Detached Homes~~ and Townhouses. See Section 4.075. New single-dwelling units ~~detached homes~~ and townhouses are not permitted unless allowed in the zoning district. [Ord. 5968, 1/14/22]

(18) Residential Accessory Buildings, ~~except~~ excluding Accessory Dwelling Units, are permitted outright with residential uses if they meet the following conditions:

(a) Detached accessory buildings, garages and carports are less than 750 square feet and have walls equal to or less than ~~11~~12 feet tall.

(b) All other residential accessory buildings~~, garages or carports~~ require a Site Plan Review. [Ord. 5767, 12/7/11; Ord. 5947, 1/1/21; Ord. 5949, 1/1/21]

(19) Single-Dwelling Detached and Middle Housing Units.

(c) In the OP zone, single-dwelling unit detached residences are allowed outright. Middle housing residences require a Conditional Use review. One accessory dwelling unit (ADU) may be allowed per legally established single-dwelling unit detached residence, called the "primary residence". The ADU shall comply with the standards for ADUs in ADC 5.070 (15). [Ord. 5968, 1/14/22]

(d) In the NC zone, single-dwelling detached residences, duplexes, and townhouses require Site Plan Review. All other middle housing is prohibited. One accessory dwelling unit (ADU) may be allowed per legally established single-dwelling detached residence, called the "primary residence". The ADU shall comply with the standards for ADUs in ADC 5.070(15). [Ord. 5742, 7/14/10; Ord. 5947, 1/1/21; Ord. 5949, 1/1/21; Ord. 5968, 1/14/22]

(20) Existing Single-Dwelling Detached Homes and Townhouses. See Section 4.075. New single-dwelling detached homes and townhouses are not permitted unless allowed in the zoning district. [Ord. 5968, 1/14/22]

(21) Residential Accessory Buildings, except Accessory Dwelling Units, are permitted outright with residential uses if they meet the following conditions:

(e) Detached accessory buildings, garages and carports are less than 750 square feet and have walls equal to or less than 11 feet tall.

(f) All other residential accessory buildings, garages or carports require a Site Plan Review. [Ord. 5767, 12/7/11; Ord. 5947, 1/1/21; Ord. 5949, 1/1/21]

(22) Agriculture. All agricultural uses established before January 8, 2003, are allowed to remain. New agriculture uses are limited to the raising of crops and plants on vacant land. The raising of livestock as a new use is not permitted. Regulations governing the keeping of animals/livestock are found in the Albany Municipal Code Title 6. [Ord. 5742, 7/14/10]

(23) Communication Facility Placement Standards. Where allowed, Communication Towers and Poles over 50 feet in height when measured from the ground or over 15 feet above a rooftop are not permitted in front yard setbacks and must meet the standards in Section 8.500. [Ord. 5886, 1/6/17]

Placement of antennas, satellite dish antennas, and monopoles less than 50 feet tall when measured from the ground; or when located on a rooftop, within 15 feet of a rooftop, is permitted outright in all districts subject to the following standards:

(g) Antennas or antenna supports. Satellite dishes and monopoles shall not be located within any front yard setback area or within any required landscape buffer yard. [Ord. 5886, 1/6/17]

(h) Dish antennas larger than three feet in diameter and located within ten feet of a residential lot line or visible from a public street shall be screened with a six-foot solid screen fence, wall, hedge, or other landscaping.

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(i) Antennas used to display sign messages shall conform to all district sign regulations in addition to the above.

(j) Antennas satellite dishes, monopoles and other communication structures less than 50 feet in height when measured from the ground or over 15 feet above a rooftop, and not in conformance with the above may be considered by Conditional Use review, Type II process.

[Ord. 5886, 1/6/17; Ord. 5947, 1/1/21]

(k) See Section 8.500 for additional design standards for all telecommunications facilities.

[Ord. 5445, 4/12/00]

(24) Kennels adjacent to residential districts are restricted to sites containing a minimum of two acres. This restriction does not apply to care and boarding provided indoors by veterinary hospitals.

[Ord. 5555, 2/7/03; Ord. 5742, 7/14/10]

(25) Hours of Operation. Hours of operation for establishments or outdoor seating areas within 300 feet of a residence may be restricted through conditions of approval to be compatible with neighbors.

[Ord. 5728, 1/27/10]

(26) Manufacturing Production and Small-Scale Manufacturing in the EMP zone.

(a) Uses that require state or federal air quality discharge permits are prohibited.

[Ord. 6010, 7/1/23]

(27) One SRO development with no less than four and no more than six SRO units is permitted outright per property zoned to allow for single dwelling units. SRO development is also permitted through Site Plan Review as a multiple dwelling unit development, but each individual SRO unit is considered 0.5 dwelling units when calculating density. Accessory Dwelling Units are not permitted with SRO developments.

(28) Housing. Affordable housing and conversion of buildings or portion of buildings in commercial use to housing will be permitted through Site Plan Review when the following standards are met.

(a) Affordable housing as defined in (b) is permitted on property zoned for commercial uses, religious assembly, or public lands OR is owned by one of the following:

v. A local, state, or special government body, as defined in ORS Chapter 174; or

vi. A nonprofit corporation that is organized as a religious corporation or is organized as a public benefit corporation whose primary purpose is the development of affordable housing; or

vii. A housing authority as defined in ORS 456.005; or

viii. A manufactured dwelling park nonprofit cooperative, as defined in ORS 62.803.

(b) As used in this section, "affordable housing" means residential dwellings that are subject to an affordable housing covenant as provided in ORS 456.270 to 456.295 for a duration of no less than 30 years and meet either i, ii, or iii below.

i. Each unit on the property is made available to own or rent to households with incomes of 80 percent or less of the area median income (AMI); or

ii. All units on the property are made available to rent or own to households with incomes with a collective average of 60 percent or less of the AMI; or

iii. A manufactured dwelling park that serves only households with incomes of 120 percent or less of the AMI.

(c) A building or portion of a building in commercial use may be converted to a residential use.

(d) The residential uses described in (a) through (c) above are permitted on property zoned EMP, IP or LI only if the property is:

i. Publicly owned; and

ii. Adjacent to lands zoned for residential uses or schools.

(e) The above provisions do not apply on lands zoned HI or where:

i. The development cannot be adequately served by water, sewer, storm water drainage or streets; or

ii. The property contains a slope of 25 percent or greater; or

iii. The property is within a 100-year floodplain; or

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iv. The development of the property is constrained by land use regulations based on statewide land use planning goals relating to: natural disasters and hazards; or natural resources, including air, water, land, or natural areas, but not including open spaces or historic resources.

(f) Height Bonus. An affordable housing development proposal that meets the standards in this special condition and is located outside of a National Register historic district, will be granted the following height bonuses as applicable.

Maximum Zone Heights:	Height Increase Allowance
Less than 50 feet	Up to 12 feet
50 feet to 75 feet	Up to 24 feet
More than 75 feet or None	Up to 36 feet

(29) Commercial Land for Affordable Housing. Per ORS 197A.460, affordable housing development subject to an affordable housing covenant as provided in ORS 456.270 to 456.295 is permitted through Site Plan Review in the OP, NC, CC and RC zones when the following standards are met.

(a) Each unit is affordable to a household with income less than or equal to 60 percent of the area median income (AMI) as defined in ORS 456.270; or

(b) Mixed use structures with ground floor commercial units. all residential units are made affordable to moderate income households with incomes between 80 and 120 percent of the AMI, as defined in ORS 456.270.

(c) Affordable housing per this section is only permitted on land that has been in the city's Urban Growth Boundary for at least 15 years and does not apply on vacant land or on lands where the city determines:

i. The development cannot be adequately served by water, sewer, storm water drainage or streets;

ii. The property contains a slope of 25 percent or greater;

iii. The property is within a 100-year floodplain; or

iv. The development of the property is constrained by land use regulations based on statewide land use planning goals relating to: Natural disasters and hazards; or Natural resources, including air, water, land or natural areas, but not including open spaces.

******No changes are proposed to the rest of Article 4, so the content is not provided. ******

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ARTICLE 5
MIXED USE ZONING DISTRICTS

5.000 Purpose. This article is intended to define the character of Albany's mixed-use zoning districts. The mixed-use zones implement the concepts identified in the Balanced Development Patterns Project (2001) and the Town Center Plan (Central Albany Land Use and Transportation Study, CALUTS, 1996). These zoning districts are compatible with the Village Center Comprehensive Plan designation applied in the Central Albany area, North Albany, east of Interstate 5, and south of Oak Creek near Highway 99E (Pacific Boulevard). The mixed-use zones may be applied outside of the Village Center plan designation.

[Ord. 5555, 2/7/03; Ord. 6010, 7/1/23]

5.020 Overview. The mixed-use zoning districts are the center of neighborhood and commercial activity, providing a horizontal or vertical mix of retail and residential uses to serve nearby neighborhoods. Other uses may include offices, and community and personal services. Centers are easily accessible to nearby residences, are pedestrian-friendly, and relate to adjacent land uses. Commercial uses must fit the scale of adjacent neighborhoods and the desired character envisioned for each Village Center or mixed-use area. The mixed-use zones differ in permitted uses, development standards, and design based on the unique objectives of each area. Design standards may be adopted to define the unique architectural and streetscape features of each area. [Ord. 5894, 10/14/17]

Development may also be subject to the provisions in Article 8, Design Standards; Article 9, On-Site Development and Environmental Standards; and Article 12, Public Improvements. Sites within overlay districts are also subject to the provisions of Article 6, Special Purpose Districts, and Article 7, Historic Overlay Districts.

The list below is a summary of the topics covered in this article.

- Zoning Districts
- Schedule of Permitted Uses
- Development Standards

[Ord. 5673, 6/27/07]

ZONING DISTRICTS

5.030 Establishment of Mixed Use Zoning Districts. In order to implement the mixed-use and livability concepts in the Town Center and Albany Comprehensive Plans, the following zoning districts are created:

(1) HD – HISTORIC DOWNTOWN DISTRICT. The HD district is intended for a dense mixture of uses with an emphasis on entertainment, theaters, restaurants, nightlife and specialty shops. High-density residential infill on upper floors is encouraged, as is the continued presence of the government center and supporting uses. [Ord. 5894, 10/14/17]

(2) DMU – DOWNTOWN MIXED USE DISTRICT. The DMU district is intended for a mix of retail, services, institutions, offices, and housing that supports businesses in and around the Historic Downtown District. Mixed uses are encouraged both horizontally and vertically. High-density residential infill and office employment are both encouraged. [Ord. 5894, 10/14/17]

(3) CB – DOWNTOWN CENTRAL BUSINESS DISTRICT. The CB district is intended for a broad mix of residential and non-residential uses. Mixed uses are encouraged both horizontally and vertically. High-density residential infill is encouraged to support nearby businesses. [Ord. 5894, 10/14/17]

(4) MUR – MIXED USE RESIDENTIAL DISTRICT. The MUR district is intended primarily to create a residential district that allows a mixture of neighborhood commercial uses that meet the daily needs of area residents. [Ord. 5673, 6/27/07]

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(5) WF – WATERFRONT DISTRICT. The WF district is intended to transition Albany's Willamette River waterfront into a vibrant center characterized by a variety of housing choices and a mixture of housing, office, and retail uses. Infill and redevelopment are encouraged, as well as adaptive reuse of existing buildings until the area is redeveloped. Development and design standards will result in great neighborhoods, a pedestrian-friendly environment, and an enhanced community image.[Ord. 5635, 1/11/06; Ord. 5832, 4/9/14]

(6) LE – LYON-ELLSWORTH DISTRICT. The LE district is intended primarily as a location for development that serves the Historic Downtown district and Downtown Central Business district. This district is the most desirable location in the Central Albany area for parking structures with ground-floor commercial uses.

(7) MS – MAIN STREET DISTRICT. The MS district is intended primarily as an employment center with supporting commercial and retail services for residents and employees in the area. Infill and redevelopment are encouraged provided there is no adverse impact to surrounding residences. [Ord. 5832, 4/9/14]

(8) ES – ELM STREET DISTRICT. The ES district is intended primarily to provide enough land for Albany General Hospital and associated medical uses while maintaining compatibility with adjacent residences in scale and design. Light commercial and personal services are encouraged to serve the nearby residents. Removal of existing residences and landscapes is discouraged. New parking facilities should be underground or completely screened. Only the amount of parking that is necessary should be provided for uses in this district, to minimize the amount of land consumed by parking. [Ord. 6018, 6/30/23]

(9) PB – PACIFIC BOULEVARD DISTRICT. The PB district is intended as an auto-oriented commercial area along Pacific Boulevard in the Central Albany area. Design guidelines and front-yard landscaping will provide a coordinated look and enhance the community image along this major corridor as it develops or redevelops. Commercial infill and redevelopment are encouraged. Sound and visual buffers should be used to protect nearby residential areas. [Ord. 5832, 4/9/14]

(10) MUC – MIXED USE COMMERCIAL DISTRICT. The MUC zoning district is intended primarily to provide a mix of convenience commercial, personal services, offices and medium density residential uses. The district would typically be anchored by a grocery store and may include a mix of smaller retailers, offices, live-work units, and residences. The MUC district is easily accessible to nearby residences, and commercial uses are compatible in scale and design with adjacent neighborhoods. Uses in the MUC zone will serve area residents and should not draw from the region.
[Ord. 5556, 2/21/03; Ord. 5577, 7/28/04; Ord. 5555, 2/7/03]

******No changes are proposed to 5.040-5.050, so the content is not provided. ******

5.060 Schedule of Permitted Uses. The specific uses listed in the following schedule (Table 5.060-1) are permitted in the zones as indicated, subject to the general provisions, special conditions, additional restrictions, and exceptions set forth in this Code. A description of each use category is in Article 22, Use Categories and Definitions. The abbreviations used in the schedule have the following meanings: [Ord. 5947, 1/1/21]

Y Yes; use allowed without review procedures but may be subject to special conditions.

S Use permitted that requires a site plan approval prior to the development or occupancy of the site or building.

CU Use considered conditionally under the provisions of Sections 2.230-2.260 through the Type III procedure.

CUII Uses considered conditionally through the Type II procedure under the provisions of Sections 2.230-2.260. [Ord. 5742, 7/14/10]

PD Use permitted only through Planned Development approval.

N No; use not allowed in the zoning district indicated.

X/X Some zones have two abbreviations for a use category (ex. Y/CU). Refer to the special condition to determine what review process is required based on the details of the use.

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A number appearing opposite a use in the "special conditions" column indicates that special provisions apply to the use in all zones. A number in a cell particular to a use and zone(s) indicates that special provisions apply to the use category for that zone(s). These conditions are found following the schedule in Section 5.070.[Ord. 5555, 2/7/03; Ord. 5673, 6/27/07]

Staff Comments, Schedule of Permitted Uses (Table 5.060-1) Special Conditions:

- (11) Community Services: Adding examples of significant off-site impacts and a reference to emergency shelter siting standards in ORS.
- (15) and former (16) related to Single-Dwelling Units, Townhouses, and Duplexes are being combined. Then the standards for accessory dwelling units (ADUs) are being put in their own Special Condition.
- (27) SRO Development: House Bill 3395 requires cities to allow SRO development where single and multiple dwelling unit development is permitted.
- (28) Affordable housing: House Bill 2984 and Senate Bill 8 require the city to allow affordable housing on land zoned for commercial use or religious assembly use or public lands without requiring a zone change or conditional use permit when housing is made available to own or rent to households at or below 80% of the area median income (AMI), and whose affordability is enforceable for a duration of no less than 30 years. House Bill 2984 also requires cities to allow the conversion of commercial uses to residential uses without a zone change or conditional use permit.
- (29) Affordable and moderate-income housing: House Bill 3395 requires cities to allow affordable and moderate-income housing and mixed-use structures with affordable housing on lands zoned to allow commercial uses. This provision does not apply to vacant lands or land added to the UGB within the last 15 years.

Table 5.060-1
SCHEDULE OF PERMITTED USES

		Mixed Use Zoning Districts									
Use Categories (See Article 22 for category descriptions.)	**Spec. Cond.**	**MUC**	**WF**	**HD**	**DMU**	**CB**	**LE**	**PB**	**MS**	**ES**	**MUR**
INDUSTRIAL USE CATEGORIES											
Contractors and Industrial Services	1	N	N/CU-24	N	N	CU	S	S	N	N	N
Manufacturing and Production	2	N	N/CU-24	CU-3	N	CU-3	S/CU	N	N	N	N
Small-scale Manufacturing - less than 5,000 sq. ft. -5,000 to 10,000 sq. ft.	2	S/CU CU	S/CU CU	S/CU CU	S/CU CU	S/CU CU	S/CU CU	S/CU CU	S/CU CU	N N	N N
Warehousing and Distribution		N	N/CU-24	N	N	N	N	N	N	N	N
Waste and Recycling		N	N	N	N	N	N	N	N	N	N
Wholesale Sales		N	N/CU-24	N	N	CU	N	N	N	N	N
COMMERCIAL USE CATEGORIES											
Adult Entertainment	4	N	N	S	S	S	N	N	N	N	N
Entertainment and Recreation: Indoor Outdoor		S-5 CU	S-5/CU-24 CU-6	S N	S N	S CU-6	S N	S-5 S	S-5 N	S-5 N	CU-26 N
Offices: Traditional Industrial		S CU	S S	S S	S S	S S	S S	S S	S S	S N	S-26 N

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Mixed Use Zoning Districts											
Use Categories (See Article 22 for category descriptions.)	**Spec. Cond.**	**MUC**	**WF**	**HD**	**DMU**	**CB**	**LE**	**PB**	**MS**	**ES**	**MUR**
Parking		S	CU	CU	CU	CU	S	S	S	CU-7	CU
Recreational Vehicle Park		N	N	N	N	N	N	N	N	N	N
Restaurants, no drive-thru with drive-thru or mostly delivery	23	S CU	S N	S N	S N	S N	S S	S S	S N	CUII N	S-26 N
Retail Sales and Service		S-8	S-8/ CU-24	S-8	S-8	S	S	S	S-8	S-8	S-8/26
Self-Serve Storage	9	N	N	N	N	N	N	N	N	N	N
Taverns, Bars, Brewpubs, Nightclubs	23	CUII	CUII	S	S/CUII (25)	S/CUII (25)	S	S	CUII	CU	CUII-26
Vehicle Repair		N	N/ CU-24	N	N	CU	N	S	N	N	N
Vehicle Service, Quick (gas/oil/wash)		S	N	N	N	N	N	S	S	S	N
INSTITUTIONAL USE CATEGORIES											
Basic Utilities	10	CU	CU	CU	CU	CU	CU	CU	CU	CU	CU
Daycare Facility		S	S	S	S	S	N	CU	S	S	S
Community Services	11	CU	CU	S (11)	S (11)	S (11)	S (11)	S (11)	S (11)	S (11)	CU
Educational Institutions	12	CU	CU	CU	CU	CU	CU	N	CU	CU	CU
Hospitals		N	CU	CU	CU	S	S	CU	N	CU	CU
Jails & Detention Facilities		N	N	N	N	N	N	N	N	N	N
Parks, Open Areas and Cemeteries	13	CU	CU	CU	CU	CU	CU	CU	CU	CU	CU
Religious Institutions	12	CU	CU	CU	CU	S	S	CU	CU	CU	CU
RESIDENTIAL USES ~~CATEGORIES~~											
Residential Care or Treatment Facility	14	S	CU	S	S	S	S	N	S	S	S
Assisted Living Facility		CU	CU	CU	CU	CU	CU	CU	CU	CU	CU
Single-~~-~~Dwelling Unit ~~Detached~~	15, 27	Y-17	N	N/Y-16	N/Y-16	N/Y-16	N/Y-16	N	N	N/Y-16	Y
Duplex	15, 28, 29	Y-17	S-16	N	S-16	S-16	Y	N	N	CU	Y
Townhouse	15, 28, 29	Y-17	S-16	N	S-16	S-16	N	N	N	CU	Y
Triplex or Fourplex	28, 29	Y-17	S-17	N	S-17	S-17	S	N	CU	CU	Y
Cottage Cluster		Y-17	N	N	S	N	N	N	N	N	Y
Multiple Dwelling Units	27, 28, 29	S-17	S-17	N	S-17	S-17	S	N	CU	CU	S
Units Above or Attached to a Business	28, 29	S-17	S	S-17	S	S	S	S	S	S	S
Home Business (See 3.090-3.180 to determine if CU.)		Y/CU	Y/CU	Y/CU	Y/CU	Y/CU	Y/CU	Y/CU	Y/CU	Y/CU	Y/CU
Residential Accessory Buildings	18	Y/S	Y/S	Y/S	Y/S	Y/S	CUII	N	Y/ CUII	Y/ CUII	Y/S
OTHER USE CATEGORIES											
Agriculture (on Vacant Land)	19	N	N	N	N	N	N	N	N	N	N
Satellite Dish, Other Antennas, & Communication Facility <50 ft.	20	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y
Communication Facility >= 50 ft.	21	CU	N	N	N	CU	CU	CU	N	CU	N
Kennels	22	N	N	N	N	N	N	N	N	N	N
Non-Res'l Accessory Buildings, larger than 750 sq. ft.		S	S	S	S	S	S	S	S	S	S
Passenger Terminals		CU	N	CU	CU	CU	CU	S	CU	N	N

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Mixed Use Zoning Districts											
Use Categories (See Article 22 for category descriptions.)	**Spec. Cond.**	**MUC**	**WF**	**HD**	**DMU**	**CB**	**LE**	**PB**	**MS**	**ES**	**MUR**
Rail And Utility Corridors		CU	CU	N	N	CU	CU	CU	CU	CU	N

Y = Yes, allowed, no Site Plan review required
CU = Conditional Use review required, Type III procedure
CUII = Conditional Use review required, Type II procedure
N = No, not allowed
S = Site Plan Review required

Staff Comments, Special Conditions:

- (11) Community Services: Adding examples of significant off-site impacts and a reference to emergency shelter siting standards in ORS.
- (15) and former (16) related to Single-Dwelling Units, Townhouses, and Duplexes are being combined. Then the standards for accessory dwelling units (ADUs) are being put in their own Special Condition.

