PLANNING COMMISSION

AGENDA

Monday, June 15, 2026
5:15 p.m.

This meeting includes in-person and virtual participation.
Council Chambers
333 Broadalbin Street SW
Or join the meeting here:
https://council.albanyoregon.gov/groups/plc/zoom
Phone In: 1-253-215-8782 (long distance charges may apply); Meeting ID: 837-8633-4863;
Passcode: 464432

Please help us get Albany's work done.
Be respectful and refer to the rules of conduct posted by the main door to the Chambers and on the website.

1. Call to order and pledge of allegiance
2. Roll call
3. Approval of Minutes
   - May 18, 2026 [Pages 3-4]
   - April 13, 2026 – Joint Session with City Council [Pages 5-7]
4. Public Comment
5. Public Hearing: CU-01-26, Type III Quasi-Judicial Process [Pages 8-32]
   Summary: Conditional Use approval to use an existing 3,442-square-foot residence located at 506 Ferry Street SW as a non-profit outpatient drug and alcohol treatment center, which is classified as Community Service. (Project planner – David Martineau, david.martineau@albanyoregon.gov)
6. Public Hearing: DC-02-26, Type IV Legislative Process [Pages 33-348]
   Summary: The proposed legislative amendments would amend the Albany Development Code Articles 1, 2, 3, 4, 5, 11 and 22 to comply with land use legislation adopted in the 2025 and 2026 Legislative Session – in particular Senate Bill 974, House Bills 2005, 2138, 3560 and 4037. Minor amendments are also proposed throughout these articles and in articles 6, 8, 9 and 12. (Project planner – Anne Catlin, anne.catlin@albanyoregon.gov)

Persons wanting to provide comments may:
1- *Email written comments to cdaa@albanyoregon.gov, including your name, before* ***noon on the day of the meeting.***

2- *To comment virtually during the meeting, register by emailing cdaa@albanyoregon.gov before **noon on the day of the meeting,** with your name.*

3- *Appear in person at the meeting and register to speak*

7. Business from the commission

8. Staff updates

9. Next Regular Scheduled Meeting Date: July 20, 2026

10. Adjournment

This meeting is accessible to the public via video connection. The location for in-person attendance is accessible to people with disabilities. If you have a disability that requires accommodation, please notify city staff at least 48 hours in advance of the meeting at: cdaa@albanyoregon.gov or call 541-917-7550.

Testimony provided at the meeting is part of the public record. Meetings are recorded, capturing both in-person and virtual participation, and are posted on the City website.

MINUTES

Monday, May 18, 2026
Council Chambers – 5:15 p.m.
Approved: DRAFT

Call to Order
Commissioner Bunch called the meeting to order at 5:15 p.m.

Pledge of Allegiance

Roll Call

Commissioners Present:	Remi Hill, Tami Cockeram, Ted Bunch Jr., Remote Attendees - Ron Green, Stacey Bartholomew
Commissioners Absent:	JoAnn Miller, Paul Spilsbury, Skylar Bailey, Kenny Larson

Approval of Minutes

Motion: Commissioner Hill moved to approve the meeting minutes from April 13, 2026. Commissioner Cockeram seconded the motion. The motion passed 5-0.

Public Comment - none

Scheduled Business

Commissioner Bunch opened the public hearing at 5:21 pm
Quasi-Judicial Public Hearing on AD-01-26
Proposal to the adjustments to the interior side yard set back standards, applicable to residential development and adjustments to the front yard set backs on tax lots 20, 23 and 28.

Commission Declarations
No members declared a conflict of interest.
No members declared an ex-parte contact.
No members declared a site visit.
No members abstained from participating in the proceedings.
No one challenged the Planning Commissioners right to determine this matter.

Staff Report
David Martineau, Planning Manager, explained the proposal and shared slides* with the group. The property is located at 2251 Three Lakes Road SE, with lots 1-41 for current development and lot 42 for future development.

Applicant Testimony - Matthew Conser, of Conser Group, provided some additional details of the request. He explained that the alterations would be minimal to what is currently seen around Albany and that these changes would still meet state building, fire code requirements and easement requirements. The intent of the sub-division was to introduce a new entry-level housing style to target the missing middle housing to what is being developed in similar sized towns, such as Newberg, McMinnville, Woodburn and Forest Grove. This style has been well received and meets the need of the entry-level home buyers.

Commission Questions – There were no questions from the Commission, but Commissioner Cockeram thanked the applicant for bringing this type of housing to Albany. Commissioner Bunch asked about the price point of these homes. The applicant reiterated that these were entry level homes, with smaller lots and modest sized homes, but there was no way to identify the price point at this time.

Public Testimony – none

Public Hearing was closed at 5:32 pm

Motion: Commissioner Cockeram motioned to approve the proposed adjustments under planning file AD-01-26. Commissioner Bartholomew seconded the motion. No discussion, comments or feedback. A Role Call vote was requested. Yes votes – Bunch, Green, Cockeram, Hill, Bartholomew. There were zero No votes.

Next meeting date
June 15, 2026, 5:15 p.m.

Adjournment - 5:37 p.m.

Respectfully submitted,

Talley Richardson
Administrative Assistant I

Reviewed by,

David Martineau
Current Planning Manager

**Documents discussed at the meeting that are not in the agenda packet are archived in the record. The documents are available by emailing cdaa@albanyoregon.gov.*

MINUTES

Monday, April 13, 2026
Council Chambers – 5:30 p.m.
Approved: DRAFT

Call to Order

Chair JoAnn Miller called the meeting to order at 5:30 p.m.

Pledge of Allegiance

Roll Call

Commissioners Present:	JoAnn Miller, Paul Spilsbury, Skylar Bailey, Kenny Larson, Remi Hill, Ron Green, Ted Bunch Jr., Stacey Bartholomew, Tami Cockeram
Councilors Present:	Steph Newton, Michael Thomson, Chris Van Drimmelen, Carolyn McLeod, Ramycia McGhee, Marilyn Smith, Mayor Alex Johnson

Scheduled Business

- **2025-2026 Legislation Recap** – Comprehensive Planning Manager Anne Catlin, shared slides* of the upcoming land use related legislation that will need amendments to the Albany Development Code (code), noting that most are mandates, but there are a few amendments where input is needed to tailor to Albany. Some of the bills are in effect and others will be effective in the next year. (See 2025-2026 Land Use Legislation Summary in the agenda packet.)
- **House Bill (HB) 4037** – Changes the notice areas and limits appeals to the applicants for most residential developments.
- **Senate Bill (SB) 974** – Highlights of this bill include limits to the design standards on 20 or more units, excluding apartments; and reducing the process for residential zone changes to increase density, residential planned developments and variances. These will be reviewed at the staff level and limit public hearings on appeal. The bill also limits the timeline for staff to review public works permits. Councilor Newton asked about costs to implement and if funding was attached to this bill.
- **HB 2138** – Refines Middle/Infill Housing. Changes the definitions to allow units in any configuration, as well as for single room occupancy developments. Compliance for middle housing is January 1, 2027 and for cottage clusters is January 1, 2028. For cottage clusters, there are also changes to the maximum cottage size and courtyard size; rulemaking is underway to clarify the bill intent. The bill does not allow for hearings or local appeals for Expedited or Middle Housing Land Division (MHLDs). The bill also incentivizes accessible and affordable housing by allowing bonus units. The decision to allow an Accessory Dwelling Unit (ADU) with middle housing has been maintained within the localities. Catlin sought feedback on the ADUs.

  Discussion ensued with most were in favor of allowing ADUs.

  Catlin asked if there was interest in complying with the required changes sooner than January 1, 2027. She proposed including these items in a separate ordinance with a delayed effective date of January 1, 2027. This would allow time for the community to get used to the new changes. Those items that have the January 1, 2028 deadline would be brought back next year. The group agreed that staff could move forward with changes that don't require rule-making intervention.

- **HB 2258 -** Creates the "Oregon Homes" program, where there will be State pre-approved residential plans for up to 12 units which must be allowed on lots up to 20,000 sq ft. The group wasn't pleased with this rule or how it would impact Albany. Catlin will get clarification regarding how this could impact historic districts.
- **HB 2005 -** Relaxes the zoning requirements on residential treatment homes/ facilities, crisis stabilization centers and mental/psychiatric hospitals.
- **HB 3560 -** Adjusts the zoning requirements for childcare uses.
- **HB 3136 -** Removes limitations on the number of realtors serving on Planning Commissions.
- **HB 4035 -** Updates the Temporary Urban Growth Boundary (UGB) Expansion program for housing.
- **HB 4082 -** Updates UGB Expansions for manufactured home parks and senior housing.
- **SB 1576 -** Directs state to adopt stricter accessibility requirements to comply with Fair Housing Act.
- **HB 4128 -** Sets a 90-day waiting period for private equity firms to purchase homes.

Additional Code Considerations

- **Reduce minimum building separation between multi-dwelling unit buildings from 20ft to 10ft -** The group was not interested in reducing the separation in Albany, though were willing to adjust the spacing for affordable housing and for buildings below a certain height.
- **RM & RMA -** Reducing minimum lot sizes for middle housing (tri-plex & four-plex) to encourage middle housing in the medium and higher density zones. The group asked to table for now with all the other changes going into effect.
- **Attached Housing Garage Location –** To increase neighborhood compatibility, walkability and on-street parking. consider requiring rear and or side loading garages in attached housing. The group was open to this suggestion.

Catlin said that those items the group were interested in will be coming to the commission and council in June and July.

Tree Standards Input and Concepts

Catlin shared the results from a survey sent out to the community in late 2025. She explained the current standards and where the gaps are to require retention and replacement of trees. She noted that there has been community concern with the loss of trees, especially the native and healthy trees. The survey results revealed a priority for endangered and native trees, street trees, and support for tree retention and mitigation strategies, including paying a fee-in-lieu for trees removed, and enforcement of tree removal.

All agreed that our tree standards are lacking in regards of retention, removal of healthy trees and the expectations of replacement of trees. The group provided input on the types of trees the city should try to retain. City Forester Jay Sharpe spoke briefly about retaining native trees in the waterways and the high number of trees that the area is losing. The list of heritage trees and street trees are on the City website.

There was a discussion on retention options and amounts based on what other communities have put in place. This could be a combination of number of trees or canopy percentage based on the lot size. There could also be an option to replant on the site or on a different site, such as in riparian corridors, with the fee-in-lieu option if that can be figured out. Affordable housing could have different requirements than other developments, for example.

Catlin noted the current tree standards only apply to properties over 20,000 square feet. Smaller properties currently have no regulations unless they want to remove larger trees of 20-inches in diameter when removal would require a permit from the city forester. Current standards only encourage replanting in all removal situations; no replacement or retention requirement, even when larger trees are removed. There is no fee to remove a tree, but a land use permit is needed removing 5 or more larger trees for development.

The group agreed that disincentivizing the removal of trees in all cases is preferred. If there is not a development planned for a site, the group did not want to allow tree removal. There was also discussion on a fee-in-lieu of program, given the cost to the city to maintain the health of replanted trees, the price point of this option, and other ideas to maintain the health of new trees.

Catlin thanked the group for input and invited them to email her if they have additional questions or thoughts.

Public Testimony

None

Adjournment at 7:14 p.m.

Respectfully submitted,

Talley Richardson
Administrative Assistant I

Reviewed by,

Anne Catlin
Comprehensive Planning Manager

**Documents discussed at the meeting that are not in the agenda packet are archived in the record. The documents are available by emailing cdaa@albanyoregon.gov.*

Staff Report

Conditional Use Review

CU-01-26 **June 5, 2026**

Application Information

Review Body:	Planning Commission (Type III review)
Staff Report Prepared By:	David Martineau, project planner
Property Owner/Applicants:	Angela Kelly & Sarah Soric
Representative:	Christina Larson, Varitone Architecture, 231 2nd Avenue SW, Albany, OR 97321
Address/Location:	506 Ferry Street SW, Albany, OR 97321
Map/Tax Lot:	Linn County Assessor's Map No: 11S-03W-07BB Tax Lot 7500
Zoning:	Hackleman Monteith (HM) District
Overlays:	Monteith National Register Historic District
Total Land Area	7,035 square feet
Existing Land Use:	Single Unit Dwelling
Neighborhood:	Central Albany
Surrounding Zoning:	North: Historic Downtown (HD) & Downtown Mixed Use (DMU) zones East: DMU Zone, Office Professional (OP) zone South: Hackleman Monteith (HM) zone West: HM zone
Surrounding Uses:	North: Church & Institutional Uses East: Church & Government Offices South: Single Unit & Single Room Occupancy Units West: Single Unit & Single Room Occupancy Units
Prior History:	CU-03-25 – The Albany City Council affirmed the Planning Commission denial of a similar proposal on October 22, 2025.

Summary

The proposal is for Conditional Use approval to use an existing 3,442-square-foot residence located at 506 Ferry Street SW as a non-profit outpatient drug and alcohol treatment center, which is classified as Community Service (Attachment A). The Conditional Use review criteria contained in ADC 2.250 are addressed in this report for the proposed development. The criteria must be satisfied to grant approval for this application.

Notice Information

A Notice of Public Hearing was mailed to property owners located within 300 feet of the subject property on May 22, 2026. The Notice of Public Hearing was posted on the subject property on June 8, 2026. No written testimony has been received as of the date of this report.

Appeals

Within five days of the planning commission's final decision on this application, the Community Development Director will provide a written notice of decision to the applicants and any other parties entitled to notice. Any person who submitted written comments during a comment period or testified at the public hearing has standing to appeal the Type III decision of the planning commission to the city council by filing a notice of appeal and associated filing fee within ten days from the date the City mails the notice of decision.

Analysis of Development Code Criteria – Conditional Use

Albany Development Code (ADC) includes the following approval review criteria for Conditional Use applications (ADC 2.250). Code criteria are written in **bold** followed by findings, conclusions, and conditions of approval where conditions are necessary to meet the review criteria. Staff also acknowledge the applicant's written response provided to these criteria (Attachments C & D).

Criterion 1

The application is consistent with the goals and policies of the Comprehensive Plan and any relevant plans adopted by the City Council.

Findings of Fact

1.1 The subject property is a Historic Contributing building located within the Monteith Historic District. It is proposed to be adaptively reused from a historic residential structure into a community service facility, specifically an outpatient treatment center operated by Core Recovery Connections. These findings show alignment with the relevant Historic Resources policies outlined in the Albany Comprehensive Plan, according to the applicant.

1.2 The Albany Comprehensive Plan includes the following Historic Resources Goal and policies. The applicable criteria are written in bold italics and are followed by findings and conclusions.

GOAL: Protect Albany's historic resources and utilize and enhance those resources for Albany residents and visitors.

a. The subject property is identified as a Historic Contributing structure within the Monteith Historic District.

b. The proposal preserves an existing historic structure and provides for its continued occupancy, maintenance, and use.

c. No demolition of the structure is proposed.

d. No exterior alterations are proposed as part of this application.

e. Continued use and maintenance of the building supports the long-term preservation of a historic resource and contributes to the historic character of the district.

1.3 **Policy 3(d): Where the original or intended use of a structure is not feasible, encourage compatible adaptive uses of historic structures provided the historic integrity of the structure is maintained.**

a. The proposal represents an adaptive reuse of an existing historic residential structure.

b. The property was on the market for a year as a single-family home with a listed value over $500K. Its failure to sell despite price reductions shows it was not viable as a single-family home.

c. The Comprehensive Plan specifically encourages adaptive reuse of historic structures when historic integrity is maintained.

d. The proposed use will occur entirely within the existing building envelope.

e. No changes are proposed that would alter the building's historic appearance or character-defining features.

f. The proposed outpatient treatment center is a low-intensity community-service use that maintains the property's residential appearance and scale.

g. Continued occupancy and investment in the building supports the long-term viability and preservation of the historic resource.

1.4 **Implementation Method 17. Expand the list of conditional uses permitted within the historic districts to increase the adaptive reuse of historic structures.**

a. The Comprehensive Plan expressly recognizes adaptive reuse as an important preservation strategy.

b. Community Service uses are permitted in the HM District through Conditional Use approval.

c. The proposed use is classified as a Community Service pursuant to ADC 22.190 and is therefore a use contemplated by both the Albany Development Code and Comprehensive Plan.

d. Approval of this application would further the Comprehensive Plan's objective of facilitating adaptive reuse opportunities within historic districts.

Conclusions

1.1 The proposal protects, preserves, and utilizes an existing historic resource while ensuring its continued occupancy and maintenance. The proposal is consistent with the Historic Resources Goal of the Albany Comprehensive Plan.

1.2 The proposal is consistent with the City's historic preservation framework because it preserves the existing structure and does not involve demolition or exterior alterations.

1.3 The proposed use directly advances the Comprehensive Plan's policy of encouraging compatible adaptive reuse of historic structures. Historic integrity will be maintained while allowing the building to continue serving the community.

1.4 The proposal advances the Comprehensive Plan's stated objective of increasing adaptive reuse opportunities within historic districts.

1.5 This criterion is met without conditions.

Criterion 2

The proposed use is consistent with the intended character of the base zone and the operating characteristics of the neighborhood.

Findings of Fact

2.1 Proposed use. The applicants propose to convert the existing structure on the property into an outpatient treatment center, which is classified as a Community Service. No exterior changes are proposed at this time, however exterior changes are subject to regulations in

Article 7 of the ADC and any proposed changes would need to comply with these regulations.

2.2 Intended character of the base zones. The subject property is located within the Hackleman Monteith (HM) zoning district. The purpose of the Hackleman Monteith zone is "primarily to preserve the existing residential character of the Hackleman and Monteith National Register Districts." While the HM district is intended primarily to preserve residential character, the Development Code explicitly allows certain non-residential uses, such as Community Services, through Conditional Use approval. This reflects a policy balance between preservation, and the provision of community-serving uses.

2.3 Operating Characteristics of the Neighborhood. Directly to the north of the subject property is the First Christian Church, which hosts addiction-related support groups, AL-ANON (support group for persons impacted by another person's alcoholism) and NA (Narcotics Anonymous) meetings. Directly to the south of the subject property (530 Ferry Street SW) is an Adult Care Home (specific type unknown). Further to the south on the same block is an Oxford Home (532 Ferry Street SW), which is a national system of homes for individuals in recovery from a substance use disorder. Dynamic Self Recovery (1010 SW 11th Ave), a mental health outpatient clinic offering therapy for addictions, trauma, anxiety, and mood disorders is .7 miles away. It is in the Hackleman Monteith zone. Linn County plans to open a Crisis Recovery Center (CRC) on at 1050 SW 7th (.2 miles away). A CRC provides immediate resources for individuals undergoing crises related to mental health and substance abuse.

2.4 The applicants note that the property is in a residential neighborhood bordering the Historic Downtown district. Within a two-block radius of walking distance, the following uses occur: Three churches with various community services; a childcare center; Linn County Circuit Court; mixed commercial use centers; dining establishments; single family homes; and subdivided apartment homes.

2.5 Conditional uses. The proposed treatment center is classified as "Community Service" in ADC 22.190 and is allowed in the HM zoning district with conditional use approval. According to ADC 2.230, "Certain uses are conditional uses instead of being allowed outright, although they may have beneficial effects and serve important public interests. The proposed use is subject to the conditional use regulations because they may have significant adverse effects on the environment, overburden public services, change the desired character of an area, or create major nuisances. A review of the proposed use is necessary due to the potential individual or cumulative impacts they may have on the surrounding area or neighborhood. The conditional use process provides an opportunity to allow the use when there are minimal impacts, to allow the use but, impose conditions to address identified concerns, or to deny the use if the concerns cannot be resolved." The conditional use process provides an opportunity to review projects for potential impacts and impose conditions to address any identified concerns.

2.6 Section 22.190 of the Albany Development Code states "Community Services are operated by the government, a nonprofit, or charitable organization to provide a local service to people of the community. Generally, the services and employees are provided on a regular on-going basis at the site. The use may provide emergency shelter or short-term housing where tenancy may be arranged for periods of generally less than one month when operated by a public or non-profit agency." Use examples include, but are not limited to: libraries, museums, senior centers, community centers, publicly owned swimming pools and athletic courts or facilities, youth club facilities, public safety facilities including fire and police stations, drug and alcohol centers, vocational training for the physically or

mentally disabled, social service facilities, emergency shelters or short-term housing when operated by a public or non-profit agency, soup kitchens, and food distribution centers.

Conclusions

2.1 The proposed development is allowed with Conditional Use Type III review approval in the HM zoning district per ADC 3.050.

2.2 The proposal does not appear to have an impact on the operating characteristics of the neighborhood because the primary use of the property will be similar to the surrounding uses.

2.3 The planning commission may determine if the proposal is consistent with this criterion.

Criterion 3

The proposed use will be compatible with existing or anticipated uses in terms of size, building scale and style, intensity, setbacks, and landscaping or the proposal calls for mitigation of differences in appearance or scale through such means as setbacks, screening, landscaping or other design features.

Findings of Fact

3.1 Definition of compatible. "Compatible" does not mean "the same." *Merriam Webster's Collegiate Dictionary*, Eleventh Edition, defines "compatible" as "(1) capable of existing together in harmony."

3.2 Proposed Use. The proposal is to convert an existing structure in the HM district into a treatment center. No exterior alterations are currently proposed.

3.3 Existing and Anticipated Uses. The subject site is currently developed with a structure that is approximately 3,442 square feet in size (see Attachment B). The surrounding area is developed with existing structures, except for a parking lot to the east which serves the United Presbyterian Church. New development is not anticipated in this area due to existing development.

3.4 Building Size, Scale, Setbacks and Style. The applicants do not propose any exterior alterations to the structure. Furthermore, the structure is inventoried as a Historic Contributing resource in the Monteith National Register District, which limits changes that the applicants can make to the exterior of the structure.

3.5 Intensity and Lot Coverage of the Proposed Development. The applicants do not propose any new structures with the application; therefore, lot coverage will not be changed with this proposal. Regarding intensity, the applicants state that "The Development Code expressly allows Community Service uses in this district through Conditional Use approval, confirming that certain non-residential uses may be appropriate and not impact intensity. Given that the surrounding neighborhood already contains a mix of uses, the proposed use mirrors the existing neighborhood intensity."

3.6 The applicants provided a summary of their daily operations (Attachment C.3 & C.4). They state that most clinician meetings will occur in clients' homes or community locations instead of the Ferry Street site. However, it is unclear how many interactions with clients will occur on site and at what times.

3.7 Landscaping. The existing landscaping consists of a residential-style lawn, trees, and shrubs typical of neighboring houses. No changes are planned to the existing landscaping and regular maintenance of existing conditions is planned.

Conclusions

3.1 Based on the observations above, the proposed development may be compatible with existing or anticipated uses in terms of size, intensity, setbacks, and landscaping.

3.2 The planning commission may determine if the proposal is consistent with this criterion.

Criterion 4

The transportation system is capable of supporting the proposed use in addition to the existing uses in the area. Evaluation factors include street capacity and level of service, on street parking impacts, access requirements, neighborhood impacts, and pedestrian safety.

Findings of Fact

4.1 The subject property is located at 506 Ferry Street SW. The project will change the use of the existing building from a single-dwelling home to an outpatient drug and alcohol treatment facility.

4.2 Both 5th Avenue and Ferry Street are classified as local streets and both are improved to city standards along the frontage of the development site. Improvements include curb and gutter, sidewalk, vehicle travel lanes in each direction, and on-street parking along both sides of the street.

4.3 The site currently has a driveway off Ferry Street. The applicants do not propose any changes to site access.

4.4 The applicants did not submit a trip generation estimate or Traffic Impact Analysis (TIA) with the application. Albany's threshold for submitting a trip generation estimate is 50 peak hour trips. Developments that generate 100 or more peak hour trips are required to submit a TIA.

4.5 Staff have provided an estimated site trip generation based on the Institute of Transportation Engineers (ITE) trip generations rates. Trip generation for the proposed use was estimated by using ITE trip rates for category 210 "Single-Family Detached Housing" and category 712 "Small Office Building". The proposed use was estimated to generate 5.9 additional trips during the peak PM traffic hour.

- Existing Use ITE 210- 0.94 peak PM traffic hour per dwelling
- Proposed Use ITE 712- 3,442 square foot building, 6.8 PM traffic hour

4.6 Albany's Transportation System Plan (TSP) does not identify any congestion or capacity issues occurring along the frontage of the site.

4.7 The applicants explain that the proposed use is structured to minimize transportation impacts by utilizing appointment-based scheduling limiting peak traffic. Many clients use public transportation to get to their appointments. Furthermore, the applicants deliver services out in the community.

4.8 Available transportation options include on-street parking, nearby public parking facilities, public transit within walking distance, an onsite driveway with room for one parking space, and two bicycle parking spaces.

Conclusions

4.1 The site's street frontages along 5th Avenue and Ferry Street are improved to city standards.

4.2 Access to the site will be provided by the existing driveway off Ferry Street.

4.3 Based on ITE trip generation rates, the proposed development will generate 7.2 trips during peak PM traffic hour.

4.4 The development is not projected to generate sufficient trips to require submittal of a trip generation estimate or TIA. Albany's TSP does not identify any congestion or capacity issues occurring adjacent to the site.

4.5 The public street system can accommodate the proposed development.

4.6 The applicants believe that the transportation system has adequate capacity to accommodate the vehicle and pedestrian traffic generated by the outpatient center. Additionally, the clients served by the outpatient treatment center largely utilize public transportation, public services, and other means of conveyance, significantly decreasing the impact on existing parking availability.

4.7 The planning commission may determine if the proposal is consistent with this criterion.

Criterion 5

Public services for water, sanitary and storm sewer, water management, and for fire and police protection, are capable of servicing the proposed use.

Findings of Fact

Sanitary Sewer

5.1 City utility maps show an 18-inch public sanitary sewer main in Ferry Street. The subject property is currently connected to the public sewer system.

5.2 Albany Municipal Code (AMC) 10.01.080 (2) states that before the City will issue a Building Permit, the applicant must pay to the City the necessary System Development Charges (SDCs) and any other applicable fees for connection to the public sanitary sewer system.

5.3 There are no anticipated impacts to the public sanitary sewer system with this development.

Water

5.4 City utility maps show an eight-inch public water main in 5th Avenue and an eight-inch public water main in Ferry Street. The existing development on the property is currently connected to the public water system.

5.5 There are no anticipated impacts to the public water system with this development.

Storm Drainage

5.6 City utility maps show a 12-inch public storm drainage main in 5th Avenue.

5.7 The proposed development is a change of use of an existing building and does not propose any redevelopment of the site.

5.8 There are no anticipated impacts to the public storm drainage system.

Fire Department

5.9 The Fire Department states that there are no concerns with the proposed use and the necessary level of service.

Conclusions

5.1 The existing development on the site is currently served by public sanitary sewer, water, and storm drainage.

5.2 This criterion is met without conditions.

Criterion 6

The proposal will not have significant adverse impacts on the livability of nearby residentially zoned lands due to: (a) Noise, glare, odor, litter, and hours of operation; (b) Privacy and safety issues.

Findings of Fact

6.1 The properties located to the south and west are zoned Hackleman Monteith (HM), which is defined as a residential zone. Properties to the north and east are zoned Downtown Mixed Use (DMU) and Historic Downtown (HD), which are defined as mixed-use zones.

6.2 Noise. Noise associated with the use is anticipated to be minimal as there will be no music, movement or other modes of treatment that can produce loud noises. According to the applicants, activities consist of indoor conversations only.

6.3 Glare. No architectural changes or additions are proposed. If new exterior lights are installed, shielding will be required to maintain compatibility with surrounding uses.

6.4 Odors. The applicant does not propose any uses that would create odors from the property.

6.5 Litter. Litter will be controlled by employees on the site. Existing garbage services are provided by Republic Services.

6.6 Hours of operation. Expected hours of operation are 7:00 a.m. to 8:00 p.m., Monday through Friday, with Saturday hours available as needed for make-up appointments, consistent with the immediate area.

6.7 Privacy/Safety. The proposed activities will take place inside the building and will not be visible to neighbors. Employees and clients of the treatment center are of similar composition to those already served by businesses and services in the immediate area.

Conclusions

6.1 The impacts due to glare, litter, noise, odors, hours of operation, and safety are not expected to affect the surrounding uses.

6.2 The applicants state that land use decisions are based on measurable impacts, not assumptions about populations served. The proposed use does not introduce any operational characteristics that create adverse impacts. The proposal will not adversely affect the livability of nearby properties.

6.3 The planning commission may determine that the proposal will not have significant adverse impacts on the livability of nearby properties.

Criterion 7

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.

Findings of Fact

7.1 Article 6 Significant Natural Vegetation and Wildlife Habitat: C*omprehensive Plan Plate 3: Natural Vegetation and Wildlife Habitat,* does not show any inventoried features on the subject property.

7.2 Article 6: Floodplains. *Comprehensive Plan Plate 5: Floodplains,* shows no Floodway or 100-year floodplains on the subject property. FEMA/FIRM Community Panel No. 41043C0213H, dated December 5, 2016, shows that the subject property is outside the 100-year floodplain.

7.3 Article 6: Wetlands. *Comprehensive Plan Plate 6: Wetland Sites,* shows no inventoried wetlands on the subject property.

7.4 Article 6: Topography: *Comprehensive Plan, Plate 7: Slopes,* does not show any steep slopes on this property.

7.5 Article 7: Historic and Archaeological Resources. *Comprehensive Plan, Plate 9: Historic Districts,* shows the property is located in the Monteith National Register District. The structure is further inventoried as a Historic Contributing structure, which indicates that it still retains its historic integrity. At this time the applicants do not propose any exterior alterations but do note that an accessibility ramp may be required in the future. Any exterior alterations must comply with regulations contained in Article 7.

Conclusions

7.1 The proposed development complies with all policies regarding the Special Purpose Districts. No additional reviews are currently required based on the scope of work.

7.2 This criterion is met with a condition of approval notifying the owners of the potential for historic review

Conditions

Condition 1 **Historic Review.** Exterior changes to the structure may require further review. Please contact the Historic Planner at 541-791-0176 prior to undertaking any exterior work to confirm if a review is required.

Overall Conclusion

As proposed and conditioned, the application for a Conditional Use Review may satisfy all applicable review criteria outlined in this report as determined by the Planning Commission.

Conditions of Approval

Condition 1 **Historic Review.** Exterior changes to the structure may require further review. Please contact the Historic Planner at 541-791-0176 prior to undertaking any exterior work to confirm if a review is required.

Options for the Planning Commission

The planning commission has three options with respect to the proposed conditional use:

Option 1: Approve the request as proposed; or

Option 2: Approve the request with new conditions of approval; or

Option 3: Deny the request.

Motions

Approval: *I move to approve the conditional use application that will allow a drug and alcohol treatment facility as noted in the staff report for application planning file no. CU-01-26. This motion is based on the findings and conclusions in the June 5, 2026, staff report and findings in support of the application made by the Planning Commission during deliberations on this matter.*

Approval with new conditions of approval*: I move to approve the conditional use application that will allow a drug and alcohol treatment facility including conditions of approval as* ***drafted during this meeting*** *for application planning file no. CU-01-26.*

_____

_____

This motion is based on the findings and conclusions in the June 5, 2026, staff report and findings in support of the application made by the Planning Commission during deliberations on this matter.

Denial: *I move to deny the conditional use that would allow a drug and alcohol treatment facility as detailed in planning file no. CU-01-26 for the following reasons:*

_____

_____

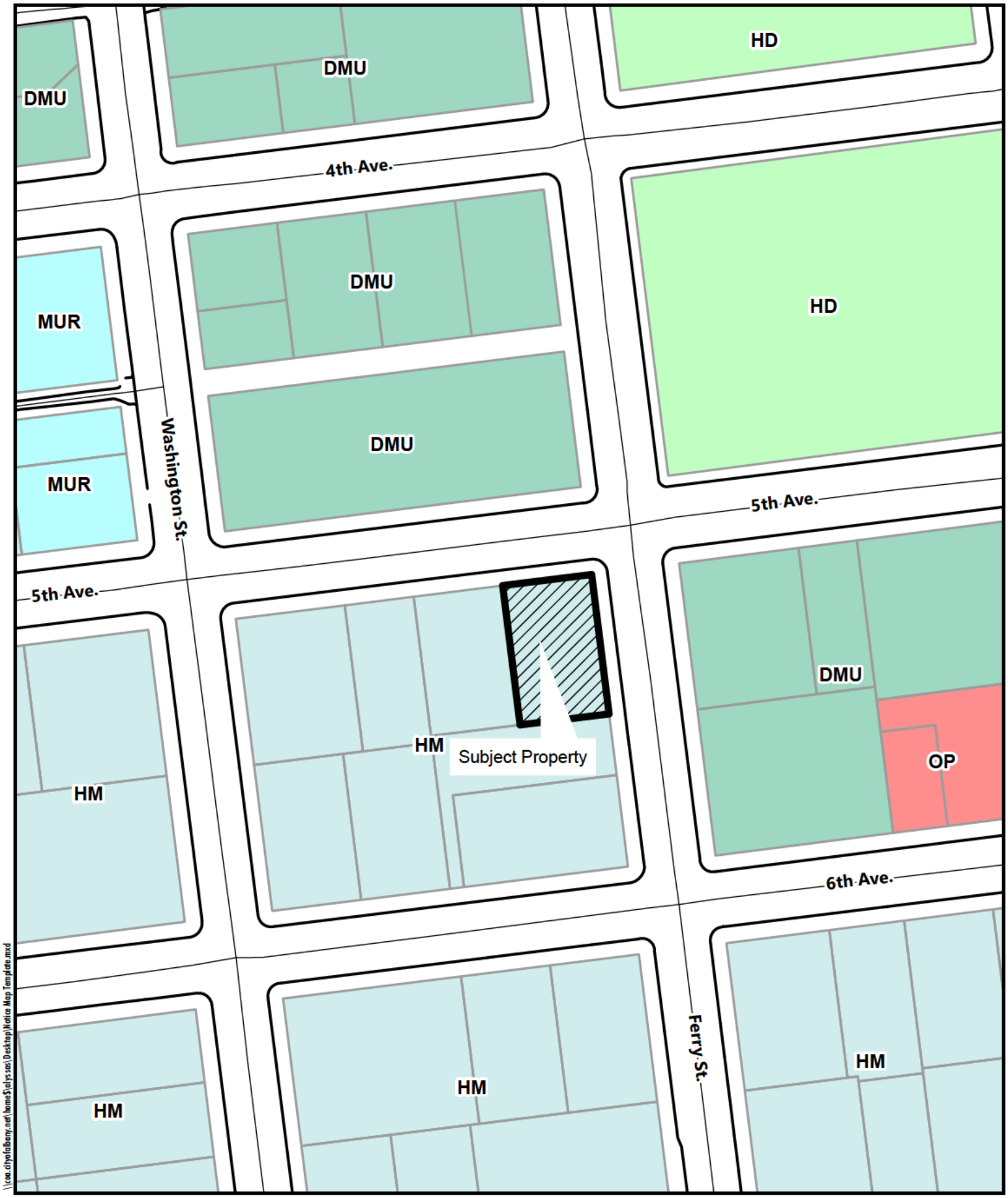
This motion is based on the findings and conclusions in the June 5, 2026, staff report, public testimony, and findings and conclusions made by the Planning Commission during deliberations on this matter.

Attachments

A. Location Map
B. Site Plans
C. Applicant's Narrative
D. Applicant's Supplemental Findings

Acronyms

ADC	Albany Development Code
AMC	Albany Municipal Code
CP	Comprehensive Plan Amendment
CU	Conditional Use (Review)
DMU	Downtown Mixed-Use Zone
FEMA	Federal Emergency Management Agency
FIRM	Floodplain Insurance Rate Map
HD	Historic Downtown Zone
HM	Hackleman Monteith Zone
ITE	Institute of Transportation Engineers
TIA	Traffic Impact Analysis
TSP	Transportation Systems Plan



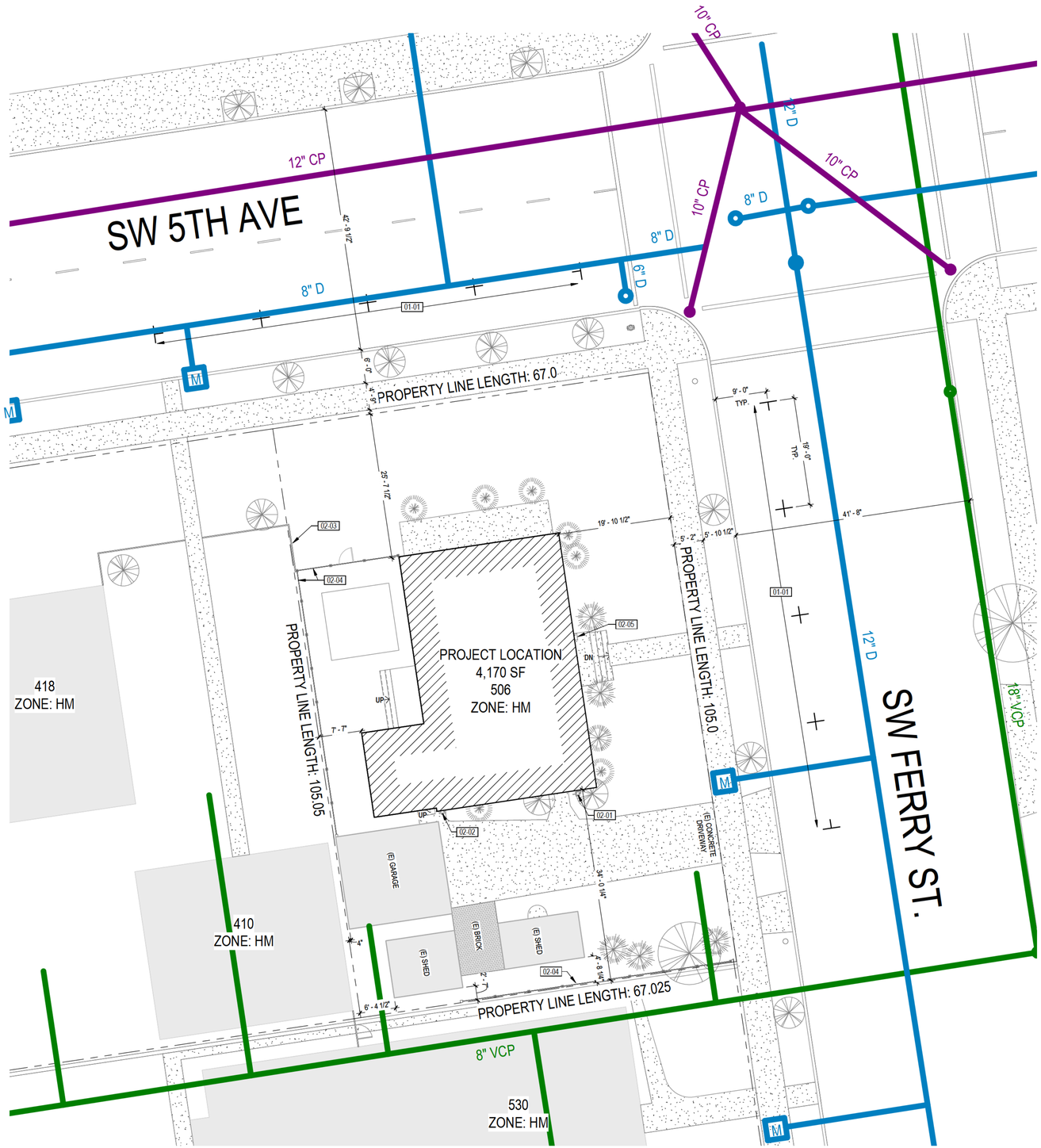
N

0 50 100 200 Feet

506 Ferry St SW

Date: 10/30/2024 Map Source: City of Albany

Location Map



01 SITE PLAN
1" = 10'-0"

LOT INFORMATION

EXIST NG ADDRESS	506 FERRY ST SW, ALBANY, OR 97321
MAP #	11S03W07BB07500
OWNER:	SORIC SARAH J & KELLY ANGELA DIANE RECOVERY FIRST LLC 615 IDYLWOOD DRIVE SE, SALEM OR 97302 AKELLY@DYANMICSR.HUSH.COM PH: 503-269-0899
ZONING: HISTORIC DISTRICT:	HACKLEMAN MONTEITH - (HM) MONTEITH

LOT COVERAGE

GROSS SITE	7,035 SF	
BU LD NG AREA	1ST FLOOR:	1,414 SF
	SECOND FLOOR	1,260 SF
	ATTIC	768 SF
	BASEMENT	728 SF
	TOTAL:	**4,170 SF**
EXIST NG PAV NG	685 SF	
TOTAL COVERAGE	2,099 SF	

LEGEND:

- PROPERTY L NE
- SETBACK L NE
- EASEMENT L NE
- XX" XXX — MATERIAL OF PIPE / DI OF PIPE IN NCHES — **SANITARY SEWER**
- XX" XXX — MATERIAL OF PIPE / DI OF PIPE IN NCHES — **STORM SEWER**
- XX" XXX — MATERIAL OF PIPE / DI OF PIPE IN NCHES — **WATER MAIN**

KEYNOTE LEGEND

#	Keynote Description
01-01	NEW STREET PARK NG
02-01	(E) GAS METER LOCATION
02-02	(E) ELECTRICAL METER LOCATION
02-03	(E) WOOD FENCE
02-04	(E) PLASTIC FENCE
02-05	(E) MAILBOX

DD SET
12 / 31 / 2026

VARITONE ARCHITECTURE
231 2nd Avenue SW
Albany, Oregon 97321
Ph: 541.497.2954

Architect
VARITONE ARCHITECTURE, LLC
231 2nd AVE SW
ALBANY, OR 97321

Contractor
TBD

RECOVERY FIRST
506 FERRY ST SW, ALBANY, OR 97321

Issue:	CONDITIONAL USE
Date:	
Revision:	Date:

SITE PLAN

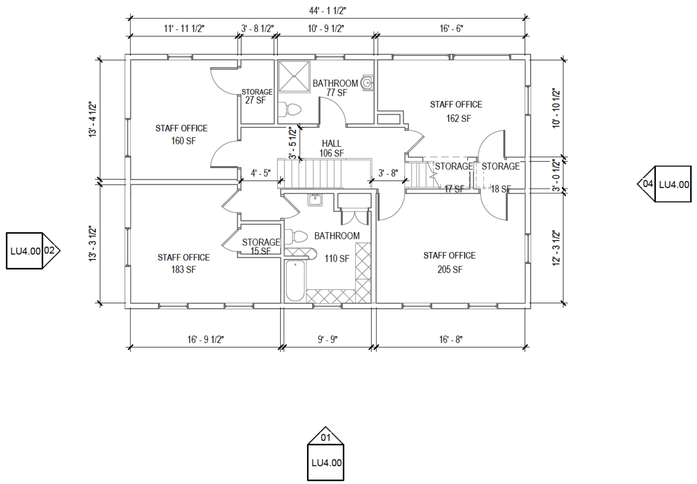
LU0.10

GENERAL FLOOR PLAN NOTES:

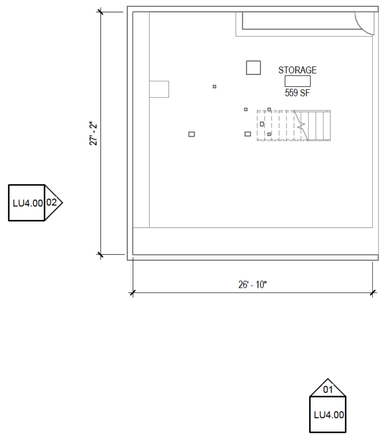
1. DIMENSIONS ARE BASED ON WOOD FRAMED CONSTRUCTION. ALL INTERIOR WALL DIMENSIONS ARE TO THE CENTER OF STUD U.O.N. DIMENSIONS AT EXTERIOR WALLS ARE TO THE EXTERIOR FACE OF STUD U.O.N.

LEGEND:

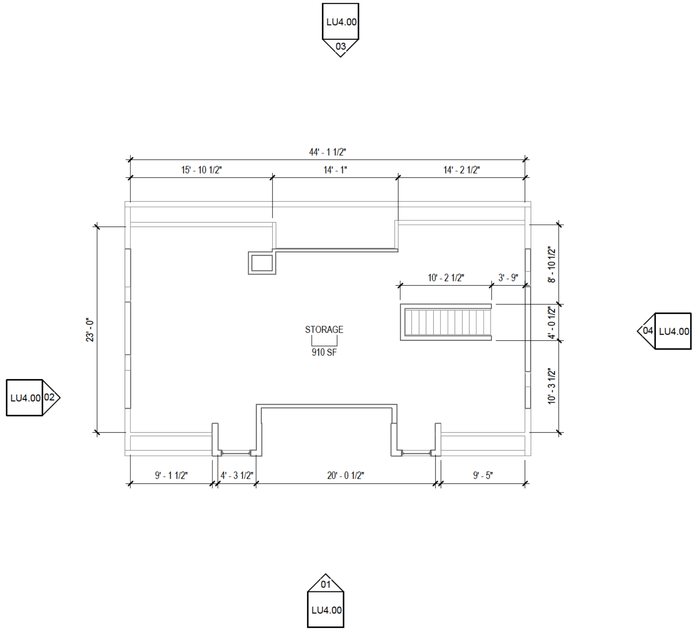
- NEW DOOR
- NEW WALL
- EXIST NG DOOR
- EXIST NG WALL
- EXIST NG TOILET
- EXIST NG CASEWORK
- EXIST NG WALL HUNG SINK
- EXIST NG PEDISTAL SINK
- EXIST NG DOUBLE S NK
- EXIST NG SINK
- EXIST NG TUB
- EXIST NG SHOWER



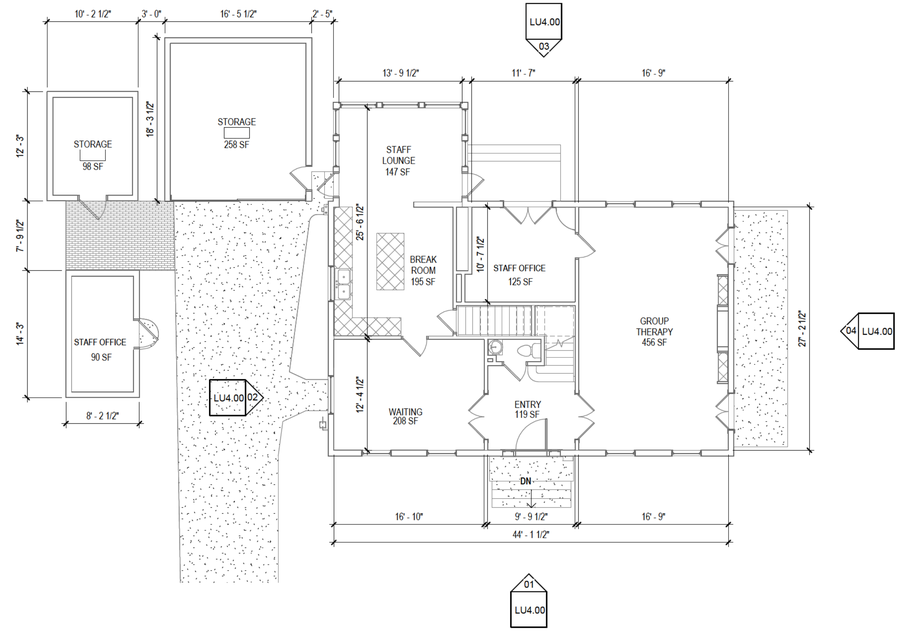
03 SECOND FLOOR PLAN
1/8" = 1'-0"



01 BASEMENT FLOOR
1/8" = 1'-0"



04 ATTIC FLOOR PLAN
1/8" = 1'-0"



02 FIRST FLOOR PLAN
1/8" = 1'-0"

DD SET
12 / 31 / 2026

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Contractor
TBD

RECOVERY FIRST
506 FERRY ST SW, ALBANY, OR 97321

Issue:	CONDITIONAL USE
Date:	

Revision:	Date:

FLOOR PLAN

LU1.00

EXTERIOR FINISH SCHEDULE			
ID	LOCATION	FINISH	COLOR
A	WALL	LAP SIDING	BEIGE
B	WALL	TRIM BOARD	BEIGE
C	ROOF	ASPHALT SHINGLES	GRAY

KEYNOTE LEGEND	
#	Keynote Description



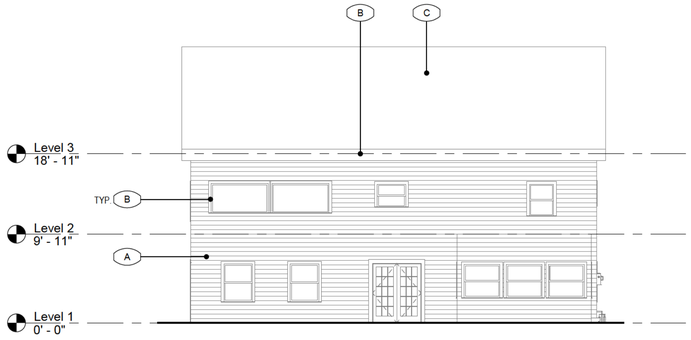
05 STORAGE SHED
1/8" = 1'-0"



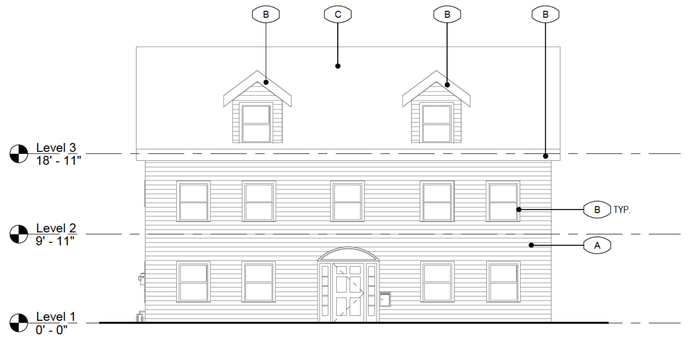
06 TREATMENT
3/16" = 1'-0"



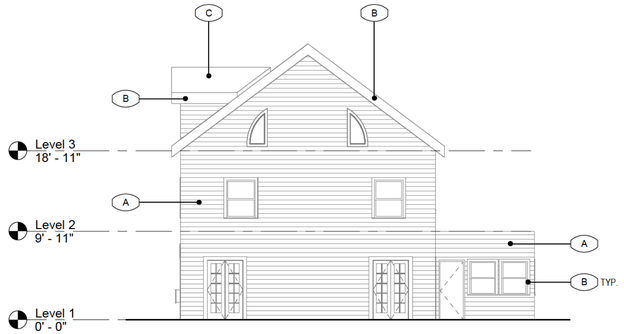
07 GARAGE
1/8" = 1'-0"



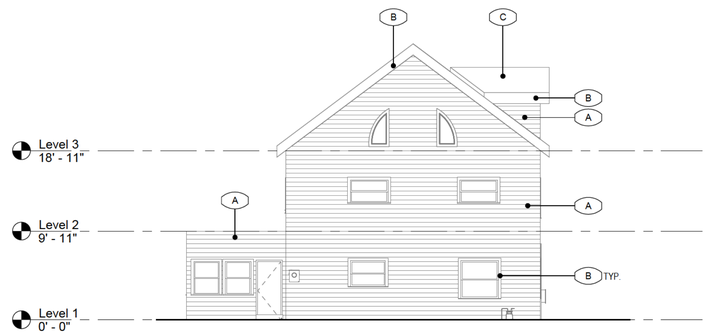
03 EAST ELEVATION
1/8" = 1'-0"



01 WEST ELEVATION
1/8" = 1'-0"



04 EAST ELEVATION 1
1/8" = 1'-0"



02 NORTH ELEVATION
1/8" = 1'-0"

DD SET
12 / 31 / 2026

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Contractor
TBD

RECOVERY FIRST
506 FERRY ST SW, ALBANY, OR 97321

Issue:	CONDITIONAL USE
Date:	
Revision:	Date:

EXTERIOR ELEVATIONS

LU4.00

VARITONE ARCHITECTURE & INTERIOR DESIGN

GENERAL INFORMATION
PLANNING APPLICATION | CONDITIONAL USE TYPE II
REVIEW CRITERIA AND DEVELOPMENT STANDARDS RESPONSES

DATE OF APPLICATION:	04/30/2026
FILE:	Core Recovery Connections, a registered non-profit corporation
TYPE OF APPLICATION:	Conditional Use review to use historic residential building as an outpatient treatment center (community service use category per 3.050-1, 22.190) in the historic Hackleman-Monteith District.
REVIEW BODY:	Planning Commission
PROPERTY OWNER:	Angela Kelly and Sarah Soric
APPLICANT:	Angela Kelly and Sarah Soric [redacted]
APPLICANT REP:	Christina Larson, AIA Varitone Architecture, LLC 231 SW 2nd Ave. Albany, OR 97321 p. 541.497.2954 Ext. 101 [redacted] christina@varitonearchitecture.com
ADDRESS/LOCATION:	506 SW Ferry Street Albany, OR 97321
MAP/TAX LOT:	11S03W07-BB-07500
ZONING:	Hackleman-Monteith District (HM)
EXISTING LAND USE:	Single-family residential
HISTORIC STATUS:	Historic Contributing
NEIGHBORHOOD:	Monteith Historic
SURROUNDING ZONING:	North: HD (Historic Downtown) South: PB (Pacific Boulevard) East: LE (Lyon/Ellsworth) West: ES (Elm Street) and RS-6.5 (Residential Single Family)

BACKGROUND INFORMATION

Angela Kelly and Sarah Soric are the clinical supervisors Core Recovery Connections, a non-profit 501(c)(4) addiction rehabilitation center. They also serve as Secretary and President, respectively. In early 2024, they purchased the single-family residential building at 506 Ferry Street SW to serve as the center's primary place of operations. Their intention is to use the building as an outpatient center, with one-on-one treatment and group therapy.

Core Recovery Connections' status as a nonprofit was filed on 09/04/2025 and is available for review via the Oregon Secretary of State's registry (registry number 2463229-94).

The proposed use is characterized by:

1. Individual counseling and intake sessions
2. Small, scheduled group therapy sessions
3. Case management and treatment planning
4. Appointment-based scheduling (no walk-in services)
5. Services primarily delivered off-site
6. Daytime operating hours

Because services are primarily delivered off-site in clients' homes or community settings, the subject property serves as a low-intensity home base for community services, rather than a high-volume clinic.

No exterior changes are planned. The building will keep its residential look and historic character. If future exterior modifications are made, they must be reviewed and approved by the City's Landmarks Commission to ensure they align with the building's historical integrity and the neighborhood.

Additionally, the building's interior requires a tenant improvement (TI) permit application to verify that any change of use and interior modifications comply with the Oregon Specialty Structural Code (OSSC), safeguarding the fire life safety of occupants.

The classification of a use is determined by its operational characteristics, not by superficial similarities to other use types. While the proposed use includes office-like activities, its primary function is the provision of community-based behavioral health services, which aligns directly with the Community Services category as defined in ADC 22.190.

While the HM district is intended primarily to preserve residential character, the Development Code explicitly allows certain non-residential uses, such as Community Services, through Conditional Use approval. This reflects a policy balance between preservation and the provision of community-serving uses.

Approval of Conditional Use does not establish a precedent for similar approvals. Each application is evaluated independently against the ADC 2.250 criteria, and the City may impose conditions to ensure compatibility.

The Conditional Use process exists specifically to allow uses that are not permitted outright but may be appropriate when they meet the approval criteria. The proposed use is explicitly identified within the Community Services use category, which includes "drug and alcohol centers" (ADC 22.190). Community Services are permitted in the HM zoning district through Conditional Use approval (Table 3.050-1). The relevant question before the Planning Commission is whether the proposal meets the Conditional Use criteria in ADC 2.250. As demonstrated herein, it does.

OPERATIONAL SUMMARY

Daily Operations Plan (Monday–Friday with Occasional Saturday)

Program Overview

Core Recovery Connections offers intensive, relationship-centered support for parents facing challenges such as parenting difficulties, mental health issues, substance use, and involvement with systems. Implementing the Just Care model, Care Coaches provide daily engagement, flexible assistance, and collaborate closely with a Care Team to deliver consistent, equitable, and high-quality services. Most clinician meetings will occur in clients' homes or community locations instead of the Ferry Street site.

Staffing Structure

- 1 Program Supervisor: Provides oversight, supervision, training, scheduling, quality assurance, and clinical guidance.
- 3–6 Care Coaches: Carry caseloads of 8–10 families each, offering wraparound services including parenting support, substance use coaching, mental health skill-building, system navigation, and community connection.

Hours of Operation

Standard workdays are Monday through Friday, with Saturday services available as needed for make-up appointments.

- Office Hours: 9:00 AM – 6:00 PM
- Flexible Outreach Hours: 7:00 AM – 8:00 PM (scheduled as needed for family routines, work schedules, and crisis support)

Engagement Expectations

Families may engage multiple days per week through in-person sessions, phone calls, or text messages. Care Coaches provide daily engagement, including weekends, using trauma-informed communication and culturally responsive practices.

Core Program Components

1. Support & Coaching: Care Coaches use evidence-based strategies, including:
   - Motivational Interviewing
   - CBT/DBT skill-building
   - Trauma-informed parenting (No-Drama Discipline, Triple P, Circle of Security)
   - MAT coordination (if applicable)
   - Crisis de-escalation tools
2. Continuous Engagement
   - Parents can talk, text, or meet with their coach daily.
   - Weekend availability supports stabilization during high-stress times.
   - Coaches use creative engagement (flexible locations, motivational incentives, strengths-based framing).
3. Care Store & Care Cash
   - Parents earn Care Cash for completing goals, attending sessions, communicating, sobriety, parenting engagement, and treatment milestones.
   - Care Store is open weekly.
   - Donations are managed through Community Access Navigator.

Six Core Areas of Support

Care Coaches help parents build skills in:

1. Substance Use Support
2. Mental Health & Emotional Regulation
3. Navigating Systems (DHS, Legal, Housing, Medical)
4. Building Community (support networks, recovery connections)

5. Basic Needs (housing, employment, food, resources)
6. Parenting Skills (attachment-based, trauma-informed)
7. Program Duration & Caseloads
   - Average treatment length: 9 months
   - Caseload size per Care Coach: 8–10 families
   - Supervisor-to-Coach Ratio: 1:3–7

Typical Daily Activities

9:00 AM–12:00 PM | Morning Parent Support Blocks

Care Coaches meet with parents through:

- Home visits
- Office sessions when needed (Assessments, Treatment Planning, etc.)
- Community-based sessions
- Virtual check-ins

Focus Areas:

- Parenting skill practice
- Mental health coaching (CBT/MI/DBT-informed)
- Substance use support & relapse prevention
- DHS communication
- Systems navigation (court, housing, healthcare)
- Basic needs planning
- FIT Circles and Sequence of Events
- Crisis intervention

12:00–1:00 PM | Lunch & Documentation Catch-Up

Coaches complete morning notes, UA logs, safety plans, and treatment planning updates.

1:00–4:00 PM | Afternoon Parent Support Blocks

- Continued in-home or community sessions.
- Skill building tied to parent goals.
- Collaborative family sessions when appropriate.
- Transportation support for needed appointments (if applicable).
- SUD-related monitoring (random UAs, check-ins, relapse prevention).
- Parenting modeling and real-time coaching with children present.

4:00–5:00 PM | Daily Documentation Hour

- Coaches finalize progress notes, outreach attempts, collateral contact notes, and UA entries.
- Supervisor reviews high-risk cases and ensures compliance with timelines.

5:00–6:00 PM | End-of-Day Family Contact Window

Short scheduled calls or texts to:

- Confirm next-day appointments
- Check on safety, stress, or parenting struggles
- Provide encouragement and daily accountability
- Problem-solve barriers (housing, transportation, scheduling)

Saturday Operations

Saturday provides lighter but essential engagement.

9:00 AM – 1:00 PM | Reduced Operations

- Make-up sessions for families unable to attend during the week
- Crisis check-ins
- Parenting skills practice
- Weekend planning with parents (triggers, routines, safety plans)

Review Criteria

The Albany Development Code includes the following review criteria, which must be met for this application to be approved. The code criteria are written in ***bold italics*** and are followed by findings and conclusions.

CRITERIA 1. The proposed use is consistent with the intended character of the base zone and the operating characteristics of the neighborhood.

Findings of Fact

1.1 See the findings about other operating characteristics of the treatment center (such as noise, glare, odor, litter, and hours of operation) under Review Criterion (5).

1.2 The property is zoned HM (Hackleman-Monteith District). Per ADC 4.020(7), "The HM district is intended primarily to preserve the existing residential character of the Hackleman and Monteith National Register Historic Districts." The Albany Development Code implements the Comprehensive Plan by allowing Community Service uses within residential zones through Conditional Use review. This reflects a policy balance between preserving neighborhood character and accommodating essential community-serving uses.

1.3 The building is a historic contributing building.

1.4 No changes are planned to alter or compromise the building's historic exterior architecture. The building will maintain its residential character, ensuring its aesthetic and cultural significance remains intact. Looking ahead, there is an opportunity to enhance accessibility by creating a route from the public way to an entry point, which would significantly improve access for all. Importantly, any such modifications would undergo review by the Landmarks Commission to verify that they respect and preserve the building's historic and residential character.

1.5 ADC 4.050 includes a Schedule of Permitted Uses. The schedule lists uses and whether they are allowed in a particular zoning district. Community services may be permitted for conditional use in HM zoning districts. The definition of Community Service per ADC 22.190 is listed below, emphasis ours:

> *Community Services are operated by the government, **a nonprofit**, or charitable organization to provide a local service to people of the community. Generally, the services and employees are provided on a regular on-going basis at the site. The use may provide emergency shelter or short-term housing where tenancy may be arranged for periods of generally less than one month when operated by a public or non-profit agency.*
>
> *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, public safety facilities including fire and police stations, **drug and alcohol centers,** vocational* training for the physically or mentally disabled, social service facilities, emergency shelters or short-term housing when operated by a public or non-profit agency, soup kitchens, and food distribution centers.

1.6 The following uses are within the immediate area of the proposed outpatient treatment center:

a) First Christian Church, directly across the street, hosts addiction-related support groups Al-ANON (support group for persons impacted by another person's alcoholism) and NA (Narcotics Anonymous).
b) Within the same block (532 SW Ferry Street), there is an existing Oxford House, a nationally recognized system of homes for individuals in recovery from a substance use disorder.
c) Dynamic Self Recovery (1010 SW 11th Ave), a mental health outpatient clinic offering therapy for addictions, trauma, anxiety, and mood disorders is .7 miles away.
d) Linn County plans to open a Crisis Recovery Center (CRC) on at 1050 SW 7th (.2 miles away). A CRC provides immediate resources for individuals undergoing crises related to mental health and substance abuse.

1.7 This property is in a residential neighborhood bordering the Historic Downtown district. Within a two-block radius of walking distance, the following uses occur.

a) Three churches with various community services.
b) A childcare center.

c) Linn County Circuit Court.
d) Mixed commercial use centers.
e) Dining establishments.
f) Single family homes.
g) Subdivided apartment homes.

Conclusions
Based on the findings above and the findings under Review Criterion (3) and (5) below, the proposed outpatient treatment center will be consistent with the intended character of the base zone and the operating characteristics of the neighborhood.

CRITERIA 2. The proposed use will be compatible with existing or anticipated uses in terms of size, building scale and style, intensity, setbacks, and landscaping or the proposal calls for mitigation of differences in appearance or scale through such means as setbacks, screening, landscaping or other design features.

Findings of Fact
2.1 Size, building scale, and style: No building size, scale, or style changes are proposed; the existing building's architectural style and historical nature are to be left as-is. In the future, there is potential for creating an accessible route from the public way to a point of entry to the building. Should that occur, such work would be subject to Landmarks Commission review.
2.2 Intensity. The Development Code does not define "intensity" in the definitions section (Article 22). Without an ADC definition, we look to the dictionary definition for guidance. Webster's Collegiate Dictionary, Tenth Edition, defines intensity as an extreme degree of strength, force, energy, or feeling. The Development Code expressly allows Community Service uses in this district through Conditional Use approval, confirming that certain non-residential uses may be appropriate and not impact intensity. Given that the surrounding neighborhood already contains a mix of uses, the proposed use mirrors the existing neighborhood intensity. Adjacent used include:
- Religious institutions
- Community-serving facilities
- Residential care environments
- Civic and commercial uses within walking distance

2.3 Landscaping. The existing landscaping consists of a residential-style lawn, trees, and shrubs typical of the neighboring houses. No changes are planned to the existing landscaping, and regular maintenance of existing conditions is planned.

Conclusions
The proposal preserves the physical and visual character of the HM district while introducing a low-impact use that is explicitly contemplated by the Code. This criterion is met.

CRITERIA 3. The transportation system can support the proposed use in addition to the existing uses in the area. Evaluation factors include street capacity and level of service, on-street parking impacts, access requirements, neighborhood impacts and pedestrian safety.

Findings of Fact
3.1 See criteria (2) for findings related to the intensity of use and the conclusion that there is no change in intensity of use.
3.2 The proposed use is structured to minimize transportation impacts:
a) Appointment-based scheduling limits peak traffic.
b) Many clients utilize coordinated transportation or do not drive. Many patients face logical barriers to driving themselves, such as lacking a driver's license or limited access to a vehicle. Only a small percentage (less than 15%) choose to drive themselves.
c) Many clients are eligible for rides to and from appointments via public services that coordinate transportation services for non-emergency medical services.

d) Services are frequently delivered off-site.

3.3 Available transportation resources include:
   a) On-street parking
   b) Nearby public parking facilities
   c) Public transit within walking distance. Public transportation services are available in the vicinity. Albany Transit provides public bus service along 4th Street, and the nearest bus stop is on 4th and Ellsworth, a five-minute walk away (.3 miles).

3.4 The property has one existing driveway on Ferry Street that can accommodate a single car.

3.5 Two bicycle parking spots will be provided in the existing driveway.

Conclusions

The transportation system has adequate capacity to accommodate the vehicle and pedestrian traffic generated by the outpatient center. Additionally, the clients served by the outpatient treatment center largely utilize public transportation, public services, and other means of conveyance, significantly decreasing the impact on existing parking availability.

CRITERIA 4. Public services for water, sanitary and storm sewer, water management and for fire and police protection are capable of servicing the proposed use.

Findings of Fact

4.1 Sanitary Sewer and Water. The proposed project does not plan to install new plumbing fixtures, and none are required due to changes in occupant load.

4.2 Fire. The Albany Fire Department serves this neighborhood and surrounding areas.

4.3 Police. The Albany Police Department will serve this neighborhood. See the discussion about privacy and safety concerns under Review Criterion (5) below.

Conclusions

Public services for water, sanitary and storm sewer, water management and for fire and police protection are capable of servicing the proposed use.

CRITERIA 5. The proposal will not have significant adverse impacts on the livability of nearby residentially zoned lands due to: (a) Noise, glare, odor, litter, and hours of operation; (b) Privacy and safety issues.

Findings of Fact

5.1 Noise, glare, odor, and litter
   d) Activities consist of indoor conversations only
   e) No exterior lighting or mechanical changes
   f) No odor- or waste-generating operations beyond residential levels

5.2 Hours of operation. Limited to daytime and early evening hours, consistent with the immediate area. No overnight or late night activity is proposed.

5.3 Privacy Issues: All proposed activities will take place inside the building and will not be visible to neighbors.

5.4 Safety issues. The clinic is staffed by trained professionals. Services are scheduled and supervised, with no overnight stays or unsupervised activities planned.

Conclusions

Land use decisions are based on measurable impacts, not assumptions about populations served. The proposed use does not introduce any operational characteristics that create adverse impacts. The proposal will not adversely affect the livability of nearby properties. This criterion is met.

CRITERIA 6. Any special features of the site (Such as topography, floodplain, wetlands, vegetation, historic sites, etc.) have been adequately considered and utilized.

Findings of Fact

6.1 Topography. There are no proposed changes to topography.
6.2 Floodplain. The City of Albany's Floodplain (100 Year) Web Mapping Application does not show this property in a floodplain.
6.3 Wetlands. The City of Albany's Natural Resources Web Mapping Application does not show any wetlands on the property. The City does not have a Local Wetlands Inventory that includes this property. The National Wetlands Inventory map does not show any wetlands on this property.
6.4 Vegetation. There are no proposed changes to vegetation.
6.5 Historic sites. This building is in a historic district and is considered a historic contributing building on the City's Inventory of Historic Properties.

Conclusions

This provision is not currently applicable. Any future changes to the property visible from the public would be subject to review by the City's Landmarks Commission.

CONCLUSION

The proposed outpatient treatment center:

1. Is explicitly contemplated by the Development Code
2. Is permitted through Conditional Use review
3. Meets all applicable approval criteria under ADC 2.250
4. Operates at a low intensity compatible with the surrounding neighborhood
5. Preserves the historic and residential character of the site

Because the proposal satisfies all applicable standards, **approval is warranted**.

VARITONE ARCHITECTURE

Wednesday, June 3, 2026

David Martineau, AICP
Current Planning Manager
541-917-7555
Community Development - Planning
City of Albany, Oregon
333 Broadalbin St SW, Albany, Oregon 97321
www.albanyoregon.gov

RE: SUPPLEMENTAL MEMORANDUM TO CORE RECOVERY CONNECTIONS CONDITIONAL USE APPLICATION

PURPOSE OF MEMO

Following submission of the Conditional Use application, City staff requested additional findings demonstrating compliance with the Historic Resources policies contained within Chapter 2 of the Albany Comprehensive Plan (Statewide Planning Goal 5 resources). The overall aim of Goal 5 of this Plan is to protect Albany's historic resources and utilize and enhance those resources for Albany residents and visitors.

The subject property is a Historic Contributing building located within the Monteith Historic District. It is proposed to be adaptively reused from a historic residential structure into a community service facility, specifically an outpatient treatment center operated by Core Recovery Connections. These findings show alignment with the relevant Historic Resources policies outlined in the Albany Comprehensive Plan.

KEY CRITERIA OF GOAL 5

The Albany Comprehensive Plan includes the following Historic Resources Goal and policies. The applicable criteria are written in bold italics and are followed by findings and conclusions.

GOAL: Protect Albany's historic resources and utilize and enhance those resources for Albany residents and visitors.

Findings of Fact

G.1 The subject property is identified as a Historic Contributing structure within the Monteith Historic District.
G.2 The proposal preserves an existing historic structure and provides for its continued occupancy, maintenance, and use.
G.3 No demolition of the structure is proposed.
G.4 No exterior alterations are proposed as part of this application.
G.5 Continued use and maintenance of the building supports the long-term preservation of a historic resource and contributes to the historic character of the district.

Conclusions

The proposal protects, preserves, and utilizes an existing historic resource while ensuring its continued occupancy and maintenance. The proposal is consistent with the Historic Resources Goal of the Albany Comprehensive Plan.

Policy 3(b). Within the city limits, maintain historic review ordinances for historic structures and districts. Ensure that exterior alterations of historic structures maintain the historic value of the structure and conform with the Secretary of the Interior's Standards for Historic Preservation.

Findings of Fact

3.1 No demolition of the existing historic structure is proposed.
3.2 No exterior alterations are proposed as part of this application.
3.3 Any future exterior alterations would be subject to review and approval by the City of Albany Landmarks Commission in accordance with the City's Historic Overlay regulations, which conform to the Secretary of the Interior's Standards for Historic Preservation.
3.4 The proposal retains the existing architectural form, massing, materials, and residential appearance of the structure.

Conclusions

The proposal is consistent with the City's historic preservation framework because it preserves the existing structure and does not involve demolition or exterior alterations. This policy is satisfied.

Policy 3(d). Where the original or intended use of a structure is not feasible, encourage compatible adaptive uses of historic structures provided the historic integrity of the structure is maintained.

Findings of Fact

3.5 The proposal represents an adaptive reuse of an existing historic residential structure.
3.6 The property was on the market for a year as a single-family home with a listed value over $500K. Its failure to sell despite price reductions shows it was not viable as a single-family home.
3.7 The Comprehensive Plan specifically encourages adaptive reuse of historic structures when historic integrity is maintained.
3.8 The proposed use will occur entirely within the existing building envelope.
3.9 No changes are proposed that would alter the building's historic appearance or character-defining features.
3.10 The proposed outpatient treatment center is a low-intensity community-service use that maintains the property's residential appearance and scale.
3.11 Continued occupancy and investment in the building supports the long-term viability and preservation of the historic resource.

Conclusions

The proposed use directly advances the Comprehensive Plan's policy of encouraging compatible adaptive reuse of historic structures. Historic integrity will be maintained while allowing the building to continue serving the community. This policy is satisfied.

Implementation Method 17. Expand the list of conditional uses permitted within the historic districts to increase the adaptive reuse of historic structures.

Findings of Fact

17.1 The Comprehensive Plan expressly recognizes adaptive reuse as an important preservation strategy.
17.2 Community Service uses are permitted in the HM District through Conditional Use approval.
17.3 The proposed use is classified as a Community Service pursuant to ADC 22.190 and is therefore a use contemplated by both the Albany Development Code and Comprehensive Plan.
17.4 Approval of this application would further the Comprehensive Plan's objective of facilitating adaptive reuse opportunities within historic districts.

Conclusions
The proposal advances the Comprehensive Plan's stated objective of increasing adaptive reuse opportunities within historic districts.

IN SUMMARY
The proposed outpatient treatment center preserves a Historic Contributing structure within the Monteith Historic District while advancing the Comprehensive Plan's policies supporting the adaptive reuse of historic resources. No demolition, exterior alteration, expansion, or site disturbance is proposed.

The project maintains the building's historic integrity, supports its continued preservation, and furthers the City's stated objective of encouraging compatible adaptive reuse within historic districts.

Based on the findings above, the proposal is consistent with the applicable Historic Resources policies of Chapter 2 of the Albany Comprehensive Plan and satisfies the additional review criteria requested by the City.

Sincerely,



Christina Larson, Principal
AIA, NCIDQ, LEED AP

COMMUNITY DEVELOPMENT
333 Broadalbin Street SW, PO Box 490, Albany, Oregon 97321-0144 | BUILDING 541-917-7553 | PLANNING 541-917-7550

Staff Report

Albany Comprehensive Plan Map, Zoning Map and Development Code Amendments

Planning File: DC-02-26 June 8, 2026

HEARING BODIES:	Planning Commission	City Council
HEARING DATES:	Monday, June 15, 2026	Wednesday, July 8, 2026
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: Anne Catlin, Comprehensive Planning Manager

Application Information

Proposal: The proposed legislative amendments would amend the Albany Development Code (ADC) Articles 1, 2, 3, 4, 5, 6, 8, 9, 11, 12 and 22 to comply with land use legislation adopted in the 2025 and 2026 Legislative sessions including Senate Bill 974 (SB 974), and House Bills (HB) 2005, 2138, 3560 and 4037 which relate to notice areas and review and appeals processes for most residential developments, changes to allow middle housing in any configuration and bonus units when accessible or affordable units are provided, and siting of residential treatment and child care homes and facilities. Minor clarifying amendments are also proposed.

Applicant: Albany Community Development Department, 333 Broadalbin Street SW, Albany, OR 97321

Location: Legislative amendments and other citywide changes that are not property specific

Overview

The City has a process to periodically evaluate and adopt changes to the ADC and make necessary amendment to comply with changes in state laws. This amendment package includes minor clarifying edits and changes to comply with land use legislation adopted n the 2025 and 2026 Legislative sessions.

Summary of Proposed Changes (DC-02-26)

The City of Albany is proposing to amend the Albany Development Code (ADC) The proposed amendments are attached as Exhibits A and B and summarized below. In the exhibits, proposed new text is shown in blue 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.