SPECIAL CONDITIONS

5.070 General. Where numbers appear in the "Special Conditions" column or in any cell in the Schedule of Permitted Uses, the corresponding numbered conditions below shall apply to the particular use category as additional clarification or restriction:

(1) Contractors and Industrial Service Uses in CB, LE and PB zones.

(a) Limited Uses in CB, LE and PB zones. Salvage or wrecking operations are prohibited. See Section 5.360 for outside storage standards by zone. [Ord. 5894, 10/14/17]

(2) Manufacturing and Production. The environmental performance standards of Article 9 may further limit the placement of certain uses in some districts. Developments on sites located within 300 feet of residentially zoned land may require a Conditional Use approval. [Ord. 5894, 10/14/17]

(3) Manufacturing and Production in the CB and HD zones.

(a) Limited uses in the CB zone. The following manufacturing and production uses are prohibited in the CB zone: slaughterhouses, meat packing, and concrete and asphalt production.

(b) Limited uses in the HD zone. Expansion of existing Small-Scale Manufacturing uses into more than 10,000 square feet of floor area is allowed with a Conditional Use approval, subject to the following limitations. All other manufacturing and production uses are prohibited.

i. Retail must be included as an accessory use.

ii. The Small-Scale Manufacturing Use must have occupied the space for at least 12 months prior to applying to expand.

iii. The use shall occupy no more than 30,000 square feet of floor area on the first story.

(4) Adult Entertainment.

(a) An adult entertainment use or store may not be established or expanded within 300 feet of the district boundary line of any residential zoning district.

(c) An adult entertainment use may not be established or expanded within 300 feet of any other adult entertainment use.

(d) An adult entertainment use may not be established or expanded within 300 feet of the property line of a church, school, or public park.

(e) Exceptions to the above may be considered by the Major Variance procedures. [Ord. 5947, 1/1/21]

(5) Indoor Entertainment and Recreation in the WF, PB, MS, ES and MUC zones.

(a) Limited Uses in PB and MUC. The following indoor entertainment and recreation uses are prohibited in PB and MUC: movie theaters, indoor firing ranges, paint gun, coliseums, stadiums, and similar facilities. [Ord. 5894, 10/14/17]

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(b) Limited Uses in MS and ES. Only the following indoor entertainment and recreation uses are allowed in MS and ES: athletic or exercise facilities, bowling alleys, skating rinks, pool halls, games, amusements, arcades and uses with similar impacts. All other indoor entertainment and recreation uses are prohibited.

(c) Limited Uses in WF. The following indoor entertainment and recreation uses are prohibited in WF, except as specified for Special Status sites pursuant to ADC Section 5.085: indoor firing ranges, coliseums, stadiums and similar facilities. [Ord. 5894, 10/14/17]

(6) Outdoor Entertainment and Recreation in the CB zone.

(a) Conditional Uses in CB and WF. The following Outdoor Entertainment and Recreation uses are allowed with a Conditional Use approval: tennis courts, miniature golf, skateboard parks and similar uses. All other uses in the Outdoor Entertainment and Recreation use category are prohibited. [Ord. 5894, 10/14/17]

(7) Parking Facility in the ES zone.

(a) Limited Uses. Parking that is provided for a primary use on the same or adjacent property is allowed. Fee parking for people not connected to the primary use is limited to parking structures. [Ord. 5635, 1/11/06; Ord. 5894, 10/14/17; Ord. 6018, 6/30/23]

(8) Retail Sales and Service in the MS, ES, HD, WF, DMU, MUC and MUR zones.

(a) Limited Uses in MS, ES, and MUR. The following retail uses are permitted: convenience and personal service-oriented commercial intended to serve nearby residents and employees; specialty retail stores and studios; small appliance rental and repair, shoe repair, and tailoring. All other retail uses are prohibited. See Article 22 for descriptions of convenience-oriented and personal service-oriented commercial uses.

(b) Limited Uses in MUC. The following retail uses are prohibited: sale, leasing, and rental of vehicles and trucks; hotels and motels. [Ord. 5556, 2/21/03]

(c) Limited Uses in HD, WF, and DMU zones. The following retail uses are prohibited, except as specified for Special Status sites pursuant to ADC Section 5.085: sale, leasing, and rental of vehicles and trucks.

[Ord. 5894, 10/14/1

(9) Self-Serve Storage. These facilities are subject to the following standards:

(a) The minimum driveway width between buildings is 20 feet for one-way drives and 24 feet for two-way drives.

(b) The maximum storage unit size is 1,000 square feet.

(c) All outdoor lighting shall be shielded to prevent glare and reflection on adjacent properties.

(d) Repair of autos, boats, motors and furniture and storage of flammable materials are prohibited on the premises, and rental contracts shall so specify.

(10) Basic Utilities. In all mixed-use village center zones, new regional/community utilities including treatment plants, major power generation and storage facilities, major overhead power lines requiring tower support structures, and utilities with potential visual or off-site impacts are prohibited. All other Basic Utilities are considered through the Conditional Use review.

(11) Community Service ~~Use~~s. Community Service uses that may have significant off-site impacts like noise or traffic, such as public swimming pools, public safety facilities, and homeless shelters may be considered through the Conditional Use process. Applications for emergency shelters sited under ORS 197.782 and ORS 197.783 are not a land use decision.

(12) Conditional Use Approval for Religious and Educational Institutions includes the following secondary uses: educational activities; sports and other recreational activities; religious activities; political activities; meals programs; before- and after-school childcare activities; fundraising activities; and cultural programs. Such uses will not be required to go through the land use process if all of the activities that constitute the use (excluding parking and travel to and from the site) take place on the site and no external

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noise is audible or light visible between 10:30 p.m. and 8:00 a.m.

Expansion of an educational or religious institution shall be reviewed through the Conditional Use Type II procedure. An expansion includes the addition of building area, increase in parking lot coverage, or expansion of athletic facilities.

An educational institution having a capacity greater than 25 students shall have a driveway designed for the continuous forward flow of passenger vehicles for the purpose of loading and unloading children. [Ord. 5673, 6/27/07; Ord. 5947, 1/1/21]

(13) Public park development activity subject to Conditional Use review includes major development; expansions of activities and development within parks which currently generate substantial traffic; or construction of major structures such as swimming pools, lighted ball fields, and community centers. Conditional use review is not required, however, for construction of play equipment, tennis courts, bike paths, picnic shelters, restrooms, landscaping, and similar activities within existing improved parks. [Ord. 5947, 1/1/21]

(14) Residential Care or Treatment Facility. A residential care facility (six or more residents) requires a Site Plan Review. A "residential home" (as defined in ORS Chapter 443) or group home that includes five or fewer residents is permitted outright in any zone that allows single-dwelling unit residences. [Ord. 5673, 6/27/07; Ord. 5742, 7/14/10]

(15) ~~Existing~~ Single-Dwelling Units~~ Detached~~, Townhouses, and Duplexes~~.~~

(a) Single-dwelling units~~ detached~~, townhouse, and duplex units built before December 11, 2002, may remain as a permitted use in any zone without being nonconforming. See Section 5.080. [Ord. 5673, 6/27/07; Ord. 5968, 1/14/22]

(b) In CB, ES, HD, DMU, and LE: Buildings originally built as a single dwelling unit, house, or church may be converted to a single-dwelling unit residential use without requiring a land use application. In HD all other single-dwelling units and middle housing are prohibited. [Ord. 5673, 6/27/07; Ord. 5894, 10/14/17; Ord. 5968, 1/14/22]

(c) In CB, WF, and DMU: Townhouses and duplexes with driveways that meet the standards in ADC 8.150(1) are permitted subject to Site Plan Review. An Adjustment may be requested for units with driveways that do not meet the standards in ADC 8.150 (1). [Ord. 5947, 1/1/21; Ord. 5968, 1/14/22]

(16) Accessory Dwelling Units. Where ~~detached~~ single-dwelling units ~~residences~~ are permitted, one accessory dwelling unit (ADU) may be allowed on each lot that has a single legally established ~~detached~~ single-dwelling unit ~~residence~~, called the "primary residence". [Ord. 5949, 1/01/21; Ord. 5968, 1/14/22]

Accessory dwelling units shall be incidental in size to the primary residence and meet the following standards:

(a) The size of an ADU may not exceed 50 percent of the gross floor area of the primary residence (excluding garages or carports) or 900 square feet, whichever is less.

(b) The lot was legally established. [Ord. 5966, 11/12/21]

(c) The front door of an ADU may not be located on the same façade as the front door of the primary residence unless the door already exists or the wall that contains the ADU front door is set back at least five feet from the front facade of the primary residence.

(d) Exterior additions must substantially match the existing materials, colors, and finish of the primary structure.

(e) All required building permits must be obtained. If the primary residence is on the Local Historic Inventory, historic review may be required.

(f) The front setback shall be greater than or equal to the location of the front wall of the primary residence. [Ord. 5673, 6/27/07; Ord. 5949, 1/1/21]

~~(16) Single Dwelling Unit Detached, Townhouse, and Duplex Units.~~

~~(b) In CB, ES, HD, DMU, and LE: Buildings originally built as a single-dwelling unit detached house~~

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~~or church may be converted to a single-dwelling unit residential use without requiring a land use application. In HD all other single-dwelling unit and two-family units are prohibited.~~

~~[Ord. 5673, 6/27/07; Ord. 5894, 10/14/17; Ord. 5968, 1/14/22]~~

~~(c) In CB, WF, and DMU: Townhouse units and duplex units with driveways that meet the standards in ADC 8.150(1) are permitted subject to Site Plan Review. An Adjustment may be requested for units with driveways that do not meet the standards in ADC 8.150 (1).~~

~~[Ord. 5947, 1/1/21; Ord. 5968, 1/14/22]~~

(17) Residential Development in CB, WF, DMU, HD, and MUC.

(a) In MUC, residential development shall develop at a minimum gross density of 10 units an acre. Residences above a business or office are exempt from meeting the minimum density. In MUC districts located east of interstate 5, new development of uses in the Residential Use Categories is only permitted in conjunction with a primary use from the Commercial or Institutional Use Categories. The new residential use must be in the same building or on the same property as the primary non-residential use. [Ord. 5556, 2/21/03; Ord. 5947, 1/1/21; Ord. 6010, 7/1/23]

(b) In HD, dwelling units above or attached to a business are limited as follows. For the purposes of this section, the non-residential portion of a live/work dwelling unit is regulated as part of the dwelling unit and subject to all of the standards below.

i. Units above a business: Dwelling units on the second story or above are permitted.

ii. Units behind a business: Dwelling units on the first story that are separated from the front lot line by a non-residential use are permitted. The non-residential use may be located within the same building or in another building.

iii. Units attached to a business on a multiple frontage lot: On a lot with three or more street frontages, dwelling units are permitted on the first story facing a street line that is considered an interior lot line pursuant to the definition of front lot line in Article 22; however, in no case shall first-story dwelling units face onto First or Second Avenue. Street-facing first-story dwelling units shall meet all applicable setbacks and design standards in Articles 5 and 8 as if the street line that the units are facing were a front lot line.

iv. All other units above or attached to a business are prohibited.

[Ord. 5894, 10/14/17; Ord. 5947, 1/1/21]

(c) In CB, WF, and DMU, triplexes, fourplexes, and multifamily units with individual driveways that meet the standards of 8.150(1) are permitted subject to Site Plan Review. An Adjustment may be requested for units with driveways that do not meet the standards in ADC 8.150 (1).

[Ord. 5947, 1/1/21; Ord. 5968, 1/14/22]

(18) Residential Accessory Buildings. Accessory buildings are permitted outright in MUC, MUR, WF, HD, DMU, CB, ES, LE, and MS if they meet the following conditions: [Ord. 5894, 10/14/17]

(a) Detached accessory buildings, garages, and carports are less than 750 square feet and have walls equal to or less than ~~11~~ 12 feet tall. [Ord. 5767, 12/7/11]

(b) All other residential accessory buildings~~, garages or carports~~ require a Site Plan Review in MUC, MUR, HD, DMU, CB, and WF, and are considered through a Conditional Use Type II review in ES, LE, and MS. [This is indicated by the use of a "/" in the matrix. For example, "Y/S" means accessory uses that don't meet the standards in (a) above require a Site Plan Review.]

[Ord. 5556, 2/21/03; Ord. 5767, 12/7/11; Ord. 5894, 10/14/17]

(c) Accessory buildings over 100 square feet proposed on property in a ~~the~~ National Register of Historic District~~s~~ or on the National Register of Historic Places require historic review. See Article 7 for the review process and criteria.

Accessory dwelling units: See Special Condition ~~15~~16. [Ord. 5673, 6/27/07; Ord. 5949, 1/1/21]

(19) Agriculture. All agricultural uses in existence before December 11, 2002, are allowed to remain. New agriculture uses are limited to the raising of crops and plants on vacant land. Regulations governing the keeping of animals/livestock area found in the Albany Municipal Code Title 6. [Ord. 5742, 7/14/10]

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(20) Communication Facility Placement Standards. The placement of antennas, satellite dishes and monopoles less than 50 feet in height when measured from the ground or within 15 feet of a rooftop is permitted outright in all districts subject to the following standards and those found in Section 8.500:

(a) No antennas, antenna supports, satellite dishes or monopoles shall be located within any front yard setback area or within any required landscape buffer yard.

(b) Dish antennas larger than three feet in diameter and located within 10 feet of a residential lot line or visible from a public street, shall be screened with a six-foot solid screen fence, wall, hedge, or other landscaping.

(c) Antennas used to display sign messages shall conform to all district sign regulations in addition to the above.

(d) Antennas, satellite dishes, monopoles, and other communication structures less than 50 feet in height, when measured from the ground or over 15 feet above a rooftop, and not in conformance with the above, may be considered through a Conditional Use review, Type II process.

[Ord. 5445, 4/12/00, Ord. 5886, 1/6/17]

(21) Communication towers and poles at least 50 feet in height when measured from the ground or over 15 feet above a rooftop, may be considered through a Conditional Use review, Type II process No communication structure is allowed in any front setback. Article 8 for telecommunication facility design standards also apply. [Ord. 5742, 7/14/10; Ord. 5886, 1/6/17]

(22) Kennels. Kennels do not include indoor veterinary hospital kennels. [Ord. 5555, 2/7/03]

(23) Hours of Operation. Hours of operation for establishments or outdoor seating areas within 300 feet of a residence may be restricted through conditions of approval to be compatible with neighbors.

[Ord. 5728, 1/27/10]

(24) Additional uses for Special Status List sites in the WF zone. Limited additional uses may be considered through the Conditional Use process for Special Status List sites, pursuant to ADC Section 5.085.

(25) Developments on sites located within 300 feet of residentially zoned land require a Type II Conditional Use approval.

(26) Non-residential uses in MUR. In MUR districts located east of Interstate 5, new development of uses in nonresidential Use Categories is only permitted in conjunction with a primary use from the Residential Use Categories. The new nonresidential use must be in the same building or on the same property as the primary Residential Use. [Ord. 2010, 7/1/23]

(27) One SRO development with no less than four and no more than six individual SRO units is permitted outright per property zoned to allow for single dwelling units. SRO development is also permitted through Site Plan Review as a multiple dwelling unit development, but each individual SRO unit is considered 0.5 dwelling units when calculating density. Accessory Dwelling Units are not permitted with SRO developments.

(28) Housing. Affordable housing and conversion of buildings or portion of buildings in commercial use to housing will be permitted through Site Plan Review when the following standards are met.

(a) Affordable housing as defined in (b) is permitted on property zoned for commercial uses, religious assembly, or public lands OR is owned by one of the following:

ix. A local, state, or special government body, as defined in ORS Chapter 174; or

x. A nonprofit corporation that is organized as a religious corporation or is organized as a public benefit corporation whose primary purpose is the development of affordable housing; or

xi. A housing authority as defined in ORS 456.005; or

xii. A manufactured dwelling park nonprofit cooperative, as defined in ORS 62.803.

(b) As used in this section, "affordable housing" means residential dwellings that are subject to an affordable housing covenant as provided in ORS 456.270 to 456.295 for a duration of no less than 30 years and meet either i, ii, or iii below.

iv. Each unit on the property is made available to own or rent to households with incomes of 80

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percent or less of the area median income (AMI); or

v. All units on the property are made available to rent or own to households with incomes with a collective average of 60 percent or less of the AMI; or

vi. A manufactured dwelling park that serves only households with incomes of 120 percent or less of the AMI.

(c) A building or portion of a building in commercial use may be converted to residential use.

(d) Does not apply on lands where:

i. The development cannot be adequately served by water, sewer, storm water drainage or streets; or

ii. The property contains a slope of 25 percent or greater; or

iii. The property is within a 100-year floodplain; or

iv. The development of the property is constrained by land use regulations based on statewide land use planning goals relating to: natural disasters and hazards; or natural resources, including air, water, land, or natural areas, but not including open spaces or historic resources.

(g) Height Bonus. An affordable housing development proposal that meets the standards in this special condition and is located outside of a National Register historic district, will be granted the following height bonuses as applicable.

Maximum Zone Heights:	Height Increase Allowance
Less than 50 feet	Up to 12 feet
50 feet to 75 feet	Up to 24 feet
More than 75 feet or None	Up to 36 feet

(29) Commercial Land for Affordable Housing. Per ORS 197A.460, affordable housing development subject to an affordable housing covenant as provided in ORS 456.270 to 456.295 is permitted through Site Plan Review when the following standards are met.

(a) Each unit is affordable to a household with income less than or equal to 60 percent of the area median income (AMI) as defined in ORS 456.270; or

(b) Mixed use structures with ground floor commercial units. all residential units are made affordable to moderate income households with incomes between 80 and 120 percent of the AMI, as defined in ORS 456.270.

(c) Affordable housing per this section is only permitted on land that has been in the city's Urban Growth Boundary for at least 15 years and does not apply on vacant land or on lands where the city determines:

i. The development cannot be adequately served by water, sewer, storm water drainage or streets;

ii. The property contains a slope of 25 percent or greater;

iii. The property is within a 100-year floodplain; or

iv. The development of the property is constrained by land use regulations based on statewide land use planning goals relating to: Natural disasters and hazards; or Natural resources, including air, water, land or natural areas, but not including open spaces.

******No changes are proposed to Sections 5.085 – 5.090, so these sections are not provided.******

Staff Comments for Table 5.100-1:

- Accessory Structure Setbacks – proposed Note (1): The building code no longer requires fire separation between structures exempt from building permits and the property line, therefore there is no longer a need for a 3-foot setback. Therefore, staff proposes to reduce the required setback for detached accessory structures 200 SF or less with walls less than or equal to 8 feet tall that do not require a building permit from 3-feet to 2-feet. The proposed 2-foot setback would allow for on-site drainage and maintenance of the structure.
- Animal Containment – refer to the standard in the Albany Municipal Code.

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- Clarifying fence setbacks and removing the potential requirement for a building permit because the current building code does not require a permit for fences 8 feet and under.
- Decks Greater Than 30 inches Above Grade: reduce setback from 5 feet to 3 feet.

TABLE 5.100-1
ACCESSORY STRUCTURE STANDARDS

STRUCTURE	SETBACK STANDARD
All Accessory Structures	See Table 5.090-1 for minimum front setbacks.
Detached, walls less than or equal to 8 ft. tall	Interior setback = 3 feet (1)
Detached, walls greater than 8 ft. tall	Interior setback = 5 feet
Attached structure	Interior setback = 5 feet
Garage with vehicular access from an alley	Alley setback = 20 feet, less the width of the alley right-of-way, but at least 3 feet. Other interior setbacks, see Table 5.090-1
Structures, including fences, intended for housing animals	~~Interior setback = 10 feet~~ See AMC 6.10.020
Fences more than 6 ft. high	~~District s~~Setback standards in Table 5.090-1 apply, unless permitted along property lines in Sections 9.360 through 9.380; ~~building permit required.~~
Outdoor swimming pools with depths greater than or equal to 24 inches	Interior setback = 10 feet
Decks less than 30 in. off grade, no rails, covers	No setback from property line
Decks greater than or equal to 30 in. off grade	Interior setback = ~~5~~3 feet

(1) Residential Accessory Structures that are exempt from building permit requirements in the Oregon building codes and not habitable may have a reduced interior setback of 2 feet with a roof overhang no more than 12 inches.