EXHIBIT A: Legislative Amendments to Comply with House Bills 4037, 2005, 3560, and Senate Bill 974

- **Article 1, Administration and Procedures:** Modify the land use notice areas and process level for residential development types to comply with HB 4037 (2026) and SB 974 (2025). Related changes to the neighborhood meeting process and procedures are also proposed.
- **Article 2, Review Criteria:** Reduce the land use process for residential up zonings, residential Planned Developments, and residential adjustment or variance applications to Type IIs to comply with SB 974.
- **Article 3, Residential Zoning Districts:** HB 2005 requires cities to allow residential care or treatment homes and facilities and licensed crisis stabilization center and mental or psychiatric hospitals without requiring a conditional use permit or zone change in certain zones. A few other minor changes are proposed to increase the size of accessory buildings before triggering a land use review from 750 to 900 square feet and reduce the review level for some home businesses.
- **Article 4, Commercial and Industrial Zoning Districts:** Per HB 2005, cities must allow residential care or treatment facilities or homes, licensed crisis stabilization centers and mental or psychiatric hospitals through site plan review. HB 3560 requires cities to allow child care centers in commercial and industrial zones, excluding the heavy industrial (HI) zone. Staff propose to remove the Transit District (TD) zone, which was never applied within the city.
- **Article 5, Mixed Use Zoning Districts:** To comply with HB 2005 and HB 3560, residential care or treatment facilities or homes, licensed crisis stabilization centers and mental or psychiatric hospitals and child care centers must be permitted through site plan review.
- **Article 6, Natural Resource Districts:** Minor changes are proposed to this article.
- **Article 8, Design Standards:** Minor clarifying amendments to existing standards are proposed.
- **Article 9, On-Site Development Standards:** Minor clarifying and consistency changes to existing parking area improvement standards.
- **Article 11, Land Divisions:** SB 974 reduces the land use process for residential planned developments.
- **Article 12, Public Improvements:** Minor amendment to fix inconsistency in the stormwater easement size.
- **Article 22, Use Categories and Definitions**: Update definitions to address crisis stabilization centers and mental or psychiatric hospitals and a few other minor clarifying edits.

EXHIBIT B: Amendments to Comply with House Bill 2138 (Middle and Infill Housing):

- **Article 3, Residential Zoning Districts:** Changes to allow middle housing on single dwelling unit lots with an accessory dwelling unit (ADU) or a duplex; allow one ADU per middle housing development; and allow middle housing bonus units when one or more middle housing unit is affordable or accessible.

- **Article 8, Design Standards:** Reference middle housing bonus units.
- **Article 11, Land Divisions:** Changes are also needed to the Middle Housing Land Division process to allow MHLDs concurrently with standard land divisions that create the parent lots, and notices of MHLDs are limited to the applicant.
- **Article 22, Use Categories and Definitions**: Middle housing definitions are being modified to allow both attached and detached middle housing developments in any configuration and modify density allowances for Single Room Occupancy developments.

Notice Information

Public notice was issued in accordance with legislative amendment requirements in state law and ADC Section 1.260. Specifically,

- Notice was provided to the Oregon Department of Land Conservation and Development (DLCD) on May 11, 2026, 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 emailed on June 2, 2026, to Linn County, Benton County, and the North Albany Neighborhood Association.
- Notice of the public hearings was published in the *Albany Democrat-Herald* on May 30, 2026, at least two weeks before the first public hearing on June 15, 2026.

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 Albany Development Code serves as the principal vehicle for implementing the Comprehensive Plan.

1.1 The Comprehensive Plan defines a goal as, “a general statement indicating a desired end, or the direction the city will follow to achieve that end.”

1.2 The Comprehensive Plan defines a policy as, “a statement identifying a course of action or City position.”

1.3 The Comprehensive Plan (Plan and CP) describes the City’s obligation regarding policies as follows: “The City must follow relevant policy statements in making a land use decision or show cause why the Comprehensive Plan should be amended consistent with statewide goals. Such an amendment must take place following prescribed procedures prior to taking a land use action that would otherwise violate a Plan policy. However, in instances where specific Plan policies appear to be conflicting, the City must seek solutions that maximize each applicable policy objective within the overall content of the Comprehensive Plan and in a manner consistent with statewide goals. In

balancing and weighing those statements, the City can refer to general categories of policies and does not have to respond to each applicable policy. Also, in this weighing process, the City must consider whether the policy contains mandatory language (e.g., shall, require) or more discretionary language (e.g., may, encourage)."

1.4 The applicable Albany Comprehensive Plan and Statewide Planning goals and policies are provided in **bold** print are included in the "findings of fact" sections of the report.

1.5 The proposed legislative amendments would amend the Albany Comprehensive Plan Map, the Zoning Map and Albany Development Code to make minor amendments related to the recently adopted Climate Friendly Areas including reducing the noise corridor setbacks and providing exceptions in CFAs; adding maximum block and perimeter length as required by the Climate Friendly and Equitable Communities rules, adding a new review criterion for development to be compatible with the Comprehensive Plan and relevant adopted plans, and a few other minor amendments.

STATEWIDE PLANNING 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.

Policies include involving the public in the evaluation and update of the Plan; seeking input from citizens, agencies, and interested parties; and ensuring information is made available to the public.

1.6 Community engagement around housing needs has been ongoing since the state passed House Bill 2001 in 2019 that required cities over 25,000 in population to allow middle housing. Engagement was initially focused on middle housing through the "Housing Options" project that was underway between 2020-2021. The city then sought engagement through development of the Housing Implementation Plan between 2021 and 2023 when the plan was adopted. Engagement around housing and commercial needs occurred through the identification and adoption of Albany's climate friendly areas between 2023 and 2025.

1.7 Most of the legislative amendments contained in this packet are changes needed to comply with state laws, which have limited flexibility in how the city can choose to comply with the laws.

1.8 Public notice regarding the Planning Commission and City Council hearings was provided in accordance with ADC Section 1.260. Specifically, notice was sent to DLCD on May 11, 2026; notice was published in the Albany Democrat Herald on May 30, 2026; and the hearings notice was emailed to Linn County, Benton County and the North Albany Neighborhood Association on June 2, 2026.

1.9 Public hearings are part of the public involvement process. Two public hearings are scheduled – June 15, 2026 (planning commission), and July 8, 2026 (city council).

1.10 The proposed legislative amendments were posted on the city's Planning Projects webpage on June 5, 2026.

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 basis for such decisions. (CP Chapter 9: Land Use Planning)

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.

Policy 2: Base approval of Comprehensive Plan amendments upon consideration of the following:
Conformance with goals and policies of the Plan,
Citizen review and comment,
Applicable Statewide Planning Goals,
Input from affected governmental units and other agencies,
Short - and long-term impacts of the proposed change,
Public need for the change, and
The amendments will best meet the identified public need versus other available alternatives.

1.11 The proposed amendments to the Albany Development Code are needed to comply with land use legislation adopted in the 2025 and 2026 Oregon Legislative sessions including Senate Bill 974, and House Bills 2005, 2138, 3560 and 4037.

1.12 Findings 1.6 through 1.10 relating to citizen review and input from affected governmental units and agencies are incorporated here.

1.13 The proposed ADC amendments are intended to remove barriers and process to needed housing to comply with Statewide Planning Goal 10.

1.14 The amendments to reduce the process and/or allow the childcare and mental and psychiatric care facilities in more places directly respond to a state-identified public need for the changes.

1.15 These legislative amendments will have little to no impact on development in the short or long term, as the changes are minor adjustments to allowed uses and standards.

STATEWIDE PLANNING GOAL 10: HOUSING. To provide for the housing needs of residents of Oregon. (CP Chapter 4: Housing)

1.16 The proposed amendments to comply with 2025 and 2026 state legislation will reduce the land use process for most housing developments, which support the following CP goals and policies related to meeting the city's housing needs:

- **Provide a variety of development and program opportunities that meet the housing needs of all Albany residents.**
- **Create a city of diverse neighborhoods where residents can find and afford the values they seek.**
- **Provide the opportunity for a wider range of rental and ownership housing choices and encourage innovation in housing types, densities, lot sizes and design to promote housing alternatives.**
- **Encourage residential development on already serviced residential vacant lots or in areas where services are available or can be economically provided.**
- **Encourage the development of accessible, affordable, and lower-cost housing in a range of types and appropriate sizes to meet Albany's housing needs.**
- **Encourage senior housing developments and care facilities to locate in or near Village Centers for improved access to goods, services, and public transportation.**

1.17 Albany's 2020 Buildable Land Inventory (BLI) and the 2020 Housing and Residential Land Needs Analysis (HNA) were adopted November 2, 2020. The HNA reflects the coordinated population forecast prepared by the Oregon Population Forecast Program at the Population Research Center at Portland State University (PSU) in 2017 that projects Albany will experience an annual average growth rate (AAGR) of 1.27 percent to 2040. The HNA was based on the 20-year need assessment requirements of ORS and OAR 660 Division 8 for statewide planning Goal 10, Housing. It projected

the number and types of units by tenure and cost based on the PSU population projections to 2040 and compares housing demand to residential land supply.

1.18 Projected Housing Unit Need. The HNA found Albany is projected to add between 6,700 and 9,300 new households between 2020 and 2040. The analysis calculated Albany will need 1,328 acres to accommodate projections to 2040 in a mix of low-, medium- and high-density housing types and zoning districts. The 2020 BLI estimated the city had 1,397 buildable acres for residential development within the city limits and 1,278 acres in the urban growth boundary for residential development.

1.19 Since the 2020 HNA was adopted, the city has removed obstacles to housing development including removing density caps in the medium and high density zones and adding minimum densities in these zones, middle housing developments are increasing in former single dwelling unit zones, and the City adopted 6 CFAs where residential development is permitted where it may not have been previously and is projected to accommodate between 12,000 and almost 16,000 units at full build out and heights. These changes should need less land to accommodate housing projections in the 2020 HNA.

1.20 Reduced 2040 Population Forecast - a newer 2025 PSU population forecast reduced Albany's 2040 population from 71,985 to 68,636. Albany's 2050 population projection is 72,961, about the same as the 2017 2040 population projection. Assuming a similar household size, Albany may not need as many housing units as initially projected by 2040.

1.21 The ADC amendment proposals to comply with HB 2138 that will allow middle housing on single dwelling unit lots with an accessory dwelling unit (ADU) or a duplex; allow one ADU per middle housing development; and allow middle housing bonus units when one or more middle housing units is affordable or accessible may promote infill development on already serviced lots, provide more accessible and affordable housing and more alternative housing options to meet Albany's housing needs.

1.22 The proposed HB 2138 and amendments to allow residential treatment homes and facilities in more places to comply with HB 2005 may encourage these needed housing types and options.

1.23 Reducing the land use process for most residential developments may encourage more variety in housing types to address the city's housing needs and may promote the development of compact infill for the efficient use of land and infrastructure.

STATEWIDE PLANNING GOAL 14: URBANIZATION. To provide for an orderly and efficient transition from rural to urban land use, to accommodate urban population and urban employment inside urban growth boundaries, to ensure efficient use of land, and to provide for livable communities. (CP Chapter 8: Urbanization)

1.24 The proposed ADC changes to reduce the land use process to promote residential development and to encourage middle housing and infill development support the following CP urbanization goals and policies.

- **Promote infill development and redevelopment throughout the city.**
- **Encourage the use of already serviced vacant and underdeveloped land through adaptive reuse and redevelopment.**
- **Encourage compact, mixed use, and multi-story developments that support walkability, reduce auto-dependency for access to goods and services, and promote efficient use of land and public infrastructure.**

Conclusions: Development Code Amendment Criterion 1

1.1 The proposed legislative amendments to the ADC are consistent with the applicable Albany Comprehensive Plan goals and policies related to public involvement, land use planning, housing, and urbanization.

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 **Article 1, Administration and Procedures**. The purpose of this article is to establish a framework for reviewing and processing land use applications, legislative proposals, and ministerial (staff) actions. Amendments would modify the land use notice areas and process level for residential development types to comply with HB 4037 and SB 974. Changes to the neighborhood meeting process and procedures are proposed to match the land use application type.

2.2 **Article 2, Review Criteria**. This article provides the review criteria the city uses to evaluate land use proposals to ensure they comply with the city's development standards and city infrastructure plans. Amendments would reduce the land use process for residential up zonings, residential Planned Developments, and residential adjustment or variance applications to comply with SB 974.

2.3 **Article 3, Residential Zoning Districts**. This article establishes standards for development in Albany's residential zones. Changes to the Schedule of Permitted Uses are needed to comply with HB 2005 which requires cities to allow residential treatment homes and facilities and crisis stabilization center and mental or psychiatric hospitals without requiring a conditional use permit or zone change in certain areas. A few other minor amendments are proposed regarding the size of accessory buildings before triggering a land use review, and review level for certain home businesses.

2.4 **Article 4, Commercial and Industrial Zoning Districts.** This article establishes standards for development in Albany's commercial and industrial zones. Changes to the Schedule of Permitted Uses are needed to comply with HB 2005 and HB 3560 which requires cities to allow residential treatment homes and facilities and crisis stabilization center and mental or psychiatric hospitals and child care centers in commercial and industrial zones, excluding the HI zone, without requiring a conditional use permit or zone change. The Transit District (TD) zone, which was never applied within the city, is being removed from this article.

2.5 **Article 5, Mixed Use Zoning Districts.** This article establishes Albany's mixed-use zones originally concentrated in the downtown area, but that now exist in other areas of the city where compact mixed-use development is desired. Amendments are needed to comply with HB 2005 which requires cities to allow residential treatment homes and facilities and crisis stabilization center and mental or psychiatric hospitals without requiring a conditional use permit or zone change.

2.5 **Article 11, Land Divisions and Planned Developments.** The purpose of this article is to provide standards for land divisions. Changes would reduce the process for residential planned developments to comply with SB 974. Modify the Middle Housing Land Division (MHLD) process to allow MHLDs to be reviewed concurrently with the standard land division that creates the "parent"

lots. MHLD notices are limited to the applicant and only the applicant may appeal the decision to comply with HB 2138.

2.6 **Article 22 Use Categories and Definitions.** Middle housing definitions are being modified to allow both attached and detached middle housing developments in any configuration and the density calculations for Single Room Occupancy developments are changing to comply with HB 2138.

2.7 Minor clarifying or consistency amendments are proposed in Articles 6, 8, 9 and 12 that do not affect existing development standards or policies.

Conclusions: Development Code Amendment Criterion 2

2.1 The proposed legislative amendments to comply with new laws are consistent with purposes of the ADC and where policy changes are proposed in Articles 1, 2, 3, 4, 5, 8, 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.

The Planning Commission has two options with respect to the proposed legislative 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.

Recommended Motion

Based on the staff analysis, the following motion is suggested:

I move that the Planning Commission recommend that the City Council approve the proposed legislative amendments to the Albany Development Code as detailed in planning file DC-02-26.

This motion is based on the findings and conclusions in the staff report dated June 8, 2026, and the findings in support of the application made by the Planning Commission during deliberations on this matter.

Attachments

Exhibit A: Albany Development Code Amendments to comply with SB 974, HB 2005, 3560, and 4037

Exhibit B: House Bill 2138 Middle Housing Development Code Amendments

Acronyms

ADC	Albany Development Code
DC	Development Code Text Amendment File Designation
DLCD	Oregon Department of Land Conservation and Development
HB	House Bill
ORS	Oregon Revised Statutes
SB	Senate Bill

New text is shown in black double underlined font and removed text is shown in ~~strikethrough~~ font. Staff comments in blue font are provided to explain the proposed amendments but are not amendments.

Staff Comments: The proposed changes to this article are to comply with House Bill 4037 (2026) and Senate Bill 974 (2025), which modify the land use **notice areas and process level** for residential development types . Related changes to the neighborhood meeting process and procedures are also proposed.

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.

GENERAL ADMINISTRATION OF TITLE 20

1.010 Official Name. The official name of this Title is "Title 20, Development Code and Zoning Map." It may be referred to as "Development Code" or "Code" or "ADC."

1.020 Purpose. The general purpose of this Code is to set forth and coordinate City regulations governing the development and use of land. The Code is more specifically intended to do the following:

(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.

(2) Satisfy relevant requirements of federal law, state law, statewide goals, and administrative rules.

(3) Facilitate prompt review of development proposals and the application of clear and specific standards.

(4) Provide public information, review, and comment on development proposals that may have a significant impact on the community.

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

(5) Guide public and private planning policies and actions to ensure provision of adequate water, sewer, transportation, drainage, parks, open space and other public facilities and services for each development, as applicable.

(6) Establish procedures and standards requiring that the design of site improvements and building improvements are consistent with applicable standards and design guidelines.

(7) Provide for review and approval of the relationship between land uses and traffic circulation in order to minimize congestion.

(8) Require that permitted uses and site designs provide reasonable protection from fire, flood, landslide, erosion, or other natural hazards, as well as prevent the spread of blight, and help prevent crime.

(9) Protect and enhance the city's beauty and character.

(10) Protect constitutional property rights, provide due process of law, and give consideration in all matters to affected property owner interests in making land use decisions.

1.025 Legislative Intent. In addition to the purposes set forth above, subsequent amendments to this Code may be accompanied by staff reports and additional findings, which may be used to more accurately determine the purpose and legislative intent of specific provisions.

1.030 Scope and Compliance. A parcel of land or a structure may be used or developed only as this Code permits. The requirements of this Code apply to the property owner(s), the person(s) undertaking a development, the user(s) of a development, and to their successors in interest.

1.035 Severability. The provisions of this Code are severable. If any portion of this Code is declared by a court of law to be invalid or unconstitutional, the decision shall not affect the validity of the remaining portions.

1.040 Interpretation.

(1) Except as otherwise specified, the definitions included in Article 22 shall be used to interpret the provisions of this Code.

(2) The Director shall have the initial authority and responsibility to interpret all terms, provisions, and requirements of this ordinance. For quasi-judicial interpretations, the Type II procedure set forth in Section 1.230 shall be followed. For legislative interpretations, the procedures ~~as~~ set forth in Section 1.260 shall be followed. A person requesting such an interpretation shall do so in writing to the Director.

(3) The terms of this ordinance shall be liberally construed to give maximum effect to the purposes set forth in Section 1.020.

(4) Where the conditions imposed by a provision of this Code are less restrictive than comparable conditions imposed by other provisions of this Code or other sections of the Albany Municipal Code, the more restrictive shall govern.

1.050 Consistency with Plan and Laws. Actions initiated under this Code shall be consistent with the adopted Comprehensive Plan of the City of Albany and with applicable state and federal laws and regulations as these plans, laws, and regulations may now or hereafter provide. Since the City of Albany has a Comprehensive Plan and implementing regulations that have been acknowledged by the State of Oregon as being in compliance with statewide goals, any action taken in conformance with this Code shall be deemed also in compliance with statewide goals and the Comprehensive Plan. Unless stated otherwise within this Code, specific findings demonstrating compliance with the Comprehensive Plan are not required for land use application approval. However, this

provision shall not relieve the applicant of the burden of responding to allegations that the development action requested is inconsistent with one or more Comprehensive Plan policies.

1.055 Fees. The City Council shall establish application review fees, and fee policies by separate resolution for the performance of the actions and reviews required by this Code.

1.060 Official Action. All officials, departments, and employees of the City vested with authority to issue permits, certificates, or licenses shall adhere to and require conformance with this Title.

1.070 Certificate of Occupancy. It shall be unlawful to use or occupy any new building or premises until a certificate of occupancy has been issued by the Building Official stating that the proposed use of the building or land conforms to the requirements of the adopted building code, this ordinance, and any other City conditions attached to the development or use of the building or land.

1.080 Approval Runs with the Land. Unless expired, approval of a land use or development permit decision runs with the land. The approval transfers to a new owner if the property is sold.

1.085 Prior Approvals. Before another land use application can be filed for a site with a completed development, the site must be brought into compliance with all applicable outstanding conditions of approval from prior land use approvals. [Ord. 5966, 11/12/21]

1.090 Applicable Standards. All land use applications shall be reviewed against the development standards, codes, and laws in place when the application was received and deemed complete. [Ord. 6059, 3/14/25]

1.095 Opting into Amended Housing Regulations. For land use applications to develop housing, if any city standard, criteria or applicable state law or code related to housing development changes after a housing development application is submitted, the applicant may "opt in" to apply the new standards and criteria to the development. This may be done up to the issuance of public notice of the application without having to withdraw and resubmit the application. An applicant may request to revise an application after the city has issued public notice if the applicant pays a fee to cover the additional costs incurred by the city to issue a new notice including staff time or resources spent reviewing the application under the new standards, and the cost to mail the notice. If an applicant requests to "opt in" to amended housing regulations, the application would automatically be deemed incomplete and the timelines for completeness review and final decisions restart as if a new application were submitted. The city will determine what additional information, if any, is necessary to review the application under the newly applicable standards and criteria. [Ord. 6059, 3/14/25]

Staff Comments: The proposed changes to the land use **notice areas and process level** for residential developments are required by House Bill 4037 (2026) and Senate Bill 974 (2025).

HB 4037 reduces the notice areas for residential developments subject to clear and object standards (Type I-Ls) to 100 feet for up to 20 units and 500 feet for more than 20 units and limits appeals to the applicant only.

SB 974 reduces the land use process for residential zone changes to increase density (currently a Type IV), Planned Developments (Type III), and residential adjustment or variance applications (Type IIs and IIIs) to a Type II Review, which is a staff-level review with option for a local hearing.

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 for appeal to a local hearing body, except residential applications may only be appealed by the applicant. 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. Type II zoning map amendments to increase density, residential and mixed-use residential planned developments, and adjustments or variances to a residential standard are not subject to the hearing and notice requirements of ORS 197.797. The City is not required to provide a public hearing if the City provides a copy of the written notice of the application to the Department of Land Conservation and Development in the manner provided by ORS 197.610 and 197.615.

(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, 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.

Staff Comments: Review Process for Residential Applications and Neighborhood Meetings Table 1.100-1 and 1.140:

Changes proposed in Table 1.100-1 include those required to comply with SB 974, which reduces the land use process for residential zone changes to increase density (currently a Type IV), Planned Developments (Type III), and residential adjustment or variance applications (Type IIs and IIIs) to a Type II Review, which is a staff-level review with option for a local hearing.

Currently many residential developments that are subject to clear and objective review criteria that are reviewed by staff (Type I-L review process), require neighborhood meetings. If the application meets the review criteria, it is approved. Notice of the proposal and neighborhood meetings are mailed to neighbors within the state-allowed notice areas. Neighborhood meetings for these types of applications typically result in more frustration by residents, since the development will be approved if it meets the review criteria.

Staff propose that neighborhood meetings only be required for Type II, Type III and Type IV quasi-judicial applications, such as planned developments, cluster developments, conditional uses (new schools, churches, etc. in residential zones), and requests to change the zoning of a property.

Table 1.100-1 – Procedure by Application Type

Application / Action	Procedure Type	Decision Body	Pre-App Conference Required	Neighborhood Mtg Req.	Applicable Section
Adjustments					
• ~~**Adjustments**~~ **Non-residential**	III	HB or PC	No	No	2.070
• **Residential**	II	CDD	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

New text is shown in black double underlined font and removed text is shown in ~~strikethrough~~ font. Staff comments in blue font are provided to explain the proposed amendments but are not amendments.

Application / Action	Procedure Type	Decision Body	Pre-App Conference Required	Neighborhood Mtg Req.	Applicable Section
Interpretations	~~I, I-L,~~ II, ~~III~~ IV	See 1.040	Yes*	No	1.040
Land Divisions and Planned Developments (PDs)					
• Cluster development	II	CDD	Yes	Yes	11.430
• Land division preliminary plat o ~~(~~Partition~~ or~~ o ~~s~~Subdivision~~)~~	I-L	CDD	Yes* Yes	~~See 1.140~~No	11.170
• Land division – final plat	I	CDD	No	No	11.170
Preliminary PD Review: • Residential or Mixed Use PDs in the R-5, R-6.5, R-10, RM, RMA or MUR zones ~~tanned development – preliminary review~~ • Non-Residential PDs and PDs in other zones	II III	CDD PC	Yes	Yes	11.260
• Planned development – final approval	I	CDD	No	No	11.260
Major Changes: • Residential PDs ~~tanned development – major changes~~ • Non-Residential PDs	II III	CDD 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~~No	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 –	I	CDD	No	No	2.350

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Application / Action	Procedure Type	Decision Body	Pre-App Conference Required	Neighborhood Mtg Req.	Applicable Section
change of use within same use category (see 2.345(1)(a) for criteria)					
• 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~~No	2.415
Vacations	IV-Q or IV-L	CC	Yes*	No	2.620
Variance					
• 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 to increase residential density****	II	CDD	Yes	No	2.720
• All other ~~Q~~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.	IV-L	CC	No	No	7.040

New text is shown in black double underlined font and removed text is shown in ~~strikethrough~~ font. Staff comments in blue font are provided to explain the proposed amendments but are not amendments.

Application / Action	Procedure Type	Decision Body	Pre-App Conference Required	Neighborhood Mtg Req.	Applicable Section
Districts					
• 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~~No	7.120
• Substitute materials	III	LC	Yes*	~~See 1.140~~No	7.180
• New construction	I-L	CDD	Yes*	No	7.240
• Demolitions / Relocations – contributing structures	III	LC	Yes*	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
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

New text is shown in black double underlined font and removed text is shown in ~~strikethrough~~ font. Staff comments in blue font are provided to explain the proposed amendments but are not amendments.

Application / Action	Procedure Type	Decision Body	Pre-App Conference Required	Neighborhood Mtg Req.	Applicable Section
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 prevail. When a Type III land use application is submitted with a Type III Historic Resource review application, the Landmarks Commission will review the associated application(s). ***Application review procedures for Expedited and Middle Housing Land Divisions are found in Article 11 Sections 11.600 through 11.630. ****Only applies to zoning map amendment applications for property that is zoned residential or Mixed Use Residential and has a Residential or Village Center Comprehensive Plan designation.					

[Ord. 5966, 11/12/21; Ord. 5968, 1/14/22; Ord. 6004, 12/28/22; Ord. 6024, 12/29/23; Ord. 6042,7/12/24; Ord. 6059, 3/14/25]

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 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.

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

(2) New single dwelling units, two primary units, accessory dwelling units, or middle housing dwelling units, additions to single and middle housing dwelling units, and parking areas for single and middle housing dwelling units, except where specifically identified as requiring land use review approval in Articles 3, 4 and 5.

(3) Activities and development that are not identified as requiring a land use review as specified elsewhere in the Albany Development Code.

(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.

(5) Routine property maintenance.

(6) Restriping an existing parking lot in compliance with parking stall dimensions provided in Table 9.120-1 that does not include other site or circulation modifications that require Site Plan Review approval per Section 2.430.

(7) A change internal to a building or structure when the use is permitted through a land use review and does not include other site or circulation modifications that require Site Plan Review approval per Section 2.430.

(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.

(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.

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

[Ord. 5966, 11/12/21; Ord. 5968, 1/14/22; Ord 6004, 12/28/22; Ord. 6018, 6/30/23; Ord. 6024, 12/29/23; Ord. 6042, 7/12/24; Ord. 6062, 5/23/25]

1.110 Determination of Review Type.

(1) Unless specified in Table 1.100-1 or elsewhere in this Code, the Director will determine whether a permit or application is processed as Type I, I-L, II, III, IV-Q, or IV-L based on the descriptions in ADC 1.100 and provisions in state law.

(2) When there is a question as to the appropriate type of procedure, the Director shall determine the type of procedure to be used based upon the most similar land use application procedure specified by this Code or other established policy.

(3) When a proposal involves more than one application for the same property, the applicant(s) may submit concurrent applications that shall be processed simultaneously in accordance with the highest numbered procedure specified. When concurrent applications are received and accepted as complete, the requirements of Section 1.120 shall apply as if a single application had been made.

1.120 Time to Process Complete Applications.

(1) Time Limit—120-day Rule. The City must take final action on all Type I-L, Type II, Type III, and Type IV-Q land use applications, as provided by ORS 227.178, including resolution of all local appeals, within 120 days after the application has been deemed complete under ADC 1.170, unless the applicant provides written request or consent to an extension in compliance with ORS 227.178. (Note: The 120-day rule does not apply to Type IV-L decisions.)

(2) Time Limit—100-day Rule. The City must take final action including resolution of all local appeals on qualifying applications under ORS 227.180 within 100 days after the application is deemed complete. An application qualifies if it is submitted under ORS 227.175 and meets the following criteria:

(a) The application is for development of a multiple-dwelling unit building~~unit~~s within the urban growth boundary;

(b) At least 50 percent of the residential units included in the development will be sold or rented as affordable housing. For the purposes of this section, "affordable housing" means housing that is affordable to households with incomes equal to or less than 60 percent of the median family income for the county in which the development is built or for the state, whichever is greater; and

(c) The development is subject to a covenant appurtenant that restricts the owner and each successive owner of the development or a residential unit within the development from selling or renting any residential unit described in paragraph (b) of this subsection as housing that is not affordable housing for a period of 60 years from the date of the certificate of occupancy.

(3) Time Periods. "Days" means calendar days unless otherwise specified. In computing time periods prescribed or allowed by this Article, the day of the act or event from which the designated period of time begins is not included. The last day of the period is included, unless it is a Saturday, Sunday, or a federal holiday, in which case the period runs until the end of the next day that is not on a weekend or City recognized legal holiday.

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

Staff Comments: Neighborhood Meetings and Notice Areas in 1.140

Now that most land use developments have clear and objective review criteria, there are no public hearings, and these are reviewed by staff (Type I-L review process). If the application meets the review criteria, it is approved. Holding neighborhood meetings for these types of applications results in more frustration by residents.

Staff propose that neighborhood meetings only be required for Type II, Type III and Type IV quasi-judicial applications, such as planned developments, cluster developments, conditional uses (such as new schools and churches), and requests to change the zoning of a property, and a few other instances as noted in 1.410.

The neighborhood meeting notice area is proposed to match the notice areas for the land use process type.

Based on the POLCO survey results, staff propose neighborhood meetings be held in evenings and a virtual attendance option be required.

PRE-APPLICATION CONFERENCES AND NEIGHBORHOOD MEETINGS

1.130 Pre-Application Conference.

(1) Purpose of Pre-Application Conferences. Pre-application conferences are intended to familiarize applicants with the requirements of the ADC; to provide applicants with an opportunity to discuss proposed projects in detail with City staff; and to identify approval criteria, standards, and procedures prior to filing a land use application. The pre-application conference is intended to be a tool to assist applicants in navigating the land use process but is not intended to be an exhaustive review that identifies or resolves all potential issues and does not bind or preclude the City from enforcing any applicable regulations or from applying regulations in a manner differently than may have been indicated at the time of the pre-application conference.

(2) When Mandatory. Pre-application conferences are mandatory for all land use actions identified as requiring a pre-application conference in Table 1.100-1. An applicant may voluntarily request a pre-application conference for any land use action even if it is not required.

(3) Timing of Pre-Application Conference. When mandatory, a pre-application conference must be held with City staff before an applicant submits an application and before an applicant conducts a Neighborhood Meeting (if applicable).

(4) Requesting a Pre-Application Conference.

(a) Request Form. Pre-application conference requests must be made on forms provided by the Director.

(b) Submittal Requirements. Pre-application conference requests must be made in writing and include:

i. A description of the development proposal along with a list of any questions the applicant has for staff related to the proposal.

ii. A sketch of the development plan. The sketch shall indicate the approximate location of the property boundaries, existing structures, and proposed improvements; and

iii. Any additional information the applicant deems necessary to demonstrate the nature and scope of the proposal in sufficient detail to allow City staff to review and comment.

(5) Scheduling of Pre-Application Conference. Upon receipt of a complete pre-application request, the Director will schedule the pre-application conference. The Director will coordinate the involvement of City departments, as appropriate, in the pre-application conference. Pre-application conferences are not open to the general public.

(6) Validity Period for Mandatory Pre-Application Conferences; Follow-Up Conferences. Unless waived by the Director, a follow-up conference is required for those mandatory pre-application conferences that have previously been held when:

(a) An application relating to the proposed development that was the subject of the pre-application conference has not been submitted within one year of the pre-application conference;

(b) The proposed use, layout, and/or design of the proposal have significantly changed; or

(c) The owner and/or developer of a project changes after the pre-application conference and prior to application submittal.

(7) Written Summary. Upon the applicant's request, the Director shall provide the applicant with a written summary of the conference.

1.140 Neighborhood Meeting.

(1) Purpose. The purpose of a neighborhood meeting is to ensure that applicants pursue early and effective public participation in conjunction with their applications, giving them the opportunity to understand and try to mitigate any real or perceived impacts their application may have on the neighborhood. The meeting is not intended to produce complete consensus on all applications. It is intended to encourage applicants to be good neighbors.

(2) When Mandatory. Neighborhood meetings are required for Type III and Type IV quasi-judicial applications and some~~most~~ Type II developments~~ for all land use actions identified~~as indicated in Table 1.100-1 or below as requiring a neighborhood meeting. In addition, the applicant shall hold a neighborhood meeting before submitting the following types of land use applications:

(a) Type III Conditional Uses (CUs) in residential zoning districts and Type II CUs that result in new construction or parking in a residential zoning district. ~~Multiple-dwelling unit development that abuts a single- dwelling unit zoning district.~~

(b) Demolition or relocation of a building on the Local Historic Inventory~~Commercial or industrial development that abuts any residential zoning district and the addition of outside seating areas to restaurants or bars/taverns/breweries/night clubs within 300 feet of a residence~~.

(c) Cluster Developments and Planned Developments.~~Manufactured home park adjacent to any residential zoning district~~.

~~(d) Subdivision with more than 10 lots, excluding expedited and middle housing land divisions.~~

~~(e) Cluster and planned developments.~~

~~(f) Retail Sales and Services Uses proposed in existing buildings in the Light Industrial zone that require Conditional Use approval per Section 4.060(11)(b).~~

~~(g) For other non-residential applications or revisions to applications that the Director determines may have a neighborhood impact, such as conditional uses. In these cases, the Director shall determine the minimum notice area for the neighborhood meeting.~~

(3) Time and Location. The applicant shall consult with City staff to determine an appropriate meeting date, time, and place given the location of the proposed development and availability of staff to attend. Meetings must start no sooner than 5 p.m. and no later than 7 p.m. All meetings must provide virtual attendance options and include the options on the meeting notice.

(4) Notice. The applicant shall send mailed notice of the public meeting to the Director and all property owners and designated representative(s) of City Council-recognized neighborhood association(s) within the minimum notice area specified ~~below~~by the land use process level. The broadest notice area applicable to a proposal shall apply.

~~**Proposals for:**~~	~~**Notice Area based on minimum distance from the boundaries of the subject property***~~
~~Non-residential development (including the non-residential portion of a mixed-use development)~~	~~300 feet**~~
~~Residential development proposing 50 or less dwelling units, lots or spaces~~	~~300 feet~~
~~Any development which proposes more than 50 dwelling units, lots or spaces~~	~~1,000 feet~~
~~** Additional notice area requirements 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.*~~ ~~*** For applications which include non-residential development, the Director may increase the notice area based on the project scale, land use and transportation patterns or anticipated public interest in the project, up to a maximum of 1,000 feet.*~~	

The property owner list shall be compiled from county tax assessor's property owner lists from the most recent property tax assessment roll. The address for the designated representative(s) of the affected neighborhood association(s) shall be obtained from the City. The notice shall be sent a minimum of 10 days and no more than 30 days before the meeting, and shall include:

(a) Date, time, and location of the public meeting.

(b) A brief written description of the development proposal and proposed use(s) with enough specificity so that the project is easily discernible.

(c) The location of the subject property(ies), including address (if applicable), nearest cross streets and any other easily understood geographical reference, and a map (such as a tax assessor's map) that depicts the subject property.

(5) Presentation. The applicant's presentation at the neighborhood meeting shall include:

(a) A map depicting the location of the subject property(ies) proposed for development.

(b) A visual description of the project including a site plan, tentative subdivision plan and elevation drawings of any proposed structures, when applicable.

(c) A description of the nature of the proposed use(s) including, but not limited to, sizes and heights of structures, proposed lot sizes, density, etc.

(d) The expected or anticipated impacts from the proposed development (e.g., traffic, storm drainage, tree removal, etc.).

(e) Mitigation proposed by the applicant to alleviate the expected/anticipated impacts.

(f) An opportunity for the public to provide comments.

Applicants are encouraged to reconcile as many public concerns as possible before submitting land use application(s).

(6) Report. A report documenting the results of any neighborhood meeting is required to be submitted with the application. The report shall contain:

(a) The dates and locations of all meetings where citizens were invited to discuss the applicant's proposal;

(b) The method(s) by which each meeting was publicized;

(c) Sign in sheet indicating the number of people who attended the meeting and a list of people who otherwise contacted the applicant;

(d) A summary of the concerns, issues, and problems raised by neighbors;

(e) A discussion of how the applicant has addressed or intends to address concerns, issues, and problems; and

(f) A discussion of any concerns, issues, and problems the applicant is unable or unwilling to address and why.

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

APPLICATION SUBMITTAL AND COMPLETENESS REVIEW

1.150 Initiation of Applications.

(1) Type I, Type I-L, Type II, Type III, and Type IV-Q applications. Type I, Type I-L, Type II, Type III, and Type IV-Q applications may be submitted by one or more of the following persons:

(a) The owner of the subject property;

(b) The contract purchaser of the subject property, when the application is accompanied by proof of the purchaser's status as such and by the seller's written consent;

(c) A lessee in possession of the property, when the application is accompanied by the owners' written consent; or

(d) The agent of any of the foregoing, when the application is duly authorized in writing by a person authorized to submit an application by subsections (a), (b), or (c) and accompanied by proof of the agent's authority.

(e) A public entity that has the right of eminent domain for projects the entity has the authority to construct.

(2) Type IV-L (Legislative Applications). Legislative applications shall be initiated in accordance with ADC 1.260(1).

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) Application fees.

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

(g) Most recent deed and/or recorded plat, and all exceptions (ex. recorded easements or restrictive covenants).

(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.

[Ord. 6042, 7/12/24; Ord. 6059, 3/14/25]

1.165 Concurrent Applications. When an applicant files a consolidated set of applications for: (1) a comprehensive plan amendment and/or (2) a Zoning Map amendment that is dependent on that plan map amendment; and/or (3) a development permit that is dependent on that Zoning Map amendment, the goal post rule at ORS 197.427(3)(a) does not apply to "freeze" in place the standards and criteria that applied to that development permit as of the date the applications were filed. Instead, the standards and criteria that apply are those supplied by the new plan and zoning designations. [Ord. 5966 11/12/21]

1.170 Completeness Review.

(1) Duration. Except as otherwise provided under ORS 227.178, the Director must review an application for completeness within 30 days of its receipt.

(2) Considerations. Determination of completeness will be based upon receipt of the information required under ADC 1.160 and will not be based on opinions as to quality or accuracy. Applications that do not respond to relevant Code requirements or standards can be deemed incomplete. A determination that an application is complete indicates only that the application is ready for review on its merits, not that the City will make a favorable decision on the application.

(3) Complete Applications. If an application is determined to be complete, review of the application will commence.

(4) Incomplete Applications. If an application is determined to be incomplete, the Director must provide written notice to the applicant identifying the specific information that is missing and allowing the applicant the opportunity to submit the missing information. An application which has been determined to be incomplete must be deemed complete for purposes of this section upon receipt of:

(a) All of the missing information;

(b) Some of the missing information and written notice from the applicant that no other information will be provided; or

(c) Written notice from the applicant that none of the missing information will be provided.

(5) Vesting. If an application was complete at the time it was first submitted, or if the applicant otherwise responds as provided in subsection (4) of this section within 180 days of the date the application was first submitted, then:

(a) Approval or denial of the application must be based upon the standards and criteria that were in effect at the time the application was first submitted; or

(b) When a concurrent quasi-judicial Comprehensive Plan and/or Zoning Map is proposed and approved, then approval or denial of the concurrent application will be based on the new zoning district or Comprehensive Plan designation.

(6) Void Applications. An application is void if the application has been on file with the City for more than 180 days and the applicant has not provided the missing information or otherwise responded, as provided in subsection (4) of this section.

[Ord. 5966 11/12/21]

1.180 Revised Applications. Revisions or alterations of an application may be made following the determination that an application is complete, provided such revisions or alterations address applicable requirements and do not render the application incomplete. Revisions or alterations desired by the applicant may impact the application processing timelines outlined in Section 1.120.

1.185 Withdrawal of Application.

(1) Withdrawn by Applicant. An application may be withdrawn by the applicant at any time prior to the issuance of the decision if the owner or contract purchaser consents in writing to withdraw the application.

(2) Notice. If an application is withdrawn after the mailing of public notice, the Director must send written notice stating the application has been withdrawn to all persons who were provided mailed notice of the application or public hearing.

REVIEW TYPE PROCEDURES

1.210 Type I Procedure (Ministerial). The Director makes ministerial decisions through the Type I procedure without public notice and without a public hearing.

(1) Submittal Requirements. Complete Type I applications must include the submittal information required by ADC 1.160.

(2) Notice of Application Submittal. No public notice of review is required, except for a Special Use Permit for Temporary Placements in 10.450 and 10.470, where a notice of 100 feet is required.

(3) Notice of Decision. Written notice of the decision must be provided to the applicant and property owner of record.

(4) Appeal of a Type I Decision. The decision of the Director on a Type I application shall be the final decision of the City. Appeal shall be to the Circuit Court under writ of review.

(5) Effective Date of a Type I Decision. A Type I decision is final on the date it is signed by the Director.

[Ord. 6024, 12/29/23]

Staff Comments: Notice Areas and Appeals for Type I-L Residential Developments

HB 4037 reduces the application notice areas for residential developments subject to clear and objective standards (Type I-L land use applications) to 100 feet for up to 20 units and cannot be more than 500 feet for more than 20 units. Staff propose to retain the current notice area of 300 feet for developments proposing between 21 and 50 units.

In addition, only the applicant may appeal these types of land use decisions.

1.220 Type I-L Procedure (Administrative Review with Notice). Type I-L decisions are made by the Director with public notice and an opportunity for review and comment.

(1) Submittal Requirements. Type I-L applications must include the submittal information required by ADC 1.160.

(2) Determination of Completeness. After receiving an application for filing, the Director will review the application for completeness in accordance with ADC 1.170.

(3) Written Notice of Application and Opportunity to Comment. Once the application has been deemed complete, the City will mail notice of filing to the identified recipients in (a) no fewer than 14 days before making the Type I-L decision to allow interested people and agencies the opportunity to submit written comments on the application before the City issues the decision.

(a) Recipients:

i. All property owners and designated representative(s) of City Council-recognized neighborhood association(s) within the minimum notice area specified below. The broadest notice area applicable to a proposal shall apply.

Proposals for:	**Notice Area based on minimum distance from the boundaries of the subject property***
• Non-residential development subject to Site Plan Review (including the non-residential portion of a mixed-use development)	300 feet**
• Residential development proposing 20 or fewer dwelling units, lots or spaces ~~Subdivision, 50 lots or less~~ • ~~Manufactured home park, 50 spaces or less~~ • ~~Multi-dwelling unit development, 50 units or less~~	~~3~~100 feet*
• Residential development proposing between 21 to 50 dwelling units, lots or spaces	300 feet
• Any development ~~which~~ proposinges more than 50 dwelling units, lots or spaces	~~1,0~~500 feet**
• All other Type I-L decisions not listed above, including, but not limited to, Site Plan Review of Residential Accessory Structures and Minor Variances	100 feet**
** Additional notice area requirements 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.* *** For applications which include non-residential development, the Director may increase the notice area based on the project scale, land use and transportation patterns or anticipated public interest in the project, up to a maximum of 1,000 feet.*	

ii. Any person who submits a written request to receive a notice;

iii. Any governmental agency that is entitled to notice under an intergovernmental agreement entered into with the City and any other affected agencies, including but not limited to: school districts; fire district; the Oregon Department of Transportation, where the project either adjoins or directly affects a state highway or a railway; the County, where the project site would access a County road or otherwise be subject to review by the County. The failure of another agency to respond with written comments on a pending application does not invalidate an action or permit approval made by the City under this Code; and

iv. Utility companies (as applicable).

(b) The mailed notice of filing, at a minimum, must contain all of the following information:

i. The names of the applicant(s), any representative(s) thereof, and the owner(s) of the subject property;

ii. The street address if assigned, if no street address has been assigned then Township, Range, Section, Tax Lot or Tax Lot ID or other easily understood geographic reference to the subject property;

iii. The proposed site plan;

iv. Statement noting if a railroad or highway grade crossing provides or will provide the only access to the subject property;

v. The type of application and a concise description of the nature of the land use action;

vi. A list of the approval criteria by ADC section for the decision and other ordinances or regulations that apply to the application at issue;

vii. Brief summary of the local decision-making process for the land use decision being made;

viii. The date, place, and time where comments are due and that comments are due no later than 5:00 p.m. on the 14th calendar day after the notice was mailed;

ix. A statement indicating that issues which may provide the basis for an appeal to the Land Use Board of Appeals must be raised in writing prior to the expiration of the comment period and with sufficient specificity to enable the applicant and local appeal body to respond to the issue;

x. A statement that after the comment period closes, the City will issue its decision and the decision will be mailed to the applicant, property owner, anyone who submitted written comments on the application, and to anyone else is otherwise legally entitled to notice;

xi. A statement that comments received after the close of the public comment period will not be considered;

xii. The name of a City representative to contact and the telephone number where additional information may be obtained; and

xiii. Statement that the application and all documents and evidence submitted by the applicant are available for review and that copies can be obtained at a reasonable cost from the City.

(c) Failure of a person or agency identified in ADC 1.220(3)(a) to receive the notice required in ADC 1.220(3)(b) does not invalidate any proceeding in connection with the application provided the City can demonstrate by affidavit that notice was given in accordance with this section.

(d) Written comments must be received by the City no later than 5:00 p.m. on the 14th calendar day after the notice was mailed in order for comments to be considered.

(4) Decision. At the conclusion of the comment period, the Director must review the comments received and approve, approve with conditions, or deny the application. The decision must be in writing and include a statement that:

(a) Explains the criteria and standards considered relevant to the decision;

(b) States the facts relied upon in issuing the decision; and

(c) Explains the justification for the decision based on the criteria, standards, and facts set forth.

(5) Notice of Type I-L Decision. Notice of the decision must be provided to the property owner, applicant, and any person who submitted written comments in accordance with ADC 1.220(3)(d). The Type I-L Notice of Decision must contain all of the following information:

(a) A description of the applicant's proposal and the City's decision on the proposal, which may be a summary, provided it references the specifics of the proposal and conditions of approval in the public record;

(b) The address or other geographic description of the property proposed for development, including a map of the property in relation to the surrounding area;

(c) A statement that the complete case file, including findings, conclusions, and conditions of approval, if any, is available for review and how copies can be obtained;

(d) The date the decision becomes final, unless an appeal is submitted; and

(e) A statement that all person entitled to notice of the decision may appeal the decision in accordance with ADC 1.410.

(6) Appeal of a Type I-L Decision. Only the applicant may appeal a decision for residential developments. Appeals ~~may~~ must be made in accordance with ADC 1.410.

(7) Effective Date of Type I-L Decision. A Type I-L Decision becomes effective 10 days after the City mails the Notice of Decision unless an Appeal is submitted pursuant to ADC 1.410 or unless the conditions of approval specify otherwise.

[Ord. 6004, 12/28/22]

1.230 Type II Procedure (Administrative Review with Notice). Type II decisions are made by the Director with public notice and an opportunity for review and comment.

(1) Submittal Requirements. Type II applications must include the submittal information required by ADC 1.160.

(2) Determination of Completeness. After receiving an application for filing, the Director will review the application for completeness in accordance with ADC 1.170.

(3) Written Notice of Application and Opportunity to Comment. Once the application has been deemed complete, the City will mail notice of filing to the identified recipients in (a) no fewer than 14 days before making the Type II decision to allow interested people and agencies the opportunity to submit written comments on the application before the City issues the decision.

(a) Recipients:

i. All property owners and designated representative(s) of City Council-recognized neighborhood association(s) within the minimum notice area specified below. The broadest notice area applicable to a proposal shall apply.

Proposals for:	**Minimum distance from the boundaries of the subject property***
Non-residential development (including the non-residential portion of a mixed-use development) and non-residential planned developments	300 feet**
Residential development proposing 50 or fewer ~~less~~ dwelling units, lots or spaces, excluding residential planned developments	300 feet*
Any development ~~which~~ proposinges more than 50 dwelling units, lots or spaces, excluding residential planned developments	1,000 feet
Residential ~~P~~planned developments, zoning map amendments*** to increase residential density and adjustments or major variances to a residential approval standard	100 feet
** Additional notice area requirements 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.*	

*** For applications which include non-residential development, the Director may increase the notice area based on the project scale, land use and transportation patterns or anticipated public interest in the project, up to a maximum of 1,000 feet.*

*****Only applies to zoning map amendment applications for property that is zoned primarily for residential use in Article 3 or is zoned MUR, Mixed Use Residential, and has a Residential or Village Center Comprehensive Plan designation.*

ii. Any person who submits a written request to receive a notice;

iii. Any governmental agency that is entitled to notice under an intergovernmental agreement entered into with the City and any other affected agencies, including but not limited to: school districts; fire district; the Oregon Department of Transportation, where the project either adjoins or directly affects a state highway or railway; the County, where the project site would access a County road or otherwise be subject to review by the County. The failure of another agency to respond with written comments on a pending application does not invalidate an action or permit approval made by the City under this Code; and

iv. Utility companies (as applicable).

(b) The mailed notice of filing, at a minimum, must contain all of the following information:

i. The names of the applicant(s), any representative(s) thereof, and the owner(s) of the subject property;

ii. The street address if assigned, if no street address has been assigned then Township, Range, Section, Tax Lot or Tax Lot ID or other easily understood geographic reference to the subject property;

iii. The proposed site plan;

iv. Statement noting if a railroad-highway-grade crossing provides or will provide the only access to the subject property;

v. The type of application and a concise description of the nature of the land use action;

vi. A list of the approval criteria by ADC section for the decision and other ordinances or regulations that apply to the application at issue;

vii. Brief summary of the local decision-making process for the land use decision being made, including the process to appeal a decision;

viii. The date, place, and time where comments are due and that comments are due no later than 5:00 p.m. on the 14th calendar day after the notice was mailed;

ix. A statement that after the comment period closes, the City will issue its decision and the decision will be mailed to the applicant, property owner, anyone who submitted written comments on the application, and to anyone else who is legally entitled to notice;

x. A statement that comments received after the close of the public comment period will not be considered in the Director's decision;

xi. The name of a City representative to contact and the telephone number where additional information may be obtained; and

xii. Statement that the application and all documents and evidence submitted by the applicant are available for review and that copies can be obtained at a reasonable cost from the City.

(c) Failure of a person or agency identified in ADC 1.230(3)(a) to receive the notice required in ADC 1.230(3)(b) does not invalidate any proceeding in connection with the application provided the City can demonstrate by affidavit that notice was given in accordance with this section.

(d) Written comments must be received by the City no later than 5:00 p.m. on the 14th calendar day after the notice was mailed in order for comments to be considered.

(4) Decision. At the conclusion of the comment period, the Director must review the comments received and approve, approve with conditions, or deny the application. The decision must be in writing and include a statement that:

(a) Explains the criteria and standards considered relevant to the decision;

(b) States the facts relied upon in issuing the decision; and

(c) Explains the justification for the decision based on the criteria, standards and facts set forth.

(5) Notice of Type II Decision. Notice of the decision must be provided to the property owner, applicant, any person who submitted written comments in accordance with ADC 1.230(3)(d) and all persons and agencies entitled to notice pursuant to ADC 1.230(3)(a). The Type II Notice of Decision must contain all of the following information:

(a) A description of the applicant's proposal and the City's decision on the proposal, which may be a summary, provided it references the specifics of the proposal and conditions of approval in the public record;

(b) The address or other geographic description of the property proposed for development, including a map of the property in relation to the surrounding area;

(c) A statement that the complete case file, including findings, conclusions, and conditions of approval, if any, is available for review and how copies can be obtained;

(d) The date the decision becomes final, unless an appeal is submitted;

(e) A statement that all person entitled to notice of the decision may appeal the decision within 14 days in accordance with ADC 1.410 and that issues which may provide the basis for an appeal must be raised in writing and with sufficient specificity to enable the applicant and local appeal body to respond to the issue;

(f) A statement that a person who is mailed written notice of the decision cannot appeal the decision directly to the state Land Use Board of Appeals under ORS 197.830; and

(g) A statement that the decision will not become final until the period for filing a local appeal has expired.

(6) Appeal of a Type II Decision. Appeals may be made in accordance with ADC 1.410. A de novo appeal hearing is required for Type II decisions.

(7) Effective Date of Type II Decision. A Type II Decision becomes effective 14 days after the City mails the Notice of Decision, unless an appeal is submitted pursuant to ADC 1.410 or unless the conditions of approval specify otherwise.

1.240 Type III Procedure (Quasi-Judicial Review—Public Hearing). Type III decisions are made by the Planning Commission, Hearings Board, or the Landmarks Commission after a public hearing with an opportunity for appeal to the City Council. The decision body for each application type is specified in Table 1.100-1. A hearing under these procedures provides a forum to apply standards to a specific set of facts to determine whether the facts conform to the applicable criteria.

(1) Submittal Requirements. Type III applications must include the submittal information required by ADC 1.160.

(2) Determination of Completeness. After receiving an application for filing, the Director will review the application for completeness in accordance with ADC 1.170.

(3) Written Notice of Public Hearing—Type III. Once the application has been deemed complete, the City must mail by regular first-class mail Notice of a Public Hearing to the following individuals and agencies no fewer than 20 days before the hearing.

(a) Recipients:

i. All property owners and designated representative(s) of City Council-recognized neighborhood association(s) within the minimum notice area specified below. The broadest notice area applicable to a proposal shall apply.

Proposals for:	**Minimum distance from the boundaries of the subject property***
Non-residential development (including the non-residential portion of a mixed-use development)	300 feet**
Residential development proposing 50 or fewer~~less~~ dwelling units, lots or spaces, excluding residential planned developments which follow the Type II procedure;	300 feet*
Any development ~~which~~ proposing~~es~~ more than 50 dwelling units, lots or spaces, excluding residential planned developments which follow the Type II procedure	1,000 feet
** Additional notice area requirements 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.* *** For applications which include non-residential development, the Director may increase the notice area based on the project scale, land use and transportation patterns or anticipated public interest in the project, up to a maximum of 1,000 feet.*	

ii. Any person who submits a written request to receive a notice;

iii. Any governmental agency that is entitled to notice under an intergovernmental agreement entered into with the City and any other affected agencies, including but not limited to: school districts; fire district; the Oregon Department of Transportation, where the project either adjoins or directly affects a state highway or railway; the County, where the project site would access a County road or otherwise be subject to review by the County. The failure of another agency to respond with written comments on a pending application does not invalidate an action or permit approval made by the City under this Code; and

iv. Utility companies (as applicable).

(b) The Notice of a Public Hearing, at a minimum, will contain all of the following information:

i. The names of the applicant(s), any representative(s) thereof, and the owner(s) of the subject property;

ii. The street address if assigned, if no street address has been assigned then Township, Range, Section, Tax Lot or Tax Lot ID or other easily understood geographic reference to the subject property;

iii. The type of application and a concise description of the nature of the land use action;

iv. A list of the approval criteria for the decision and other ordinances or regulations that apply to the application at issue;

v. Brief summary of the local decision-making process for the land use decision being made and a general explanation of the requirements for submission of testimony and the procedure for conduct of hearings;

vi. The reviewing body, the date, time, and place of the hearing;

vii. Disclosure statement indicating that if any person fails to address the relevant approval criteria with enough detail, he or she may not be able to appeal to City Council or the state Land Use Board of Appeals on that issue, and that only comments on the relevant approval criteria are considered relevant evidence and that only those persons making an appearance of record, either in person or in writing, shall be entitled to appeal;

viii. The name of a City representative to contact and the telephone number where additional information may be obtained;

ix. Statement that the application and all documents and evidence submitted to the City are in the public record and available for review, and that copies can be obtained at a reasonable cost from the City; and

x. Statement that a copy of the staff report will be available for inspection at no cost at least seven days prior to the hearing and will be provided at a reasonable cost.

(c) Failure of a person or agency identified in ADC 1.240(3)(a) to receive the notice required in ADC 1.240(3)(b) does not invalidate any proceeding in connection with the application, provided the City can demonstrate by affidavit that required notice was given.

(4) Posted Notice. Development sites that are the subject of Type III public hearings shall be posted unless otherwise noted in this Code. Posted notice is deemed given on the day the sign is first posted. The applicant shall be responsible for providing a sign frame for the notice and also for posting the notice at the correct time and location. The actual notice to be posted on the sign shall be provided by the City. The posting shall meet the following requirements:

(a) The notice shall be at least 2 feet by 3 feet.

(b) The notice shall be posted in a location visible from a traveled public road or street abutting the property. (If no public street abuts the property, the notice shall be placed so as to be generally visible to the public.)

(c) The notice shall be posted for at least seven consecutive days before any public hearing on the matter.

(d) If the subject property is a corner lot, then two signs are required in locations defined in (b) above.

(e) At least five days before any hearing (or decision made by the Director), an affidavit of posting shall be filed with the Director.

(f) If the subject property is not properly posted as set forth in this section, the Director may postpone the hearing until such provisions are met.

(g) The posted notice shall display the nature of the application and a telephone number for more information. The posted notice shall also include a photocopy of the original mailed notice sent to affected property owners.

(5) Hearings. Type III hearings shall be conducted in accordance with the procedures in ADC 1.510 through 1.590.

(6) Notice of a Type III Decision. Notice of Decision must be provided to the property owner, applicant, and any person who provided testimony at the hearing or in writing. The Type III Notice of Decision must contain all of the following information:

(a) A description of the applicant's proposal and the City's decision on the proposal, which may be a summary, provided it references the specifics of the proposal and conditions of approval in the public record;

(b) The address or other geographic description of the property proposed for development, including a map of the property in relation to the surrounding area;

(c) A statement that a copy of the decision and complete case file, including findings, conclusions, and conditions of approval, if any, is available for review and how copies can be obtained;

(d) The date the decision becomes final, unless a request for appeal is submitted; and

(e) The notice must include an explanation of rights to appeal the decision to the City Council in accordance with ADC 1.410.

(7) Appeal of a Type III Decision. Appeals may be made to the City Council in accordance with ADC 1.410.

(8) Effective Date of a Type III Decision.

(a) Unless a local ordinance specifies that the decision becomes final at a later time than defined in this section, a Type III decision becomes final when it is reduced to writing and bears the necessary signatures of the decision maker.

(b) A final decision becomes effective when the appeal period expires unless:

i. A written appeal is received at the City offices within 10 calendar days of the date notice of the final decision is mailed; or

ii. The City Council requests a review of the decision within 10 calendar days of the date notice of the final decision is mailed.

1.250 Type IV-Q Procedure (Quasi-Judicial Review—City Council Public Hearing). Type IV-Q decisions are quasi-judicial decisions. The application is first heard by the Planning Commission (PC), Hearings Board (HB), or Landmarks Commission (LC) as specified in Table 1.100-1, through a public hearing. If the recommending body makes a favorable recommendation, the City Council will hold a second public hearing and make a final decision. If the PC, HB, or LC recommends against a proposal, the City Council will only consider the proposal on appeal by the applicant, through a second public hearing. Hearings under these procedures provides a forum to apply standards to a specific set of facts to determine whether the facts conform to the applicable criteria.

(1) Submittal Requirements. Type IV-Q applications must include the submittal information required by ADC 1.160.

(2) Determination of Completeness. After receiving an application for filing, the Director will review the application for completeness in accordance with ADC 1.170.

(3) Written Notice of Public Hearing—Type IV-Q. Once the application has been deemed complete, the City must mail by regular first-class mail Notice of a Public Hearing to the following individuals and agencies no fewer than 20 days before the initial hearing.

(a) Recipients:

i. All property owners and designated representative(s) of City Council-recognized neighborhood association(s) within the minimum notice area specified below. The broadest notice area applicable to a proposal shall apply.

Proposals for:	**Minimum distance from the boundaries of the subject property***
~~Non-residential development(including the non-residential portion of a mixed-use development)~~	~~300 feet**~~
Any Type IV-Q~~Residential development~~ development that is not a residential zone change to increase residential density ~~proposing 50 or less dwelling units, lots or spaces~~	300 feet**
~~Any development which proposes more than 50 dwelling units, lots or spaces~~	~~1,000 feet~~
** Additional notice area requirements 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.* *** ~~For applications which include non-residential development, t~~With the exception of residential zone changes to increase density, the Director may increase the notice area based on the project scale, land use and transportation patterns or anticipated public interest in the project, up to a maximum of 1,000 feet.*	

ii. Any person who submits a written request to receive a notice;

iii. Any governmental agency that is entitled to notice under an intergovernmental agreement entered into with the City and any other affected agencies, including but not limited to: school districts; fire district; the Oregon Department of Transportation, where the project either adjoins or directly affects a state highway or railway; the County, where the project site would access a County road or otherwise be subject to review by the County. The failure of another agency to respond with written comments on a pending application does not invalidate an action or permit approval made by the City under this Code; and

iv. Utility companies (as applicable).

(b) The Notice of a Public Hearing, at a minimum, must contain all of the following information:

i. The names of the applicant(s), any representative(s) thereof, and the owner(s) of the subject property;

ii. The street address if assigned, if no street address has been assigned then Township, Range, Section, Tax Lot, or Tax Lot ID or other easily understood geographic reference to the subject property;

iii. The type of application and a concise description of the nature of the land use action;

iv. A list of the approval criteria by ADC section for the decision and other ordinances or regulations that apply to the application at issue;

v. Brief summary of the local decision-making process for the land use decision being made and a general explanation of the requirements for submission of testimony and the procedure for conduct of hearings;

vi. The review body, date, time, and location of the hearing;

vii. Disclosure statement indicating that if any person fails to address the relevant approval criteria with enough detail, he or she may not be able to appeal to City Council or the state Land Use Board of Appeals on that issue, and that only comments on the relevant approval criteria are considered relevant evidence and that only those persons making an appearance of record, either in person or in writing, shall be entitled to appeal;

viii. The name of a City representative to contact and the telephone number where additional information may be obtained;

ix. Statement that the application and all documents and evidence submitted to the City are in the public record and available for review, and that copies can be obtained at a reasonable cost from the City; and

x. Statement that a copy of the staff report will be available for inspection at no cost at least seven days prior to the hearing and will be provided at a reasonable cost.

(c) Failure of a person or agency to receive a notice does not invalidate any proceeding in connection with the application, provided the City can demonstrate by affidavit that required notice was given.

(4) Additional Notice Requirements for Certain Type IV-Q Application Types. The following additional notice requirements apply to Type IV-Q Hearings where the City Council will be considering the application or removal of a Historic Landmark Designation or a Plan Text or Map Amendment for a particular property or discrete set of properties.

(a) The Director will notify in writing the Oregon Department of Land Conservation and Development (DLCD) in accordance with the minimum number of days required by ORS Chapter 197.

(b) At least 14 calendar days before the scheduled City Council public hearing date, the Director will provide public notice by publication in a newspaper of general circulation in the City.

(c) At least 14 calendar days before the scheduled City Council public hearing date, the Director will post public notice in two public and conspicuous places within the City.

(5) Posted Notice. Development sites that are the subject of Type IV-Q quasi-judicial public hearings shall be posted unless otherwise noted in this Code. Posted notice is deemed given on the day the sign is first posted. The applicant shall be responsible for providing a sign frame for the notice and also for posting the notice at the correct time and location. The actual notice to be posted on the sign shall be provided by the City. The posting shall meet the following requirements:

(a) The notice shall be at least 2 feet by 3 feet.

(b) The notice shall be posted in a location visible from a traveled public road or street abutting the property (If no public street abuts the property, the notice shall be placed so as to be generally visible to the public).

(c) The notice shall be posted for at least seven consecutive days before any public hearing on the matter.

(d) If the subject property is a corner lot, then two signs are required in locations defined in (b) above.

(e) At least five days before any hearing (or decision made by the Director), an affidavit of posting shall be filed with the Director.

(f) If the subject property is not properly posted as set forth in this section, the Director may postpone the hearing until such provisions are met.

(g) The posted notice shall display the nature of the application and a telephone number for more information. The posted notice shall also include a photocopy of the original mailed notice sent to affected property owners.

(6) Hearings. Type IV-Q hearings shall be conducted in accordance with the procedures in ADC 1.510 through 1.590. The Hearings Board, Landmarks Commission, or Planning Commission as specified in Table 1.100-1 will hold an initial hearing.

(a) For a proposal on which the Hearings Board, Landmarks Commission, or Planning Commission has made a favorable recommendation, the City Council shall hold a second public hearing and make a final decision.

(b) If the Planning Commission, Landmarks Commission, or Hearings Board decides against a proposal, the City Council will only consider the proposal on appeal by the applicant(s).

(7) Notice of a Type IV-Q Decision. Notice of Decision must be provided to the property owner, applicant, and any person who provided testimony at the hearing or in writing. The Type IV-Q Notice of Decision must contain all of the following information:

(a) A description of the applicant's proposal and the City's decision on the proposal, which may be a summary, provided it references the specifics of the proposal and conditions of approval in the public record;

(b) The address or other geographic description of the property proposed for development, including a map of the property in relation to the surrounding area;

(c) A statement that a copy of the decision and complete case file, including findings, conclusions, and conditions of approval, if any, is available for review and how copies can be obtained;

(d) The date the decision becomes final; and

(e) The notice must include an explanation of rights to appeal a Planning Commission, Landmarks Commission, or Hearings Board denial to the City Council or a City Council decision to the state Land Use Board of Appeals pursuant to ORS 197.805—197.860.

(8) Appeal of a Type IV-Q Decision. A Planning Commission, Hearings Board, or Landmarks Commission Type IV-Q decision denying an application may be appealed to the City Council in accordance with ADC 1.410. A decision of the City Council may be appealed to the state Land Use Board of Appeals.

(9) Effective Date of a Type IV-Q Decision.

(a) Unless a local ordinance specifies that the decision becomes final at a later time than defined in this section, a Type IV-Q decision becomes final when it is reduced to writing and bears the necessary signatures of the decision maker.

(b) A final decision of the Planning Commission, Hearings Board, or the Landmarks Commission denying a proposal become effective when the appeal period expires unless:

i. A written appeal is received at the City offices within 10 calendar days of the date notice of the final decision is mailed; or

ii. A member of the City Council requests a review of the decision within 10 calendar days of the date notice of the final decision is mailed.

(c) A decision of the City Council is the final decision of the City. It may be appealed to LUBA.

1.260 Type IV-L (Legislative Decisions). Legislative land use decisions are made by the City Council after a recommendation from the Planning Commission or Landmarks Commission. Legislative land use proceedings include proposals to amend the Comprehensive Plan and Development Code text and/or maps, and involve the creation, revision, or implementation of broad public policy generally impacting more than one property owner or a large number of individual properties. Legislative requests are not subject to the 120-day review period under ORS 227.178. In most cases a public hearing is required. However, no public hearing is required in a legislative land use proceeding if the purpose of the amendment is to conform to new requirements in state land use statutes, Statewide Land Use Planning Goals, or administrative rules of the Oregon Land Conservation and Development Commission implementing state land use statutes or Statewide Land Use Planning Goals, if the Oregon Department of Land Conservation and Development confirms in writing that the only effect of the proposed change is to conform the City's Comprehensive Plan or land use regulations to the new state requirements. The Council may, in its discretion, hold a public hearing although one is not required.

(1) Submittal Requirements.

(a) The City Council or Director may initiate a review on any legislative matter.

(b) The Planning Commission, Landmarks Commission or any property owner or resident of the City may request that the City Council initiate a review of any legislative matter (such as an amendment to the Development Code text). The City Council shall review the proposal and determine whether the proposal warrants processing as a legislative amendment.

(2) Notice of Public Hearing—Legislative. Hearings on Legislative Land Use requests must conform to state land use laws (ORS 227.175), as follows:

(a) DLCD Pre-Adoption Notice. The Director will notify in writing the Oregon Department of Land Conservation and Development (DLCD) of legislative amendments (zone change, rezoning with annexation, or Comprehensive Plan amendment) in accordance with the minimum number of days required by ORS Chapter 197.

(b) Notice of Rezone and Limitations of Land Use (Measure 56 Notice). When the proposed legislative decision affects the base zoning classification of a property or limits or prohibits a land use previously allowed, the City must provide notice to the owners of such property at least 20 days, but not more than 40 days, before the date of the first hearing on an ordinance. The notice must comply with ORS 227.186.

(c) Other Public Notice. In addition to any other notice required, at least 14 calendar days before the scheduled public hearing date, the City must mail by regular first class mail Notice of a Public Hearing to the following individuals and agencies.

i. Any affected governmental agency;

ii. Any person who requests notice in writing;

iii. For a zone change affecting a manufactured home or mobile home park, all mailing addresses within the park, in accordance with ORS 227.175;

iv. For an amendment which affects the State highway system, ODOT, and an amendment which affects the County road system, Linn and/or Benton Counties; and

v. For a plan amendment or land use regulation amendment that significantly impacts school capacity, the Albany School District.

(d) At least 14 calendar days before the scheduled public hearing date, public notice must be provided by publication in a newspaper of general circulation in the city.

(e) At least 14 calendar days before the scheduled public hearing date, public notice must be posted in two public and conspicuous places within the City.

(3) Mailed Notice. If required, the mailed Notice of a Public Hearing, at a minimum, must contain all of the following information:

(a) A concise description of the proposal;

(b) A map identifying the properties affected by the proposal, if applicable, in relation to major streets or other landmarks;

(c) A list of the applicable standards or criteria;

(d) The date, time, and location of the public hearing;

(e) Brief summary of the local decision making process for the land use decision being made and a general explanation of the requirements for submission of testimony and the procedure for conduct of hearings;

(f) A statement that all interested persons may appear either in person or with representation by an attorney and provide testimony and that only those participating at the hearing, in person or by submission of written testimony, have the right to appeal the decision to the state Land Use Board of Appeals;

(g) The information required under ORS 227.186 (Measure 56 Notice), if the hearing changes the base zoning classification of a property or limits or prohibits a land use previously allowed;

(h) A statement that subsequent to the close of the hearing, notice of a decision adopting a new land use regulation will be mailed to all neighborhood associations, anyone who participated in the hearing, either in person or in writing, and anyone who requested to receive notice;

(i) The name and contact information for the City representative responsible for collecting comments or responding to questions; and

(j) Statement that all documents are available for review and that copies can be obtained at a reasonable cost from the City.

(4) Conduct of the Hearing—Legislative. A legislative land use hearing will follow the City's legislative hearing procedures.

(5) Planning Commission or Landmarks Commission Recommendation. In preparing its recommendation to the City Council, the Planning Commission or Landmarks Commission shall do the following:

(a) Evaluate the proposal based on the relevant Development Code criteria.

(b) Prepare a recommendation and make findings in support of such recommendation.

(6) City Council Action.

(a) In reaching a decision on a legislative matter, the Council shall adopt findings applicable to the relevant policies and criteria in support of the decision.

(b) The City Council may:

i. Enact, amend, or deny all or part of the proposal under consideration, or

ii. Refer some or all of the proposal back to the Planning Commission, or Landmarks Commission for further consideration.

(7) Effective Date of a Legislative Decision and Notice of Adoption.

(a) A Legislative Land Use decision, if approved, takes effect and becomes final as specified in the enacting ordinance.

(b) Within 5 business days following adoption of an amendment or new land use regulation, the Director shall forward to the Department of Land Conservation and Development a copy of the adopted text and findings and notify the Department of any substantial changes that may have occurred in the proposal since any previous notification to the Department.

(c) Within 5 business days, the Director shall also notify any person who participated in the proceedings leading to the decision. The notice shall briefly describe the final action taken, state the date and effective date of the decision, and explain the requirements for appealing the action under ORS 197.830 to 197.845.

(8) Appeal. A legislative land use decision not related to periodic review may be appealed to the state Land Use Board of Appeals. Persons who participated in periodic review, as outlined by state law, may appeal or object to a legislative land use decision made as part of periodic review to the Department of Land Conservation and Development as outlined in Oregon Administrative Rules 660-025-0140.

EXPIRATIONS, EXTENSIONS, AND MODIFICATIONS

1.310 Expiration of Land Use Approvals. All land use approvals, except Type IV approvals, shall expire three years from the date of approval, unless:

(1) The applicant has installed all of the required public infrastructure related to the development and the infrastructure has been accepted by the City, or the applicant has provided financial assurance for all required public infrastructure per Section 12.600 or the first phase, if the development was approved for phased construction; or

(2) If the development did not require public infrastructure, a valid approved building permit exists for new construction or improvements, and work has commenced; or

(3) In the case of Phased Subdivisions or Planned Developments, when an applicant desires to develop and record final subdivision plats covering portions of an approved tentative plat in phases, the City may authorize a time schedule for platting and otherwise developing the various phases not to exceed five years for all phases. Each phase that is platted and developed shall conform to the applicable requirements of this title; or

(4) An extension has been filed before the expiration date, and subsequently granted approval pursuant to Section 1.320.

1.320 Extension of a Land Use Approval. Except as provided in subsection (4), these provisions apply to all land use approvals that have not expired.

(1) Whenever the decision requires exercise of approval rights or satisfaction of conditions of approval within a particular period of time, the approval period may be extended one time for two years for all land use approvals, except for phased or planned developments, a second two-year extension may be granted. Applicants shall apply for an extension by filing an application for extension before the expiration date. For the purposes of this sub-section the

expiration date shall be the applicable anniversary date of the Notice of Decision previously given to the applicant.

(2) Requests for extensions shall be processed as a Type I application and shall be granted if there has been no change to all applicable local, state or federal standards since the original approval, or the development complies with any changes or can meet the current standards with limited modifications to the approved development.

(3) If the Type I application for the extension request is not approved, the subject land use approval shall expire on the applicable anniversary date of the Notice of Decision previously issued to the applicant.

(4) Tentative approval of a middle housing land division is not eligible for extension.

While an application for extension is pending, no further action to develop the subject property or expand any use dependent upon the approval shall be taken subsequent to the expiration of the approval period; but existing legally established uses may continue during the time the extension request is pending.

[Ord. 5968, 1/14/22]

1.330 Modification of Approved Site Plan Review and Conditional Use Applications. When a property owner wants to make changes to the approved plans and the approval has not expired, the following procedures shall be used to review the proposed modifications.

(1) Definitions: When "property owner" is used in this section, it means the property owner, or the property owner's authorized agent. When "site plan" is used here, it means the site plan approved through either a Site Plan Review application or review of a Conditional Use application.

(2) The property owner must submit an application to modify the approved site plan that identifies the areas of the plan or approval proposed to be modified. The application fee will be determined by the Director and will be based on the scope of the modification(s) and review.

(3) The review body shall be the same one that granted the final approval (including a decision on an appeal, if applicable) for which modification is sought. The same procedures shall be used as for the original approval. The Development Code regulations in effect at the time the application for modification is submitted will be used to review the proposed modification(s).

(4) Only the area proposed to be modified will be reviewed.

(5) A modification shall not be filed:

(a) as a substitute for an appeal, or

(b) to seek the reduction or elimination of a condition of approval for infrastructure requirements, or

(c) to provide a new timeline for appealing a previously accepted infrastructure obligation, or

(d) to apply for a substantially new proposal, or

(e) if it would have significant additional impacts on surrounding properties.

If any of the above conditions exist, a new application must be submitted.

(6) The modified plan must compensate for any negative effects caused by the requested changes from approved plans such that the intent of the original approval is still met.

(7) The modification(s) shall be consistent with the approved site plan. If the review body determines that the modified site plan meets the standards in 1.330 (6) and is consistent with

the original approval as outlined in 1.330 (8), a modification to the site plan may be allowed. If the modified site plan is consistent with the approved site plan and meets the review criteria specified in this section, the modified plan shall be approved. If the review body determines that the modified site plan is not consistent with the original approval, then approval of the site plan will be denied. If a new application is submitted, it will be subject to the Development Code standards in effect at the time the new application is submitted.

(8) The review body's determination on consistency shall be based on a comparison of the approved site plan and the modified site plan, taking into account:

(a) The land use category;

(b) The size and scale of the proposed building(s);

(c) The number of dwelling units;

(d) Traffic and other off-site impacts;

(e) Compatibility with surrounding development;

(f) Capacity of available infrastructure; and

(g) Unusual obstacles and opportunities associated with the property.

(h) The modified site plan will be found to be consistent with the approved site plan if the review body determines that there are no greater adverse impacts, or, if additional adverse impacts are identified, they have been adequately mitigated.

(9) Conditions of approval:

(a) When reviewing a modified site plan that has different impacts than the approved site plan, the decision-maker may modify conditions or impose new ones. Only conditions related to the impact of the modified site plan may be imposed on the modified site plan approval. "Impact" means characteristics of the development such as traffic, wastewater discharge, noise, etc.

(b) The original conditions of approval imposed for the approved site plan may remain in effect or be increased as necessary to address additional impact. Conditions related to improving existing infrastructure or building new infrastructure (such as streets, sewers, etc.) may be reduced only if the modification substantially reduces the infrastructure burden created by the development.

(10) The property owner may choose to either accept approval of the modified site plan or to retain the original approval. If the property owner accepts approval of the modified site plan and any conditions that may be imposed, the property owner must give written notice to the Planning Division within 14 days of the date on the notice of decision for approval of the modified site plan. If the property owner accepts approval of the modified site plan, the new approval supersedes and voids the original approval.

If the property owner does not provide the required written notice of acceptance, or if the review body does not approve the modified site plan, the project shall continue to be subject to the original conditions of approval and timelines.

(11) When a modified site plan is approved and accepted, the approval is valid for one year beyond the date that the original site plan approval would have expired. (For example, if the original approval would have expired on July 1, 2001, the approval of the modified site plan is extended to July 1, 2002.) No additional extensions of time will be allowed for subsequent modifications.

1.340 Request to Modify a Condition of Approval. A request to modify a condition of approval is processed using the procedure assigned to the land use review and the approval criteria for the original land use review.

APPEALS

1.410 Appeals Generally. Appeals shall be heard by the reviewing body specified in Table 1.410-1 provided that the City Council has the discretion to choose to hear any appeal which would otherwise go to the Landmarks Commission or Planning Commission. The timely and complete filing of the notice of appeal and payment of the appeal fee are required for an appeal. The required timeframes for filing an appeal are specified under each review type. The Director cannot accept a notice of appeal that does not comply with this section. The Director's determination that an appellant has failed to comply with this section is final.

Table 1.410-1 – Reviewing Bodies for Appeals

Decision	Decision Body	Reviewing Body
Type I	CDD	Circuit Court
Type I-L – Historic Resource Reviews	CDD	LC
Type I-L – All other review	CDD	PC*
Type II – Historic Resource Reviews	CDD	LC
Type II – All other review	CDD	PC
Type III – Historic Resource Reviews	LC	CC
Type III – All other review	PC or HB	CC
Type IV-Q	PC, HB, or LC	CC
Type IV-Q	CC	LUBA
Type IV-L	CC	LUBA
LEGEND: City Council (CC), Director (CDD), Hearings Board (HB), Landmarks Commission (LC), Planning Commission (PC).		
NOTES: Required timelines for filing appeals are identified under each review type. *Type I-L applications for residential development may only be appealed by the applicant.		

1.420 Requirements of Notice of Appeal. A Notice of Appeal of a decision to the Planning Commission, Landmarks Commission or City Council shall contain:

(1) Identification of the decision sought to be reviewed, including the date of the decision.

(2) A statement of the interest of the person seeking review and that they were a party to the initial proceedings.

(3) The specific policy or criteria relied upon for review.

(4) If de novo review is requested or required, a statement summarizing the new evidence that will be offered and the criteria to which it will relate.

(5) Decisions appealed to circuit court or LUBA must follow those body's appeal procedures and criteria.

1.430 Notice of a Planning Commission, Landmarks Commission or City Council Appeal Hearing.

(1) Written Notice. Notice of a Planning Commission, Landmarks Commission or City Council appeal hearing must be provided to the property owner, applicant, and any person who provided testimony at the hearing or in writing at least 10 days prior to the hearing.

(2) Posted Notice. A development site that is the subject of a Planning Commission, Landmarks Commission or City Council appeal hearing shall be posted unless otherwise noted in this Code. Posted notice is deemed given on the day the sign is first posted. The applicant shall be responsible for providing a sign frame for the notice and also for posting the notice at the correct time and location. The actual notice to be posted on the sign shall be provided by the City. The posting shall meet the following requirements:

(a) The notice shall be at least 2 feet by 3 feet.

(b) The notice shall be posted in a location visible from a traveled public road or street abutting the property. (If no public street abuts the property, the notice shall be placed so as to be generally visible to the public.)

(c) The notice shall be posted for at least seven consecutive days before any public hearing on the matter.

(d) If the subject property is a corner lot, then two signs are required in locations defined in (b) above.

(e) At least five days before any hearing (or decision made by the Director), an affidavit of posting shall be filed with the Director.

(f) If the subject property is not properly posted as set forth in this section, the Director may postpone the hearing until such provisions are met.

(g) The posted notice shall display the nature of the application and a telephone number for more information. The posted notice shall also include a photocopy of the original mailed notice sent to affected property owners.

1.440 Scope of Review. The reviewing body shall determine the scope of review on appeal to be one of the following:

(1) Restricted to the record made on the decision being appealed.

(2) Limited to such issues as the reviewing body determines necessary for a proper resolution of the matter.

(3) A de novo hearing on the merits.

(4) Decisions appealed to circuit court or LUBA will be subject to those body's review policies and procedures.

1.450 Hearings. Appeal hearings are quasi-judicial hearings and shall be conducted in accordance with the procedures in ADC 1.510 through 1.590.

(1) Review on the Record. Unless otherwise required by law, the reviewing body may hear the entire matter on the record.

(a) When the reviewing body requests a review on the record, the record shall include:

i. A factual report prepared by the Director.

ii. All exhibits, materials, pleadings, memoranda, stipulations, and motions submitted by any party and received or considered in reaching the decision under review.

iii. The minutes of the hearing.

(b) The reviewing body may make its decision based only upon the record.

(2) De Novo Hearing. The reviewing body may hear the entire matter through a de novo hearing. "De novo hearing" shall mean a hearing by the review body as if the request had not been previously heard and as if no decision had been rendered, except that all testimony,

evidence, and other material from the record of the previous consideration may be included in the record of the review.

1.460 Review Body Decision. Upon review, the reviewing body may affirm, remand, reverse, or modify in whole or in part a determination or requirement of the decision that is under review. When the reviewing body modifies or reverses a decision of the previous review body, the reviewing body shall set forth its findings and state its reasons for taking the action. When the reviewing body elects to remand the matter back to the previous review body for such further consideration as the reviewing body deems necessary, it may include a statement explaining the error found to have materially affected the outcome of the original decision and the action necessary to rectify such error.

1.470 Withdrawing an Appeal.

(1) At any time before the close of an appeal hearing, any appellant may withdraw the appeal. The appellant must provide written notice of the withdrawal prior to 5:00 p.m. the day of the hearing, or orally at the hearing.

(2) If the withdrawal is made before public notice of the hearing is sent, the City will refund the appeal fee.

(3) Where multiple people or parties sign and file a single Notice of Appeal, all parties to the original filing must consent to the withdrawal of the appeal.

(4) A withdrawn appeal cannot be refiled by any party subject to the original appeal.

(5) If all appeals are withdrawn, the Director must issue a Notice of Appeal Withdrawal to the applicant, the appellant, and the parties who received a Notice of Final Decision.

CONDUCT OF QUASI-JUDICIAL HEARINGS

1.510 Responsibility for Hearings. The Director, or the City Recorder in case of City Council hearings, shall carry out the following duties pertaining to a hearing, in accordance with other provisions of this Code and with the Oregon Public Meetings law:

(1) Schedule and assign the matter for review and hearing;

(2) Conduct the correspondence of the review body;

(3) Provide notices of public hearings as required by this Code and state law;

(4) Maintain a record and enter into the record relevant dates such as those of giving notice, hearings, postponement, and continuances and a summary of action taken by the review body;

(5) Prepare minutes to include the decision on the matter heard and the reasons given for the decision;

(6) Reduce the decisions of the review body to writing and maintain permanent record of such; and

(7) Provide advance notice of all hearings and written decisions to persons requesting the same and not entitled to them by this section (applicant excepted), provided that such persons pay the actual cost for the service provided as established by the City.

1.520 Hearings Record. When practical, the recorder to the review body will be present at each hearing and shall cause the proceedings to be recorded either stenographically or electronically. If the recorder is absent, proceedings will be recorded electronically, and minutes will be taken from the tape.

(1) The review body shall, when practical, retain as part of the hearing record each item of physical or documentary evidence presented and shall have the items marked with the identity of the person offering them and whether presented on behalf of a proponent or opponent. Exhibits received into evidence shall be retained in the hearing file until after all appeal periods have expired, when they may be released. Any physical evidence presented at the public hearing shall be submitted to the review body recorder, distributed to members, returned to the recorder, and shall become part of the record.

(2) The staff report and recommendation shall be included in the record.

(3) The public shall have access to the record of the proceedings at reasonable times, places, and circumstances. The public shall be entitled to purchase copies of the record.

1.530 Challenges to Impartiality. A party to a hearing or a member of a review body may challenge the qualifications of a member of the review body to participate in the hearing and decision regarding the matter. The challenge shall be incorporated into the record at the time of the hearing.

1.540 Disqualification. No member of a review body shall participate in a discussion of the proposal without removing himself or herself from the bench and shall not vote on the proposal when any of the following conditions exist:

(a) A direct or substantial financial interest in the proposal by any of the following: the review body member or the member's spouse, brother, sister, child, parent, father-in-law, mother-in-law, any business in which the member is then serving or has served within the previous two years or is otherwise in a position of conflict of interest as determined by state law.

(a) The member has a direct private interest in the proposal.

(b) Any other valid reason for which the member has determined that participation in the hearing and decision cannot be impartial.

1.550 Participation by Interested Officer or Employees. No officer or employee of the City who has a financial or other private interest in a proposal shall participate in discussion with or give an official opinion or staff report to the review body on the proposal without first declaring for the record the nature and extent of such interest.

1.560 Ex Parte Contacts. A member of a review body should limit communication, directly or indirectly, with any person interested in the outcome concerning the decision or action pending before the review body. "Person interested in the outcome" means a person who has some concern, interest in, or relationship to the decision or action pending before the review body. Should such communication occur, at the beginning of the first hearing after which the communication occurs, the member of the review body shall:

(1) Publicly announce the content of the communication and provide any person an opportunity to rebut the substance of the communication; and

(2) If the communication was in written or tangible form, place a copy of the communication into the record.

If such contacts have not impaired the member's impartiality or ability to vote on the matter, the member shall so state and shall participate or abstain in accordance with the following section.

1.570 Abstention or Disqualification.

(1) An abstaining or disqualified member of the review body may be counted for purposes of forming a quorum. A member who represents personal interest at a hearing may do so only by making full disclosure of his or her status and position at the time of addressing the review body and physically removing himself or herself from the proceedings.

(2) If a quorum of a review body abstains or is disqualified, at least enough members to achieve a quorum shall state their reasons for abstention or disqualification and shall, by so doing, be requalified and proceed to resolve the issues.

(3) A member absent during the presentation of evidence in a hearing may not participate in the deliberations or final decision on the matter of the hearing unless the member has reviewed the evidence received and so states on the record.

1.580 Burden and Nature of Proof. The burden of proof is upon the applicant or appellant. The proposal must be supported by proof that it conforms to the applicable provisions of this Code.

1.590 Hearing Procedures. Quasi-judicial hearing procedures will depend in part on the nature of the hearing. The following subsections may be supplemented by appropriate rules announced by the

presiding officer. For the purposes of this section, "Argument" means assertions and analysis regarding the satisfaction or violation of legal standards or policies the proponent believes relevant to a decision. "Argument" does not include facts. "Evidence" means facts, documents, data, or other information offered to demonstrate compliance or noncompliance with the standards the proponent believes to be relevant to the decision.

(1) The presiding officer will state the case and call the public hearing to order, informing those present that testimony, arguments and evidence is to be directed towards the applicable criteria for the case or other criteria in the plan or land use regulation which the person believes to apply to the decision and that failure to raise an issue accompanied by statements or evidence sufficient to afford the decision-makers and other parties an opportunity to respond to the issue precludes appeal to the state Land Use Board of Appeals on that issue. The presiding officer may establish the time allowed for presentation of information.

(2) Any objections on jurisdictional grounds shall be noted in the record.

(3) Any abstentions or disqualifications shall be determined. Members shall announce all conflicts of interest and shall disclose the time, place, and nature of any ex-parte contacts they have had. Parties to the case shall have the opportunity to rebut any information contained in the ex-parte contact.

(4) The review body may view the area under consideration for purposes of evaluating the proposal, but shall state the place, time, manner, and circumstances of such viewing in the record.

(5) The presiding officer at the hearing may take official notice of known information related to the issue, such as provisions of federal or state law, or of an ordinance, resolution, official policy, or charter of the City.

(6) Matters officially noticed need not be established by evidence and may be considered by the review body in the determination of the matters. Parties requesting official notice shall do so on the record.

(7) Presentation of staff report, including a list of the criteria applying to the issue(s) being heard. City staff may also present additional information whenever allowed by the presiding officer during the proceedings.

(8) Presentation of information by the applicant or those representing the applicant.

(9) Presentation of evidence or inquiries by those who support the proposed change.

(10) Presentation of evidence or inquiries by those who oppose the proposed change.

(11) Presentation of evidence or inquiries by those who do not necessarily support or oppose the proposed change.

(12) If additional documents or evidence are provided in support of an application, any party shall, upon request, be entitled to a continuance of the hearing to allow for adequate preparation of rebuttal. Such a continuance shall not be subject to the limitations of ORS 227.178.

(13) Only the applicant shall have the right to present rebuttal testimony. If the presiding officer allows rebuttal by an opponent, the proponent or applicant shall have a right to an additional and final rebuttal.

(14) The presiding officer may approve or deny a request to ask a question from a person attending the hearing. Unless the presiding officer specifies otherwise, the presiding officer will direct the question to the person who has submitted testimony.

(15) At the close of presentation of information, the presiding officer shall declare that the hearing is closed unless, before the conclusion of the initial evidentiary hearing, any participant has requested an opportunity to present additional evidence, arguments, or testimony regarding the application. The local hearings authority shall grant such a request by continuing the public hearing pursuant to paragraph (a) of this subsection, or leaving the record open for additional written evidence, arguments, or testimony pursuant to paragraph (b) of this subsection.

(a) If the hearings authority grants a continuance, the hearing shall be continued to a date, time, and place certain at least seven days from the date of the initial evidentiary hearing. An opportunity shall be provided at the continued hearing for persons to present and rebut new evidence, arguments, or testimony. If new written evidence is submitted at the continued hearing, any person may request, prior to the conclusion of the continued hearing, that the record be left open for at least seven days to submit additional written evidence, arguments or testimony for the purpose of responding to the new written evidence.

(b) If the hearings authority leaves the record open for additional written evidence, arguments or testimony, the record shall be left open for at least seven days. Any participant may file a written request with the local government for an opportunity to respond to new evidence submitted during the period the record was left open. If such a request is filed, the hearings authority shall reopen the record pursuant to subsection (e) of this section.

(c) A continuance or extension granted pursuant to this section shall be subject to the limitation of ORS 227.178, unless the continuance or extension is requested or agreed to by the applicant.

(d) Unless waived by the applicant, the hearings authority shall allow the applicant at least seven days after the record is closed to all other parties to submit final written arguments in support of the application(s). The applicant's final submittal shall be considered part of the record but shall not include any new evidence. This seven-day period shall not be subject to the limitations of ORS 227.178.

(e) When the hearings authority reopens a record to admit new evidence, arguments or testimony, any person may raise new issues that relate to the new evidence, arguments, testimony, or criteria for decision-making which apply to the matter at issue.

(16) When the hearing has ended, the review body may openly discuss the issue and may further question a person submitting information or staff if opportunity for rebuttal is provided.

(17) If the hearing is closed, it shall be reopened only upon a majority vote of the review body.

CONDUCT OF LEGLISLATIVE HEARINGS

1.610 Public Participation. Interested persons may submit written recommendations and comments in advance of the hearing and this information shall be available for public inspection. At the hearing, written recommendations and other information will be received and oral testimony will be permitted. The presiding officer may establish a time limit for presentation of information.

1.615 The following requirements applicable to quasi-judicial hearings generally apply to legislative hearings as well.

1.510 Responsibility for Hearings.

1.520 Hearings Record.

1.530 Challenges to Impartiality

1.540 Disqualification.

1.550 Participation by Interested Officer or Employees.

1.570 Abstention or Disqualification.

1.620 Pre-hearing Contact. There can be pre-hearing contact between citizens and the decision makers on legislative matters. "Ex parte contact" is not a concern.

1.630 Hearings Procedures. Legislative hearing procedures will depend in part on the nature of the hearing. The following subsections may be supplemented or superseded by appropriate rules announced by the presiding officer. For the purposes of this section, “Argument” means assertions and analysis regarding the satisfaction or violation of legal standards or policies the proponent believes relevant to a decision. “Argument” does not include facts. “Evidence” means facts, documents, data, or other information offered to demonstrate compliance or noncompliance with the standards the proponent believes to be relevant to the decision

(1) The presiding officer will state the case and call the public hearing to order, informing those present that testimony, arguments and evidence is to be directed towards the applicable criteria for the case or other criteria in the plan or land use regulation which the person believes to apply to the decision.

(2) Any objections on jurisdictional grounds shall be noted in the record.

(3) The presiding officer at the hearing may take official notice of known information related to the issue, such as provisions of federal or state law, or of an ordinance, resolution, official policy, or charter of the City.

(4) Matters officially noticed need not be established by evidence and may be considered by the review body in the determination of the matters. Parties requesting official notice shall do so on the record.

(5) Presentation of staff report, including a list of the criteria applying to the issue(s) being heard. City staff may also present additional information whenever allowed by the presiding officer during the proceedings.

(6) Presentation of information by the applicant or those representing the applicant.

(7) Presentation of evidence or inquiries by those who support the proposed change.

(8) Presentation of evidence or inquiries by those who oppose the proposed change.

(9) Presentation of evidence or inquiries by those who do not necessarily support or oppose the proposed change.

(10) The presiding officer may approve or deny a request to ask a question from a person attending the hearing. Unless the presiding officer specifies otherwise, the presiding officer will direct the question to the person who has submitted testimony.

(11) At the close of presentation of information, the presiding officer shall declare that the hearing is closed.

(12) When the hearing has ended, the review body may openly discuss the issue and may further question a person submitting information or staff if opportunity for rebuttal is provided.

(13) If the hearing is closed, it shall be reopened only upon a majority vote of the review body.

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 purpose 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:

(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 1.710 through 1.790 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. [Ord. 6042, 7/12/24]

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.

New text is shown in black double underlined font and removed text is shown in ~~strikethrough~~ font. Staff comments in blue font are provided to explain the proposed amendments but are not amendments.

Staff Comments. Senate Bill 974 reduces the land use process for residential upzonings, Planned Developments, and residential adjustment or variance applications. References to the newer Article 14, Climate Friendly Area Overlay Districts are being added where needed.

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]

2.020 Function of Review Criteria.

(1) Review criteria describe the issues the applicant must address and that the City or affected parties may raise. A proposal that complies with all of the criteria will be approved. A proposal that can comply with the criteria with mitigation measures or limitations will be approved with conditions. A proposal that cannot comply with the criteria outright or with mitigation measures will be denied.

(2) The review criteria are derived from the Comprehensive Plan. The proposal must conform to the goals and policies in the Comprehensive Plan and any adopted area plans in addition to satisfying the review criteria.

(3) When review criteria require an application to meet a specific standard, such as adequate services or no negative offsite impacts, all proposed improvements and mitigation measures must be identified before the review body will make a final decision.

[Ord. 5720, 8/12/09; Ord. 6068, 11/8/25]

2.030 Burden of Proof. The applicant must show that the review criteria are met. The burden of proof is not on the City or other parties to show that the criteria have or have not been met.

2.040 Conditions of Approval. The City may attach conditions to the approval of a land use decision in order to ensure that the proposal will conform to the applicable review criteria.

2.050 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.

New text is shown in black double underlined font and removed text is shown in ~~strikethrough~~ font. Staff comments in blue font are provided to explain the proposed amendments but are not amendments.

Staff Comments: The proposed changes are required by Senate Bill 974 to reduce the land use process for residential upzoning, Planned Developments, and residential adjustment or variance applications.

ADJUSTMENTS

2.060 Purpose. The Adjustment review allows the Director to approve modifications to the application of most design standards in Article 8 and buffering and screening standards in Article 9, as noted in those articles. The Adjustment review process provides a mechanism by which the standards in the ADC may be modified if the proposed development continues to meet the intended purpose of those regulations. Adjustment reviews provide flexibility for unusual situations. They also allow for alternative ways to meet the purposes of the Code.

2.070 Procedures. Adjustment applications to standards for residential developments are processed through the Type II procedure. All other adjustment applications are processed through a Type III procedure.

2.080 Review Criteria. For each standard for which an Adjustment is requested, the applicant must show that the following criteria have been met:

(1) Granting the Adjustment will equally or better meet the purpose of the regulation to be modified; and

(2) The proposal will be consistent with the desired character of the base zone; and

(3) Any negative impacts resulting from the Adjustment are mitigated to the extent practical; and

(4) The proposal will not significantly detract from the livability or appearance of the surrounding area; and

(5) If more than one Adjustment is being requested, the cumulative effect of the Adjustments results in a project which still meets criteria (1) through (4), above.

[Ord. 5947, 1/1/21]

No changes are proposed to Sections 2.090 through 2.225 so these sections are not shown.

CONDITIONAL USES

2.230 Purpose. The City does not allow some uses outright, although they may have beneficial effects and serve important public interests. These uses are subject to the Conditional Use regulations because they may have adverse effects on the environment, overburden public services, change the desired character of an area, or create major nuisances. A review of these proposed uses is necessary due to the potential individual or cumulative impacts they may have on the surrounding area or neighborhood. The Conditional Use review process provides an opportunity to allow the use when it will have minimal impacts, to allow the use but impose conditions to address identified concerns, or to deny the use if the concerns cannot be resolved.

Uses identified as requiring Conditional Use approval may be permitted, enlarged or altered according to the provisions of this section. In addition, when a use is not authorized in any district or when it is unclear how to classify a particular use or development within the intent of this Code, the use or type of development may be established by a Conditional Use approval in accordance with this section.

[Ord. 5947, 1/1/21]

2.240 Procedure. A Conditional Use application is reviewed as either a Type II or a Type III procedure, according to the Schedule of Permitted Uses. [Ord. 5446, 5/10/00, Ord. 5673, 6/27/07]

2.250 Review Criteria. Requests for Conditional Use will be approved if the review body finds that the application conforms with the Albany Development Code and all of the following criteria, either outright or with conditions that bring the proposal into compliance:

(1) The application is consistent with the goals and policies of the Comprehensive Plan and any relevant plans adopted by the City Council.

(2) The proposed use is consistent with the intended character of the base zone and the operating characteristics of the neighborhood.

(3) The proposed use will be compatible with existing or anticipated uses in terms of size, building scale and style, intensity, setbacks, and landscaping or the proposal mitigates difference in appearance or scale through such means as setbacks, screening, landscaping or other design features.

(4) The transportation system can support the proposed use in addition to the existing uses in the area. Evaluation factors include street capacity and level of service, on-street parking impacts, access requirements, neighborhood impacts and pedestrian safety.

(5) Public services for water, sanitary and storm sewer, water management, and for fire and police protection, can serve the proposed use.

(6) The proposal will not have significant adverse impacts on the livability of nearby residentially zoned lands due to:

(a) Noise, glare, odor, litter, or hours of operation.

(b) Privacy and safety issues.

(7) Activities and developments within special purpose districts must comply with the regulations described in Articles 4 (Airport Approach), 6 (Natural Resources), ~~and~~ 7 (Historic), and 14 (Climate Friendly Areas) as applicable.

[Ord. 5265, 12/18/96; Ord. 5720, 8/12/09; Ord. 5764, 12/1/11; Ord. 5886, 1/6/17; Ord. 5947, 1/1/21; Ord. 6068, 11/8/25]

2.260 Conditions of Approval. The review body may attach conditions of approval to ensure that the proposal will conform to the applicable review criteria.

Some of the most frequently imposed conditions relate to the following: uses, special yards, and spaces; fences and walls; street dedications and improvement petitions (or bonds); site entry and exit; signs; building textures, colors, architectural features and height; landscaping, screening and buffering; noise, vibration, odors or other similar nuisances; hours for certain activities; time period within which the proposed use must be developed; duration of use; and preservation of natural vegetation and open space.

2.265 Application Contents. As applicable, application contents must be the same as those required for Site Plan Review in Section 2.490. [Ord. 5842, 1/1/15; Ord. 5947, 1/1/21]

DEVELOPMENT CODE AMENDMENTS

2.270 Purpose. The Development Code implements the goals and policies of the Comprehensive Plan, which reflects community values and needs. Because these values may change with time and because new techniques for implementing the Plan may become more appropriate, the Code must have some mechanism for response to those changes. Amendments to the Code

should occur as needed to maintain a close relationship between it and the Comprehensive Plan.

2.280 Procedures. Code amendments shall be processed as a Type IV-L procedure in accordance with the legislative procedures of Section 1.260. Exception: The Director may initiate and approve amendments for the following types of corrections through a Type I procedure: typographical, grammatical, and cross-referencing errors.

[Ord. 5635, 1/11/06; Ord. 5947, 1/1/21]

2.290 Review Criteria. The request may be approved if the Council finds that the application meets the following criteria:

(1) The proposed amendments better achieve the goals and policies of the Comprehensive Plan than the existing language.

(2) The proposed amendments are consistent with Development Code policies on purpose and with the purpose statement for the base zone, special purpose district, Climate Friendly Areas, or development regulation where the amendment is proposed.

NONCONFORMING SITUATIONS

[The nonconforming situations section has been replaced in its entirety by Ordinance 5966, effective November 12, 2021. Prior modifications to the Nonconforming Situations standards can be found in Ordinances 5338 (1/28/98), 5555 (2/7/03), 5720 (8/12/09), 5832 (4/9/14), and 5947 (1/1/21)]

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.

(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]

Staff Comment: Regarding improvements required with Nonconforming Development in ADC 2.330(5)(b), staff proposes to move landscaping-related items from Category 2 to Category 1.

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.

(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 exceed $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. Removal or remediation of hazardous substances conducted under ORS 465.200-545 and 900.

The value of proposed building improvements or expansions, and/or site improvements 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 a 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.
- Required landscaping in accordance with Section 9.140 and parking lot landscaping in Section 9.150.
- Bicycle Parking standards in accordance with Section 9.030 and Electric Vehicle

Charging Capacity in Section 9.050.

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~~Other landscaping standards in accordance with Article 9 to the extent feasible~~, unless there is not enough physical room, and a Minor Variance is approved~~;
- Buffering and screening standards in accordance with Article 9 to the extent feasible~~, unless there is not enough physical room, and a Minor Variance is approved~~;
- ~~Parking lot landscaping improvement standards in accordance with Section 9.150;~~
- Screening of refuse containers.

(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.

[Ord. 6018, 6/30/23; Ord. 6042, 7/12/24]

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.

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.

(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 does not result in new construction or expansions in floor area to provide space for nonconforming uses or an expansion to outside storage areas;

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

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. Is within or abutting a residential zoning district;

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

iii. 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.

[Ord. 6042, 7/12/24]

2.350 Review Criteria for Type II Nonconforming Use Decisions. A request will be approved for nonconforming uses if the review body finds that the application meets all of the following

criteria:

(1) The nonconforming use was not created unlawfully. See Subsection 2.310(3).

(2) With mitigation measures, there will not be a net increase in overall adverse impacts (over the impacts of the previous use) on the surrounding area taking into account factors such as:

(a) Noise, vibration, dust, odor, fumes, glare, and smoke;

(b) Potential for increased litter;

(c) The amount, location, and nature of any outside displays, storage, or activities;

(d) The appearance of the new use will not detract from the desired function and character of the zone;

(e) The operating characteristics of the proposed use are compatible with the existing and anticipated uses. The hours of operation in residential zones cannot be extended into the period of 10 p.m. to 7 a.m.

(f) If the proposed change to the nonconforming use will result in an increase in vehicular trips, the street system has adequate capacity to accommodate the use through the horizon year of the current Transportation System Plan;

(g) If the proposed change to the nonconforming use will result in an increase in vehicle parking demand, the site has adequate on-site parking to accommodate the development or adequate parking will be provided in accordance with Article 9;

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

(i) Public services for water, sanitary sewer, stormwater, water management, and for fire and police protection, can serve the proposed use;

(j) Activities and developments within overlay districts must comply with the regulations described in Article 4 (Airport Approach), 6 (Natural Resources), ~~and~~ 7 (Historic), and 14 (Climate Friendly Areas) as applicable;

(k) If a commercial use is proposed in an existing building in an industrial zone, the development shall not alter the existing building or site in a way that would discourage or preclude its later conversion back to an industrial use; and

(l) Any applicable criteria in (3) and (4) below.

(3) Expansions in floor area to provide space for nonconforming uses do not exceed the following thresholds:

Existing Gross Floor Area	% of Expansion of Floor Area
Buildings under 4,000 sq. ft.	25%
Buildings between 4,000 and 10,000 sq. ft.	20%
Buildings larger than 10,000 sq. ft.	15%

(a) Expansions in floor area for nonconforming uses may occur one time only and the expansion must comply with current development standards.

(b) Expansion of a nonconforming use onto another site is prohibited, except when:

i. The expansion site abuts the site of the nonconforming use; and

ii. The expansion site was in the same ownership as the nonconforming site when it became nonconforming and the zoning regulations applicable to the expansion site

at that time would have allowed the use.

(b) Addition of new residential units to a nonconforming residential use is prohibited.

(4) Nonconforming Use Expansions in Residential Areas. If the nonconforming use is in a residential zone or in a mixed-use zone with residential uses adjacent to the site, the appearance of the proposed expansion will not lessen the residential character of the area. This is based on taking into account factors such as:

(a) Building scale, placement, and facade;

(b) Parking area placement;

(c) Buffering and the potential loss of privacy to abutting residential uses; and

(d) Lighting and signs.

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]

2.415 Procedure. An application for Site Plan Review must 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.

(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; Ord. 6062, 5/23/25]

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 I 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 legal nonconforming situations will be processed in accordance with Section 2.300 through 2.350.

(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) Expansions to existing development include new structures and additions whether attached or detached, totaling more than 2,000 square feet or more than 50 percent of existing building area, whichever is less.

(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. Parking areas for middle housing development are exempt from this provision and will be reviewed for compliance with Articles 8 and 9 at time of building permit submittal.

(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 10.490).

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

(8) ~~-~~A change in land use category, such as Commercial to Industrial, unless waived by the Director.

[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; Ord. 6042, 7/12/24; Ord. 6059, 3/14/25; Ord. 6062, 5/23/25]

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 consistent with the goals and policies of the Comprehensive Plan and any relevant plans adopted by the City Council.

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

(3) 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.

(4) Activities and developments within special purpose districts comply with the regulations described in Articles 4 (Airport Approach), 6 (Natural Resources), ~~and~~ 7 (Historic), and 14 (Climate Friendly Areas) as applicable.

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

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

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

(8) 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.

(9) 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.

(10) 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.

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

(12) 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; Ord. 6068, 11/8/25]

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 must 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]

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

(1) A completed application form. The application must 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 must be furnished to the City. The owner's name(s) and address, and the applicant's name, address, and signature must also be provided.

(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 required by Article 6 – Natural Resource Districts.

(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.

(4) A 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.

(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.

(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.

(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.

(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.

(o) Typical cross sections at adjacent property boundaries showing pre-and post-development conditions and clearly identifying 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 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.

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

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

(s) Location and dimensions of trash disposal areas.

(t) Location of proposed signs.

(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. 5338, 1/28/98; Ord. 5445, 4/12/00; Ord. 5720, 8/12/09 Ord. 5767, 12/7/11; Ord. 5842, 1/1/15; Ord. 5886, 1/6/17; Ord. 6018, 6/30/23; Ord. 6042, 7/12/24]

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 Sections 2.600 through 2.696 so these sections are not shown.

Staff Comment: The proposed changes are required by Senate Bill 974 to reduce the land use process for residential upzoning, Planned Developments, and residential adjustment or variance applications.

ZONING MAP AMENDMENTS

2.700 Purpose. This section states the procedures and review criteria necessary to process an amendment to the base zones, special purpose districts, and other map symbols of the Zoning Map. The section differentiates between amendments that are processed in a quasi-judicial manner and those processed in a legislative manner.

2.710 Initiation.

(1) Quasi-judicial zoning map amendments may be initiated by a property owner, a representative of the owner, the Director, the Planning Commission, or the City Council.

(2) Legislative zoning map amendments may be initiated by the Director, Planning Commission or City Council. Citizens may request that the Planning Commission initiate a legislative amendment. This type of initiation is addressed in Section 1.260.

(3) Initiations by a review body are made without prejudice towards the outcome.

[Ord. 5947, 1/1/21]

2.720 Procedure. All Zoning Map amendments except for map amendments to allow higher density development will be reviewed through the Type IV-Q procedures as outlined in Section 1.250 or by legislative action as provided for in Section 1.260. Zoning map amendments to allow more dense residential development for property zoned or designated for residential or mixed use will be reviewed though the Type II procedures as outlined in Section 1.230.

[Ord. 5947, 1/1/21]

2.730 Special Notice Requirements. If a zone change request would change the zone of property that includes all or part of a manufactured home park, the City must give written notice by first class mail to each existing mailing address for tenants of the manufactured home park at least 20 days but not more than 40 days before the date of the first hearing on the application. The failure of a tenant to receive a notice that was mailed must not invalidate any zone change.

2.740 Review Criteria. Zoning Map amendments will be approved if the Council finds that the applicant has shown that all of the following criteria are met:

(1) The proposed base zone is consistent with the Comprehensive Plan map designation for the entire subject area unless a Plan map amendment has also been applied for.

(2) Existing or anticipated transportation facilities are adequate for uses permitted under the proposed zone designation.

(3) Existing or anticipated services (water, sanitary sewers, storm sewers, schools, police and fire protection) can accommodate potential development in the subject area without adverse impact on the affected service area.

(4) The intent and purpose of the proposed zoning district best satisfies the goals and policies of the Comprehensive Plan.

(5) The land use and transportation pattern recommended in any applicable City-contracted or funded land use or transportation plan or study has been followed, unless the applicant demonstrates good cause for the departure from the plan or study.

(6) The proposed zoning map amendment is consistent with the adopted functions, capacities, and performance standards identified in the City of Albany Transportation System Plan or any other City-contracted or funded transportation plan or study. If the proposal is not consistent with City plans or studies, the applicant must provide sufficient data to demonstrate good cause for the departure from the specific plan or study, as approved by the City Engineer

[Ord. 5635, 1/11/06, Ord. 5764, 12/1/11; Ord. 6068, 11/8/25]

2.750 Corrections to the Zoning Map. The Director may initiate and approve a review following the Type I procedure for the types of corrections to the Zoning Map listed below:

(1) A map line that was intended to follow a topographical feature does not do so. Topographical features include the tops and bottoms of hillsides, the banks of water bodies, and center lines of creeks or drainage ditches.

(2) The line on the map does not match the legal description or the map shown or referenced in the ordinance that applied the designation.

(3) There is a discrepancy between maps and there is clear legislative intent for where the line should be.

(4) It can be clearly shown that a map line is based on the location of a reference item that has since been moved. Reference items are rights-of-way, tentative rights-of-way, utility easements and similar items. Map line changes in these cases must not be more than a trivial change to the map pattern and must not result in any significant impacts to abutting lots.

2.760 Zoning. For rezoning and annexation zoning requests, the zoning of the property must be compatible with the Comprehensive Plan designation as provided in Table 2.760-1, Plan

Designation Zoning Matrix. Zoning other than that shown in the matrix requires approval of a Comprehensive Plan Map and/or Zoning Map amendment.

New text is shown in black double underlined font and removed text is shown in ~~strikethrough~~ font. Staff comments in blue font are provided to explain the proposed amendments but are not amendments.

TABLE 2.760-1
PLAN DESIGNATION ZONING MATRIX

Comprehensive Plan Designation	Compatible Zoning Districts
Employment*	Employment (EMP), Industrial Park (IP), Office Professional (OP), and land zoned Light Industrial (LI)* in the East Albany Plan area prior to June 30,
Light Industrial	Industrial Park (IP), Light Industrial (LI)~~, Transit District (TD)~~
Heavy Industrial	Light Industrial (LI)*, Heavy Industrial (HI)
General Commercial	Neighborhood Commercial (NC), Community Commercial (CC), Regional Commercial (RC), Office Professional (OP)
Neighborhood Village	Neighborhood Commercial (NC), Office Professional (OP), Mixed Use Residential (MUR)
Village Center	Historic Downtown (HD), Downtown Mixed Use (DMU), Central Business (CB), Lyon-Ellsworth (LE), Pacific Boulevard (PB), Elm Street (ES), Main Street (MS), Waterfront (WF), Mixed Use Commercial (MUC), Residential Medium Density (RM), Residential Medium Density Attached (RMA), Mixed Use Residential (MUR), Office Professional (OP), Community Commercial
Village Center – East (East Albany Plan Area only)	Mixed Use Commercial (MUC), Mixed Use Residential (MUR)
High Density Residential**	High Density Residential (HDR), Residential Medium Density Attached (RMA), Mixed Use Residential (MUR), and land zoned Residential Medium Density (RM) in East Albany prior to June 30, 2023**
Medium Density Residential	R-5 Residential (R-5), Residential Medium Density (RM), Residential Medium Density Attached (RMA), Mixed Use Residential (MUR), Office Professional (OP), Neighborhood Commercial (NC)
Low Density Residential	R-10, R-6.5, and R-5 Residential (R-10, R-6.5, R-5), Hackleman-Monteith (HM), Residential Reserve (RR), Office Professional (OP), Neighborhood Commercial (NC)
Urban Residential Reserve	R-10, R-6.5, and R-5 Residential (R-10, R-6.5, R-5), Residential Reserve (RR), Residential Medium Density Attached (RMA), Residential Medium Density (RM), Mixed Use Residential (MUR), Neighborhood Commercial (NC), Office Professional (OP)
Public and Semi- Public	All zones
Open Space	Open Space (OS)

*Light Industrial – Properties in the East Albany Plan area that were zoned Light Industrial on June 30, 2023, may remain zoned Light Industrial, including those designated Employment on the Comprehensive Plan map.

**Residential Medium Density (RM) – Properties in the East Albany Plan area that were zoned RM on June 30, 2023, may remain zoned RM, including those designated High Density Residential on the Comprehensive Plan Map.

[Ord. 5555, 2/7/03; Ord. 5556, 2/21/03; Ord. 5673, 6/27/07; 10/12/17; Ord. 5947, 1/1/21; Ord. 6004, 12/28/22; Ord. 6010, 7/1/23; Ord. 6059, 3/14/25]

New text is shown in black double underlined font and removed text is shown in ~~strikethrough~~ font. Staff comments in blue font are provided to explain the proposed amendments but are not amendments.

Staff Comments. Changes are needed in this Article to comply with legislation that passed in 2025 and 2026 that is in effect or goes into effect July 1, 2026. References to the newer Article 14, Climate Friendly Area Overlay Districts are being added where needed.

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, 7 and ~~7~~14.

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

- Zoning Districts
- Schedule of Permitted Use
- Development Standards

[Ord. 5673, 6/27/07]

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) R-10 - RESIDENTIAL DISTRICT. The R-10 District is intended primarily for a lower density residential environment consisting of detached single-dwelling units and middle housing. The average standard lot size for single-dwelling units and duplexes is 10,000 square feet.

(3) R-6.5 - RESIDENTIAL DISTRICT. The R-6.5 District is intended primarily for low-density urban residential development that includes single dwelling units, townhouses, and middle housing (duplexes, triplexes, fourplexes, and cottage clusters). The average standard lot size for single-dwelling units and duplexes is 6,500 square feet.

(4) R-5 - RESIDENTIAL DISTRICT. The R-5 District is intended primarily for low- to moderate-density residential development. The average standard lot size for single-dwelling units and duplexes is 5,000 square feet.

(5) RM - RESIDENTIAL MEDIUM DENSITY DISTRICT. The RM District is primarily intended for medium-density residential urban development that includes single-dwelling units, townhouses, duplexes, triplexes, fourplexes, cottage clusters, and apartments up to 45 feet tall. New RM districts should be located on a collector or arterial street or in Village Centers.

(6) RMA - RESIDENTIAL MEDIUM DENSITY ATTACHED DISTRICT. The RMA District is intended primarily for medium- to high-density urban residential development consisting of

attached housing types, including duplexes, triplexes, fourplexes, and apartments up to 60 feet tall. New RMA districts should be located on a collector or arterial street or in Village Centers.

(7) HDR - HIGH DENSITY RESIDENTIAL DISTRICT. The HDR District is intended primarily for high-density urban residential multiple story development and other compatible uses. This district supports the highest residential density in the city and must be located on a collector or arterial street, and adjacent to mixed use, commercial, or industrial zoned land. Development in the HDR district must achieve a density of at least 25 units per gross acre.

(8) HM - HACKLEMAN-MONTEITH DISTRICT. The HM district is intended primarily to preserve the historic character of the existing residential resources in the Hackleman and Monteith National Register Historic Districts. Low-density residential infill that is compatible with the historic character of the district is permitted.

[Ord. 5555, 2/7/03; Ord. 5673, 6/27/07; Ord. 5968, 1/14/22; Ord. 6004, 12/28/22; Ord. 6010, 7/1/23; Ord. 6024, 12/29/23; Ord. 6059, 3/14/25]

3.030 **Establishment of Special Purpose Districts.** Special purpose districts are overlay districts that may be combined with a major zoning district. The regulations of a special purpose district are supplementary to the regulations of the underlying major zoning district. The regulations of a special purpose district and the major zoning district apply to any site that has both designations. Where the regulations and permitted uses of a major zoning district conflict with those of a special purpose district, the more restrictive standards apply. The special purpose districts and the additional regulations that apply in such districts are summarized below:

Special Purpose District	Applicable Articles
Airport Approach	Article 4
Floodplain	Article 6
Hillside Development	Article 6
Significant Wetlands	Article 6
Riparian Corridors	Article 6
Wildlife Habitat	Article 6
Willamette Greenway	Article 6
Historic Overlay	Article 7
Climate Friendly Areas	Article 14

[Ord. 5764, 12/1/11]

Schedule of Permitted Uses

3.040 **Interpretation.** The following provisions are used to interpret the schedule of permitted uses found in this Article:

(1) The schedule of permitted uses cannot anticipate all uses that may be located within the City. There are also situations where proposed uses may relate to more than one type of use. In both instances, the Director will determine the appropriate use category based on operating characteristics and land use impacts. Where ambiguity exists concerning the appropriate classification of a particular use, the use may be reviewed as a Conditional Use where the Director determines that the proposed use is consistent with other uses allowable within the subject district due to similar characteristics. Use categories not listed in the schedule of permitted uses are not permitted in the residential zoning districts.

(2) When a development proposal involves a combination of uses other than accessory uses, the more restrictive provisions of this Code apply. For example, if a portion of a development is subject to Conditional Use approval and the balance is subject only to Site Plan Review, the entire development must be reviewed using the Conditional Use criteria if concurrent approval of all uses is requested.

(3) A change in the use of a property is subject to review as specified by the schedule of permitted uses:

(a) When the change involves a change from one use category to another in the schedule of permitted uses and the Director has not waived review under the provisions of Section 1.105, or

(b) When a property that has been unoccupied for more than one year.

[Ord. 5673, 6/27/07; Ord. 5947, 1/1/21; Ord. 6059, 3/14/25; Ord. 6062, 5/23/25]

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 require 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 - Schedule of Permitted Uses:
Changes are needed to comply with HB 2005 which requires cities to allow residential treatment homes and facilities and crisis stabilization center and mental or psychiatric hospitals without requiring a conditional use permit or zone change in certain areas.

New text is shown in black double underlined font and removed text is shown in ~~strikethrough~~ font. Staff comments in blue font are provided to explain the proposed amendments but are not amendments.

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**	**R-10**	**R-6.5**	**HM**	**R-5**	**RM**	**RMA**	**HDR**
RESIDENTIAL: Dwellings									
Single Dwelling Unit (SDU)	1, 22, 23	Y	Y	Y	Y	Y	Y	N	N
SDU with one Accessory Dwelling Unit or Single Room Occupancy Unit	4, 22	Y	Y	Y	Y	Y	Y	Y	N
Two Primary Units	2	N	PD/CD	PD/CD	S	PD/CD	Y	Y	N
Duplex, Triplex, and Fourplex	3, 22, 23, 25	Y	Y	Y	Y	Y	Y	Y	Y
Townhouse	22, 23	Y	Y	Y	Y	Y	Y	Y	Y
Cottage Cluster	3, 22	Y	Y	Y	Y	Y	Y	N	Y
Single Room Occupancy Development	20, 22, 23	Y	Y	Y	Y	Y	Y/S	Y/S	Y/S
Multiple-Dwelling Units	3, 22, 23, 25	N	N	N	N	N	S	S	S
RESIDENTIAL: Care or Treatment									
Assisted Living		CU	CU	CU	CU	CU	S	S	S
Child or Adult Care Home	6	Y	Y	Y	Y	Y	Y	Y	Y
Residential Care or Treatment Facility ~~(6 or more residents)~~	26	~~CU~~S	~~CU~~S	~~CU~~S	~~CU~~S	~~CU~~S	S	S	S
Residential or Group Care Home (5 or fewer residents)	26	Y	Y	Y	Y	Y	Y	Y	Y
RESIDENTIAL: Miscellaneous Uses									
Manufactured Home Parks	10, 22	N	N	S	N	S	S	S	S
Accessory Buildings	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	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/S-19	N/S-19	S
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	S-24/ CU	S-24/ CU	S-24/ CU
Daycare Facility or Child Care Center		CU	CU	CU	CU	CU	S	S	S
Educational Institutions	13	CU	CU	CU	CU	CU	CU /S-13	CU /S-13	CU /S-13
Hospitals	27	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, 23	CU CU	CU CU	CU CU	CU N	CU CU	CU CU	CU CU	CU CU
Offices	17, 19, 23	PD/CD	PD/CD	PD/CD	PD/CD	PD/CD	S-19/ PD/CD	S-19/ PD/CD	S-19
Recreational Vehicle Parks (See Article 10)	5, 10	N	N	N	N	N	CU	CU	CU
Restaurants, no drive-thru	17, 19, 23	PD/CD	PD/CD	PD/CD	PD/CD	PD/CD	S-19 PD/CD	S-19 PD/CD	S-19
Retail Sales and Service	17, 19, 23	PD/CD	PD/CD	PD/CD	PD/CD	PD/CD	S-19 PD/CD	S-19 PD/CD	S-19
Self-Serve Storage	15, 23	N	N	N	N	N	S	N	N

New text is shown in black double underlined font and removed text is shown in ~~strikethrough~~ font. Staff comments in blue font are provided to explain the proposed amendments but are not amendments.

Uses Allowed in Residential Zoning Districts									
USE CATEGORIES (See Article 22 for use descriptions.)	**Spec. Cond.**	**RR**	**R-10**	**R-6.5**	**HM**	**R-5**	**RM**	**RMA**	**HDR**
Taverns, Bars, Brewpubs, Nightclubs		N	N	N	N	N	S-19	S-19	S-19
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 member of Amateur Radio Service		Y	Y	Y	Y	Y	Y	Y	Y
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
N = No, not allowed
CD = Cluster Development, see Art. 11
PD = Planned Unit Development, see Art. 11
CU = Conditional Use approval required, Type III procedure
S = Site Plan Review required, Type I-L procedure
CUII = Conditional Use approval required, Type II procedure

[Ord. 5281, 3/26/97; Ord. 5555, 2/7/03; Ord. 5673, 6/27/07; Ord. 5742, 7/14/10; Ord. 5801, 2/13/13; Ord. 5832, 4/9/14; Ord. 5886, 1/6/17; Ord. 5947, 1/1/21; Ord. 5949, 1/1/21; Ord. 5968, 1/14/22; Ord. 6004, 12/28/22; Ord. 6008, 1/27/23; Ord. 6010, 7/1/23; Ord. 6024, 12/29/23; Ord. 6042, 7/12/24; Ord. 6059, 3/14/25; Ord. 6062, 5/23/25]

3.060 – 3.070, Open Space district moved to Article 6; Ord. 5764, 12/1/11.

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 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 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 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 is located on a property of record in a residential zoning district and the ~~buildings~~ dwellings 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.

(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.

(4) Single Dwelling Unit with One Accessory Dwelling Unit or Single Room Occupancy Unit. Where single-dwelling units are permitted outright, one Accessory Dwelling Unit (ADU) or one Single Room Occupancy (SRO) unit may be allowed on each lot that has one legally established single-dwelling unit, called the "primary dwelling unit".

(a) Accessory Dwelling Units. Accessory Dwelling Units must meet the following standards:

i. The size of an ADU may not exceed 900 square feet. (Note: ADUs greater than 900 square feet that were legally constructed before July 1, 2007, may remain.) If the primary Dwelling Unit is less than or equal to 900 square feet, the ADU must be at least 25 square feet less than the primary Dwelling Unit.

ii. All required building permits have been obtained. If the primary dwelling unit is on the Local Historic Inventory, historic review may be required, per Article 7.

iii. The lot was legally established .

iv. 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;

Side and Rear Setbacks: 5 feet for one-story; 8 feet for two-story; and

Maximum Height: 24 feet to the ridge of the roof.

v. Conversion of an Existing Building: An existing accessory structure that was legally established prior to March 14, 2025, may be converted into an ADU, provided the conversion does not increase the nonconformity of the structure and complies with applicable building codes.

(b) Single Room Occupancy (SRO) Unit. The SRO Unit must meet the following standards:

i. The SRO Unit must be located interior to the primary Dwelling Unit.

ii. The SRO Unit must share a Kitchen with the primary Dwelling Unit and must not contain food preparation facilities.

iii. The SRO Unit must have an interior door connecting the primary Dwelling Unit and may have an exterior door located in the rear yard.

iv. The SRO Unit must not operate independently of the primary Dwelling Unit unless converted to an Accessory Dwelling Unit after all required building permits have been obtained.

(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:

(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.

(7) Bed and Breakfast facilities must:

(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 side or rear residential lot line.

(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.

Staff Comments – Accessory buildings exempt from land use review:

The code currently requires accessory buildings over 750 square feet and/or wall height taller than 12 feet in residential zones to go through a compatibility checklist to determine if a Site Plan land use review is required. The purpose is to ensure compatibility with adjacent development. Since the code allows accessory dwelling units to be up to 900 square feet staff propose to increase the size exempt from land use review from 750 to 900 square feet.

(9) The definitions of "Accessory Building" and "Accessory Use" in Article 22 apply. The Director has the 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 more than ~~75~~900 square feet and/or have walls taller than 12 feet that meet the following standards will be processed as Type I staff decision. Residential accessory buildings not meeting the standards in this section require Site Plan Review.

Applicants must submit a completed Residential Accessory Structure Checklist with information that shows the standards below will be met when the applicant applies for building permits. The Community Development Director or his/her designee will determine whether the standards are met.

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

(b) The proposed building's footprint is not more than the building footprint of the largest building on adjacent property.

(c) The maximum lot coverage by zone provided in Table 3.190-1 is not exceeded.

(d) The proposed building meets or exceeds the applicable setback requirements for the primary residence as listed in Table 3.230-1.

(e) The materials used on the proposed building must 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, and 14 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.

An accessory building may not be located on a vacant developable residentially zoned property unless the following conditions are met. 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;

(h) The structure is not used for a commercial purpose; and

(i) Exception in the RR zone: Buildings used for farm or agricultural production, or equipment storage are permitted.

(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.

(11) Kennels in residential districts are restricted to properties containing a minimum of two acres. This restriction does not apply to indoor veterinary hospital kennels.

(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.

(b) Antennas must 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 must 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 must 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 must 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.

Staff Comments – Education and Religious Institutions:

Staff propose to add the language regarding the need for schools to provide a driveway for dropping off and picking up children from school currently only in Article 5, Mixed Use Village Center Zoning Districts, to this Article.

A few clarifications are also proposed regarding secondary uses associated with educational and religious institutions.

(13) Educational ~~and Religious~~ Institutions within the Climate Friendly Area (CFA) overlay districts are allowed through Site Plan Review. New educational ~~l~~ institutions outside of CFA overlay districts ~~or~~ and new religious institutions ~~outside of CFA overlay districts~~ require Conditional Use approval and include 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~~ The addition of secondary uses located within existing buildings 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.

An education or religious institution serving students through high school and having a capacity greater than 25 students must have a driveway designed for the continuous forward flow of passenger vehicles for the purpose of loading and unloading children.

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) when outside CFAs or Site Plan Review for institutions within CFAs.

(14) Public park development in CFA overlay districts is permitted through Site Plan Review. Public Park development activity outside of CFA overlay district boundaries is 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.

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

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

(b) Building setbacks are as follows: front- 25 feet, side and rear- 20 feet. No fencing is permitted in front setbacks, and a minimum ten-foot landscape buffer yard is required adjacent to all residential zones per the Buffering and Screening standards in Article 9. No barbed wire fencing is permitted in residential districts.

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

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

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

(f) Repair of autos, boats, motors and furniture, and the storage of flammable materials is prohibited on the premises and rental contracts must 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 may be conducted on the premises.

(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.

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

(a) The base of the antenna and any structures associated with the antenna must 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 must be screened from adjacent land along its full perimeter, by providing screening, as defined in ADC Section 9.250.

(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)).

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

(19) Office, restaurant, and retail sales/service uses and residential units above or attached to a business.

(a) In the HDR zone outside of a Climate Friendly Area (CFA) overlay districts, office, restaurant, and retail sales/service uses with no drive-thru facilities are permitted subject to Site Plan Review provided they are limited to the ground floor of mixed-use buildings, with residential uses on the upper floors. Within a CFA overlay district, permitted non-residential uses are not required to be in mixed-use buildings. All other office, restaurant, and retail sales/service uses must be considered through Planned Development and Cluster Development review, pursuant to Section 3.080(17).

(b) In the RM and RMA zones within a CFA overlay district, offices, restaurants, and retail sales and service uses with no drive-thru facilities are permitted subject to Site Plan review and compliance with standards in Article 14.

(c) Retail sales and service uses in the RM, RMA, and HDR zones exclude auto-oriented uses as defined in Article 22.

(d) Taverns, bars, brewpubs and nightclubs in the RM, RMA, and HDR zones are permitted in CFA districts when the hours of operation (when the business is open) do not extend past 10 p.m. unless sound attenuation is provided in the walls and ceilings shared with residential units, then hours of operation may extend to 11 p.m.

(20) One SRO development with no less than four and no more than six SRO units is permitted outright per property zoned to allow single dwelling units. SRO development is also permitted as multiple dwelling unit development through Site Plan Review, but each SRO unit is considered 0.~~5~~ 33 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 residential or commercial uses, religious assembly, is public land, 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:

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.

(d) Height and Area Bonuses. An affordable housing development proposal that meets the definition of affordable housing in (b) in this special condition and is located outside of a National Register historic district, will be granted additional height and area bonuses as applicable in Section 3.220(6)(c) in Table 3.220-3.

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

(24) Government facilities that serve customers on-site are permitted through Site Plan Review. Facilities located in one of Albany's Climate Friendly Area overlay districts are subject to standards in Article 14. Government offices are in the Office use category. Applications for emergency shelters sited under ORS 197.782 and ORS 197.783 are not a land use decision.

(25) For the purposes of this code, "Non-Property Line Separated" Townhouses constructed under the Oregon Residential Specialty Code have the same meaning.

Staff Comments: The following special conditions are needed to comply with HB 2005 regarding the siting of Residential Care or Treatment Facilities or Homes, licensed crisis stabilization centers and mental or psychiatric hospitals.

(26) Residential Care or Treatment Facilities or Homes. Facilities are permitted through Site Plan Review; however, a decision to permit a care or treatment home or facility is not a land use decision as defined in ORS 197.015 and is not subject to the jurisdiction of the Land Use

Board of Appeals. A decision under this section may only be appealed by writ of review under ORS 34.010 to 34.100.

(27) Hospitals do not include mental or psychiatric hospitals licensed under ORS 441.025.

[Ord. 5281, 3/26/97; Ord. 5338, 1/28/98; Ord. 5445, 4/12/00; Ord. 5673, 6/27/07; Ord. 5742, 7/14/10; 5757, 12/4/11; Ord. 5673, 6/27/07; Ord. 5886, 1/6/17; Ord. 5947, 1/1/21; Ord. 5949, 1/1/21; Ord. 5966 11/12/21; Ord. 5968, 1/14/22; Ord. 6010, 7/1/23; Ord. 6042, 7/12/24; Ord. 6059, 3/14/25; Ord. 6062, 5/23/25]

SPECIAL STATUS

3.085 Existing Residential Uses in the HM and R-5 Zones Granted Special Status.

Notwithstanding the restrictions or terms of any other section of the Albany Development Code (ADC), properties on the Special Status List must be deemed to be conforming to the Hackleman Monteith (HM) and Residential Single Dwelling Unit (R-5) zoning districts, as applicable. If any building on these properties is damaged or destroyed by fire or other causes beyond the control of the owner, it can be rebuilt to the same size (square feet) and density as existed on the property at the time the HM or R-5 zoning was first applied but will be subject to the regulations of any applicable overlay zone.

The Special Status List is maintained by the Community Development Department Director.

If any of the listed buildings are converted to a single dwelling unit use, the special status granted here is rescinded, and the use of the property must thereafter conform to the requirements of this article. The special status granted here will be lost if it is determined that the use that existed at the time the zone was created was not then lawfully in existence.

The intent is that each and every legally established duplex, triplex, fourplex, townhouse, and multiple-dwelling unit development that existed at the time the HM zone was applied or properties that were zoned R-5 or HM from RM-3 (now named RMA) or RM-5 (now named RM) by Ordinance 5673 on June 27, 2007, be put on the Special Status List. Should an existing use not be on the list, the property owner may request that the property and use be listed upon showing that the use was legally established prior to being rezoned HM or R-5.

The property will be added to the list administratively if the owner or the City provide documents that clearly and objectively establish that the use existed prior to adoption of City zoning in 1946; or if the City can clearly and objectively verify the use was allowed in the zoning district at the time it was established and met the minimum lot size, maximum lot coverage and other standards, as applicable. All other requests will be reviewed through the Type I-L land use process and notice will be given to property owners within 100 feet. In order to approve the request, the applicant must document when the use was established and whether the use received the relevant approvals at that time. Satisfactory evidence must be provided by the property owner or applicant to document that the use was legally established. Such evidence may consist of Sanborn Fire Insurance Maps, land use approvals or letters, building permits, utility hookups, tax records, or telephone directory listings, for example. When a request is approved, the property will be added to the list.

[Ord. 5673, 6/27/07; Ord. 5789, 10/10/12; Ord. 5886, 1/6/17; Ord. 5968, 1/14/22; Ord. 6004, 12/28/22; Ord. 6018, 6/30/23; Ord. 6059, 3/14/25]

The Special Status list moved out of the Albany Development Code per Ord. 5789, 10/10/12.

Staff Comments: Staff get very few inquiries for home businesses that are not permitted outright because they do not meet one of the standards in Section 3.120. Staff propose to reduce the land

use review process for businesses that do not qualify as those allowed outright from a Type III (public hearing required), to a Type II, staff-level decision that provides notice to neighbors within 300 feet and mails enables the option to appeal the staff decision to trigger a public hearing.

HOME BUSINESSES

3.090 Purpose. The home business provisions recognize the needs of many people who are engaged in small-scale business ventures which could not be sustained if it were necessary to lease commercial quarters, or which because of the nature of the activity would make it impractical to expand to a full-scale enterprise and that the business is incidental to the residential use. The purpose of these standards is to allow home businesses that can be compatible in scale and operating characteristics within a residential neighborhood without infringing on the right of neighboring residents to enjoy the peaceful occupancy of their homes. Home businesses do not include hobbies as defined in this Code. [Ord. 5832, 4/9/14]

3.092 Applicability. The provisions of this section apply to all home businesses except for the following:

(1) Garage, yard, or estate sales from the site that comply with Albany Municipal Code Section 8.01.055.

(2) Open houses and other events involving the sale of goods or services as long as they comply with the frequency of garage sales allowed in Albany Municipal Code Section 8.01.055.

(3) Hobbies.

(4) Registered or certified family child care homes per ORS 657A.440.

[Ord. 5832, 4/9/14]

3.094 Prohibited Uses. The following uses are prohibited as home businesses:

(1) Storage and/or distribution of toxic or flammable materials, and spray painting or spray finishing operations that involve toxic or flammable materials which in the judgment of the Fire Marshal pose a dangerous risk to the residence, its occupants, and/or surrounding properties.

(2) Junk and salvage operations.

(3) Storage and/or sale of fireworks in quantities judged by the Fire Marshal to be dangerous.

(4) Storage or display of more than one motor vehicle for sale.

[Ord. 5673, 6/27/07; Ord. 5832, 4/9/14]

3.094 (1) and (2) Repealed by Ord. 5832, 4/9/14.

3.100 Procedures.

(1) Home Business Allowed Outright. Home businesses ~~must~~will be allowed outright as a permitted accessory use to a residence provided that the business or businesses cumulatively meet all of the standards in Section 3.110 and 3.120.

(2) Home Business as a Conditional Use. Applications for a home business that cannot meet the standards in Section 3.120 will be processed as a Conditional Use Type ~~I~~II. The business must meet the standards in Section 3.110 and the Conditional Use review criteria in Article 2, Section 2.250.

[Ord. 5832, 4/9/14; Ord. 6059, 3/14/25]

New text is shown in black double underlined font and removed text is shown in ~~strikethrough~~ font. Staff comments in blue font are provided to explain the proposed amendments but are not amendments.

Staff Comment: Remove "Uniform" from Building and Fire Codes as they are no longer referred to as such.

3.110 Standards that Apply to All Home Businesses.

(1) One window or wall sign is allowed, not larger than 12 inches by 18 inches.

(2) There is no visible outside storage of materials or commodities other than plant materials.

(3) There is no display, other than the allowed sign, which would indicate from the exterior that the building is being used for any purpose other than a residential use.

(4) No customers or employees may enter the premises between the hours of 8:00 p.m. and 7:00 a.m.

(5) All required building and other permits pertaining to the proposed business must be obtained. A home business that is classified as commercial or industrial occupancies by the building codes must comply with the applicable requirements of the ~~Uniform~~ Building Code and ~~Uniform~~ Fire Code.

[Ord. 5832, 4/9/14]

3.120 Standards for Home Businesses Allowed Outright. In order to be allowed outright, a home business must meet all of the following standards. If more than one business is proposed at the same residence, then all businesses must cumulatively meet these standards.

(1) Employees. The business is carried out only by residents and not more than two outside employees or volunteers.

(2) Offsite Impacts. The business operation results in no vibration, smoke, dust, odors, heat, glare or noise more than 60 decibels noticeable at or beyond the property line sustained for more than 10 minutes between the hours of 7:00 a.m. and 6:00 p.m.

(3) Deliveries. The business will not average more than three deliveries and pickups by trucks or other commercial vehicles per day, excluding deliveries from the post office.

(4) Customer Vehicles. No more than three customer or client vehicles are permitted on the property or in the right-of-way at one time.

(5) Sales. On-site sales must be by appointment only.

(6) Size and Scale. Home businesses located in accessory buildings may not exceed 1,000 square feet including storage.

[Ord. 5832, 4/9/14; Ord. 6059, 3/24/25]

3.125 Home Businesses Requiring Conditional Use Approval. In addition to home business that cannot meet the standards to be allowed outright per Section 3.100 (2), the following uses may only be considered through a Conditional Use review and approval:

(1) Auto body repair and painting for compensation.

(2) Mechanical repair conducted outside of an entirely enclosed building.

(3) Headquarters or dispatch center where employees and/or vehicles come to the site and are dispatched to other locations.

[Ord. 5832, 4/9/14]

3.140 Initiation of Complaints. Complaints may be originated by the City of Albany or the public. Complaints from the public shall clearly state the objection to the home business based on the applicable standards in this Code.

New text is shown in black double underlined font and removed text is shown in ~~strikethrough~~ font. Staff comments in blue font are provided to explain the proposed amendments but are not amendments.

3.150 Review Procedures for Complaints. An investigation of the complaint will be performed accordingly:

(1) If the Director finds that a home business allowed outright does not meet the standards in Sections 3.110 and 3.120, the Director will:

(a) Require the business be brought into compliance with the applicable standards; or

(b) Require the business be processed as a Conditional Use; or

(c) Order the business to be terminated.

(2) If the complaint is regarding a home business approved as a Conditional Use, the Director will review the complaint against the standards in Sections 2.250 and 3.110, and any conditions of approval in the notice of decision. If the Director determines the business is in violation of applicable standards or conditions of approval, the Director will:

(a) Require the business be brought into compliance with applicable standards and the conditions of approval; or

(b) Order the business to be terminated.

[Ord. 5832, 4/9/14]

3.160 Penalties. Non-compliance with the orders of the Director, or his designee, Planning Commission, or Hearings Board, as referred to above, are an infraction punishable as per AMC Section 1.04.01. In addition, each violation of this Article shall bear an additional minimum civil penalty of $50 per violation. The procedure for adjudication for infractions shall be as set forth at AMC Section 1.05.

[Ord. 5673, 6/27/07; Ord. 5832, 4/9/14]

Staff Comments – Development Standards in Table 3.190(1):

Note (1): Minor updates to language.

Note (12): Multi-dwelling unit building separation - expand the 10-foot separation for one story buildings to buildings up to 30 feet tall. The current separation of 20- feet between multi-dwelling unit buildings would apply to buildings 30 feet or taller. Clarify that patios are allowed in these setback/separation areas.

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~~ following the table, which addresses special circumstances and exceptions. See Article 8 for design standards for single-dwelling unit, middle housing, and multiple-dwelling developments.

TABLE 3.190-1

RESIDENTIAL DISTRICT DEVELOPMENT STANDARDS								
STANDARD	**RR**	**R-10**	**R-6.5**	**HM**	**R-5**	**RM**	**RMA**	**HDR**
Minimum Property Size or Land Requirements by Unit Type								
Single dwelling unit (SDU) or Duplex over 1,250 SF (1)(18)(23)	5 acres (15)	10,000 sf	6,500 sf	5,000 sf	5,000 sf	3,500 sf	N/A	N/A

New text is shown in black double underlined font and removed text is shown in ~~strikethrough~~ font. Staff comments in blue font are provided to explain the proposed amendments but are not amendments.

RESIDENTIAL DISTRICT DEVELOPMENT STANDARDS								
Small SDU or Duplex 800 – 1,250 SF (21)(24)	5 acres (15)	6,500 sf	4,000 sf	3,000 sf	3,000 sf	2,000 sf	N/A	N/A
Small SDU or Duplex Less than 800 SF (21)(24)	5 acres (15)	5,000 sf	3,000 sf	2,500 sf	2,500 sf	1,500 sf	N/A	N/A
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 units on one property (1)	N/A	N/A	N/A	7,000 sf	N/A	3,500 sf	3,500 sf	N/A
Triplex (1)(16)(18)(20)(23)	5 acres	10,000 sf	6,500 sf	5,000 sf	5,000 sf	5,000 sf	5,000 sf	None
Fourplex (1)(16)(18)(20)(23)	5 acres	10,000 sf	7,000 sf	7,000 sf	7,000 sf	7,000 sf	7,000 sf	None
Cottage Cluster (1)(16)(17)(18)(20)	5 acres	10,000 sf	7,000 sf	7,000 sf	7,000 sf	7,000 sf	7,000 sf	None
Multiple-dwelling units (23)	N/A	N/A	N/A	N/A	N/A	None	None	None
Single Room Occupancy Development	5 acres (15)	10,000 sf	6,500 sf	5,000 sf	5,000 sf	~~500 sf/unit~~ None	~~500 sf/unit~~ None	~~500 sf/unit~~ None
Minimum Lot Widths: Townhouse All other uses (18) Small SDU or Duplex Lots	20 ft N/A N/A	20 ft 65 ft 50 ft	20 ft 50 ft 40 ft	20 ft 35 ft 30 ft	20 ft 35 ft 30 ft	20 ft 30 ft 20 ft	None None None	None None N/A
STANDARD	**RR**	**R-10**	**R-6.5**	**HM**	**R-5**	**RM**	**RMA**	**HDR**
Residential Density:								
Minimum Density (units per net acre) (20)	None	None	None	None	None	12 (20)	20 (20)	25
Maximum Density (20)	(20)	(20)	(20)	(20)	(20)	None	None	None
Setbacks :								
Minimum Front Setback (18)	15 ft	12 ft	10 ft	10 ft	10 ft	10 ft	10 ft	10 ft
Maximum Front Setback (18)	None	None	None	None	None	20 (14)	20 (14)	15 (14)
Minimum Side Setback (4)(18): • single-story • two or more stories	5 ft 8 ft	5 ft 8 ft	5 ft 8 ft	5 ft 6 ft	5 ft 6 ft	10 ft (5) 10 ft (5)(6)	10 ft (5) 10 ft (5)(6)	10 ft (5) 10 ft (5)(6)
Minimum Rear Setback (4)(18)(22)	15 ft	15 ft	12 ft	10 ft	10 ft	8 ft (6)	8 ft (6)	5 ft (6)
Minimum Building Separation	(12)	(12)	(12)	(12)	(12)	(12)	(12)	(12)
Min. Front Setback for Garage or Carport ~~Vehicle~~ Entrance ~~Front Setback~~ (7)(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)(1)	20% (11)	50%	60%	60%	60%	70%	75%	80%
Minimum Open Space	(13)	(13)	(13)	(13)	(13)	(13)	(13)	(13)

New text is shown in black double underlined font and removed text is shown in ~~strikethrough~~ font. Staff comments in blue font are provided to explain the proposed amendments but are not amendments.

RESIDENTIAL DISTRICT DEVELOPMENT STANDARDS								
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, maximum height and lot coverage ~~and area~~ requirements ~~of units~~.

(2) All yards adjacent to streets.

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

(4) The minimum side yard setbacks for small SDUs and Duplexes on reduced size lots is 3 feet for one-story dwellings and 5 feet for two or more story dwellings. For flag lots, all property lines are subject to side yard setbacks. Vision clearance standards provided in Section 12.180 must be met. Additional setbacks may be required or reduced setbacks may be permitted, see Sections 3.230-3.330 and the buffer matrix in Section 9.210. Townhouse setbacks are provided in Section 3.270. Setbacks for cottage clusters are in Section 3.192.

(5) Except for single-dwelling units, SRO developments with up to 6 units, or middle housing, which have a minimum side yard setback of 3 feet for one-story dwellings and 5 feet for two-story dwellings. See Section 3.270 for Townhouse setbacks.

(6) More than 3 stories = 10 feet plus 3 feet for each story over 3 stories. Multiple-dwelling unit (MDU) developments must also meet the setbacks in Section 3.350, except that MDUs that are detached and that are less than 25 feet tall must have a minimum side and rear setback of 3 feet for one-story dwellings and 5 feet for dwellings of two or more stories.

(7) Garage front setback for non-vehicle-entrance on the front façade that faces the street is the same as the front yard setback for the zone ~~= 15 feet, except in RR and R-10 zoning districts where the setback must be 20 feet~~.

(8) See exceptions to height restrictions~~;~~ in Section 3.340; height transitions in Section 3.350; ~~M~~maximum height for cottage clusters is in Section 3.192; and additional height allowances for development located in one of Albany's Climate Friendly Area overlay districts in Article 14.

(9) Lot coverage for single-dwelling units and middle housing development may 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. Alley-and rear-loaded development may increase the maximum lot coverage by 10%.

(10) See Table 3.230-1 for garages with alley or rear access.

(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 must be 10 feet for ~~single-story~~ buildings less than 30-feet tall and 20 feet for ~~two-story or taller~~ buildings 30 feet or taller. Minimum building separation for cottage clusters is provided in Section 3.192. Patios less than 30 inches from the ground may encroach up to 5 feet into the space between buildings.

(13) Open Space is required in multiple dwelling unit developments of 10 or more units (see Section 8.220) and residential land divisions of 20 or more lots (see Section 11.095).

(14) See Sections 8.240 and 8.420 for standards and exceptions to the maximum setback.

(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) unless bonus provisions provided in Section 3.220 are applicable.

(17) ~~See Section 5.092 for Cottage Cluster projects with six or fewer cottages.~~ When the total square ~~feet~~~~floor area~~ of each cottage is less than 800 square feet, the minimum lot size must be 1,000 square feet per cottage.

(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 apply to the middle housing parent lot, not to the middle housing child lots.

(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).

(20) Minimum density in the primary Climate Friendly Area (CFA) overlay zone is 25 units per net acre and minimum density in secondary CFA overlay zones is 15 units a net acre. Maximum density is determined by minimum lot size requirements for housing types, maximum building height, and lot coverage by zone. See Section 3.191 for maximum townhouse density.

(21) Garage size is not included of the square footage of the Dwelling Unit. The duplex size is the total for both units, excluding garage area.

(22) Cottage Cluster rear setbacks are in Section 3.192. For all other developments, when a garage or on-site parking is accessed from a rear alley or rear shared access easement, the rear yard setback applies to the habitable space in the dwelling unit(s). When attached garages or carports are accessed from the alley, the garage or carport must be setback at least 5 feet. Detached garage and carport setbacks are provided in Table 3.230-1, Accessory Structure Standards.

(23) For the purpose of this Code, Non-Property Line Separated Townhouses constructed under the Oregon Residential Specialty Code have the same meaning.

(24) Legal lots created before March 14, 2025 in all residential zones except RMA and HDR may be developed with a single dwelling unit or a duplex of any size, subject to development standards.

[Ord. 5281, 3/26/97; Ord. 5338, 1/28/98; Ord. 5445, 4/12/00; Ord. 5555, 2/7/03; Ord. 5673, 6/27/07, Ord. 5768, 12/7/11; Ord. 5832, 4/9/14; Ord. 5947, 1/1/21; Ord. 5966, 11/12/21; Ord. 5968, 1/14/22; Ord. 6004, 12/28/22; Ord. 6008, 1/27/23; Ord. 6010, 7/1/23; Ord. 6024, 12/29/23; Ord. 6042, 7/12/24; Ord. 6059, 3/14/25; Ord. 6062 5/23/25]

Staff Comments: Staff propose to reduce the number of townhouses that may be attached in the RM, RMA, and HDR districts to reduce the scale and mass of townhouse buildings and allow more end units, which have more windows.

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

(1) Maximum Density.

(a) In the RR, R-10, R-6.5, R-5, and HM districts, the maximum permitted density for a townhouse project shall be based on the total area of the townhouse project, excluding any right-of-way dedications. For the purposes of calculating density, the net area required for each townhouse unit is as follows:

- RR: 1.25 acres per townhouse unit
- R-10: 2,500 square feet per townhouse unit
- R-6.5, R-5, HM: 1,700 square feet per townhouse unit

(b) In the RM, RMA, and HDR districts, the maximum density of a townhouse project is not regulated.

(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, R-10, R-6.5, and HM districts: maximum of 4 attached units per group
- R-5 district: maximum of 6 attached units per group
- RM and RMA districts: maximum of ~~10~~ 8 attached units per group
- HDR district: ~~no~~ maximum of 10 attached units per group

[Ord. 5968, 1/14/22; Ord. 6010, 7/1/23; Ord. 6042, 7/12/24; Ord. 6059, 3/14/25]

3.192 Development Standards for Cottage Clusters. Cottage clusters must meet the standards in subsections (1) through (5) below. Cottage clusters must 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 must be separated by a minimum distance of six (6) feet. The minimum distance between all other structures, including accessory structures, must be in accordance with building code requirements.

(c) Rear Setback. The minimum rear setback for cottages is 5 feet for one-story cottages and 8 feet for two-story cottages.

(d) All other setbacks, including setbacks 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 each cottage must be less than 900 square feet. Attached garages or carports up to 200 square feet are exempt from the maximum 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; Ord. 6042, 7/12/24; Ord. 6059, 3/14/25]

3.200 Lot Size Variation Within a Land Division. Up to 50 percent of the total number of standard size single-dwelling unit or duplex lots in a land division may have lot sizes up to 30 percent smaller than the standard lot size permitted in any zone provided that the average lot size for lots in the development is at least the standard required in the zone after accounting for all density bonuses. No reduction in the minimum lot size is permitted for lots created for houses or duplexes that are 1,250 square feet or less on reduced lot sizes, or for triplexes, fourplexes, townhouses, or cottage clusters, except as provided in Section 3.220. These lots must be removed from the calculation of average lot size. In such cases, the recorded plat must indicate that the larger lots may not be further divided or deed restrictions must be established indicating the same. Lots created for houses or duplexes that are 1,250 square feet or less must be deed-restricted to the applicable maximum house size.

[Ord. 5673, 6/27/07; Ord. 5968, 1/14/22; Ord. 6004, 12/28/22; Ord. 6059, 3/14/25]

3.210 Lot Size Variation Within Planned Developments. In the R-6.5, R-5, RM, RMA, and OP districts; lot area, lot coverage, and setback requirements may be reduced for individual lot or building sites created by a filed and recorded subdivision developed in accordance with the Oregon Revised Statutes; provided the difference in square footage between the standard lot area established in this Article and the square footage of lots created is secured for common use in open space by covenants or associations to be in effect for at least 20 years. [Note: Cluster developments see Section 11.400.]