******No changes are proposed to the rest of Article 5, so these sections are not provided.******

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ARTICLE 8
DESIGN STANDARDS

8.000 Overview. The purpose of this Article is to establish additional standards for certain uses. These standards are intended to reduce adverse effects on surrounding property owners and the general public, to create a business environment that is safe and comfortable, to further energy conservation efforts within the City, to enhance the environment for walking, cycling, and mass transit use, and to ensure that high-quality development is maintained throughout Albany.

An applicant for a development that does not meet the design standards in Article 8 may apply for one or more Adjustments pursuant to ADC 2.060-2.080 except that Adjustments are not permitted to the standards in Section 8.500 (Telecommunication Facilities) and Section 8.600 through 8.620 (Supplemental Design Standards for the Oak Creek Transition Area). [Ord. 5947, 1/1/21]

The following list is a summary of the topics covered in this article.

- Single Dwelling Unit Homes and Middle Housing
- Multiple Dwelling Unit Development
- Commercial and Institutional Site Design
- Supplemental Standards in Village Centers
- Telecommunications Facilities
- Supplemental Design Standards for the Oak Creek Transition Area

[Ord. 5445, 4/12/00, Ord. 5801, 2/13/13; Ord. 5832, 4/9/14; Ord. 5968, 1/14/22; Ord. 6004, 12/28/22]

[Section 8.100 repealed by Ordinance 5947, 1/1/21.]

Staff Comments:

8.125 Egress Paths. Adding a requirement for egress paths as required by the Oregon Building Code.

SINGLE DWELLING UNIT HOMES AND MIDDLE HOUSING

8.110 Applicability.

(1) The standards of ADC Sections 8.110 through 8.170 apply to all new single-dwelling detached units, manufactured homes, duplexes, two detached primary units, townhouses, triplexes, and fourplexes in all zones that allow these housing types, except as otherwise noted.
[Ord. 5894, 10/14/17; Ord. 5947, 1/1/21; Ord. 5968, 1/14/22; Ord. 6004, 12/28/22]

(2) In addition, except as otherwise noted, the standards of ADC Sections 8.110 through 8.160 apply to multiple-dwelling units with individual driveways permitted pursuant to ADC 12.100(2) that are located in the WF, CB, or DMU zone, or in the HD zone in a building where ground-floor residential use is permitted pursuant to ADC 5.070(17). [Ord. 5894, 10/14/17; Ord. 5947, 1/1/21; Ord. 6004, 12/28/22]

(3) These standards do not apply to detached accessory dwelling units, existing structures, new additions to existing structures, or to homes in manufactured home parks.
[Ord. 5894, 10/14/17; Ord. 5949, 1/1/21; Ord. 5968, 1/14/22]

(4) Development on flag lots or on lots that slope up or down from the street with an average slope of 20 percent or more is exempt from these standards in Section 8.130 through 8.160.
[Ord. 5445, 4/12/00; Ord. 5894, 10/14/17; Ord. 5968, 1/14/22]

(5) New cottage cluster development shall meet the standards in Sections 8.175 in all zoning districts where permitted. [Ord. 5968, 1/14/22]

(6) If a duplex, triplex, fourplex, or cottage cluster has been divided by a middle housing land division, the design standards in ADC 8.130 through 8.175 that are applicable to the lot or applicable on a per-lot basis shall apply to the middle housing parent lot, not to the middle housing child lots.

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[Ord. 5968, 1/14/22]

8.120 Relationship to Historic Overlay Districts. For property inside the Historic Overlay Districts and properties designated as Historic Landmarks, the provisions in Article 7 also apply. For development subject to historic review under Article 7, the review body may grant flexibility in meeting any of the design standards where necessary to achieve historic compatibility. [Ord. 5445, 4/12/00; Ord. 5894, 10/14/17]

8.125 Egress Paths. Where the Building Official determines that the Oregon Building Code requires ingress or egress from a structure to the public way, and the ingress or egress will utilize part of an adjacent property, an access easement meeting the applicable Oregon Building Code requirements must be recorded with the county recorder prior to applying for building permits.

8.130 Home Orientation. The purpose of these standards is to create pedestrian-friendly, sociable, safe, and attractive neighborhoods through human-scale design. By ensuring that the pedestrian entrance is visible or clearly identifiable from the street, these standards enhance public safety for residents and visitors and provide opportunities for community interaction. [Ord. 5947, 1/1/21; Ord. 5968, 1/14/22]

(1) On each lot, at least one main entrance shall be within eight feet of the longest street-facing wall of the dwelling unit (excluding the garage); and either: [Ord. 5894, 10/14/17; Ord. 5968, 1/14/22]

(a) Face the street (see Figure 8.130-1);

(b) Be at an angle of up to 45 degrees from the street; or

(c) Open onto a porch (see Figure 8.130-2). The porch must:

i. Be at least 25 square feet in area;

ii. Have at least one entrance facing the street; and

iii. Have a roof that is:

- No more than 12 feet above the floor of the porch; and
- At least 30 percent solid. This standard may be met by covering 30 percent of the porch area with a solid roof, or by covering the entire area with a trellis or other open material if no more than 70 percent of the area of the material is open.

[Ord. 5445, 4/12/00; Ord. 5947, 1/1/21]

(2) On sites with frontage on both a private street and a public street, the standards apply to the site frontage on the public street. On all other sites with more than one street frontage, the applicant may decide on which frontage to meet the standards, except as provided in subsection (3).

[Ord. 5947, 1/1/21; Ord. 5968, 1/14/22]

(3) For a corner lot, any street-facing façade with a main entrance must meet the standards in subsection (1).

[Ord. 5968, 1/14/22]

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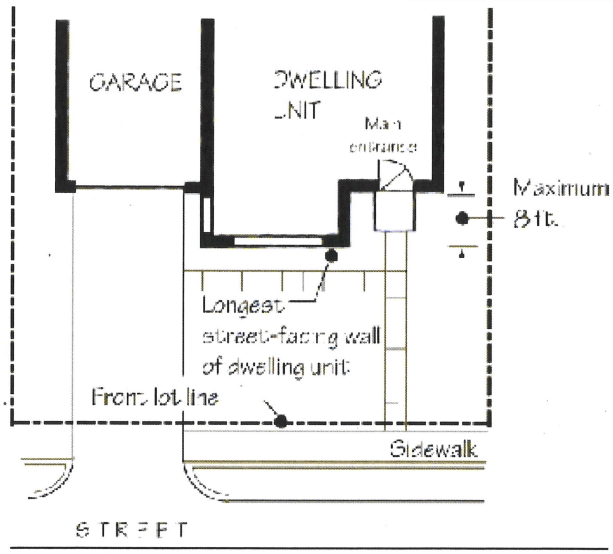

Figure 8.130-1. Front door facing the street

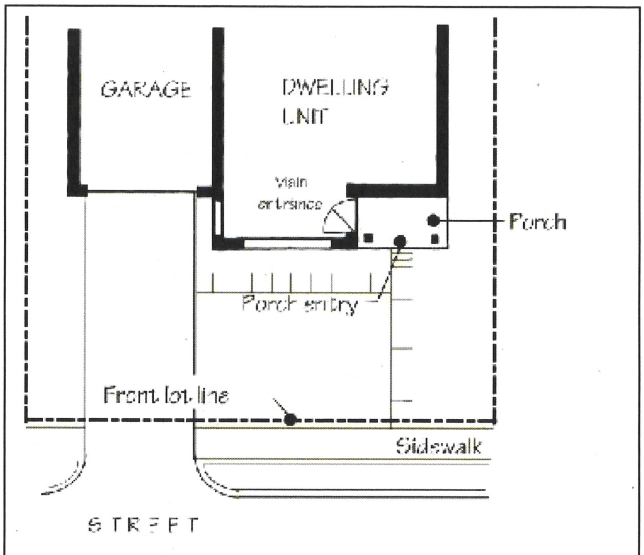

Figure 8.130-2. Front door opening onto porch

[Ord. 5947, 1/1/21]

(4)

(5)

(4) In the DMU, CB, HD, and WF zoning districts, in order to provide a transition between public space (the sidewalk) and private space (the home) while maintaining a visual and physical connection to the street, entrances to individual dwelling units must be set back at least five feet from the front lot line. The entrance must be covered for a depth of at least three feet. [Ord. 5894, 10/14/17]

******No changes are proposed to Sections 8.133 – 8.210, so these sections are not provided.******

Staff Comments:

- Table 8.220-1 Recreation and Open Space Requirements by Zoning District. Clarifying the types of development requiring Children's Play Areas.

8.220 Recreation and Open Space Areas. The purpose of these standards is to ensure that new multiple dwelling unit developments and mixed-use developments with multiple-dwelling units provide spaces for outdoor recreation and relaxation that are adequately sized, located, and functional. The standards are also intended to ensure that a development project's open space is an integral part of the overall development design, not merely leftover space. [Ord. 5947, 1/1/21; Ord. 6004, 12/28/22]

The applicability and minimum requirements for common open space, children's play areas, and private open space are stated in Table 8.220-1. [Ord. 5947, 1/1/21]

TABLE 8.220-1. Recreation and Open Space Requirements by Zoning District

Open Space	CB, HD, DMU, LE, WF and MUR Zoning Districts	All Other Zoning Districts
Common Open Space		
• Developments with fewer than 10 units	Not required	Not required
• Developments with 10 or more units as part of a multiple-dwelling unit	250 square feet (useable floor area) in	15% of the total development site area, and subject to the standards in ADC 8.220(2)

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development or 10 or more units above or attached to a business	size subject to ADC 8.220(1)	
Children's Play Areas		
• Developments with fewer than 10 units that ~~each~~ have 2 or more bedrooms	Not required	Not required
• Developments that have ~~with~~ 10 or more units ~~that~~ with ~~each have~~ 2 or more bedrooms	Not required	Required and subject to the standards in ADC 8.220(2)(a)(ix)
Private Open Space	Not required	Required for at least 80% of units and subject to the standards in ADC 8.220(3)

[Ord. 5947, 1/1/21; Ord. 6004, 12/28/22]

(1) Common Open Space in the CB, HD, DMU, WF, LE and MUR Zoning Districts. When required by Table 8.220-1, common open space shall provide a minimum of one indoor or outdoor common area amenity with no dimension less than 15 feet. Common area amenities must include fixed or movable seating. [Ord. 5947, 1/1/21]

(2) Common Open Space in All Other Zoning Districts. When required by Table 8.220-1, in all zoning districts except the CB, HD, DMU, WF, LE, and MUR Zoning Districts, the following standards apply.

(a) Required common open space areas shall have no horizontal dimension less than 20 feet and shall be entirely improved with one or more of the following amenities:

i. Inground permanent swimming pools with a minimum area of 400 square feet, or inground spas or hot tubs. Patios and decks within 50 feet of the swimming pool, spa, or hot tub may be included. These amenities may not account for more than 60 percent of the required common open spaces.

ii. Regulation sized and equipped sports courts for tennis, handball, volleyball, and/or basketball. These amenities may not account for more than 50 percent of the required common open space.

iii. Gardens for use by residents to grow food. Gardens must have irrigation available for use by the residents. This amenity may not account for more than 50 percent of the required common open space.

iv. Lawn, ornamental gardens, and landscaped areas including trees and shrubs. Areas may include picnic tables, benches, and drinking fountains. This amenity may not account for more than 70 percent of the required common open space. If this amenity accounts for more than 50 percent of the required common open space, at least one bench or picnic table must be provided. Pathways, decks, or other hard surface areas or covered areas may be included but may not exceed 30 percent of the landscaped area.

v. Rooftop terrace accessible to residents. Terrace must include barbeques, tables, and seating that are available for use by residents.

vi. Areas within Significant Natural Resource overlay districts, per ADC 6.260, or stands of mature trees greater than or equal to six inches diameter at breast height that form a contiguous tree canopy (including areas within 10 feet of the drip line). These amenities may not account for more than 50 percent of the required common open space. Areas used for cluster development density transfers are not eligible for meeting common open space requirements.

vii. Indoor community room. This amenity may not account for more than 50 percent of the required common open space requirements.

viii. Approved vegetated post-construction stormwater quality facilities. This amenity may not account for more than 20 percent of the required common open space.

ix. Children's Play Areas. Each children's play area must include a play structure at least 100 square feet in area, and at least three (3) of the following: a swing structure with at least two (2) swings, a slide, a permanent sand box, permanent wading pool, or other children's play

equipment approved for use in a public playground. Required play equipment may or may not be attached to the primary play structure. Equipment must be manufactured to American Society for Testing and Materials (ASTM) F1487-11 standards or other comparable standards applicable to public playground equipment. Open space within 50 feet of the play structure may be included. Each children's play area must be fenced along any perimeter that is within 10 feet of a street, alley, property line, or parking area.

(b) Limitations to Common Open Space Areas.

i. Streets and parking areas, including areas required to satisfy parking lot landscape standards, shall not be applied toward the minimum usable open space requirement.

ii. Required setback areas may be applied toward the minimum usable open space requirement, except that sport courts, swimming pools and spas, and children's play areas shall not be allowed in any required setbacks.

iii. No more than 20 percent of the common open space requirement shall be on land with slopes greater than 20 percent.

(c) Common Open Space Area Credit.

i. A credit, not to exceed 25 percent of the required common open space area, shall be granted if there is direct access by a pedestrian path, not exceeding ¼ mile, from the proposed multiple-dwelling unit development to an improved public park and recreation area or public-school playground.

ii. A credit toward the minimum common open space area required by Table 8.220-1 shall be granted to development projects providing high value outdoor recreation amenities. Provision of high value amenities is determined by the dollar amount spent on the amenities as a proportion of the overall project cost (including all construction costs except land cost). The credit is calculated as follows: if one percent (1%) of the overall project development cost is spent on outdoor recreation facilities, the minimum amount of required common open space shall be reduced by 10 percent. Further reductions in the minimum required common open space area shall be proportional to spending. For example, if 1.5 percent of a project's cost is spent on outdoor recreation facilities, the minimum required common open space area shall be reduced by 15 percent. The total reduction shall not exceed 20 percent of the minimum required open space area. It is the responsibility of the applicant to document the overall project cost and the cost of the recreation amenities by providing cost estimates at the time of land use application. [Ord. 5947, 1/1/21; Ord. 6004, 12/28/22]

(3) Private Open Space. When required by Table 8.220-1, private open space shall be provided that meets the standards of this section. Development in the CB, HD, DMU, WF, LE, and MUR Zoning Districts and assisted-living and nursing home developments in all zoning districts are exempt from these requirements.

(a) For dwelling units providing required private open space, each dwelling unit located at finished grade, or within five feet of finished grade, shall have at least 80 square feet of private open space. All other dwelling units providing required private open space shall each have at least 72 square feet of private open space.

(b) No dimension of the required private open space shall be less than six feet.

(c) All required private open space shall be directly accessible from the dwelling unit through a doorway.

(d) Except for front porches, required private open space shall be physically and/or visually separated from common open space.

(e) Except for front porches, required private open space for at-grade dwellings shall be screened from view from public streets.

(f) Private open space that is provided at-grade may be within interior courtyards created within a single building or cluster of buildings.

(g) Private open space that is above grade may be provided individually, as with a balcony, or collectively by combining into a larger area that serves multiple units. [Ord. 5947, 1/1/21]

(c) (4) Open Space Designated on Site Plan. Areas provided to satisfy the minimum open space

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requirements shall be so designated on the development site plan and shall be reserved as common or private space, as applicable. [Ord. 5947, 1/1/21]

****No changes are proposed to the rest of Article 8, so these sections are not provided.****

ARTICLE 9
ON-SITE DEVELOPMENT AND ENVIRONMENTAL STANDARDS

9.010 Overview. The City of Albany has established standards for on-site improvements and environmental protection. These standards are intended to foster high-quality development throughout the City and to minimize adverse effects on surrounding property owners or the general public. These standards are intended to create an urban environment that is safe, provides connectivity, furthers energy conservation, and enhances the environment for walking, cycling, and mass transit use. This article contains the following standards:

- Off-Street Parking and Loading
- Landscaping
- Tree Protection
- Buffering and Screening*
- Fences
- Environmental

Staff Comments for Parking Plan elements in 9.020:

- (5): Remove, as the standard and reference no longer apply.

OFF-STREET PARKING AND LOADING

9.020 Space Requirements. Off-street parking and loading must be developed in accordance with the standards in this Article. [Ord. 5832, 4/9/14; Ord. 5947, 1/01/21; Ord. 6018, 6/30/23]

(1) Calculating Floor Area for Maximum Parking. The area measured is the combined floor area of each level of a building exclusive of vent shafts, courtyards, stairwells, elevator shafts, restrooms, storage rooms and rooms designed and used for the purpose of storage and operation of maintenance equipment and covered or enclosed parking areas. [Ord. 6018, 6/30/23]

(2) Employees. The number of employees shall include those working on the premises, plus proprietors, during the largest shift at peak season.

(3) Fractional Space Requirements shall be counted to the nearest whole space; half spaces will be rounded up.

(4) Unspecified Uses and Alternative Standards. When a use is not specifically listed in Table 9.020-1: Parking Requirements, the Director will determine if the use is similar to a listed use in terms of provided parking. When a use is not similar to a use listed in Table 9.020-1 or the applicant has documentation that demonstrates a different parking demand, the Director may approve alternative parking standards. Acceptable documentation may include parking standards from other cities of similar size, company data on parking demand, parking demand studies, or the ITE Parking Generation Manual. [Ord. 5832, 4/9/14; Ord. 5947, 1/01/21; Ord. 6018, 6/30/23]

~~(5) Off-street parking for one use shall not be considered as providing parking facilities for any other use except through the provisions of Section 9.080, Joint Use of Parking Facilities.~~

~~(6)~~(5) Downtown Assessment District. Parking spaces are not required for uses located within the Downtown Off-Street Assessment District as established by separate ordinance. (A map of the district is located at the end of this Article as Figure 9.020-1.) However, improvement of parking areas within this District must comply with the standards of this Article. [Ord. 5947, 1/01/21]

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~~(7)~~(6) Site Plan Review may be required for new parking areas or expansions to existing parking areas unless specified in Section 2.430.

~~(8)~~(7) Temporary uses of less than 120 days, as defined in AMC Chapter 5.10 Transient and Itinerant Merchants and Vendors, are not required to meet the standards in this section. [Ord. 5832, 4/9/14]

~~(9)~~(8) Maximum Parking. Parking provided with new development in the HD – Historic Downtown, DMU – Downtown Mixed Use, CB – Central Business, LE – Lyon Ellsworth, WF – Waterfront, and the ES – Elm Street zones must not exceed the maximum parking standards provided in Table 9.020-1. Parking provided in all other zoning districts must not exceed 30 percent above the maximum parking limits in Table 9.020-1. [Ord. 6018, 6/30/23]

(a) Shared Parking. In the case of mixed-use and multi-tenant developments, the total maximum parking requirements for off-street parking are the sum of the requirements for the various uses for which parking is provided. [Ord. 6018, 6/30/23]

(b) Exemptions to Maximum Parking Allowance. The following types of parking do not count toward the maximum amount of parking allowed on a site. This exemption applies only to the quantity requirements in Table 9.020-1 and not to other requirements of this Article. The City may impose conditions to ensure that parking spaces associated with these parking types are appropriately identified and used for their intended purpose.

i. Non-surface parking, such as tuck-under parking, underground and subsurface parking, and parking structures may be exempted from the calculations in this section.

ii. Parking for a transit facility or park and ride facility.

iii. Storage or display areas for vehicle sales.

iv. Employee carpool parking when spaces are dedicated or reserved for that use.

v. Fleet and company vehicle parking.

vi. Single-dwelling and middle housing dwelling units. [Ord. 6018, 6/30/23]

Staff Comments for Table 9.020-1 Maximum Parking Standards:

- Removing company vehicle from table because fleet and company vehicle parking is exempted from the maximum parking allowance in ADC 9.020(8)(b)(v).
- Removing Daycare Homes and Group or Residential Care Homes from table because these are uses in single dwelling units, which are exempt from maximum parking standards.

TABLE 9.020-1
MAXIMUM PARKING STANDARDS

USE	MAXIMUM PERMITTED
COMMERCIAL AND RECREATION	
Animal hospitals and clinics and animal grooming salons	1 per 400 square feet
Banks and financial institutions, real estate services, insurance	1 per 300 square feet on the first floor plus 1 per 600 square feet above the first floor
Beauty and barber shops and other personal services	1 per 200 square feet plus 1 per 3 employees

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USE	MAXIMUM PERMITTED
Entertainment and Recreation: (a) Athletic/fitness gym, billiard or pool hall skating rinks with no grandstands, all other unspecified indoor recreation and entertainment (excluding restaurant, café or bar areas) (b) Bowling alleys (c) Golf courses (including clubhouses and accessory uses) (d) Stadiums, grandstands, coliseums, auditoriums, and theaters, and other sports facilities with seating (e) Swimming pools, aquatic centers	(a) 1 per 300 square feet (b) 4 per lane (c) Subject to land use review (d) 1 per 4 seating capacity (e) 1 per 200 square feet
Funeral houses and mortuaries	1 per 4 seats or 8 feet of bench length
Kennels, animal boarding	1 per employee plus 1 per 500 square feet excluding exercise areas
Laundries and cleaners	1 per 300 square feet
Motels and hotels	1 per rental unit plus additional as required for accessory uses
Office - Professional: (a) Medical and dental clinics (b) All other business and professional	(a) 1 per 250 square feet (b) 1 per 400 square feet
Vehicle repair and fuel or other service stations	1 per 2 employees plus 2 per each service stall
Private clubs, lodges and meeting rooms	1 per 200 square feet
Radio and television stations and studios	1 per 2 employees plus 1 per 300 square feet over 2,000 square feet
Restaurants: (a) Carry out, drive-thru or drive-in (b) Sit-down restaurants, taverns, bars, brewpubs, and nightclubs	(a) 1 per 100 square feet (b) 1 per 200 square feet including outdoor seating.
Retail Sales: (a) Bulky items such as home or business furnishings, appliances, building materials, farm and agricultural equipment, machine and office equipment; (b) motor vehicles, trailers, mobile homes, boats, modular houses (c) Greenhouses and nurseries, garden supplies (d) All other retail sales	(a) 1 per 800 square feet plus 1 per 3 employees (b) 2 per employee (c) 2 per employee (d) 1 per 300 square feet sales floor area
Services and Repair: tailor, shoemaker, locksmith, printing, binding, publishing, framing, upholsterer, photography studio, dry cleaner, mailing, etc.	1 per 500 square feet
Self-Serve Storage Units	1 per 100 units, with a minimum of 3, plus 1 per employee/caretaker
INDUSTRIAL	
Air, rail and motor freight terminals	Subject to land use review
Contractors and Industrial Services	1 per 1.25 employees ~~plus 1 per company vehicle~~
Customer Service/Call Centers	1 per 250 square feet
Industrial Offices, research or laboratory facilities	1 per 500 square feet
Manufacturing, production or processing	1 per 2 employees ~~plus 1 per company vehicle~~
Testing, repairing, cleaning, servicing of materials, goods or products	1 per 2 employees plus 1 per 300 square feet of patron serving area~~, plus 1 per company vehicle~~
Warehousing and wholesale	1 per 2 employees plus 1 per 300 square feet of patron serving area ~~plus 1 per company vehicle~~
Wrecking yards and junkyards	1 per employee plus 1 per 10,000 square feet lot area

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USE	MAXIMUM PERMITTED
INSTITUTIONAL, PUBLIC and SEMI-PUBLIC	
Daycare Facilities ~~Nursery Schools, Kindergarten and Daycare Homes or Facilities~~	1 per employee plus 1 per 10 persons being cared for
Education: Elementary, junior high and other children's day school	1 per classroom plus 1 per 2 employees
Education: high schools, colleges, universities, and trade or business schools	Subject to land use review
Hospitals	1 per 2 beds plus 1 per staff doctor plus 1 per 2 full-time employees
Jails and Detention Facilities	1 per 5 beds
Libraries, reading rooms, museums, and art galleries	1 per 2 employees plus 1 per 500 square feet
Parks, open areas, and cemeteries	Subject to land use review
Religious assembly	1 per 6 seats or 12 feet of bench length
RESIDENTIAL	
Assisted Living, Residential Care facilities, Nursing or Convalescent homes	1 per 3 beds at capacity
Multi-Dwelling Unit: Studio and 1-bedroom units	1 space per unit, plus 1 visitor space every 4 units
Multi-Dwelling Unit: 2-bedroom units	1.5 spaces per unit, plus 1 visitor space every 4 units
Multi-Dwelling Unit: 3 or more bedroom units	2 spaces per unit, plus 1 visitor space every 4 units
~~Multi-Dwelling Unit: Quad and quint units (~~SRO Units~~)~~	0.~~7~~5 space per unit
Senior housing	1 space per 2 units
Student housing	1 per 2 students at capacity
Boarding and rooming houses	1 space per 2 occupants at capacity
~~Group or residential care homes~~	~~1 space per employee plus 1 space per 5 beds~~

Staff Comments Table 9.030-1, Bicycle Parking Standards:

- Adding bicycle parking standards that were inadvertently missed in the original set of amendments.
- State law reduced the required bicycle parking for multiple dwelling units from 1 space per unit to 0.5 spaces per unit.
- Adding SRO Developments to the table.

9.030 Bicycle Parking. Bicycle parking must be provided in the amounts specified in Table 9.030-1 for all new development and changes of use.

(1) Exemptions. The Community Development Director may allow exemptions to or reductions in required bicycle spaces in connection with temporary uses or uses that are not likely to need bicycle parking, and parking for uses in existing buildings within the HD, CB, LE, DMU, and WF zoning districts.

(2) Mixed Uses and Multi-Tenant Developments. When two or more uses occupy a single structure or lot, the total required bicycle parking is the sum of the requirements of individual uses.

(3) Climate Friendly Area Requirements. Bicycle parking and ancillary facilities for shared bicycle parking and

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other small-scale mobility devices shall be provided in designated climate friendly areas and key destinations identified in OAR 660-012-0360. [Ord. 6018, 6/30/23]

[Original 9.030 was repealed by Ordinance 6018, June 30, 2023]

TABLE 9.030-1
BICYCLE PARKING STANDARDS

Use	Required Bicycle Parking
COMMERCIAL	
Athletic/fitness gym, aquatic centers, billiard, skating rinks with no grandstands, all other unspecified indoor recreation and entertainment (excluding restaurant, café or bar areas)	The greater of 2 spaces, or 1 per 1,000 square feet of exercise area
Bowling alleys	The greater of 4 spaces, or 0.50 spaces per lane
Golf courses (including clubhouses and accessory uses)	The greater of 2 spaces or 1,000 square feet of clubhouse area.
Stadiums, grandstands, coliseums, auditoriums, and theaters, and other sports facilities with seating	The greater of 2 spaces or 1 space per 30 seats
Funeral houses and mortuaries	1 space per 40 seats or 80 feet of bench length
Motels and hotels	The greater of 2 spaces or 0.20 space per room
Office~~s Professional~~: Medical and dental clinics	The greater of 2 spaces or 0.33 spaces per 1,000 gross square feet
Offices: All other commercial and professional offices	The greater of 2 spaces or 0.50 spaces per 1,000 gross square feet
Restaurants: (a)Carry out, drive-thru or drive-in; (b) Sit-down restaurants, taverns, bars, brewpubs, and nightclubs	(a) The greater of 2 spaces or 1 space per 1,000 square feet (b) The greater of 4 spaces or 1 space per 500 square feet
Vehicle repair and fuel or other service stations	The greater of 2 spaces or 0.20 space per 1,000 square feet of sales floor area
Retail sales of the following: (a) Bulky items such as home or business furnishings, appliances, building materials, farm and agricultural equipment, machine and office equipment (b) Motor vehicles, trailers, mobile homes, boats, modular houses (c) Greenhouses and nurseries, garden supplies	The greater of 2 spaces or 1 per 6,000 square feet of floor area
(d) All other retail sales	The greater of 2 spaces or 0.50 space per 1,000 square feet of gross floor area.
Services and Repair: tailor, shoemaker, locksmith, printing, binding, publishing, framing, upholsterer, photography studio, dry cleaner, mailing, etc.	The greater of 2 spaces or 1 space per 3,500 square feet.
Self-Serve Storage Unit Complex	The greater of 2 spaces, or 1 space per 20 units
INDUSTRIAL USES	
Air, rail and motor freight terminals, major transit stations, and park-and ride lots	4 spaces
Contractors and Industrial Services	The greater of 2 spaces, or 0.20 space per 1,000 square feet of sales floor area
Customer Service/Call Centers	The greater of 2 spaces or 0.50 spaces per 1,000 gross square feet
Industrial offices, research, or laboratory facilities.	The greater of 2 spaces or 0.10 spaces per 1,000 gross square feet

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Use	Required Bicycle Parking
Manufacturing, production, or processing	The greater of 2 spaces or 1 space per 10,000 square feet
Testing repairing, cleaning, servicing of materials, goods, or products	The greater of 2 spaces or 1 space per 3,500 square feet
Warehousing and wholesale	The greater of 2 spaces or 1 space per 15,000 square feet
INSTITUTIONAL, PUBLIC & SEMI-PUBLIC USES	
Daycare, Nursery Schools, Kindergarten, and Education	The greater of 2 spaces, or 1 space per five students based on the design capacity of the facility
Hospitals	1 per 10 beds
Jails and Detention Facilities	1 per 50 beds
Libraries, reading rooms, museums, and art galleries	The greater of 2 spaces, or 1.5 spaces per 1,000 gross square feet
Parks, open areas, and cemeteries	Based upon land use decision
Religious Assemblies, clubs, lodge of state or national organization	1 space per 40 seats or 80 feet of bench length
RESIDENTIAL USES	
Assisted Living, Residential Care facilities, Nursing or Convalescent homes	Assisted Living: The greater of 2 spaces, or 0.20 spaces per dwelling unit Nursing Home/convalescent: The greater of 2 spaces or 1 space for every 6 beds
Single dwelling units and middle housing	None
Multiple-dwelling unit	0.5 ~~1~~ per unit ~~dwelling~~
Single Room Occupancy Unit	0.5 per unit
Senior housing apartments	1 per 3 units ~~beds~~
Student housing	1 per dwelling

******No changes are proposed to the rest of 9.030, so these subsections are not provided.******

Staff Comments:

- 9.035 Carpool/Vanpool Spaces. Clarifying that carpool/vanpool spaces only need to be provided for commercial/office/industrial uses and excludes residential development.
- Removing the word required that was inadvertently missed in the previous update.

9.035 Carpool/Vanpool Spaces.

(1) When parking is provided, at least one standard-sized parking space shall be reserved for carpool/vanpool parking, or ten percent of employee-use parking spaces provided, whichever is greater.

(2) Preferential carpool/vanpool parking spaces must be closer to the employee entrance of the building than other parking spaces, except for ADA accessible parking spaces.

(3) Required carpool/vanpool spaces must be clearly marked "Reserved – Carpool/Vanpool Only." [Ord. 6018, 6/30/23]

(4) Residential development is not required to provide carpool/vanpool spaces.

******No changes are proposed to Sections 9.040 – 9.080, so these sections are not provided.******

9.100 Parking Area Improvement Standards. All public or private parking areas, loading areas and outdoor vehicle sales areas must be improved based on the following standards. When the total surface parking area for the development site exceeds 10,890 square feet, parking area improvements must comply with the standards in

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Section 9.130. [Ord. 6018, 6/30/23]

(1) General. All parking spaces must be improved in accordance with these standards and available for use at the time of project completion.

(2) Other Requirements. All parking areas shall conform to the setback, clear vision, landscaping, and buffering/screening provisions of this Code.

(3) Surfacing. All ~~required~~ provided parking, including travel aisles and access, shall have a durable, dust-free surface of asphalt, cement concrete, or other materials approved by the Director. Parking lot surfacing shall not encroach upon the public right-of-way except when it abuts a concrete public sidewalk or has been otherwise approved by the Director of Public Works. Pervious pavements, such as pervious asphalt or pervious concrete, may be allowed by the Director of Public Works.
[Ord. 5832, 4/9/14; Ord. 5842, 1/01/15]

(4) Drainage. All parking lots must provide a drainage system to dispose of the runoff generated by the impervious surface. Post-construction stormwater quality facilities are required per Title 12 of the Albany Municipal Code when applicable. Provisions shall be made for the on-site collection of drainage water to eliminate sheet flow of such water onto sidewalks, public rights-of-way, and abutting private property. All drainage systems must be approved by the Director of Public Works.
[Ord. 5842, 1/01/15]

(5) Perimeter Curb. Perimeter curbing is required for protection of landscaped areas and pedestrian walkways, and to prevent runoff onto adjacent properties. All parking areas over 1,000 square feet (contiguous) for residential dwellings, parking areas of any size for all other uses, or approved overflow parking areas shall provide a curb at least 6 inches high along the perimeter of all parking areas. Exceptions may be allowed for connections to approved vegetated post-construction stormwater quality facilities. [Ord. 5832, 4/9/14; Ord. 5842, 1/01/15; Ord. 5968, 1/14/22]

(6) Wheel Bumper. In parking areas over 1,000 square feet (contiguous) for residential dwellings, or parking areas of any size for all other uses, all parking stalls fronting a sidewalk, alleyway, street or property line shall provide a secured wheel bumper at least six inches high and at least six feet long, set back from the front of the stall at least 2-1/2 feet, but no more than three feet. If the sidewalk is widened to seven feet six inches to allow for vehicle encroachment, no wheel bumpers are required.
[Ord. 5968, 1/14/22]

(7) Turnaround. For parking areas that meet one of the thresholds in subsections (a) or (b), parking spaces must be located and served by an aisle or turnaround so that their use will require no backing movements or other maneuvering in a street right-of-way other than an alley.

(a) Residential dwellings: Parking areas over 1,000 square feet (contiguous). Driveways that could provide additional tandem parking spaces are not included in this calculation.

(b) All other development: Two or more parking spaces. [Ord. 5968, 1/14/22]

(8) Striping. Lots containing more than two parking spaces must have all ~~required~~ spaces permanently and clearly striped. Stripes must be at least four inches wide. When motorcycle parking, compact, or handicapped parking spaces are provided, they shall be designated within the stall.

(9) Connecting to Adjacent Parking Areas. Where an existing or proposed parking area is adjacent to a developed or undeveloped site within the same zoning district, any modifications to the parking areas must be designed to connect to the existing or future adjacent parking area. This requirement may be waived by the Director when it is deemed impractical or inappropriate due to the nature of the adjoining uses. [Ord. 5832, 4/9/14]

(10) Parking Lot Landscaping. Parking lots over 1,000 square feet (contiguous) shall be landscaped according to the standards in Section 9.150. [Ord. 5968, 1/14/22]

(11) Compact Car Parking. No more than 40 percent of parking spaces provided may be designated for compact cars. Compact spaces must be signed and/or the space painted with the words "Compact Car Only."

(12) Accessible Parking. All parking areas must provide accessible parking spaces in conformance with the

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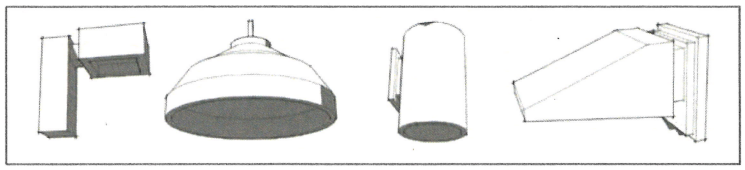
Oregon Structural Specialty Code. [Ord. 6018, 6/30/23]

(13) Lighting. Any lights provided to illuminate any public or private parking area or vehicle sales area must be arranged to reflect the light away from any abutting or adjacent properties. Any light source or lamp that emits more than 900 lumens (15-watt fluorescent / LED or 60-watt incandescent) shall be concealed or shielded with an Illumination Engineering Society of North America (IESNA) full cut-off style fixture with an angle not exceeding 90 degrees to minimize the potential for glare and unnecessary diffusion on adjacent property. Examples of shielded light fixtures are shown in figure 9.100-1.
[Ord. 5947, 1/01/21, Ord. 6018, 6/30/23]

Figure 9.100-1: Examples of Shielded Light Fixtures



(14) Pedestrian Access. Walkways and accessways shall be provided in all new off-street parking lots and additions to connect sidewalks adjacent to new development to the entrances of new buildings. All new public walkways and handicapped accessible parking spaces must meet the minimum requirements of the Oregon Structural Specialty Code. [Ord. 5720, 8/12/09]

******No changes are proposed to Section 9.110 so it is not provided.******

Staff Comments:

- 9.115 Conversion of Off-Street Parking to Other Uses. Adding loading areas to clarify what areas on the development site should be included.
- 9.130 Surface Parking Areas (2). Adding an option to combine solar panels and tree canopy to satisfy the standards.

9.115 Conversion of Off-Street Parking and Loading Areas to Other Uses.

(1) When new development, including expansions to existing structures, results in the conversion or elimination of existing off-street surface parking and loading areas, including travel aisles, for a use other than bicycle-oriented and transit-oriented facilities (bicycle parking, bus stops and pullouts, bus shelters, park and ride stations, and similar facilities), all existing parking areas that are physically impacted by the development must be improved to the standards in Article 9. For this section, physically impacted shall include the removal of surfacing, surface striping, or landscaping in association with the new development. Re-striping of existing parking with no change to layout and internal remodels or changes of use to an existing approved development that do not extend a structure or associated facility into the existing parking area are exempt from this standard.

(2) Conversion or elimination of off-street parking and loading areas, including travel aisles, to uses other than bicycle- and transit-oriented facilities is subject to Site Plan review in accordance with ADC 2.430(4).

(3) Conversion of off-street parking and loading areas to other uses ~~Developments~~ on nonconforming sites are subject to incremental improvements in accordance with ADC 2.330.

(4) Access for emergency vehicles must be retained, and adequate parking for truck loading should be considered. [Ord. 6018, 6/30/23]

******No changes are proposed to Section 9.120 so it is not provided.******

9.130 Surface Parking Areas. The purpose of these standards is to ensure that walkways and landscaping are incorporated into parking lot design in a manner that is both attractive and easy to maintain, that minimizes the visual impact of surface parking, and that improves environmental and climate impacts (Figure 9.130-1).

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These standards are also intended to help ensure pedestrian safety and comfort within large parking lots.
[Ord. 5886, 1/6/17; Ord. 5947, 1/1/21]

(1) Applicability. In addition to other provisions of Article 9, the following standards apply to new or improved surface parking areas of more than 0.25 acres (10,890 square feet), and to parking lot additions of 5,000 square feet or more when existing parking areas are enlarged to more than 10,890 square feet, and when re-construction of a surface parking area of more than 0.25 acres is proposed (i.e., when pavement, curbs, and planter bays are completely replaced). Total surface parking areas are calculated by measuring around the perimeter of all parking spaces, maneuvering areas, and interior landscaping.
[Ord. 6018, 7/1/23; Ord. 6024, 12/29/23]

(2) Comply with one of the following standards in (a) through ~~(c)~~d below.

(a) Solar Panels. Installation of solar panels with a generation capacity of at least 0.5 kilowatt per new parking space on the property. Panels may be located anywhere on the property.

(b) Public Buildings. Construction, reconstruction, or major renovation of a public building, as defined by ORS 270c.527 that complies with Oregon Administrative Rule 330-135-0010.

(c) Tree Canopy. Trees shall be planted and maintained throughout new or improved parking areas to ensure that at least 40 percent of all parking surface areas will be covered within fifteen years after planting (or 20 years old). Tree canopy shall be calculated from a plan view of the tree planting plan and expected crown diameter at fifteen years from planting or 20 years old. Existing mature trees that are preserved may be included in the canopy calculation using the current canopy size. Area under the canopy that is either paved surface or parking lot landscaping (interior or perimeter) shall be subject to canopy calculations unless specifically exempt per below. Canopy that covers structures may not be included in the calculation, however canopy that covers unenclosed carports over parking spaces may be included. The full canopy area based on the 20-year crown diameter may be counted for tree coverage where there is an overlap of 5 feet or less (measurement to be the length of a line segment within the overlap area of a line between tree trunk/canopy centers).

The following surfaced areas are exempt from canopy requirements or are permitted reductions to the canopy requirements:

i. Truck loading area in front of overhead doors.

ii. Truck maneuvering, storage, and parking areas unconnected to and exclusive of any vehicle parking.

iii. Tree canopy or solar panel requirements may be reduced by 50 percent for surface lots provided at automobile dealerships for display/sales/service/vehicle storage areas and provided employee and visitor parking.