[Ord. 5673, 6/27/07; Ord. 5742, 7/14/10; Ord. 5968, 1/14/22; Ord. 6059, 3/14/25]

3.220 Area, Density, and Height Bonus Provisions. The following standards may be applied to development sites in residential and mixed-use zoning districts resulting in allowed reductions in the average minimum lot size, or increases in allowed building height or lot coverage, as indicated. In no instance may the combined total of all bonus provisions applied to a development result in an overall reduction of more than 30 percent in the standard site size, or more than 50 percent in the standard site size when housing is provided that is affordable to persons earning 50 percent or less of the area median income (AMI) per 3.220(6) and Table 3.220-2. Housing that meets the affordable housing definition and terms in Section 3.080(22)(b) is subject to the maximums provided in subsection (6)(c). Some bonuses are available for lot design only, with additional bonuses available due to building design or construction.

Relationship to Transportation.

(1) For single-dwelling unit and middle housing developments, a 10 percent reduction in the average minimum lot size required in a zoning district is allowed for proposed lots that meet the following qualifications:

(a) At least 50 percent of the lot area is located within 200 feet of a designated collector or arterial street; and

(b) The lot will not have direct access to an arterial.

For example, if the average minimum lot size for the zone is 10,000 square feet, the average lot size may be 9,000 square feet for those properties within 200 feet of the collector or arterial. The remaining lots in the development must average 10,000 square feet.

(2) For multiple-dwelling unit developments, when any portion of a building is located within 200 feet of a designated arterial, the maximum height may be increased by 10 percent or 5 feet, whichever is greater.

(3) Lots with vehicular access only from an alley or shared access easement from the rear of the lot may be up to 10 percent smaller than the minimum lot size for the zone.

Significant Natural Resource Overlays. A transfer of development density from undeveloped buildable land within the Significant Natural Resource Overlay Districts to other property within the development proposal site under the same ownership is allowed if it meets the following standards:

(3) Development Density to Transfer from Overlay Districts. The land area from which density can be transferred excludes developed and unbuildable areas, such as water bodies, areas below ordinary high-water mark, floodways, the unbuildable portions of lands within the Significant Natural Resource Overlay Districts, and easements.

- Residential Zoning – The applicant may choose to transfer up to 50 percent of the development density if the above standard is met. For example, if the base zoning would have allowed 8 single-dwelling units (net), 4 units can be transferred; if it would

have allowed 20 multiple-dwelling units (net), 10 units can be transferred.

- Open Space Zoning – If the lot was legally created prior to July 1, 1991, and the area is of sufficient size and dimension to comply with the development standards for a single-dwelling unit home, one single- dwelling unit can be transferred.

(4) Development Density in Receiving Area. Up to a maximum 20 percent reduction in average minimum lot size is allowed in order to accommodate the density transfer.

Staff Comments: Staff propose minor updates to the Solar Access Protection language to increase clarity of the existing standards.

~~Energy Conservation.~~

(5) Solar Access Protection. If buildings are sited (either by site design or defining buildable areas) and covenants or other mechanisms are established that protect solar access of south building walls from shading by structures and vegetation, ~~a density~~ energy conservation bonuses ~~of up to 10 percent in reduced lot size requirements,~~ may be allowed per~~.~~ Table 3.220-1 ~~indicates the amount of bonus that must be given, based on the percentage of lots or dwelling units that are protected~~. For subdivisions~~,~~ to receive a bonus, a covenant or other mechanism must be established that provides and protects solar access for the southerly building area of protected lots from 9:30 a.m. to 2:30 p.m. on December 21. For middle housing or multiple-dwelling unit developments to receive a bonus, protected units must receive this same solar access protection for south facing walls, and the south facing glass of those units must total at least 7 percent of the conditioned area. (South facing is defined as being within 25 degrees of true south.)

TABLE 3.220-1

ENERGY CONSERVATION BONUS STANDARDS			
Development Type	**Percentage of Lots or Units Protected**	**Area Reduction Bonus Permitted**	**Height Bonus Permitted**
Subdivision for Single-Dwelling Unit Development	80 percent or more of lots	10 percent	N/A
	At least 60 percent and up to 80 percent	5 percent	N/A
Middle Housing or Multiple-Dwelling Unit Development	80 percent or more of units	10 percent	20 percent
	At least 60 percent and up to 80 percent	5 percent	10 percent

New text is shown in black double underlined font and removed text is shown in ~~strikethrough~~ font. Staff comments in blue font are provided to explain the proposed amendments but are not amendments.

Staff Comments - Bonus provisions for affordable housing: Staff propose a few clarifying amendments related to applicability of the bonus provisions and the organization of bonus provisions in 3.220. Staff also propose to allow a reduction to the separation requirements between multiple dwelling unit buildings for affordable housing developments.

~~Moderate-Cost and Affordable Housing~~

(6) Provision of Moderate Cost and Affordable Housing. For the provision of housing that is affordable to low- and moderate-income households earning 120 percent or less of the area median income (AMI), a density bonus through reductions in lot size or increase in height is permitted for all units within the development or development phase for phased developments, as provided in Table 3.220-2.

(a) For the purpose of this section, "AMI" means the area median income for the county in which the project is located.

(b) "Affordable" in Table 3.220-2 means that the sales price or rental amount is within the means of a household that may occupy moderate- and low-income housing. In the case of dwelling units for sale, affordable means housing in which the mortgage, amortization, taxes, insurance, and condominium or association fees, if any, constitute no more than 30 percent of such gross annual household income for a household of the size that are most likely to or intended to occupy the unit in question. In the case of dwelling units for rent, affordable means housing for which the rent and utilities constitute no more than 30 percent of such gross annual household income for a household of the size that are most likely to or intended to occupy the unit in question. Projects must be subject to an affordable housing covenant as provided in ORS 456.220 to 456.295 for continued availability to low- and moderate-income persons for a period of at least 30 years.

TABLE 3.220-2

AFFORDABLE HOUSING AREA & HEIGHT BONUS STANDARDS						
Affordability Level	**Percent of units (including bonus units) set aside for persons whose household income is less than or equal to the affordability level ~~(including bonus units)~~**	**~~Lot Area~~ Reduced~~tion~~ Lot Size Allowance ~~Bonus Permitted~~***	**Height bonus in historic districts, ~~and~~ HM, MUR, LE, ES**	**Height Bonus in RM, RMA, WF, CB, DMU, HD**	**Height Bonus in HDR & MUC**	**Reduced Separation between buildings 30 feet or taller**
120% AMI	50 percent of units	5 percent	N/A	N/A	12 feet	None
100% AMI	50 percent of units	10 percent	N/A	N/A	12 feet	None
80% AMI	5 percent of units	10 percent	N/A	N/A	12 feet	18 feet
	10 percent of units	15 percent	N/A	N/A	12 feet	16 feet
	20 percent of units	25 percent	N/A	12 feet	24 feet	16 feet
60% AMI	5 percent of units	15 percent	N/A	12 feet	24 feet	15 feet
	10 percent of units	25 percent	12 feet	24 feet	36 feet	14 feet

AFFORDABLE HOUSING AREA & HEIGHT BONUS STANDARDS						
Affordability Level	**Percent of units (including bonus units) set aside for persons whose household income is less than or equal to the affordability level ~~(including bonus units)~~**	**~~Lot Area~~ Reduced~~tion~~ Lot Size Allowance ~~Bonus Permitted~~***	**Height bonus in historic districts, ~~and~~ HM, MUR, LE, ES**	**Height Bonus in RM, RMA, WF, CB, DMU, HD**	**Height Bonus in HDR & MUC**	**Reduced Separation between buildings 30 feet or taller**
	20 percent of units	35 percent	12 feet	24 feet	36 feet	12 feet

*For Single-Dwelling Units and Middle Housing Types

(c) Per ORS 197A.445, an affordable housing development subject to an affordable housing covenant as provided in ORS 456.270 to 456.295 of no less than 30 years and that meet the income standards below ~~as defined in Section 3.080(22)(b) that is~~ in a residential or mixed-use zone outside of a National Register historic district is permitted the following height and density bonuses* **in lieu of the bonuses provided in (b) of this section**.

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

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

TABLE 3.220-3: 30-Year Affordability Bonuses

Zoning District	Height Increase Allowance	Reduced Lot Size Allowance*
RR, R-10, R-6.5, R-5, HM, LE, ES, DMU, HD	Up to 12 feet	50%
RM, RMA, MUR, WF, CB, MS, PB	Up to 24 feet	25%
HDR, MUC	Up to 36 feet	20%

* For Single-Dwelling Units and Middle Housing Types

~~Alley Access.~~

~~Lots with vehicular access from an alley or shared access easement from the rear of the lot may be up to 10 percent smaller than the minimum lot size for the zone.~~

(7) Accessible and Adaptable Housing

For the provision of housing that is accessible to people with disabilities, or that can be adapted to be fully accessible, a density bonus through increase in lot coverage and heights. The terms "Accessible Unit" and "Type A Unit" are defined below.

(a) "Accessible Unit" means a dwelling unit that complies with the Oregon Structural Specialty Code and the provisions for Accessible units in ICC A117.1.

(b) "Type A Unit" (i.e., partially accessible unit) means a dwelling unit that is designed and constructed for accessibility in accordance with the Oregon Structural Specialty Code

and the provisions for Type A units in ICC A117.1.

TABLE 3.220-4

ACCESSIBLE & ADAPTABLE HOUSING BONUS STANDARDS					
Unit Type	**Percent of Units that are Accessible or Type A (including bonus units)**	**Lot Coverage Bonus (Increase) Permitted**	**Height Bonus in LE, ES, DMU, HD, HM & MUR**	**Height Bonus in RM, RMA, WF, CB, PB & MS**	**Height Bonus in HDR & MUC**
Accessible Unit	10 percent of units	10 percent	12 feet	12 feet	24 feet
	20 percent of units	20 percent	12 feet	24 feet	36 feet
Type A Unit	20 percent of units	10 percent	12 feet	12 feet	24 feet
	50 percent of units	20 percent	12 feet	24 feet	36 feet

[Ord. 5338, 1/28/98; Ord. 5445, 4/12/00; Ord. 5764, 12/1/11; Ord. 5673, 6/27/07; Ord. 5947, 1/1/21; Ord. 5966, 11/12/21; Ord. 5968, 1/14/22; Ord. 6004, 12/28/22; Ord. 6059, 3/14/25]

SETBACKS

3.230 Setback Measurements. All setbacks must meet the minimum standards set forth in Tables 3.190-1 and 3.230-1, as appropriate. Setback distances must be measured perpendicular to all portions of a property line. In addition to the setbacks in this article, all developments must comply with Section 12.180, Clear Vision Area. See also Table 3.230-1, Accessory Structure Standards.

TABLE 3.230-1

ACCESSORY STRUCTURE STANDARDS	
STRUCTURE	**STANDARD**
All Accessory Structures	Front setback, see Table 3.190-1, by zone if not noted below
Detached Structure walls less than or equal to 8 feet tall (2)	Side and rear setback = 3 feet (1)(3)
Attached Structure	Side and rear setback = 5 feet (1)
Detached Structure walls greater than 8 feet tall (2)	Side and rear setback = 5 feet
Garage or carport 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 setbacks=see Table 3.190-1
Structures, including fences, intended for housing animals	See AMC 6.10.020
Fences greater than 8 feet tall *All fences, see 9.360 through 9.380.*	Fences over 8 feet tall must meet setbacks in Table 3.190-1, by zone, except when permitted along property lines in Sections 9.370(4)(d) and 9.380(3).
Outdoor swimming pools with depths greater than or equal to 24 inches	Side and rear setback = ~~10~~ 5 feet

ACCESSORY STRUCTURE STANDARDS	
STRUCTURE	**STANDARD**
Decks less than or equal to 30 inches from grade, with no rails or covers	No setback from property lines
Decks greater than 30 inches from grade	Side and rear setback = 3 feet

(1) Zero-lot line provisions are in Sections 3.265 and 3.270.

(2) The slab or foundation of accessory structures is not included in the wall height unless it is greater than 24-inches from the ground.

(3) Accessory Structures up to 200 square feet or less that are exempt from building permit requirements under the Oregon Residential Specialty Code and not habitable may have a reduced side and rear setback of 2 feet with a roof overhang no more than 12 inches.

[Ord. 5673, 6/27/07; Ord. 5832, 4/9/14; Ord. 5947, 1/1/21; Ord. 5949, 1/1/21; Ord. 6004, 12/28/22; Ord. 6024, 12/29/23; Ord. 6059, 3/14/25; Ord. 6062, 5/23/25]

3.240 Alternative Setbacks in Developed Areas. When an addition or new construction is proposed in an area containing the same type of uses that have been developed to a previous setback standard, the Director may approve setbacks that are the same as those for the existing buildings on the site for additions, or the same as those for buildings on abutting parcels for new development. The Director shall approve an alternative setback request if the applicant demonstrates that the following criteria are met:

(1) Additions to the front of a dwelling. The front setback of the dwelling does not exceed the average of the setbacks for the same uses on the abutting properties facing the same street.

(2) Addition of a garage or carport. The front setback for a garage or carport shall meet the current setback standard and the driveway to it shall be paved.

(3) Additions to the side or rear of a dwelling. An addition to an existing structure shall not encroach any further into a setback than the existing structure and shall not exceed the height of the existing structure within that setback.

(4) New structures shall be setback no less than the setbacks for structures on abutting properties facing the same street.

(5) All other provisions of this Code and the applicable building code must be met.

[Ord. 5446, 5/10/00; Ord. 5673, 6/27/07; Ord. 5742, 7/14/10; Ord. 5947, 1/1/21; Ord. 5968, 1/14/22]

3.250 Parking Restrictions in Yard Areas. Parking must not be located in the front yard, for single dwelling unit, duplex, triplex, fourplex, cottage cluster, and townhouse residences except on a paved driveway. [Ord. 6024, 12/29/23; Ord. 6059, 3/14/25]

3.260 General Exceptions to Setback Requirements. The following intrusions may encroach into required setbacks provided that the conditions and limitations indicated are adhered to:

(1) Depressed Areas. In any district, open work fences, berms, hedges, guard railings, or other landscaping or architectural devices for safety protection around depressed areas, ramps, stairs, or retaining walls, may be located in required setbacks, provided that such devices are not more than 3-1/2 feet in height.

(2) Projecting Building Features. The following building features may encroach up to five feet into the required front setback and up to two feet into the required interior setbacks:

(a) Awnings, eaves, buttresses, architectural appendages (such as, but not limited to, bay windows, planters, cantilevered stairways, balconies).

(b) Chimneys and fireplaces provided they do not exceed eight feet in width.

(c) Porches, steps, platforms or landings, raised patios, decks or other similar structures over 30 inches in height. (Structures, patios, or concrete pads 30 inches or less in height are not subject to setback provisions).

(d) Signs conforming to applicable ordinance requirements.

[Ord. 5673, 6/27/07; Ord. 5742, 7/14/10; Ord. 5968, 1/14/22]

3.263 Exceptions to Setbacks for Accessibility Retrofits. An encroachment into the side and rear setbacks for the purpose of retrofitting an existing residential bathroom to accommodate mobility impairments is permitted if the following criteria are met:

(1) The existing bathroom does not have sufficient space for a retrofit to accommodate persons with mobility impairments; and

(2) A written medical report from a licensed physician that documents a person residing in the dwelling has a mobility impairment; and

(3) The adjustment is to expand the bathroom no more than 3 feet into side and rear setbacks; and

(4) A minimum of a 3-foot side and rear setback is retained adjacent to the expansion.

[Ord. 5832, 4/9/14; Ord. 6059, 3/14/25; Ord. 6062, 5/23/25]

3.265 Zero Lot Line. Any residential dwelling unit or residential accessory building may be located on a side property line where:

(1) There are no openings or windows in the lot line wall. Additionally, a setback and maintenance easement must be recorded on the abutting property deed or plat. The width of the easement must be six feet or the width of the required setback of the abutting property, whichever is less. If the abutting property is not subject to a side or rear setback, then no maintenance agreement is required. This easement is not revocable without City approval. OR

(2) Two or more units or garages are attached at the property line and are approved for such in accordance with other provisions of this Code and the applicable Building and Fire codes.

[Ord. 5673, 6/27/07; Ord. 5947, 1/1/21; Ord. 6059, 3/14/25]

3.270 Setbacks for Townhouses. The side setback requirements for townhouse units are zero where the units adjoin, and 3 feet for one-story townhouses, and 5 feet for two or more story townhouses on end units not abutting a street. The front and rear setbacks must conform to this Code. [Ord. 5968, 1/14/22; Ord. 6059, 3/14/25]

[3.275 Repealed by Ord. 5947, 1/01/21]

Staff Comments: Staff propose clarifying amendments to requirements for swimming pools for consistency with state building codes.

3.290 Setbacks and Fencing for Swimming Pools. Swimming pools are hereby defined as all in-ground and above-ground swimming pools, hot tubs and spas more than 24 inches deep. ~~Swimming pools must conform to the setback regulations for main buildings, except that o~~Outdoor swimming pools must be set back not less than ~~10~~5 feet from all side and rear property lines. ~~Also, a~~All swimming pools must be in an enclosed building, ~~fully~~ fenced or equipped with electric alarm systems in a manner that will prevent entry or trigger an alarm upon entry in accordance with the Oregon Residential Specialty Code. Required pool fencing must be at least

4 feet tall and be equipped with a self-locking gate that closes automatically. [Ord. 5673, 6/27/07; Ord. 6059, 3/14/25]

3.300 Setbacks for Properties Abutting Future Street Rights-of-Way. Where the adopted Comprehensive Plan and proposed future street plans include the widening or connecting of existing streets or the establishment of new streets, the placement of all buildings and the establishment of all required setbacks shall be in relation to the proposed street right-of-way boundaries. Also, no building shall be erected on a lot that abuts a proposed street right-of-way unless the lot will contain the width and depth needed to complete the street width plus the width and depth of the setbacks required on the lot. [Ord. 5673, 6/27/07; Ord. 5742, 7/14/10]

3.310 Special Willamette River Setback & Height Restrictions. Except for water-related and water-dependent uses (see definitions Article 22); all construction must be located outside the floodway line as defined for a 100-year storm. Development structure heights and setbacks south of the Willamette River shall not extend above a plane, which begins at the floodway line and extends directly south, unless the property is exempt in Section 5.207. The angle of this plane shall be as follows:

(1) For river-oriented uses, the angle shall be 30 degrees.

(2) For non-river-oriented uses, the angle shall be 15 degrees.

3.320 Special Noise Corridor Setbacks. Residential developments adjacent to the following listed streets and highways must maintain the setbacks listed from the designated right-of-way in addition to the required setbacks for the Zoning District:

Street/Highway	Setback
Interstate 5	50 feet
Pacific Boulevard (Hwy. 99E)	15 feet
Santiam Highway (Hwy. 20)	15 feet
Geary Street (Pacific to Grand Prairie)	10 feet (1)
Queen Avenue	10 feet (1)
Waverly Drive (S. of Santiam Hwy.)	10 feet (1)

In review of development proposals, the review body may require additional noise mitigating features such as berms, landscaping, fences, or walls within the above-described setback areas.

(1) The following residential developments are exempt from the special noise corridor setbacks on Geary Street, Queen Avenue, and Waverly Drive:
   (a) In a Climate Friendly Area overlay district as defined in Article 14;
   (b) Dwellings within 15 feet of the street right-of-way that are constructed to include exterior wall assembly and windows that achieve Sound Transmission Class (STC) ratings that achieve 45 decibels in all interior habitable rooms;
   (c) Dwellings in mixed-use buildings that are above a business or other non-residential uses that occupy the ground floor of the building; or
   (d) Development that includes landscape plantings meeting the following enhanced landscaping standards on the street-facing façade(s) of buildings containing residential dwellings:
      i. At least two rows of evergreen trees must be planted. Each row must have a minimum of one tree for every 20 linear feet of street frontage. Tree planting must be staggered, with a maximum spacing of 20 feet on center for trees within the same row and 15 feet on center for trees within different rows.
      ii. Trees must be at least 6 feet tall at the time of planting.

[Ord. 6068, 11/8/25]

3.330 Special Setbacks for Religious Institutions, Public and Semi-Public Buildings. Any new construction of a religious institution, or Public or Semi-Public building, as defined in Article 22, must be set back at least 25 feet from any property line adjoining or directly across public right-of-way from any residential district. Stockpiling or storage of materials or equipment is not permitted in the front or interior yard of the lot on which such building or use is located. All other setbacks of the district where the property is located continue to apply.

[Ord. 5673, 6/27/07: Ord. 6024, 12/29/23]

BUILDING HEIGHT

3.340 Height Exceptions. Height limitations are shown in Table 3.190-1, Development Standards. See also subsection 3.080(9).

(1) Roof Structures and Architectural Features. Roof structures for the housing of elevators, stairways, tanks, ventilating fans and similar equipment required to operate and maintain the building, fire walls, skylights, towers, flagpoles, chimneys, smokestacks, wireless masts, antennas, steeples, and similar structures may be erected above the height limits prescribed in this Article provided that no roof structure, feature, or any other device above the prescribed height limit may be allowed or used for the purpose of providing additional floor space.

(2) Religious Institutions and Public and Semi-Public Buildings. In districts where religious institutions and certain public and semi-public buildings require Conditional Use approval, the height restrictions may be waived as a part of the Conditional Use proceedings provided that a request for such has been noted in the public hearing notice.

[Ord. 5673, 6/27/07; Ord. 5947, 1/1/21; Ord. 5968, 1/14/22]

3.350 Transition Heights Abutting Lower Density Uses.

(1) Purpose. The standards of this section are intended to create transitions between multiple-dwelling unit developments and nearby, lower-density residential development, to reduce the impacts of the multiple-dwelling unit development on lower-density development. These impacts may include incompatible building mass and scale, reduced privacy, and loss of solar access for lower-density development.

(2) Applicability. These standards apply to multiple-dwelling unit housing in the RM, RMA, and HDR zoning districts. These standards do not apply when the abutting property is developed with a non-residential use, multi-dwelling unit or mixed-use development.

(3) Standards. When the abutting lot is zoned R-10, R-6.5, R-5, HM, or MUR, the height of multiple-dwelling unit structures in the RM district is limited to 35 feet within 20 feet from the shared property line; and in the RMA and HDR districts, height is limited to 35 feet within 30 feet from the shared property line. The height of the building is measured from the average grade to the top of the wall facing the property line or the top of the highest window or door, whichever is higher.

[Ord. 6059, 3/14/25; Ord. 6062, 5/23/25]

LANDSCAPING

3.360 Requirements. All front yards must be landscaped in accordance with Section 9.140.

[Ord. 5673, 6/27/07; Ord. 6059, 3/14/25]

New text is shown in black double underlined font and removed text is shown in ~~strikethrough~~ font. Staff comments in blue font are provided to explain the proposed amendments but are not amendments.

BUFFERING AND SCREENING

3.370 General. Buffering and screening may be required to offset the impact of development. See Sections 9.210 through 9.270. [Ord. 5445, 4/12/00; Ord. 5673, 6/27/07; Ord. 5947, 1/1/21]

OUTSIDE STORAGE

3.380 General. ~~In any district, o~~Outside storage or display of materials, junk, parts, or merchandise shall not be permitted in the front yard between the dwelling and the street or 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, must be screened from view by placement of a sight-obscuring fence, wall or hedge at least 6 feet in height. All refuse materials must 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 may be placed within 15 feet of a dwelling window or between multiple dwelling unit buildings and single-dwelling units.

[Ord. 5673, 6/27/07; Ord. 5968, 1/14/22; Ord. 6042, 7/12/24; Ord. 6059, 3/14/25]

New text is shown in black double underlined font and removed text is shown in ~~strikethrough~~ font. Staff comments in blue font are provided to explain the proposed amendments but are not amendments.

Staff Comments: Changes are needed in this Article to comply with legislation that passed in 2025 and 2026 that is in effect or goes into effect July 1, 2026. References to the newer Article 14, Climate Friendly Area Overlay Districts are being added where needed. Staff also propose to remove the Transit District (TD), which was created when the city developed the Central Albany Land Use and Transportation Plan (CALUTs), but the zone was never applied within the city.

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, and mixed-use developments. 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. Development may 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, Natural Resource Districts~~;~~ ~~and~~ Article 7, Historic Overlay Districts~~;~~ and Article 14, Climate Friendly Area Overlay District.

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

[Ord. 5555, 2/7/03; Ord. 6042, 7/12/24; Ord. 6062, 5/23/25]

ZONING DISTRICTS

4.020 Establishment of Commercial and Industrial Zoning Districts. 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 established:

(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 space should be developed within this district.~~

~~(6)~~(5) 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 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 providing a buffer between other industrial areas and nearby residential or commercial uses.

(6~~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.

(7~~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.

New text is shown in black double underlined font and removed text is shown in ~~strikethrough~~ font. Staff comments in blue font are provided to explain the proposed amendments but are not amendments.

[Ord. 5555, 2/7/03; [Ord. 6010, 7/1/23; Ord. 6062, 5/23/25]

4.030 Special Purpose Districts. Special purpose districts are overlay districts that may be combined with a major zoning district. The regulations of a special purpose district are supplementary to the regulations of the underlying major zoning district. The regulations of a special purpose district and the major zoning district both apply to any site that has both designations. Where the regulations and permitted uses of a major zoning district conflict with those of a special purpose district, the more restrictive standards apply. The special purpose districts and the additional regulations that apply in such districts are summarized below:

Special Purpose District	Applicable Articles
Floodplain	Article 6
Wetlands	Article 6
Willamette Greenway	Article 6
Airport Approach	Article 4
Hillside Development	Article 6
Historic Overlay	Article 7
Climate Friendly Areas Overlay	Article 14

[Ord. 5555, 2/7/03; Ord. 6024, 12/29/23; Ord. 6062, 5/23/25]

4.035 Relationship to State, Federal and Other Local Regulations. In addition to the regulations of this Code, each use, activity, or operation in the City of Albany must comply with applicable state and federal standards. Other local regulations include those in Articles 4, 6, and 7 Special Purpose Districts, and those of the Building Division and Fire Department.

[Ord. 5555, 2/7/03; Ord. 6024, 12/29/23]

Staff Comments –The following changes to the Schedule of Permitted Uses are needed to comply with 1) HB 2005 regarding the siting of Residential Care or Treatment Facilities or Homes, licensed crisis stabilization centers and mental or psychiatric hospitals without requiring a conditional use permit; and 2) HB 3560 to allow child care centers in commercial and industrial zones.

SCHEDULE OF PERMITTED USES

4.040 Interpretation. Each use category in the schedule of permitted uses is described in Article 22, Use Categories and Definitions. Article 22 classifies land uses and activities into categories based on common functional, product, or physical characteristics. Characteristics include the type and amount of activity, the type of customers or residents, how goods and services are sold or delivered, and certain site factors. In addition to the clarification in Article 22, the following provisions must be used to interpret the schedule of permitted uses found in this Article:

(1) The schedule of permitted uses cannot anticipate all uses that may be located within the city. There are situations where proposed uses may relate to more than one type of use. In both instances, the Director will determine the appropriate use category based on operating characteristics and land use impacts. Where ambiguity exists concerning the appropriate classification of a particular use, the use may be reviewed as a Conditional Use where the Director determines that the proposed use is consistent with other uses allowable within the subject district due to similar characteristics.

(2) Where a development proposal involves a combination of uses other than accessory uses, the more restrictive provisions of this Code apply. For example, if a portion of a development is subject to Conditional Use approval and the balance is subject only to Site

Plan Review, the entire development must be reviewed utilizing the Conditional Use criteria if concurrent approval of all uses is sought.

(3) A change in the use of a property is subject to review as specified by the schedules of permitted uses:

(a) When the change involves a change from one use category to another in the schedule of permitted uses and the Director has not waived review under the provisions of Section 1.105, OR

(b) When a property that has been unoccupied for more than one year and is non-conforming under the provisions of Article 2 is proposed to be occupied.

[Ord. 5555, 2/7/03; Ord. 5947, 1/1/21, Ord. 6059, 3/14/25; Ord. 6062, 5/23/25]

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:

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.

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.

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

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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**
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 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 with drive-thru or mostly deli31very	25	S 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										
Basic Utilities		CU	CU	CU	CU	~~CU~~	CU	S	S	S
Community Services	15	S/CU-15	S/CU-15	S	S	~~S~~	S/CU-15	S/CU-15	S	N
Crisis Stabilization Centers	31	S-31	S-31	S-31	S-31		S-31	S-31	S-31	S-31
Daycare Facility or Child Care Center		~~CU/S-30~~	~~CU/S-30~~	S	~~N/S-30~~	~~N~~	S	S	~~CU~~S	N
Educational Institutions	16	N/S-30	N/S-30	CU/S-30	N/S-30	~~CU~~	S/CU	S/CU	S/CU	N
Hospitals		CU	N	N/S-32	N/S-32	~~N~~	CU/S-32	CU/S-32	CU/S-32	N/S-32
Jails and Detention Facilities		N	N	N	N	~~N~~	N	N	CU	N
Parks, Open Areas and Cemeteries	17	CU/S-30	CU/S-30	CU/S-30	N/S-30	~~CU~~	CU	CU	CU	N
Religious Institutions	16	CU	CU	S	N	~~N~~	CU	CU	CU	N
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	33	S	S	S	~~N~~S	~~N~~	~~N~~S-33	~~N~~S-33	~~N~~S-33	N
Single Dwelling Unit (SDU)	20, 27, 29	Y-19	S-19	N	N	~~N~~	N	N	N	N
Middle Housing	20, 28, 30	CU-19	S-19/N	N	N	~~N~~	N	N	N	N
Multiple-Dwelling Unit	27, 28, 30	CU / S-28, 29	N / S-28, 29	N /S-28, 29	N/ S-28, 29, 30	~~N~~	N/ S-28	N/ S-28	N/ S-28	N
Units Above or Attached to a Business	27, 28	~~S, 29~~	~~S, 29~~	~~S, 29~~	CU/ S-29, 30	~~S~~	S	S	S	N

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

[Ord. 5555, 2/7/03; Ord. 5728, 1/27/10; Ord. 5742, 7/14/10, Ord. 5767, 12/7/11; Ord. 5832, 4/9/14, Ord. 5886, 1/6/17; Ord. 5947, 1/1/21; Ord. 5949, 1/1/21; Ord. 5968, 1/14/22; Ord. 6010, 7/1/23; Ord. 6024, 12/29/23; Ord. 6042, 7/12/24; Ord. 6059, 3/14/25; Ord. 6062, 5/23/25]

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 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~~ Prohibited Uses. Salvage or wrecking operations and yards ~~are~~ 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: s~~Salvage or wrecking operations and yards~~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.

(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 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.

(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.

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

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

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

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

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

(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.

(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.

(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.

(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.

(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.

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

(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 must acknowledge that industrial uses have a right to operate free from the new use complaining about externalities typical of industrial uses.

(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 must 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 must 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, 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.

Staff Comments – Educational and Religious Institutions:

- Clarifying the land use process by zone for educational and religious institutions.
- Adding requirement for schools to provide a driveway for dropping off and picking up students

from school currently only in Article 5, Mixed Use Village Center Zoning Districts.

(16) Educational and Religious Institutions.

(a) Vocational or trade schools in EMP, IP, LI and HI are allowed through Site Plan Review. Educational and religious institutions in Climate Friendly Areas (CFAs) are permitted through Site Plan Review. ~~All other e~~Educational and religious institutions outside of CFAs are reviewed as a Conditional Use.

(b) The Conditional Use or Site Plan Review approval for educational 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 childcare activities; fund raising 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 noise is audible or light visible between 10:30 p.m. and 8:00 a.m.

An educational institution having a capacity greater than 25 students must have a driveway designed for the continuous forward flow of passenger vehicles for the purpose of loading and unloading children.

Any expansion to an existing educational or religious institution must be reviewed through the Conditional Use Type II process. Expansion of a school or church includes addition of building area, increase in parking lot coverage, or expansion of athletic facilities.

Note: There are special setbacks for educational institutions in 4.210 and loading standards in 9.060(2).

(17) Park Development. Park activity subject to Conditional Use review includes major development; expansions of activities and development in parks that 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 in existing improved parks.

(18) Non-Residential Accessory Buildings over ~~750~~ 900 square feet in the OP zone and over 2,000 square feet in all other zones except HI require Site Plan Review.

(19) Single-Dwelling Units and Middle Housing.

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

(b) In the NC zone, single-dwelling units, ~~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 unit, called the “primary dwelling unit”. The ADU must comply with the standards for ADUs in ADC 5.070(15).

(20) Single-Dwelling Units and Middle Housing.

(a) Townhouses are not permitted unless allowed in the zoning district, as a nonconforming use per Section 4.075, or on property located within a Climate Friendly Area overlay district subject to minimum density requirements and standards in

Article 14.

(b) New single-dwelling units are not permitted unless allowed in the zoning district or per Section 4.075.

(c) Cottage Cluster projects must comply with the standards in sections 5.092 and 8.175.

(21) Residential Accessory Buildings, 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 12 feet tall.

(b) All other residential accessory buildings require a Site Plan Review.

(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.

(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.

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:

(a) Antennas or antenna supports. Satellite dishes and monopoles must not 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 ten feet of a residential lot line or visible from a public street must be screened with a six-foot solid screen fence, wall, hedge, or other landscaping.

(c) Antennas used to display sign messages must 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 by Conditional Use review, Type II process.

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

(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.

(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.

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

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

(27) One SRO development with no less than four and no more than six SRO units is permitted

outright per property zoned to allow single dwelling units. Additionally, SRO development is 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) Affordable Housing. Affordable housing ~~and conversion of buildings or portion of buildings in commercial use to housing~~as defined in this section will be permitted through Site Plan Review when the following standards are met.

(a) ~~Affordable housing as defined in (b) is permitted on~~The property is 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) A building or portion of a building in commercial use may be converted to a residential use in the OP, NC, CC and RC zones.

(d) Affordable housing as defined and used in this Section is 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
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 and Moderate- Income 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) In 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.

(30) Uses Permitted in Climate Friendly Area Overlay Districts. These uses are permitted through Site Plan Review on property located within one of Albany's Climate Friendly Area overlay districts in conformance with Article 14.

Staff Comments: The following new special conditions are needed to comply with HB 2005 regarding the siting of Residential Care or Treatment Facilities or Homes, licensed crisis stabilization centers and mental or psychiatric hospitals without requiring a conditional use permit.

(31) A Crisis Stabilization Center as defined in ORS 430.626 and licensed under ORS 430.627 is permitted only on property that is owned by a public body, as defined in ORS 174.109, but excluding park land and the property is adjacent to where a mental or psychiatric hospital licensed under ORS 441.025 is or will be located as established by a pending development application. A decision made to permit a crisis stabilization center is not a land use decision as defined in ORS 197.015. A decision issued for these uses may only be appealed by writ of review under ORS 34.010 to 34.100.

(32) Mental or Psychiatric Hospitals are permitted through Site Plan Review in these zones and on public lands excluding park land when adjacent to where a crisis stabilization center as defined in ORS 430.626 and licensed under ORS 430.627 is or will be located as established by a pending development application. A decision made to allow a mental or psychiatric hospital is not a land use decision as defined in ORS 197.015 and is not subject to the jurisdiction of the Land Use Board of Appeals. A decision under this section may only be appealed by writ of review under ORS 34.010 to 34.100.

(33) Residential Care or Treatment Homes and Facilities are permitted on land zone for

commercial and employment uses, including public lands but excluding park land, and in industrial zones when the property is publicly owned or owned by a public benefit corporation as defined in ORS 65.001 and within 250 feet of lands zoned for residential use. Homes are permitted outright but only in zones that allow single dwelling units. Facilities are permitted through Site Plan Review; however, a decision made under this section is not a land use decision as defined in ORS 197.015 and is not subject to the jurisdiction of the Land Use Board of Appeals. A decision under this section may only be appealed by writ of review under ORS 34.010 to 34.100.

[Ord. 5445, 4/12/00; Ord. 5555, 2/7/03; Ord. 5728, 1/27/10; Ord. 5742, 7/14/10; Ord. 5767, 12/7/11; Ord. 5832, 4/9/14; Ord. 5886, 1/6/17; Ord. 5923, 2/8/19; Ord. 5947, 1/1/21; Ord. 5949, 1/1/21; Ord. 5968, 1/14/22; Ord. 6010, 7/1/23; Ord. 6018, 6/30/23; Ord. 6042, 7/12/24; Ord. 6059, 3/14/25; Ord. 6062, 5/23/25]

SPECIAL STATUS FOR SINGLE DWELLING RESIDENCES

4.075 Existing Uses Granted Special Status (Allowed) in the Commercial and Industrial Districts. Notwithstanding the restrictions of any other section of the Albany Development Code (ADC), all legally established single dwelling unit, and townhouse dwellings built before January 1, 2002, on commercial or industrially zoned properties must be deemed conforming to the base zoning district. If any building on these properties is damaged or destroyed by fire or other causes beyond the control of the owner, it may be rebuilt to the same size (in square feet) as existed when it was destroyed, subject to the regulations of any applicable overlay district. If an existing single-dwelling unit or townhouse residence is converted to a permitted use in the base zoning district, the special status granted here is rescinded, and the use of the property must thereafter conform to the requirements of Article 4.

[Ord. 5789, 10/10/12; Ord. 5555, 2/7/03; Ord. 5947, 1/1/21; Ord. 5968, 1/14/22; Ord. 6059, 3/14/25; Ord. 6062, 5/23/25]

DEVELOPMENT STANDARDS

4.090 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, and improve the general living environment and economic life of a development. Table 4.090-1, on the following page, summarizes the basic development standards. It should be used in conjunction with the sections immediately succeeding the table, which addresses special circumstances and exceptions. See Article 8 for design standards for single-dwelling, middle housing, and multiple-dwelling developments.

TABLE 4.090-1
COMMERCIAL AND INDUSTRIAL DISTRICT DEVELOPMENT STANDARDS

New text is shown in black double underlined font and removed text is shown in ~~strikethrough~~ font. Staff comments in blue font are provided to explain the proposed amendments but are not amendments.

STANDARD	OP	NC	CC	RC	~~TD~~	EMP	IP	LI	HI
MINIMUMS									
Lot size (sq. ft.)(1)	None	None(2)	None	None	~~None~~	None	3 acres(4)	None	None
Lot width	None	None	None	None	~~None~~	None	None	None	None
Lot depth	None	None	None	None	~~None~~	None	None	None	None
Front setback	5'	5'	10'	10'	~~10'~~	15'(11)	15'(11)	15'(11)	15'
Side and rear setbacks -abutting non-res'l	5'	None	None	None	~~None~~	15'(6)	15'(6)	None	None
Side and rear setbacks - abutting residential zones	10'(5)	10'(5)	10'(5)	10' (5)(6)	~~10' (5)(6)~~	30'(11)	30'(11)	40'(11)	50'
MAXIMUMS									
Building Footprint	None(10)	None(10)	100,000	None	~~None~~	None	None(10)	None	None
Lot size (sq. ft.)	None	50,000(2)	None	None	~~None~~	None	None	None	None
Height (8)	30'(8)	30'	50'(8)	None	~~None~~	50'(12)	50'(12)	None	None
Lot Coverage (7)	70%	80%	90%	90%	~~None~~	80%	80%	None	None
Landscaped Area (3)	100%	100%	100%	100%	~~100%~~	100%	100%	100%	100%
Open Space	(9)	(9)	(9)	N/A	~~N/A~~	N/A	N/A	N/A	N/A

N/A means not applicable.

(1) The minimum lot size for residential units is 1,600 sq. ft. per unit. No minimum lot size is required for non-residential development.

(2) New NC zones may be no more than 50,000 sq. ft. of contiguous land.

(3) All yards adjacent to streets. Approved vegetated post-construction stormwater quality facilities are allowed in landscaped areas.

(4) The minimum lot size for supporting commercial uses may be smaller than 3 acres.

(5) Structures on property abutting the R-5, R-6.5, R-10, RR, HM, and MUR districts require 1 foot of setback for each foot of finished wall height with a minimum setback of 10 feet and a maximum setback of 25 feet. Garages or vehicle parking accessed from the rear by an alley or shared access easement only need to be setback 5 feet from the rear property line.

(6) No setbacks are required for buildings abutting railroad rights-of-way.

(7) Lot coverage for single dwelling units and middle housing development only includes the area of the lot covered by buildings or structures. Lot coverage may be increased by up to 10 percent for residential or mixed-use development in the OP and NC zones that have no garages or driveways, or all garages or parking areas are accessed from the rear by an alley or shared access easement.

(8) Heights may be reduced in the Airport Approach Overlay District; see Sections 4.400 to 4.440. Heights may be exceeded for developments located in a Climate Friendly Area overlay district. See Article 14.

(9) Ten or more multiple-dwelling units require common open space. See Section 8.220.

(10) The maximum business footprint for supporting commercial uses allowed in IP is 5,000 square feet. The maximum business footprint for convenience-oriented and personal service-oriented retail uses in NC and OP is 5,000 square feet. Convenience-oriented and personal service-oriented retail uses in buildings constructed prior to February 7, 2003, in the NC and OP districts are exempt from the maximum business footprint.

(11) When adjacent to or across the street from residentially zoned land, the setback must be 1 foot for each foot of building height over 30 ft. Buildings may increase in height ("step" up) as the setback increases. For example, at the minimum setback in LI, a building may be 30 feet tall but may increase

in height up to 50 feet when set back 50 feet from the property line.

(12) ~~Higher~~ Taller structures permitted by Conditional Use approval.

[Ord. 5445, 4/12/00; Ord. 5555, 2/7/03; Ord. 5556, 2/21/03; Ord. 5742, 7/14/10; Ord. 5768, 12/7/11; Ord. 5842, 1/1/15; Ord. 5923, 2/8/19; Ord. 5947, 1/1/21; Ord. 5968, 1/14/22; Ord. 6010, 7/1/23; Ord. 6059, 3/14/25; Ord. 6062, 5/23/25]

SETBACKS

4.100 Minimum Standards. All setbacks must meet the minimum standards in Table 4.090-1, Development Standards. In addition to the setbacks in this Article, all development must comply with Section 12.180, Clear Vision Area. For residential accessory structures, see Article 3, Table 3.230-1, Accessory Structure Standards.
[Ord. 5555, 2/7/03; Ord. 5742, 7/14/10; Ord. 5947, 1/1/21; Ord. 6004, 12/28/22; Ord. 6062, 5/23/25]

4.110 Measurements. Setback distances must be measured perpendicular to all portions of a property line. [Ord. 5555, 2/7/03]

4.130 Setback Alternative in Developed Areas. When an addition or new development is proposed in an area containing the same types of uses that were developed to a previous setback standard, the Director or review body may approve setbacks that are the same as those for the existing buildings on the site for additions, or the same as those for buildings on abutting parcels for new development. In such instances, the Type I procedure will be used to process requests, and approval will be based upon the following criteria:

(1) The area between buildings is sufficient for adequate property maintenance and rear yard access.

(2) If there are primary structures on both abutting lots with front setbacks less than the required setback, the proposed front setback for a structure is not less than the average of the abutting structures.

(3) If only one abutting property contains a primary structure, the proposed front setback is no less than the setback of the abutting structure on that property.

(4) A driveway extending at least 20 feet from the street right-of-way must precede on-site parking spaces or parking structures.

(5) For detached dwellings, no wall of a dwelling unit may be closer than 10 feet to a window of another dwelling unit.

(6) All other provisions of this Code must be met.

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

4.140 General Exceptions to Setback Requirements. The following may project into required setbacks, provided that they conform to the conditions and limitations indicated:

(1) Depressed Areas. In any zoning district, open-work fences, berms, hedges, guard railings, or other landscaping or architectural devices for safety protection around depressed areas, ramps, stairs, or retaining walls may be in required setbacks, provided that the devices are not more than 3-1/2 feet tall.

(2) Projecting Building Features. The following may project into the required front setback up to 5 feet and into the required side and rear setbacks up to 2 feet:

(a) Awnings, eaves, buttresses, architectural appendages (such as, but not limited to,

bay windows, planters, cantilevered stairways).

(b) Chimneys and fireplaces provided they do not exceed 8 feet in width.

(c) Porches, steps, platforms or landings, raised patios or decks (applies only to structures above 30 inches in height: structures 30 inches or less are not subject to setback provisions).

(d) Projecting signs must conform to applicable ordinance requirements. See Article 13, Sign Code.

[Ord. 5555, 2/7/03; Ord. 5742, 7/14/10; Ord. 6059, 3/14/25]

4.150 Zero Lot Line. Any residential dwelling or residential accessory building may be located on the side or rear property line when:

(1) There are no openings or windows in the wall abutting the property line. Additionally, a setback and maintenance easement must be recorded on the abutting property deed or plat. The width of the easement must be six feet or the width of the required setback of the abutting property, whichever is less. If the abutting property is not subject to a side or rear setback, then no maintenance agreement is required. This easement must be written so it is not revocable without City approval. OR

(1) Two or more dwelling units are attached at the property line and are approved for such in accordance with other provisions of this Code.

[Ord. 5555, 2/7/03; Ord. 5742, 7/14/10; Ord. 5947, 1/1/21; Ord. 6059, 3/14/25]

4.160 Side and Rear Setbacks for Townhouses. The side and rear setback requirement for townhouses is zero where the units adjoin; however, all other setbacks must conform to the requirements of this Code. The setback requirements for residential uses do not apply to a dwelling legally located above a commercial use.

[Ord. 5445, 4/12/00; Ord. 5968, 1/14/22; Ord. 6059, 3/14/25; Ord. 6062, 5/23/25]

Staff Comments: Changes are proposed to standards related to swimming pools for consistency with state building codes.

4.170 Setbacks and Fencing for Swimming Pools. Swimming pools are defined as all in-ground and above-ground swimming pools, hot tubs and spas more than 24 inches deep must conform to the setback regulations for main buildings, except that outdoor swimming pools must be set back at least ~~10~~5 feet from all side and rear property lines. All swimming pools must be fenced or equipped with electric alarm systems that prevent entry or alarm upon entry in compliance with the applicable building code. Required pool fencing must be at least four feet tall and have a self-locking gate that closes automatically.

[Ord. 6059, 3/14/25; Ord. 6062, 5/23/25]

4.180 Setbacks for Properties Abutting Future Street Rights-of-Way. Where the adopted Comprehensive Plan and future street plans include widening or connecting existing streets, or establishing new streets, the placement of all buildings and the establishment of all required setbacks must be in relation to the proposed street right-of-way boundaries. No building may be erected on a lot that abuts a proposed street right-of-way unless the lot will have the width and depth needed to complete the street width plus the width and depth of the setbacks required on the lot. [Ord. 5742, 7/14/10; Ord. 6062, 5/23/25]

New text is shown in black double underlined font and removed text is shown in ~~strikethrough~~ font. Staff comments in blue font are provided to explain the proposed amendments but are not amendments.

4.200 Special Noise Corridor Setbacks. Residential developments adjacent to the following listed streets and highways must maintain the setbacks listed from the designated right-of-way in addition to the required setbacks for the zoning district:

Street/Highway	Setback
Interstate 5	50 feet
Pacific Boulevard (Hwy. 99E)	15 feet
Santiam Highway (Hwy. 20)	15 feet
Geary Street (Pacific to Grand Prairie)	10 feet (1)
Queen Avenue	10 feet (1)
Waverly Drive (S. of Santiam Hwy.)	10 feet (1)

In review of development proposals, the review body may require additional noise mitigating features such as berms, landscaping, fences, or walls within the above-described setback areas.

(1) The following residential developments are exempt from the special noise corridor setbacks on Geary Street, Queen Avenue, and Waverly Drive:
   (a) In a Climate Friendly Area overlay district as defined in Article 14;
   (b) Dwellings within 15 feet of the street right-of-way that are constructed to include exterior wall assembly and windows that achieve Sound Transmission Class (STC) ratings that achieve 45 decibels in all interior habitable rooms;
   (c) Dwellings in mixed-use buildings that are above a business or other non-residential uses that occupy the ground floor of the building; or
   (d) Development that includes landscape plantings meeting the following enhanced landscaping standards on the street-facing façade(s) of buildings containing residential dwellings:
      i. At least two rows of evergreen trees must be planted. Each row must have a minimum of one tree for every 20 linear feet of street frontage. Tree planting must be staggered, with a maximum spacing of 20 feet on center for trees within the same row and 15 feet on center for trees within different rows.
      ii. Trees must be at least 6 feet tall at the time of planting.

[Ord. 6068, 11/8/25]

4.210 Special Setbacks for Religious Institutions, Public and Semi-Public Buildings. Any new construction of a Religious Institution or Public or Semi-Public building, as defined in Article 22, must be set back at least 25 feet from any property line adjoining or directly across public right-of-way from any residential district. Stockpiling or storing materials or equipment is not permitted in the required front, side, or rear setbacks. All other setbacks of the district where the property is located apply.

[Ord. 5555, 2/7/03; Ord. 6024, 12/29/23; Ord. 6059, 3/14/25]

4.220 Parking Restrictions in Setback Areas. Parking and loading spaces must not be in a required setback, except:

(1) Paved driveways provided for a single-dwelling unit, duplex, triplex, fourplex, cottage cluster, and townhouse residences.

[Ord. 5555, 2/7/03; Ord. 5742, 7/14/10; Ord. 5947, 1/1/21; Ord. 5968, 1/14/22; Ord. 6004, 12/28/22; Ord. 6018, 6/30/23; Ord. 6059, 3/14/25]

HEIGHT

4.230 Height Standards. See Table 4.090-1 for height restrictions.

[Ord. 5555, 2/7/03; Ord. 5947, 1/1/21]

4.240 Height Exceptions.

(1) Roof structures for the housing of elevators, stairways, tanks, ventilating fans and similar equipment required to operate and maintain the building, fire walls, skylights, towers, flagpoles, chimneys, smokestacks, wireless masts, antennas, steeples, and similar structures may be erected above the height limits prescribed in this article, provided that no roof structure, feature, or any other device above the prescribed height limit may be allowed or used for the purpose of providing additional floor space.

(2) Religious Institutions and Public and Semi-Public Buildings. In zoning districts where churches and certain public and semi-public buildings require Conditional Use approval, the height restrictions may be waived as a part of the Conditional Use proceedings, provided that a request for such has been noted in the public hearing notice.

[Ord. 5555, 2/7/03]

LANDSCAPING

4.270 General. Developments must comply with the site landscaping standards in Article 9 before occupancy or in accordance with Section 9.140. [Ord. 5742, 7/14/10]

BUFFERING AND SCREENING

4.280 General. Buffering and screening may be required in addition to the minimum landscaping to offset the impact of development. See Sections 9.210 through 9.270.

[Ord. 5445, 4/12/00, Ord. 5555, 2/7/03; Ord. 5742, 7/14/10; Ord. 5947, 1/1/21]

Staff Comments – Outside Storage: The proposed changes clarify existing standards.

OUTSIDE STORAGE

4.290 General.

(1) In the NC~~,~~ and OP, ~~TD,~~ EMP, and IP zoning districts, outside storage or display of materials, junk, parts, fleet vehicles, or merchandise is not permitted, except for automobile and plant sales (where allowed).

(2) In the CC zone, outside storage or display of materials, parts, merchandise and fleet vehicles is only allowed in the side and rear yards outside of all required setbacks and buffer areas if screened from the public rights-of-way with a sight-obscuring fence, wall, hedge, or berm, which must be constructed of non-combustible material. The display of goods in the front yard(s) is not permitted, except for ~~This provision excludes~~ automobile and plant sales. ~~Display of goods is not permitted.~~

(3) In the RC zone:

(a) Exterior display of goods is permitted except in the required front setback or buffer yard. Display is limited to a sample of goods offered for sale by the establishment. Display areas may not be used for storage. Display areas may not expand beyond 25 percent of the primary street frontage and must be designated on the site plan. Display areas adjacent to residential districts or uses must be set back at least 10 feet and must be screened from view with a sight-obscuring fence, wall, hedge, or berm, which must be constructed of non-combustible material.

(b) Exterior storage is permitted in side and rear yards, except in required buffer yards and setbacks. Storage areas adjacent to residential districts or uses must be screened from view with a sight-obscuring fence, wall, hedge, or berm, which must be constructed of non-combustible material. This enclosure must be located on the property at the required setback line as if the berm, fence, wall, or hedge were a building.

(4) In the LI and HI zones, outside storage is permitted in side and rear yards outside of the required setback. Outside storage is allowed in front yards outside the front setback provided that it is enclosed with a sight-obscuring fence, wall, hedge, or berm, which must be constructed of non-combustible material. This enclosure must be located on the property at the required setback line as if the berm, fence, wall, or hedge was a building.

(5) Where outside storage is permitted.

(a) Materials and equipment stored as permitted in this subsection may be no more than 14 feet above the elevation of the storage area.

(b) Outside storage over six feet tall must be screened in accordance with 9.250.

~~(b)~~(c) Outside storage on gravel areas must be treated for stormwater detention and provide perimeter curbing. Perimeter curbing must be secured to the ground.

[Ord. 5555, 2/7/03; Ord. 5742, 7/14/10; Ord. 5886, 1/6/17; Ord. 6010, 7/1/23; Ord. 6059, 3/14/25]

4.300 Screening of Refuse Containers. The following standards apply to all development, 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. All refuse materials must be contained within the screened area. All refuse containers and disposal areas must be covered. The cover must be at least 8 feet tall. Refuse disposal areas may not be located in required setbacks or buffer yards, be placed at least 15 feet from any dwelling window, or between multiple dwelling unit buildings and single dwelling units.

[Ord. 5968, 1/14/22; Ord. 6059, 3/14/25]

[4.310 to 4.320 Fence standards moved to Article 9, Ord. 5751, 3/9/11.]

*****No changes are proposed to the Airport Approach standards in Sections 4.400 through 4.440 so these sections are not provided.*****

New text is shown in black double underlined font and removed text is shown in ~~strikethrough~~ font. Staff comments in blue font are provided to explain the proposed amendments but are not amendments.

Staff Comments: Changes are needed in this Article to comply with legislation (HB 2005 and HB 3560) that passed in 2025 and 2026 that is in effect or goes into effect July 1, 2026. References to the newer Article 14, Climate Friendly Area Overlay Districts are being added where needed.

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), and Albany's Climate Friendly Areas (2025). 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; Ord. 6062, 5/23/25]

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.

Development may 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, and Article 14, Climate Friendly Area 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; Ord. 5894, 10/14/17; Ord. 6062, 5/23/25]

ZONING DISTRICTS

5.030 Establishment of Mixed-Use Zoning Districts. 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.

(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.

(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.

(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.

(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.

(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.

(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.

(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.

(10) MUC – MIXED-USE COMMERCIAL DISTRICT. The MUC zoning district is intended primarily to provide a mix of ~~convenience~~ commercial ~~,~~and personal services to residents and businesses in the area~~, offices~~ and medium to high-density residential uses are permitted. ~~The~~ Each 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; Ord. 5635, 1/11/06; Ord. 5673, 6/27/07; Ord.

5832, 4/9/14; Ord. 5894, 10/14/17; Ord. 6018, 6/30/23; Ord. 6062, 5/23/25]

5.040 Establishment of Special-Purpose Districts. Special-purpose districts are overlay districts that may be combined with a major zoning district. The regulations of a special-purpose district are supplementary to the regulations of the underlying major zoning district. The regulations of a special-purpose district and the major zoning district both apply to any site that has both designations. Where the regulations and permitted uses of a major zoning district conflict with those of a special purpose district, the more restrictive standards apply. The special purpose districts and the additional regulations that apply in such districts are summarized below:

Special Purpose District	Applicable Articles
Airport Approach	Article 4
Floodplain	Article 6
Wetlands	Article 6
Willamette Greenway	Article 6
Hillside Development	Article 6
Historic Overlay	Article 7
Climate Friendly Area Overlay Districts	Article 14

[Ord. 5555, 2/7/03; Ord. 6059, 3/14/25; Ord. 6062, 5/23/25]

5.045 Relationship to State, Federal and Other Local Regulations. In addition to the regulations of this Code, each use, activity, or operation in the City of Albany must comply with applicable state and federal standards. Other local regulations including those in Article 6 – Natural Resource Districts and Article 7 – Historic Overlay District, and those of the Building Division and Fire Department.

[Ord. 5555, 2/7/03; Ord. 5894, 10/14/17]

SCHEDULE OF PERMITTED USES

5.050 Interpretation. Each use category in the schedule of permitted uses is described in Article 22, Use Categories and Definitions. Article 22 classifies land uses and activities into categories based on common functional, product, or physical characteristics. Characteristics include the type and amount of activity, the type of customers or residents, how goods and services are sold or delivered, and certain site factors. In addition to the clarification in Article 22, the following provisions must be used to interpret the schedule of permitted uses found in this Article:

(1) The schedule of permitted uses cannot anticipate all uses that may be located within the city. There are situations where proposed uses may relate to more than one type of use. In both instances, the Director will determine the appropriate use category based on operating characteristics and land use impacts. Where ambiguity exists concerning the appropriate classification of a particular use, the use may be reviewed as a Conditional Use where the Director determines that the proposed use is consistent with other uses allowable within the subject district due to similar characteristics.

(2) Where a development proposal involves a combination of uses other than accessory uses, the more restrictive provisions of this Code apply. For example, if a portion of a development is subject to Conditional Use approval and the balance is subject only to Site Plan Review, the entire development must be reviewed utilizing the Conditional Use criteria if concurrent approval of all uses is sought.

(3) A change in the use of a property is subject to review as specified by the schedules of permitted uses:

(a) When the change involves a change from one use category to another in the schedule

of permitted uses and the Director has not waived review under the provisions of Section 1.105, or

(b) When a property that has been unoccupied for more than one year and is non-conforming under the provisions of Article 2 is proposed to be occupied.

[Ord. 6062, 5/23/25]

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:

Y	Yes; use allowed without review procedures but may be subject to special conditions.
S	Uses permitted that require 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.
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 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.

Staff Comments: Changes proposed to the Schedule of Permitted Uses needed to 1) comply with HB 2005 – siting of residential treatment homes and facilities without requiring a conditional use permit; and 2) to comply with HB 3560 - siting of child care centers, which must be allowed in all zones that allow commercial and industrial uses and residential densities over 12 units an acre.

New text is shown in black double underlined font and removed text is shown in ~~strikethrough~~ font. Staff comments in blue font are provided to explain the proposed amendments but are not amendments.

TABLE 5.060-1
SCHEDULE OF PERMITTED USES

Use Categories (See Article 22 for use 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
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 Restaurants 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 or Child Care Center		S	S	S	S	S	~~N~~S	~~CU~~S	S	S	S
Community Services	11	CU/S-11	CU	S-11	S-11	S-11	S-11	S-11	S-11	S-11	CU

New text is shown in black double underlined font and removed text is shown in ~~strikethrough~~ font. Staff comments in blue font are provided to explain the proposed amendments but are not amendments.

Use Categories (See Article 22 for use category descriptions.)	Spec. Cond.	MUC	WF	HD	DMU	CB	LE	PB	MS	ES	MUR
Crisis Stabilization Center	31	S-31	S-31	S-31	S-31	S-31	S-31	S-31	S-31	S-31	S-31
Educational Institutions	12	S-12	CU	S	CU	S	S	N	CU	CU	CU
Hospitals	32	N/S-32	CU/S-32	CU/ S-32	CU/ S-32	S	S	CU/ S-32	N/ S-32	CU/ S-32	CU/ S-32
Jails & Detention Facilities		N	N	N	N	N	N	N	N	N	N
Parks, Open Areas, and Cemeteries	13	CU/S	CU	S	CU	S	S	CU	CU	CU	CU
Religious Institutions	12	CU	CU	CU	CU	S	S	CU	CU	CU	CU
RESIDENTIAL USES											
Residential Care or Treatment Facility	14	S	~~CU~~S	S	S	S	S	N	S	S	S
Assisted Living Facility		S	CU	CU	CU	CU	CU	CU	CU	CU	S
Single-Dwelling Unit (SDU)	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, 30	Y-17	S-16	N	S-16	S-16	Y	N	N	CU	Y
Townhouse	15, 28, 29	Y-17	S	N/Y-17	S	S	N/Y-17	N	N	CU	Y
Triplex or Fourplex	15, 28, 29, 30	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, 30	S-17	S-17	N/S-17	S-17	S-17	S-17	N	CU	CU	S
Units Above or Attached to a Business	27, 28, 29	S-17	S	S-17	S	S	S-17	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
Rail And Utility Corridors		CU	CU	N	N	CU	CU	CU	CU	CU	N

New text is shown in black double underlined font and removed text is shown in ~~strikethrough~~ font. Staff comments in blue font are provided to explain the proposed amendments but are not amendments.

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

[Ord. 5555, 2/7/03; Ord. 5556, 2/21/03; Ord. 5635, 1/11/06; Ord. 5673, 6/27/07; Ord. 5728, 1/27/10, Ord. 5742, 7/14/10; Ord. 5767, 12/7/11; Ord. 5832, 4/9/14; Ord. 5886, 1/6/17; Ord. 5894, 10/14/17; Ord. 5947, 1/1/21; Ord. 5968, 1/14/22; Ord. 2010, 7/1/23; Ord. 6024, 12/29/23; Ord. 6042, 7/12/24; Ord. 6059, 3/14/25; Ord. 6062, 5/23/25; Ord. 6068, 11/8/25]

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 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.

(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 residential zoned land may require Conditional Use approval.

(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 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 must 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.

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

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

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

(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.

(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.

(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 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.

(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.

(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.

(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.

(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 must 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 must 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 Services. Government facilities that provide direct public services on site (examples: libraries, city hall) are permitted through Site Plan Review in Albany's Climate Friendly Area overlay districts when indicated by base zone. 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.

Staff Comments – minor clarifying updates are proposed and adding the required driveway for dropping off and picking up children from school only applies to students through high school.

(12) Educational Institutions are permitted through Site Plan review on property located in one of Albany's Climate Friendly Area (CFA) overlay districts. New educational or religious institutions outside of CFA overlay districts require Conditional Use (CU) approval unless permitted through Site Plan Review. Land Use approval 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. The addition of secondary ~~Such~~ uses within existing buildings 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 noise is audible or light visible between 10:30 p.m. and 8:00 a.m.

Expansion of an educational or religious institution must be reviewed through either the Site Plan Review process or when these uses require CU approval, 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 or religious institution serving students through high school and having a capacity greater than 25 students must have a driveway designed for the continuous forward flow of passenger vehicles for the purpose of loading and unloading children.

(13) Public park development in Climate Friendly Area (CFA) overlay districts is permitted through Site Plan review. Public park development activity outside of CFA overlay districts that is subject to Conditional Use review includes major development; expansions of activities and development within parks which currently generate or will generate substantial traffic; or construction of major structures and facilities 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.

(14) Residential Care or Treatment Facility and Homes. 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. Residential Care or Treatment Facilities are permitted through Site Plan Review; however, a decision made to allow either a care or treatment home or facility is not a land use decision as defined in ORS 197.015 and is not subject to the jurisdiction of the Land Use Board of Appeals. A decision under this section may only be appealed by writ of review under ORS 34.010 to 34.100.

(15) Single-Dwelling Units, Townhouses, Triplexes, Fourplexes, and Duplexes.

(a) Single-dwelling, townhouse, triplex, fourplex, and duplex units that were legally constructed before December 11, 2002, may remain a permitted use in any zone

without being nonconforming. See Section 5.080.

(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 without requiring a land use application.

(c) In HD, all other single dwelling units and middle housing, except townhouses that comply with the standards in Article 14, are prohibited.

(16) Single Dwelling Unit with One Accessory Dwelling Unit or Single Room Occupancy Unit. Where single-dwelling units are permitted outright, one accessory dwelling unit (ADU) or one Single Room Occupancy (SRO) Unit may be allowed on each lot that has one legally established single-dwelling unit, called the "primary residence".

(a) Accessory Dwelling Units. Accessory dwelling units must meet the following standards:

i. The size of an ADU may not exceed 900 square feet. (Note: ADUs greater than 900 square feet that were legally constructed before July 1, 2007, may remain.) If the primary Dwelling Unit is less than or equal to 900 square feet, the ADU must be at least 25 square feet less than the primary dwelling unit.

ii. The lot was legally established.

iii. The front door of an ADU may not be located on the same façade as the front door of the primary dwelling 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 dwelling unit.

iv. Exterior additions must substantially match the existing materials, colors, and finish of the primary dwelling unit.

v. All required building permits must be obtained. If the primary dwelling unit is on the Local Historic Inventory, historic review may be required per Article 7.

vi. The front setback must be greater than or equal to the location of the front wall of the primary dwelling unit. All other setbacks must meet the requirements of the zone.

vii. Conversion of an Existing Building to an ADU. An existing accessory structure that was legally established prior to March 14, 2025, may be converted into an ADU, provided the conversion does not increase the nonconformity of the structure and complies with applicable building codes.

(b) Single Room Occupancy (SRO) Unit. The SRO Unit must meet the following standards:

i. The SRO Unit must be located interior to the primary dwelling-unit.

ii. The SRO Unit must share a kitchen with the primary dwelling unit and must not contain food preparation facilities.

iii. The SRO Unit must have an interior door connecting to the primary dwelling unit and may have an exterior door located in the rear yard.

iv. The SRO Unit must not operate independently of the primary dwelling unit unless converted to an accessory dwelling unit after all required building permits have been obtained.

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

(a) In MUC, residential development must develop at a minimum net density of 10 units

an acre; however, development in a Climate Friendly Area (CFA) overlay district must meet the minimum density standards specified in Article 14. Residences above a business or office are exempt from meeting the minimum density. In MUC districts located east of interstate 5, new development of Residential Use Categories is only permitted in conjunction with a primary use from the Commercial or Institutional Use Categories unless located in a CFA overlay district. The new residential use must be in the same building or on the same property as the primary non-residential use.

(b) HD and LE properties in the Downtown Climate Friendly Area (CFA) overlay district. Townhouses are permitted only when vehicular access to garages or parking, if provided, is from the rear of the dwelling unit and minimum density standards in Article 14 are met. Multiple dwelling units are permitted above or attached to a business subject to the standards in Article 14. 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 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. In the CFA overlay district, the non-residential use may be located within the same building or in another building on the same property.

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 front lot line but may not face onto First or Second Avenue. Street-facing first-story dwelling units must 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.

(c) In CB, development is subject to minimum density and siting standards in Article 14.

(d) In WF, and DMU, triplexes, fourplexes, and multiple dwelling units with individual driveways that meet the standards of 8.150(1) are permitted subject to Site Plan Review.

Staff Comments – Accessory buildings exempt from land use review: Since the code allows accessory dwelling units to be up to 900 square feet staff propose to increase the size exempt from land use review from 750 to 900 square feet.

(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:

(a) Detached accessory buildings, garages, and carports are less than ~~750~~ 900 square feet and have walls equal to or less than 12 feet tall.

(b) All other residential accessory buildings 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.]

(c) Accessory buildings over 100 square feet proposed on property in a National Register of Historic District 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 16.

(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]

(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 must 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, must be screened with a six-foot solid screen fence, wall, hedge, or other landscaping.

(c) Antennas used to display sign messages must 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.

(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 apply.

(22) Kennels. Kennels do not include indoor veterinary hospital kennels.

(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.

(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) Development on sites located within 300 feet of residentially zoned land requires 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 non-residential use must be in the same building or on the same property as the primary Residential Use.

(27) One Single Room Occupancy (SRO) Development with no less than four and no more than six individual SRO units is permitted outright per property zoned to allow 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.

(28) Affordable Housing. Affordable housing as defined in this section ~~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~~The property is zoned for commercial uses, religious assembly, or public lands OR is owned by one of the following:

i. A local, state, or special government or public 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) 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) Does 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

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 and Moderate-Income 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.

(30) For the purposes of this code, Non-Property Line Separated Townhouses constructed under the Oregon Residential Specialty Code have the same meaning.

Staff Comments: These new special conditions are needed to comply with HB 2005 regarding the siting of Residential Care or Treatment Facilities or Homes, licensed crisis stabilization centers and mental or psychiatric hospitals without requiring a conditional use permit.

(31) A Crisis Stabilization Center as defined in ORS 430.626 and licensed under ORS 430.627 is permitted only on property that is owned by a public body, as defined in ORS 174.109, but excluding park land and the property is adjacent to where a mental or psychiatric hospital licensed under ORS 441.025 is or will be located as established by a pending development application. A decision made to permit a crisis stabilization center is not a land use decision as defined in ORS 197.015. A decision issued for these uses may only be appealed by writ of review under ORS 34.010 to 34.100.

(32) Mental or psychiatric hospitals licensed under ORS 441.025 are permitted through Site Plan Review on property adjacent to a where a crisis stabilization center as defined in ORS 430.626 and licensed under ORS 430.627 is or will be located as established by a pending development application. A decision made to permit either a mental or psychiatric hospital is not a land use decision as defined in ORS 197.015. A decision issued for these uses may only be appealed by writ of review under ORS 34.010 to 34.100.

[Ord. 5445, 4/12/00; Ord. 5555, 2/7/03; Ord. 5556, 2/21/03; Ord. 5635, 1/11/06; Ord. 5673, 6/27/07; Ord. 5742, 7/14/10; Ord. 5728, 1/27/10; Ord. 5767, 12/7/11; Ord. 5886, 1/6/17; Ord. 5894, 10/14/17; Ord. 5947, 1/1/21; Ord. 5949, 1/1/21; Ord. 5966, 11/12/21; Ord. 5968, 1/14/22; Ord. 6010, 7/1/23; Ord. 6018, 6/30/23; Ord. 6042, 7/12/24; Ord. 6059, 3/14/25; Ord. 6062, 5/23/25; Ord. 6068, 11/8/25]

SPECIAL STATUS

5.080 Existing Single-Dwelling Unit, Townhouse, and Duplex Uses Granted Special Status.

Single-Dwelling Unit Detached, Townhouse, and Duplex Dwellings. Notwithstanding the restrictions or terms of any other section of the Albany Development Code (ADC), all single-

dwelling unit detached, townhouse, and duplex dwellings legally established before January 1, 2002, must be deemed to be conforming to the base zoning district. If any building on these properties is damaged or destroyed by fire or other causes beyond the control of the owner, it may be rebuilt to the same density, size (square feet) and setbacks as existed on the property at the time it was destroyed but will be subject to the regulations of any applicable overlay zone. If any single-dwelling unit detached, townhouse, or duplex dwelling is converted to non-residential use, the special status granted here is rescinded, and the use of the property must thereafter conform to the requirements of Article 5. The special status granted herein must be lost if is determined that the residence was not legally established prior to January 1, 2002.

[Ord. 5789, 10/10/12; Ord. 5555, 2/7/03, Ord. 5635, 1/11/06; Ord. 5947, 1/1/21; Ord. 5968, 1/14/22; Ord. 6062, 5/23/25]

5.085 Special Status List properties in the WF Zone. The regulations below apply to properties on the Special Status List in the Waterfront (WF) zoning district. The Special Status List is maintained by the Community Development Director.

(1) Purpose. The purpose of the Special Status List is to recognize existing buildings in the WF zone that pre-date the current zoning (applied in 2006) that were typically designed for industrial uses and may not readily convert to non-industrial uses permitted in the WF zone. Special standards are imposed to ensure that the additional industrial and commercial uses permitted on these sites because of their special status listing do not detract from the desirability of existing or future residential uses in the Waterfront zone and to encourage conversion of Special Status List sites to permitted uses.

(2) Additional uses. The Industrial and Commercial uses listed in (a) through (f), below, will be considered through the Conditional Use process for Special Status List sites. Any lawfully established use not listed below and not otherwise permitted in the WF zone must be regulated as a non-conforming use, pursuant to ADC Sections 2.300-2.370.

(a) Contractors and Industrial Services: Salvage or wrecking operations and dry-cleaning plants are prohibited. All other Industrial Services may be considered through a Conditional Use review.

(b) Manufacturing and Production: Slaughterhouses, meat packing, and concrete and asphalt production are prohibited. All other manufacturing and production uses may be considered through a Conditional Use review.

(c) Warehousing and Distribution: Only storage and warehousing uses may be considered through a Conditional Use review. All other warehousing and distribution uses are prohibited.

(d) Wholesale sales: All wholesale sale uses may be considered through a Conditional Use review.

(e) Indoor Entertainment and Recreation: indoor firing ranges may be considered through a Conditional Use review. For all other Indoor Entertainment and Recreation uses, see Table 5.060-1.

(f) Retail Sales and Service: sales and leasing of consumer vehicles may be considered through a Conditional Use review. All other retail sales and service uses are permitted through Site Plan Review approval.

(g) Vehicle Repair: All vehicle repair uses may be considered through a Conditional Use review.

(3) Special Standards. The uses listed in (2), above, are subject to the following special standards:

(a) All activities associated with the use must be fully enclosed within a building, except for parking and loading, employee break areas, and outside storage or display in conformance with ADC Section 5.360. Storage and warehousing as a primary use must be enclosed within a building.

(b) Uses are limited to the square footage of the existing building(s) on site, plus up to a 50 percent expansion, in total, from the size as of the effective date of the WF zone (1/11/06).

(c) Existing buildings may be expanded, remodeled and rebuilt, up to the limits in (b), above. All expansions, remodels, and redevelopment are subject to current development standards.

(4) Review Procedures. Changes of use and modifications to Special Status list sites must be reviewed as follows:

(a) An existing use lawfully established prior to the effective date of the WF zone (1/11/06) does not require a Conditional Use review to continue operations within an existing building and must not be considered a non-conforming use.

(b) A site modification or expansion of less than 15 percent of the square footage of the existing building(s) that does not include a change of use must be reviewed as a Type II Conditional Use, subject to the standards in (3), above, except as excluded under ADC Section 1.105.

(c) A change of use to a different use listed in (2), above, or an expansion of 15 percent or more of the square footage of the existing building(s), up to the limits in (3)(b), above, must be reviewed as a Type III Conditional Use, subject to the standards in (3), above.

[Ord. 5894, 10/14/17; Ord. 5947, 1/1/21; Ord. 6062, 5/23/25]

[Special Status List moved out of ADC; Ord. 5894, 10/10/12]

HOME BUSINESS STANDARDS

5.087 Home Businesses. For businesses operated out of a dwelling unit, See Article 3, Residential Zoning Districts, Sections 3.090 to 3.160~~, for home business standards~~. [Ord. 5555, 2/7/03; Ord. 5894, 10/14/17; Ord. 5947, 1/1/21]

DEVELOPMENT STANDARDS

5.090 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, and safe and efficient parking areas for new development; and improve the general living environment and economic life of a development. Table 5.090-1 summarizes the basic development standards. It should be used with the sections immediately following the table, which addresses special circumstances and exceptions. Additional design and development standards are located in Article 8 and Article 14.

Staff Comments – Development Standards Table 5.090-1:

- Staff propose removing the minimum area requirements per multiple dwelling unit because lot coverage and height determine the development capacity. This change was made to Article 3 with

prior amendments and was not made in this Article.

- Garages and parking are not allowed on front facades in Climate Friendly Areas, and the DMU and WF zoning districts so updating table note (7). Also changing the minimum setbacks for the garage/vehicle entrances in other zones to be either 5 feet or 20 feet so that vehicles will either not parking in front of the garage (5 feet setback), or will have room to parking in the driveway with a 20' setback.
- Reducing the front setbacks in the MUR zone to 5 feet to be more consistent with other mixed use zones where compact and walkable development is desired.

New text is shown in black double underlined font and removed text is shown in ~~strikethrough~~ font. Staff comments in blue font are provided to explain the proposed amendments but are not amendments.