(d) Combination. A combination of options (a) or (c) in this section.
[Ord. 6018, 6/30/23; Ord. 6024, 12/29/23]

(3) Trees must be provided along all driveways but are not required along drive aisles. Trees shall be at least 10 feet tall at the time of planting. The tree spacing and species planted must be designed to maintain a continuous canopy, except when interrupted by driveways, drive aisles and other site design considerations. A continuous canopy has no less than three trees and breaks of no more than 3 feet, excluding permitted interruptions. [Ord. 6018, 6/30/23]

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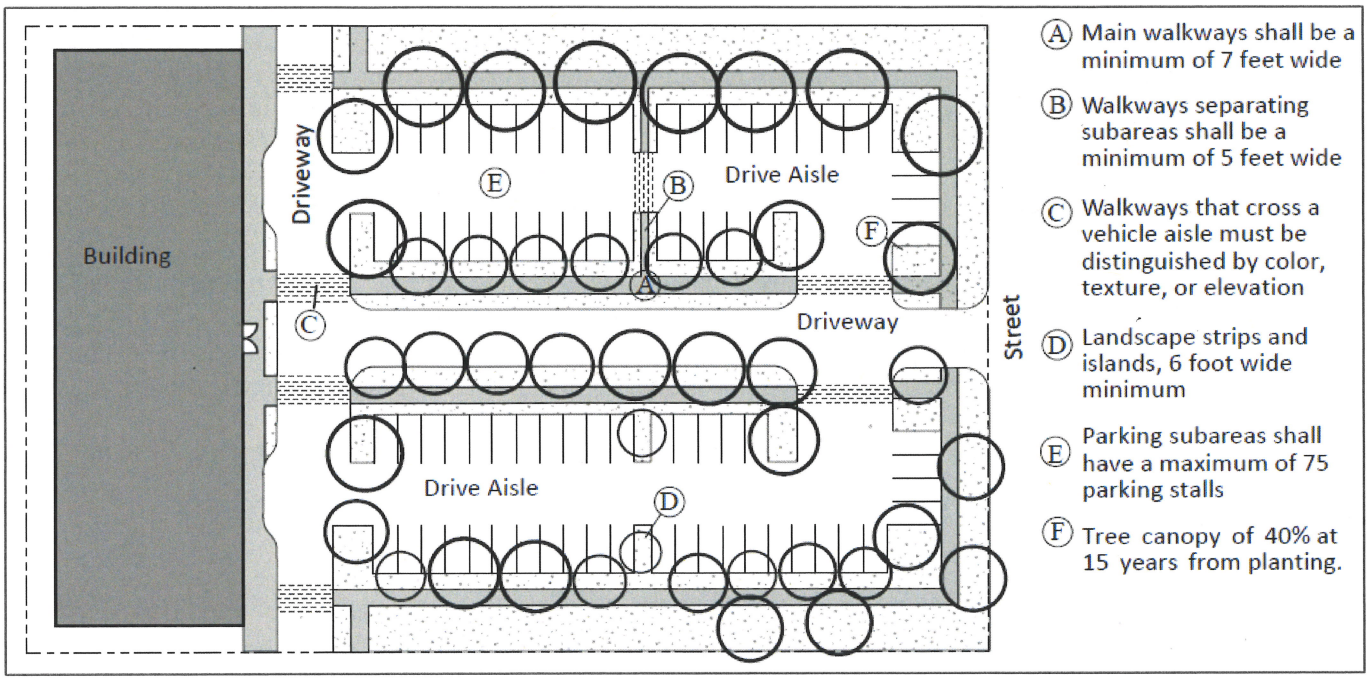
FIGURE 9.130-1. Sample Layout for Large Parking Area



[Ord. 6018, 6/30/23]

(4) Development of a tree canopy plan under this section shall be done in coordination with the local electric utility and other utility providers, including pre-design, design, building and maintenance phases and meet the following standards.

(a) The tree spacing and species planted must be designed to achieve the minimum tree canopy of 40 percent using the expected diameter of the tree crown at 15 years from planting (or 20 years old).

Trees must be planted and maintained to maximize their root health and chances for survival, including having ample high-quality soil, space for root growth, and reliable irrigation according to the needs of the species.

(b) Trees should be planted in continuous trenches with a minimum soil depth of 3 feet and width of 5 feet where possible.

(c) The minimum standards for planting and tree care shall be no lower than 2021 American National Standards Institute (ANSI) A300 standards.

(d) The property owner is responsible for maintaining all required vegetation. Compliance with these standards will be enforced through the City's code enforcement process.

[Ord. 6018, 6/30/23; Ord. 6024, 12/23/23]

(5) Walkways. For the safety of pedestrians, parking lots shall be designed to separate pedestrians from vehicles and include protected pedestrian walkways from parking areas to building entrances. Walkways shall be protected by landscaping, curbs, or parking bumpers. Walkways may cross a vehicle aisle if distinguished by a color, texture, or elevation different from the parking and driving areas. Walkways shall not share a vehicle aisle. [Ord. 5886, 1/6/17]

(6) Parking Lots with More Than 75 Spaces. Parking lots with 75 or more spaces must comply with the following additional standards to ensure pedestrian safety and to improve vehicle circulation and reduce visual impacts of large expanses of pavement.

(a) When pedestrian walkways connecting a main building entrance to the street are required pursuant to ADC 8.370(2)(b) and must cross a large surface parking area with more than 75 spaces, standards (a) and (b) below shall apply.

i. The walkway shall be at least seven feet wide and must meet standards for an accessible path of travel in accordance with the Americans with Disabilities Act (ADA).

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ii. The walkway shall incorporate a mix of landscaping, benches, and drop-off bays for at least 50 percent of the length of the walkway. [Ord. 5947, 1/1/21]

(b) Parking Subareas. To reduce the visual impact of large expanses of paving, to direct vehicular traffic through the parking lot, and to provide a location for pedestrian walkways, parking areas shall be divided into subareas of no more than 75 parking spaces each. Parking subareas shall be separated from each other with physical breaks by providing one or more of the following: building pads, landscape strips, landscaped pedestrian walkways, interior streets or driveways as defined in 9.120(2). Landscape strips or landscaped pedestrian walkways used for subarea separation shall meet the following standards.

i. Landscape strips shall have a minimum width of six feet that is unobstructed by obstacles that would impede landscape viability, including overhanging cars.

ii. Landscaped pedestrian walkways shall have a minimum unobstructed walkway width of five feet. Landscaping may be on one or both sides of a pedestrian walkway, with a minimum landscape strip width of six feet when provided.

[Ord. 5886, 1/6/17; Ord. 5947, 1/1/21; Ord. 6018, 6/30/23]

******No changes are proposed to Sections 9.133 -9.202, so they are not provided.******

Staff Comments:

9.205(2) Definition – Fell. Update the definition to include removal of 40 percent of the crown, trunk, or root system of a tree or to damage to a tree to cause the tree to decline or die to be consistent with the Albany Municipal Code.

9.203 Definitions. For the purposes of the following sections, these definitions apply:

(1) Critical Root Zone: The area around a tree where roots are critical to a tree's survival. For the purposes of this section, the critical root zone is estimated and expressed as a circle around the center of a tree's trunk, where the radius is calculated by adding one foot for every one inch of trunk diameter plus the tree trunk's radius, and where all tree measurements are consistent with those for establishing Tree Circumference. For example, a tree with a Tree Circumference of 6.5 feet would have a trunk radius of 1.0 feet and diameter of 25 inches. The critical root zone would be a circle with a radius of 26 feet (1ft + (25 in * 1ft/in)) from the center of the tree's trunk and have a total diameter of 52 feet. [Ord. 5947, 1/1/21]

(2) Fell: ~~To remove or sever a tree or the intentional use of any procedure the natural result of which is to cause the death or substantial destruction of the tree. Fell does not in any context include normal pruning of trees.~~ To cut down a tree or remove 40 percent or more of the crown, trunk, or root system of a tree; or to damage a tree so as to cause the tree to decline or die. The term "removal" includes, but is not limited to, topping, damage inflicted upon a root system by application of toxic substances, operation of equipment and vehicles, storage of materials, change of natural grade due to unapproved excavation or filling, or unapproved alteration of natural physical conditions. Fell does not in any context include normal trimming or pruning of trees. [Ord. 5947, 1/1/21]

(3) Tree: A living, standing, woody plant. [Ord. 5764, 12/1/11; Ord. 5947, 1/1/21]

(4) Tree Circumference: The circumference of a tree is measured at 4-1/2 feet above mean ground level from the base of the trunk. To obtain the circumference of a tree with multiple trunks, add the individual trunk circumferences, which are greater than 6 inches in circumference. [Ord. 5445, 4/12/00; Ord. 5947, 1/1/21]

******No changes are proposed to Sections 9.204 -9.250, so they are not provided.******

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Staff Comments:

- 9.255 Screening of Refuse Containers. Adding a requirement to add a cover of at least 8 feet in height over refuse areas to prevent contaminated water from entering the storm system. The cover over trash refuse areas helps eliminate rainwater from washing pollutants into the private storm system, as required by the Oregon Department of Environmental Quality (ODEQ), in compliance with the MS4 (Municipal Separate Storm Sewer Permit) program.

9.255 Screening of Refuse Containers. The following standards apply to all developments except for refuse containers or disposal areas serving four or fewer dwellings. Any refuse container or disposal area that would otherwise be visible from a public street, customer or resident parking area, any public facility, or any residential area, must be screened from view by placement of a sight-obscuring fence, wall, or hedge at least 6 feet tall. Refuse disposal areas may not be located in required setback areas or buffer yards and must be contained within the screened area. All refuse materials shall be contained within the screened areas and the disposal area must be covered. The cover must be at least 8 feet in height. No refuse container shall be placed within 15 feet of a dwelling window. [Ord. 6018, 6/30/23]

******No changes are proposed to the rest of Article 9, so sections are not provided.******

ARTICLE 10
MANUFACTURED HOME DEVELOPMENT STANDARDS

10.000 Overview. This article contains the standards of development for manufactured housing placed on individual lots and in manufactured home parks within the City. Manufactured and prefabricated dwellings provide a wide choice of housing types suitable for a variety of households, lifestyles and income levels. The standards contained in this article are intended to provide a suitable living environment for residents of manufactured homes and establish development standards that will increase compatibility with adjacent land uses. The following is a list of the main headings in this article. [Ord. 6008, 1/27/23]

- General Provisions
- Placement on Individual Lots
- Manufactured Home Parks
- Temporary Placements
- Recreational Vehicle Parks

******No changes are proposed to Sections 10.100 -10.290, so they are not provided.******

Staff Comments:

- 10:300: Remove the requirement for ten copies of the plot plan.
- 10.440: RVs were recently added as a form of temporary dwelling unit. Staff recommends clarifying that the temporary dwelling special use permit is also applicable to temporary on-site residences.

APPLICATION REQUIREMENTS

10.300 Plot Plans Required. The application for a new or expansion of an existing manufactured home park shall be accompanied by ~~ten copies of~~ the plot plan of the proposed park. The plot plan must show the general layout of the entire manufactured home park and must be drawn to a scale not smaller than 1" = 40'. In addition to the application requirements for Site Plan Review, the plan must include the following information:

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[Ord. 5968, 1/14/22]

(1) The location of adjacent streets and all private right-of-way existing and proposed within 300 feet of the development site.

(2) A legal survey.

(3) The boundaries and dimensions of the manufactured home park.

(4) The size (in square feet), location, dimensions and number of each manufactured home space.

(5) The name and address of manufactured home park.

(6) The scale and north point of the plan.

(7) The location and dimensions of each existing or proposed structure, together with the usage and approximate location of all entrances, height, and gross floor area.

(8) The location and width of access ways and walkways.

(9) The extent, location, arrangement, and proposed improvements of all off-street parking and loading facilities, open space, landscaping, fences and walls, and garbage receptacles.

(10) Architectural drawings and sketches demonstrating the planning and character of the proposed development.

(11) The total number of manufactured home spaces. [Ord. 5968, 1/14/22]

(12) The location of each lighting fixture for lighting manufactured home spaces and grounds.

(13) The location of recreation areas, buildings, and area of recreation space in square feet.

(14) The point where the manufactured home park water and sewer system connects with the public system.

(15) The location of available fire and irrigation hydrants.

(16) A manufactured home shall be drawn on each space to demonstrate how each of the space standards will be met. Dimensions shall be shown for the size of the manufactured home and to demonstrate compliance with the orientation standards.

(17) The location and species of trees that are at least 25 inches in circumference (approximately eight inches in diameter).

TEMPORARY PLACEMENTS

10.440 General. A special use permit may be issued to an applicant for a temporary dwelling for ~~showing an undue~~ a temporary hardship, or temporary on-site residence. The special use permit shall not exceed the length specified by the permit type. The temporary dwelling shall be a manufactured home or Recreational Vehicle and placed on the owner or caretaker~~giver~~'s property in accordance with the provisions that follow.

******No changes are proposed to the rest of Article 10, so sections are not provided.******

ARTICLE 11
LAND DIVISIONS AND PLANNED DEVELOPMENTS

11.000 Overview. The most permanent feature of a community is the way land is divided into parcels. This article describes the process of converting raw land into building sites. The primary goals of this design review are to better ensure that natural features have been taken into account; that roads and utilities are properly designed and installed, and that adequate open space has been provided. This article establishes the standards and procedures for property line adjustments, partitions, subdivisions, planned developments, and condominiums.

The following is a list of the main headings in this article.

- General Provisions

Proposed additions to the Albany Development Code are shown in red underline and deletions in ~~strike-out~~. Sections not being amended are not shown unless needed for context.

- Lot and Block Arrangement
- Property Line Adjustments
- Subdivisions and Partitions
- Planned Developments
- Condominiums
- Cluster Development
- Expedited and Middle Housing Land Divisions

[Ord. 5668, 4/11/07; Ord. 5968, 1/14/22]

11.010 Relationship to State Law. Oregon Revised Statutes (ORS) Chapter 92 governs all land divisions. This chapter permits the City to develop its own procedures and review criteria. Because the state law particularly limits the City's discretion in these matters, users of this Code are encouraged to review ORS Chapter 92 at the same time. Because of the many state requirements in this area, this article cannot be relied upon to provide all of the regulations that are applicable to land divisions. At the time of adoption of this article in 1992, the following provisions of state law were identified as particularly applicable:

- ORS 92.025 - Prohibition of sales of lots or certain interests prior to recordation of plat.
- ORS 92.050 - Requirements of survey and plat of subdivisions and partitions.
- ORS 92.060 - Monument requirements for subdivisions, partitions and property line adjustments.
- ORS 92.090 - Requisites for approval of tentative subdivision or partition plat.
- ORS 92.120(5) - Disclosure of water rights information when dividing land.
- ORS 92.180 - Authority to review replats.
- ORS 92.205 - Policy on undeveloped subdivisions.

The foregoing is not intended to be an exclusive list of all of the provisions of state law, which must be considered by an applicant or staff in reviewing land division applications. By the same token, the provisions of state law, which are listed above, are not mandatory provisions of this Code. Rather they are merely intended to warn the reader of the need for careful contemporaneous review of state law.

11.020 Relationship to Public Improvements Article. All proposed developments governed by this article must meet the applicable design, and construction standards 1of Article 12 - Public Improvements.

Staff Comments:

- 11.030 Building Code Egress Requirements: Adding a requirement for egress paths as required by the Oregon Building Code.

11.030 Relationship to Other Local Regulations. All proposed development governed by this article must meet the underlying zoning district standards, applicable lot and block standards under this Section, the applicable on-site improvements of Article 9 (e.g., off-street parking, landscaping, buffering and screening), the applicable Natural Resource District Requirements of Article 6 (e.g., open space, floodplain, hillside development, significant wetlands, habitat assessment, riparian corridor, and Willamette River Greenway), and the post-construction stormwater quality requirements in Title 12 of the Albany Municipal Code. Where the Building Official determines that the Oregon Building Code requires ingress or egress from a structure to the public way and that such ingress or egress will utilize part of an adjacent property; an access easement meeting the applicable Oregon Building Code requirements shall be recorded with the county recorders prior to submitting for application for building permits.

[Ord. 5764, 12/1/11; Ord. 5842, 1/1/15, Ord. 5886, 1/6/17]

******No changes are proposed to Sections 11.140 -11.080, so they are not provided.******

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Staff Comments for Section 11.090 Lot and Block Arrangements:

- (5) Average block length: The current language on how to calculate average block lengths for residential subdivisions is confusing. Staff proposes to add a maximum block length for now to help. Note, the city will be modifying block length standards citywide to comply with Climate Friendly and Equitable Communities block length standards in the future.
- (9) Curb Radius. Revising to align the ADC with the Engineering Standards regarding the required curb radius at street intersections.

11.090 Lot and Block Arrangements. In any land division for single-dwelling unit residential or middle housing development, lots and blocks shall conform to the following standards in this Article and other applicable provisions of this Code: [Ord. 5968, 1/14/22; Ord. 6004, 12/28/22]

(1) Lot arrangement must be such that there will be no foreseeable difficulties, for reason of topography or other condition, in securing building permits to build on all lots in compliance with the requirements of this Code ~~with the exception of~~ except for lots designated Open Space.

(2) Lot dimensions must comply with the minimum standards of this Code. When lots are more than double the minimum area designated by the zoning district, those lots must be arranged so as to allow further subdivision and the opening of future streets where it would be necessary to serve potential lots. An urban conversion plan ~~may be~~ is required in conjunction with submittal of tentative subdivision or partition plat.

(3) Double frontage lots shall be avoided except when necessary to provide separation of residential developments from streets of collector and arterial street status or to overcome specific disadvantages of topography and/or orientation. When driveway access from arterials is necessary for several adjoining lots, those lots must be served by a combined access driveway ~~in order~~ to limit possible traffic hazards on such streets. The driveway shall be designed and arranged ~~so as~~ to avoid requiring vehicles to back into traffic on arterials. An access control strip shall be placed along all lots abutting arterial streets requiring access onto the lesser class streets where possible. [Ord. 5968, 1/14/22]

(4) Side property lines ~~yards of a lot~~ shall run at right angles to the street the property faces through the front setback line or 10 feet, whichever is greater, except that on a curved street frontage the side property line shall be radial to the curve through the front setback line or 10 feet, whichever is greater.

(5) The average block length shall not exceed 600 feet and no individual block length shall exceed 800 feet. Block length is defined as the distance along a street between the centerline of two intersecting through streets (Figure 11.090-1). The City may grant an exception to the average and maximum block length standards based on one or more of the conditions in subsections (a) through (c) below.

[Ord. 5947, 1/1/21; Ord. 5968, 1/14/22]

(a) Physical conditions preclude an average block length of 600 feet or less or a maximum block length greater than 800 feet. Such conditions may include steep slopes or the existence of physical features, including, but not limited to: wetlands, riparian corridors, mature tree groves, or a resource under protection by State or Federal law.

(b) Existing transportation or utility facilities, buildings, or other existing development on adjacent lands, including previously subdivided but vacant lots or parcels, physically preclude an average block length of 600 feet or less or a maximum block length greater than 800 feet, considering the potential for redevelopment.

(c) An existing public street or streets terminating at the boundary of the development site have a block length exceeding 600 feet or are situated such that the extension of the street(s) into the development site would create a block length exceeding ~~6~~800 feet. In such cases, the average block length shall be as close to 600 feet as practicable. [Ord. 5968, 1/14/22]

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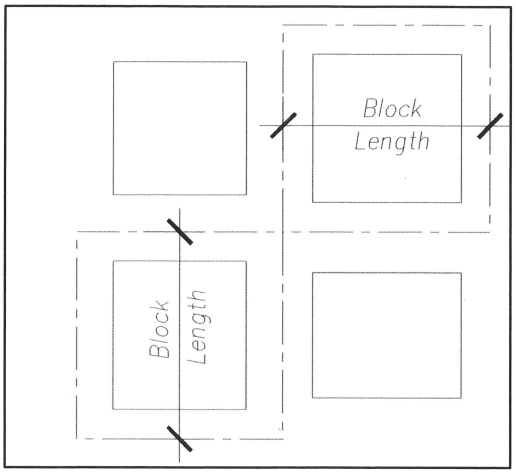
FIGURE 11.090-1. Block Length



[Ord. 5947, 1/1/21]

(6) Off-street pedestrian pathways shall be connected to the street network and used to provide pedestrian and bicycle access in situations where a public street connection is not feasible.

(7) With the minimum of townhouse development, the minimum frontage of a lot on a cul-de-sac shall be 22 feet as measured perpendicular to the radius. [Ord. 5886, 1/6/17; Ord. 5968, 1/14/22]

(8) Flag lots are allowed only when the City Engineer has determined that the dedication and improvement of a public street is not feasible or not practical. The minimum width for a flag is 22 feet, except when access is shared by an access and maintenance agreement in which case each lot shall have a minimum width of 12 feet and a combined minimum of 24 feet. [Ord. 5886, 1/6/17; Ord. 5968, 1/14/22]

(9) At all street intersections, an arc along the property lines shall be established so that construction of the street at maximum allowable width, centered in the right-of-way, shall require ~~not less than a twenty-foot radius of the curb line~~ radius of the curb line not less than the table below:~~.~~

Intersection	Curb Radius
Residential - Residential	15 feet
Residential – Collector or Arterial	20 feet
Collector – Collector or Arterial	30 feet
Arterial - Arterial	30 feet

[Ord. 5445, 4/12/00; Ord. 5912, 7/11/18]

******No changes are proposed to Sections 11.100-11.140, so they are not provided.******

SUBDIVISIONS AND PARTITIONS

11.150 Difference Between Partitions and Subdivisions. A subdivision relates to the division of land into four or more lots within a calendar year. A partition relates to the division of land into two or three parcels within a calendar year. A partition does not include the three exclusions set forth in ORS 92.010 (7), including property line adjustments as described in Section 11.100 of this article.