TABLE 5.090-1
MIXED-USE VILLAGE CENTER DEVELOPMENT STANDARDS

STANDARD	MUC	WF	HD	DMU	CB	LE	PB	MS	ES	MUR
Minimum Lot Size or Area Requirement (square feet)										
Single-Dwelling Unit detached(3)(19)(20)	None	None	None	None	None	N/A	N/A	N/A	~~5,000~~ None	None
Townhouse, Per lot (3)(20)	None	~~1,600~~ None	N/A	None	None	N/A	N/A	None	None	None
Duplex (3)(20)(24)	None	~~3,600~~ None	N/A	None	None	None	N/A	N/A	None ~~7,000~~	None
Triplex and Fourplex (3)(24)(20)	None	N/A	N/A	None	N/A	None	N/A	None	None	(21)
Cottage Cluster (3)(20)	None	N/A	N/A	7,000	N/A	N/A	N/A	N/A	N/A	7,000
Multiple-Dwelling Unit (3)(20)	None	~~1,600/u~~None	N/A	None	None	None	~~1,600/u~~None	~~1,600/u~~None	~~3,300/u~~None	~~1,600/u~~ None
All other uses	6,000	5,000	1,000	1,000	1,000	2,000	15,000	6,000	5,000	10,000
Maximum Building Footprint (sq. ft.)										
Non-grocery (16)	60,000	None	None	None	None	None	60,000	20,000	10,000	10,000
Grocery-anchored (13)(16)	80,000	None	None	None	None	None	60,000	60,000	60,000	60,000
Lot Width, minimum	None	None	20'	None	None	20'	None	None	None	None
Lot Depth, minimum	None	None	50'	None	None	50'	None	None	None	None
Landscaped Area (24)	100% (2)	None	None	None	None	100% (2)	100% (2)	100% (2)	100% (2)	100% (2)
Minimum Density (9)	10 u/ac (9)	None	15 u/ac	None	15 u/ acre	None (9)	None	None	None	None
Minimum Open Space	(12)	(12)	(12)	(12)	(12)	(12)	(12)	(12)	(12)	(12)
Maximum Front Setbacks: (10)	10' (15)	5'/15' (17)	0' (17)	5'/15' (17)	5'/15' (17)	20'	20'	10'	10'	~~20'~~15'
Minimum Setbacks:										
Front (5) (14)	5'	0'	0'	0'	0'	0'	5'	5'	5'	~~15~~'
Side and rear (5) (14)	(11)(1)	0'(1)(4)	0'(4)(1)	0'(1) (4)	0'(1)(4)	(1)	(1)	(1)	5'	~~10~~5'(11)
Garage Entrance (~~9~~8)	5' or 20' (7~~8~~)	5' or 20'(7) ~~(8)~~	None	5' or 20'(7) ~~(8)~~	5' or 20' (7) ~~(8)~~	5' or 20'(7)	20'	5' or 20'(7~~8~~)	5' or 20'(7)	5' or 20' (7)
Height, maximum (14)(22)	85'	55'	85' (18)	85' (18)	65'	60'	50'	50'	50'	45'
Lot Coverage, maximum (6)	80%(23)	100%	100%	100%	100%	100%	80%	90%	80%	70%(23)

"N/A" means not applicable. "None" means there is no requirement under Article 5 (other standards

may apply). "0" means that the minimum or maximum is zero.

(1) Single-dwelling unit detached homes, townhouses, and duplexes, where permitted, may have a 3-foot side setback for single-story buildings, and a five-foot side setback for two-or more story buildings. See Sections 5.150 and 5.160 for zero lot line options and townhouses.

(2) All yards adjacent to streets. Approved vegetated post-construction stormwater quality facilities are allowed in landscaped areas.

(3) Lots with alley access may be up to 10 percent smaller than the minimum lot size for the zone.

(4) See ADC Section 5.115 for special setback standards abutting residential zones and uses.

(5) Minimum front, side, and rear setbacks are not required for buildings abutting railroad rights-of-way. Setbacks for cottage clusters are in Section 5.092.

(6) Achievement of maximum lot coverage is subject to meeting all other standards of the ADC, including, but not limited to, landscaping, buffering and setback requirements. Lot coverage for single-dwelling unit detached and middle housing development must only include the area of the lot covered by buildings or structures. Lot coverage for townhouses is calculated based on the overall townhouse project, which includes the townhouse structure(s) together with the development site, including any commonly owned property. Cottage clusters are exempt from maximum lot coverage standards.

(7) To prevent parked vehicles from intruding in the right-of-way when front-facing garages are permitted, garage entrances must be set back either five feet or at least 20 feet. A setback of more than 5 feet and less than 20 feet is not permitted. Garage entrances may not be located closer to the front lot line than the front façade of the building. See Section 8.150 and 8.160 for parking and vehicle access standards for single and middle housing.

(8) Garage setbacks for non-vehicle entrance must conform to the requirements for side and rear setbacks. Garages with alley access, see Table 5.100-1 for setbacks. Alleys must be constructed to city standards.

(9) ~~For garages with alley access, see Table 5.100-1.~~ Minimum density standards apply to development located within a Climate Friendly Area overlay zoning district per Article 14.

(10) The maximum setback may be increased with the condition that 100 percent of the increased setback is used for pedestrian amenities associated with the building use, such as patio dining for a restaurant, sidewalk café, plaza, or courtyard; or to accommodate changes in elevation due to road and site grading or natural slopes. See ADC Section 5.120 for additional exceptions and calculation methodology for the HD, CB, DMU, and WF zoning districts.

(11) In MUC and MUR, single-dwelling unit detached homes and middle housing may have a 3-foot side setback for single-story buildings, and a five-foot side setback for two-story buildings. See Section 5.150 and 5.160 for zero lot line options and attached dwellings units.

(12) Ten or more residential multiple-dwelling units require common open space. See Section 8.220.

(13) The building footprint maximum is 80,000 square feet if a grocery store occupies at least fifty percent (50 percent) of the total square footage. This footprint may include one or more businesses or attached buildings. For purposes of this section, a grocery store is defined as a business that sells primarily food and household supplies. Ancillary grocery uses include uses such as pharmacy, bakery, and florist.

(14) Properties adjacent to the Willamette River see the Willamette Greenway standards in Sections 5.200 - 5.207 and Sections 6.500-6.560.

(15) Except for residential development, which has a maximum setback of 25 feet. See Sections 8.200 – 8.305 for multiple dwelling residential design standards.

(16) The maximum building footprint may be exceeded for educational institutions. "Footprint" refers

to the amount of area covered by the first floor. Development is permitted and encouraged on upper floors.

(17) The maximum setback for non-residential and mixed-use development is five feet. The maximum setback for residential development is 15 feet. See ADC Section 5.120 for exceptions and calculation methodology.

(18) To maintain compatibility with existing historic structures and the character of designated historic districts, maximum building heights in the HD and DMU zones are limited within designated historic districts. Within the Downtown Commercial National Register Historic District (see Article 7, Figure 7.010-1), the maximum building height in the HD and DMU zones is 65 feet. Within the Hackleman and Monteith National Register Historic Districts (see Article 7, Figure 7.010-1), the maximum building height in the HD and DMU zones is 45 feet.

(19) Where new single-dwelling unit detached housing is not permitted in a given Mixed Use zone, minimum lot size for single-dwelling unit refers to legally established existing single-dwelling unit uses with special status.

(20) Section 3.220 bonus provisions may reduce minimum area requirements for residential developments.

(21) In MUR, in no case may the minimum lot size required for a triplex exceed 5,000 square feet, or for a fourplex exceed 7,000 square feet.

(22) Maximum height for cottage clusters is in Section 5.092.

(23) In MUC and MUR, 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 apply to the middle housing parent lot, not to the middle housing child lots.

(24) For the purposes of this code, Non-Property Line Separated Townhouses constructed from the Oregon Residential Specialty Code have the same meaning.

[Ord. 5338, 1/28/98; Ord. 5445, 4/12/00; Ord. 5555, 2/7/03; Ord. 5556, 2/21/2003; Ord. 5627, 7/27/05; Ord. 5673, 6/27/07; Ord. 5768, 12/7/2011; Ord. 5842, 1/1/15; Ord. 5894, 10/14/17; Ord. 5947, 1/1/21; Ord. 5966, 11/12/21; Ord. 5968, 1/14/22; Ord. 6010, 7/1/23; Ord. 6024, 12/29/23; Ord. 6059, 3/14/25; Ord. 6062, 5/23/25]

5.091 Standards for Townhouses. Where permitted, townhouses must meet the standards below. Townhouses must also meet the applicable design standards in ADC Sections 8.110 through 8.160.

(1) 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.

- MUC and MUR districts: maximum of 10 attached units per group.
- Other mixed-use districts: no limit.

[Ord. 5968, 1/14/22; Ord. 6059, 3/14/25]

5.092 Standards for Cottage Clusters. Where permitted, cottage clusters must meet the standards in subsections (1) through (5) below. Cottage clusters must 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, unless a higher minimum density is required in the zoning district.

(3) Setbacks.

(a) Front Setback. In zoning districts where the minimum front setback exceeds 10 feet, the minimum front setback to cottages and all other structures is 10 feet.

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

(c) All other setbacks, including to garage or carport entrances, are provided in Tables 5.190-1 and 5.100-1.

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

(5) Maximum Footprint. The maximum footprint of each cottage must be less than 900 square feet. Attached garages or carports up to 200 square feet are exempt from the 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; Ord. 6059, 3/14/25; Ord. 6062, 5/23/25]

SETBACKS

5.100 Minimum Standards. Primary structures must meet the minimum setback standards in Table 5.090-1, Development Standards. In addition to the setbacks in this Article, all development must comply with Section 12.180, Clear Vision Area.

The Accessory Structure Standards (Table 5.100-1) apply to residential accessory structures in the MUR, WF, MS, ES, and MUC districts.

[Ord. 5555, 2/7/03; Ord. 5556, 2/21/03; Ord. 5947, 1/1/21]

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	Side and rear setback = 3 feet (1)
Detached, walls greater than 8 ft. tall	Side and rear setback = 5 feet
Attached structure	Side and rear 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 setbacks, see Table 5.090-1
Structures, including fences, intended for housing animals	See AMC 6.10.020
Fences more than 8 feet tall *All fences, see 9.360 through 9.380*	Fences over 8 feet tall must meet setbacks in Table 5.090-1 by zone, except when permitted along property lines in Sections 9.370(4)(d).
Outdoor swimming pools with depths greater than or equal to 24 inches	Side and rear setback = ~~10~~5 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	Side and rear setback = 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 side and rear setback of 2 feet with a roof overhang no more than 12 inches.

[Ord. 5445, 4/12/00; Ord. 5673, 6/27/07; Ord. 5894, 10/14/17; Ord. 5947, 1/1/21; Ord. 6042, 7/12/24; Ord. 6059, 3/14/25; Ord. 6062, 5/23/25]

5.110 Measurements. Setback distances must be measured perpendicular to all portions of a lot line.

5.115 Special side and rear setbacks. To provide compatible transitions to residential zones and uses and to historic buildings, additional side and rear setbacks are required as follows.

(1) Special setbacks in all Mixed -Use Zones except HD, DMU, CB, and WF. Commercial or office buildings abutting residential districts and/or uses require one foot of setback for each foot of wall height with a minimum setback of 10 feet. For developments abutting commercial or industrial districts or uses, no side or rear setback is required.

(2) Special side and rear setbacks in the HD, DMU, CB and WF zoning districts. New buildings and expansions to existing buildings must provide side and rear setbacks as follows.

(a) Setbacks abutting Residential Districts.

i. Purpose: To provide for compatible transitions to adjacent neighborhoods.

ii. Applicability: Properties in the HD, DMU, CB, and WF zoning districts abutting residential districts listed in Article 3.

iii. Standard: The minimum side and rear setback must be 10 feet from the lot line abutting the residential zone.

(b) Setbacks abutting Historic Residential Buildings.

i. Purpose: To respect and respond to the character and scale of recognized historic residential buildings and ensure adequate light and air to such buildings, while allowing reasonable use of abutting properties consistent with the vision for Central Albany.

ii. Applicability: Properties in the DMU, CB, and WF zoning districts abutting a historic Landmark, as defined in ADC 7.020 that was originally built for residential use.

iii. Standard: For new buildings and expansions that exceed 35 feet in height, the minimum side and rear setback must be 5 feet.

[Ord. 5894, 10/14/17; Ord. 6059, 3/14/25; Ord. 6062, 5/23/25]

5.120 Maximum Front Setbacks. Maximum front setbacks are intended to maintain a pedestrian-oriented development pattern with buildings close to the street. The following setback standards apply to new buildings and expansions and modifications of existing buildings in the HD, CB, DMU, and WF zoning districts. Setbacks for multiple dwelling unit developments in all other zones are subject to the setbacks in ADC 8.240. Commercial and institutional development within the Village Center Comprehensive Plan designation or in a Climate Friendly Area overlay district are subject to the maximum setback standards in Section 8.420.

(1) Non-residential and mixed-use development in the HD, CB, DMU and WF zoning districts:

(a) Regulated façade: any façade between grade and the top of the first story of the building that faces toward or within 45 degrees of a front lot line, with the exceptions below. See definition of front lot line in Article 22 for application on lots with multiple

frontages; however, a lot line abutting First or Second Avenue must always be considered a front lot line for purposes of these standards. A Willamette River setback line established pursuant to ADC 5.200 through 5.207 may be considered a front lot line for purposes of these standards.

i. Maximum setback standards do not apply to any portion of a building that is separated from the front lot line by another building, based on a line perpendicular to the front lot line (see Figure 5.120-1).

ii. Accessory buildings less than 750 square feet are exempt from maximum setback standards.

(b) Standard in the HD zoning district: 100 percent of regulated façades must meet the maximum setback required in the zone, with the exceptions listed below.

i. The maximum setback may be increased for pedestrian amenities pursuant to ADC Section 5.090(10).

ii. Windows may be recessed up to 18 inches from the building façade.

iii. Entrances (including up to four feet on either side of entrance doors) may be recessed up to six feet from the building façade.

iv. The maximum front setback may be increased by 10 feet for properties that are separated from the street by a rail line.

v. On a site with an existing building(s), the maximum setback may be increased to a point which is no further from the front lot line than the portion of the existing regulated façade that is closest to the front lot line.

(c) Standard in the CB, DMU and WF zoning districts: At least 80 percent of regulated façades must meet the maximum setback required in the zone, with the exceptions listed below.

i. The maximum setback may be increased for pedestrian amenities pursuant to ADC Section 5.090(10).

ii. Windows may be recessed up to 18 inches from the building façade.

iii. Entrances (including up to 4 feet on either side of entrance doors) may be recessed up to 6 feet from the building façade.

iv. The maximum front setback may be increased by 10 feet for properties that are separated from the street by a rail line.

v. On a site with an existing building(s), the maximum setback may be increased to a point which is no further from the front lot line than the portion of the existing regulated façade that is closest to the front lot line.

(2) Residential development in the HD, DMU, CB and WF zoning districts:

(a) Regulated façades: any façade between grade and the top of the first story of the building that faces toward or within 45 degrees of a front lot line, with the exceptions listed below. See definition of front lot line in Article 22 for application on lots with multiple frontages; however, a lot line abutting First or Second Avenue must always be considered a front lot line for purposes of these standards. A Willamette River setback line established pursuant to ADC 5.200 through 5.207 may be considered a front lot line for purposes of these standards.

i. Maximum setback standards do not apply to any portion of a building that is separated from the front lot line by another building, based on a line perpendicular

to the front lot line (see Figure 5.120-1).

ii. Accessory buildings less than 750 square feet are exempt from maximum setback standards.

iii. Where permitted, a garage entrance that faces the front lot line and any building façade that encloses the garage is exempt from the maximum setback standard.

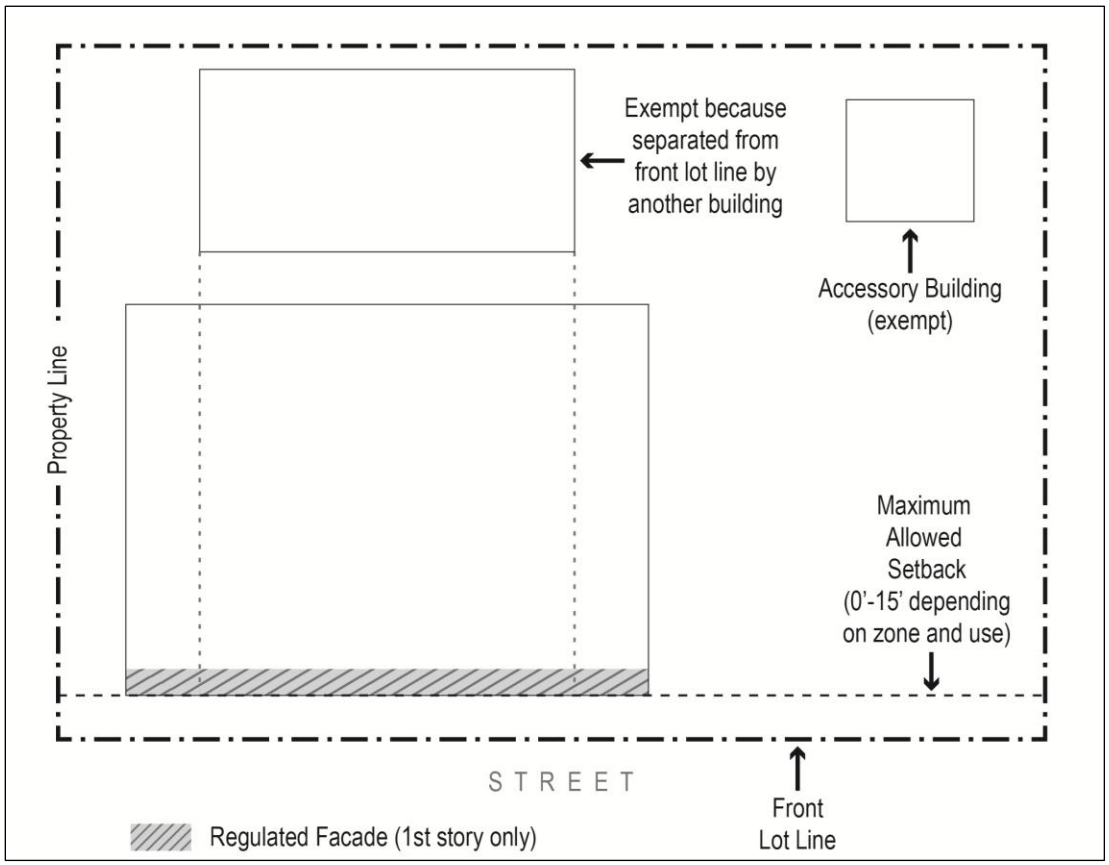
(b) Standard: At least 80 percent of regulated façades must meet the maximum setback required in the zone, with the exceptions listed below.

i. Buildings that provide a landscaped courtyard separating a portion of the regulated façade from the front lot line must meet the maximum setback standard on at least 40 percent of the regulated façade.

ii. In WF, where units with individual garages facing the front lot line are constructed, such units may be set back up to 20 feet to match the garage entrance.

iii. On a site with an existing building(s), the maximum setback may be increased to a point which is no further from the front lot line than the portion of the existing regulated façade that is closest to the front lot line.

FIGURE 5.120-1. Regulated façades for maximum setback.



[Ord. 5894, 10/14/17; Ord. 5947, 1/1/21; Ord. 6059, 3/14/25; Ord. 6062, 5/23/25]

Staff Comments: The alternative setbacks in developed areas are no longer needed because setbacks have been reduced over time, so these exceptions are no longer used or needed.

New text is shown in black double underlined font and removed text is shown in ~~strikethrough~~ font. Staff comments in blue font are provided to explain the proposed amendments but are not amendments.

~~5.130 Alternative Setbacks in Developed Areas. When an addition or new development is proposed in an area containing the same type of uses that have been developed to a previous setback standard, the Director or review body may approve setbacks that are the same as those for the existing buildings on the site for additions, or the same as those for buildings on abutting parcels for new development. The Director or review body may approve an alternative setback request if the applicant demonstrates that the following criteria are met:~~

~~(1) The front setback of the structure is not less than the average of the setbacks for the same uses on the abutting properties on either side facing the same street. If the same use is only on one abutting property, the proposed front setback may be no less than the setback of the abutting structures facing the same street.~~

~~(2) Addition of a garage or carport. The front setback for a garage or carport meets the current front setback standard, and the driveway to it is paved.~~

~~(3) Additions to the side or rear of a dwelling. The proposed structure does not encroach any further into the setback than the existing structure.~~

~~(4) No wall of one dwelling unit is closer than 10 feet to a window of another dwelling unit.~~

~~(5) All other provisions of this Code must be met.~~

[Ord. 5446, 5/10/00; Ord. 5742, 7/14/10; Ord. 5947, 1/1/21; Ord. 5968, 1/14/22; Ord. 6059, 3/24/24]

5.140 General Exceptions to Setback Requirements. The following may project into required setbacks, provided that they conform to the conditions and limitations indicated:

(1) Depressed Areas. In any district, open-work fences, berms, hedges, guard railings, or other landscaping or architectural devices for safety protection around depressed areas, ramps, stairs, or retaining walls may be located in required setbacks, provided that the devices are not more than 3 1/2 feet tall.

(2) Projecting Building Features. The following may project into the required front setback no more than five feet and into the required side and rear setbacks no more than two feet:

(a) Awnings, eaves, buttresses, architectural appendages (such as, but not limited to, bay windows, planters, cantilevered stairways.)

(b) Chimneys and fireplaces provided they do not exceed eight feet in width.

(c) Porches, steps, platforms or landings, raised patios or decks (applies only to structures above 30 inches in height: structures 30 inches or less are not subject to setback provisions).

(d) Signs conforming to applicable ordinance requirements.

[Ord. 5742, 7/14/10; Ord. 6059, 3/14/25]

5.150 Zero Lot Line. Any residential dwelling or residential accessory building may be located on the side or rear property line when:

(1) There are no openings or windows in the lot line wall. Additionally, a setback and maintenance easement must be recorded on the abutting property deed or plat. The width of the easement must be six feet or the width of the required setback of the abutting property, whichever is less. If the abutting property is not subject to a side setback, then no maintenance agreement is required. This easement is not revocable without City approval.

OR

(2) Two or more dwelling units are attached at the property line and are approved for such in accordance with other provisions of this Code.

[Ord. 5555, 2/7/03, Ord. 5742, 7/14/10; Ord. 5947, 1/1/21; Ord. 6059, 3/14/25]

5.160 Setbacks for Townhouses. The side setback requirement for townhouses is zero where the units adjoin; however, all other setbacks must conform to the requirements of this Code.

[Ord. 5742, 7/14/10; Ord. 5968, 1/14/22; Ord. 6059, 3/14/25]

5.170 Special setback for Development Adjacent to Waterways. Development adjacent to the following waterways must maintain the setback from the centerline of the waterway listed instead of the required setback for the zoning district:

Waterway	Setback
Calapooia River	100 feet

Staff Comments: Changes are proposed to standards related to swimming pools for consistency with state building codes.

5.180 Setback and Fencing for Swimming Pools. Swimming pools are hereby defined as all in-ground and above-ground swimming pools, hot tubs and spas more than 24 inches deep. ~~Swimming pools must conform to the setback regulations for main buildings, except that o~~Outdoor swimming pools must be set back at least ~~10~~ 5 feet from all side and rear property lines. All swimming pools must be in an enclosed building, or fully fence~~d~~ or equipped with electric alarm systems that prevent entry or alarm upon entry. Required pool fencing must be at least four feet tall and have a self-locking gate that closes automatically. [Ord. 6059, 3/14/25]

5.190 Setbacks for Properties Abutting Future Street Rights-of-Way. Where the adopted Comprehensive Plan and future street plans include widening or connecting existing streets, or establishing new streets, the placement of all buildings and the establishment of all required setbacks must be in relation to the proposed street right-of-way boundaries. No building may be built on a lot that abuts a proposed street right-of-way unless the lot will have the width and depth needed to complete the street width plus the width and depth of the setbacks required on the lot. [Ord. 5742, 7/14/10]

5.200 Special Willamette River Setback and Height Restrictions Outside the WF, Waterfront Zone. Except for water-related and water-dependent uses (see definitions, Article 22), all construction must be located outside the floodway line as defined for a 100-year storm. Development structure heights and setbacks south of the Willamette River must not extend above a plane that begins at the floodway line and extends directly south. The angle of this plane must be as follows:

(1) For water-oriented uses, the angle must be 30 degrees.

(2) For non-water-oriented uses, the angle must be 15 degrees.

[Ord. 5555, 2/7/03; Ord. 6062, 5/23/25]

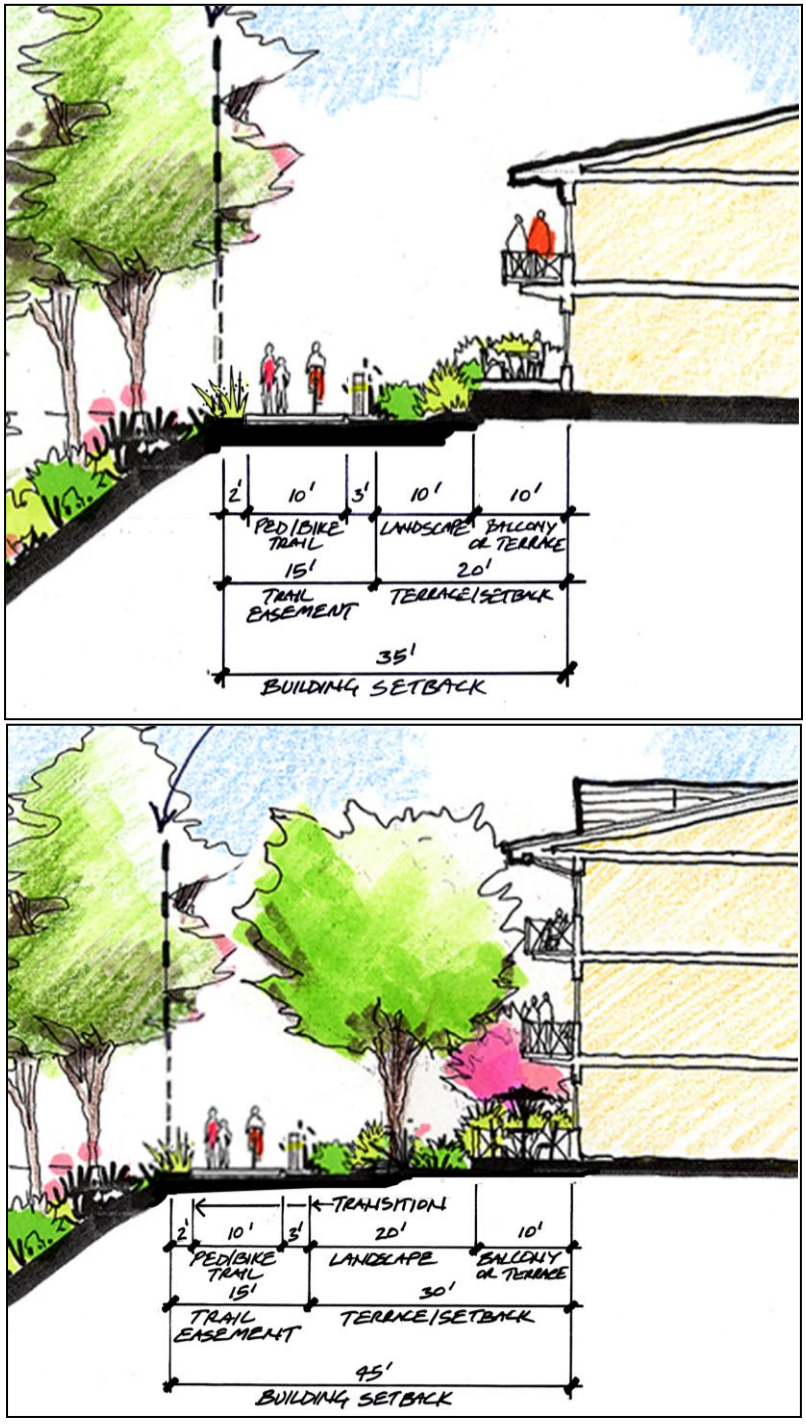
5.205 Special Willamette River Setbacks Inside the WF, Waterfront Zone. Setbacks for buildings south of the Willamette River must meet the following minimum setbacks from the top of the riverbank (Figure 5.205-1):

(1) 35 feet for a building two stories or less, and

(2) 45 feet for a building three or more stories.

Ord. 5627, 7/27/05; Ord. 5947, 1/1/21; Ord. 6062, 5/23/25]

FIGURE 5.205-1. Minimum building setback requirements inside the Willamette River Waterfront Zone.



[Ord. 5627, 7/27/05; Ord. 5947, 1/1/21]

5.207 Exceptions to the Willamette River Setback Standards. For the following properties, the language in Sections 5.200 and 5.205 do not apply. Willamette River setback provisions for these properties are set forth below.

Common Name	Assessor's Property Identification Number

521 Water Ave NE	11S-03W-6DC #100
595 Geary St NE	11S-03W-5BD #300
421 Water Ave NE	11S-03W-6CD #11500

For these properties, the minimum setback for buildings and parking on the river side of property along the river is:

Area	Minimum Setback
West of Lafayette Street	5 feet
East of Lafayette Street	15 feet

For the purpose of establishing setbacks on property along the Willamette River, the river will be treated as a front lot line. The minimum setbacks outlined above will be measured from the most inland of the:

(1) Property line along the river, or

(2) City multi-use path easement, or

(3) Top of the river embankment.

Fences on the river side of property along the river will be located south of the most inland of the:

(1) Property line along the river, or

(2) City multi-use path easement, or

(3) Top of the river embankment.

[Ord. 5555, 2/7/03, Ord. 5559, 3/26/03 Ord. 5627, 7/27/05; Ord. 6062, 5/23/25]

5.210 Special Setbacks for Religious Institutions, Public and Semi-Public Buildings. Any new construction of a religious institution, or Public or Semi-Public building, as defined in Article 22, must be set back at least 25 feet from any property line abutting any residential zoning district in Article 3. Stockpiling or storage of materials or equipment is not permitted in the required setbacks of the lot on which such building or use is located. All other setbacks of the district where the property is located continue to apply.

[Ord. 6024. 12/29/23; Ord. 6059, 3/14/25]

5.220 Parking Restrictions in Setback Areas. Parking and loading spaces must not be located in required setbacks, except:

(1) Paved driveways for single-dwelling units, duplexes, triplexes, fourplexes, cottage clusters, and townhouses. Each space must be a paved area at least 10 feet wide and 20 feet long.

[Ord. 5445, 4/12/00; Ord. 5555, 2/7/03: Ord. 5968, 1/14/22; Ord. 6004, 12/28/22; Ord. 6059, 3/14/25]

5.230 Dwellings Located Above Commercial Uses. The setback requirements for residential uses do not apply when a dwelling is legally located above a commercial use. [Ord. 5742, 7/14/10]

HEIGHT

5.240 Height Standards. See Table 5.090-1 for height restrictions. [Ord. 5947, 1/1/21]

5.250 Height Exceptions.

(1) Roof structures for the housing of elevators, stairways, tanks, ventilating fans and similar equipment required to operate and maintain the building, firewalls, skylights, towers, flagpoles, chimneys, smokestacks, wireless masts, antennas, steeples, and similar structures may be erected above the height limits prescribed in this article, provided that no roof structure, feature, or any other device above the prescribed height limit may be allowed or used for the purpose of providing additional floor space. Antennas may exceed the minimum building height but must meet the standards outlined in 5.070(20). Towers must meet the standards in 8.500.

(2) Religious Institutions and Public and Semi-Public Buildings. In zoning districts where religious institutions and certain public and semi-public buildings require Conditional Use approval, the height restrictions may be waived as a part of the Conditional Use proceedings, provided that a request for such has been noted in the public hearing notice. [Ord. 5555, 2/7/03]

LANDSCAPING

5.280 General. Developments must comply with site landscaping standards in Article 9 before occupancy in accordance with Section 9.140. [Ord. 5742, 7/14/10]

BUFFERING AND SCREENING

5.290 General. Buffering and screening may be required pursuant to Article 9 in addition to the minimum landscaping, to offset the impact of development. See Sections 9.160, and 9.210 through 9.270 for requirements.

[Ord. 5445, 4/12/00; Ord. 5742, 7/14/10; Ord. 5947, 1/1/21; Ord. 6018, 6/30/23]

Staff Comments – Outside Storage: The proposed changes clarify existing standards.

OUTSIDE STORAGE

5.360 General.

(1) Outside Storage and Display in the LE, MS, ES, PB, and MUC districts.

(a) Outside storage or display of materials, junk, parts, fleet vehicles, or merchandise is not permitted within ~~required~~ front yards ~~setbacks~~ or required buffer areas, except for automobile and plant sales, where allowed.

(b) Open storage is permitted in yards not listed in (a) above, provided that it is enclosed with a sight-obscuring fence, wall, hedge, or berm, which must be constructed of non-combustible material. This enclosure must be located on the property at the required setback line as if the berm, fence, wall, or hedge was a building.

i. Materials and equipment stored as permitted in this subsection may be no more than 14 feet above the elevation of the storage area.

ii. Open storage over 6 feet tall must be screened by landscaping.

(2) Outside Storage and Display in the MUR, HD, DMU, CB, and WF districts.

(a) Merchandise ~~for sale~~ may be displayed in front yards during business hours, except vehicles, equipment, or machinery ~~for sale, lease, or rental~~.

(b) Outside display of items not for sale, and outdoor storage of materials, equipment, or other items are not permitted within required setback or buffer areas. In addition, a minimum five-foot front setback is required for outside storage or display areas not

covered by (a), above.

(c) Open storage is permitted in yards not listed in (b) above, provided that it meets the following standards:

i. The storage area must be enclosed with a sight-obscuring fence, wall, or hedge.

ii. Fence and wall enclosures must be located outside the areas specified in (b) above as if they were buildings; however, a hedge enclosure may extend into areas specified in (b), above, provided that the storage area itself does not extend into such areas.

iii. Materials and equipment stored as permitted in this subsection may be no more than ~~14~~10 feet tall~~, relative to~~above the grade of the storage area.

iv. Open storage of materials and equipment over 6 feet tall relative to the grade of the storage area must also be screened by a landscaping buffer area in accordance with Section 9.240.

v. Front setbacks for open storage areas under (b), above, shall be landscaped in accordance with Article 9. Hedges used for enclosure may be counted towards required landscaping under Article 9.

vi. Outside storage on gravel areas must be treated for stormwater detention and provide perimeter curbing. Perimeter curbing must be secured to the ground.

[Ord. 5555, 2/7/03; Ord. 5556, 2/21/03; Ord. 5894, 10/14/17]

5.370 Screening of Refuse Containers. The following standards apply to all development, 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. All refuse containers and disposal areas must be covered. The cover must be at least 8 feet tall. Refuse disposal areas may not be located in required setback areas or buffer yards and must be contained within the screened area. No refuse container may be placed within 15 feet of a dwelling window or between multiple dwelling unit buildings and single-dwelling units.

[Ord. 5555, 2/7/03; Ord. 5968, 1/14/22; Ord. 6059, 3/14/25]

New text is shown in black double underlined font and removed text is shown in ~~strikethrough~~ font. Staff comments in blue font are provided to explain the proposed amendments but are not amendments.

Staff Comments: A few minor changes are proposed to clarify existing standards.

ARTICLE 6
NATURAL RESOURCE DISTRICTS

6.010 Overview. The natural resource districts are intended to protect valuable natural resources within the City of Albany while allowing reasonable economic use of property.

The Open Space zoning district is a base zone that specifies allowed land uses adjacent to some water resources in Albany.

The Natural Resource overlay districts address development activities within specific natural resource areas and are applied over a base zone. The overlay district requirements are in addition to the requirements of the base zone and other City of Albany ordinances.

The following zoning and overlay districts are included in this article:

- Open Space Zoning District (OS)
- Floodplain Overlay District (/FP)
- Hillside Development Overlay District (/HD)
- Significant Natural Resource Overlay Districts
  - Riparian Corridor Overlay (/RC)
  - Significant Wetland Overlay (/SW)
  - Habitat Assessment Overlay (/HA)
- Willamette River Greenway Overlay District (/WG)

[Ord. 5562, 10/10/03; Ord. 5668, 4/11/07; Ord. 5764, 12/1/11]

OPEN SPACE ZONING DISTRICT (OS)

6.020 Purpose and Intent. The Open Space zoning district is intended for the continuation and preservation of existing agricultural uses, park and recreation areas, wildlife habitats, wetlands, natural areas, flood conveyance, and uses that do not involve the construction of structures other than minor accessory facilities required to conduct the principal use. [Ord. 5764, 12/1/11]

6.030 Uses Permitted. The following uses are permitted outright in Open Space zoning districts if they meet the requirements of any applicable Natural Resource Overlay districts:

(1) One single-dwelling unit on a lot legally created before July 1, 1991, or on a lot that meets the requirements of 6.310(B)(1) and other standards in Article 6.

(2) Paths and bridges for pedestrians and bicycles.

(3) Parks and recreational facilities identified in the City's Parks, Recreation & Open Space master plan.

(4) New agricultural uses, where trees and native vegetation are not removed and where no buildings are constructed.

(5) Water-dependent and water-related uses.

(6) Removal of native vegetation in conjunction with an approved use.

(7) Vegetated post-construction stormwater quality facilities planted with native plants, with design approval from the City Engineer.

[Ord. 5764, 12/1/11; Ord. 5842, 1/01/15; Ord. 6004, 12/28/22]

6.040 Conditional Uses. The following uses are permitted with Conditional Use Type II approval if they are located outside of the Riparian and Significant Wetland overlay districts:

(1) Accessory buildings.

(2) Temporary on-site retail sales of site-produced seasonal goods up to 119 days.

(3) Plant nurseries and greenhouses.

(4) Low impact outdoor recreational facilities (e.g. equestrian trails, etc.), and parks and related facilities, where trees and native vegetation removal are minimized and where no buildings are constructed.

(5) Private construction of transportation facilities and utilities not identified in master plans that meet a public need.

(6) Development within wetlands not locally regulated as designated in the Local Wetland Inventories adopted by the City and on Plate 6 of the Comprehensive Plan, if approved by the Oregon Department of State Lands (DSL), U.S. Army Corps of Engineers (ACE), and other applicable federal or state agencies.

[Ord. 5764, 12/1/11]

6.050 Exempt Uses.

(1) Emergency procedures necessary for the immediate safety or protection of life or property, including removing hazardous trees and stream bank stabilization.

(2) Removal of refuse or any fill that is in violation of local, state or federal regulation and in-channel erosion and sedimentation control measures approved by the City of Albany, DSL, ACE and any other applicable local, state or federal regulatory agency.

(3) City construction of public infrastructure, such as transportation, stormwater, sewer, and water utilities. This exemption requires unimproved but disturbed areas to be replanted with native vegetation, provided that the species are appropriate for the site and are planted at similar compositions and densities to native plant communities within the same drainage basin.

(4) Private construction of public infrastructure. The location and construction of public transportation and utility facilities and structures as identified in a City-adopted master plan. This exemption requires that unimproved but disturbed areas are replanted with native vegetation, provided that the species are appropriate for the site and are planted at similar compositions and densities to native plant communities within the same drainage basin.

(5) The use of pre-existing right-of-way or easements for public infrastructure, franchise utilities, and railroads. Planting and maintaining native vegetation is encouraged.

(6) Implementation of erosion prevention or flood control measures provided the measures have received any required approvals and permits from local, state or federal regulatory agencies with jurisdiction over the proposed activity.

(7) Farming practices such as grazing, plowing, planting, cultivating and harvesting, that either existed on the property prior to the date of adoption of these provisions or do not include new

or expanded structures, roads, or other facilities involving grading, excavation, fill, native vegetation removal, or new drainage measures.

(8) Maintenance of existing structures, impervious surfaces, and landscaped areas as described below:

(a) Ongoing maintenance of pre-existing landscaped areas, including perimeter mowing, as long as natural vegetation is not disturbed and there is no excavation, filling or reduction of natural resource area. Use of integrated pest management methods is encouraged.

(b) Ongoing maintenance of existing development, such as repair, replacement, and use of existing buildings, roads, paths, utilities, bridges, culverts, fences, flood control structures, drainageways or facilities, detention facilities, water quality facilities, and other structures and impervious surfaces, provided that such practices avoid sedimentation and other discharges into streams, lakes, or wetlands and do not add impervious surface or remove additional vegetation.

(9) Removal of live vegetation for the following purposes:

(a) Restoration and enhancement projects that have received required approvals from the appropriate local, state, or federal agency.

(b) Removal of non-native and invasive plants, including noxious weeds if consistent with local, state, and federal regulations, and replanted with species on the City's native plant list.

(c) Planting native vegetation, per the City's native plant list, provided that the requirements in the Significant Natural Resource overlay districts are met.

(d) Felling of trees planted as Christmas trees or orchard trees.

[Ord. 5764, 12/1/11]

6.065 District Boundary Refinements. An amendment to reduce the boundary of the OS zoning district may be requested for land that does not include any of the following: the Significant Wetland (/SW), Riparian Corridor (/RC), Habitat Assessment (/HA), Willamette River Greenway (/WG), or Floodplain (/FP) overlay districts; waterways; or shown as wetlands on the Local Wetland Inventory. Wetlands or floodplain areas that were unlawfully filled or filled after December 1, 2011, are not eligible. The city may modify or increase the OS zoning district boundary to include significant wetland, riparian corridors, habitat, floodplain, or waterways when based on approved wetland delineations, new floodplain maps or other professional data or analysis prepared by a qualified professional. District boundary refinements will be processed administratively; no formal variance or plan amendment is needed.

***** No changes are proposed to the Floodplain or Hillside standards, so they are not provided.****

SIGNIFICANT NATURAL RESOURCE OVERLAY DISTRICTS

6.260 Overview. The Significant Natural Resource overlay districts include Riparian Corridors (/RC) and Significant Wetlands (/SW) and fish-bearing waterways throughout the city, and a Habitat Assessment area (/HA) designated specifically for turtle habitat in and around Thornton Lakes in North Albany.

- Purpose and Intent (6.270)
- Land to which these Regulations Apply (6.280)

- Exempt Activities (6.290)
- Activities Subject to Natural Resource Impact Review (6.300)
- Natural Resource Impact Review Standards (6.310)
- Mitigation Standards (6.400)
- Local Mitigation Plans (6.410)
- Albany Native Plant List (6.420)
- District Boundary Corrections and Refinements (6.430)
- District Amendments (6.440)
- Minor and Major Variances (6.450)
- Compliance with State and Federal Regulations (6.460)
- Violations (6.470)

Per OAR 660-023-0040, two studies were conducted that analyze the Economic, Social, Environmental, and Energy (ESEE) consequences of allowing, limiting, or prohibiting conflicting uses within the three resource areas. The protection programs for the three significant resources are informed by these two ESEE Analyses.

[Ord. 5947, 1/01/21]

6.270 Purpose and Intent. The intent of these supplemental Significant Natural Resource overlay districts is to protect significant natural resources within the City of Albany as designated under Statewide Planning Goal 5 and the provisions of the Goal 5 administrative rule (OAR 660, Division 23), while ensuring reasonable economic use of property.

More specifically, the purpose and intent of each Significant Natural Resource overlay district is as follows:

A. Riparian Corridor overlay district (/RC): To protect and enhance Albany's riparian areas, thereby protecting and restoring the hydrologic, ecological, and land conservation functions these areas provide. Significant riparian corridors support valuable fish and wildlife habitat; improve water quality by regulating stream temperatures, trapping sediment, and stabilizing streambanks; and reduce the effects of flooding.

A healthy riparian corridor is comprised of a multi-storied forest of native species of trees, shrubs, and ground cover. Many riparian corridors in Albany have the potential to be restored to higher function and value.

B. Significant Wetland overlay district (/SW): To protect and enhance the integrity, function and value of Albany's significant wetlands and fish-bearing waterways. Wetlands and waterways provide hydrologic and ecologic functions; and reduce adverse effects of flooding. The vast majority of significant wetlands are in riparian areas. There are a small number of isolated significant wetlands. The higher quality isolated wetlands will be regulated locally (as identified in the Citywide ESEE Analysis); and the lower quality isolated wetlands will not be regulated locally but must comply with state and federal wetland regulations.

C. Habitat Assessment overlay district (/HA): To protect habitat for northwestern pond and western painted turtles in and around Thornton Lakes by reviewing and limiting the impacts of development activities on their habitat. This was the only area in Albany where there is a documented presence of a species listed by either the federal government or the State of Oregon. The State lists the species as "sensitive, critical." The overlay identifies an area of high likelihood of turtle nesting, foraging, or migration routes. The overlay district regulations

provide a limited level of protection (as identified in the Thornton Lakes ESEE Analysis). Voluntary methods of turtle habitat protection and enhancement are encouraged and essential.

6.280 Lands to Which These Regulations Apply. The procedures and requirements of this section apply only to property that is within a Significant Natural Resource overlay district.

A. Riparian Corridor overlay district (/RC): The Riparian Corridor overlay district extends 50 feet upland from the Ordinary High Water mark, measured horizontally.

If the Riparian Corridor overlay district area includes all or portions of a significant wetland, the district extends upland 50 feet, measured horizontally from the edge of the significant wetland. Fish-bearing waterways, and the significant wetlands associated with such waterways, are included in the Significant Wetland overlay district.

(1) The Riparian Corridor boundary applies to the following Albany water resources (and in-stream lakes):

- Calapooia River
- Burkhart Creek
- Cathey Creek
- Cox Creek
- Crocker Creek
- Horseshoe Creek
- Oak Creek
- Periwinkle Creek
- Thornton Lakes
- Truax Creek

(2) The Willamette River Riparian Corridor is located within the Willamette River Greenway District boundary. All development on properties within the Willamette River Greenway District is subject to the regulations beginning in Section 6.500 but is not subject to the riparian corridor overlay regulations.

B. Significant Wetland overlay district (/SW): The Significant Wetland overlay district is comprised of fish-bearing waterways below the Ordinary High Water Mark, the wetlands associated with riparian corridors, and higher quality isolated significant wetlands, in the City's Local Wetland Inventory (LWI), and as amended through wetland delineations approved by the DSL and the ACE, if applicable. Notice to, and potentially permits from, DSL and ACE are still required for potential impact to all wetlands regulated by DSL or ACE.

Wetland Delineations Required. Development proposed on properties with hydric soils, or within 50 feet from a mapped wetland (Local, Oregon Statewide or National Wetland Inventories) or 50 feet from the upland edge of a Riparian Corridor when associated with riparian corridors must get a wetland delineation.

C. Habitat Assessment overlay district (/HA): This overlay district extends 75 feet from the Ordinary High Water mark upland from East and West Thornton Lakes.

6.290 Exempt Activities. The following activities are exempt from Natural Resource Impact Review as would otherwise be required within the Significant Natural Resource overlay districts. Many of these exemptions are provided in recognition of the Albany ESEE analyses and pre-existing uses.

Land use reviews as required by other sections of this Code and compliance with other local (floodplain, fill, encroachment, etc.), state, and federal regulations is still required. As a result, these activities should still be conducted in a manner that minimizes impact to Albany's significant natural resources.

(1) Emergency procedures necessary for the immediate safety or protection of life or property, including removing hazardous trees and stream bank stabilization.

(2) Removal of refuse or any fill that is in violation of local, state or federal regulations or in-channel erosion or flood control measures approved by City of Albany Public Works, DSL, ACE and any other applicable state or federal regulatory agency. Removal or placement of material in waters of the State must be consistent with State of Oregon Removal-Fill regulations (ORS 196.795-990) and the ACE fill regulations.

(3) City construction of public infrastructure, such as transportation, stormwater, sewer, and water utilities. This exemption requires unimproved but disturbed areas to be replanted with native vegetation.

(4) Private construction of public infrastructure. The location and construction of public transportation and utility facilities and structures as identified in a City-adopted master plan. This exemption requires that unimproved but disturbed areas are replanted with native vegetation.

(5) The use of pre-existing right-of-way or easements for public infrastructure, franchise utilities, and railroads. Planting and maintaining native vegetation is encouraged.

(6) Implementation of erosion prevention or flood control measures provided the measures have received any required approvals and permits from local, state or federal regulatory agencies with jurisdiction over the proposed activity.

(7) Farming practices such as grazing, plowing, planting, cultivating and harvesting, that either existed on the property prior to the date of adoption of these provisions or do not include new or expanded structures, roads, or other facilities involving grading, excavation, fill, native vegetation removal, or new drainage measures.

(8) Maintenance of existing structures, impervious surfaces, and landscaped areas as described below:

(a) Ongoing maintenance of pre-existing landscaped areas, including perimeter mowing, as long as natural vegetation is not disturbed and there is no excavation, filling or reduction of natural resource area. Use of integrated pest management methods is encouraged.

(b) Ongoing maintenance of existing development, such as repair, replacement, and use of existing buildings, roads, paths, utilities, bridges, culverts, fences, flood control structures, drainageways or facilities, detention facilities, water quality facilities, and other structures and impervious surfaces, provided that such practices avoid sedimentation and other discharges into streams, lakes, or wetlands and do not add impervious surface or remove additional vegetation.

(9) Removal of live vegetation for the following purposes:

(a) Restoration and enhancement projects that have received required approvals from the appropriate local, state, or federal agency.

(b) Removal of non-native and invasive plants, including noxious weeds if consistent with local, state, and federal regulations, and replanted with species on the City's native plant list.

(c) Planting native vegetation on the City's native plant list.

(d) Felling of trees planted as Christmas trees or orchard trees.

(10) Residential development activities, such as construction of home additions, decks, patios, sheds, gardens, landscaping, etc., that impact no more than 2,000 square feet (cumulatively), or 20 percent of the Habitat Assessment overlay district area within a property, whichever is less. Development activities will be reviewed at the time of application for building permits when applicable.

Regardless of the exemption to the local Natural Resource Impact Review requirements, protection of the turtle species is regulated by the State of Oregon.

This exemption only applies to the Habitat Assessment overlay district. If the proposed activity is also located within other Significant Natural Resource overlay districts the requirements of those districts still apply.

(1) Construction of an approved, vegetated post-construction stormwater quality facility (e.g. swale), located in a portion of the Riparian Corridor that is in Degraded Quality condition and planted with native plants.

[Ord. 5842, 1/01/15]

6.300 Activities Subject to Natural Resource Impact Review. A Natural Resource Impact Review will be required for proposed development activities in the Significant Natural Resource overlay districts that are not specifically exempted from review. The review will take place concurrent with any land use application or building permit. In instances when neither is required, the Natural Resource Impact Review will be conducted independently through either a Type I or I-L process as designated below. The standards for reviewing proposed development activities in the Significant Natural Resource overlay districts are found in Section 6.305 and Section 6.310. [Ord. 5947, 1/01/21]

A. Activities subject to review include:

(1) Land divisions;

(2) New structures, or exterior expansion of the footprint of any structure or driveways (Type I);

(3) Increases in impervious surfaces (Type I-L);

(4) Site modifications, including grading, excavation, fill or native vegetation removal (Type I-L);

(5) Private construction of public and privately owned transportation facilities and utilities not exempt through 6.290(4) or 6.290(11) (Type I-L); and

(6) Activities within the Habitat Assessment overlay district not exempt under ADC 6.290 (Type I).

B. When a proposed use or activity requires a Natural Resource Impact Review, in addition to what is required for any concurrent land use applications or building permits, the applicant shall submit a ~~scaled~~ site plan to scale and additional plans to the City that that shows:

(1) Topographic contours at two-foot intervals;

(2) Ordinary high water (OHW) mark of all lakes, streams, or other waterways;

(3) Location of Riparian Corridor and Habitat Assessment overlay districts based on OHW;

(4) Locations of Significant Wetland overlay district based on the LWI or DSL-approved delineation or determination on the subject property and on all properties within 50-feet of property boundary;

(5) The 100-year flood boundary and elevation;

(6) Existing vegetative cover and species composition;

(7) Existing and proposed site improvements;

(8) How the requirements of the applicable review standards in ADC 6.310 will be met; and

(9) A mitigation plan if required per ADC 6.400-6.410.

C. Wetland Site Plan and Aerial Photo. The applicant must submit a Wetland site plan and aerial photo when any development is proposed on property that is within 100 feet of a mapped wetland (Albany Local Wetland Inventory, National and State Wetland inventory) or a wetland delineation less than 5 years old approved by the Department of State Lands. The map must identify both locally protected significant wetlands, non-locally protected wetlands, and proximate wetlands.

6.305 Residential Development Standards. Applications subject to natural resource review that are proposing new residential dwelling units or the creation of residential lots or parcels on properties that include one or more Significant Natural Resource overlay districts must comply with either the clear and objective standard in subsection (1) or the discretionary standard in subsection (2), below. As used in these subsections, the proposed division of land with a Significant Natural Resource overlay district on it is considered development "within a Significant Natural resource overlay district."

(1) Clear and objective standard. No development, including creation of lots or parcels, is permitted within a Significant Natural Resource overlay district. An application to develop property that has one or more Significant Natural Resource overlay districts on it, but where no development is proposed within the boundaries of a Natural Resource Overlay will be processed as otherwise required in this Code.

(2) Alternative review. Residential development is permitted within a Significant Natural Resource overlay district subject to the provisions of the applicable overlay district(s) and the standards in Sections 6.300 through 6.460. [Ord. 5947, 1/01/21]

6.310 Natural Resource Impact Review Standards.

A. General Requirements for Significant Natural Resource overlay districts. A proposed activity will not be approved unless all of the following are true:

(1) The proposed activity is allowed under the requirements of the base zone.

(2) There are no other reasonably feasible options or locations outside the Significant Natural Resource overlay districts for the proposed activity on the subject parcel.

(3) The proposed activity is designed, located and constructed to minimize excavation, grading, structures, impervious surfaces, loss of native vegetation, erosion, and adverse hydrological impacts on water resources. All activities are located as far from the water resources and use as little of the surface area of the Significant Natural Resource overlay

districts, to the extent reasonably feasible.

(4) Any proposed impacts to significant natural resources will be mitigated per the standards in Sections 6.400 and 6.410.

(5) Any applicable local, state, and federal permits are secured.

(6) The additional requirements of ADC 6.310 (B) will be met.

B. Additional Requirements, Limitations, and Exceptions for Specific Activities in Riparian Corridor and Significant Wetland overlay districts. In addition to the general requirements listed above, the following requirements, limitations, and exceptions apply to development activities within the Riparian Corridor and Significant Wetland overlay districts. [Ord. 5947, 1/01/21]

(1) Land Divisions. In addition to the regulations in Article 11, land partially situated in one of the City's natural resource districts can be divided only if there is sufficient land outside of any Significant Natural Resource overlay district to establish a development site area and/or separate a developed area from the natural resource areas. For the purposes of this section, for residential land divisions, "sufficient land" means a minimum of 2,000 square feet per proposed lot or parcel. Applicants may also elect to follow the Cluster Development standards for land divisions in Article 11. [Ord. 5947, 1/01/21]

(2) Structures and Land Altering Activities. The placement of structures and other impervious surfaces, as well as grading, excavation, placement of fill, and vegetation removal, are prohibited. Exceptions may be made for the purposes identified in items a-f of this Section, provided they are necessary to accommodate an approved activity and comply with any stated requirements for the activity or use.

(a) Water-Related and Water-Dependent Uses. Development of water-related and water-dependent uses.

(b) Permanent Alteration Within the Riparian Corridor. Disturbance or development within the Riparian Corridor overlay district shall be allowed under the following circumstances:

(i) The resource is characterized as 'marginal' or 'degraded' using the standards found in 6.410(5).

(ii) Demonstration that equal or better protection will be ensured through riparian corridor restoration and enhancement within the remaining overlay district area per the mitigation requirements in Sections 6.400 and 6.410. If the site is encumbered by easements or rights-of-way that would preclude onsite restoration or enhancement, an "in-lieu of payment" may be made to the City in the amount equal to the cost of onsite mitigation.

Residentially zoned lots that were created prior to December 1, 2011, that are less than 20,000 square feet and can't be further subdivided are allowed to encroach up to 25 feet into the Riparian Corridor overlay district without the requirement for restoration or enhancement of the remaining 25 feet. The mitigation requirements in Section 6.400 still apply.

(iii) In no case shall the site improvements be any closer than 25 feet from the Ordinary High Water mark or upland edge of the wetland, unless the improvements are otherwise allowed or exempted per this Section of the Code.

(c) Vegetation Removal. Removal of live vegetation that is not exempt under 6.290(9) is only allowed to accommodate an approved use or development activity under this section of the Code.

(d) Private Construction of Public Non-Master Planned Transportation Facilities and Privately Owned Transportation Facilities. In addition to other City standards, the following standards shall apply to the location and construction of public non-master planned and/or private transportation facilities and structures, such as driveways, local streets, bridges, bridge crossing support structures, culverts, and pedestrian and bike paths. In addition to other City standards, the following standards shall apply to privately constructed transportation facilities and structures:

(i) The facility is designed to be the minimum width necessary to allow for safe passage of vehicles, bicycles and/or pedestrians, and to meet minimum width requirements.

(ii) Where reasonably feasible, crossings of significant natural resources shall be aligned to minimize impact area.

(iii) The number of crossings is the minimum amount necessary to afford safe and efficient access.

(iv) The number of crossings is minimized where reasonably feasible through use and creation of shared access for abutting lots and access through easements for adjacent lots.

(v) Crossing structures have a natural bottom or other design that meets ODFW fish passage requirements.

(e) Private Construction of Public Non-Master Planned Utilities and Privately Owned Utilities. In addition to other City standards, the following standards shall apply to permitted crossing, trenching, or boring for the purpose of developing a corridor for public non-master planned utilities and private utilities, within or crossing parcels in Significant Natural Resource overlay districts, as well as any above-ground utility structures.

In addition to other City standards, the following standards shall apply to privately constructed utility projects:

(i) Boring under the waterway, directional drilling, or aerial crossing is preferable to trenching. If trenching is the only feasible alternative, it shall be conducted in a dry or dewatered area with stream flow diverted around the construction area to prevent turbidity.

(ii) Common trenches for private utilities, to the extent allowed by the building code, shall be required where reasonably feasible in order to minimize disturbance of the protected resource.

(iii) Topsoil and sod shall be conserved during trench construction or maintenance, and replaced on top of the trench. Side-casting and storage of excavated material prior to replacement on top of trench is permitted. Any side-cast material not placed back on top of the trench shall be removed and may not be stored in the Significant Natural Resource overlay district after the construction or maintenance work is completed.

(iv) Hydraulic impacts on protected resources are minimized.

(v) Where reasonably feasible, crossings of significant natural resources shall be aligned to minimize impact area.

(vi) Above-ground utilities that cause ground disturbance in the Significant Natural Resource overlay district and are not within an existing right-of-way or easement, and are not shown in an approved master plan, will only be allowed in limited circumstances, and if they meet the general requirements in 6.310(A).

(f) Minor or Major Variance. Development associated with an approved Minor or Major Variance. [Ord. 5947, 1/01/21]

C. Activities within Habitat Assessment overlay district. A wildlife habitat assessment is required if proposed development exceeds the minimum thresholds in 6.290(10). If the wildlife habitat assessment finds evidence of habitat for either the northwestern pond turtle or the western painted turtle within the overlay district, the following standards apply:

(1) New development, expansion of existing development, landscaping and other ground disturbances shall be located outside of the designated turtle habitat areas as determined by the habitat assessment; or

(2) If impacts are approved, the development/use has been proposed in a manner that will minimize the impact of the development on wildlife habitat. The Oregon Department of Fish and Wildlife (ODFW) has reviewed and approved a mitigation plan for any impacts to the habitat area for the proposed development. Local mitigation is not required in addition to that required by ODFW or other state and federal agencies. [Ord. 5947, 1/01/21]

6.400 Mitigation Standards. Mitigation is a way of compensating for adverse impacts to the functions and values of natural resources caused by development. In many cases, mitigation may result in resource area restoration or enhancement.

If a State or Federal agency has jurisdiction regarding development impacts within the Riparian Corridor and Significant Wetland overlay districts, and they require mitigation for those impacts, the City will not impose additional mitigation requirements over the same area. Those portions of development impacts not mitigated through a State or Federal agency will be subject to local mitigation requirements. Mitigation for impacts to turtle habitat in the Habitat Assessment overlay district will be solely managed by ODFW.

The need for mitigation, restoration, or enhancement will be determined during the Natural Resource Impact Review process. The Director may allow some degree of flexibility to the standards based on the specific location and level of impact.

(1) When Mitigation is Required: Mitigation will be required under the following circumstances:

(a) Removal of one or more native tree**s** greater than 25 inches in circumference, which requires replacement per section (2)(c).

(b) Disturbance of more than 2,000 square feet of vegetated surface area. This level of impact will require a mitigation plan per 6.410.

(c) When a request is made to develop or impact the Riparian Corridor overlay district area per 6.310(B)(2)(b), a mitigation plan will be required for enhancement of the remaining area per 6.410.

(2) Local Mitigation Standards:

(a) On-site enhancement is required when the 50-foot area of the Riparian Corridor overlay district is impacted per 6.310(B)(2)(b), unless the activity is otherwise exempted per this section of the Code.

(b) For other mitigation options, on-site mitigation shall occur within the relevant Significant Resource overlay district as close to the impact area as reasonably feasible, taking into consideration the existing natural and human-made features of the site.

If on-site mitigation is not reasonably feasible, off-site mitigation shall be permitted in other locations inside the city in the following priority order:

(i) Within the impacted Significant Resource overlay district in the same drainage system; or

(ii) Outside the impacted Significant Resource overlay district, but within 100 feet of a Significant Resource overlay district in the same drainage system; or

(iii) Outside the same drainage system, but within a Significant Resource overlay district.

(c) Tree replacement requires planting a minimum 1½-inch caliper healthy and well-branched native deciduous tree or a 5-6 foot tall native evergreen tree for each tree removed. The replanted tree shall be of a species that will eventually equal or exceed the removed tree in size if appropriate for the new location.

(d) Mitigation for impacts shall require a mitigation area ratio of 1:1; however if the quality of the resource is enhanced or restored per 6.410(5) the ratio may be lowered with Director approval.

(e) Planting densities and species composition shall be consistent with native wetland and riparian area plant communities currently or historically found in the drainage basin. Use of a reference site as guidance for developing a revegetation plan is recommended.

(f) Any mitigation requirements resulting from a proposed land division, shall require a mitigation plan concurrent with the land division process.

6.410 Local Mitigation Plan. When a local mitigation plan for impact to a significant natural resource is proposed or required as part of a development application, the applicant shall submit a mitigation plan prepared by a qualified professional with demonstrated experience in developing mitigation plans for the specific impacted resource.

(1) The mitigation plan shall document the location of the impact, the existing conditions of the resource prior to impact, presence of invasive species, the location of the proposed mitigation area, a detailed planting plan of the proposed mitigation area with species and density, and a narrative describing how the resource will be replaced, and how debris and invasive species will be removed.

(2) The mitigation plan shall comply with all applicable State and Federal regulations, in addition to the City's standards. The City may approve a development but shall not issue a building permit until all required State and Federal permit approvals have been granted and copies of those approvals have been submitted to the City.

(3) The applicant or property owner of a development subject to an approved mitigation plan shall provide assurance of completion in the form of a surety or performance bond, cash, negotiable security deposit, letter of credit, or other guarantees approved by the City Attorney that is equal to 120% of the value of the improvements installed pursuant to the plan for a 2-year period. The assurance shall be in place before the issuance of development permits to ensure the success of mitigation improvements and the survival of the plants. The assurance will be released by the City upon receiving satisfactory proof that the mitigation measures have been successfully implemented per (4) below. If mitigation improvements fail during the 2-year period, the assurance shall both be forfeited and used by the City to correct the problem pursuant to the approved mitigation plan, or the bond period may be extended for a 2½-year period with Director's approval to allow for another replanting strategy. When the City of Albany, or another unit of government, is the applicant, it must adhere to the standards in this section, but an assurance is not required.

(4) A report on the survival and health of planted vegetation, and the status of invasive species, shall be performed by a qualified professional at the expense of the applicant, and will be provided to the Community Development Department between 18 and 24 months from the initial planting that describes the health of all vegetation and shows pictures of the vegetation. The City may arrange an on-site inspection to verify information contained in the report. If the survival rate for tree and shrub species is below 80%, a replanting strategy shall be prepared, approved, and executed within 6 months of the report, with a subsequent report on survival provided to the Department between 12 and 18 months from the time of the second planting. At this point, if the survival rate is still below 80%, the bond described in (3) will either be forfeited or extended for a 2½-year period with Director's approval. If at the end of the extension period, the survival rate is still less than 80%, the bond will be forfeited.

(5) Table 6.410-1 below summarizes the quality levels, mitigation requirements and expected condition of the significant wetlands and riparian corridor areas after successful completion of the mitigation plan; ODFW will solely determine the requirements for mitigation of significant wildlife habitat.

[Ord. 5947, 1/01/21]

TABLE 6.410-1

Quality levels, mitigation requirements and expected condition of the significant wetlands and riparian corridor areas after successful completion of the mitigation plan.

Existing Resource Quality	Mitigation Requirements/Expected Future Resource Quality
Waterways & Significant Wetlands (riparian and isolated)	
Good Quality: Little enhancement potential per the Local Wetland Inventory assessment or other wetland assessment by a qualified professional. City staff will verify existing condition.	Preserve or enhance per approved mitigation plan; Invasive species are removed and are not persisting.
Marginal Quality: Moderate enhancement potential per the Local Wetland Inventory assessment or other wetland assessment by a qualified professional. City staff will verify existing condition.	Restore to Good Quality per approved mitigation plan; Invasive species are removed and are not persisting.
Degraded Quality: High enhancement potential per the Local Wetland Inventory assessment or other wetland assessment by a qualified professional; Farmed or otherwise converted. City staff will verify existing condition.	Enhance to at least Marginal Quality; A smaller ratio of 1.0 (impact area) to 0.5 (mitigation area) may be allowed for restoration to Good Quality.
Riparian Corridor Overlay	
Good Quality: Combination of native trees, shrubs, and groundcover are at least 80% of the overlay area, and there will be more than 50% tree canopy coverage at maturity.	Preserve or enhance per approved mitigation plan; Invasive species are removed and are not persisting.
Marginal Quality: Combination of native trees, shrubs, and groundcover are at least 80% of the overlay area, and there will be 25%-50% tree canopy coverage at maturity.	Restore to Good Quality with an approved plan (mature overlay area coverage will be estimated); Invasive species are removed and are not persisting;
Degraded Quality: Less vegetation and canopy coverage than Marginal Quality, and/or greater than 10% coverage of any non-native species.	Enhance to at least Marginal Quality with an approved plan (mature overlay area coverage will be estimated); A smaller ratio of 1.0 (impact area) to 0.5 (mitigation area) may be allowed for restoration to Good Quality.

[Ord. 5947, 1/01/21]

6.420 Native Plant List. The City will establish a native plant list, which includes plants that were historically found in the area at the time of European contact. If a modification is requested, the Director will determine if the modification is warranted based on consultation with knowledgeable people with backgrounds in botany or landscape architecture, as well as scientific documents. [Ord. 5947, 1/01/21]

6.430 District Boundary Corrections and Refinements. The boundaries for the Significant Natural overlay districts are approximate.

The boundaries of the Significant Wetland overlay district are based on the locations of the significant wetlands identified in the City's Local Wetland Inventory, as reflected in Plate 6 of the Comprehensive Plan. The Riparian Corridor overlay and Habitat Assessment overlay districts were estimated by measuring from the edge of the water, which is based on an aerial photograph.

District boundary corrections and refinements will be processed administratively. District corrections will be made to correct map errors, such as when the map does not properly reflect the Local Wetland Inventory data. A district boundary refinement is an alteration made, based on professional analyses, to refine the boundary of the Significant Natural Resource overlay districts based on state methodology. District refinements must be made in accordance with the provisions in this code to determine the location and extent of the following:

[Ord. 5947, 1/01/21]

- Riparian Corridor overlay districts as measured from the Ordinary High Water (OHW) mark of rivers, lakes, and streams, and from the upland edge of adjacent significant wetlands. If a DSL-approved wetland delineation or determination results in a change to the boundary of the significant wetland adjacent to the riparian corridor, the Riparian Corridor overlay boundary will be adjusted accordingly.
- Habitat Assessment overlay districts as measured from the OHW mark of East and West Thornton Lakes. If an ODFW-approved habitat assessment results in a change to the boundary of the habitat area, the habitat assessment overlay boundary will be adjusted accordingly.
- Ordinary High Water Mark: Changes to the Riparian Corridor or Habitat Assessment overlay boundaries must be based on the location of the OHW that includes supporting information submitted by a qualified professional hydrologist or professional land surveyor.
- Significant Wetlands overlay district by delineations of significant wetlands that are approved by the DSL or by onsite wetland determinations by DSL when delineations are not needed for other purposes. DSL-approved delineations or determinations shall be required when development is proposed within 30 feet of the overlay district and will supersede the LWI mapping.

6.440 District Amendments. To amend the resource inventories or the program to protect significant natural resources on land within any of the Significant Natural Resource overlay districts requires Comprehensive Plan and Development Code amendments per the requirements in Article 2. In all instances the amendments must be based on new site-specific information. The proposed amendments are reviewed by the Oregon Department of Land Conservation and Development (DLCD), with consultation from other State agencies such as ODFW or DSL.

6.450 Minor Variances and Major Variances. The City may grant Minor Variances or Major Variances to the standards in the Significant Natural Resource overlay districts in order to avoid rendering a property not buildable through application of this ordinance. Requests that cannot meet the provisions and review criteria for Minor Variances will be processed as a Major Variance. Minor Variance applications will be processed through the Type I-L land use process using the criteria in Section 6.450(2) below. Major Variance applications will be processed through the Type II process using the criteria in Section 2.690. The proposed activity or use must be allowed within the base zoning district in order to be considered for a Minor or Major Variance.

(1) General Standard. In evaluating any Minor or Major Variance request, the decision maker may require the applicant to incorporate design options to reduce the impact on the protected

resource. These may include, without limitation, multi-story construction, alternate siting of structures, limiting the length of impervious driveway and other surfaces, and maximizing the use of native landscape materials.

(2) Minor Variances. In order for the Director to approve a Minor Variance application, the applicant shall demonstrate that all the following criteria are fully satisfied:

(a) It is an existing legal lot and there is insufficient space outside the resource area to construct a use permitted in the underlying zoning district.

(b) The development site area, including all structures and impervious surfaces, encroaches on the resource area a total of 3,000 square feet or less.

(c) The Minor Variance is the minimum necessary to allow a permitted use or achieve the minimum buildable area outlined above, while at the same time minimizing disturbance to the significant natural resources. The Director may require modifications to site development standards to enable avoidance of the resource.

(d) The encroachment does not result in a new structure or impervious surface being located closer than 25 feet from the Ordinary High Water mark. Bridges are an exception to this requirement.

(3) Major Variances. For any existing lot or parcel whose hardship cannot be alleviated with a Minor Variance application, the property owner may apply for a Major Variance per Section 2.690.

[Ord. 5947, 1/01/21]

6.460 Compliance with State and Federal Regulations. Activities wholly or partially within the Significant Natural Resource Overlay district(s) are subject to all applicable federal and state regulations. The following regulations commonly apply within the resource areas. (Note: other regulations not listed may also apply; it is the property owner's responsibility to adhere to all applicable State and Federal regulations):

(1) Oregon Department of State Lands permit requirements under the Removal-Fill Law.

(2) U.S. Army Corps of Engineers permit for fill activities as required under Section 404 of the Clean Water Act.

(3) Department of Environmental Quality permit requirements for stormwater under the Clean Water Act and state water quality regulations.

(4) Oregon Department of Fish and Wildlife regulations may apply to development activities that could impact one of the sensitive, threatened, critical, or endangered species indigenous to the region.

(5) The federal Endangered Species Act prohibits any action that causes a "taking" of any listed species of endangered fish or wildlife.

(6) The federal Migratory Bird Treaty Act prohibits taking, harming or moving any migratory bird, nest, or egg.

6.470 Violations. Activities within Significant Natural Resource Overlay districts not authorized under this Article are unlawful. The City shall seek compliance with the requirements of this Article and the resolution of violations through the procedures below. These procedures are not exclusive; may be exercised singly, simultaneously, or cumulatively; may be combined with any other remedies authorized under law; and may be exercised in any order.

(1) Voluntary cooperation to resolve violations is the preferred enforcement procedure when appropriate to the circumstances. Violations causing ongoing degradation of natural resources or repeated violations by the same individual, firm or corporation are not appropriate for voluntary enforcement procedures.

(2) Natural resource restoration shall be required for violations that result in unauthorized construction, grading, excavation, placement of fill material, or removal of native vegetation in a Significant Natural Resource Overlay district. The purpose of the restoration requirements shall be to mitigate impacts to vegetation, soils and hydrology and may include vegetation planting, fill removal, backfilling of excavated areas, restoration of ground surface contours, restoration of hydrological processes or other actions. Restoration recommendations shall be solicited from the Oregon Department of Fish and Wildlife and the Linn or Benton County Soil and Water Conservation Districts.

(3) Violations involving placement of fill material, excavation, grading or alteration of material within a stream or in a wetland shall be reported to the DSL and the U.S. Army Corps of Engineers, in addition to any local actions taken per this section of the code.

(4) Failure of an individual, firm, or corporation to remedy a documented violation may be processed in accordance with the enforcement provision in Article 1.

(5) Criminal or civil sanctions.

WILLAMETTE RIVER GREENWAY

6.500 Purpose. The Willamette River Greenway district is intended to guide development along the Willamette River so as to preserve the existing scenic, use and natural features. The procedures and criteria of this district implement the requirements of Goal 15 and ORS 390.314. Pursuant to ORS 174.020(2), the requirements of ORS 390.314 (and by extension Goal 15) take precedence over the requirement for clear and objective standards for housing in ORS 197.307. [Ord. 5947, 1/01/21]

6.510 Applicability. The area of the City within the Willamette River Greenway District is the area so designated by the boundary shown on Figure 6.510-1 [Ord. 5947, 1/01/21]



FIGURE 6.510-1. Willamette River Greenway. [Ord. 5947, 1/01/21]

6.520 Procedure. Except for land use developments and uses exempted in Section 6.530 below, an application for development ~~approval~~ in the Willamette River Greenway District will be approved under the Type II procedure. Approval of a Willamette River Greenway use application will be

granted only if the proposal complies with all applicable sections of this Code. In case of conflict between the provisions of this Article and the provisions of any other Article of this ordinance, the more restrictive provisions shall apply.

6.530 Willamette River Greenway Use Permit Exceptions. The following developments and uses are not subject to the provisions of this Article but shall comply with other applicable provisions of this Code:

(1) Customary dredging and channel maintenance conducted under a permit from the State of Oregon.

(2) Gravel removal from the bed of the Willamette River conducted under a permit from the State of Oregon or a seasonal increase in gravel operations.

(3) The placing by a public agency of signs, markers, aids, to serve the public.

(4) Activities to protect, conserve, enhance, and maintain public recreational, scenic, historical, and natural uses of public lands; except that a substantial increase in the level of development of existing public recreational, scenic, historical, or natural uses on public lands shall require review as provided by this Article.

(5) Agriculture as allowed within the subject major zoning district.

(6) Reasonable emergency procedures necessary for the safety or protection of property and not in conflict with the provisions of this Code.

(7) Maintenance and repair usual and necessary for the continuance of an existing use.

(8) Landscaping, construction of driveways, repair or maintenance of existing structures, and the construction or placement of accessory structures ~~less than 250 square feet~~, provided that such activities are conducted in conjunction with uses already existing on the same property and that they are accomplished in a manner compatible with the purpose of this Article.

~~(8)~~(9) A change of use of a building or other structure which does not substantially alter or affect the land or water upon which it is situated.

6.540 Criteria. An application for a Willamette River Greenway use permit~~development~~ will be granted if the review body finds that the proposal conforms to the following applicable criteria:

(1) Lands designated on the Comprehensive Plan as Open Space are preserved and maintained in open space use.

(2) Significant air, water and land resources including but not limited to natural and scenic areas, viewpoints, vistas, fish and wildlife habitats, etc. in and adjacent to the Willamette River Greenway are protected, preserved, restored, or enhanced to the maximum extent possible.

(3) Areas of annual flooding, floodplains, and wetlands are preserved in their natural state to the maximum possible extent to protect water retention, overflow, and other natural functions.

(4) The natural vegetative fringe along the river is maintained to the maximum extent that is practical in order to assure scenic quality, protection of wildlife, and protection from erosion.

(5) The harvesting of timber will be done in a manner which ensures that wildlife habitat and the natural scenic qualities of the Willamette River Greenway are maintained or will be restored.

(6) The proposed development, change, or intensification of use is compatible with existing uses on the site and the surrounding area and provides the maximum possible landscaped area, open space, or vegetation between the activity and the river.

(7) Extraction of aggregate deposits shall be conducted in a manner designed to minimize adverse effects on water quality, fish and wildlife, vegetation, bank stabilization, stream flow, visual quality, noise and safety, and necessary reclamation will be guaranteed.

(8) Any public recreational use of facility will be developed, maintained, and operated in such a way as to minimize adverse effects on adjacent properties.

(9) Building setbacks from the floodway line shall be determined by the setback and height plane as defined in Sections 5.200 through 5.207 of this Code. [Ord. 5947, 1/01/21]

(10) Public access will be provided to and along the Willamette River by appropriate legal means for all development in conformance with plans approved by the City.

6.550 Conditions of Approval. The review body has the power to impose conditions, restriction, or limitations upon any use proposed in the Willamette River Greenway District if such conditions, restrictions, or limitations are found to be necessary in order to satisfy the criteria of Section 6.540.

6.560 Special Notification. Notification regarding requests for Willamette River Greenway Use Permits will be sent to the Oregon Parks and Recreation Department. Notification ~~of~~to the Oregon Parks and Recreation Department will be given by certified mail (return receipt requested) and sent within seven days of the receipt of the application for the ~~conditional~~ use. Notice of the decision on the Willamette River Greenway use permit application will be mailed to the Oregon Parks and Recreation Department within ten days of such decision.

CLUSTER DEVELOPMENT

6.570 Cluster Development. See Article 11, Land Divisions and Planned Developments, Sections 11.400 to 11.530, for Cluster Development standards. [Ord. 5668, 4/11/07; Ord. 5947, 1/01/21]

New text is shown in black double underlined font and removed text is shown in ~~strikethrough~~ font. Staff comments in blue font are provided to explain the proposed amendments but are not amendments.

Staff Comments: A few clarifying amendments are proposed to the design standards.

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).

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

- Single Dwelling Units ~~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. 5947, 1/1/21; Ord. 5968, 1/14/22; Ord. 6004, 12/28/22]

SINGLE DWELLING UNITS ~~HOMES~~ AND MIDDLE HOUSING

8.110 Applicability.

(1) The standards of ADC Sections 8.110 through 8.160 apply to all new single-dwelling units, manufactured homes, duplexes, two primary units, townhouses, triplexes, and fourplexes in all zones that allow these housing types, except as otherwise noted.

(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 in the WF or DMU zones, or in one of Albany's Climate Friendly Area (CFA) overlay districts in a building where ground-floor residential use is permitted pursuant to ADC 5.070(17) and ADC Article 14.

(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.

(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 the standards in Sections 8.130 through 8.160.

(5) New cottage cluster development must meet the standards in Sections 8.175 in all zoning districts where permitted.

(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 must apply to the middle housing parent lot, not to the middle

housing child lots.

[Ord. 5445, 4/12/00; Ord. 5894, 10/14/17; Ord. 5947, 1/1/21; Ord. 5949, 1/1/21; Ord. 5968, 1/14/22; Ord. 6004, 12/28/22; Ord. 6059, 3/14/25; Ord. 6062]

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.

[Ord. 6042, 7/12/24]

BUILDING FACADE STANDARDS FOR SINGLE DWELLING UNITS & MIDDLE HOUSING, except Cottage Cluster Developments

8.130 Dwelling Unit 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.

(1) On each lot, at least one main entrance must be within eight feet of the longest street-facing wall of the dwelling unit (excluding the garage); and either:

(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.

(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).

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

FIGURE 8.130-1. Front door facing the street

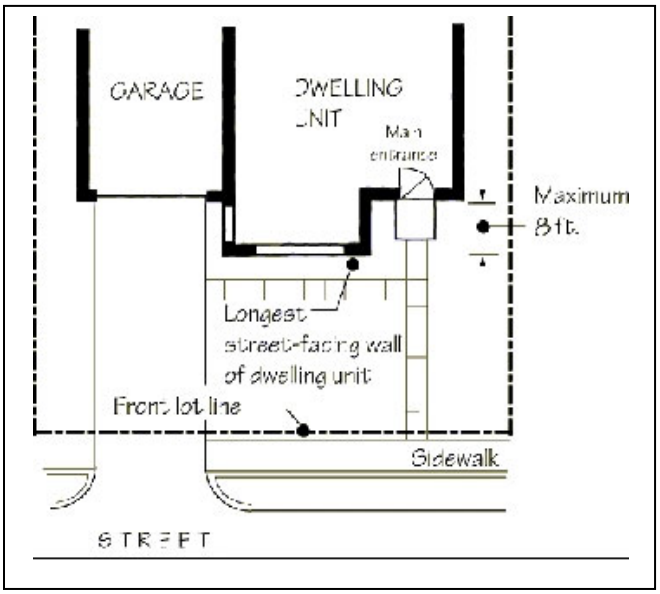
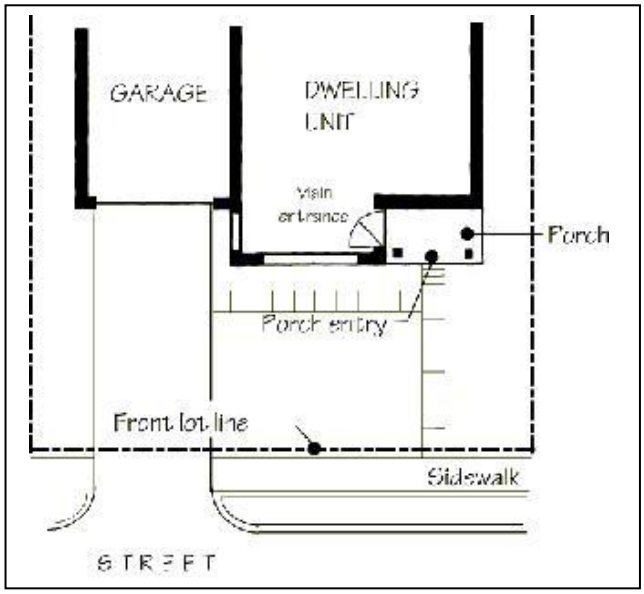


FIGURE 8.130-2. Front door opening onto porch



(4) In the DMU and WF zoning districts and in the CFA overlay districts, 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. 5445, 4/12/00; Ord. 5894, 10/14/17; Ord. 5947, 1/1/21; Ord. 5968, 1/14/22; Ord. 6062, 5/23/25]

8.133 Street-Facing Windows. The purpose of these standards is to create pedestrian-friendly, sociable, safe, and attractive neighborhoods. The standards enhance public safety by allowing people to survey their neighborhood from inside their residences; and provide a more pleasant pedestrian environment by preventing large expanses of blank facades along streets.

(1) At least 15 percent of the area of each façade that faces a street lot line must be windows or main pedestrian entrance doors (see Figure 8.133-1).

(2) All windows on a street-facing façade, including windows in garage doors and windows in doors that are not the main pedestrian entrance, may be counted toward meeting this standard.

(3) For a pedestrian door to count toward meeting this standard, it must be the main entrance and face the street. For structures with more than one dwelling unit, each main entrance door that faces the street may count toward this standard.

(4) For a corner lot, any street-facing façade with a main entrance must meet this standard.

FIGURE 8.133-1. Single-Dwelling Unit and Middle Housing Window Coverage



[Ord. 5445, 4/12/00; Ord. 5894, 10/14/17; Ord. 5947, 1/1/21; Ord. 5968, 1/14/22; Ord. 6004, 12/28/22; Ord. 6062, 5/23/25]

8.140 Façade design and articulation for Townhouses citywide, and for Triplexes and Fourplexes in the Climate Friendly Area (CFA) Overlay Districts and DMU and WF Zoning Districts.

(1) To promote buildings that provide visual interest and façade details that give a sense of quality and permanence, the front façade must include a minimum of **two** of the architectural features listed below for each dwelling unit. For a corner lot, only one street-facing façade of the dwelling unit(s) must meet these standards. Lots with frontage on First or Second Avenue must meet this standard on the First or Second Avenue frontage. See Figure 8.140-1.

(a) Porch: must meet the standards in ADC 8.130(1)(c).

(b) Dormer: minimum width of four feet, inset at least three feet from all side walls.

(c) Balcony: facing the street and accessible from an interior room, with a minimum depth of three feet.

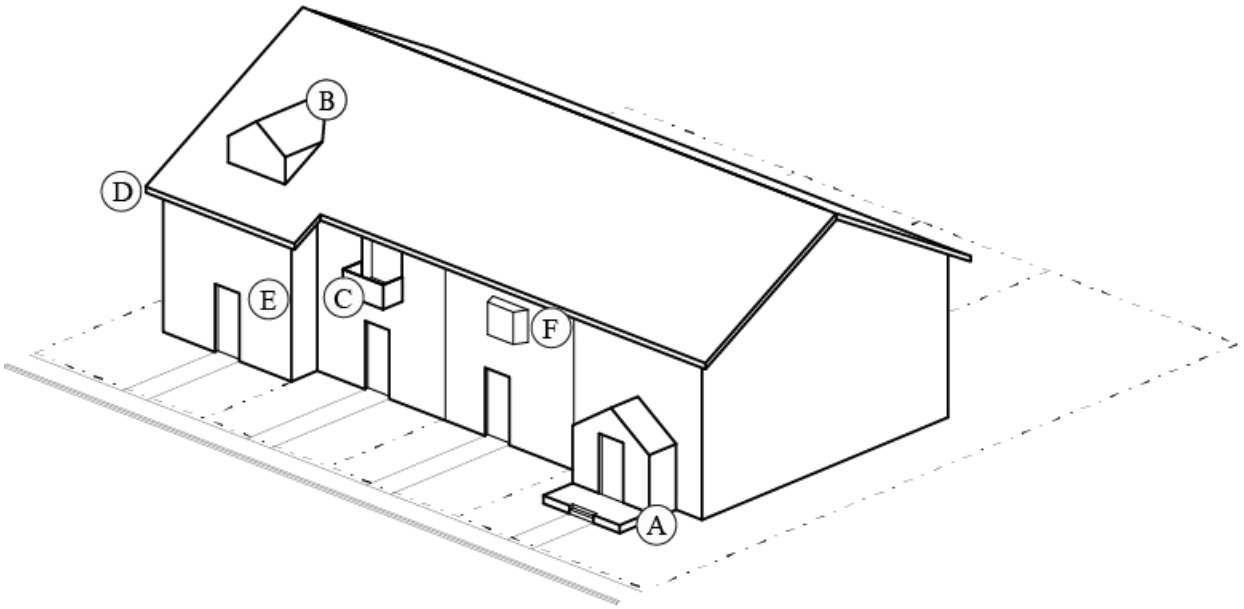
(d) Eaves: overhang of not less than 12 inches.

(e) Offset: offset in facade or roof of at least two feet that extends for at least four feet.

(f) Bay window: projects from front elevation by 12 to 24 inches.

(g) Other: features not listed but providing visual relief or contextually appropriate design similar to options (a)-(f).

FIGURE 8.140-1. Middle Housing Unit Articulation



(A) Porch: must meet the standards in ADC 8.130(1)(c).

(B) Dormer: minimum width of four feet, inset at least three feet from all side walls.

(C) Balcony: facing the street and accessible from an interior room, with a minimum depth of three feet.

(D) Eaves: overhang of not less than 12 inches.

(E) Offset: offset in facade or roof of at least two feet that extends for at least four feet.

(F) Bay window: projects from front elevation by 12 to 24 inches.

(2) Landscaping for Ground-Level Dwellings in CFA Overlay Districts and the DMU and WF zones. To provide privacy for ground floor residential uses, for residential buildings within 5 feet of the front lot line, street-facing ground floor windows must be separated from the front lot line with a landscaped buffer at least three feet deep extending for at least the width of the window(s). The landscaped buffer must meet at least one of the following standards.

(a) For every three linear feet of width, provide at least one three-gallon shrub, with the remaining area treated with suitable living ground cover, lawn, or decorative treatment of bark, rock, or other attractive ground cover.

(b) For every two linear feet of width, provide at least 1 one-gallon shrub or perennial that typically achieves a mature height of at least three feet, with the remaining area treated with suitable living ground cover, lawn, or decorative treatment of bark, rock, or other attractive ground cover.

(c) Other suitable landscaping that provides both privacy and visual interest and includes

living plants, shrubs, and/or trees.

[Ord. 5894, 10/14/17; Ord. 6062, 5/23/25]

PARKING AND VEHICLE ACCESS

8.145 Purpose. These standards are intended to support a pedestrian-friendly street environment by minimizing the visual and safety impacts of driveways, provided parking, and garages; and to preserve on-street parking and opportunities for front yard landscaping. See Article 12 for additional standards. Ord. 6062, 5/23/25]

8.150 Parking and Access in Climate Friendly Area (CFA) Overlay Districts and the DMU and WF Zoning Districts. These standards are intended to support a pedestrian-friendly street environment by minimizing the visual and safety impacts of driveways, provided parking, and garages; and to preserve on-street parking. See Article 12 for additional access standards.

(1) ~~Driveway standards~~Garages, Parking and Vehicle Access Location.

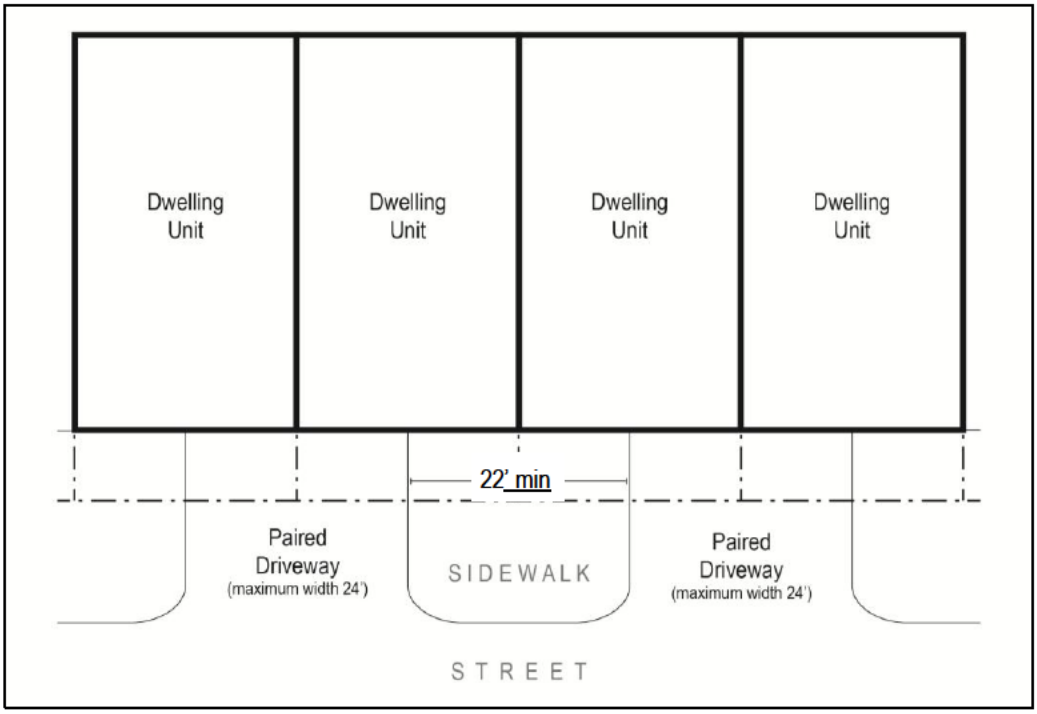
(a) Development sites abutting an alley or on sites of one or more acres: Garages, vehicle parking, and driveways~~Vehicle access~~ must be from the back or side of the dwelling via the alley or when no alley is present a new alley or a shared ~~public~~ access easement approved by the City Engineer rather than the public street. Alleys must be approved to city standards.

(b) Development sites that do not abut an alley or that are infill sites less than one acres in size or where a shared access easement is not feasible: Vehicle access must meet i or ii, below.

i. Provide vehicle access from not more than one driveway to each public street abutting the development site.

ii. Provide vehicle access to properties within the development site from shared or paired driveways with a minimum spacing between driveways of 22 feet (see Figure 8.150-1). The distance between driveways is measured along the front property line.

FIGURE 8.150-1. Paired driveway example.



(2) Garages Facing the Street. When garages are permitted on a street-facing facade and garage doors face a street or are within a 45-degree angle of a front lot line, the following standards must be met.

(a) No more than one street-facing garage door up to 12 feet wide is permitted per dwelling unit.

(b) See ADC Table 5.090-1 for garage setback standards.

(3) The standards of ADC Section 12.230 regarding design requirements abutting arterials do not apply. However, the standards of ADC 12.100 regarding limiting the location, width, and number of accesses to arterials do apply.

[Ord. 5894, 10/14/17; Ord. 5947, 1/1/21; Ord. 5968, 1/14/22; Ord. 6018, 6/30/23; Ord. 6062, 5/23/25]

8.160 Parking and Access for development outside of CFA overlay Districts and the DMU and WF zones.

(1) Driveway Spacing. The following standards apply to all lots for which street driveway access is provided to individual units from the street to the front facade, except for flag lots, and lots where parking is accessed via an alley. Spacing between driveways is measured along the front property line. Each lot must meet one of the following:

(a) Two off-street parking spaces per unit are provided and the driveway(s) meets the minimum separation standard in ADC Subsection 12.100(2); or

(b) A minimum of 22 feet of contiguous street frontage (uninterrupted by driveways) is provided; or

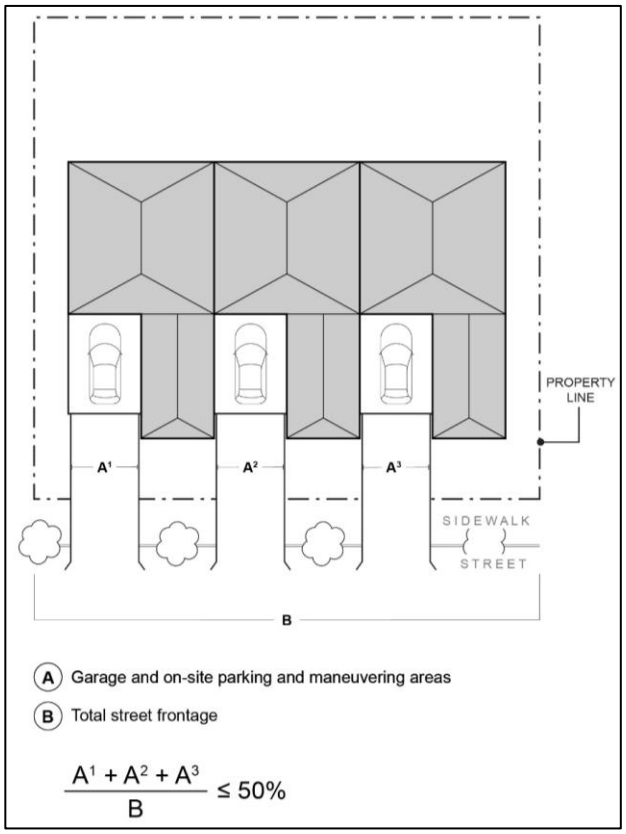
(c) The driveway(s) are spaced a minimum of 22 feet from adjacent driveways. Driveways may be shared by two abutting lots. See Figure 8.150-1.

(2) Alley Access. When a development site abuts an alley, vehicle access must be from the alley rather than the public street. Alleys must be approved to city standards.

(3) Triplex and Fourplex Garages, Off-Street Parking Areas, and Driveways. New triplex and fourplex developments must meet these standards.

(a) The combined width of all garages, driveways, and on-site parking and maneuvering areas must not exceed 50 percent of the street frontage (see Figure 8.160-1).

FIGURE 8.160-1. Triplex and Fourplex: Width of Garages and Parking Areas



(b) Driveway Approaches. The total width of all driveway approaches to streets must not exceed 48 feet per frontage, as measured at the property line (see Figure 8.160-1). Lots with more than one frontage must comply with the following:

i. Lots must access the street with the lowest transportation classification for vehicle traffic unless access to a higher traffic street is approved by the City Engineer.

ii. Lots with two frontages may have either:

- Two driveway approaches not exceeding 48 feet in total width on one frontage; or
- One maximum 24-foot-wide driveway approach per frontage (see Figure 8.160-3).

iii. Driveway approaches for triplexes and fourplexes must also meet the standards of ADC Section 12.100.

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FIGURE 8.160-2. Alley Access Example

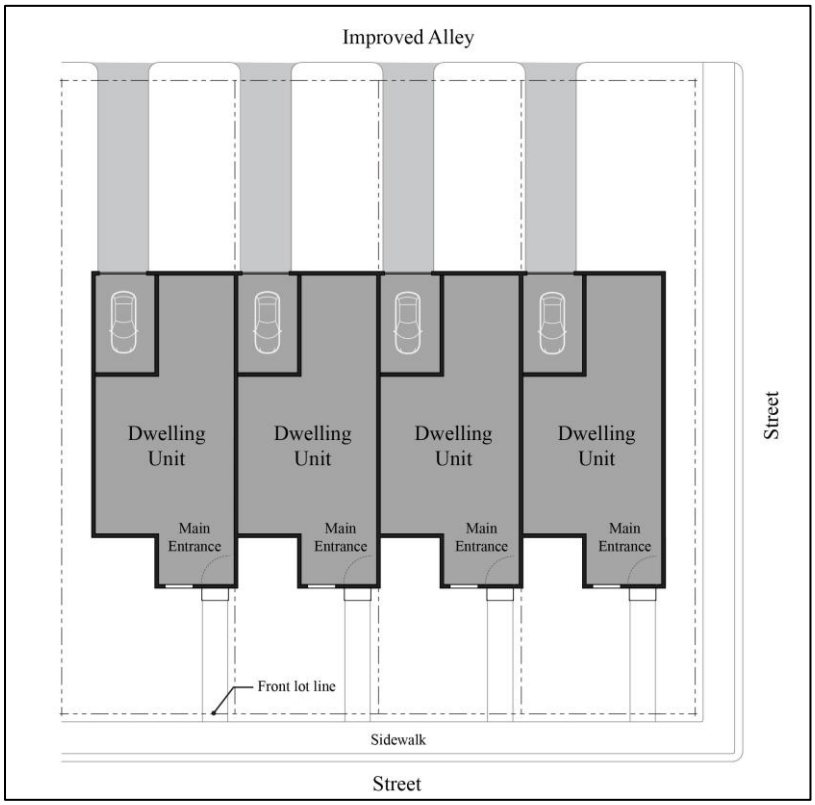
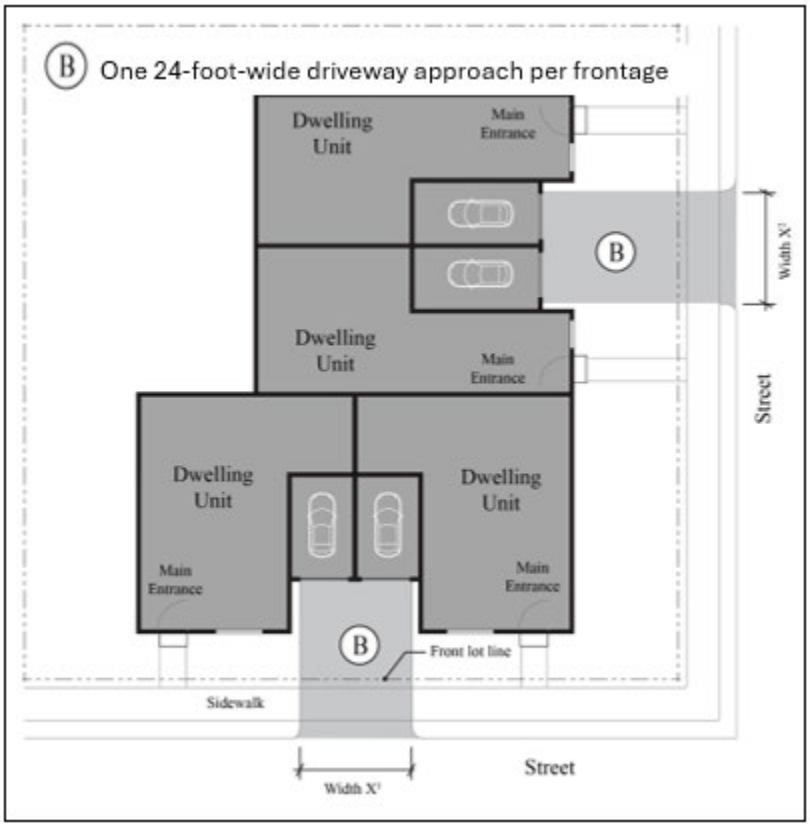


FIGURE 8.160-3. Triplex and Fourplex: Driveway Approach Options for Multiple Street Frontages – Driveways on Both Frontages



(4) Townhouse Driveway Access and Parking. See Article 12 for additional access standards.

(a) Parking and garage access. For development sites abutting an alley that is improved according to the standards of Article 12, vehicle access must be via the alley improved to city standards or an approved shared access easement. ~~rather than the public street (see Figure 8.160-2).~~

(b) Garages on the front façade of a townhouse, off-street parking areas in the front yard, and driveways in front of a townhouse are only permitted when ~~allowed if~~ they meet the following standards (see Figure 8.160-4).

i. A maximum of one (1) driveway is allowed for every townhouse unit. Driveway approaches and/or driveways may be shared.

ii. Outdoor on-site parking and maneuvering areas and driveways do not exceed 12 feet in width~~e~~ on any lot.

iii. No more than one (1) street-facing garage door for motor vehicle ingress/egress is permitted per townhouse unit. Each street-facing garage door ~~for motor vehicle ingress/egress~~ may not exceed 12 feet in width.

(c) The following standards apply to driveways and parking areas for townhouse projects that do not meet all of the standards in subsection (a) or (b).

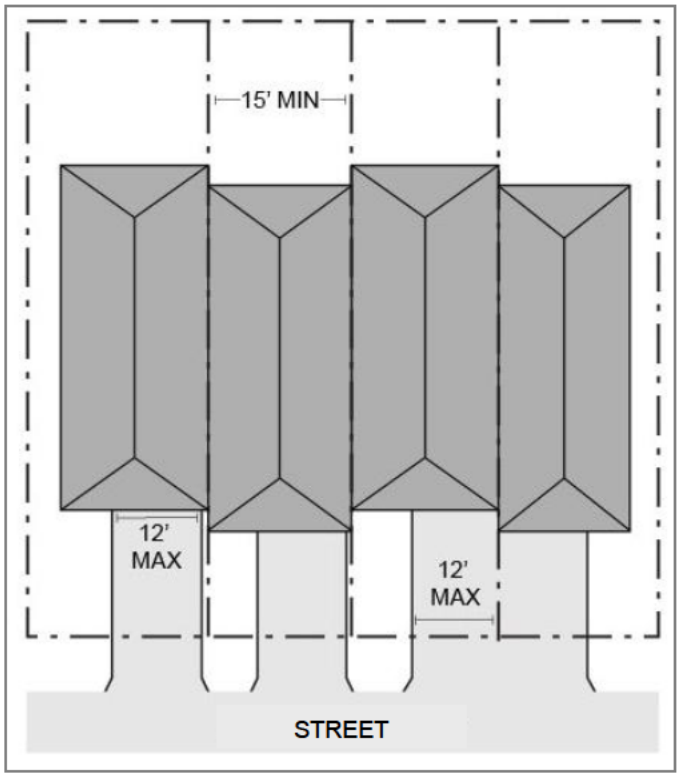
i. Off-street parking areas must be accessed on the back façade or located in the rear yard. No off-street parking is allowed in the front yard or side yard of a townhouse.

ii. A townhouse project that includes a corner lot must take access from a single driveway approach on the side of the corner lot. See Figure 8.160-2. Shared driveways serving four (4) or more townhouses must be public alleys, or a private access created through a Planned Development.

iii. Townhouse projects that do not include a corner lot must consolidate access for all

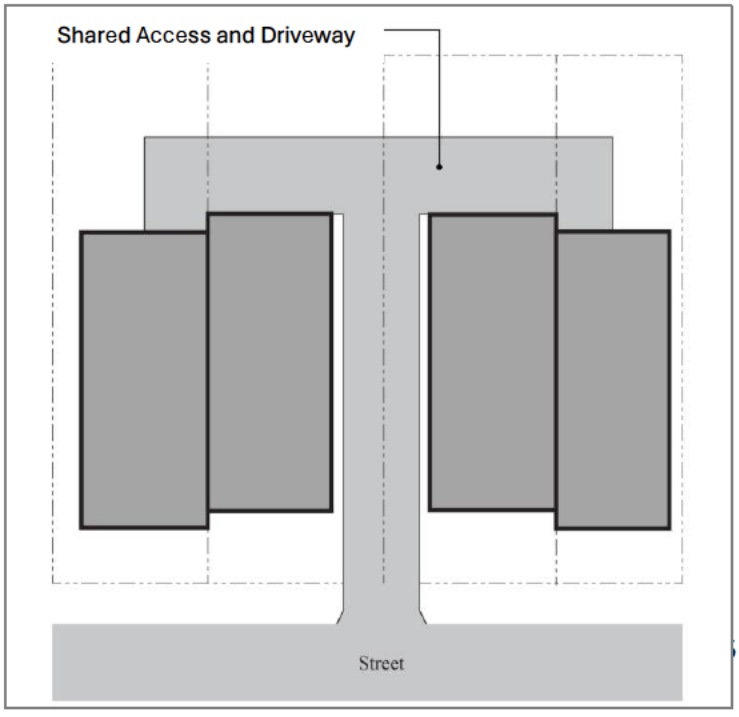
lots into a single driveway. The driveway and approach are not allowed in the area directly between the front façade and front lot line of any of the townhouses. See Figure 8.160-5. Shared driveways serving four (4) or more townhouses must be public alleys, or a private access created through a Planned Development.

FIGURE 8.160-4. Driveway example for Townhouses



(d) A townhouse project that includes consolidated access or shared driveways shall grant access easements to allow normal vehicular access and emergency access(s). The standards of ADC Section 12.230 regarding design requirements abutting arterials do not apply. However, the standards of ADC 12.100 regarding limiting the location, width, and number of accesses to arterials do apply.

FIGURE 8.160-5. Townhouses with Consolidated Access (created through Planned Development)



[Ord. 5968, 1/14/22; Ord. 6008, 1/27/23; Ord. 6062, 5/23/25]

8.175 Cottage Cluster Design Standards. Cottage clusters are clusters of small, detached dwelling units (cottages) that are oriented around a common courtyard. Cottage clusters typically share amenities such as open space. The purpose of this section is to provide standards that promote quality development; create a sense of openness and community; and enhance the livability, walkability, and safety of the community.

(1) Number of Dwellings. The purpose of these standards is to place appropriate limits on the scale of cottage clusters, and to limit the number of cottages that can be developed on an individual lot. ~~For the purposes of these standards, all cottages that share the same common courtyard constitute a single cottage cluster.~~

(a) Except as provided in subsection (c), a single cottage cluster must contain a minimum of three (3) and a maximum of eight (8) cottages.

(b) Except as provided in subsection (c), a lot must contain no more than eight (8) cottages, arranged in one or more cottage clusters.

(c) When all cottages on a lot are less than 800 square feet in floor area, the maximum number of cottages permitted on one lot is as follows:

- R-10, R-6.5, and HM districts: 10 cottages
- R-5 district: 12 cottages
- RM and MUR districts: 16 cottages

(2) Floor Area. The purpose of these standards is to ensure that cottages are limited in size while providing flexibility for a range of unit sizes within a cottage cluster. Limiting unit size promotes lower-cost housing choices and promotes accessibility for residents of various ages and abilities.

(a) "Floor area" is defined in ADC Section 22.400; however, for the purpose of this section, "floor area" includes stairwells, ramps, shafts, chases, and the area devoted to garages. Floor area does not include porches, exterior balconies, or other similar areas, unless they are enclosed. Floor area is measured for each floor from the exterior faces of a building or structure.

(b) Floor Area. The maximum permitted floor area of an individual cottage is 1,400 square feet.

(c) Average Floor Area. The maximum average floor area permitted for all cottages in a cottage cluster project is 1,100 square feet.

(3) Cottage Orientation. The purpose of these standards is to provide a sense of community within a cottage cluster, and to ensure that each dwelling has access to a common courtyard. Cottages must be clustered around a common courtyard and must meet the following standards (see Figure 8.175-1):

(a) Each cottage within a cluster must either abut the common courtyard or must be directly connected to it by a pedestrian path.

(b) A minimum of 50 percent of cottages within a cluster must be oriented to the common courtyard and must:

i. Have a main entrance facing the common courtyard;

ii. Be within 10 feet from the common courtyard, measured from the façade of the cottage to the nearest edge of the common courtyard; and

iii. Be connected to the common courtyard by a pedestrian path.

(c) Cottages within 20 feet of a street property line may have their entrances facing the street.

(d) Cottages not facing the common courtyard or the street must have their main entrances facing a pedestrian path that is directly connected to the common courtyard.

(4) Common Courtyard Design Standards. The purpose of these standards is to ensure that common courtyards provide usable shared spaces that are adequately sized, located, and functional, and that are an integral part of the overall cottage cluster design. Each cottage cluster must share a common courtyard. Common courtyards must meet the following standards (see Figure 8.175-1):

(a) The common courtyard provided for each cluster must be a single, contiguous piece.

(b) Cottages must abut the common courtyard on at least two sides of the courtyard.

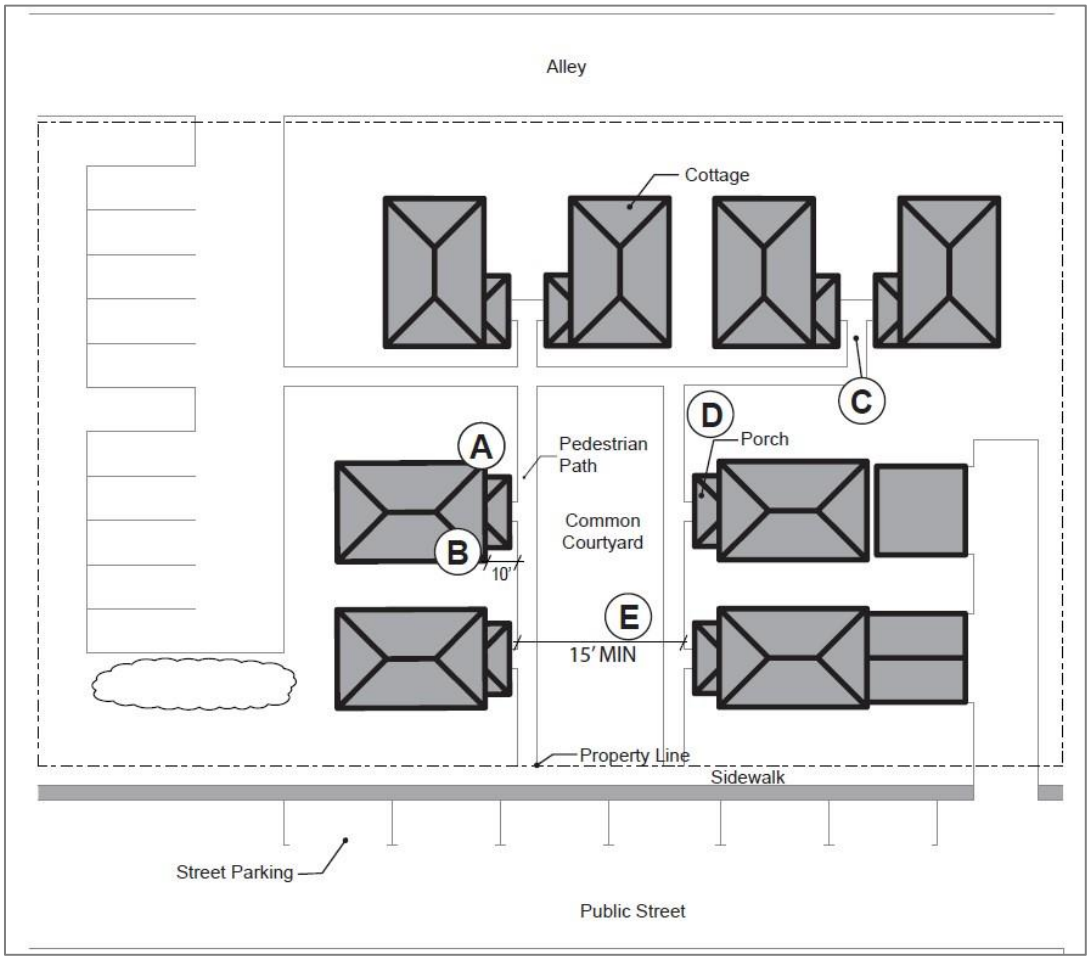
(c) The common courtyard must contain a minimum of 100 square feet per cottage within the cluster, or 75 square feet per cottage if the cottage cluster project contains four (4) or fewer cottages or is in the MUC, DMU, or MUR zones.

(d) The common courtyard must be a minimum of 15 feet wide at its narrowest dimension.

(e) The common courtyard must be developed with a mix of landscaping, lawn area, pedestrian paths, and/or paved courtyard area, and may also include recreational amenities. Impervious elements of the common courtyard must not exceed 75 percent of the total common courtyard area.

(f) Pedestrian paths must be included in a common courtyard. Paths that are contiguous to a courtyard must count toward the courtyard's minimum dimension and area. Parking areas, required setbacks, and driveways do not qualify as part of a common courtyard.

FIGURE 8.175-1. Cottage Cluster Orientation and Common Courtyard Standards



(A) A minimum of 50% of cottages must be oriented to the common courtyard.

(B) Cottages oriented to the common courtyard must be within 10 feet of the courtyard.

(C) Cottages must be connected to the common courtyard by a pedestrian path.

(D) Cottages must abut the courtyard on at least two sides of the courtyard.

(E) The common courtyard must be at least 15 feet wide at it narrowest width.

(5) Community Buildings. The purpose of these standards is to allow development of community buildings for the shared use of residents that provide space for accessory uses such as community meeting rooms, guest housing, exercise rooms, daycare, or community eating areas. The purpose is also to ensure that community buildings are compatible in scale with dwellings in a cottage cluster. Community buildings must meet the following standards:

(a) Each cottage cluster is permitted one community building.

(b) The community building must have a maximum floor area of 1,400 square feet.

(c) Community buildings must not be used for long-term residential occupancy. For the purposes of this standard, long-term residential occupancy means the continued use by the same occupant for longer than 14 days in any 60-day timeframe or for more than 30 days in a calendar year.

(6) Pedestrian Access. The purpose of these standards is to ensure that pedestrian circulation systems are designed to provide safe and convenient connections within a cottage cluster development and to adjacent public streets/sidewalks.

(a) An accessible pedestrian path must be provided that connects the main entrance of each cottage to the following:

i. The common courtyard;

iv. Shared parking areas, if provided;

v. Community buildings; and

vi. Sidewalks in public rights-of-way abutting the site or rights-of-way if there are no sidewalks.

(b) The pedestrian path must be hard-surfaced and a minimum of four (4) feet wide.

(7) Windows. Cottages within 20 feet of a street property line must meet the Street-Facing Windows requirements of ADC Section 8.133.

(8) Parking Design. The purpose of these standards is to support a pedestrian-friendly street environment and to support livability for cottage cluster residents by minimizing the impacts of parking areas and garages (see Figure 8.175-2).

(a) Off-street parking may be provided with individual cottages or arranged in clusters (shared parking lots).

(b) Clustered parking. If clustered parking is proposed, it must meet the following standards:

i. A parking cluster must not exceed five (5) contiguous spaces.

ii. Parking clusters must be separated from other spaces by at least four (4) feet of landscaping.

iii. Clustered parking areas may be covered.

iv. Common parking areas must also meet the standards in ADC Section 9.100. Parking areas that exceed 5 parking spaces must also meet the standards in ADC Sections 9.120 and 9.150, except where they conflict with the standards in this subsection.

(c) Parking location and access.

i. Off-street parking spaces and vehicle maneuvering areas may not be located:

- Within 20 feet from any street property line, except alley property lines;
- Between a street property line and the front façade of cottages located closest to the street property line. This standard does not apply to alleys.

ii. Off-street parking spaces may not be located within 5 feet of any other property line, except alley property lines. Driveways and drive aisles are permitted within 10 feet of other property lines.

iii. Driveways must meet the access standards in ADC Section 12.100.

(d) Screening. Landscaping, fencing, or walls at least three feet tall must separate clustered parking areas and parking structures from common courtyards and public streets.

(e) Garages and carports.

i. Garages and carports (whether shared or individual) must not abut common courtyards.

ii. Individual detached garages must not exceed 400 square feet in floor area.

iii. Garage doors for attached and detached individual garages must not exceed 20 feet in width.

iv. Garages must not be converted into living space.

(9) Accessory Structures. The purpose of this standard is to ensure that accessory structures are appropriately sized relative to the scale of cottage cluster dwellings.

(a) Accessory structures must not exceed 400 square feet in floor area.

(10) Existing Structures. An existing single-dwelling unit on a lot or parcel to be used for a cottage cluster project may remain within the cottage cluster project area under the following conditions:

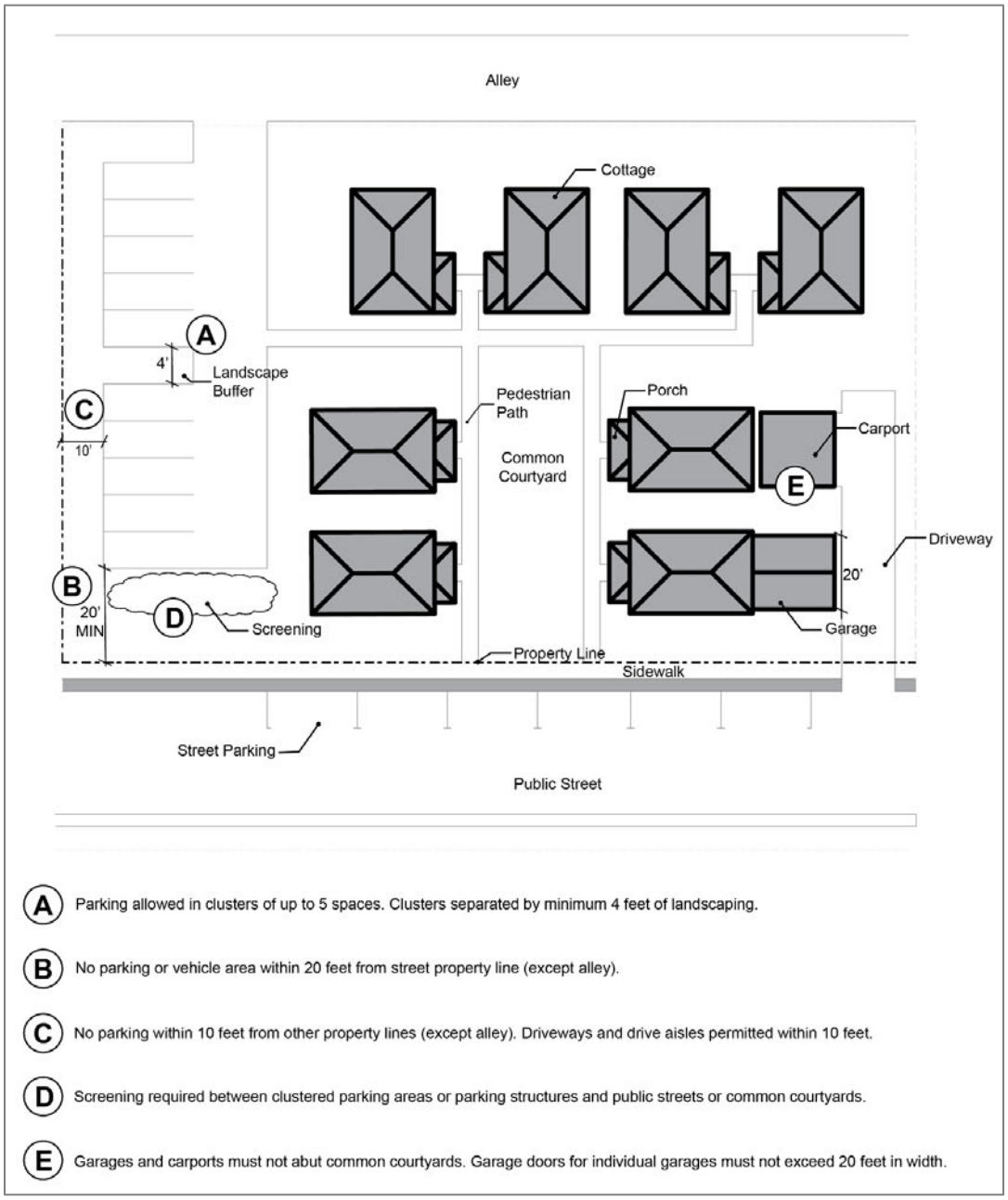
(a) The existing dwelling may be nonconforming with respect to the requirements of this Section 8.175.

(b) The existing dwelling may be expanded up to the maximum height (ADC 3.192(4) or 5.092(4), as applicable) or the maximum building footprint (ADC 3.192(5) or 5.092(5) as applicable); however, existing dwellings that exceed the maximum height and/or footprint standards may not be expanded.

(c) The floor area of the existing dwelling must be excluded from the calculation of average floor area for the cottage cluster, per subsection 8.175(2)(c).

(d) The existing dwelling must be excluded from the calculation of orientation toward the common courtyard, per subsection 8.175(3)(b).

Figure 8.175-2. Cottage Cluster Parking Design Standards



[Ord. 5968, 1/14/22; Ord. 6004, 12/28/22; Ord. 6018, 6/30/23; Ord. 6059, 3/14/25; Ord. 6062, 5/23/25]

MULTIPLE-DWELLING UNIT DEVELOPMENT

8.200 Purpose. These sections are intended to set standards for quality designs in new multiple dwelling unit developments. Good design results when buildings are visually compatible with one another and adjacent neighborhoods and contribute to a residential neighborhood that is attractive, active, and safe. [Ord. 5445, 4/12/00; Ord. 5947, 1/1/21; Ord. 6004, 12/28/22]

8.205 Applicability.

(1) Except as specified in ADC Section 8.110(2), the standards of ADC Sections 8.220 through

8.300 apply to the development of new Multiple-Dwelling Unit residential buildings (accessory buildings are exempt), additions to existing structures that create additional multiple-dwelling units, and to the residential components of new buildings with Units Above or Attached to a Business (see ADC Section 22.310). Non-residential components of mixed-use development are subject to the Commercial and Institutional Site Design Standards of Sections 8.330 through 8.390.

(2) Except as required to meet building code, fire code, or other regulations, expansions and modifications to existing buildings and sites must not decrease conformance with these standards.

(3) Unless otherwise specified, these standards apply in all zoning districts.

[Ord. 5894, 10/14/17; Ord. 5947, 1/1/21; Ord. 6004, 12/28/22; Ord. 6059, 3/14/25]

8.210 Relationship to Historic Overlay Districts. For property inside the Historic Overlay Districts and properties designated as Historic Landmarks, the provisions of 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]

Staff Comments: Clarify that the minimum common open space is calculated based on a site's buildable land, as defined in Article 22.

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 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.

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

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

Open Space	**CB, HD, DMU, LE, WF, MUC, MUR, OP, NC, CC, and RC 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 development or 10 or more units above or attached to a business	250 square feet (useable area) subject to ADC 8.220(1)	15% of the total development site's buildable land ~~area~~, and subject to the standards in ADC 8.220(2)
Children's Play Areas		
• Developments with fewer than 20 units	Not required	Not required
• Developments with 20 or more units, excluding developments for seniors, senior living facilities, and housing for	Not required	Required and subject to the standards in ADC 8.220(3)(c)

persons with mental or physical disabilities		
Private Open Space	Not required	Required for at least 80% of units and subject to the standards in ADC 8.220(4)

(1) ~~Common Open Space~~Multi-Use Paths ~~in All Zoning Districts~~. A multi-use path must be provided if identified in the Parks Master Plan, the Transportation System Plan, an adopted area plan, or any other plan adopted by the City of Albany. The path must be at least 10 feet wide, centered within a 20-foot-wide easement, and constructed to city standards as approved by the City Engineer. If the path is not provided at the time of development, a development agreement may be entered into for future construction and/or financial assurance thereof.

(2) Common Open Space in the CB, HD, DMU, WF, LE, MUC, MUR, OP, NC, CC, and RC Zoning Districts. When required by Table 8.220-1, common open space must 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.

(3) 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, MUC, MUR, OP, NC, CC, and RC Zoning Districts, the following standards apply.

(a) Minimum Usable Common Open Space. For developments with 20 or more units, usable common area must be provided as specified below with no horizontal dimension less than 20 feet. The usable common open space counts towards the minimum common open space requirement of 15 percent of the site area.

i. 10 to 20 units: 400 square feet

ii. 21 or more units: 400 square feet plus 20 square feet/unit over 20 units

(b) Required Usable Common Open Space must 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. Common patios and decks or pavement abutting and within 50 feet of the swimming pool, spa, or hot tub may be included.

ii. Regulation sized and equipped sports courts for tennis, handball, volleyball, pickleball, and/or basketball.

iii. Community gardens for use by residents to grow food and other vegetation. Gardens must have irrigation available for use by the residents.

iv. Rooftop terrace or ground level courtyard accessible to residents. A terrace or courtyard must include barbeques, tables, and seating that are available for use by residents.

v. Indoor community room.

vi. Multi-use path at least 10 feet wide, including those identified in an adopted city plan, centered within a 20-foot-wide easement constructed to city standards as approved by the City Engineer. The path must connect to a nearby proposed or existing trail, ~~if~~ when applicable.

vii. Children's Play Areas that meet the standards in Section 8.220(3)(c).

(c) Children's Play Areas. Each children's play area must include a play structure or play equipment at least 100 square feet in area, and at least two (2) different children's play amenities/equipment approved for use in a public playground. Equipment must be manufactured to American Society for Testing and Materials (ASTM) F1487-11 standards or other comparable standards applicable to public playground equipment. The play area and open space located within 25 feet of the play structure(s) or equipment may count towards the required usable common open space requirement in 8.220(2)(b). Each children's play area must be fenced along any perimeter that is within 10 feet of a street, alley, property line, parking area, or abutting the RR, R-10, R-6.5, R-5, and HM zoning districts.

(d) Remaining Required Common Open Space. The remaining common open space needed to meet 15 percent of the project site may consist of the following:

i. Areas within Significant Natural Resource overlay districts excluding floodway and water bodies, 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.

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

iii. Lawn, ornamental gardens, and landscaped areas including trees and shrubs. Areas may include picnic tables, benches, drinking fountains, paths, garden art, or structures. This amenity may not account for more than 50 percent of the remaining requirement for open space after usable open space requirements are met. If this amenity accounts for more than 25 percent of the required common open space, at least one accessible bench or picnic table and trees that provide a mature canopy of at least 25 percent of the landscaped area 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.

(e) Limitations to Common Open Space Areas.

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

ii. Required setback areas may be applied toward the minimum usable common open space requirement of 15 percent, except that sport courts, swimming pools and spas, children's play areas, and common courtyards or covered areas are not allowed in any required setbacks.

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

(f) Common Open Space Area Credit.

i. A credit, not to exceed 25 percent of the required common open space area, may be granted if there is direct access by an ADA accessible pedestrian path or sidewalk, not exceeding ¼ mile, from the proposed multiple-dwelling unit development to an improved public park, multi-use path, ~~and~~ recreation area, or publicly accessible

school playground.

ii. A credit toward the minimum common open space area required by Table 8.220-1 may 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 must be reduced by 10 percent. Further reductions in the minimum required common open space area must 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 must be reduced by 15 percent. The total reduction must 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.

(4) Private Open Space. When required by Table 8.220-1, private open space must be provided to meet the standards of this section. Development in the CB, HD, DMU, WF, LE, MUC MUR, OP, NC, CC, and RC Zoning Districts and developments for seniors, senior living facilities, and housing for persons with mental or physical disabilities in all zoning districts are exempt from these requirements.

(a) Each dwelling unit providing required private open space must have at least 48 square feet of private open space.

(b) No dimension of the required private open space may be less than four feet. Accessible units must meet ADA standards.

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

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

(e) Except for front porches, required private open space for at-grade dwellings must be screened in accordance with ADC 9.250.

(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]

(h) Private Open Space Transfers and Credit.

i. Up to 50 percent of the total required private open space may be transferred to usable common open space. All transferred private open space is in addition to the required usable common open space.

ii. Affordable Housing Credit. Up to 75% of the required private open space may be transferred to usable common open space. All transferred private open space is in addition to the required usable common open space.

(5) Open Space Designated on Site Plan. Areas provided to satisfy the minimum open space requirements must be designated on the development site plan and must be reserved as common or private space, as applicable.

[Ord. 5947, 1/1/21; Ord. 6004, 12/28/22; Ord. 6042, 7/12/24; Ord. 6059, 3/14/25; Ord. 6062, 5/23/25]

New text is shown in black double underlined font and removed text is shown in ~~strikethrough~~ font. Staff comments in blue font are provided to explain the proposed amendments but are not amendments.

8.240 Setbacks and Building Orientation.

(1) Purpose. The purpose of the standards in this section is to create and maintain street frontages that are attractive, create an environment that is conducive to walking, and provide natural surveillance of public spaces. The standards are also intended to promote building and site design that contribute positively to a sense of neighborhood and to the overall streetscape by carefully relating building mass, entries, and yards to public streets.

(2) Applicability. In all zoning districts except HD, CB, DMU, and WF, new multiple dwelling unit developments must meet the maximum setback and building orientation standards of this section. New multiple dwelling unit development in the HD, CB, DMU and WF zoning districts is subject to maximum setback standards in ADC Section 5.120 and building orientation standards in ADC Section 8.265.

(3) Standards. Buildings on sites with frontage on a collector or arterial public street, must either meet all of the standards of section (a) or all the standards of section (b) below. Buildings on sites with frontage on a local street must meet the standards of section (a).

A summary of the two options for meeting the Setback and Building Orientation standards, and references to applicable Code sections, are provided in Table 8.240-1. This table only summarizes standards in ADC Section 8.240; other standards in the Code related to setbacks, landscaping, and parking also apply, such as Special Noise Corridor Setbacks in ADC Sections 3.320 and 4.200.

TABLE 8.240-1: Summary of Street Orientation and Enhanced Landscaping Options

	(a) Street Orientation Option	(b) Enhanced Landscaping Option
Frontage	Buildings must occupy at least 40% or 50% of site frontage, depending on site width in accordance with ADC 8.240(3)(a)(i)-(ii).	No additional requirements in Section 8.240.
Minimum Front Setback	No additional requirements in Section 8.240.	Amount needed to provide landscaping in accordance with ADC 8.240(3)(b) and Table 8.240-2.
Maximum Front Setback	Buildings must be setback no more than 20 feet in accordance with ADC 8.240(3)(a)(i) except in the HDR zone, the maximum setback is 15 feet.	Maximum Setbacks in Table 3.190-1 may be exceeded except in the HDR zone, the maximum setback is 15 feet.
Entries	At least 50% of front doors of units within 25 feet of collector or local public street must face the street and be recessed or have covered porches in accordance with ADC 8.240(3)(a)(iii)-(iv).	No additional requirements in Section 8.240.
Parking Location	No parking is allowed between the building and street in accordance with ADC 8.240(3)(a)(v).	Parking allowed between building and street for up to 25% of building frontage in accordance with ADC 8.240(3)(b)(ii).
Landscaping	No additional requirements in Section 8.240.	Enhanced landscaping required within the setback in accordance

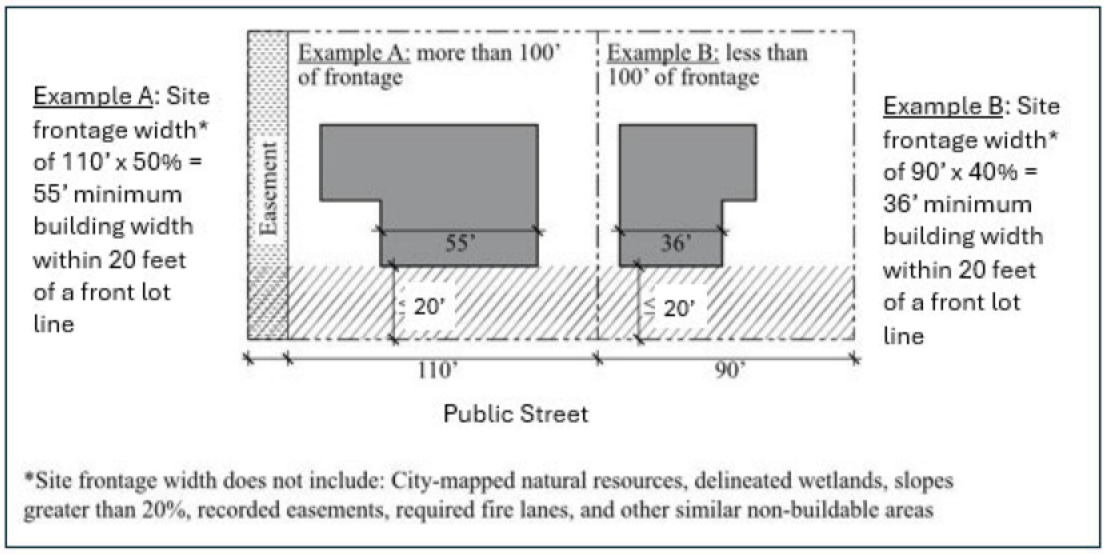
	(a) Street Orientation Option	(b) Enhanced Landscaping Option
		with Table 8.240-2.

(a) Street Orientation Option.

i. The applicable maximum building setback requirement is based on the site frontage width, as follows:

- On sites with 100 feet or more of frontage on a public street, at least 50 percent of the site width must be occupied by a building(s) placed no farther than 20 feet from the front lot line, or 15 feet in the HDR zone. See Figure 8.240-1, Example A.
- On sites with less than 100 feet of frontage on a public street, at least 40 percent of the site width must be occupied by a building(s) placed no farther than 20 feet from the front lot line or 15 feet in the HDR zone. See Figure 8.240-1, Example B. Permitted flag lots are exempt from meeting this standard.

FIGURE 8.240-1: Maximum Building Setback - Street Orientation Option

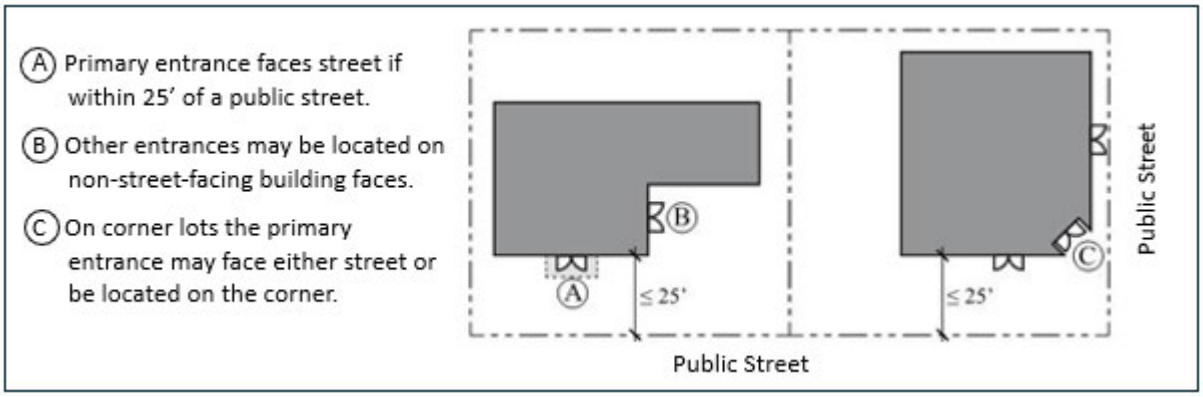


ii. As used in these standards, "site width" does not include significant natural resources as mapped by the City, delineated wetlands, slopes greater than 20 percent, recorded easements, required fire lanes and other similar non-buildable areas as determined by the City.

iii. The primary entrance(s) of at least 50 percent of ground floor units of residential building(s) located within 25 feet of a public street must face the street. Primary entrances must provide access to individual units, clusters of units, courtyard dwellings, or common lobbies. The following exceptions to this standard are allowed:

- On corner lots, the main building entrance(s) may face either of the streets or be oriented to the corner.
- For buildings that have more than one entrance serving multiple units, only one entrance must meet this requirement. (See Figure 8.240-2.)

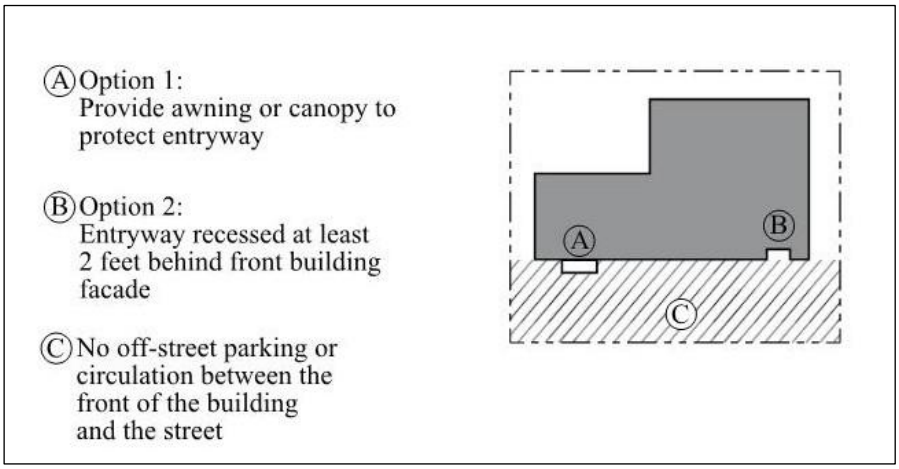
FIGURE 8.240-2: Primary Entrance Orientation - Street Orientation Option



iv. Ground floor entries to individual units must provide a covered front porch, or a front entry that is recessed a minimum of two feet behind the front building facade. Primary building entries (including shared entries to residential units) must provide an awning or canopy or be recessed a minimum of two feet behind the front building facade.

v. No off-street parking or circulation may be located between the front of the building and the street. (See Figure 8.240-3.)

FIGURE 8.240-3: Entryway Treatment and Parking Location - Street Orientation Option



(b) Enhanced Landscaping Option. The following standards apply to the lot line(s) abutting a collector or local public street.

i. The entire front setback area must be landscaped to meet the minimum standards in Table 8.240-2 (see Figures 8.240-4 and 8.240-5). There is no maximum setback except in the HDR zone, the maximum setback of 15' applies to the enhanced landscape option.

TABLE 8.240-2: Minimum Landscaping Required in Setback

Trees	• Must be at least 6 feet tall at the time of planting • Trees must maintain a minimum spacing of 10 feet on center (see Note 1) • The tree canopy of mature trees must be maintained at 6 feet or higher above ground
Street Frontages with Street Trees in Planter Strip (see	• 1 tree for every 30 linear feet of street frontage

Figure 8.240-5)	
Street Frontages without Street Trees or Planter Strip (see Figure 8.240-5)	• Planted in at least two rows • Each row must have a minimum of 1 tree for every 40 linear feet of street frontage • Maximum spacing of 30 feet on center for trees within different rows • Maximum spacing of 40 feet on center for trees within same row
Shrubs	• 4 three-gallon shrubs or accent plants for every 10 linear feet of street frontage. • Mature height of planted shrubs and ground cover must not exceed 3 feet. • Required shrubs may be clustered
Ground Cover	• The remaining area must be planted with vegetative ground cover plantings except that rock, bark, or similar landscape cover materials may be used for up to 25 percent of the required landscape area
(Note 1) Adjustments to the tree spacing standards, which would result in trees being planted closer than 10 feet on center, must receive a Crime Prevention Through Environmental Design (CPTED) review from the City of Albany Police Department.	

ii. Off-street parking and circulation areas may be located between the building and the street for a maximum of 25 percent of the building's frontage (see Figure 8.240-4).

FIGURE 8.240-4: Parking and Circulation Location – Enhanced Landscaping Option

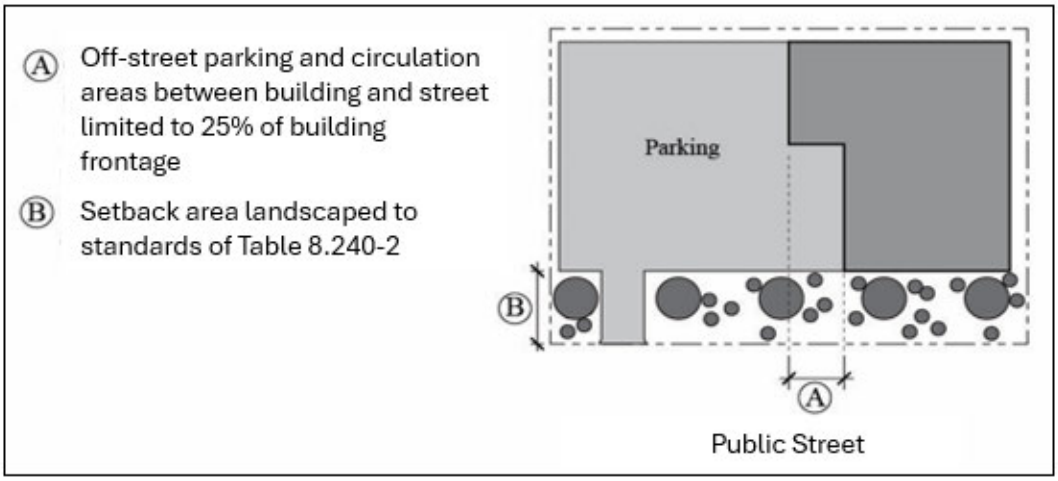
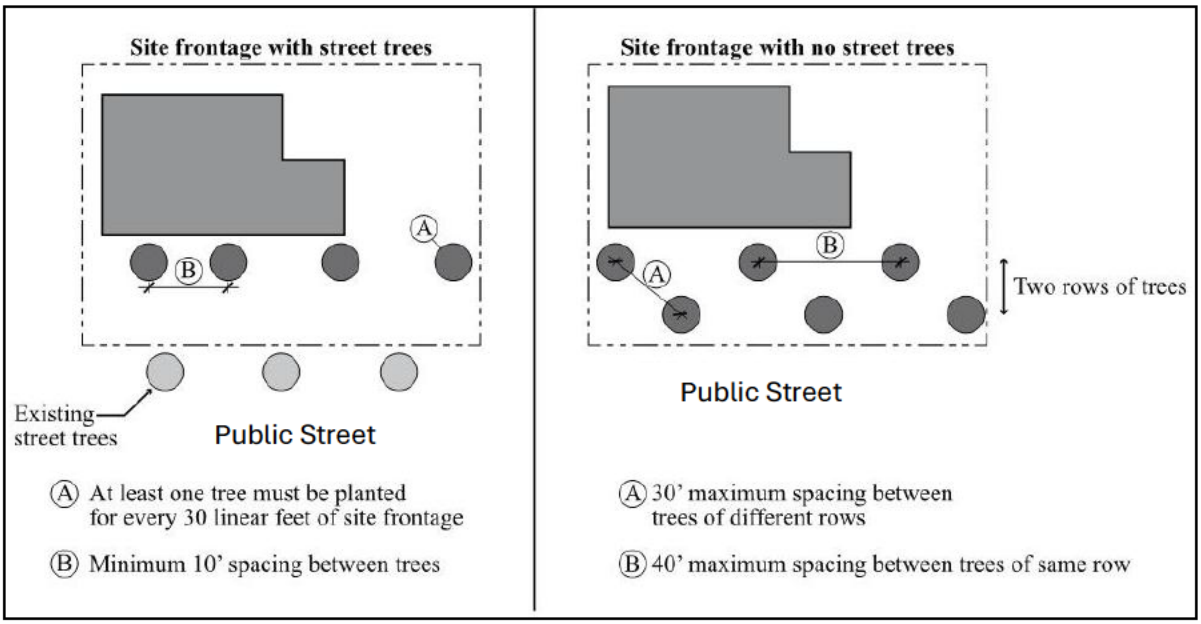


FIGURE 8.240-5: Required Tree Planting – Enhanced Landscaping Option



[Ord. 5894, 10/14/17; Ord. 5947, 1/1/21; Ord. 6004, 12/28/22; Ord. 6062, 5/23/25; Ord. 6068, 11/8/25]

8.255 Multiple Dwelling Unit Façade Design. The purpose of the standards in this section is to promote functional design and building details in new construction that provide visual interest, contribute to a high-quality living environment for residents, give a sense of quality and permanence, and enhance compatibility with the surrounding community.

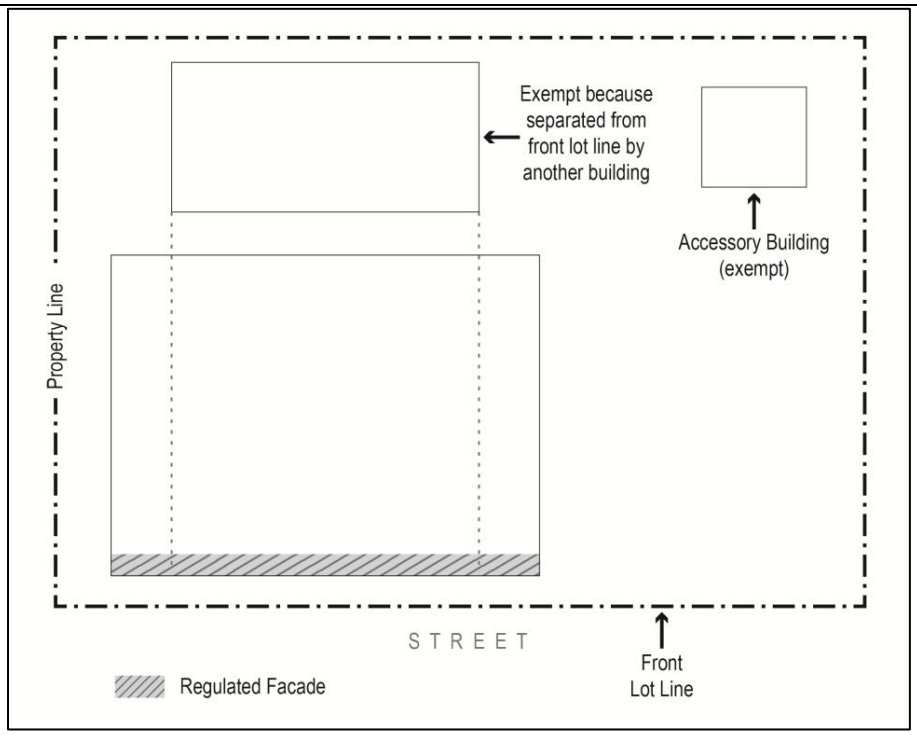
(1) Regulated façades. These standards apply to any façade that faces toward or within 45 degrees of a front lot line, except as otherwise specified below.

(a) On multiple frontage lots, only one front façade must meet these standards. A Willamette River setback line established pursuant to ADC 5.200 through 5.207 may be considered a front lot line for purposes of these standards. For lots with frontage on First or Second Avenue, the front façade facing First or Second Avenue must meet these standards.

(b) Where there is more than one building on the site, these standards do not apply to any portion of a building that is separated from the front lot line by another building, based on a line perpendicular to the front lot line (see Figure 8.255-1).

(c) Accessory buildings less than 750 square feet are exempt from these standards.

FIGURE 8.255-1. Regulated façades for Façade Design, Articulation and Window Standards.



(2) Façade design and articulation. Regulated façades must include a minimum of two different ~~of the~~ architectural features listed below. (e.g. Two building offsets does not constitute two different architectural features.)

(a) Recessed entrance(s): three to six feet deep (relative to building façade).

(b) Eaves: overhang of not less than 12 inches.

(c) Offset: offset in facade or roof of at least two feet that extends for at least four feet.

(d) Bay window: projects from front elevation by 12 to 24 inches.

(e) Balcony: one per dwelling unit facing the street, with a minimum depth of ~~three~~ four feet.

(f) Decorative top: e.g., cornice or pediment with flat roof or brackets with a pitched roof.

(g) Other: feature not listed but providing visual relief or contextually appropriate design similar to options a-f.

(3) Street-Facing Windows. In the HD, DMU, CB, and WF zoning districts, at least 25 percent of the portion of the regulated façade between two and eight feet above grade and at least 25 percent of the total area of each regulated façade must contain windows or doors that meet all of the criteria in (a) through (c), below. In all other zoning districts, at least 15 percent of the total area of each regulated façade must contain windows or doors that meet all of the criteria in (a) through (c), below.

(a) Made of transparent material with a minimum visible transmittance of 0.4. (Only the transparent portion of doors may be counted towards required window areas.) Windows with a visible transmittance rating less than 0.4 and windows that are frosted, fritted, patterned, or obscure may be counted towards up to half of the required window area provided that the windows in total allow views from the building to the street.

(b) Located in any part of the building except garages and parking areas.

(c) Face towards or within 45 degrees of the front lot line.

(4) In the DMU, CB, WF, and HD zoning districts, to provide privacy for ground floor residential uses, for residential buildings within five feet of the front lot line, street-facing ground floor windows must be separated from the front lot line with a landscaped buffer at least three feet deep extending for at least the width of the window(s). The landscaped buffer must meet at least one of the following standards.

(a) For every three linear feet of width, provide at least one three-gallon shrub, with the remaining area treated with suitable living ground cover, lawn, or decorative treatment of bark, rock, or other attractive ground cover.

(b) For every two linear feet of width, provide at least one one-gallon shrub or perennial that typically achieves a mature height of at least three feet, with the remaining area treated with suitable living ground cover, lawn, or decorative treatment of bark, rock, or other attractive ground cover.

(c) Other suitable landscaping that provides both privacy and visual interest and includes living plants, shrubs, and/or trees.

[Ord. 5894, 10/14/17; Ord. 5947, 1/1/21; Ord. 6062, 5/23/25]

8.265 Building Orientation and Entries in the HD, DMU, CB, and WF Zoning Districts. These standards are intended to promote building and site design that contribute positively to the overall streetscape by balancing connection to the street, transitions between public space and private space, and privacy. Providing appropriate transitions and privacy can make building occupants feel comfortable having windows uncovered and using outside space, which strengthens connections to the street and can help deter crime and vandalism.

(1) The main entrance to individual dwelling units on the ground floor and to ~~lobbies for buildings~~shared access to ~~with~~ internally accessed units must face a street, courtyard, or plaza and ~~(~~not a parking lot~~)~~. For corner lots, the main entrance may face either street.

(2) To provide a transition between public space (the sidewalk) and private space (the dwelling) while maintaining a visual and physical connection to the street, entrances to individual dwelling units on the first story must be set back at least five feet from the front lot line and must be covered for a depth of at least three feet.

[Ord. 5894, 10/14/17; Ord. 6062, 5/23/25]

[Section 8.270 Transition to Lower Density Uses moved to Article 3, Section 3.350 per Ord. 6059, 3/14/25]

8.280 Pedestrian Connections.

(1) Purpose. The standards of this section are intended to ensure that pedestrian circulation systems are designed to provide clear, identifiable, safe, and convenient connections within the multiple-dwelling unit development and to adjacent uses and public streets/sidewalks.

(2) Each multiple-dwelling unit development must contain an internal pedestrian circulation system that makes connections between individual units and parking areas, common open space areas, children's play areas, and public rights-of-way. To ensure that connections are clear, easily identifiable, and safe, all pedestrian connections must meet the following standards:

(a) Except as required for crosswalks, per ADC Section 8.280(4), where a walkway abuts a vehicle circulation area, it must be physically separated by a curb that is raised at least six inches or by bollards.

(b) Walkways must be constructed of concrete, asphalt, brick or masonry pavers, or other hard surface, and not less than five feet wide.

(3) All pedestrian ways must comply with the requirements of the Americans with Disabilities Act.

(4) To provide safe crossings of streets, driveways, and parking areas, crossings must be clearly marked with either contrasting paving materials (such as pavers, light-color concrete inlay between asphalt, or similar contrasting material) or reflective striping that emphasizes the crossing under low light and inclement weather conditions.

(5) Pedestrian connections must be provided between the multiple-dwelling unit development and all adjacent parks, schools, retail areas, bus stops, key destinations and other pedestrian ways. At least one connection must be made to each adjacent street and sidewalk for every 200 linear feet of street frontage in conformance with ADC 9.133(2). Sites with less than 200 linear feet of street frontage must provide at least one connection to the street and/or sidewalk.

[Ord. 5445, 4/12/00; Ord. 5947, 1/1/21; Ord. 6004, 12/28/22; Ord. 6062, 5/23/25]

8.300 Parking Location.

(1) Purpose. The standards of this section are intended to ensure that residents of multiple-dwelling unit developments have convenient access to on-site parking areas, if provided.

(2) Applicability. These standards apply in all zoning districts except HD, DMU, CB, and WF, which are subject to ADC Section 8.305. See Article 9 for additional parking lot standards.

(3) Parking must be located within 100 feet of the building entrance for a minimum of 50 percent of units in a development.