11.160 Explanation of Process. Partitions and subdivisions are reviewed at two stages. A tentative plat is reviewed primarily for design aspects, such as connections to existing and future streets, preservation of natural features, drainage and floodplain considerations, and compliance with requirements of other portions of this Code. The tentative plat need not be prepared by a surveyor. The final plat is reviewed for conformance to the tentative plat as approved (with or without conditions) and applicable state or county laws or rules. The final plat must be prepared by a licensed land surveyor and is the instrument by which the land division is recorded.

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11.170 Procedure.

(1) Except as provided in subsection (2), a tentative subdivision or partition plat is reviewed through the Type I-L procedure. [Ord. 5968, 1/14/22]

(2) A tentative subdivision plat that is reviewed concurrently with a Planned Development or a Cluster Development is subject to the Type III procedure. [Ord. 5968, 1/14/22]

(3) A final subdivision or partition plat is reviewed through the Type I procedure. [Ord. 5562, 10/10/03]

11.180 Tentative Plat Review Criteria. Approval of a tentative subdivision or partition plat, including for Planned Development, will be granted if the review body finds that the applicant has met all of the following criteria which apply to the development: [Ord. 5968, 1/14/22]

(1) The proposal meets the development standards of the underlying zoning district, and applicable lot and block standards of this Article. [Ord. 5886, 1/6/17; Ord. 5968, 1/14/22]

(2) Development of any remainder of property under the same ownership can be accomplished in accordance with this Code.

(3) Adjoining land can be developed or is provided access that will allow its development in accordance with this Code.

(4) The Public Works Director has determined that transportation improvements are available to serve the proposed subdivision or partition in accordance with Article 12 or will be made available at the time of development. [Ord. 5968, 1/14/22]

(5) The Public Works Director has determined that public facilities and utilities are available to serve the proposed subdivision or partition in accordance with Article 12 or will be made available at the time of development. [Ord. 5968, 1/14/22]

(6) Activities and developments within special purpose districts must comply with the regulations described in Articles 4 (Airport Approach), 6 (Natural Resources), and 7 (Historic), as applicable. [Ord. 5764, 12/1/11]

11.190 Tentative Plat Conditions of Approval. The City may attach conditions of approval of a tentative subdivision or partition plat to ensure that the proposal will conform to the applicable review criteria.

11.200 Appeal of a Tentative Plat Decision. A decision to approve, approve with conditions, or deny a tentative subdivision or partition plat is a limited land use decision that may be appealed in accordance with the appeal procedures in Article 1. [Ord. 5947, 1/1/21]

Staff Comments:

- 11.210(8 & 9): Separating submittal requirements for right-of-way related items and utility related items. In addition, adding a requirement for a storm drainage report when more than 5,000 square feet of impervious surface will be added during development.

11.210 Tentative Plat Submittal. All applications for tentative partition or subdivision approval must include a complete application form and copies of a plat showing the following details. The tentative plat need not be a finished drawing, but it should show all pertinent information to scale.

(1) When the land to be subdivided contains only part of the tract owned or controlled by the subdivider, a sketch is required of a tentative layout for streets and utilities in the undivided portion indicating connections to existing or future improvements.

(2) If the tentative plat does not show the following information, a vicinity map at a scale of 400 feet to the inch shall be prepared showing:

(a) All existing subdivisions, streets and tract lines of acreage land parcels immediately adjoining the proposed subdivision and between it and the nearest existing arterial streets.

(b) Name of the record owners of all contiguous land parcels.

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(c) How streets and alleys in the proposed subdivision may connect with existing or proposed streets and alleys in neighboring subdivisions or undeveloped property to produce the most advantageous development of the entire neighborhood area.

(3) The tentative plat shall be drawn to a standard engineer's scale where 1-inch equals 20 - 60 feet; or for areas over 100 acres, l inch equals 200 feet (1" = 200').

(4) The name, if any, of the land division; this name must not duplicate or resemble the name of another subdivision in the same county or in the same area within six miles of Albany and must be approved by the Director and the County Surveyor.

(5) Date, north point, and scale of drawing.

(6) Location of the land division by section, township and range, and a legal description sufficient to define the location and boundaries of the proposed tract or the tract designation or other description according to the real estate records of the County Assessor.

(7) Names and addresses of the property owner(s), subdivider, surveyor, and engineer, if applicable.

(8) The location, widths and names of all existing or platted streets or other public ways within or directly adjacent to the tract; and other important features, such as railroad rights-of-ways, and City boundary lines.

~~(8)~~(9) The location on the site and in the adjoining streets or property of existing and proposed sanitary sewers, storm drain facilities~~, (including post-construction stormwater quality facilities, detention facilities and supporting calculations),~~ and water mains and services, culverts, ditches and drainpipes, all other utilities such as electric, gas and telephone conduits with invert elevations of sanitary and storm sewers at points of proposed connections. A storm drainage report is required when 5,000 square feet of new or replaced impervious surface is added for all phases of development. The storm drainage report must include infiltration feasibility as outlined in the Engineering Standards. [Ord. 5720, 8/12/09; Ord. 5842, 1/1/15]

~~(9)~~(10) Contour lines showing proposed excavations, fills and grading and having the following minimum intervals:

One-foot contour intervals for ground slopes less than 5 percent.
Two-foot contour intervals for ground slopes between 5 and 10 percent.
Five-foot contour intervals for ground slopes exceeding 10 percent.

The elevations of all control points which are used to determine the contours. Contours shall be related to City of Albany datum. [Ord. 5842, 1/1/15]

~~(10)~~(11) Approximate location of areas subject to storm water inundation or overflow with approximate high-water elevation.

~~(11)~~(12) Location, width, direction and flow of all water courses.

~~(12)~~(13) Location of properties within the 100-year floodplain and other areas subject to flooding or ponding (see the Floodplain standards in Article 6).

~~(13)~~(14) Location of the following significant natural resources:

(a) Significant wetlands identified on the City's Local Wetlands Inventory;

(b) Significant riparian areas on the City's Riparian Corridor Inventory;

(c) Significant wildlife habitat, if known;

(d) Existing channels or drainage ways as shown in the most current version of the City of Albany Stormwater Master Plan; and

(e) Slopes greater than 12 percent. [Ord. 5764, 12/1/11; Ord. 5842, 1/1/15]

~~(14)~~(15) Location of the following natural features

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(a) Non-significant wetlands identified on the City's Local Wetlands Inventory, and other wetlands;

(b) Trees over 25 inches in circumference (approximately 8 inches in diameter) measured 4½ feet above the mean ground level from the base of the trunk. (To obtain the circumference of a tree with multiple trunks, add the individual trunk circumferences, which are greater than 6 inches in circumference);

(c) Springs; and

(d) Trees proposed for protection and method of protection.

[Ord. 5764, 12/1/11; Ord. 5842, 1/1/15]

~~(15)~~(16) Existing uses of the property and adjacent property within 100 feet, including the location of all existing structures and other impervious surfaces to remain on the property. [Ord. 5842, 1/1/15]

~~(16)~~(17) Zoning of and adjacent to the tract.

~~(17)~~(18) Any proposed streets: location, widths, names, approximate radii or curves. The relationship of all streets to any projected streets as shown on any development plan approved by the City.

~~(18)~~(19) Existing and proposed easements on the site and any existing easements on adjoining properties, showing the width and purpose of all easements.

~~(19)~~(20) Approximate dimensions of all lots, minimum lot size, proposed lot numbers, and block numbers [see Section 11.230 (11)].

~~(20)~~(21) Sites, if any, allocated for multiple-dwelling units, shopping centers, churches, industry, parks, schools, playgrounds, or public or semi-public buildings. [Ord. 6004, 12/28/22]

~~(21)~~(22) The following additional information must be submitted with the tentative plat:

(b) Total acreage in the subdivision and the ~~percent~~percentage of land dedicated to the public, not including easements.

(d) All public improvements proposed to be installed and the approximate time of installation including the method of financing.

(e) Special improvements to be made by the developer and the approximate time such improvements are to be completed (examples include entrance signs or walks, berms, bus stands, etc.). Sufficient detail regarding proposed improvements shall be submitted so that they may be checked for compliance with the objectives of these regulations, State laws and other applicable City ordinances. If, however, the nature of the improvement is such that it is impractical to prepare all necessary details prior to approval of the tentative plat, the additional details shall be submitted at least 30 days prior to approval of the final plat.

(f) An urban conversion plan for large acreage subdivisions.

[Ord. 5562, 10/10/03; Ord. 6024, 12/29/23]

******No changes are proposed to Sections 11.190 -11.230, so they are not provided.******

PLANNED DEVELOPMENTS

11.240 Definition. A planned development is a master planned environment intended for a variety of related activities. It promotes an integrated, coordinated development of land, normally involving increased flexibility in use and design standards, with special incentives or restrictions on development. A planned development may be primarily residential uses with associated commercial uses, a mixed-use development, or it may be a commercial or industrial development.

11.250 Purposes. The purposes of a Planned Development are to:

(1) Encourage more innovative planning that results in more desirable or sustainable environments or neighborhoods, improved protection of open spaces, transportation options, and site phasing of developments through the application of flexible and diversified land development standards than would otherwise occur under conventional land development procedures; and

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(2) Facilitate the efficient use of land and resources in regard to land uses, buildings, circulation systems, natural features, energy conservations, open space and utilities. [Ord. 5832, 4/9/14]

11.260 Procedure. A planned development is processed in two steps. The first step is review of the planned development project design and land uses by the Planning Commission under the Type III procedure. The final approval is reviewed by the Director through the Type I procedure. [Ord. 5832, 4/9/14]

11.270 Permitted Buildings and Uses. The following buildings and uses are permitted individually or in combination in a planned development:

(1) Residential areas:

(c) Accessory buildings and uses (permitted in combination with principal uses only);

(d) Dwellings, multiple-dwelling units; [Ord. 6004, 12/28/22]

(e) Dwellings, single-dwelling unit; [Ord. 6004, 12/28/22]

(f) Middle housing; [Ord. 5968, 1/14/22]

(g) Open space;

(h) Parks, playgrounds, golf courses, driving ranges, community centers, or recreation facilities supported by the planned development; and

(i) Commercial services that~~e~~ primarily serve the Residential Planned Development.

(2) Industrial areas:

(a) Any use allowed outright through Site Plan Review, or by Conditional Use approval in the underlying zone is permitted. Uses specified as Conditional Uses in the underlying zone are limited to 25 percent of the site except that additional amounts may be approved through the Conditional Use process. [Ord. 5947, 1/1/21]

(j) Up to 25 percent of the total site area may be occupied by retail and service establishments not otherwise permitted within industrial districts provided that at least an equal area of the development has been previously or simultaneously developed for other permitted uses.

(k) Up to 25 percent of the total site area may be occupied by office uses not pertinent to industrial uses within the development or otherwise permitted within the underlying zoning district.

(l) Office uses, services, and other accessory uses totally supported by other permitted uses are allowed in addition to the percentage amounts specified above.

11.280 Standards That May Be Modified. The following standards may be modified in order to create developments that are superior to those that could be developed through the conventional development and design standards: [Ord. 5968, 1/14/22]

(1) Development Standards. Except as noted in Table 11.330-1, minimum lot area, width and frontage, height and yard requirements (and for manufactured home parks, the manufactured home park standards in Article 10) will not be used to dictate the development but will act as general guidelines that may be adjusted to provide for a higher quality development. [Ord. 5968, 1/14/22]

(2) Design Standards. Except as noted herein, design standards in Article 8 may be modified through a planned development if the Adjustment criteria in ADC 2.080 are met. Design standards identified in ADC 8.000 as not being eligible for Adjustments are also not eligible for modification through a Planned Development. [Ord. 5968, 1/14/22]

(3) Streets. Private streets may be constructed in a planned development. These streets may be narrower than usual where on-street parking is prohibited and where access is limited to pre-approved locations. Any private street in an industrial planned development must be constructed to public standards. All lots must be provided with direct access to a public or private street.

(4) Cottage Clusters. A cottage cluster project may be developed as a planned development (with a concurrent standard land division application) in order to provide the developer with flexibility in the number and configuration of units and lots. This is an alternative to the middle housing land division process under ADC 11.600-11.630. Cottage clusters that are divided as provided herein shall continue to

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be classified as Middle Housing. [Ord. 5968, 1/14/22; Ord 6018, 6/30/23]

11.290 Professional Design Team Required. An applicant for a planned development approval must certify in writing that a member of each of the following professions will be used in the planning and design process for the proposed development:

(1) A licensed architect or professional designer;

(2) A certified nurseryman, landscape architect, or landscape designer approved by the Director; and

(3) A registered engineer or land surveyor.

Staff Comments:

- 11.300 Application Contents: Clarifying when a storm drainage report is required with land division applications.

11.300 Application Contents. A planned development proposal is reviewed in two stages. The following information is required to be submitted with each stage: [Ord. 5832, 4/9/14]

(1) Preliminary planned development submittal requirements:

(a) Planned Development Program. A written statement outlining the following details: planning objectives to be achieved through the planned development; dwelling types and density; non-residential uses; lot layout; public and private access; parking; height of structures; lighting; landscaped areas and provisions for continued maintenance; water supply; sewage disposal; drainage; and areas devoted to various uses. This statement should include a description of the character of the proposed development and adjacent areas, discussion of how the proposed development will relate to the natural environment and significant natural resources of the site and adjacent areas.

(b) The location of existing and planned water, sewerage, and drainage facilities, including line sizes and how they will tie into existing facilities. A storm drainage report is required when 5,000 square feet of new or replaced impervious surface is added for all phases of development. The storm drainage report must include infiltration feasibility as outlined in the Engineering Standards.

(c) The location of all existing and planned sidewalks, pedestrian paths, bike paths and where they will connect with existing facilities.

(d) The location and utilization of land uses and structures including public and/or private parks, open space or common areas.

(e) A tabulation of land area to be devoted to each use, and a calculation of the average residential density per acre, if applicable.

(f) A boundary survey or a certified boundary description by a licensed surveyor.

(g) Data, drawings, and/or elevations clearly establishing the scale, character and relationship of buildings, streets, and open space.

(h) Detailed building and landscaping plans and elevations.

(i) A transportation impact analysis, where required by the City Engineering Division of the Public Works Department.

(j) A development schedule for commencement and of construction, or a phasing schedule if phased development is proposed.

(k) If the development will be divided into different ownerships, any additional information generally required for a land division tentative plat approval and not required above.

(l) Other applicable Site Plan Review information in Section 2.490(5).

[Ord. 5832, 4/09/14; Ord. 5842, 1/1/15; Ord. 5947, 1/1/21]

Interim submittal requirement repealed per Ord. 5832, 4/9/14.

(2) Final submittal requirements in addition to the information on the approved preliminary plan:

(a) The character and location of signs.

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(b) Plans for street improvements and grading or earth-moving plans.

(c) Any additional requirements of final land division submittal, if the land is to be divided.

[Ord. 5832, 4/9/14]

11.310 Preliminary Plan Submittal Review Criteria. A planned development request will be granted interim approval by the review body if the development meets the Site Plan Review criteria of Section 2.450, Section 2.455 (if applicable), and all of the applicable criteria in (1) through (7). [Ord. 5947, 1/1/21; Ord. 5968, 1/14/22]

(1) The increased flexibility in Code standards and permitted uses will result in an improved development for the City, the surrounding area, and users of the development as compared to strict compliance with Code provisions.

(2) The project design results in a more efficient provision of open space or utilization of the natural features of the site.

(3) The project design results in a more efficient utilization of materials and public resources including streets, utilities, and energy supplies.

(4) Provisions will be established to ensure the continued maintenance of any common areas.

(5) More usable and suitable recreational facilities and other common areas are provided than would normally be provided under conventional development standards.

(6) The planned development satisfies the development standards in Section 11.330.

(7) Proposals for land divisions satisfy the standards in Sections 11.090 and 11.180, except as modified by the proposed planned development. [Ord. 5832, 4/9/14; Ord. 5968, 1/14/22]

11.320 Conditions of Approval. The City may attach conditions of approval of a planned development to ensure that the proposal will conform to the applicable review criteria.

****** No changes are proposed to Sections 11.330-11.600, so they are not provided.******

Staff Comments:

- 11.610(1)(a), Middle Housing Land Division: Clarifying that building permits are only required with middle housing land division applications on already developed parent lots.

11.610 Middle Housing Land Division. A middle housing land division is a partition or subdivision of a lot or parcel within a middle housing zoning district on which a middle housing project has been developed or approved for development under the provisions of this Code and ORS 197.758. Middle housing land divisions are regulated by this Code and ORS Chapter 92.

(1) Review Criteria. Approval of a tentative plat for a middle housing land division will be granted if the Director finds that the applicant has met all of the following criteria:

(a) The middle housing development complies with the Oregon residential specialty code and the applicable ADC middle housing regulations, including but not limited to, the provisions in the base zone and in Sections 8.110-8.175. ~~To demonstrate compliance with this criterion, t~~The applicant shall submit approved building permits demonstrating that existing ~~or proposed~~ structures comply with the Oregon Residential Specialty Code and ADC middle housing regulations when the parent parcel contains one or more structures that a proposed property line intersects or bisects the building, or the parent parcel contains one or more structures that the roof overhang or exterior walls will be located within 3 feet of the proposed property lines.

(b) Separate utility service connections for public water, sewer, and stormwater will be provided for each dwelling unit.

(c) Easements will be provided as necessary for each dwelling unit on the site for:

i. Locating, accessing, replacing, and servicing all utilities;

i. Pedestrian access from each dwelling unit to a private or public road;

iii. Any common use areas or shared building elements;

iv. Any dedicated driveways or parking; and

v. Any dedicated common area.

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(d) Exactly one dwelling unit will be located on each resulting lot (referred to as middle housing child lots), except for lots or tracts used as common areas, on which no dwelling units will be permitted.

(e) Buildings or structures on a resulting child lot will comply with applicable building codes provisions relating to new property lines.

(f) Notwithstanding the creation of new child lots, structures or buildings located on the newly created lots will comply with the Oregon Residential Specialty Code.

(g) Where a resulting child lot abuts a street that does not meet City standards, street frontage improvements will be constructed and, if necessary, additional right-of-way will be dedicated, pursuant to ADC 12.140 and 12.200.

(2) Tentative Plat Submittal. In addition to the items listed in ADC 11.210, an application for a middle housing land division shall include the following:

(a) A description of the manner in which the proposed division complies with each of the provisions of subsection (1) of this section, including copies of approved building permits and other evidence necessary to demonstrate:

i. How buildings or structures on a resulting child lot will comply with applicable building codes provisions related to new property lines; and

ii. Notwithstanding the creation of new lots, how structures or buildings located on the newly created child lots will comply with the Oregon Residential Specialty Code.

(b) In addition to the items listed in ADC 11.210(1) – (20), copies of a plat showing the following details:

i. Separate utility connections for each dwelling unit, demonstrating compliance with approval criterion 11.610(1)(b).

ii. Existing or proposed easements necessary for each dwelling unit on the plan, demonstrating compliance with the criterion 11.610(1)(c).

(c) Copies of all required easements in a form approved by the City Attorney.

(3) Tentative Plat Conditions of Approval.

(a) The City may attach conditions of approval of a tentative plat for a middle housing land division to:

i. Prohibit further division of the resulting child lots.

ii. Require that a notation appear on the final plat indicating:

- The approval was given under ORS Chapter 92.
- The type of middle housing approved on the subject site and noting that this middle housing type shall not altered by the middle housing land division.
- Accessory dwelling units are not permitted on child lots resulting from a middle housing land division.

iii. Ensure that improvements associated with review criteria in ADC 11.610 are provided.

(b) In accordance with ORS Chapter 92, the City shall not attach conditions of approval requiring that a child lot require driveways, vehicle access, parking, or minimum or maximum street frontage.

(c) The tentative approval of a middle housing land division is void if and only if a final middle housing land division plat is not approved within three years of the tentative approval.

[Ord. 5968, 1/14/22]

11.620 Tentative Plat Procedures for Expedited and Middle Housing Land Division. Unless the applicant requests to use the procedure set forth in ADC 11.170, the City shall use the following procedure for an expedited land division, as described in ORS 197.360, or a middle housing land division. An expedited or middle housing land division is not a land use decision or a limited land use decision under ORS 197.015 or a permit under ORS 215.402 or 227.160.

(1) Completeness Review.

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(a) If the application for an expedited or middle housing land division is incomplete, the City shall notify the applicant of exactly what information is missing within 21 days of receipt of the application and allow the applicant to submit the missing information. For purposes of computation of time, the application shall be deemed complete on the date the applicant submits the requested information or refuses in writing to submit it.

(b) If the application was complete when first submitted or the applicant submits the requested additional information within 180 days of the date the application was first submitted, approval or denial of the application shall be based upon the standards and criteria that were applicable at the time the application was first submitted.

(2) Notice of Application.