[Ord. 5445, 4/12/00; Ord. 5894, 10/14/17; Ord. 5947, 1/1/21; Ord. 6004, 12/28/22; Ord. 6018, 6/30/23; Ord. 6062, 5/23/25]

8.305 Parking and Access in Climate Friendly Area Overlay Districts, Village Centers, and in the DMU and WF Zoning Districts. These standards are intended to support a pedestrian-friendly street environment by minimizing the placement of parking lots along public streets and minimizing driveways that create the potential for pedestrian conflicts. They are also intended to preserve on-street public parking. See Article 9 for additional parking lot standards and Article 12 for additional access standards.

(1) Parking between the building façade and the front lot line is not permitted.

(2) Entrances to garages serving individual units must be from a rear alley or shared access easement and not face a front lot line.

(3) The minimum spacing between driveways must be 25 feet, where reasonably feasible. The distance between driveways is measured along the front property line.

(4) The standards of ADC Section 12.230 regarding design requirements abutting arterials do not apply. However, the standards of ADC 12.100 regarding limiting the location, width, and number of accesses to arterials do apply.

(5) Parking areas within a building must provide screening (such as landscaping or decorative metal panels) that provides at least 25 percent opacity for any street-facing openings other than entries or exhaust fan vents.

[Ord. 5894, 10/14/17; Ord. 6062, 5/23/25]

New text is shown in black double underlined font and removed text is shown in ~~strikethrough~~ font. Staff comments in blue font are provided to explain the proposed amendments but are not amendments.

COMMERCIAL AND INSTITUTIONAL SITE DESIGN

8.310 Purpose. 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. [Ord. 5832, 4/9/14; Ord. 5947, 1/1/21]

8.315 Applicability. These standards apply to the design of new development and to the expansion of existing developments where commercial and/or institutional uses, as defined in Article 22, exist or are proposed, including when such uses are part of a mixed-use development, with the following exceptions:

- Modifications to existing developments for which the Director has waived review under the provisions of ADC Section 1.105 are not subject to these standards.
- Utility substations and other utility facilities that do not have on-site personnel are not subject to these standards. However, telecommunication facilities are subject to other design standards in Article 8.
- Only the non-residential portion of a mixed-use development is subject to these standards. New residential Units Above or Attached to a Business are subject to Multiple-Dwelling Unit Design Standard as stated in Section 8.205.

Certain standards provide additional exemptions for modifications to existing sites or buildings. Unless otherwise specified, these standards apply in any zoning district except the Heavy Industrial (HI) Zoning District.

[Ord. 5445, 4/12/00; Ord. 5832, 4/9/14; Ord. 5894, 10/14/17; Ord. 5947, 1/1/21; Ord. 6004, 12/28/22; Ord. 6062, 5/23/25]

8.320 Relationship to Historic Overlay Districts. For property inside the Historic Overlay Districts and properties designated as Historic Landmarks, the provisions of 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]

8.330 Entrance Orientation and Parking Location. The purpose of the entrance orientation and parking location standards is to help create an attractive streetscape and pleasant pedestrian environment that is conducive to walking, and to help further Crime Prevention Through Environmental Design (CPTED) principles such as natural surveillance of public spaces. These standards apply to new buildings (excluding accessory buildings) in all zoning districts. (Note: Development in HD, CB, DMU, and WF must demonstrate appropriate building orientation through compliance with maximum front setback standards in ADC Section 5.120). Except as required to meet building or fire codes, or other regulations, expansions, and modifications to existing buildings and sites must not decrease conformance with these standards.

(1) Main Entrance. New buildings and additions to the front or side of a building must be oriented to existing or new public streets. Development sites with frontage on more than one street must meet this standard on a street served by transit, when applicable. Building orientation is demonstrated by placing buildings and their public entrances close to streets and providing pedestrians with a direct connection from the street sidewalk to building entrances in conformance with ADC 9.133(2).

(a) At least one main entrance in compliance with subsection (1), must be designed to

include at least three (3) of the following architectural features: canopy, portico, arcade, arch, wing wall, planters, recessed doorway, transom windows, ornamental light fixtures, larger or more prominent doors, pilasters or columns that frame the doorway, or other similar features that increase the visibility of the entrance for pedestrians.

(b) Buildings separated from the street by other buildings are exempt from this standard.

(2) Parking Location. Off-street parking must be located to the side or rear of the building(s) and not between the building and the street, except where the applicant demonstrates that one or more of the situations listed in (a)-(e) below applies and the buffer standard in subsection (3) is met (see Figure 8.330-1). Adjustments to this standard pursuant to ADC 2.060-2.080 to allow parking in front of the building may be approved upon finding that the proposed setbacks are comparable to the setbacks on adjacent developed non-residential sites and steps have been taken to mitigate the impact of parking to meet the purpose of the standard.

(a) Locating parking to the side or rear of the building is not feasible due to the dimensions of the site including, but not limited to, the width, shape, or size of the site or the amount of site frontage.

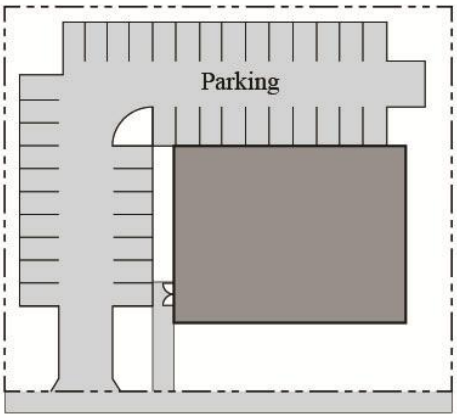
(b) Locating parking to the rear or side of the building is not feasible due to the conservation of designated natural resources or the preservation of five or more trees over 25 inches in circumference (approximately 8 inches in diameter) or one or more individual trees equal to or greater than six and one-half feet in circumference (approximately 25 inches in diameter). Trees must be healthy specimens that can and will be retained and which are not exempt from site plan review for tree felling pursuant to ADC 9.204.

(c) Locating parking to the rear or side of the building is not feasible due to topographic constraints or natural hazards on the site.

(d) The site frontage is subject to access restrictions from a public street that would preclude placement of the parking to the side or rear of the building.

(e) The site is larger than three acres and the parking lot has been designed in accordance with the standards in Section 9.130(6), regardless of the number of parking spaces.

FIGURE 8.330-1. Parking to the Side or Rear of Buildings



(3) Parking Lot Buffer. Where a landscape buffer is required pursuant to subsection (2), a minimum 10-foot-wide landscape buffer meeting the landscaping standards in ADC 9.240 must be placed between the parking area and the street, running the length of the parking area. In zoning districts that require a landscaped front setback, the parking lot buffer requirement may be met by the required front setback standard if landscape plantings are provided at the same or greater density.

[Ord. 5894, 10/14/17Ord. 5947, 1/1/21; Ord. 6062, 5/23/25]

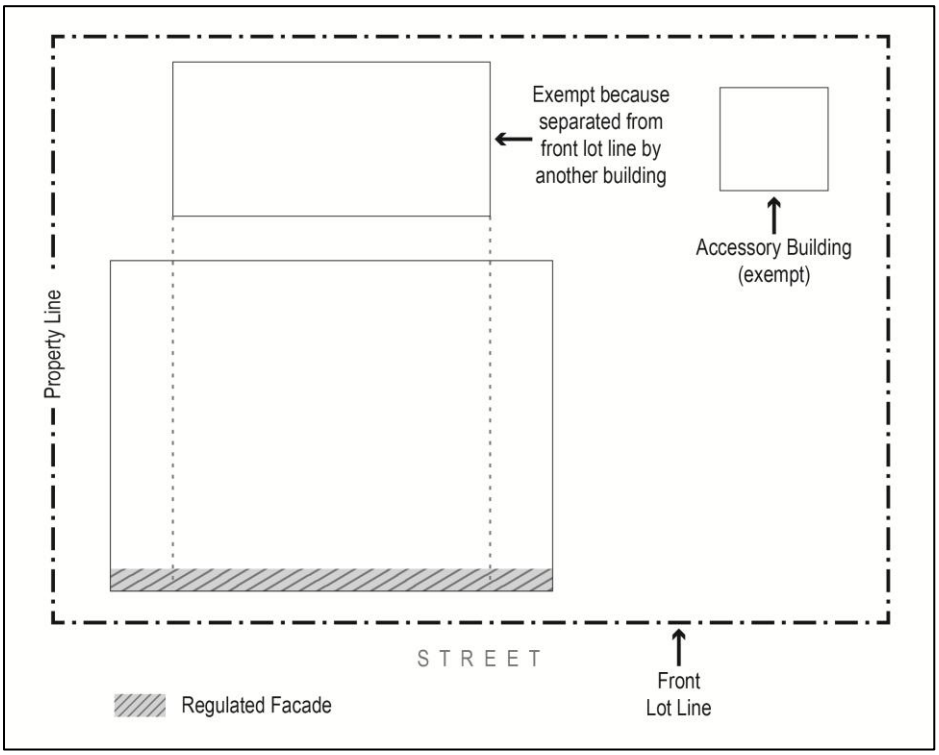
8.345 Façade design, articulation, and windows. The following standards are intended to provide architectural relief and interest and to promote pedestrian-oriented design. These standards apply to new buildings (excluding accessory buildings). Except as required to meet building code, fire code, or other regulations, expansions and modifications to existing buildings and sites must not decrease conformance with these standards.

(1) Regulated façades. The following standards apply to any façade that faces toward or within 45 degrees of a front lot line, with the exceptions below. See definition of front lot line in Article 22 for application on lots with multiple frontages; however, a lot line abutting First or Second Avenue must always be considered a front lot line for purposes of these standards. A Willamette River setback line established pursuant to ADC 5.200 through 5.207 may be considered a front lot line for purposes of these standards.

(a) Where there is more than one building on the site, these standards do not apply to any portion of a building that is separated from the front lot line by another building, based on a line perpendicular to the front lot line (see Figure 8.345-1).

(b) Accessory buildings less than 750 square feet are exempt from these standards.

FIGURE 8.345-1. Regulated façades for Façade Design, Articulation, and Window Standards.



(2) Façade design and articulation. To promote buildings that provide visual interest and façade

details that give a sense of quality and permanence, regulated façades must include a minimum of two different types of architectural features from the list below. (e.g. Two building offsets does not constitute two different architectural features.) Buildings that include units above or attached to a business may use features listed in ADC 8.255(2) to meet this standard as well as those listed below; however, features included in both lists may only be counted once.

(a) Recessed entrance(s): three to six feet deep.

(b) Inset windows: windows inset 4 inches to 18 inches from the adjacent building façade.

(c) Weather protection: awnings or other weather protection constructed of durable materials that extend at least four feet in horizontal distance from the building wall over all public entrances.

(d) Decorative top: e.g., cornice, pediment, or parapet with a flat roof.

(e) Other: features not listed but providing visual relief or contextually appropriate design similar to options (a)-(d).

(3) Ground Floor Windows. Ground floor windows or entrance doors must be provided along regulated façades at the pedestrian level in accordance with the standards below.

(a) The minimum required percentage of the ground floor façade that must contain windows is specified in Table 8.345-1 by zoning district. The ground floor façade subject to this standard must be the area measured between two and eight feet above grade.

TABLE 8.345-1. Required ground-floor window percentages by district.

District		Percent Windows
RC, CC, NC, OP, MUC	(see 8.345(3)(b)) (see Figure 8.345-2)	25 percent - one primary façade 15 percent - one secondary façade
MS, LE, PB, ES, MUR	(see 8.345(3)(b))	50 percent - one primary façade 25 percent - one secondary façade
WF	(see 8.345(3)(c))	50 percent
CB, DMU	(see 8.345(3)(c))	60 percent
HD	(see 8.345(3)(c))	75 percent

(b) For the ground floor window requirements in the RC, CC, NC, OP, MUC, MS, LE, PB, ES, and MUR zones, "primary façade" means a regulated façade that includes a main entrance pursuant to ADC 8.330. "Secondary façade" means a regulated façade on a lot with two or more frontages that is not the primary façade. If there is no façade which meets the definition of "primary façade," the primary façade must be the longest regulated façade. If more than one façade meets the definition of "primary façade," then the applicant can choose which regulated façade is subject to the primary façade standard and which regulated façade is subject to the secondary façade standard or they can distribute the required windows across both façades. (See Figure 8.345-2, which illustrates minimum ground-floor window coverage on primary and secondary façades in the RC, CC, NC, OP, and MUC zoning districts.) No minimum ground-floor windows are required for secondary façades if an applicant demonstrates that one or more of the situations applies:

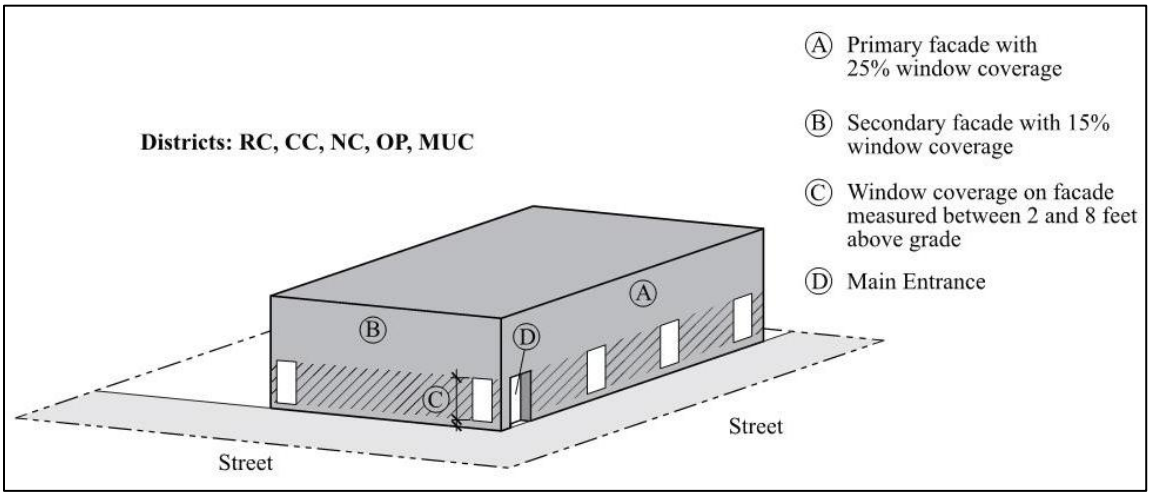
i. The façade is more than 50 feet from the street.

ii. More than 70 percent of the façade contains loading bays or docks.

iii. The façade is screened from the street by another structure or by a sight-obscuring

hedge, wall, or fence with a minimum height of six feet.

FIGURE 8.345-2. Minimum Ground-Floor Window Standards in the RC, CC, NC, OP, and MUC Zoning Districts.



(c) In the CB, DMU, and HD zoning districts, building elevations that are separated from the street by a rail line require at least 50 percent windows.

(d) To count towards the required window area, windows must meet all of the criteria in (i) through (iii), below.

i. Made of transparent material with a minimum visible transmittance of 0.5. (The transparent portion of doors may count towards required window areas.) Windows with a visible transmittance rating less than 0.5 and windows that are frosted, fritted, patterned, or obscure may be counted towards up to half of the required window area provided that the ground-floor windows in total allow views from the building to the street.

ii. Located in any part of the building except garages and parking areas.

iii. Face towards or within 45 degrees of the front lot line.

(4) Windows on upper stories. In the HD, CB, DMU, and WF zoning districts, buildings with two or more stories must provide windows occupying at least 25 percent of the regulated façade on the upper stories. Windows on upper stories must meet all of the criteria in (a) through (c), below.

(a) Made of transparent material with a minimum visible transmittance of 0.4. (The transparent portion of doors may count towards required window areas.) Windows with a visible transmittance rating less than 0.4 and windows that are frosted, fritted, patterned, or obscure may be counted towards up to half of the required window area provided that the windows in total allow views from the building to the street.

(b) Located in any part of the building except garages and parking areas.

(c) Face towards or within 45 degrees of the front lot line.

[Ord. 5894; 10/14/17; Ord. 5947, 1/1/21; Ord. 6062, 5/23/25]

8.360 Pedestrian Amenities. The following standards apply in all zoning districts except HD, CB, DMU,

and WF, which are subject to ADC Section 8.365. The purpose of the pedestrian amenity requirements is to enhance pedestrian comfort by providing awnings, seating, special paving, planters, and similar improvements. The standards for pedestrian amenities are related to the scale of the development and provide flexibility for the developer to select the most appropriate amenities for the particular site and use.

(1) Required number of amenities. New buildings or expansions or modifications to existing buildings except those where a land use application is not required pursuant to ADC Section 1.105 must provide pedestrian amenities with a total point value not less than the amount shown in Table 8.360-1. The point value of each pedestrian amenity is specified in Table 8.360-2.

TABLE 8.360-1: Required Pedestrian Amenities

Proposed New Building Area	Required Pedestrian Amenities Points
0 sf – 20,000 sf	1 point per 2,500 sf
More than 20,000 sf	1 point per 2,500 sf for the first 20,000 sf plus 1 point per 5,000 sf for new building area over 20,000 sf up to a maximum of 20 points

(2) Value of amenities. The point value of acceptable pedestrian amenities is specified in Table 8.360-2. Pedestrian amenities must be installed on private property except where otherwise noted.

TABLE 8.360-2: Point Value of Pedestrian Amenities

Amenity	Point Value
Sidewalks with ornamental treatments (e.g., brick pavers) that are either at least 10 feet wide or 50 percent wider than required by the Code, whichever is larger	1 point for every 10 lineal feet of sidewalk
Benches or outdoor public seating (maximum of 4 points)	1 point for seating for 4 people
Covered bicycle parking (maximum of 4 points)	1 point for every 5 covered spaces provided beyond the minimum Code requirement
Bicycle lockers (maximum of 10 points)	1 point for every locker
Sidewalk planter(s) enclosing a minimum of 8 square feet (maximum of 4 points)*	1 point for every planter provided beyond the minimum Code requirement
Pocket parks or plazas with a minimum area of 300 square feet*	10 points for every park or plaza
Planting trees that are 50 percent larger than required by Code or planting more trees than required by Code. (maximum 4 points)	1 point for every 4 trees
Weather protection (awnings, etc.) which overhangs the sidewalk or walkway by a minimum of 4 feet. Awnings or other weather protection must be constructed of durable materials. (maximum of 10 points)	1 point for every 5 lineal feet of weather protection

Amenity	Point Value
Decorative fountain or other public art. Public art, including decorative fountains, must be approved by the City Arts Commission. (maximum of 10 points)*	Point value to be determined by the City based on other amenities similar in scale and benefit
Other pedestrian amenities that are not listed above, such as pedestrian-scale lighting along internal sidewalks and driveways.* (maximum of 10 points)	Point value to be determined by the City based on other amenities similar in scale and benefit.
*Approved vegetated stormwater quality facilities may be incorporated into the amenity.	

(3) Additional standards for pedestrian amenities. Pedestrian amenities must meet the following standards:

(a) Amenities must be located outside the building main entrance, along pedestrian corridors, or within 50 feet of a transit stop. Amenities must be visible and accessible to the general public from an improved public or private street. Amenities may be located within the public right-of-way if approved by the Public Works Director or designee. Public access must be provided to pocket parks, plazas, and sidewalks.

(b) Amenities are not subject to setback requirements.

(c) Amenities must be consistent with the character and scale of surrounding developments. For example, the similarity in awning height, bench style, planter materials, street trees, and pavers is recommended to foster continuity in the design of pedestrian areas. Materials should be suitable for outdoor use and permanently maintained.

(d) Existing amenities on or abutting the development site in the right-of-way may be used to meet the requirement in subsection (1) for new building area provided that their point value is in excess of the number of points that would be required if the current standards were applied to the existing level of development on the site.

[Ord. 5445, 4/12/00; Ord. 5842, 1/1/15; Ord. 5894, 10/14/17; Ord. 5947, 1/1/21; Ord. 6018, 6/30/23; Ord. 6062, 5/23/25]

8.365 Pedestrian Amenities in the HD, CB, DMU, and WF zoning districts.

Purpose. The purpose of the pedestrian amenity requirements is to enhance the pedestrian environment. Because the sidewalk area is the most important element of the pedestrian environment in an urban setting, these standards focus primarily on sidewalk enhancements.

Applicability. The standards below apply to the following development within the HD, CB, DMU, and WF zoning districts: new buildings (excluding accessory buildings); expansions or modifications to existing buildings that are not covered under ADC Section 1.105(7); and any development that requires sidewalk improvements. The City Engineer may waive the requirement to provide pedestrian amenities where public streetscape improvement projects that include pedestrian amenities have been completed or are planned.

(1) Each development must provide a minimum of two of the following improvements.

(a) Street trees in tree wells along the public street frontage, where no street trees are provided. Development on lots with multiple frontages must meet this standard on all frontages. Street trees must be selected from the list of approved street trees established by the City and meet applicable spacing standards.

(b) Benches or outdoor public seating for at least four people. Benches or seating must be in a public right of way or be accessible to the general public (including providing a public

access easement) and visible from the sidewalk.

(c) Pocket parks or plazas must have a minimum usable area of 100 square feet and include at least one seating area. Public access must be provided by a public right-of-way or a public access easement, and the pocket park or plaza must be visible from the sidewalk.

(d) Continuous weather protection (awnings, etc.) along all building façades adjacent to (within one foot of) the sidewalk. Awnings or other weather protection must be constructed of durable materials and extend at least 4 feet horizontally from the building wall.

(e) Pedestrian-scale streetlights along the full site frontage. Development on lots with multiple frontages must meet this standard on all frontages. Suitable light fixtures and spacing must be determined by the City Engineer for consistency with publicly installed light fixtures and lighting specifications.

(f) Other pedestrian amenities that are not listed but are similar in scale and benefit.

(2) Pedestrian amenities must meet the requirements in ADC Section 8.360(3)(a)-(c).

(3) Improvements within the public right of way require the approval of the City Engineer.

(4) Materials should be suitable for outdoor use, easily maintained, and have a reasonably long life cycle (e.g., 10 years before replacement).

[Ord. 5894, 10/14/17; Ord. 5947, 1/1/21; Ord. 6024, 12/29/23; Ord. 6059, 3/14/25; Ord. 6062, 5/23/25]

8.390 Compatibility Standards. Attention to detail can significantly increase the compatibility of commercial and institutional development with adjacent uses. Commercial and institutional development must be designed to comply with the following compatibility standards and any other improvements needed to reduce negative impacts on adjacent uses:

(1) On site impacts. Any undesirable impacts produced on the site, such as noise, glare, odors, dust, or vibrations have been adequately screened from adjacent properties.

(2) Off-site impacts. The site is protected from any undesirable impacts that are generated on abutting properties.

(3) Screening. Service areas, equipment, utilities, and similar exterior improvements must be screened as provided in (a) through (c) below and must meet the standards in (d).

(a) Service areas, such as waste and recycling containers, outdoor storage, and ground-level mechanical equipment shall be screened by a sight-obscuring fence, wall, or hedge.

(b) Roof-mounted equipment or utilities must be screened by a parapet wall or sight-obscuring structure or located so that it is not visible from abutting public rights-of-way.

(c) Wall-mounted equipment or utilities must be architecturally incorporated into the building or shall be screened by a sight-obscuring fence, wall, hedge, or structure.

(d) Screening required in subsections (a) through (c) above must be of appropriate height and width so that the item to be screened is not visible from a public sidewalk or from abutting residential districts or development. Hedge screens must be composed of evergreen shrubs that will grow to form a continuous hedge that is sight-obscuring within two years of planting.

[Ord. 5445, 4/12/00; Ord. 5947, 1/1/21; Ord. 6062, 5/23/25]

***** No changes are proposed to the rest of this article, so Section 8.405 to the end are not provided.*****

New text is shown in black double underlined font and removed text is shown in ~~strikethrough~~ font. Staff comments in blue font are provided to explain the proposed amendments but are not amendments.

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, to provide safe accessible pedestrian routes and connectivity, 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

*As identified in Section 9.210, in limited circumstances, an applicant can apply for an Adjustment to the Buffering and Screening standards.

[Ord. 5764, 12/1/11; Ord. 5445, 4/12/00; Ord. 5947, 1/01/21; Ord. 6018, 6/30/23; Ord. 6062, 5/23/25]

No changes are proposed to the parking and loading space requirements in 9.020 through 9.080 so these sections are not provided.

Staff Comments: Minor clarifying and consistency amendments are proposed to the parking area improvement standards.

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 also comply with the standards in Section 9.130.

(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 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.

(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.

(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.

(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.

(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.

(8) Striping. Lots containing more than two parking spaces must have all 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~~ must be designated within the stall.

(9) Connecting to Adjacent Parking Areas. To promote connectivity and efficient circulation between properties, ~~W~~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 configured~~designed~~ to connect to the ~~existing~~adjacent property ~~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.

(10) Parking Lot Landscaping. Parking lots over 1,000 square feet (contiguous) shall be landscaped according to the standards in Section 9.150.

(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 Oregon Structural Specialty Code.

(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.

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; Ord. 5832, 4/9/14; Ord. 5842, 1/01/15; Ord. 5947, 1/01/21; Ord. 5968, 1/14/22; Ord. 6018, 6/30/23; Ord. 6042, 7/12/24]

9.110 Occasional Overflow Parking Needs. The Director may approve the use of gravel surfacing for parking above the maximum parking requirements intended for occasional needs. As used in this section, "occasional" means limited to a unique or an annually occurring event or condition or infrequent use. The construction plans for the unpaved parking area must be approved by the Public Works Director or their designees. The application must demonstrate how the site and owners will meet the following minimum standards:

(1) The overflow parking area must conform to the dimensional standards in Table 9.130-1 - Parking Lot Design, applicable Americans with Disabilities Act (ADA) requirements, and storm drainage requirements.

(2) Overflow parking areas ~~may~~ must not exceed 15,000 square feet per property, site, or use.

(3) Wheel stops ~~shall~~ must be provided to designate and protect each parking space.

(4) Gravel parking and loading areas shall be screened from all adjacent uses by a sight-obscuring fence, wall, or hedge.

(5) A buffer area at least five feet in depth, which may include the required screening, shall be provided along the perimeter of each gravel parking area and be landscaped in accordance with Section 9.240.

(6) The overflow parking area must be at least 20 feet from a public right-of-way and have at least 20 feet of pavement travel distance to the right-of-way. Gravel is not permitted in or within 500 ft of the HD, DMU, LE, ES, CB, or any residential zone or use unless allowed through Conditional Use approval.

[Ord. 5832, 4/9/14; Ord. 5894, 10/14/17; Ord. 5947, 1/1/21; Ord. 6018, 6/30/23]

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~~ includes 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 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; Ord. 6042, 7/12/24]

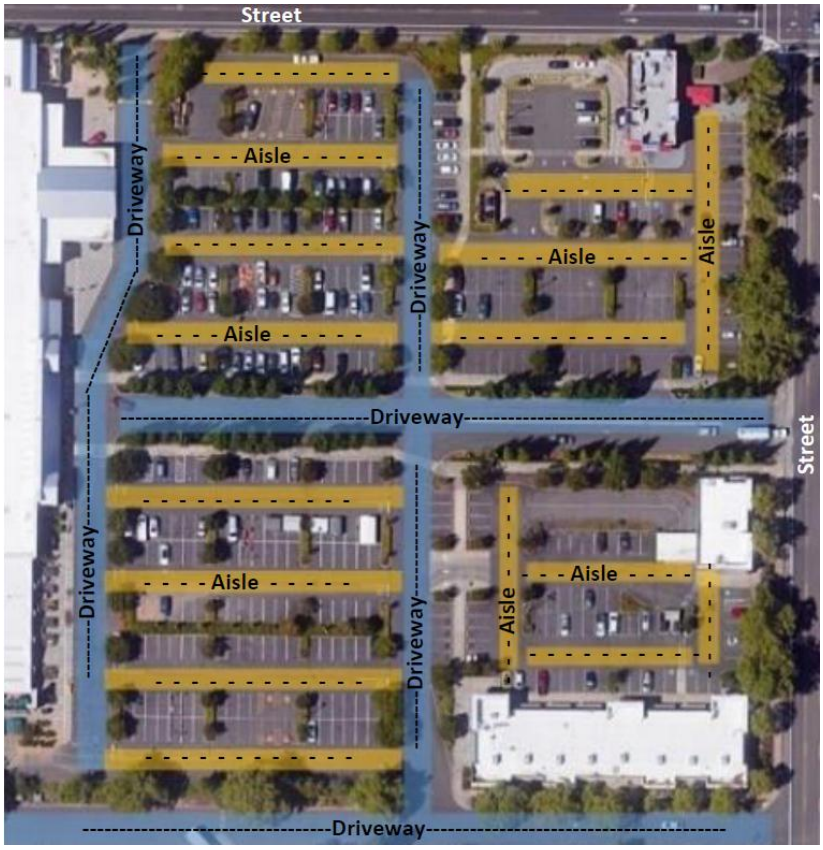
9.120 Off-Street Parking Lot Design and Circulation. The standards of this section are intended to ensure that on-site vehicle circulation is clearly identifiable, safe, and pedestrian-friendly.

(1) Applicability. All off-street parking lots over 1,000 square feet (contiguous) must be designed in accordance with the standards in this Article and the City standards for parking stalls and drive aisles as set forth in Table 9.120-1: Parking Lot Design, and supplemental drawings in Figures 1 and 2. Parking lots larger than 10,890 square feet (0.25 acres) must also comply with standards in ADC 9.130.

(2) Driveways and Drive Aisles. As used in this Article, driveways are major travel routes through a site that provide access to and from surrounding streets and connections through the site to buildings and parking lot drive aisles. Drive aisles primarily provide vehicular access to bordering parking spaces. See Figure 9.120-1.

FIGURE 9.120-1: Parking Lot Driveways (blue) and Drive Aisles (orange)

New text is shown in black double underlined font and removed text is shown in ~~strikethrough~~ font. Staff comments in blue font are provided to explain the proposed amendments but are not amendments.

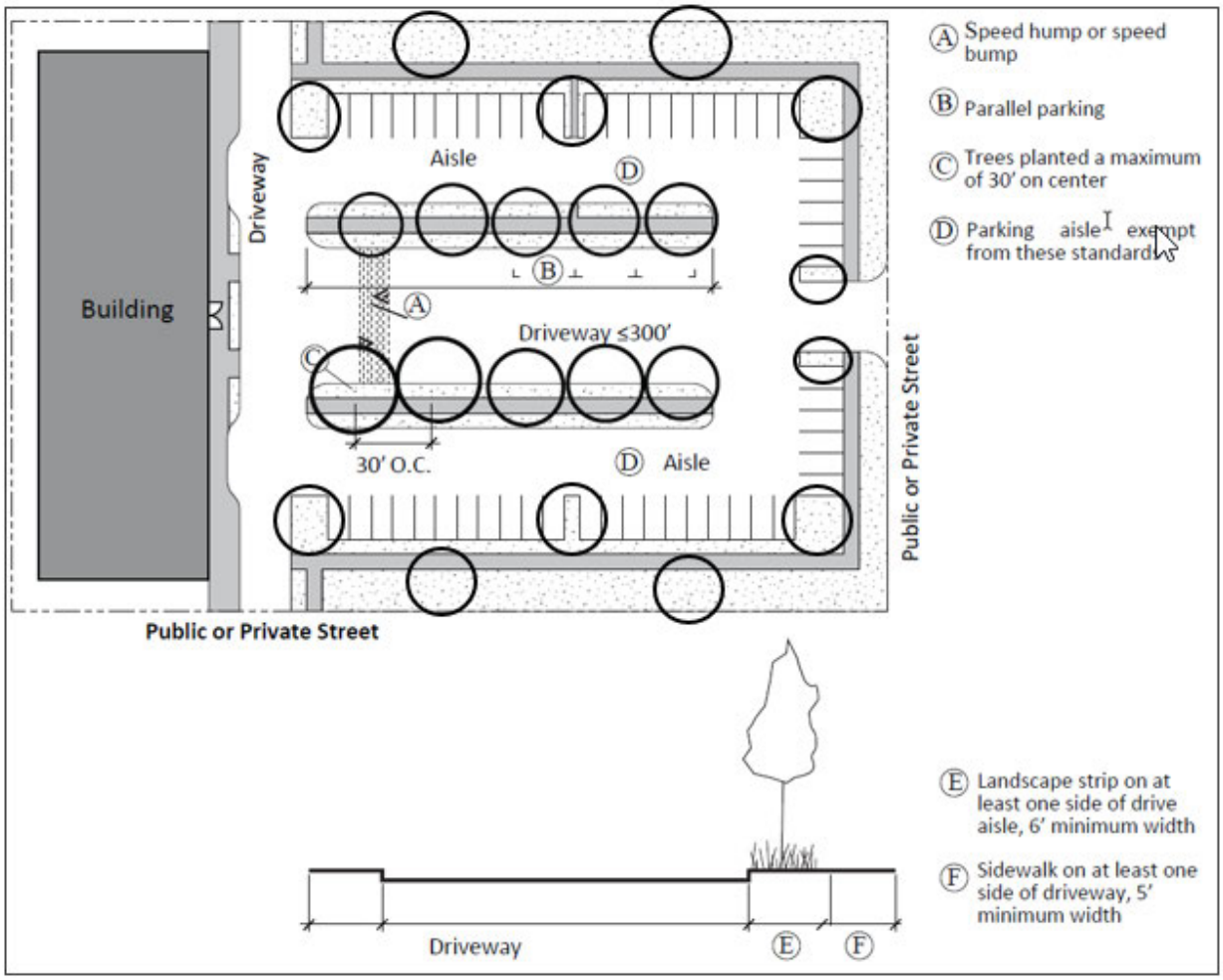


(3) Internal Circulation System. Interior driveways must meet the standards below unless the driveway is lined with angled or perpendicular parking stalls. Developments must provide street-like design and features along driveways including curbs, pedestrian facilities, and buildings built up to pedestrian facilities, including the following:

(a) Driveways must continue the adjacent public street pattern wherever possible.

(b) Driveways must have raised curbs and a pedestrian facility with a minimum 5-foot-wide walkway on at least one side the entire length of the driveway, which is unobstructed by obstacles that would impede pedestrians, including overhanging cars. Wider walkways may be required per ADC Sections 9.130(5) and (6).

FIGURE 9.120-2. Interior Driveways



(c) ~~Trees must be provided along driveways in accordance with Section 9.130 (3) and (4).~~ Driveways must have a minimum 6-foot-wide landscape strip (excluding curbs) planted with trees in accordance with Section 9.130(3) and (4) on at least one side of the driveway. For the purposes of this standard, the portions of the linear length driveways that provide direct access to parking stalls are exempt from this standard but must meet other landscape island and tree planting requirements of the Development Code.

(d) Traffic calming must be provided through at least one of the following techniques:

i. Installing speed bumps or speed humps at a minimum interval of one every 300 feet of driveway. A minimum of one speed hump or speed bump must be provided if the driveway is less than 300 feet long.

ii. Providing parallel parking on at least one side for at least 50 percent of the length of the driveways.

iii. Planting trees on both sides along the full length of the driveway in accordance with the standards in ADC 9.~~240~~130(~~1~~3) and (4) to visually narrow the driveway.

(e) Walkways at intersections with drive aisles and other driveways must be demarcated by a raised surface that slows vehicular travel, or by different surface materials and textures such as contrasting paving materials (such as pavers, light-color concrete inlay between asphalt, or similar contrasting material) and/or reflective striping that emphasizes the crossing under low light and inclement weather conditions. Crossings

demarcated only by painted striping are not permitted.

(f) Driveways must not be located between the building(s) and the sidewalk(s), except as provided in (i) or (ii) below:

i. Where drive-through windows are permitted, sites are constrained by natural resources or are infill sites less than one acre.

ii. Where drop-off facilities are provided that have been designed to meet the requirements of the Americans with Disabilities Act but that still provide for direct pedestrian circulation.

(g) Buildings must be located along a pedestrian facility in the public right-of-way. Where a building cannot be located along a public right-of-way, it must be built up to a pedestrian facility along an on-site driveway.

(4) Minimum Driveway and Drive Aisle Widths. Driveways for two-way traffic and emergency vehicle operations must be at least 24 feet wide. One-way driveways and one-way emergency vehicle access must be at least 20 feet wide. Drive aisle dimensions must comply with the standards in Table 9.120-1.

(5) Parking Lot Design. Parking stall and aisle dimensions must comply with Table 9.120-1. Stall dimensions are measured from inside the stripes. The design of driveways and on-site maneuvering and loading areas for commercial and industrial developments must include 20 feet of storage length for entering and exiting vehicles to prevent vehicles from backing into the flow of traffic on the public street or causing unsafe conflicts with on-site circulation. See Figures 9.120-1 and 9.120-2.

(6) Compact spaces must be at least 8 feet wide by 16 feet long.

(7) Accessible spaces must be a minimum of 9 feet wide and 17 feet long and designed in accordance with the Oregon Structural Specialty Code (OSSC). An adjacent access aisle must be provided that is at least eight feet wide and 17 feet long for a van-accessible space, and six feet wide for a standard accessible space.

(8) Stall Dimensions~~Width. Long-term parking spaces must be at least 8.5 feet wide.~~ Parking stalls must meet the following minimum dimensions as measured from inside the stripes. ~~for grocery stores or~~ Stalls adjacent to planter islands must be at least 9.5 feet wide. ~~Stall dimensions are measured from inside the stripes.~~

TABLE 9.120-1.
PARKING LOT DESIGN (in feet)

A Parking Angle	B Stall Width	C Curb Width	D One-Way Aisle Width	E Stall Depth	F Bumper Overhang	G Dead-end Backup
(Parallel)	8.0 feet	~~8~~24.0 feet	N/A	2~~5~~.0 feet	N/A	N/A
45°	8.5	12.0	13.0	17.5	2.0	5.0
	9.0	12.7	12.0	17.5	2.0	5.0
	9.5	13.4	11.0	17.5	2.0	5.0
	10.0	14.1	11.0	17.5	2.0	5.0
60°	8.5	9.8	18.0	19.0	2.5	5.0
	9.0	10.4	16.0	19.0	2.5	5.0
	9.5	11.0	15.0	19.0	2.5	5.0

	10.0	11.6	14.0	19.0	2.5	5.0
90° Compact	8.0 C	8.0 C	26.0 C	16.0 C	3.0	5.0
90°	8.5	8.5	26.0	18.5	3.0	5.0
	9.0	9.0	26.0	18.5	3.0	5.0
	9.5	9.5	26.0	18.5	3.0	5.0
	10.0	10.0	24.0	18.5	3.0	5.0

NOTES:

(1) For one row of stalls, use "D" plus "E" as the minimum width.

(2) When appropriate bumper overhang area is provided (extruded curbs), "F" can be subtracted from "E" to determine stall depth.

(3) Backup areas identified as "G" must be at least five feet from the property line and are excluded from required setback areas or buffer yards.

(4) Long-term parking stalls, as defined herein, must be at least 8.5 feet wide and comply with the other dimensional standards for spaces of the same width as provided in Table 9.120-1. Long-term parking stalls are stalls for vehicles intended to be parked for 24 hours or more, typically in a paid parking lot such as those at airports or train stations. Long-term stalls. When a parking lot is also used by vehicles for less than 24 hours, the long-term spaces must be signed or labeled.

FIGURE 9.120-3: Parking Lot Dimensions

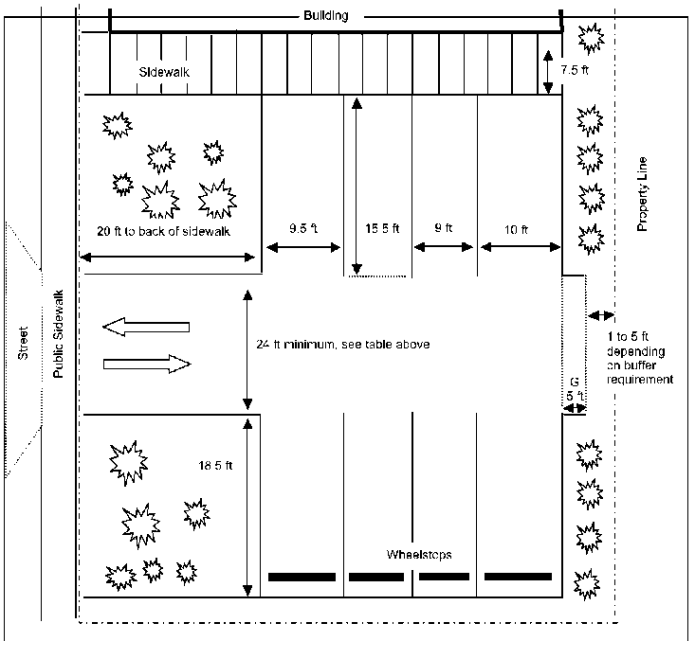
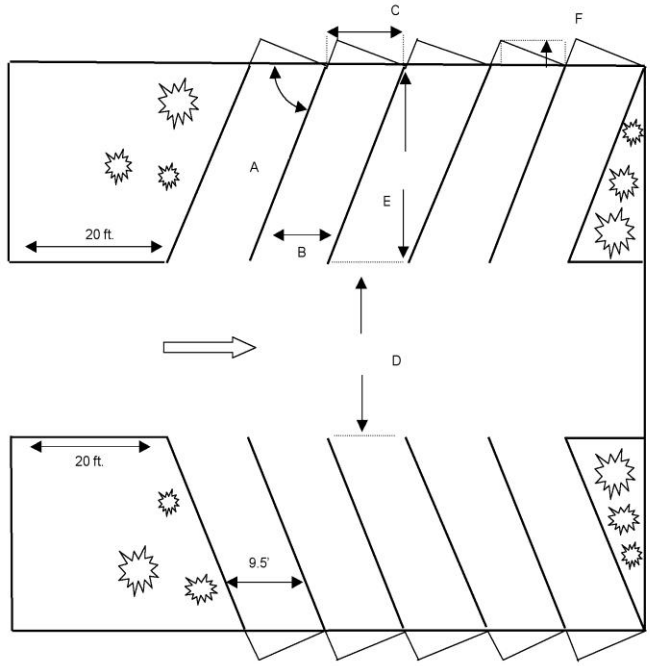


FIGURE 9.120-4: Parking Lot Dimensions



[Ord. 5720, 8/12/09; Ord. 5832, 4/9/14; Ord. 5947, 1/1/21; Ord. 5968, 1/14/22; Ord. 6004, 12/28/22; Ord. 6018, 6/30/23; Ord. 6062, 5/23/25]

Staff Comments: Clarifying that driveways that lead to parking areas are not included in the calculation of total surface parking area.

9.130 Surface Parking Areas. The purpose of these standards is to ensure safe and accessible pedestrian routes within large parking lots by incorporating walkways and landscaping 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).

(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, drive aisles, driveways, maneuvering areas, and interior landscaping but excluding the portion of driveways that lead to parking areas but do not abut a parking area or associated parking lot landscaping.

(1) Comply with one of the following standards in (a) through (c) 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 must 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 must 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. An area under the canopy that is either paved surface or parking lot landscaping (interior or perimeter) is 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.

(2) Trees must be provided along all driveways but are not required along drive aisles. (See Figures 9.120-1 and 9.120-2.) Trees must 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.

(3) Development of a tree canopy plan under this section must 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 must be no lower than the 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.

(4) Walkways. For the safety of pedestrians, parking lots and development sites must be designed to separate pedestrians from vehicles and include protected pedestrian walkways that provide a direct and convenient route from parking areas to building entrances, existing or planned pedestrian facilities in the adjacent public rights-of-way, accessible parking spaces, and transit stops.

(a) Walkways must be hard surfaced and at least five feet in unobstructed width or eight feet if abutting parking stalls with wheel stops or curbs that enable cars to encroach into the walkway.

(b) Walkways must be protected by landscaping, curbs, or wheel stops.

(c) When a walkway crosses a vehicle aisle, driveway, or loading area, it must be clearly demarcated by materials, textures or elevation different from the parking and driving areas per ADC Section 9.120(3)(e).

(d) Walkways may not share a vehicle aisle or driveway.

(e) Walkways longer than 100 feet must incorporate a mix of shade, landscaping, benches, and drop-off bays for at least 50 percent of the length of the walkway.

(f) At least one connection must be made to each adjacent street and sidewalk for every 200 linear feet of street frontage or fraction thereof.

(g) A direct and accessible walkway must be provided between the street and a customer entrance that complies with the following standards.

i. The walkway must 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).

ii. The walkway must be direct and convenient as defined in ADC Section 9.133(2).

iii. For sites with frontage on a street with transit service a pedestrian connection must be made to the street with transit, and to the transit stop when present.

(5) Parking Lots with More Than 75 Spaces. Parking lots with 75 or more spaces must comply with the following additional standards to improve pedestrian safety, 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 per this Article and must cross a large surface parking area with more than 75 spaces, standards (i) and (ii) 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).

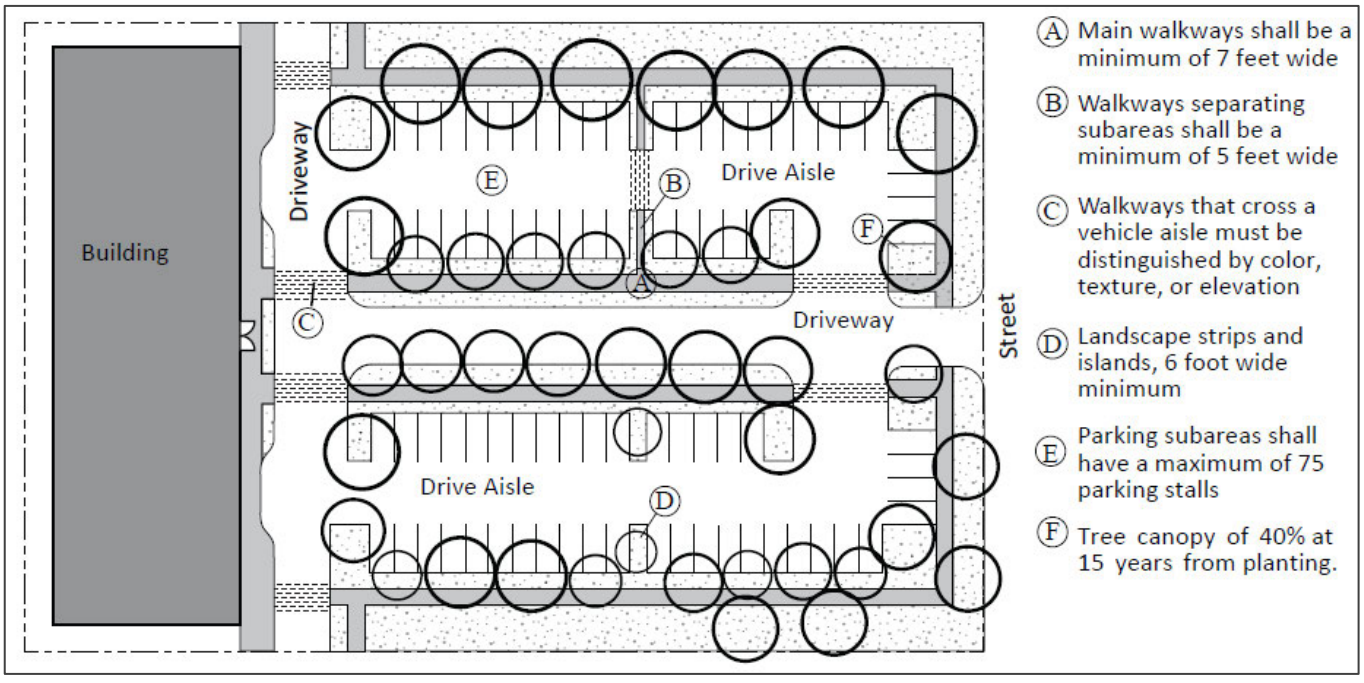
ii. The walkway shall incorporate a mix of landscaping, benches, and drop-off bays for at least 50 percent of the length of the walkway.

(b) Parking Subareas. Parking areas must be divided into subareas of no more than 75 parking spaces each. Parking subareas must 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 with trees as defined in 9.120(2). Landscape strips or landscaped pedestrian walkways used for subarea separation must meet the following standards.

(a) Landscape strips must have a minimum width of six feet that is unobstructed by obstacles that would impede landscape viability, including overhanging cars.

(b) Landscaped pedestrian walkways must 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.

FIGURE 9.130-1. Sample Layout for Large Parking Area



[Ord. 5886, 1/6/17; Ord. 5947, 1/1/21; Ord. 6018, 7/1/23; Ord. 6024, 12/29/23; Ord. 6042, 7/12/24; Ord. 6062, 5/23/25]

New text is shown in black double underlined font and removed text is shown in ~~strikethrough~~ font. Staff comments in blue font are provided to explain the proposed amendments but are not amendments.

9.133 Connectivity. The purpose of these standards is to promote efficient and convenient pedestrian and bicycle access and circulation between properties, adjacent uses, key destinations, and transit stops, and improve safety for both drivers and pedestrians, cyclists, and rollers. These standards are intended to comply with the Transportation Planning Rule (OAR 660-012).

(1) Applicability. The standards apply to development in all zoning districts except HD, DMU, CB, and WF.

(2) Definitions. The following definitions apply for the purposes of this section:

(a) "Direct and convenient" means the length of the route is not more than 120 percent of the straight-line distance. The length may be increased to no more than 200 percent of the straight-line distance when necessary to accommodate existing trees at least 12 inches in diameter at breast height, slopes, natural resources or hazards.

(b) "Major transit stop" means transit transfer stations and any additional stops designated as "major transit stops" in the Transportation System Plan.

(c) "Impractical" means where one or more of the following conditions exist:

i. Physical or topographic conditions make a connection impracticable. Such conditions include but are not limited to freeways, railroads, steep slopes, wetlands or other bodies of water where a connection could not reasonably be provided;

ii. Buildings or other existing development physically preclude a connection; or

iii. Where streets or accessways would violate provisions of leases, easements, covenants, restrictions or other agreements existing as of May 1, 1995, which preclude a required street or accessway connection.

(3) Connectivity between sites. To promote connectivity and dispersal of traffic and efficient circulation between properties, new development ~~may~~ will be required to provide street or driveway stubs and reciprocal access easements to, and for, adjacent properties.

(4) Pedestrian and bicycle connections required. Except where impractical, pedestrian, and bicycle connections must be provided in the following locations:

(a) Between an existing or planned transit stop and new development that is at, or within, 200 feet of the existing or planned transit stop. Development sites at major transit stops are also subject to subsection (5).

(b) A direct and convenient pedestrian route must be provided between the building's main entrance(s) and the nearest sidewalk abutting the site or roadway where there is no sidewalk. A direct and convenient bicycle route must be provided between the bicycle parking and the nearest bicycle path abutting the site or roadway where there is no bicycle path.

(c) Between the development site and abutting properties: Pedestrian and bicycle connections must connect the onsite circulation system to existing or proposed walkways and bicycle routes, respectively, that abut the property. When abutting properties are undeveloped or have the potential to be redeveloped, accessways and walkways on site must be laid out or stubbed to allow for an extension to the abutting property.

(d) Between development sites and neighborhood activity centers, CFA overlay districts, employment centers, civic uses, and other key destinations as defined in Article 22.

(5) Major Transit Stops. Except where impractical, development sites abutting or including a major transit stop must provide the following:

(a) Either locate buildings within 20 feet of the transit stop, a transit street or an intersecting street or provide a pedestrian plaza as defined in ADC 8.415(6) at the transit stop or a street intersection;

(b) A direct and convenient pedestrian connection between the transit stop and building entrances on the site;

(c) A transit passenger landing that is ADA compliant.

(d) An easement or dedication for a passenger shelter, if requested by the transit provider; and

(e) Lighting at the transit stop.

(6) Pedestrian and bicycle connections standard. Pedestrian and bicycle accessways must be clearly marked and constructed of concrete, asphalt, brick or masonry pavers, or other hard surface, and not less than five feet wide.

[Ord. 5281, 3/26/97; Ord. 5445, 4/12/00; Ord. 5886, 1/6/17; Ord. 5947, 1/1/21; Ord. 6018, 6/30/23; Ord. 6062, 5/23/25]

9.134 Additional On-Site Standards. Additional design standards related to site layout and design are in Article 8. [Ord. 6018, 6/30/23]

LANDSCAPING

9.135 Purpose. These regulations are intended to enhance aesthetic value in new developments and the community as a whole; minimize erosion; slow the rate of surface water runoff and improve water quality; cool buildings and parking lots in summer months with shade; enhance ecological functions; and provide access to nature. [Ord. 5947, 1/01/21]

9.140 General Requirements. Landscaping requirements by type of use are listed below:

(1) Landscaping Required – Residential. All front setbacks (exclusive of accessways and other permitted intrusions) must be landscaped or have landscaping guaranteed in accordance with ADC 9.190 before an occupancy permit will be issued or final building permit approved. In the case of middle housing land divisions, the minimum landscaping standard below applies to the parent lot, not the child lots. In all residential districts except Rural Residential (RR), the minimum landscaping acceptable for every 50 lineal feet of street frontage (or portion thereof, deducting the width of the driveway) is:

(a) One tree at least six feet tall.

(b) Four one-gallon shrubs or accent plants.

(c) The remaining area treated with ground cover (e.g., lawn, bark, rock, ivy, and evergreen shrubs).

(2) Landscaping Required – Non-Residential. All required front, side, and rear setbacks (exclusive of accessways and other permitted intrusions) must be landscaped or have landscaping guaranteed in accordance with ADC 9.190 before an occupancy permit will be issued. Minimum landscaping acceptable for every 1,000 square feet of required setbacks as follows:

(a) One tree at least six feet tall for every 30 feet of street frontage.

(b) Five 5-gallon or eight 1-gallon shrubs, trees or accent plants.

(c) The remaining area treated with suitable living ground cover, lawn, or decorative treatment of bark, rock, or other attractive ground cover.

(d) When the yard adjacent to a street of an industrially zoned property is across a right-of-way from other industrially or commercially zoned property, only 30 percent of such setback area must be landscaped.

(3) Alternate Plan – Non-Residential. The Director may approve placement of the required setback landscaping in public right-of-way when the following conditions are met:

(a) The site contains existing development that includes substantial building(s), and is subject to ADC improvement requirements due to a change of use or vacancy; and

(b) The appropriate government agency grants written permission for use of the right-of-way; and

(c) The applicant provides written assurance that on-site setback landscaping will be installed within 90 days in the event permission to use the right-of-way is revoked; and

(d) The Director finds that the required setback landscaping can feasibly be installed on the property without creating other violations of this Code; and

(e) The Director finds that providing the landscaping in the public right-of-way in the interim fulfills the intent of this Code for high-quality development (9.010) and the minimum landscaping requirements in Section 9.140(2)(a) through (c).

(4) Landscaping Adjacent to Easements. Landscaping, buffering or screening required by this code must be installed outside of and directly adjacent to any easement on abutting property.

[Ord. 5752, 3/9/11; Ord. 5886, 1/6/17; Ord. 5968, 1/14/22; Ord. 6062, 5/23/25]

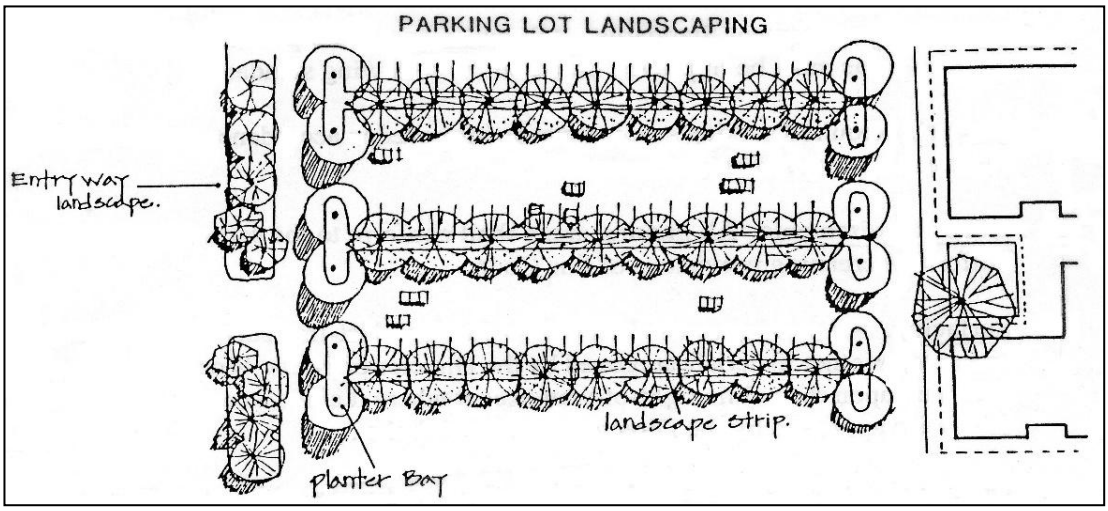
9.150 Parking Lot Landscaping. The purpose of landscaping in parking lots is to provide shade, reduce stormwater runoff, and direct traffic. Incorporation of approved vegetated post-construction stormwater quality facilities in landscaped areas is encouraged. Parking lots over 1,000 square feet (contiguous) must be landscaped in accordance with the following minimum standards. Parking lots over 10,890 square feet must also comply with the standards in 9.130.

(1) Planter Bays. Parking areas must be divided into bays of not more than 12 parking spaces. At both ends of each parking bay, there must be curbed planters at least six feet wide, excluding the curb. Gaps in the curb may be allowed for connections to approved post-construction stormwater quality facilities. Each planter must contain one canopy tree at least 10 feet high and a decorative ground cover containing at least two shrubs for every 100 square feet of landscape area. Neither planter bays nor their contents may impede access on required public sidewalks or paths, or handicapped-accessible parking spaces.

(2) Entryway Landscaping. Both sides of a parking lot entrance must be bordered by a minimum five-foot-wide and ten-foot-long landscape planter strip meeting the same landscaping provisions as planter bays, except that no sight-obscuring trees or shrubs are permitted. The parking lot entrance does not include the driveway leading to the parking lot when it does not abut the parking lot.

(3) Parking Space Buffers. Parking areas must be separated from the exterior wall of a structure by pedestrian walkways or loading areas or by a five-foot strip of landscaping materials.

FIGURE 9.150-1. Parking lot landscaping example.



(4) Stormwater Collection System. Vegetated post-construction stormwater quality facilities must be considered as the initial stormwater collection system.

(5) Landscape Protection. Required landscaped areas adjacent to graveled areas must be protected, either by railroad ties secured by rebar driven 18 inches into the ground, by large boulders, or by another acceptable means of protection.

[Ord. 5720, 8/12/09; Ord. 5842, 1/1/15; Ord. 5947, 1/1/21; Ord. 5968, 1/14/22; Ord. 6018, 6/30/23; Ord. 6062, 5/23/25]

9.160 Parking Area Perimeter Landscaping in Village Centers.

Purpose. These provisions are in addition to parking standards in this code and are intended to ~~give provided parking a low profile to~~ improve the pedestrian experience and ~~the overall aesthetic quality of the street. They will~~ minimize the ~~expansive~~ appearance of parking lots, increase the sense of neighborhood scale, and improve the character of a village center. Perimeter landscaping will create an attractive, shaded environment along streets that gives visual relief from continuous hard street edges; buffer automobile traffic and focus views for both pedestrians and motorists.

Applicability. These standards apply to properties with an Albany Comprehensive Plan designation of Village Center.

Standards.

(1) All parking areas ~~(excluding entranceways)~~ adjacent to a public street must be screened and the setbacks planted according to one of the following options in (a) through (d) below:

(a) A low continuous hedge of evergreen shrubs~~, trees,~~ and plantings that are at least three feet tall within two years and grow to provide an evergreen screen of at least 70 percent and deciduous trees spaced no less than 30 feet apart to provide a continuous canopy at maturity;

(b) A berm three feet tall with a maximum slope of 3:1, in combination with coniferous and deciduous trees and evergreen shrubs;

(c) A low decorative masonry wall at least three feet tall but not more than four feet tall in combination with a combination of evergreen shrubs and deciduous trees ~~landscaping~~ between the wall and the property line; or

(d) A combination of any of these methods.

(2) The landscape plan must be prepared by a licensed landscape architect.

[Ord. 5556, 2/21/03, Ord. 6018, 6/30/23; Ord. 6062, 5/23/25]

9.165 Irrigation of Required Landscaping. All required landscaped areas must be provided with an irrigation system unless a licensed landscape architect, landscape construction professional, or certified nurseryman submits written verification that the proposed plants do not require irrigation. Irrigation systems installed in the public right-of-way require an encroachment permit. [Ord. 5768, 12/7/11]

9.170 Identification of Existing Trees. In all proposed developments, existing trees over 25 inches in circumference (8 inches in diameter) measured 4.5 feet above mean ground level from the base of the trunk must be noted on all development plans, with notations indicating whether they are to be removed or utilized in the development. To obtain the circumference of a tree with multiple trunks, add the individual trunk circumferences, which are greater than six inches in circumference. Clusters of trees in open space and floodplain areas may be noted in approximate locations. [Ord. 5842, 1/1/15]

9.180 Landscape Plans. With the exceptions noted below, all development applications involving buildings and parking areas over 1,000 square feet (contiguous) must include landscape plans. The following uses are required to meet the landscaping requirements of this code but are not required to submit landscape plans:

(1) Single-dwelling units and middle housing.

(2) Accessory buildings.

(3) Changes internal to an existing structure.

(4) Building additions involving less than 500 square feet.

[Ord. 5968, 1/14/22; Ord. 6004, 12/28/22; Ord. 6062, 5/23/25]

9.182 Street Trees Prohibited on Right-of-Ways. Because of their potential negative impact on the public infrastructure, it is unlawful to plant any of the following trees in or on any street right-of-way or parking strip in the City: box elder, tree of heaven, golden chain, holly, silver maple, bamboo, poplar, willow, conifer, cottonwood, fruit trees (other than ornamental fruit trees), nut trees (other than ornamental nut trees), and ailanthus.

9.184 Trees Requiring Approval. It is unlawful to plant willow, cottonwood, or poplar trees anywhere in the City unless the Director of Public Works approves the site as one where the tree roots will not be likely to interfere with public sewers.

9.186 Height Requirements in Rights-of-Way. Trees or shrubs growing in the right-of-way or on private property adjacent to a street right-of-way must be trimmed to maintain a minimum canopy height of eight feet above sidewalks or 14 feet above streets or alleys. No trees, shrubs, or plants more than 18 inches tall must be planted in the public right-of-way abutting roads having no established curb and gutter.

9.188 Trimming, Removal. The city manager or duly authorized representative may cause any vegetation in or upon any parking strip, street right-of-way or other public place in the City to be trimmed, pruned, or removed.

9.189 Planting in Roadways Having No Gutter, Curb. No trees, shrubs, or plantings more than 18 inches tall must be planted in the public right-of-way abutting roadways having no established curb and gutter.

New text is shown in black double underlined font and removed text is shown in ~~strikethrough~~ font. Staff comments in blue font are provided to explain the proposed amendments but are not amendments.

9.190 Completion Guarantees. Final occupancy of a development that required land use approval may be allowed prior to the complete installation of all required landscaping and irrigation only under the following circumstances:

(1) A security is provided to the City equal to 110 percent of the cost of the labor and materials (plants, ground covers, and any required irrigation) that have not been installed, as verified in writing by a landscape contractor. Security may consist of a performance bond payable to the City, cash, certified check, time certificate of deposit, or lending agency certification that funds are being held until completion or such other assurances as may be approved by the Director and City Attorney. Where a financial assurance is provided for landscaped areas with post-construction stormwater facilities under subsection (4) below, no additional security under this subsection is required for that part of the landscaping. A security may not be used for single-dwelling and middle housing development, unless permitted by the Director.

(2) The required landscaping and irrigation must be installed within six months of the date the final occupancy permit is issued. If an occupancy permit is not required, the landscaping and irrigation must be installed within six months of the date of the land use approval.

(3) To verify that the landscaping, and irrigation, if required, has been installed per the approved plan, an inspection must be made prior to any security being returned.

(4) Required post-construction stormwater quality facilities incorporated into the required landscaped areas have been completed (or financially assured) consistent with Title 12 of the Albany Municipal Code and applicable post-construction stormwater quality permits.

[Ord. 5446, 5/10/00; Ord. 5842, 1/1/15; Ord. 5886, 1/6/17Ord. 6024, 12/29/23; Ord. 6062, 5/23/25]

9.200 Maintenance of Landscaped Areas. It must be the continuing obligation of the property owner to maintain provided landscaped areas in an attractive manner free of weeds and noxious vegetation. In addition, the minimum amount of required living landscape materials must be maintained. Private post-construction stormwater quality facilities located in landscaped areas and required under Title 12 of the Albany Municipal Code must be maintained consistent with the terms of any operation and maintenance agreements between the property owner and the City consistent with the requirements of Albany Municipal Code Title 12.

[Ord. 5842, 1/1/15; Ord. 6018, 6/30/2; Ord. 6062, 5/23/253]

TREE PROTECTION

9.202 Purpose. Trees of significant size represent a visual and aesthetic resource to the community. Trees provide benefits including shading, reduction in excess stormwater runoff, erosion control, and wildlife habitat. These standards are intended to balance the preservation of significant trees as a benefit to the community with the individual right to use and enjoy property.

[Ord. 5445, 4/12/00; Ord. 5764, 12/1/11, Ord. 5947, 1/1/21]

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.

(2) Fell: 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.

(3) Tree: A living, standing, woody plant.

(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. 5764, 12/1/11; Ord. 5947, 1/1/21; Ord. 6042, 7/12/24]

9.204 Applicability. Except as provided below, Site Plan Review approval is required for the felling of 5 or more trees larger than 25 inches in circumference (approximately 8 inches in diameter) on a lot or property in contiguous single ownership in excess of 20,000 square feet in any zone.

The following activities are exempt from Site Plan Review under this section. Notwithstanding the foregoing, all tree felling activities located within Significant Natural Resource Overlay districts must meet the applicable requirements of Article 6:

(1) The action of any City official or of any public utility necessary to remove or alleviate an immediate danger to life or property; to restore utility service or to reopen a public street to traffic.

(2) Felling of any tree that is defined as a nuisance under the Albany Municipal Code.

(3) Any felling necessary to maintain streets or public or private utilities within a public right-of-way or utility easement provided the Tree Commission or City Forester approved the proposed tree felling.

(4) Felling of trees planted as Christmas trees.

(5) Felling of trees on property under a Forest Stewardship Plan approved by the Oregon Department of Forestry.

[Ord. 5445, 4/12/00; Ord. 5635, 1/11/06; Ord. 5764, 12/1/11; Ord. 5947, 1/1/21]

9.205 Tree Felling Criteria. Except as provided for in Section 9.206, the following review criteria replace the Site Plan Review criteria found elsewhere in this Code for the purpose of reviewing tree felling. A Site Plan Review for tree felling subject to these criteria will be processed as a Type I-L land use decision.

(1) The Community Development Director or his/her designee shall approve a Site Plan Review for tree felling when the applicant demonstrates that the felling of the tree(s) is warranted because of the condition of the tree(s) with respect to disease, hazardous or unsafe conditions, danger of falling, proximity to existing structures or proposed construction, or interference with utility services or pedestrian or vehicular safety. The Director, in consultation with the City Arborist, may also grant an exception to any of the tree cutting standards for industrial development on industrially zoned land. The Director may require

the applicant to provide a Certified Arborist's report.

(2) For property where a Site Plan Review, Conditional Use, or land division application has been approved or is currently under review for development of the property, the Community Development Director or his/her designee shall approve Site Plan Review for tree felling when the applicant demonstrates that all of the following review criteria are met:

(a) It is necessary to fell tree(s) in order to construct proposed improvements in accordance with an approved Site Plan Review or Conditional Use review, or to otherwise utilize the applicant's property in a manner consistent with its zoning, this Code, applicable plans adopted by the City Council, or a logging permit issued by the Oregon Department of Forestry.

(b) The proposed felling is consistent with City ordinances including tree regulations in the Albany Municipal Code, and the proposed felling does not negatively impact the environmental quality of the area, including but not limited to: the protection of nearby trees and windbreaks; wildlife; erosion; soil retention and stability; volume of surface runoff and water quality of streams; scenic quality; and geological sites.

(c) The uniqueness, size, maturity, structure, and historic value of the trees have been considered and all other options for tree preservation have been exhausted. The Director may require that trees determined to be unique in species, size, maturity, structure, or historic values are preserved.

(d) Tree felling in Significant Natural Resource Overlay Districts meets the applicable requirements in Article 6.

(3) For property where tree felling is proposed and there is no approved or concurrent Site Plan Review, Conditional Use, or land division application for development of the property, the Community Development Director or his/her designee shall approve a Site Plan Review application for tree felling when the applicant demonstrates that all the review criteria in subsection (2) above are met, and the following additional criteria are met:

(a) Trees shall be retained in significantly large areas and dense stands to ensure against wind throw.

(b) Wooded areas that will likely provide an attractive on-site amenity to occupants of future developments shall be retained.

(c) Wooded areas associated with natural drainage ways and water areas will be maintained to preserve riparian habitat and minimize erosion. The wooded area to be retained shall be at least 10 feet in width or as required elsewhere in this Code.

(d) Wooded areas along ridges and hilltops will be retained for their scenic and wildlife value.

(e) Tree felling on developable areas will be avoided to retain the wooded character of future building sites and so preserve housing and design options for future City residents.

(f) Wooded areas along property lines shall be retained at a minimum width of 10 feet to provide buffers from adjacent properties.

(g) The plan for tree felling shall be consistent with the preservation of the site's future development potential and zoning.

(4) The Director may attach conditions of approval to the tree felling review to ensure the replacement of trees and landscape or otherwise reduce the effects of the felling and may

require an improvement assurance to ensure all conditions are met.

[Ord. 5764, 12/1/11; Ord. 5767, 12/7/11; Ord. 5832, 4/9/14; Ord. 5947, 1/1/21; Ord. 6018, 6/30/23]

9.206 Clear and Objective Criteria for Tree Felling associated with the Development of Housing. For property where a building permit, Site Plan Review, subdivision, or partition application has been approved or is currently under review for the development of housing on a property, the applicant proposing the felling of trees may choose to meet the criteria in Section 9.206 rather than the criteria in Section 9.205. A Site Plan Review application for tree felling subject to the criteria in Section 9.206 will be processed as a Type I decision. The Community Development Director, City Forester, or his/her designee shall approve the Site Plan Review application when the applicant demonstrates that all of the following review criteria are met:

(1) The critical root zone of each tree to be felled is no more than five feet from proposed roads, driveways, utilities, and required site improvements, or 10 feet from proposed residential building pads.

(2) The proposed felling is consistent with other applicable sections of the Development Code (such as Article 6, Significant Natural Resource Overlay Districts) and City ordinances, including tree regulations in the Albany Municipal Code.

Trees that do not meet criterion (1) shall be preserved (see AMC 7.98.215 for recommended methods for protecting residual trees).

[Ord. 5947, 1/1/21]

BUFFERING AND SCREENING

9.208 Purpose. These regulations provide screening and buffering between uses to reduce the potential objectionable impacts of higher intensity uses on adjacent lower intensity uses. These impacts include, but are not limited to, light pollution and glare, noise, visual impacts, and loss of privacy.

9.210 General Requirements/Matrix. Buffering and screening are required in accordance with the matrix provided in Table 9.210-1. The property owner of each proposed development is responsible for the installation and maintenance of such buffers and screens. The Director may approve an Adjustment to waive the buffering/screening requirements of this section where such has been provided on the abutting property in conformance with this Code. Where a use would be abutting another use except for separation by right-of-way, buffering (but not screening) is required as specified in the matrix. Where a proposed use abuts undeveloped property, only one-half of the buffer width is required.

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

9.220 Delineation of Area. A buffer yard or area consists of an area within a required setback or specified distance from the side and rear property lines. When a utility easement runs along property lines the buffer area landscaping must be located outside of the utility easement, which may result in a larger distance between the use and the property line. It has a depth equal to the amount specified in the buffer matrix and contains a length equal to the length of the property line of the abutting use or uses. [Ord. 6062, 5/23/25]

9.230 Occupancy. A buffer area may only be occupied by utilities, screening, sidewalks, bikeways, landscaping, and approved vegetated post-construction stormwater quality facilities. No buildings, vehicular access ways or parking areas are allowed in a buffer area except where vehicular access way has been approved by the City.

[Ord. 5842, 1/1/15; Ord. 5947, 1/1/21]

9.240 Buffering. The minimum improvements within a buffer area consist of the following:

(1) At least one row of trees. These trees will be not less than 10 feet high at the time of planting for deciduous trees and spaced not more than 30 feet apart and five feet high at the time of planting for evergreen trees and spaced not more than 15 feet apart. This requirement may be waived by the Director when it can be demonstrated that such trees would conflict with other purposes of this Code (e.g., solar access).

(2) At least 5 five-gallon shrubs or 10 one-gallon shrubs for each 1,000 square feet of required buffer area.

(3) The remaining area treated with attractive ground cover (e.g., lawn, bark, rock, ivy, evergreen shrubs).

9.250 Screening. Where screening is required or provided, the following standards apply in addition to conditions (1) and (3) ~~above~~in 9.240:

(1) One row of evergreen shrubs that will grow to form a continuous hedge at least four feet tall within two years of planting, or

(2) A fence or masonry wall at least five feet tall constructed to provide a uniform sight-obscuring screen, or

(3) An earth berm combined with evergreen plantings or a fence that forms a sight and noise buffer at least six feet tall within two years of installation.

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 in required setback areas or buffer yards and must be contained within the screened area. All refuse materials must 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 may be placed within 15 feet of a dwelling window or between a multiple dwelling unit building and a single dwelling unit.

[Ord. 6018, 6/30/23; Ord. 6042, 7/12/24; Ord. 6059, 3/14/25; Ord. 6062, 5/23/25]

9.260 Clear Vision. Buffering and screening provisions are superseded by the clear vision requirements of Section 12.180 and by the fence and wall height restrictions of the zone when applicable. [Ord. 5445, 4/12/00]

9.270 Landscape Plan. In lieu of these standards a detailed landscape plan, which provides the same degree of desired buffering utilizing alternative designs, may be submitted for approval.

Table 9.210-1. Buffer and Screening Matrix

New text is shown in black double underlined font and removed text is shown in ~~strikethrough~~ font. Staff comments in blue font are provided to explain the proposed amendments but are not amendments.

BUFFER MATRIX	PROPOSED USE								
ABUTTING USE OR ZONING DISTRICT	**Detached single-dwelling unit or duplex**	**Middle housing**	**Multiple dwelling unit**	**Manufactured home park or subdivision**	**Commercial, professional, mixed-use, and institutional**	**Industrial Park ~~use~~**	**Light Industrial ~~use~~**	**Heavy Industrial ~~use~~**	**Parking lot with at least 5 spaces**
Dwellings in RR, RS-10, RS-6.5, RS-5, HM, RM, HDR, MUR and RMA districts	0’	0’	10’ (3)	0’	10’ S (3)	30’ S	30’ S	40’ S	10’ S
Manufactured home park or subdivision in any district	0’	0’	0’	0’	10’S	30’S	30’S	40’S	10’S
Any arterial street (2)	10’	10’ (4)	10’ (4)	10’ S (1)	10’ (4)	10’	10’	10’	10’
Commercial, professional, mixed-use, and institutional	10’	10’ (4)	10’ (4)	10’ S	0’	20’	0’	20’ S	0’
Industrial Park District	20’	20’	20’	20’S	0’	0’	0’	5’	0’
Light Industrial District	30’ S	30’ S	30’ S	30’ S	0’	20’	0’	0’	0’
Heavy Industrial District	40’ S	40’ S	40’ S	40’ S	20’	20’	0’	0’	0’
Any parking lot with at least 5 spaces	10’ S	5’ S	5’ S	5’ S	0’	0’	0’	0’	0’

New text is shown in black double underlined font and removed text is shown in ~~strikethrough~~ font. Staff comments in blue font are provided to explain the proposed amendments but are not amendments.

"S" indicates screening required. (1) See Section 10.270(3)(c) for buffering and screening along arterials and collectors. (2) The buffer/screening standard does not apply along arterial streets where it conflicts with other provisions of this code. (3) The required buffer does not apply abutting the MUR district and the buffer and screening do not apply abutting the HDR district. (4) Does not apply in the HD, CB, DMU, and WF zoning districts.

[Ord. 5445, 4/12/00; Ord. 5886, 1/6/17; Ord. 5894, 10/14/17; Ord. 5947, 1/01/21; Ord. 5968, 1/14/22; Ord. 6004, 12/28/22; Ord. 6024, 12/29/23]

No changes are proposed to the fencing and environmental standards in 9.360 through 9.500 so these sections are not provided.*

New text is shown in underlined font and removed text is shown in ~~strikethrough~~ font. Staff comments in blue font are provided to explain the proposed amendments but are not amendments.