(a) On receipt of a complete application, written notice shall be provided to owners of property within 100 feet of the entire contiguous site for which the application is made and to any City Council-recognized neighborhood association(s) whose boundaries include the site. Notice shall also be provided to any agency responsible for providing public services or facilities to the subject site. The notification list shall be compiled from the most recent property tax assessment roll. For purposes of appeal to the referee under ORS 197.375, this requirement shall be deemed met when the City can provide an affidavit or other certification that such notice was given.

(b) The notice shall include the following information:

i. The deadline for submitting written comments;
ii. A statement that issues that may provide the basis for an appeal to the referee must be raised in writing prior to the expiration of the comment period; and
iii. A statement that issues must be raised with sufficient specificity to enable the City to respond to the issue.
iv. The applicable criteria for the decision.
v. The place, date, and time that comments are due.
vi. A time and place where copies of all evidence submitted by the applicant will be available for review.
vii. The street address or other easily understood geographical reference to the subject property.
viii. The name and telephone number of a City contact person.
ix. A brief summary of the local decision-making process for the land division decision being made.

(3) There shall be a 14-day period to allow for submission of written comments prior to the Director's decision.

(4) There shall be no public hearing on the application.

(5) The Director shall make a decision to approve or deny the application within 63 days of receiving a completed application.

(6) The Director's decision shall be based on applicable elements of the Albany Development Code and Comprehensive Plan. An approval may include conditions to ensure that the application meets the applicable land use regulations.

(7) Notice of the decision shall be provided to the applicant and to those who received notice under subsection (2) within 63 days of the date of a completed application. The notice of decision shall include:

(a) A summary statement explaining the determination; and

(b) An explanation of appeal rights under ORS 197.375.

(8) Failure to approve or deny application within specified time.

(a) Except as provided in subsection (b), if the City does not make a decision on an expedited or middle housing land division within 63 days after the application is deemed complete, the applicant may apply in the circuit court for the county in which the application was filed for a writ of mandamus to compel the City to issue the approval. The writ shall be issued unless the City shows that the approval would violate a substantive provision of the applicable land use regulations or the

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requirements of ORS 197.360. A decision of the circuit court under this section may be appealed only to the Court of Appeals.

(b) After seven days' notice to the applicant, the City Council may, at a regularly scheduled public meeting, take action to extend the 63-day time period to a date certain for one or more applications for an expedited or middle housing land division prior to the expiration of the 63-day period, based on a determination that an unexpected or extraordinary increase in applications makes action within 63 days impracticable. In no case shall an extension be to a date more than 120 days after the application was deemed complete. Upon approval of an extension, the provisions of ORS 197.360 to 197.380, including the mandamus remedy provided by subsection (a), shall remain applicable to the expedited or middle housing land division, except that the extended period shall be substituted for the 63-day period wherever applicable.

(9) The applicant, or any person or organization that files written comments in the comment period established under subsection (3), may appeal the Director's decision within 14 days of the mailing of the decision notice and the appeal shall be based solely on allegations as listed in ORS 197.375(1)(c)(A) through (1)(c)(D) and shall be accompanied by a $300 deposit for costs which is refundable if the appellant prevails.

(10) The Director shall appoint a referee to decide the appeal decision and the appointed referee shall comply with ORS 197.375(3) through (6) when issuing a decision. The referee may not be a City employee or official. [Ord. 5968, 1/14/22]

11.630 Final Plat Requirements for Expedited and Middle Housing Land Division

(1) Expedited Land Division - Final Plan Review Criteria. Approval of a final plat for an expedited land division shall be consistent with the review criteria for subdivisions and partitions (ADC 11.220).

(2) Middle Housing Land Division - Final Plan Review Criteria. Approval of a final plat for a middle housing land division will be granted if the review body finds that the applicant has met the following criteria:

(a) The final plat is in substantial conformance with the tentative plat.

(b) Conditions of approval attached to the tentative plat have been satisfied.

(c) All proposed improvements required to satisfy applicable standards of the ADC have been constructed.

(3) Final Plat Submittal. An application for an expedited or middle housing land division final plat shall include the items listed in ADC 11.230. [Ord. 5968, 1/14/22]

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ARTICLE 22
USE CATEGORIES AND DEFINITIONS

The following is a list of content in this article.

- Use Categories 22.030 – 22.370
- Definitions 22.400
- Natural Resource Definitions 22.500

USE CATEGORIES

[Use Categories in Sections 22.010 – 22.370 added by Ord. 5555, 2/7/03]

22.010 Introduction to the Use Categories. This section classifies land uses and activities into use categories based on common functional, product, or physical characteristics. The use categories provide a systematic basis for assigning present and future uses to zones. The decision to allow or prohibit the use categories in the various zones is based on the zoning district purpose statements.

The Schedules of Permitted Uses (by zoning district), special conditions and the development standards are located in Article 3, Residential Zoning Districts; Article 4, Commercial and Industrial Zoning Districts; and Article 5, Mixed Use Village Center Zoning Districts. The environmental performance standards in Article 9, On-site Development and Environmental Standards, may limit the placement of certain uses in some zoning districts.

INDUSTRIAL USE CATEGORIES

22.030 Contractors and Industrial Services
22.040 Manufacturing and Production
22.045 Small-scale Manufacturing
22.050 Railroad Yards
22.060 Warehousing and Distribution
22.070 Waste and Recycling Related
22.080 Wholesale Sales

COMMERCIAL USE CATEGORIES

22.090 Adult Entertainment
22.100 Entertainment and Recreation, Indoor and Outdoor
22.110 Offices
22.120 Parking Facility
22.125 Recreational Vehicle Park
22.130 Restaurants
22.140 Retail Sales and Service
22.150 Self-Serve Storage
22.155 Taverns, Bars, Breweries and Night Clubs
22.160 Vehicle Repair
22.170 Vehicle Service, Quick

INSTITUTIONAL USE CATEGORIES

22.180 Basic Utilities
22.190 Community Services
22.200 Daycare Facility
22.210 Educational Institutions
22.220 Hospitals
22.230 Jails and Detention Facilities
22.240 Parks, Open Areas and Cemeteries
22.250 Religious Institutions

RESIDENTIAL USE CATEGORIES

Proposed additions to the Albany Development Code are shown in red underline and deletions in ~~strike-out~~. Sections not being amended are not shown unless needed for context.

22.260 Residential Care or Treatment Facility
22.270 Assisted Living Facility
22.280 Single-Dwelling Units ~~Detached~~ and Two ~~Detached~~ Primary Units
22.285 Middle Housing
22.300 Multiple Dwelling Unit Development: Five or More Units
22.310 Unit(s) Above or Attached to a Business
22.320 Residential Accessory Buildings

OTHER USE CATEGORIES

22.325 Accessory Buildings, Non-Residential
22.330 Agriculture
22.340 Communication Facility
22.350 Kennels
22.360 Passenger Terminals
22.370 Rail and Utility Corridors

[Ord. 5742, 7/14/10; Ord. 5968, 1/14/22; Ord. 6004, 12/28/22]

22.020 Description of Use Categories.

(8) Considerations. Uses are assigned to the category whose description most closely describes the nature of the primary use. Each use category is described and defined. Developments may have more than one primary use. Developments may also have one or more accessory uses. The following are considered in determining what category the use is in, and whether the activities constitute primary uses or accessory uses:

- The description of the activity(ies) in relationship to the characteristics of each use category;
- The relative amount of site or floor space and equipment devoted to the activity;
- Relative amounts of sales from each activity;
- The customer type for each activity;
- The relative number of employees in each activity;
- Hours of operation;
- Building and site arrangement;
- Vehicles used with the activity;
- The relative number of vehicle trips generated by the activity;
- Signs;
- How the use advertises itself; and
- Whether the activity would be likely to be found independent of other activities on the site.

(1) Developments with multiple primary uses. When all of the primary uses of a development fall into one use category, the development is assigned to that use category. For example, a development that contains a retail bakery and a café would be classified in the Retail Sales and Service category because all of the primary uses are in that category. When the primary uses of a development fall into different use categories, each primary use is classified in the applicable category and is subject to the regulations for that category.

(2) Accessory Uses. Accessory uses are incidental to the primary use category and may contribute to the comfort, convenience, or necessity of the principal use. Examples of accessory uses include but are not limited to storage, employee and customer parking, and employee facilities. These uses are allowed by right in conjunction with the use unless stated otherwise in the regulations. Unless otherwise stated, they are subject to the same regulations as the primary use. [Ord. 5742, 7/14/10]

Lists of accessory uses were deleted from the use categories in Sections 22.030 to 22.370 by Ord. 5742, adopted 7/14/10].

Proposed additions to the Albany Development Code are shown in red underline and deletions in ~~strike-out~~. Sections not being amended are not shown unless needed for context.

(3) Use Examples. The "Use Examples" subsection of each use category provides a list of examples of uses that are included in the category. The names of uses on the lists are generic. They are based on the common meaning of the terms and not on what a specific use may call itself. For example, a use whose business name is "Wholesale Liquidation" but that sells mostly to consumers would be included in the Retail Sales and Service category rather than the Wholesale Sales category. This is because the actual activity on the site matches the description of the Retail Sales and Service category.

****** No changes are proposed to Sections 22.040-22.180, so they are not provided. ******

Staff Comments:

- 22.190, Community Services use category changes: Staff proposes to clarify the types of organizations and facilities considered a Community Service by removing the types of organizations or facilities that function as office uses and do not produce substantial off-site impacts.
- 22.280, 22.300, & 310: Changing to consistent terminology throughout code when referring to the different types of residential dwelling units.
- 22.320 Residential Accessory Buildings. Removing the development standards from the use category and referencing the articles where the development standards are contained.

******Only Use Categories where changes are proposed are provided.******

22.190 Community Services.

Community Services are operated by the government, a ~~public,~~ nonprofit, or charitable organization ~~that~~ to provide~~s~~ a local service to people of the community. Generally, ~~they provide~~ the service~~s~~ ~~on the site or have~~ and employees are ~~at the site~~provided on a regular on-going basis at the site. ~~The service is ongoing, not just for special events. Community centers or facilities that have membership provisions are open to the general public to join at any time (for instance, any senior citizen could join a senior center).~~ The use may provide emergency shelter or short-term housing where tenancy may be arranged for periods of less than one month when operated by a public or non-profit agency. ~~The use may also provide special counseling, education, or training of a public, nonprofit or charitable nature.~~ [Ord. 5742, 7/14/10]

(1) Use Examples. Types of uses include, but are not limited to: libraries, museums, senior centers, community centers, publicly owned swimming pools and athletic courts or facilities, youth club facilities, ~~hospices,~~ public safety facilities including fire and police stations, ~~ambulance stations, drug and alcohol centers, social service facilities,~~ emergency shelters or short-term housing when operated by a public or non-profit agency, ~~vocational training for the physically or mentally disabled,~~ soup kitchens, and ~~surplus~~ food distribution centers.

(2) Exceptions.

(a) Private lodges, clubs, and private or commercial athletic or health clubs or centers are classified as Indoor Entertainment and Recreation. [Ord. 5742, 7/14/10]

(b) Parks and cemeteries are classified as Parks, Open Areas, and Cemeteries.

(c) Uses where tenancy is arranged on a month-to-month basis (except at hotels/motels) or for a longer period are residential and are classified under Residential use categories.

(d) Applications for emergency shelters sited under ORS 197.782 and ORS 197.783 are not a land use decision.

~~(c)~~(e) Public services provided to customers in an office building are classified as Offices.

22.280 Single-Dwelling ~~Detached~~ Unit and Two ~~Detached~~ Primary Units.

(1) Single-dwelling ~~detached~~ units are one ~~detached~~ dwelling unit on one lot, with or without an accessory dwelling unit. Two ~~detached~~ primary dwellings ~~units~~ are two primary detached dwelling units on one lot. [Ord. 5742, 7/14/10; Ord. 5968, 1/14/22; Ord. 6004, 12/28/22]

Proposed additions to the Albany Development Code are shown in red underline and deletions in ~~strike-out~~. Sections not being amended are not shown unless needed for context.

(2) Use Examples. Single detached unit~~s~~, single dwelling unit with one accessory dwelling unit, two detached primary dwelling units, one Single Room Occupancy (SRO) development with a minimum of four and no more than six SRO units, manufactured homes, prefabricated dwellings, and child and adult care or treatment homes for five or fewer individuals.

[Ord. 5968, 1/14/22; Ord. 6004, 12/28/22; Ord. 6008, 1/27/23]

(3) Exceptions.

(a) In certain situations, lodging where tenancy may be arranged for periods less than one month, such as short-term housing or homeless shelter, may be classified as Community Service uses.

(b) Dwellings and SRO developments where care or treatment is provided and that typically provide common dining are classified as a Group or Residential Care Home or Residential Care or Treatment Facility.

(c) Attached primary dwelling units are classified as Middle Housing (either a duplex, triplex, fourplex, or townhouse) or Multiple Dwelling Unit Development.

~~(b)~~(d) Dwelling units located above, behind, or contiguous to a business or office on the groundfloor(s) are classified as Units Above or Attached to a Business. [Ord. 5894, 10/14/17]

22.300 Multiple Dwelling Unit Development ~~Housing~~: Five or More Units.

(1) A Multiple Dwelling Unit development ~~is~~contains five or more dwelling units on one property or development site, attached or detached, including a building or collection of buildings, and excluding Middle Housing. Residential developments of three to four units are also classified as Multiple Dwelling Unit Housing if the development cannot otherwise be classified as Middle Housing.

[Ord. 5742, 7/14/10; Ord. 5801, 2/13/13; Ord. 5968, 1/14/22; Ord. 6004, 12/28/22]

(2) Use Examples. Five or more detached dwelling units on one property ~~(~~excluding cottage clusters~~)~~, single-room occupancy (SRO) development, a building containing five or more dwelling units in any vertical or horizontal arrangement often called an apartment building, condominiums, and any other similar configuration of five or more units on one property or development site.

[Ord. 5801, 2/13/13; Ord. 5968, 1/14/22]

(4) Accessory Uses. Accessory uses commonly found are recreational activities, raising of pets, hobbies, and parking of the occupants' vehicles. Home occupations and bed and breakfast facilities are accessory uses that are subject to additional regulations. [Ord. 5968, 1/14/22]

(5) Exceptions.

(a) Lodging in a dwelling unit or Single Room Occupancy (SRO) ~~unit~~ development where less than two-thirds of the units are rented on a monthly basis is considered a hotel or motel use and is classified in the Retail Sales and Service category.

(b) ~~Single-room occupancy~~ SRO Developments where care is provided regularly on-site are classified as a Group or Residential Care Home or Residential Care or Treatment Facility. [Ord. 5801, 2/13/13]

(c) Dwelling units located above, behind, or contiguous to a business or office on the ground floor(s) are classified as Units Above or Attached to a Business. [Ord. 5894, 10/14/17]

(d) Cottage clusters are a type of Middle Housing and are not considered Multiple Dwelling Unit development. [Ord. 5968, 1/14/22; Ord. 6004, 12/28/22]

22.310 Unit(s) Above or Attached to a Business.

(1) One or more residential dwelling units located above, behind or contiguous to a business or office on the ground floor(s), where the business has street frontage. [Ord. 5742, 7/14/10]

(2) Use Examples. Apartments, condominiums, retirement center apartments, and other structures with self-contained dwelling units located above a business.

(3) Exceptions.

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(a) Lodging in a dwelling unit or Single Room Occupancy (SRO) unit where less than two-thirds of the units are rented on a monthly basis is considered a hotel or motel use and is classified in the Retail Sales and Service category.

(b) SRO developments or other dwellings where care or treatment is provided and that typically ~~that contain programs that include~~ provide common dining are classified as a Group or Residential Care Home or Residential Care or Treatment Facility.

(c) Live/work dwelling units in which the dwelling unit and the business are internally connected without passing through a common area are considered to have multiple primary uses, with the residential and non-residential uses each subject to the regulations for their respective use categories.

[Ord. 5894, 10/14/17]

22.320 Residential Accessory Buildings.

(1) A detached building that is subordinate to and consistent with the principal use of the property and located on the same property as the principal dwelling. Residential accessory buildings are permitted in residential and mixed-use zones if when they meet the ~~following~~ standards in Articles 3, 4, and 5.~~:~~

~~(a) Detached residential accessory buildings (other than Accessory Dwelling Units, which are addressed below), garages, and carports are allowed outright if they are less than 750 square feet and have walls equal to or less than eleven feet in height. Larger buildings may be permitted through Site Plan Review, refer to the following standards:~~

- ~~In residential zoning districts in Article 3, refer to Section 3.080(9).~~
- ~~In commercial or industrial zones in Article 4, refer to Section 4.060(21).~~
- ~~In mixed-use zones in Article 5, refer to Section 5.070(18).~~

~~Accessory Dwelling Units have special conditions in Articles 3 and 5, Sections 3.080(4) and 5.070(165) respectively. [Ord. 5742, 7/14/10; Ord. 5947, 1/01/21; Ord. 5949, 1/01/21]~~

Staff Comments for Definitions:

- Adding the following definitions that were not previously in the code.
- Revising the following definitions:
  - Alley – Removing "secondary" from definition to be consistent with language in Article 8.
  - Adding how density is calculated when the resultant number is a fraction.
  - Garage, Private Parking and Public Parking – Removing "required by this Article".
  - Main Entrance – clarify for main entrance of a building.
  - Revising Single Room Occupancy (SRO) definition to align with the ORS definition and adding a definition of SRO unit.
  - Setbacks – Clarifying where to measure a setback on a building or structure and adding definitions for different types of setbacks.

DEFINITIONS

22.400 Definitions. As used in this Code, the following words and phrases shall have the following meanings:

Accessory Building: A detached building or set of buildings that is subordinate in ~~size and~~ purpose to the principal structure on the same property or development site under the same ownership. The use of the accessory building serves an incidental purpose to the permitted principal use in the main building(s).

Affordable Housing: Housing for which ownership costs (mortgage loan principal, interest, property taxes, and insurance) or rental costs (unit rent and utilities) require no more than 30 percent of the gross monthly income of a household that has income at or below 120 percent of the Albany area median income (AMI) and is subject to an affordable housing covenant as provided in ORS 456.270 to 456.295.

Proposed additions to the Albany Development Code are shown in red underline and deletions in ~~strike-out~~. Sections not being amended are not shown unless needed for context.

Area Median Income or AMI: the median income for the Albany Metropolitan Statistical Area as determined by the Housing and Community Services Department and adjusted for household size based on information from the United States Department of Housing and Urban Development (HUD).

Alley: A public way not over 30 feet wide that provides a ~~secondary~~ means of access to private property. An alley is not considered a "street" as used in this Code. [Ord. 5742, 7/14/10]

Attached Structure: A structure that is attached to another structure by a common wall, by a roof, or by structural connections that allow pedestrian access to both structures. A garage may be attached to another structure by sharing a wall or by a covered breezeway. Structures connected by an uncovered, "I" beam or similar connections are not considered attached. [Ord. 5742, 7/14/10]

Density, Gross: The number of living units or jobs per gross acre of land (for example, units/acre or jobs/acre). Any computation that yields a fraction of less than 0.5 shall be rounded down to the nearest whole number and any computation that yields a fraction of greater than 0.5 or greater shall be rounded up to the nearest whole number. [Ord. 5742, 7/14/10]

Density, Net: The average number of dwelling units per net acre of land, which is calculated by taking the total gross acreage and subtracting the area in the right-of-way for streets and roads and any undevelopable areas such as water bodies and open space. Any computation that yields a fraction of less than 0.5 shall be rounded down to the nearest whole number and any computation that yields a fraction of greater than 0.5 or greater shall be rounded up to the nearest whole number. [Ord. 5742, 7/14/10]

Endangered Species: Any species that is in danger of extinction throughout all or a significant portion of its range.

Endangered Species Act (ESA): Federal regulatory program to protect fish, wildlife, and plants from extinction. It provides a means whereby the ecosystems upon which threatened and endangered species depend may be conserved to ensure the continued survival of the species.

Garage, Private Parking: A structure having one or more levels used for parking vehicles for the tenants, employees, or owners of the property for which the parking spaces contained in or on said garage ~~are required by this Article~~ and are not open for use by the general public.

Garage, Public Parking: A publicly or privately owned structure having one or more levels, used for parking vehicles and open for use by the general public, either free or for remuneration. Public parking garages may include parking spaces for customers, patrons, or clients ~~that are required by this Article~~ provided said parking spaces are clearly identified as free parking space(s) for the building or use.

Main Entrance: The entrance to a building that most pedestrians or customers are expected to use, typically the door faces the street or is visible from the street or right-of-way. Generally, each building has one main entrance. [Ord. 5742; 7/14/10]

Public Body: As used in this code and in Oregon Revised Statutes ORS 174.109, means state government bodies, local government bodies and special government bodies.

Setback: The minimum horizontal distance required between a structure or parking area and an abutting property line. Some zones have a maximum setback where a building may be located no farther from a property line. [Ord. 5742, 7/14/10]

Setback, Front: The minimum horizontal distance required from the front lot line to the nearest foundation wall of a building or structure, fence, or other element as defined by this Code.

Setback, Interior: The minimum horizontal distance from an interior lot line to the nearest foundation wall of a building or structure, fence, or other element as defined by this Code.

Proposed additions to the Albany Development Code are shown in red underline and deletions in ~~strike-out~~. Sections not being amended are not shown unless needed for context.

Setback Line: The innermost line of any required yard area on a lot that is parallel to the corresponding property line. [Ord. 5742, 7/14/10]

Setback, Minimum: The minimum allowable horizontal distance from a property line (unless otherwise noted) to the nearest foundation wall of a building or structure, fence, or other element as defined by this Code.

Setback, Maximum: The maximum allowable horizontal distance from a property line (unless otherwise noted) to the nearest foundation wall of a building or structure.

Single-Room Occupancy (SRO) Development ~~Dwellings~~: A building~~, that has separate sleeping and living quarters for~~ with no less than four ~~or more individuals~~attached but separate single room occupancy units ~~that provides~~and ~~a common~~ shared kitchen ~~facility~~ or food preparation facility(ies). Sanitary facilities (bathrooms) may be shared or may be provided within or between SRO units. For purposes of this Code, density shall be calculated as one ~~unit~~ dwelling for every 2 ~~rooms~~ SRO units or fraction thereof, except that one SRO development with a minimum of four and no more than six units sited on a property zoned to allow single dwelling units is considered one dwelling unit. See definition for Single Room Occupancy Unit. [Ord. 5801, 2/13/13]

Single Room Occupancy (SRO) Unit. Area within an SRO Development that is independently rented and lockable and provides living and sleeping space for the exclusive use of the unit occupant(s). The living and sleeping space may or may not include sanitary facilities. See definitions for SRO Development.

Wetland Delineation: Process of determining the boundary between a Wetland and an uplands. Delineations must be carried out following the guidelines of the U.S. Army Corps of Engineers and the Oregon Department of State Lands. A Wetland Delineation locates the boundary between the Wetland and upland, based on the field indicators of vegetation, soils, and hydrology.

Wetlands, Local Wetlands Inventory (LWI): An inventory of all Wetlands greater than 0.5 acre within a jurisdiction using the standards and procedures of OAR 141-86-110 through 141-86-240, as amended over time. Local Wetlands Inventory information and mapping are intended for planning purposes only. Mapped Wetland boundaries are accurate to within 25 feet However, there may be unmapped Wetlands that are subject to state and federal regulation. In all cases, actual field conditions determine specific Wetland boundaries.

Yard: Any open space that is required, created, or is maintained on a lot and is not obstructed from the ground up by any structure or building except as otherwise provided in this Code.

Yard, Front: The area between the front property line and the nearest point of any building on that same parcel. Corner properties have two front yards.

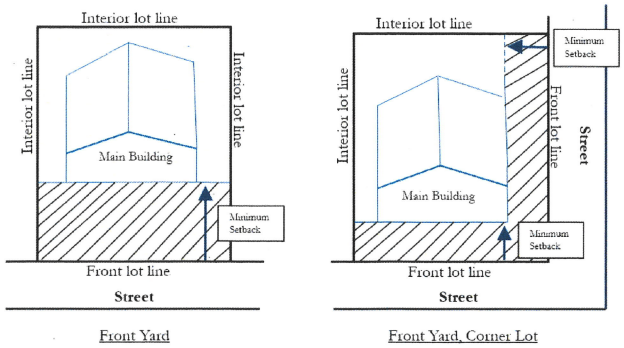

Figure 22.400-3. Front Yard

Yard, Interior: Any yard extending across the full width or depth of a lot, required or otherwise, that is not a front yard and that is adjacent to an interior lot line.

COMMUNITY DEVELOPMENT
333 Broadalbin Street SW, PO Box 490, Albany, Oregon 97321-0144 | BUILDING 541-917-7553 | PLANNING 541-917-7550

Staff Report Findings & Conclusions

Albany Development Code Text Amendments: Minor Clarifying Code Amendments

Planning Files: DC-03-24 May 31, 2024

HEARING BODIES:	Planning Commission	City Council
HEARING DATES:	Monday, May 13, 2024	Wednesday, June 12, 2024
HEARING TIMES:	5:15 p.m.	6:00 p.m.
HEARING LOCATION:	Council Chambers, Albany City Hall, 333 Broadalbin Street SW	
VIRTUAL OPTIONS:	Instructions to attend the hearings and provide comments will be provided on the applicable agenda.	
STAFF REPORT PREPARED BY:	Liz Olmstead, Planner II	

Application Information

Proposal: The proposed legislative amendments would amend the Albany Development Code and provide clearer and more direct language and standards, make minor corrections, and revise sections to comply with state laws and align with the building code.

Applicant: Albany Community Development Department, 333 Broadalbin Street SW, Albany, OR 97321

Location: Legislative amendments; not site specific

Overview

The City has implemented a process to periodically evaluate and adopt changes to the ADC – to include clarifying amendments and policy amendments. This package of amendments includes minor clarifications, corrections, and revisions to sections to comply with state law.

Summary of Proposed Changes

The City of Albany is proposing to add clarifying language where needed, standardize language and formatting throughout the code, correct items that were missed in previous code amendments, and make minor revisions to align the ADC with state law and the building code.

The specific proposed amendments are attached as Exhibit A and areas of amendments are listed below. In the exhibits, proposed new text is shown in red underline print and proposed deleted text is ~~in black strike-out font~~.

Commentary boxes in the attached exhibits provide context for the proposed amendments. Should the proposed amendments be approved, the text boxes with the explanations will be removed and the approved amendments made part of the ADC.

Ordinance Exhibit A: Albany Development Code

- Article 1, Administration
- Article 2, Review Criteria
- Article 3, Residential Zoning Districts
- Article 4, Commercial and Industrial Zoning Districts
- Article 5, Mixed Use Zoning Districts
- Article 8, Design Standards
- Article 9, On-Site Development and Environmental Standards
- Article 10, Manufactured Home Development Standards
- Article 11, Land Divisions and Planned Developments
- Article 22, Use Categories and Definitions

Notice Information

Public notice was issued in accordance with legislative amendment requirements in the ADC Section 1.260. Specifically,

- Notice was provided to the Oregon Department of Land Conservation and Development (DLCD) on April 5, 2024, at least 35 days before the first evidentiary hearing, in accordance with Oregon Administrative Rule (OAR) 660-018-0020 and the ADC.
- Notice of the proposed amendments was mailed on April 29, 2023, to Linn County and Benton County.
- Notice of the public hearings was published in the *Albany Democrat-Herald* on April 27, 2024, two weeks before the first public hearing on May 13, 2023.

As of the date of this report, the Community Development Department has not received any written testimony.

Analysis of Development Code Criteria

The ADC includes the following review criteria in Section 2.290, which must be met for these legislative amendments to be approved. Code criteria are written in ***bold italics*** and are followed by findings and conclusions.

Development Code Amendments Review Criteria (ADC 2.290)

Criterion 1: The proposed amendments better achieve the goals and policies of the Comprehensive Plan than the existing language.

Findings of Fact

1.1 The applicable Albany Comprehensive Plan and Statewide Planning goals and policies are provided below in **bold** print and are followed by findings of fact and conclusions.

Goal 1, Citizen Involvement: **To develop a citizen involvement program that ensures the opportunity for citizens to be involved in all phases of the planning process.**

Goal: Ensure that local citizens and other affected groups, neighborhoods, agencies, and jurisdictions are involved in every phase of the planning process.

Applicable Policies:

2. **When making land use and other planning decisions:**
   a. **Actively seek input from all points of view from citizens and agencies and assure that interested parties from all areas of the Urban Growth Boundary have the opportunity to participate.**
   b. **Utilize all criteria relevant to the issue.**

c. **Ensure the long-range interests of the general public are considered.**

d. **Give particular attention to input provided by the public.**

e. **Where opposing viewpoints are expressed, attempt to reach consensus where possible.**

4. **Ensure information is made available to the public concerning development regulations, land use, and other planning matters including ways they can effectively participate in the planning process.**

1.2 Public notice and hearings were held in accordance with Oregon Administrative Rules (OAR) and ADC 1.260. Public involvement for the amendments in planning file DC-03-23, included public notice as required in the OAR and in ADC Section 1.260. Specifically, notice was sent to the Department of Land Conservation and Development on April 5, 2024; notice of public hearings was mailed April 29, 2024, to Benton County and Linn County, and notice was published in the Albany Democrat Herald on April 27, 2023. Two public hearings are scheduled – May 13, 2024 (planning commission), and June 12, 2024 (city council).

1.3 Information was made available to the public regarding the proposed development code amendments to enable public participation in the planning process by posting the staff report on the City's website on May 6, 2024, at least seven days before the first public hearing.

Statewide Planning Goal 2, Land Use Planning: **To establish a land use planning process and policy framework as a basis for all decisions and actions related to the use of land and to assure an adequate factual bases for such decisions.**

Goal: Undertake Periodic Review and Update of the Albany Comprehensive Plan to ensure the Plan:

1. **Remains current and responsive to community needs.**
2. **Retains long-range reliability.**
3. **Incorporates the most recent and reliable information.**
4. **Remains consistent with state laws and administrative rules.**

1.4 The Albany Development Code serves as the principal vehicle for implementing the Comprehensive Plan.

1.5 Amendments are proposed to the Albany Development Code (ADC) to provide clearer and more direct language and standards, make minor corrections, and revise sections to comply with state laws and align with the building code.

1.6 The proposed amendments will ensure the ADC remains current and responsive to community needs, includes reliable information that is easy to understand and is consistent with state laws and rules.

Goal 10, Housing: **To provide for the housing needs of citizens of the state.**

Goal: Provide a variety of development and program opportunities that meet the housing needs of all Albany's citizens.

Applicable Policy #2: Provide a variety of choices regarding type, location, density, and cost of housing units corresponding to the needs and means of city residents.

1.7 The proposed amendments clarify sections of the code related to housing and create additional housing choices such as Single Room Occupancy units and conversion of commercial or religious assembly use to affordable housing and the use of commercial land for affordable housing.

1.8 According to the 2020 Housing and Residential Needs Analysis, Albany is projected to need between 6,700 and 9,300 housing units between 2020 and 2040. Of these, Albany is projected to need between 3,000 and 4,300 units that are affordable to residents earning less than 80 percent of median income.

1.9 The proposed amendments will increase housing choices and opportunities for affordable housing by allowing conversion of some non-residential properties to long-term affordable housing.

1.10 The proposed amendments support the City's housing goals to provide a variety of development and program opportunities that meet the housing needs of all Albany's citizens and create a city of diverse neighborhoods where residents can find and afford the values they seek.

Conclusions: Development Code Amendments Criterion 1

1.1 The proposed ADC amendments are consistent with the applicable Albany Comprehensive Plan goals and policies related to public involvement, land use planning, and housing.

1.2 This review criterion is met.

Criterion 2: The proposed amendments are consistent with Development Code policies on purpose and with the purpose statements for the base zone, special purpose districts, or development regulation where the amendment is proposed.

Findings of Fact

2.1 ADC 2.290(2) requires ADC amendments to be consistent with ADC policies and purpose statements for the affected base zones or development regulations where the amendments are proposed. Below are purpose statements from Article 1 – Administration and Procedures, Article 3 – Residential Zoning Districts, Article 4 – Commercial and Industrial Zoning Districts, Article 5 – Mixed Use Zoning Districts, Article 8 – Design Standards, Article 9 – On-Site Development and Environmental Standards, Article 10 – Manufactured Home Development Standards, Article 11 – Land Divisions and Planned Developments, and Article 22 – Use Categories and Definitions.

Article 1 Administration and Procedures:

ADC Purpose 1: Serve as the principal vehicle for implementation of the City's Comprehensive Plan in a manner that protects the health, safety, and welfare of the citizens of Albany.
ADC Purpose 2: Satisfy relevant requirements of federal law, state law, statewide goals, and administrative rules.

2.2 Amendments to the ADC are needed to help implement the Albany Comprehensive Plan.

2.3 Proposed amendments include:

- Revising of the Procedure by Application Type table to include Tree Removal associated with the development of housing, which were not originally included in the table.
- Clarifying when activities are exempt from land use review, removing specific situations that do not require site plan review, and adding a reference to activities and developments that do not require land use review in other areas of the code.
- Updating application submittal requirements to better align with the digital submittal process.

Article 2 Review Criteria. Site Plan Review is intended to promote functional, safe, and attractive developments that maximize compatibility with surrounding developments and uses and with the natural environment. It mitigates potential land use conflicts through specific conditions attached by the review body. The review focuses on the layout of a proposed development, including building placement, setbacks, parking areas, external storage areas, open areas, and landscaping.

2.4 The proposed amendments include:

- Clarifying when Site Plan Review is required and ensuring consistency with activities that are exempt from land use review Section 1.105. Clarifying what constitutes changes to site circulation and access, that would require Site Plan Review.
- Ensuring consistency with Table 1.100-1 – Land Use Procedures by Application Type. Updating application requirements to require submittal of a storm drainage report when 5,000 square feet of impervious surfaces are impacted and a full landscape plan for review during the land use process to ensure compliance with city standards and so that the building permit process is not delayed.

Article 3 Residential Zoning Districts. The residential zones are intended to preserve land for housing. This Code preserves the character of neighborhoods by providing seven zones with different density standards. The site development standards allow for flexibility of development while maintaining compatibility within the City's various neighborhoods. These regulations provide certainty to property owners, developers, and neighbors by stating the allowed uses and development standards for the base zones. Sites within overlay districts are also subject to the regulations in Articles 6 and 7.

2.5 The proposed amendments include:

- Adding development types required by State Law to include Single Room Occupancy developments, affordable housing and noting that Emergency Shelters sited under ORS 197.782 and 783 are not a land use decision.
- Updating language and code references for consistency for the rest of the code.
- Removing the requirement that the color of residential accessory buildings be similar to the primary residence.
- Adding clarifying and consistent language to Table 3.190 Residential District Development Standards and adding Single Room Occupancy Dwellings to the table.
- Clarifying how townhouse development density is calculated.
- Clarifying that up to 200 square feet of attached garages in cottage clusters is exempt from the maximum cottage building footprint.
- Adding requirement to cover refuse containers to prevent contaminated water from entering the storm system.

Article 4 Commercial and Industrial Zoning Districts. The zones created in this article are intended to provide land for commercial, office and industrial uses. The differences among the zones, in the permitted uses and development standards, reflect the existing and potential intensities of commercial and industrial development. The site development standards allow for flexibility of development while minimizing impacts on surrounding uses. The regulations in this article promote uses and development that will enhance the economic viability of specific commercial and industrial areas and the city as a whole.

2.6 The proposed amendments include:

- Updating Table 4.050-1 Community Services Uses for consistency with the revised Article 22 use description.
- Updating standards to comply with new State Laws to allow Single Room Occupancy developments and affordable housing in more non-residential zones.

Article 5 Mixed Use Zoning Districts. The mixed-use zoning districts are the center of neighborhood and commercial activity, providing a horizontal or vertical mix of retail and residential uses to serve nearby neighborhoods. Other uses may include offices, and community and personal services. Centers are easily accessible to nearby residences, are pedestrian-friendly, and relate to adjacent land uses. Commercial uses must fit the scale of adjacent neighborhoods and the desired character envisioned for each Village Center or mixed-use area.

2.7 The proposed amendments include:

- Updating Table 5.060-1 Community Services uses to align the land use review process with the revised Article 22 use description, and adding examples of significant off-site impacts, and emergency shelter siting provisions under special conditions.
- Updating standards to comply with new State Laws to allow Single Room Occupancy developments and affordable housing in more non-residential zones.
- Combining sections for clarity and updating language for consistency for the rest of the code.
- Correcting sections of the article where terms were not updated in previous ADC Amendments.

Article 8 Design Standards. Commercial and Institutional Design. These sections are intended to set threshold standards for quality design in commercial and institutional development, and in the non-residential components of mixed-use development. Good design results in buildings that are visually compatible with one another and adjacent neighborhoods and contribute to an attractive, active, and safe built environment that facilitates easy pedestrian movement and a rich mixture of land uses.

2.8 The proposed amendments include:

- Adding a requirement for egress paths when required by the Oregon Building Code.

Article 9 On-Site Development and Environmental Standards. These standards are intended to foster high-quality development throughout the City and to minimize adverse effects on surrounding property owners or the general public. These standards are intended to create an urban environment that is safe, provides connectivity, furthers energy conservation, and enhances the environment for walking, cycling, and mass transit use.

2.9 The proposed amendments to on-site development standards include:

- Updating outdated terms and correcting sections of the article where terms were not updated in previous ADC amendments.
- Updating maximum parking standards in Table 9.020-1: removing company vehicles from the maximum permitted parking spaces because fleet and company vehicle parking is exempt from the maximum parking allowance in ADC 9.020(8)(b)(v); removing Group or Residential Care Homes since this use is considered a single dwelling units, which is exempt from maximum parking standards; and replacing Multi-Dwelling Unit: Quad and Quints with SRO Units.
- Table 9.030-1 Bicycle Parking Standards: adding standards for uses that were inadvertently missed with the original set of amendments; reducing the number of required bicycle parking spaces for multiple dwelling units from 1 space to 0.5 spaces per unit to comply with state law; adding SRO units; and revising the number of bicycle parking spaces for senior apartments to be based on units instead of beds.
- Clarifying when carpool/vanpool spaces are required for development.
- Incorporating loading areas into the Conversion of Off-Street Parking to other uses section.
- Adding a provision to allow a mix of solar panels and tree canopy for new surface parking areas over 0.25 acres to comply with revisions to state law.
- Adding a requirement to cover refuse areas to prevent contaminated water from entering the storm system.

Article 10 Manufactured Home Development Standards. Manufactured and prefabricated dwellings provide a wide choice of housing types suitable for a variety of households, lifestyles, and income levels. The standards contained in this article are intended to provide a suitable living environment for residents of manufactured homes and establish development standards that will increase compatibility with adjacent land uses.

2.10 The proposed amendments include:

- Removing the requirement to submit ten copies of a plot plan at time of application.
- Clarifying that temporary dwelling special use permits is also applicable to temporary on-site residences.

Article 11 Land Divisions and Planned Developments. This article describes the process of converting raw land into building sites. The primary goals of this design review are to better ensure that natural features have been taken into account; that roads and utilities are properly designed and installed, and that adequate open space has been provided.

2.11 The proposed amendments include:

- Adding a requirement for egress paths as required by the Oregon Building Code.
- Revising sections to include plain language.
- Adding a maximum block length standard in addition to the average block length.
- Revising section to add curb radius dimensions at street intersections.
- Separating submittal requirements for right-of-way related items and utility related items.

- Clarifying when a storm drainage report is required with land divisions.
- Codifying the Director's interpretation regarding when building permits are required with a Middle Housing Land Division application.

Article 22 Use Categories and Definitions

2.12 The proposed amendments include:

- Clarifying the types of facilities and organizations included in the Community Services use category and referencing state emergency shelter siting standards.
- Revising language to provide consistent terminology through the code when referring to different types of housing types.
- Adding a definition of alley to promote pedestrian friendly and walkable neighborhoods.
- Adding affordable housing definitions.
- Adding definitions of Endangered Species and Endangered Species Act.
- Adding definition of Public Body to reference the ORS.
- Adding definitions of different setback types.
- Revising the definition of Single Room Occupancy (SRO) to align with the ORS definition and adding a definition of SRO unit.
- Adding definition of Public Body to reference the ORS.
- Adding definitions of different setback types.
- Adding wetland definitions.
- Clarifying definitions of front and interior yard.

Conclusions: Development Code Amendment Criterion 2

2-1 The proposed Development Code amendments are consistent with applicable purpose statements or development regulations where amendments are proposed in Articles 1, 2, 3, 4, 5, 8, 9, 10, 11 and 22.

2-2 Based on the above analysis, this criterion is satisfied.

Overall Conclusions

Based on the analysis in this report, the proposed Development Code amendments meet the applicable review criteria as outlined in this report.

The Planning Commission has two options with respect to the proposed Development Code amendments:

Option 1: Recommend that the City Council approve the amendment requests as presented; or

Option 2: Recommend the City Council approve the proposed amendments as modified by the Planning Commission.

Staff Recommendation

Based on the staff recommendation, the following motion is suggested:

I move that the Planning Commission recommend that the City Council approve the proposed Development Code amendments detailed in planning file DC-03-24.

This motion is based on the findings and conclusions in the May 6, 2024, staff report, and the findings in support of the application made by the Planning Commission during deliberations on this matter.

Attachment

Exhibit A: Albany Development Code Amendments

Acronyms

ADC	Albany Development Code
AMC	Albany Municipal Code
DC	Development Code Text Amendment File Designation
DLCD	Oregon Department of Land Conservation and Development
LUBA	Oregon Land Use Board of Appeals
OAR	Oregon Administrative Rule
ORS	Oregon Revised Statutes