Staff Comments: The proposed changes to Middle Housing Land Divisions to comply with HB 2138 begin in Section 11.610. Other minor amendments are proposed throughout the article.

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
- 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]

GENERAL PROVISIONS

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 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 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 of Article 12 - Public Improvements.

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 applications for building permits.

[Ord. 5764, 12/1/11; Ord. 5842, 1/1/15, Ord. 5886, 1/6/17; Ord. 6042, 7/12/24]

11.040 Pre-application Conference. A pre-application conference, in accordance with Section 1.130, is required prior to submittal of an application for any land division. A pre-application conference is not mandatory for property line adjustments. [Ord. 5947, 1/1/21]

11.050 Acceptance of Application. The Director will review the application for compliance with established application requirements within thirty (30) working days. If the application is found to be incomplete, the Director will notify the applicant of the reasons and advise the applicant of the requirements for an acceptable application.

11.060 Expiration Dates. See Section 1.310 for expiration of land division appeals.

[Ord. 5768, 12/7/11; Ord. 5947, 1/1/21]

11.065 Recording Final Plats. Once city approval is granted for a final plat, it must be recorded with the Linn or Benton County Records Division. [Ord. 5475, 4/11/2001; Ord. 5768, 12/7/11, Ord. 5886, 1/6/17]

11.080 Subsequent Land Divisions and Property Line Adjustments. No subsequent land division or property line adjustment may be approved on the same lot or parcel until the previously approved land division or property line adjustment has been filed and recorded, or the previous approval is withdrawn or otherwise invalidated.

Staff Comments regarding Flag Lots in 11.090(5):

The code currently requires the "pole" of each "flag lot" to be at least 22 feet wide, unless two flag lots are being proposed, then the width is 12 feet for each pole for a combined minimum width of 24 feet.

Most cities have a narrower "pole" width, which better supports infill development. Staff propose to reduce the minimum width of the "pole" to 10 feet, which is wide enough for utilities needed to serve each development. However, developments must still provide necessary utility easements, comply with fire access requirements, and other applicable code standards.

New text is shown in underlined font and removed text is shown in ~~strikethrough~~ font. Staff comments in blue font are provided to explain the proposed amendments but are not amendments.

LOT AND BLOCK ARRANGEMENT

11.090 Lot and Block Arrangements. Land divisions must conform to the following standards in this Article and other applicable provisions of this Code. Land divisions proposed within a Climate Friendly Area overlay zone must meet the maximum block length standards in Article 14.

(1) Lot Arrangement. The following lot and block arrangement standards apply to land divisions for single-dwelling unit and middle housing development.

(a) 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 except for lots designated Open Space.

(b) 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 is required in conjunction with submittal of tentative subdivision or partition plat.

(c) Double frontage lots must be avoided except when necessary to provide separation of residential developments from collector and arterial streets 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 to limit possible traffic hazards on such streets. The driveway must be designed and arranged to avoid requiring vehicles to back into traffic on arterials. An access control strip must be placed along all lots abutting arterial streets requiring access onto the lesser class streets where possible.

(d) Side property lines must run at right angles to the street the property faces through the front setback line or 10 feet except that on a curved street frontage, the side property line must be radial to the curve through the front setback line or 10 feet, whichever is greater.

(2) Block Length and Perimeter. Land divisions in residential zones must provide a system of streets, accessways, and blocks meeting the block length and perimeter standards in this section to facilitate safe and convenient pedestrian and bicycle connectivity.

(a) Block Length (Figure 11.090-1). The maximum block length is 800 feet. Where block length exceeds 500 feet, a public through-block accessway must be provided in conformance with the standards in ADC 12.355. Accessways must be located no more than 500 feet from the edge of the street pavement.

(b) Block Perimeter.

i. Pedestrian Block Perimeter: The maximum pedestrian block perimeter is 1,600 feet. Pedestrian blocks may be bound by sidewalks along streets or a combination of sidewalks, bicycle and pedestrian accessways/connectors, and multiuse paths and trails.

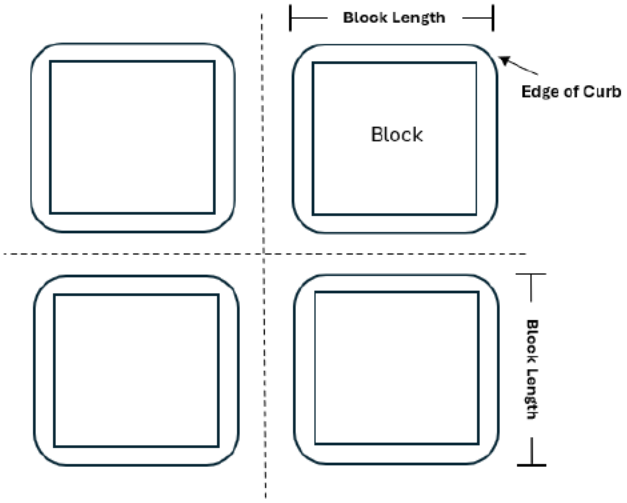
ii. Vehicle Block Perimeter: The maximum vehicle block perimeter is 2,200 feet. Vehicle blocks must be bounded on all sides by streets.

(c) Exceptions. The City Engineer may grant an exception to the average and maximum block length standards when one or more of the conditions in subsections (a) through (c) below exist on a development site as part of a discretionary review process.

i. Topography or natural features including but not limited to steep slopes, rivers, mature tree groves, riparian corridors, wetlands or other resource under protection by local, State or Federal law;
ii. Railroads, highways, or other permanent barriers;
iii. Lot or parcel size, orientation, or shape;
iv. Available access;
v. Existing or nonconforming development;
vi. To provide accessibility for people with disabilities; or
vii. Other similar permanent site constraints.

When approving an exception, the City Engineer may require pedestrian and/or bicycle connectivity through the development, when warranted.

FIGURE 11.090-1. Block Length



(3) Pedestrian/Bicycle Connectivity. When approving an exception in (2)(c) above, the City Engineer may require off-street pedestrian pathways that connect to the street network to provide pedestrian and bicycle access in situations where a public street connection is not feasible.

(4) With the exception of townhouse development, the minimum frontage of a lot on a cul-de-sac must be 22 feet as measured perpendicular to the radius.

(5) 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 lot is ~~22~~ 10 feet~~, except when access is shared by an access and maintenance agreement in which case each lot must have a minimum width of 12 feet and a combined minimum of 24 feet.~~ Developments must provide adequate width for utility easements and access to public streets to comply with standards in Article 12 and applicable fire and building code.

(6) At all street intersections, an arc along the property lines must be established so that construction of the street at maximum allowable width, centered in the right-of-way, must require 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. 5886, 1/6/17; Ord. 5912, 7/11/18; Ord. 5947, 1/1/21; Ord. 5968, 1/14/22; Ord. 6004, 12/28/22; Ord. 6042, 7/12/24; Ord. 6062, 5/23/25; Ord. 6068, 11/8/25]

OPEN SPACE IN RESIDENTIAL LAND DIVISIONS

11.095 Purpose. The purpose of requiring open space in residential land divisions is to provide access to green space, recreation, gathering space, and relaxation. These standards are intended to ensure that a land division's open space is an integral part of the overall development.

(1) Applicability. For residential subdivisions of 20 or more lots in the R-10, R-6.5, R-5, HM, RM, RMA, and MUR zoning districts, at least 50 square feet of open space per lot must be provided.

(2) Improvement Standards

(a) Usable Open Space. At least one area on the land to be divided must be improved as usable open space of at least 400 square feet with a minimum dimension of 15 feet. The usable open space must consist of a small accessible park and contain seating, trees, and landscaping.

(b) Remaining Open Space. The remaining open space may consist of:

i. A larger usable open space as described above, and could include, but is not limited to a multi-use path at least 10 feet wide constructed to city standards, trails, sidewalks, passive landscaping and trees, water features, garden(s), swale(s) or natural area may be considered part of the remaining open space.

ii. Up to 50 percent of a vegetated post-construction storm water quality facility (e.g. swale) or natural area may be considered part of the usable open space if an accessible sidewalk or path at least 5 feet wide provides access to the facility and surrounds at least 75 percent of it. Exemption. Open space is not required if a portion of the subdivision is within ¼ mile (measured in walking distance) of a publicly accessible park or elementary school.

(3) A multi-use path must be provided if identified in the Parks Master Plan, the Transportation System Plan, an adopted area plan, or any other plan adopted by the City of Albany. The path must be at least 10 feet wide, centered within a 20-foot-wide easement and constructed to city standards as approved by the City Engineer. If the path is not provided at the time of development, a development agreement may be entered into for future construction and/or financial assurance thereof.

[Ord. 6059, 3/14/25]

PROPERTY LINE ADJUSTMENTS

11.100 Definition. A property line adjustment means the relocation of a common property line between two abutting properties. It occurs when property lines separating two or three properties are moved to add and remove land from the properties. A property line adjustment does not result in the creation of a new lot.

11.110 Procedure. Property line adjustments are reviewed through the Type I procedure, with the Director acting as review body.

11.120 Review Criteria. The Director will approve, approve with conditions, or deny the request for a property line adjustment based on the following criteria:

(1) The property line adjustment does not create a new lot or a land-locked parcel.

(2) The adjusted properties are not reduced below the minimum dimensions of the zoning district and do not otherwise violate standards of this Code, or the adopted building codes.

(3) The adjusted properties are in compliance with any adopted transportation, public facilities, or neighborhood plan.

(4) The adjusted properties comply with any previous requirements or conditions imposed by a review body.

11.130 Submittal Requirements. An application for a property line adjustment shall include the following:

(1) A completed application form signed by all property owners involved in the proposed adjustment.

(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 required by Article 6 – Natural Resource Districts; and

(3) A map showing the following details:

(a) The scale, north point and date of the map.

(b) The County Assessor's tax map and lot number identifying each parcel involved in the adjustment.

(c) The location, width and purpose of any easements and driveway access to public right-of-way, existing or proposed.

(d) The area, before and after the property line adjustment, of each parcel.

(e) The proposed property lines and dimensions of each parcel.

(f) Existing and proposed utility services and stub locations, including water, sanitary sewer, drainage, power, gas and telephone.

(g) Adjacent rights-of-way with width shown.

[Ord. 5886, 1/6/17]

11.140 Recording Requirements. Property line adjustments must meet the recording requirements of ORS Chapter 92 and be executed by deed.

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.

11.170 Procedure.

(1) Except as provided in subsection (2), a tentative subdivision or partition plat is reviewed through the Type I-L procedure.

(2) A tentative subdivision plat that is reviewed concurrently with a Planned Development or a Cluster Development is subject to the Type II or III procedure.

(3) A final subdivision or partition plat is reviewed through the Type I procedure.

[Ord. 5562, 10/10/03; Ord. 5968, 1/14/22; Ord. 6059, 3/14/25]

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:

(1) The application is consistent with the goals and policies of the Comprehensive Plan and any relevant plans adopted by the City Council.

(2) The proposal meets the development standards of the underlying zoning district, applicable lot and block standards, and open space requirements of this Article.

(3) Development of any remainder of property under the same ownership can be accomplished in accordance with this Code.

(4) Adjoining land can be developed or is provided access that will allow its development in accordance with this Code.

(5) 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.

(6) 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.

(7) Activities and developments within special purpose districts must comply with the regulations described in Articles 4 (Airport Approach), 6 (Natural Resources), ~~and~~ 7 (Historic), and 14 (Climate Friendly Areas) as applicable.

[Ord. 5764, 12/1/11; Ord. 5886, 1/6/17; Ord. 5968, 1/14/22; Ord. 6059, 3/14/25; Ord. 6068, 11/8/25]

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]

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 must 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.

(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 must 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.

(9) The location on the site and in the adjoining streets or property of existing and proposed sanitary sewers, storm drain facilities 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.

(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 must be related to City of Albany datum.

(11) Approximate location of areas subject to storm water inundation or overflow with approximate high-water elevation.

(12) Location, width, direction and flow of all water courses.

(13) Location of properties within the 100-year floodplain and other areas subject to flooding or ponding (see the Floodplain standards in Article 6).

(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.

(15) Location of the following natural features

(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.

(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.

(17) Zoning of and adjacent to the tract.

(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.

(19) Existing and proposed easements on the site and any existing easements on adjoining properties, showing the width and purpose of all easements.

(20) Approximate dimensions of all lots, minimum lot size, proposed lot numbers, and block numbers [see Section 11.230 (11)].

(21) Sites, if any, allocated for multiple-dwelling units, shopping centers, churches, industry, parks, schools, playgrounds, or public or semi-public buildings.

(22) The following additional information must be submitted with the tentative plat:

(a) Total acreage in the subdivision and the percentage of land dedicated to the public, not including easements.

(b) All public improvements proposed to be installed and the approximate time of installation including the method of financing.

(c) 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 must 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 must be submitted at least 30 days prior to approval of the final plat.

(d) An urban conversion plan for large acreage subdivisions.

[Ord. 5562, 10/10/03; Ord. 5720, 8/12/09; Ord. 5764, 12/1/11; Ord. 5842, 1/1/15; Ord. 6004, 12/28/22; Ord. 6024, 12/29/23; Ord. 6042, 7/12/24; Ord. 6068, 11/8/25]

11.220 Final Plat Review Criteria. Approval of a final subdivision or partition plat will be granted if the review body finds that the applicant has met the following criteria:

(1) The final plat is in substantial conformance with the tentative plat.

(2) Conditions of approval attached to the tentative plat have been satisfied.

11.230 Final Plat Submittal. A partition or subdivision final plat must include the following information:

(1) The date, scale, north point, legend, and controlling topography such as creeks, ditches, highways, and railroad right-of-way.

(2) Legal description of the tract boundaries and the City of Albany case file number of the subdivision or partition.

(3) Name and address of the owner(s), subdivider, and surveyor.

(4) Reference points of existing surveys identified, related to the plat by distances and bearings, and referenced to a field book or map as follows:

(a) Stakes, monuments, or other evidence found on the ground and used to determine the boundaries of the land division.

(b) Adjoining corners of adjoining subdivisions.

(c) Other monuments found or established in making the survey of the land division or required to be installed by provisions of this Code.

(5) National Geodetic Survey Control points as recorded in the County Surveyor's office; description and "ties" to such control points, to which all dimensions, angles, bearings and similar data on the plat must be referred.

(6) The location and width of streets and easements intercepting the boundaries of the tract.

(7) The location of the 100-year floodplain for any body of water or natural drainageway (see Section 6.070), together with the method or source of such determination.

(8) Lines with dimensions, bearings or deflection angles, radii, arcs, points of curvature and tangent bearings for tract, lot, and boundaries and street bearings must be shown to the nearest second with basis of bearings. All distances must be shown to the nearest one-hundredth foot.

(9) The width of the portion of streets being dedicated, the width of any existing right-of-way and the width of each side of the center line. For streets that curve, curve data must be based on the street center line and, in addition to center line dimensions, the radius, chord distance, bearing, and central angle must be indicated.

(10) Public utility and private easements, including access easements to the City of Albany for inspection and maintenance of approved private and/or public post construction stormwater quality facilities, clearly identified and, if already of record, their recorded reference. When possible, the bearing, and sufficient ties to locate the easement with respect to the land division, must be shown. If the easement is being dedicated by the map, it must be properly referenced in the owner's certificates of dedication. The purposes of easements must also be identified.

(11) Lot numbers beginning with the number "1" and continuing consecutively through the subdivision. No block numbers or letters will be used unless the subdivision is a continued phase of a previously recorded subdivision of the same name that has previously used block numbers or letters.

(12) Identification of land to be dedicated for any purpose, public or private, to distinguish it from lots or parcels intended for sale, the following phrasing shall be used when identifying open space dedications:

(a) Common Open Space - must be used to identify those parcels of land created for the purpose of common ownership, enjoyment and maintenance by an approved homeowner's association group or is listed as being held in common ownership, with appropriate deed restrictions and responsibilities, by owners of property within the subdivision.

(b) Public Open Space - must be used when identifying those parcels of land dedicated to the City of Albany for open space purposes.

(c) Open Space Easement - must be used to identify that portion of a lot, or lots that have established an open space easement agreement with the City of Albany.

(13) Special building setback lines (as may be required by this Code) and solar easements, if any, which are to be made a part of the subdivision's deed restrictions. These must be shown in writing on the face of the plat, not graphically shown.

(14) The following certificates, which may be combined when appropriate. All signatures on the original subdivision or partition plat must be in permanent black India type ink.

(a) A certificate signed by the City Community Development Director certifying City approval.

(b) A certificate signed and acknowledged by all parties having record title interest in the land, consenting to the preparation and recording of the plat.

(c) A certificate signed and acknowledged as above, dedicating to the public all land shown on the final plat intended for public access, use, or benefit.

(d) A certificate signed by the surveyor responsible for the survey and final map, the signature accompanied by seal, attesting that applicable requirements of City, state and county requirements have been met.

(e) A certificate signed by the County Surveyor.

(f) Other certifications as appropriate.

(15) Filing of separate legal documents to achieve any of the above requirements (l through 14) may be permitted by the Director when it can be shown that placing such information on the final plat is not required to achieve the purposes of this code. When a separate legal document is filed describing a geographically based restriction (such as an easement) the described area must be marked with colored ink (other than black) on the City copy. A description of or reference to any other restrictions attached to the land division approval must also be noted on the City copy.

(16) Supplementary Information.

(a) A copy of any deed restrictions.

(b) A copy of any dedication requiring separate documents.

(c) Legal documents conveying property to the City.

(d) Assurance satisfactory to the Director of Public Works that improvements installed by the subdivider will be in conformity with the standards of the City and that streets and pedestrian ways will be improved.

(e) Financial assurances for all required improvements per Article 12, Public Improvements.

(f) Boundary and lot closure computations and total area of each lot, parcel, and open space dedication, in square feet or acres.

(g) Title Report.

(17) For subdivisions, all monumentation must comply with standards established in ORS 92.060. Witness corners may be set when it is impractical or impossible to set a monument in its true position providing course and distance is given to the true position. All monuments must be clearly identified with the surveyor's name or registration number. Unless waived by the Director of Public Works, the intersection of all street centerlines must be monumented according to County specifications.

[Ord. 5842, 1/1/15]

Staff Comments – Residential Planned Development Process:

SB 974 reduces the land use process for residential planned developments from a Type III (public hearing) process to a staff level review with the option for a hearing on appeal (Type II process).

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

(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 Procedures. A planned development (PD) is processed in two steps and is typically accompanied by a partition or subdivision application, and the applications are processed concurrently. The first step is review of the planned development (PD) project design and land uses for conformance with the purposes of planned developments and the Code. The final PD is reviewed for conformance to the tentative PD as approved and applicable state or local laws and rules.

(1) Residential and Mixed-Use Residential PDs are reviewed by the Director through the Type II procedure.

(2) Non-Residential PDs are reviewed by the Planning Commission under the Type III procedure.

(3) The final PD plan ~~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:

(a) Accessory buildings and uses (permitted in combination with principal uses only);

(b) Dwellings, multiple-dwelling units;

(c) Dwellings, single-dwelling unit;

(d) Middle housing;

(e) Open space;

(f) Parks, playgrounds, golf courses, driving ranges, community centers, or recreation facilities supported by the planned development; and

(g) Commercial services that 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.

(b) 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.

(c) 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.

(d) Office uses, services, and other accessory uses totally supported by other permitted uses are allowed in addition to the percentage amounts specified above.

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

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:

(1) Development Standards. Except as noted in Table 11.330-1, minimum lot area, width and frontage, height, setbacks 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 higher quality development.

(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.

(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 must continue to 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.

11.300 Application Contents. A planned development proposal is reviewed in two stages. The following information is required to be submitted with each stage:

(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)~~.

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.

(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, 4/09/14; Ord. 5842, 1/1/15; Ord. 5947, 1/1/21; Ord. 6042, 7/12/24]

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).

(1) The application is consistent with the goals and policies of the Comprehensive Plan and any relevant plans adopted by the City Council.

(2) 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.

(3) The project design results in a more efficient provision of open space or utilization of the natural features of the site.

(4) The project design results in a more efficient utilization of materials and public resources including streets, utilities, and energy supplies.

(5) Provisions will be established to ensure the continued maintenance of any common areas.

(6) More usable and suitable recreational facilities and other common areas are provided than would normally be provided under conventional development standards.

(7) The planned development satisfies the development standards in Section 11.330.

(8) 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. 5947, 1/1/21; Ord. 5968, 1/14/22; Ord. 6068, 11/8/25]

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.

11.325 Phasing Planned Developments. The applicant may provide for development of the project in phases. Each phase shall provide a proportionate share of the development facilities and amenities as approved. See Section 1.310 for land use approval time periods.

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

New text is shown in underlined font and removed text is shown in ~~strikethrough~~ font. Staff comments in blue font are provided to explain the proposed amendments but are not amendments.

Staff Comments: Adding existing minimum densities to the Planned Development Density Table 11.330-1 and updating maximum density figures to reflect net density (density is determined by minimum lot sizes) for consistency within this code and state law.

11.330 Planned Development Standards. In conjunction with standard requirements for setbacks and landscaped areas, the following standards apply to planned developments:

(1) Open Space and Common Areas in Residential, Mixed-Use and other Non-Industrial Planned Developments. Open space or common areas must be provided for common enjoyment. In all residential developments and mixed-use developments, except as provided in subsections (b) and (h), 25 percent of the gross land area must be devoted to open space, outdoor living area or common areas as follows.

(a) Land that may be counted towards the open space requirement includes:

- Natural resources accessible to the public;
- Common recreational space or commonly enjoyed amenities accessible to residents, including indoor or rooftop amenities – the total square footage of indoor amenities will be subtracted from the total land area; and
- Common landscaped areas and paths but excluding sidewalks and planter strips in the right-of-way.

(b) If proposing less than 25 percent open space, the applicant must demonstrate that the amount of open space proposed is appropriate to the scale and character of the planned development and well located to serve the residents and public, with high quality improvements designed to address the enjoyment, safety, and comfort of users. In no case may open space of less than 15 percent of the gross land area be approved.

(c) Locations, shapes, sizes and other characteristics of open spaces must be consistent with their proposed uses and the purposes of the planned development.

(d) Land in the right-of-way may not count towards the open space requirement unless designed with larger planter strips to allow for mature trees, a multi-use path, or a landscaped median.

(e) Side and rear yards may not count towards the minimum open space requirements. Front yards may count toward the open space requirements in residential developments if they are shared by more than one dwelling unit.

(f) Outdoor open space or living areas required by this Article may be dedicated to the City provided the size and amount of the proposed dedication meets the criteria of the City for neighborhood parks by one-half and if the City agrees to accept the dedication. The square footage of land dedicated to public parks must be deemed a part of the development site for the purpose of computing density.

(g) Approved vegetated post-construction stormwater quality facilities are allowed in open space, outdoor living area and common areas.

(h) Cottage clusters are exempt from the 25 percent open space requirement and subsections (a) through (f); however, subsection (g) applies. Cottage clusters must meet the common courtyard standards in ADC 8.175(4), except as modified by the proposed planned development pursuant to subsection 11.280(2) or as modified through Adjustment review.

(2) Natural Resources. The planned development shall provide for the protection of significant landscape features including Oak groves, heritage trees as defined by the Albany Municipal Code and land located within Albany's natural resource overlay districts and any historic sites and landmarks. Natural and cultural resources shall integrate the proposed development with the environmental characteristics of the site and adjacent uses.

(3) Underground Utilities. In any planned development, all electric and telephone facilities, fire alarm conduits, street light wiring, and other wiring, conduits and similar facilities shall be placed underground by the developer, unless allowed above ground by the review body.

(4) Density. When calculating density of a proposed planned development, the ~~gross~~ net area ~~including~~ excludes streets and park land dedications, ~~shall be included~~, ~~except for~~ and land in the Significant Wetland overlay district and waterways. The maximum and minimum density permitted for residential ~~per~~ zoning districts is outlined in Table 11.330-1 below.

Table 11.330-1

	R-10	R-6.5	R-5 & HM	RM	RMA	HDR	OS
Maximum dwelling units per net acre*	~~4~~5	~~6~~7	~~8~~9	None	None	None	1**
Minimum dwelling units per acre***	None	None	None	12	20	25	None
Small SDU or Duplex 800-1,250 SF per net acre	~~6~~7	~~9~~11	15~~2~~	None	None	None	1**
Small SDU or Duplex less than 800 SF per net acre	~~8~~9	15~~2~~	17~~6~~	None	None	None	1**

* In Middle Housing Zoning Districts, additional density to allow for middle housing may be permitted. Middle housing lot sizes must not be less than the minimum lot size for the housing type in the applicable zoning district.

** Allows 1 residential unit per existing lot.

***See Article 14 for additional density minimums in Climate Friendly Area Overlay Districts.

(5) Building Spacing and Yard Requirements. The plan must provide adequate building separation to allow for light, ventilation, and visual and acoustic privacy for residences and other structures. Fences, insulation, walks, barriers, and landscaping must be used, as appropriate, for the protection and aesthetic enhancement of property and the privacy of its occupants, screening of objectionable views, and reduction of noise.

(6) Building Locations. Taller buildings must be located within the planned development in such a way as to avoid adverse impact on neighboring lower buildings and must not invade the privacy of the occupants of adjacent lower buildings.

(7) Perimeter Compatibility. The plan must minimize adverse impacts of proposed uses and structures in the planned development on existing and anticipated uses and structures on adjacent properties and neighborhoods. The buffering and screening standards in Sections 9.210-9270 apply. If topographical or other physical barriers do not provide reasonable privacy and mitigation of potential adverse impacts on existing uses adjacent to the development, the development must provide additional setbacks, buffering or screening between residential and non-residential uses.

[Ord. 5801, 2/13/13; Ord. 5832, 4/9/14; Ord. 5842, 1/1/15; Ord. 5947, 1/1/21; Ord. 5968, 1/14/22; Ord. 6059, 3/14/25]

11.340 Dedication and Maintenance of Facilities. The review body may, as a condition of approval for any planned development, require that portions of the tract or tracts be set aside, improved, conveyed, or dedicated for the following uses:

(1) Parks or playgrounds set aside, improved, or permanently reserved for the owners, residents, employees, or patrons of the development.

(2) Whenever private common outdoor living area is provided, an association of owners must be created under state law. Owners of property within the development will automatically be members and will be assessed levies for maintenance of the outdoor living area. The period of existence of such association will be at least 20 years, and it will continue thereafter until a majority vote of the members shall terminate it.

(3) Right-of-way width within the development must be maintained as private streets or be dedicated to the City when necessary, in accordance with the Albany Comprehensive Plan. Other streets necessary to the proper development of adjacent properties may also be required to be dedicated. Streets must be constructed in accordance with city standards.

(4) Easements necessary for the orderly extension of, maintenance of, or access to, public utilities.

11.350 Changes in the Approved Plan. Changes in the approved planned development may be made as long as they continue to meet the requirements of these provisions. Major changes, as determined by the Director, will be reviewed by the Planning Commission using the Type III procedure. Minor changes will be reviewed under the Type I procedure. [Ord. 5832, 4/9/14]

11.360 Revocation. In the event of failure to comply with approved plans, conditions of approval, stage development schedule; the Commission may, after notice and hearing, revoke a planned development permit. The determination of the Commission will become final 30 days after the date of decision unless appealed to the City Council.

11.370 Failure to Adhere to Approved Plan, Satisfy Conditions, or Comply with Phased Development Schedule. Failure to comply with approved preliminary or final development plans, conditions of approval, or phased development schedule, constitutes a violation of this ordinance as prescribed in Article 1.

CONDOMINIUMS

11.380 Definition. A condominium is a building, or group of buildings, in which units are individually owned, and the shared structure, common areas and facilities are owned by all of the unit owners on a proportional, undivided basis. [Ord. 5968, 1/14/22]

11.390 Procedure. A proposal for new construction of a condominium or conversion of existing units into condominiums is reviewed through the procedure applicable to the housing type (e.g., multiple dwelling unit development or middle housing). All condominium proposals must meet the appropriate requirements of ORS Chapter 100.

[Ord. 5947, 1/1/21; Ord. 5968, 1/14/22; Ord. 6004, 12/28/22

CLUSTER DEVELOPMENT

11.400 Purpose. A ~~C~~cluster development is intended to protect and/or restore natural and other special

features in the development of a site. In return, the more flexible standards found in this section may supersede other stricter standards of this Code. Cluster developments may provide greater flexibility, reduced and/or varied lot sizes, and more variety in permitted uses. Residential density may be transferred within the development in exchange for restoring degraded or marginal quality resources located in a Significant Natural Resource overlay district or for protecting natural or other special features of the site. Developments must satisfy high-quality master planning and design requirements. [Ord. 5923, 2/8/19]

11.405 Optional Nature. Cluster development is an optional form of development. Cluster development proposals are reviewed as part of the land division, site plan, or Conditional Use application processes. [Ord. 5947, 1/1/21]

11.410 Eligibility. To be eligible to apply for cluster development, all of the following are required:

~~(1) Residential Zoning. The site must be located in a residential zoning district.~~

(~~2~~1) Natural and Other Special Features. The site must contain one or more of the features listed in Section 11.460.

(~~3~~2) Professional Designer. An applicant for cluster development approval must certify in writing that a certified landscape architect, site planner, or landscape designer, approved by the Director, will be used in the planning and design process for the proposed development.

[Ord. 5668, 4/11/07]

11.420 Relationship to Other Regulations. If the applicant chooses the cluster development option, and the site is deemed eligible by the City, these standards will supplement other provisions of this Code. For example, a subdivision proposed as a cluster development is also subject to other provisions of Article 11 of the Development Code. Other types of residential development are subject to Site Plan Review or Conditional Use review. These provisions apply to issuance of building permits in a cluster development and to ongoing uses and activities in a cluster development. [Ord. 5562, 10/10/03; Ord. 5668, 4/11/07; Ord. 5947, 1/1/21]

11.430 Procedure. Cluster development proposals are reviewed as a Type II procedure. [Ord. 5562, 10/10/03; Ord. 5668, 4/11/07; Ord. 6059, 3/14/25]

11.440 Review Criteria. The review criteria for a cluster development are those that apply to a particular type of development. For example, the tentative plat criteria in Article 11 apply to cluster land divisions. (See Section 11.420 for relation to the other requirements.) Also, the review body must find that the application meets the following additional criteria:

(1) The application is consistent with the goals and policies of the Comprehensive Plan and any relevant plans adopted by the City Council.

(2) The proposed development meets all of the requirements for cluster development.

(3) The proposed development preserves or restores natural or other special features as identified and prioritized in ADC 11.460.

[Ord. 5562, 10/10/03; Ord. 5668, 4/11/07; Ord. 5764, 12/1/11; Ord. 5923, 2/8/19; Ord. 5968, 1/14/22; Ord. 6068, 11/8/25]

11.450 Natural Area Requirements. Cluster developments must provide a minimum of 20 percent of the site as permanent natural areas. Land designated as Open Space on the Comprehensive Plan or Zoning maps may not be used to fulfill this requirement. [Ord. 5562, 10/10/03; Ord. 5668, 4/11/07; Ord. 5764, 12/1/11]

11.460 Designation of Permanent Natural Area. The required natural area may be public or private. The minimum 20 percent of the gross acreage of the development site set aside as natural area in a cluster development must be designated in the following priority order:

(1) The first priority for natural area designation is significant tree groves identified on the South Albany Area Plan Organizational Framework map in the Comprehensive Plan (Figure 1), and Oregon White Oak (Quercus garryana) trees citywide equal to or greater than ~~six~~five and one-quarter~~half~~ feet in circumference (approximately 20~~5~~ inches in diameter) measured as defined in Article 9.203(4). For individual trees, the natural area boundary is defined as the critical root zone (as defined in Article 9.203 (1)) plus a 10-foot buffer.

(2) The second priority for natural area designation is natural resources within the Significant Natural Resource overlay districts that are of degraded or marginal quality and subsequently restored to good quality in accordance with the quality levels in ADC Section 6.410(5). This priority must be satisfied in the following order:

(a) Habitat for western painted and northwestern pond turtles within the Habitat Assessment Overlay (/HA), as identified by a turtle habitat assessment, that is restored to good quality.

(b) Wetland within the Significant Wetland overlay district (/SW) that is restored to good quality.

(c) Riparian area within the Riparian Corridor overlay district (/RC) that is restored to good quality.

(3) The third priority for natural area designation is protection of other environmentally sensitive areas, or natural and scenic features of the site. This priority must be satisfied in the following order:

(a) Good quality habitat for western painted and northwestern pond turtles near Thornton Lakes within the Habitat Assessment overlay (/HA) as identified by a turtle habitat assessment.

(b) Good quality wetland within the Significant Wetland overlay district (/SW).

(c) Good quality riparian area within the Riparian Corridor overlay district (/RC).

(d) Other wetlands not within the Significant Wetland overlay district, as shown on the City's Local Wetland Inventories, or by a delineation approved by the Oregon Department of State Lands.

(e) Existing channels identified in the most current version of the City of Albany Storm Water Master Plan.

(f) Springs.

(g) Land with natural slopes 12 percent or greater as designated by the Hillside Development overlay district (/HD).

(h) Wooded area with five or more healthy trees over 25 inches in circumference (approximately eight inches in diameter) measured as defined in Article 9.203(4), if approved by the City Forester.

(i) Land that provides bike or walking trails that connect to existing or proposed parks or trails, inventoried natural features, or areas zoned Open Space; or areas otherwise protected as permanent natural areas.

(j) Incorporate public parks, trails, trailheads or open space designated in the Parks, Recreation and Open Space Plan, the North Albany Refinement Plan, and the South

Albany Area Plan.

(k) Other features of the site unique to Albany, if approved by the Director.

(4) The fourth priority for natural area designation is to create "open spaces" in and around neighborhoods. This priority is satisfied by any of the following:

(a) Continuity of adjacent open space corridors or parkways.

(b) A network of interconnected open space corridors.

(c) A buffer between neighborhoods.

[Ord. 5801, 2/13/13; Ord. 5947, 1/1/21; Ord. 5968, 1/14/22]

11.470 Creation of Permanent Natural Areas.

(1) Natural areas in a cluster development may be set aside and managed in one or more of the following ways:

(a) Portions of one or more individual lots; or

(b) Common ownership by residents of the development; or

(c) Third party (non-profit organization) whose primary purpose is to hold or manage the open space, subject to a reversionary clause in the event of dissolution of the non-profit organization; or

(d) Dedicated to City of Albany, if the City agrees to accept ownership and maintain the space.

(2) Except for Subsection (1)(d) above, natural areas are subject to restrictive covenants and easements reviewed by the Community Development Director and recorded and filed when the subdivision plat for the project area is recorded. Except when allowed in 11.480, an easement must include permanent provisions prohibiting the placement of structures or impervious surfaces, alteration of the ground contours, or any other activity or use inconsistent with the purpose of these provisions.

[Ord. 5562, 10/10/03; Ord. 5668, 4/11/07]

11.480 Protection of Permanent Natural Areas.

(1) If any applicable overlay districts allow it, the development may encroach into permanent natural areas, only under the following circumstances:

(a) The development meets the requirements of all overlay districts in Articles 4, 6 and 7; and

(b) The encroachment is necessary to meet transportation, utility infrastructure requirements, or post construction stormwater quality requirements; or

(c) The encroachment is necessary to provide bike or walking trails that connect to existing or proposed parks or trails, inventoried natural features, or areas zoned Open Space or otherwise protected as permanent natural areas.

(2) Permanent alteration by grading may be authorized for the purpose of natural resource enhancement, such as wetland, riparian, or wildlife habitat restoration.

(3) Significant wetlands, riparian corridors, and intermittent streams preserved as natural areas in a cluster development may be used for conveyance of storm waters only when the applicant has demonstrated that the discharge is compatible with the protection of the natural resource. These natural features must not be used for drainage improvements,

such as detention or retention ponds, or any other utility improvement necessary for development of the lots.

(4) Areas set aside for permanent natural areas in a cluster development cannot be further subdivided.

(5) Fences are permitted in and around the natural areas if consistent with the expressed purpose of the natural areas.

(6) Provisions must be established to ensure the continued maintenance of areas designated as natural areas through Cluster Development. See Section 11.470.

[Ord. 5562, 10/10/03; Ord. 5668, 4/11/07; Ord. 5801, 2/13/13; Ord. 5842, 1/1/15; Ord. 6068, 11/8/25]

11.490 Permitted Uses. The uses allowed within cluster developments outside the permanent natural areas are determined by the underlying zoning district standards in Section 3.050, with the following exceptions:

(1) On development sites greater than 20 acres, up to 20 percent of the housing units in R-6.5 and R-10 may be multiple dwelling units.

(2) On development sites greater than 50 acres, up to two acres may be developed with neighborhood commercial uses through a Conditional Use review. The maximum building footprint of commercial or office uses must be 3,000 square feet. Commercial and office uses are limited to restaurants with no drive-through service, and convenience-oriented and personal service-oriented uses as described in Article 22.

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

Staff Comments: Cluster Development Standards. In exchange for protecting natural resources, flexibility to development standards is provided. The standards below are intended to be more flexible than those in Article 3. A few changes to this table were missed with prior updates to other sections of the ADC.

~Adding existing minimum densities to the Table 11.495-1 and updating maximum density figures to reflect net density (density is determined by minimum lot sizes).

~Front yard setbacks were reduced with the Climate Friendly Area Amendments and minimum backyard setbacks were increased. Consequently, most of the front yard setbacks below are no longer less than those required for regular development. Therefore, staff propose to slightly reduce the minimum front setbacks and add minimum backyard setbacks.

11.495 Density and Development Standards. In a cluster development, the following development standards in Table 11.495-1 supersede the same standards in Section 3.190, Table 3.190-1. The minimum and maximum density permitted by zoning district is specified in the following table.

TABLE 11.495-1. Allowable density ranges and standards ~~per zone~~for residential zones.

Standard	R-10	R-6.5	R-5 & HM	RM	RMA	HDR	OS
Density Maximums (units per net acre (1)):							
Single Dwelling Units (SDU) over 1250 SF (1)	~~4~~5	~~6~~7	~~8~~ 9	None	None	None	1 (5)
Small SDU ~~or Duplex~~ 800 – 1,250 SF (1)	~~6~~7	~~9~~11	15~~2~~	None	None	None	1 (5)
Small SDU ~~or Duplex~~	~~8~~9	15~~2~~	17~~6~~	None	None	None	1 (5)

Less than 800 SF (1)							
Density Minimums (units per net acre (1):	None	None	None	12	20	25	N/A
Minimum Lot Size (2)	None	None	None	None	None	None	N/A
Minimum Lot Width	None	None	None	None	None	None	N/A
Minimum front setback (3)	~~12~~10 ft.	~~10~~ 8 ft.	~~10~~ 8 ft.	~~10~~ 8 ft.	~~10~~ 8 ft.	~~10~~ 8 ft.	N/A
Minimum rear setback	5 ft.	5 ft.	5 ft.	5 ft.	5 ft.	5 ft.	N/A
Maximum Lot Coverage (4)	70%	70%	70%	75%	80%	85%	N/A

(1) In Middle Housing Zoning Districts, additional density to allow for middle housing may be permitted. Density for middle housing is based on the minimum lot size for the housing type in the applicable zoning district.

(2) Lots on the perimeter of the cluster development must meet the standards in 11.500.

(3) Except, when lots are adjacent to existing development on the same side of the street, the setback must be within 5 feet of the adjacent house(s) setback(s).

(4) The maximum lot coverage may be up to 100 percent for lots that provide land only for the building footprint.

(5) ~~Allows 1~~One residential dwelling unit per existing lot is permitted.

[Ord. 5801, 2/13/13; Ord. 5923, 2/8/19; Ord. 5947, 1/1/21; Ord. 5968, 1/14/22; Ord. 6059, 3/14/25]

11.500 Perimeter Lot Compatibility. The following standards and exceptions will apply to the lots on the perimeter of a proposed cluster development.

(1) Standards. The term "standard minimum lot size" as used in this section, means the minimum lot size allowed in the underlying base zone without any reductions in size allowed elsewhere in this Code.

(a) When the proposed cluster development abuts developed property in a lower density residential zoning district, the size of lots on the perimeter of the proposed cluster development must be at least the standard minimum lot size applicable to the proposed housing type that is allowed in the zone underlying the cluster development

Example:

Proposed Cluster Development R-6.5 *Perimeter lots must be at least 6,500 sf*	**Abutting Property w/ Lower Density Residential R-10 Zoning**

(b) When the proposed cluster development abuts developed property in the same residential zoning district as the proposed cluster development, the size of lots on the perimeter of the cluster development must be at least 70 percent of the standard minimum lot size applicable to the proposed housing type that is allowed in the underlying zoning district.

Example:

Proposed Cluster Development in R-10 *Perimeter lots must be at least 7,000 sf (70% of minimum lot size for underlying zoning)*	**Abutting Property w/ Same Residential Zoning: R-10**

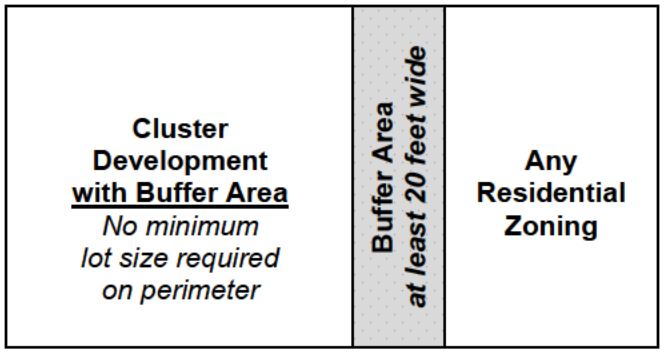
(2) Exceptions. The Perimeter Lot Compatibility standards do not apply in the following cases:

(a) Perimeter lots that are adjacent to land that is zoned for higher density housing, mixed-use or non-residential uses, or to residentially zoned property not in residential use (such as educational, institutional, religious or park uses).

(b) Where the same property owner owns the property abutting the proposed cluster development or when the perimeter lot shares a property line with the Urban Growth Boundary.

(c) If a buffer area is created as a separate property along the perimeter and is at least 20 feet wide, the buffer area must become a permanent natural area and must meet the provisions in Sections 11.470 and 11.480.

Example:



(d) Cluster developments abutting property that is at least 1 acre in size.

[Ord. 5668, 4/11/07; Ord. 5968, 1/14/22]

11.520 Street Standards for Cluster Development. Local streets in a cluster development may be constructed to the Residential Street Design for Constrained Sites as described in Section 12.122(4). [Ord. 5968, 1/14/22]

11.530 South Albany Connectivity. Developments within the South Albany Area Plan boundary must provide a connected street and pathway network. [Ord. 5801 2/13/13]

EXPEDITED AND MIDDLE HOUSING LAND DIVISIONS

11.600 Expedited Land Divisions. Expedited land divisions are defined by ORS 197.360(1).

(1) Eligibility Criteria. For an expedited land division application to be considered, the application must demonstrate how the proposed division complies with each of the following provisions:

(a) The land is zoned for residential use and is within the urban growth boundary.

(b) The land is solely for the purpose of residential use, including recreational or open space uses accessory to residential use.

(c) The land division will not provide for dwellings or accessory buildings to be located on land that is specifically mapped and designated in the comprehensive plan and land use regulations for full or partial protection of natural features under the statewide planning goals that protect:

i. Open spaces, scenic and historic areas, and natural resources; or

ii. The Willamette River Greenway.

(d) The land division satisfies minimum street or other right-of-way connectivity standards established by the City's Transportation System Plan, Engineering Design Standards, Standard Construction Specifications, and Albany Development Code.

(e) The land division will result in development that either:

i. Creates enough lots or parcels to allow building residential units at 80 percent or more of the maximum net density permitted by the zoning designation of the site; or

ii. Will be sold or rented to households with incomes below 120 percent of the median family income for the county in which the project is built.

(2) Tentative Plat Submittal. In addition to the items listed in ADC 11.210, an application for an expedited land division shall describe the manner in which the proposed division complies with each of the provisions in subsection (1) of this section.

(3) Review Criteria. Approval of an expedited land division shall be based on the tentative plat review criteria in ADC 11.180.

(4) Tentative Plat Conditions of Approval. Expedited land division shall be subject to the same conditions of approval as a subdivision or partition (ADC 11.190).

[Ord. 5968, 1/14/22]

Staff Comments – Middle Housing Land Division Amendments to comply with HB 2138:

- MHLDs (to create the child lots) must be allowed concurrently with an initial subdivision to create new parent lots.
- Adding eligibility, applicability, timing, and Clarification regarding further land division of child lots.
- Existing standards are being reorganized to better align with the state model code.

11.610 Middle Housing Land Division. A middle housing land division (MHLD) is a partition or subdivision of a lot or parcel (the parent lot) within a middle housing zoning district ~~on which a~~where the development of middle housing is permitted under ORS 197A.420 and where ~~project~~ middle housing is~~has been~~ developed or proposed ~~approved for development under the provisions of this Code and ORS 197.758~~. ~~Middle housing land division~~MHLDs are regulated by this Code and ORS Chapter 92, Section 92.031. The purpose of a MHLD is to provide a simplified and expedited process for subdividing or partitioning lots with existing or proposed middle housing so that each unit is on a separate property, which enables the units to be sold and owned individually

(1) Eligibility. Any lot (parent lot) developed, or proposed to be developed, with middle housing pursuant to ORS 197A.420(2) is eligible for an MHLD. The following types of middle housing are eligible for a MHLD:

(a) A single duplex, triple, quadplex, cottage cluster, or a single structure containing townhouses;

(b) Additional bonus units as permitted by Section 3.220 and House Bill 2138 (2025 Session), as applicable; and

(c) Any retained ore rehabilitated existing single dwelling unit with or without one accessory dwelling unit or one duplex.

(2) Applicability of Middle Housing Regulations. An MHLD creates two or more lots from a single parent lot on which middle housing is developed or proposed. After an MHLD is

completed, the resulting lots are "child lots." The development is still subject to the requirements and standards that applied to the parent lot prior to the MHLD. In other words, the middle housing development is still defined and regulated as the original middle housing type after an MHLD is completed. For example, an attached triplex that undergoes an MHLD does not become a townhouse development; the structure and property are still subject to requirements/standards for a triplex.

(3) Application Timing and Sequencing.

(a) An application for a tentative plat for an MHLD may be submitted before, after, or at the same time as a submission of an application for building permits for the middle housing.

(b) An application for an MHLD may be submitted at the same time as an application for a standard subdivision or partition. The standard lad division would create the parent lot(s), and the MHLD would further subdivide the lot(s) into middle housing child lots.

(c) An application for one or more MHLDs submitted at the same time as an application for a standard subdivision or partition will be consolidated into a single application subject to the procedural requirements for the standard subdivision or partition.

(d) Within the same calendar year as an original partition that was not an MHLD, one or more of the resulting vacant parcels may be further partitioned into not more than 3 parcels through an MHLD.

(4) Further Division of Child Lots. Middle housing child lots may be further divided by a subsequent MHLD if at least one of the following conditions is met"

(a) The child lot is two or more times larger than the minimum lot size of the zone, meaning that it could be divided through a standard land division into two or more lots that meet the minimum lot size; or

(b) Further division of the child lot would enable the applicable minimum density requirements to be met.

(~~1~~5) 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 will comply~~ies~~ with the Oregon ~~r~~Residential ~~s~~Specialty ~~c~~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. Exception: any retained or rehabilitated existing units on the lot as permitted under ORS 197A.420(4), as applicable, are not required to comply with the siting and design standards applicable to the parent lot. ~~The applicant shall submit approved building permits demonstrating that existing 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. When stormwater services are shared, a shared maintenance easement and agreement is recorded outlining the obligations of individual owners.

(c) Easements will be provided as necessary for each dwelling unit on the site for:

i. Locating, accessing, replacing, and servicing all utilities;

ii. 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.

(d) Exactly one dwelling unit will be located on each resulting lot (referred to as middle housing child lots), except for:
i. ~~t~~Lots or tracts used as common areas, on which no dwelling units will be permitted.
ii. Lots containing one existing retained single dwelling unit with or without an accessory dwelling unit or one duplex as permitted under ORS 197A.420(4). Such retained units shall be considered a single middle housing unit for the purposes of the MHLD.
iii. Lots containing one middle housing dwelling unit plus the one accessory dwelling unit (ADU) permitted for each duplex, triplex, fourplex or townhouse when the development creates housing that is at or above the minimum density for the zone when applicable. For example, a triplex is permitted one (ADU); the one ADU will be located on a child lot with one of the triplex units resulting from an MHLD. Each townhouse may have one accessory dwelling unit.

(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~~6) 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 existing or proposed 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) – (21), copies of a plat showing the following details:
i. Separate utility connections for each dwelling unit, demonstrating compliance with approval criterion 11.610(~~1~~4)(b).
ii. Existing or proposed easements necessary for each dwelling unit on the plan, demonstrating compliance with the criterion 11.610(~~1~~4)(c).

(c) Copies of all required easements in a form approved by the City Attorney.

(~~6~~7) Tentative Plat Conditions of Approval.

~~(a)~~ The City may attach conditions of approval of a tentative plat for a middle housing land division to:

(a)~~i.~~ Prohibit further division of the resulting child lots. However, further division of the child lots may be permitted as provided in subsection (3) of this section.

(b)~~ii.~~ Require that a notation appear on the final plat indicating:

i. The approval was given under ORS Chapter 92.031.

ii. 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.

A. Accessory dwelling units are not permitted on child lots resulting from a middle housing land division.

(c)~~iii.~~ Ensure that improvements associated with review criteria in ADC 11.610 (5) are provided.

(d~~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.

(e~~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; Ord. 6042, 7/12/24]

11.620 Tentative Plat Procedures for Expedited and Middle Housing Land Divisions. Unless the applicant requests to use the standard land division procedures 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) Concurrent Review Option. An application of one or more than one MHLD submitted at the same time as an application for a standard subdivision or partition will be consolidated into a single application subject to the procedural requirements for the standard land division.

(2~~1~~) Completeness Review.

(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 30 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~~3~~) 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~~ must 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~~4) There shall be a 14-day period to allow for submission of written comments prior to the Director's decision.

(~~4~~5) There shall be no public hearing on the application.

(~~5~~6) The Director shall make a decision to approve or deny the application based on compliance or noncompliance with the applicable review criteria within 63 days of receiving a completed application as described in ORS 227.178.

(~~6~~7) The Director's decision shall be based on applicable elements of the Albany Development Code and Comprehensive Plan. An approval may include conditions of approval pursuant to section 11.610(7) to ensure that the application meets the applicable land use regulations.

(~~7~~8) 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~~9) 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 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~~10) 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.

(11~~0~~) 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.

(d) All existing and proposed buildings comply with applicable building codes.

(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]

New text is shown in black double underlined font and removed text is shown in ~~strikethrough~~ font. Staff comments in blue font are provided to explain the proposed amendments but are not amendments.

Staff Comments: A minor change is proposed to fix the minimum stormwater easement required to match city construction standards. No other changes are proposed in this Article.

ARTICLE 12
PUBLIC IMPROVEMENTS

12.000 Overview. This article provides public improvement standards to address the City's concerns related to public health, safety, and welfare as it relates to the management of public transportation systems and utilities. These standards are used with the procedural and design requirements contained in other articles of the Albany Development Code. [Ord. 5947, 1/01/21]

The following is a list of the main headings in this article.

- General Provisions
- Streets
- Sidewalks
- Street Trees
- Bikeways
- Utilities—General
- Water
- Sanitary Sewer
- Storm Drainage
- Improvement Assurances
- Addresses and Street Names

[Ord. 5673, 6/27/07; Ord. 6062, 5/23/25]

***** No changes are proposed to Section 12.010 through 12.350 or after 12.405, so these sections are not provided.*****

UTILITIES—GENERAL

12.360 Utility Easements. The developer shall make arrangements with the City of Albany and each utility franchise for the provision and dedication of utility easements necessary to provide full services to the development. All utility easements must be public easements.

12.370 Utility Easement Width. The standard width for public utility easements adjacent to street rights-of-way is 7 feet. The minimum width for all other public utility easements shall be 15 feet for water, 20 feet for sewer, and ~~15~~ 20 feet for piped storm drainage unless otherwise specified by the utility provider. [Ord. 5947, 1/01/21]

12.380 Information on Development Plans. The developer must show easements for all utilities. Plans showing the location of all utilities shall be submitted to the City as part of the Site Plan Review or land division process. [Ord. 5947, 1/01/21]

12.390 Requirement for Underground Utilities. Except as exempted in Section 12.400, all utility lines, cables, or wires (including but not limited to those used for electricity, communication, street lighting, and cable television) constructed upon, adjacent to, or within land subdivided or prepared for development after the effective date of this Code, must be placed underground. The intent of the City is that no poles, towers, or other structures associated with utility facilities shall be permitted on any street or lot within such a subdivision or development.

12.400 Exceptions. Overhead facilities are only permitted in the following instances:

(1) Emergency installations, electric transmission lines, or through feeders operating at distribution voltages which act as a main source of supply to primary laterals and to direct connected distribution transformers and primary loads.

Should it be necessary to increase the capacity of major power transmission facilities for service to the area, new or revised installations shall be made only on rights-of-way or easements on which overhead facilities exist at the time of the capacity increase.

(2) Appurtenances and associated equipment such as surface-mounted transformers, pedestal-mounted terminal boxes, meter cabinets, telephone cable closures, and connection boxes, which cannot feasibly be located underground.

(3) Structures without overhead wires, used exclusively for fire alarm boxes, street lights, or municipal equipment installed under the supervision and with the approval of the City Engineer.

(4) Power substations, pumping plants, and similar facilities which are necessary for transmission or distribution of utility services and which cannot feasibly be located underground.

(5) Television antennas and satellite dishes [see Section 3.080 (12)].

(6) Onsite improvement for industrial developments.

(7) Certain industries requiring exceptionally large power supplies may request direct overhead power as a condition of site plan approval.

(8) New development on existing individual lots of record in areas where service is currently by overhead utilities.

[Ord. 5947, 1/01/21]

12.405 Property Monuments. Upon completion of a utility project and before acceptance by the City, all property corners and other monuments disturbed or removed by the project shall be reestablished and protected by an Oregon-licensed surveyor retained by the developer.

New text is shown in black double underlined font and removed text is shown in ~~strikethrough~~ font. Staff comments in blue font are provided to explain the proposed amendments but are not amendments.

Staff Comments: Changes are needed in this Article to comply with HB 2005 that requires cities to permit crisis stabilization centers and mental or psychiatric hospitals. A few definitions are proposed to be added or clarified.

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
22.195 Crisis Stabilization Center
22.200 Daycare Facility or Child Care Center
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
22.260 Residential Care or Treatment Facility
22.270 Assisted Living Facility
22.280 Single-Dwelling Units and Two 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, Ord. 6042, 7/12/24]

22.020 Description of Use Categories.

(1) 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.

(2) 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.

(3) 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].

(4) 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.

*****Only the use categories where changes are proposed are provided here.*****

INSTITUTIONAL USE CATEGORIES

22.180 Basic Utilities.

(1) Basic Utilities uses provide community infrastructure, including water and sewer systems, telephone exchanges, power substations and transit. Utility uses generally do not have regular employees at the site. Services may be public or privately provided.

(2) Use Examples. Types of uses include but are not limited to: water and sewer pump stations; sewage disposal and conveyance systems; electrical substations; water towers and reservoirs; water quality and flow control facilities; water conveyance systems; stormwater facilities and conveyance systems; telephone exchanges; mass transit stops, transit centers, park-and-ride facilities for mass transit; and emergency communication broadcast facilities.

(3) Exceptions.

(a) Public Works projects, such as streets, utility lines, and pump stations.

(b) Services, where people are generally present, other than transit stops and park-and-ride facilities, are classified as Community Services or Offices.

(c) Utility offices where employees or customers are generally present are classified as Offices.

(d) Bus and light-rail barns are classified as Warehousing and Distribution.

(e) Public or private passageways, including easements, for the express purpose of transmitting or transporting electricity, gas, oil, water, sewage, communication signals, or other similar services on a regional level are classified as Rail and Utility Corridors.

(f) Energy production facilities are classified as Manufacturing uses; see Section 22.040.

[Ord. 5742, 7/14/10]

22.190 Community Services.

Community Services are operated by the government, a nonprofit, or charitable organization to provide a local service to people of the community. Generally, the services and employees are provided on a regular on-going basis at the site. The use may provide emergency shelter or short-term housing where tenancy may be arranged for periods of generally less than one month when operated by a public or non-profit agency.

(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, public safety facilities including fire and police stations, drug and alcohol centers, vocational training for the physically or mentally disabled, social service facilities, emergency shelters or short-term housing when operated by a public or non-profit agency, soup kitchens, and 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.

(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.

[Ord. 5742, 7/14/10; Ord. 6042, 7/12/24; Ord. 6059, 3/14/25]

22.195 Crisis Stabilization Center.

(1) A crisis stabilization center is a facility licensed by the Oregon Health Authority that meets the requirements adopted by the authority by rule under ORS 430.627 (Statewide coordinated crisis system). Crisis stabilization services include diagnosis, stabilization, observation and follow-up referral services provided to individuals in a community-based, developmentally appropriate homelike environment to the extent practicable.

(3) Exception. A "peer respite center" is a voluntary, nonclinical short-term residential peer supported home or facility and further defined in ORS 430.626, is considered a Residential Care or Treatment Facility or Home.

22.200 Daycare Facility or Child Care Center.

(1) A ~~daycare or~~ child care ~~facility~~center ~~is~~ is defined in Oregon Revised Statutes (ORS) as a "child care~~"~~ facility" certified under ORS 329A.280(3), a preschool recorded program or school0age recorded program recorded under ORS 329A.255, or a parent cooperative as defined in ORS 329A.250. ~~or "adult care" facility~~These centers ~~that~~ provide~~s~~ regular care, supervision and guidance in a place other than the child's ~~or adult's~~ home, is operated with or without compensation, and is certified by the state for the care of children (ORS

328A.280). An "adult" daycare facility ~~,~~provides similar care to teenagers or adults who need assistance or supervision for a portion of the day.

(1) Use Examples. Types of uses include but are not limited to~~:~~ day nurseries or daycare centers, nursery schools, preschools, before- and after-school care facilities, child development centers and adult care programs that do not provide 24-hour care.

(2) Exceptions.

(a) Daycare Facility or Child Care Center use does not include home based care given by the parents, guardians, ~~or~~ relatives ~~of the children,~~ or by babysitters; or by a person who cares for children from only one family other than the person's own family; or by a person who cares for no more than three children other than the person's own children~~; or as noted in ORS 657A.250~~.

(b) A Daycare Facility or Child Care Center use ~~also~~ does not include care given by a "registered or certified family child care home" provider as defined by ORS ~~657A.440~~ if the care is given to no more than 16 children at any one time, including the children of the provider and the provider is either certified under ORS 328A.280(2) or registered under ORS 329A.330. These homes may require a license from the State of Oregon Children's Services Division.

(c) Daycare Facility or Child Care Center use does not include these uses when they are located in a facility that primarily provides education to a pre-school child or that is operated by a school district. In these cases, the centers would be accessory uses.

(d) Residential care, treatment, or training facilities for six or more individuals on a 24-hour basis are classified as a Residential Care or Treatment Facility. Care for five or fewer individuals are group or residential care homes, which are considered residential dwellings. Refer to ORS 443~~.400 to 443.455~~.

[Ord. 5742, 7/14/10; Ord. 5968, 1/14/22]

22.210 Educational Institutions.

(1) Educational Institutions provide educational instruction to students. This category includes schools, colleges and other institutions of higher learning that offer courses of general or specialized study leading to a degree, and public and private schools at the primary, elementary, middle, junior high, or high school level that provide state-mandated basic education. This category also includes trade schools and vocational schools that provide on-site training of trade skills.

(2) Use Examples. Types of uses include, but are not limited to: universities, liberal arts colleges, community colleges, nursing and medical schools not accessory to a hospital, seminaries, public and private daytime schools, boarding schools, military academies, and trade/vocational schools.

(3) Exceptions.

(a) Preschools not operated by a school district are classified as a Daycare Facility.

[Ord. 5742, 7/14/10]

22.220 Hospitals.

(1) Hospitals provide medical or surgical diagnosis and care to patients or may provide mental or psychiatric treatment and care and may offer overnight care. Hospitals tend to be on multiple blocks or in campus settings.

(2) Use Examples. Examples include hospitals and medical complexes that include hospitals or emergency care facilities and mental or psychiatric hospitals licensed under ORS 441.025.

(3) Exceptions.

(a) Uses that provide exclusive care and planned treatment or training for psychiatric, alcohol, or drug problems, where patients are residents of the program, are classified in the ~~Group Living~~ Residential Care or Treatment use category, but excluding mental or psychiatric hospitals licensed under ORS 441.025, which are in the Hospital use category.

(b) Medical clinics and urgent medical care clinics that provide care where patients are generally not kept overnight are classified as an Office use in 22.110.

~~(c) Urgent medical care clinics are classified as an Office use in 22.110.~~

[Ord. 5742, 7/14/10]

22.230 Jails and Detention Facilities.

(1) Jail and Detention Facilities detain or incarcerate persons while being processed for arrest or detention by law enforcement. Inmates and detainees are under 24-hour supervision by sworn officers, except when on approved leave.

(2) Use Examples. Types of uses include, but are not limited to~~:~~ prisons, jails, probation centers, and juvenile detention homes.

(3) Exceptions. Programs that provide care and training or treatment for psychiatric, alcohol, or drug problems, where patients are residents of the program, but where patients are not supervised by sworn officers, are classified as Group or Assisted Living. Programs that provide transitional living experience for former offenders, such as halfway houses, where sworn officers do not supervise residents, are also classified as Group or Assisted Living.

[Ord. 5742, 7/14/10]

22.240 Parks, Open Areas, and Cemeteries.

(1) Parks, Open Areas, and Cemeteries uses are natural areas or land consisting mostly of vegetative landscaping or outdoor recreation, community gardens, or public squares. Land tends to have few structures.

(2) Use Examples. Types of uses include, but are not limited to parks, golf courses, cemeteries or mausoleums, public squares, plazas, recreational trails, botanical gardens, boat launching areas, nature preserves, and land used for grazing that is not part of a farm or ranch.

[Ord. 5742, 7/14/10]

22.250 Religious Institutions.

(1) Religious Institutions primarily provide meeting areas for religious worship and activities.

(2) Use Examples. Churches, temples, synagogues, and mosques.

[Ord. 5742, 7/14/10]

RESIDENTIAL USE CATEGORIES

22.260 Residential Care or Treatment Facility.

(1) A Residential Care or Treatment Facility is a public or private facility for six or more

unrelated persons who reside on site and who are physically, mentally, or socially handicapped, delinquent, or drug- or alcohol-dependent; with a person residing on site who is not related by blood, marriage, legal adoption or guardianship to the residents, and who may be responsible for supervising, managing, monitoring them and/or providing care, training or treatment to them. Larger facilities may offer shared facilities for eating, hygiene and/or recreation. Tenancy is for longer than one month. ~~Group or~~ Residential Care or Treatment Facilities include the state definition of residential care**,** training or treatment facility in ORS 443.400.

(2) Use Examples. Types of uses include but are not limited to: group care ~~homes~~ facilities (for six or more residents); residential programs for drug and alcohol treatment; and alternative or post-incarceration facilities.

(3) Exceptions.

(a) "Residential Care or Treatment Homes" providing care for or housing five or fewer physically, mentally or socially handicapped, delinquent persons or persons in need of treatment by a person who is not the parent or guardian of, and who is not related by blood, marriage, or legal adoption of, such persons are allowed in zones that allow residential dwellings per ORS 197.665.

(b) A registered or certified family child care home or adult foster care or treatment home, where residential care is provided in a homelike environment for five or fewer non-related individuals are considered a residential use of property and shall be permitted in areas zoned for residential or commercial purposes (per ORS 197.665 and ORS 657A.440).

(c) A place providing care and treatment on less than a 24-hour basis is classified as a Daycare Facility.

(d) Hospitals, including mental or psychiatric hospitals, and medical treatment facilities with overnight care are classified as Hospitals.

(e) Nursing homes and hospice care facilities for elderly or disabled persons are classified as Assisted Living.

(f) Lodging where tenancy may be arranged on a short-term basis may be classified as a Community Service use (such as short-term housing or mass shelters).

(g) Lodging where the residents meet the definition of a household, and where tenancy is arranged on a month-to-month basis, or for a longer period, is classified as Single-Dwelling Unit Detached, Two Detached Units, Middle Housing, or Multiple Dwelling Unit Housing.

(h) Correctional or detention facilities for people who are under judicial detainment and are under the supervision of sworn officers are included in the Jails and Detention Facilities category.

~~(h)~~(i) Crisis Stabilization Centers as defined in ORS 430.626 and licensed under ORS 430.627 is its own use category.

[Ord. 5742, 7/14/10; Ord. 5968, 1/14/22; Ord. 6004, 12/28/22]

22.270 Assisted Living Facility.

Assisted Living facilities are places that provide housing, personal care or assistance to unrelated residents that need help with activities of daily living, who are usually elderly or disabled persons. At least one person responsible for providing daytime care, protection, supervision, monitoring and/or training or treatment of residents is present on the site at all times. Larger group-living facilities may offer shared facilities for eating, hygiene and/or recreation. Tenancy is for longer than one month.

(1) Use Examples. Types of uses include but are not limited to: nursing and convalescent homes; life care or continuing care services, hospice care facility, dementia care and assisted living facilities.

(a) Retirement housing units that are separate units and are owner-occupied or rented are classified as Single-Dwelling Unit Detached, Two Detached Units, Middle Housing, or Multiple Dwelling Unit Housing.

(b) Lodging where tenancy may be arranged for periods of less than one month is considered a hotel or motel use and is classified in the Retail Sales and Service category. However, in certain situations, lodging where tenancy may be arranged on a short-term basis may be classified as a Community Service use (such as short-term housing or homeless shelters).

[Ord. 5742, 7/14/10, Ord. 5886, 1/6/17; Ord. 5968, 1/14/22; Ord. 6004, 12/28/22]

22.280 Single-Dwelling Unit and Two Primary Units.

(1) Single Dwelling Units are one dwelling unit on one lot, with or without one accessory dwelling unit or Single Room Occupancy (SRO) Unit. Two primary units are two primary detached dwellings on one lot.

(2) Use Examples. Single detached units, a single dwelling unit with one Accessory Dwelling Unit, a Single Dwelling Unit with one SRO Unit, two detached primary dwelling units, one 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.

(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 are 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.

(d) Dwelling units located above, behind, or contiguous to a business or office on the ground floor(s) or that meet the definition of live/work dwelling units are classified as Units Above or Attached to a Business.

[Ord. 5742, 7/14/10, Ord. 5894, 10/14/17, Ord. 5968, 1/14/22; Ord. 6004, 12/28/22; Ord. 6008, 1/27/23; Ord. 6042, 7/12/2024; Ord. 6059, 3/14/25]

22.285 Middle Housing.

(1) Middle housing includes the following housing types as defined in Section 22.400: duplexes, triplexes, fourplexes, townhouses, and cottage clusters.

(2) Use Examples. Duplexes, triplexes, fourplexes, townhouses, and cottage clusters. See Figures 22.285-1 through 22.285-6 for examples of possible configurations for duplexes, triplexes, and fourplexes.

(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) 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 or that meet the definition of live/work dwelling unit.

(c) With the exception of a cottage cluster, any lot with five or more dwelling units is classified as Multiple Dwelling Unit Housing.

Figure 22.285-1. Stacked Duplex

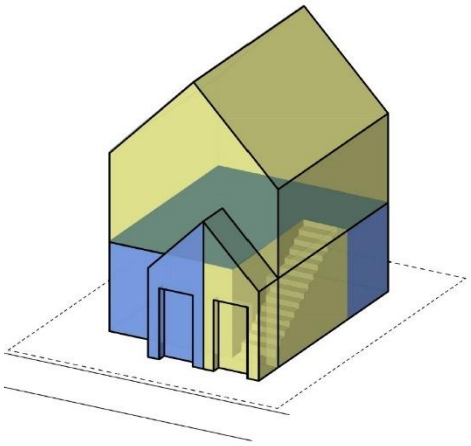


Figure 22.285-2. Side-by-Side Duplex

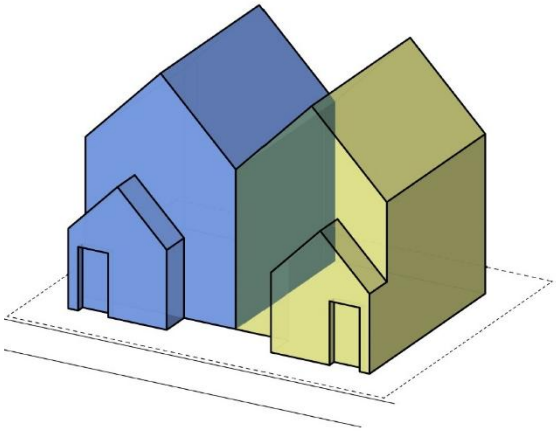


Figure 22.285-3. Duplex Attached by Breezeway

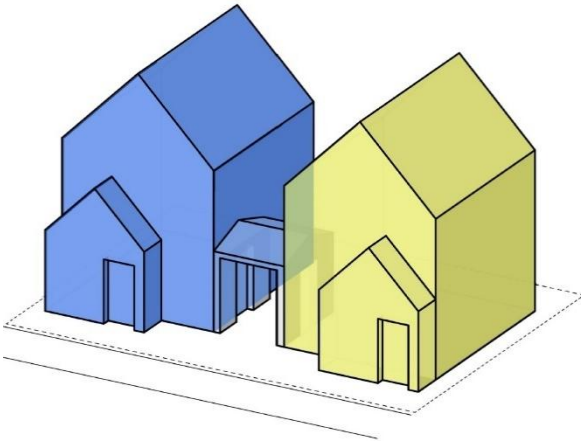


Figure 22.285-4. Duplex Attached by Garage Wall

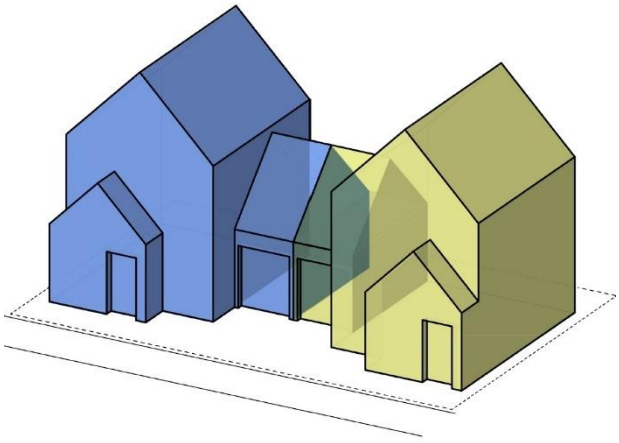


Figure 22.285-5. Triplex Front and Back

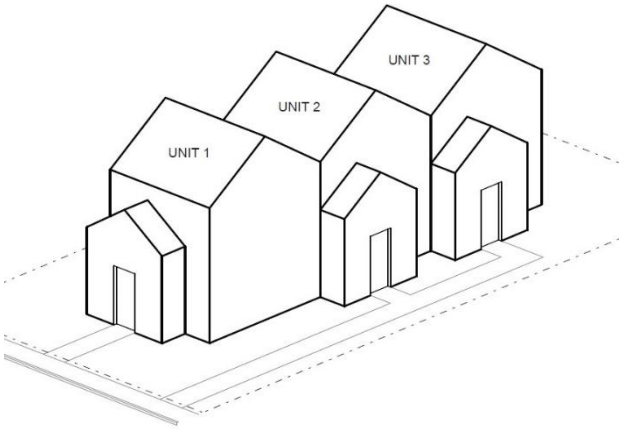
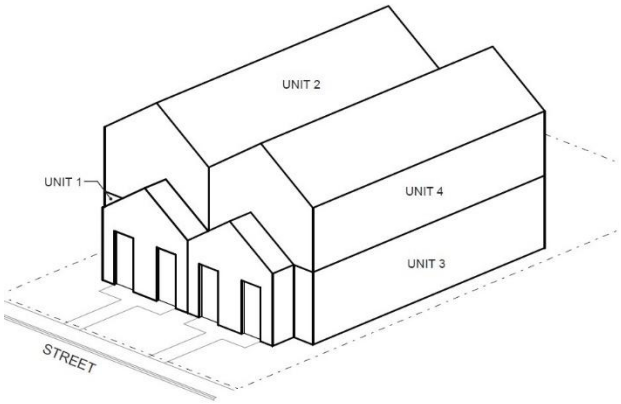


Figure 22.285-6. Stacked Fourplex



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

22.290 ~~*Deleted per Ord. 5742, adopted on July 14, 2010.*~~

22.300 Multiple Dwelling Unit Development: Five or More Units.

(1) A Multiple Dwelling Unit development 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.

(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.

(3) 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.

(4) Exceptions.

(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) Developments where care is provided regularly on-site are classified as a Group or Residential Care Home or Residential Care or Treatment Facility.

(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.

(d) Cottage clusters are a type of Middle Housing and are not considered Multiple Dwelling Unit development.

[Ord. 5742, 7/14/10; Ord. 5801, 2/13/13; Ord. 5894, 10/14/17; Ord. 5968, 1/14/22; Ord.

6004, 12/28/22; Ord. 6042, 7/12/24]

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.

(2) Use Examples. Apartments, condominiums, retirement center apartments, live/work dwelling units and other structures with self-contained dwelling units located above or attached to a business.

(3) Exceptions.

(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 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. 5742, 7/14/10; Ord. 5894, 10/14/17; Ord. 6042, 7/12/24]

22.320 Residential Accessory Buildings.

(1) A detached building that is subordinate to and consistent with the primary residential use of the property and located on the same property as the primary dwelling. The use of a residential accessory building must be incidental to the primary dwelling and must not contain sleeping rooms or kitchens, unless approved as part of a permitted Accessory Dwelling Unit. Residential accessory buildings are permitted in residential and mixed-use zones when they meet the standards in Articles 3, 4, and 5.

[Ord. 5742, 7/14/10; Ord. 5947, 1/01/21; Ord. 5949, 1/01/21; Ord. 6042, 7/12/24; Ord. 6059, 3/14/25]

Staff Comments – Definitions: Some definitions need revisions to be consistent with changes to state law.

DEFINITIONS

22.400 Definitions. As used in this Code, the following words and phrases shall have the following meanings:

Abut: Contiguous to; for example, two lots with a common property line. However, "abut" does not apply to buildings, uses, or properties separated by public right-of-way.

Access: The place, means, or way by which pedestrians or vehicles shall have ingress and/or egress to a property or parking area.

Access Management: Measures regulating access to streets, roads, and highways from public roads and private driveways. Measures may include but are not limited to restrictions on the siting of interchanges, restrictions on the type and amount of access to roadways, and use of physical controls, such as signals and channelization including raised medians, to reduce impacts of

approach road traffic on the main facility.

Accessible: Complying with the American with Disabilities Act.

Accessible Electric Vehicle Charing Space: A parking stall with electric vehicle charging capability where the battery charging station equipment is located within accessible reach of a barrier-free access aisle, and the electric vehicle.

Accessible Unit: A dwelling unit that complies with the Oregon Structural Specialty Code (OSCC) and the provisions for Accessible units set forth in the Standard for Accessible and Usable Buildings and Facilities published by ~~in~~ the International Code Council (ICC, Section ~~A~~117.1). A "Type A Unit" (i.e., partially accessible unit) means a dwelling unit that is designed and constructed for accessibility in accordance with the ~~Oregon Structural Specialty Code~~OSCC and the provisions for Type A units in the ICC A117.1.

Accessory Dwelling Unit: A self-contained dwelling unit that is on the same lot as the primary single dwelling unit and is smaller than, and subordinate to the primary dwelling unit. The accessory dwelling unit may be attached to or interior to the primary single-dwelling unit, a detached structure, or in a portion of a detached accessory structure (e.g., above a garage or workshop).

Accessory Building: A detached building(s) ~~or set of buildings~~ that is subordinate in purpose and typically size 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).

Accessory Use: A use on the same property or development site under the same ownership that is customarily incidental, subordinate to, and compatible with the principal use and surrounding properties.

Accessway/Connector, Pedestrian and Bicycle: An unobstructed paved path or walkway that is designed and constructed to provide public access for pedestrians and bicyclists and that connects to a public street. The accessway may provide mid-block connectivity for maximum block length standards or where such routes and connectivity are not otherwise provided by the street system.

Accessway, Vehicular: An unobstructed drive or roadway that provides vehicular access and connects to a public street.

Adaptable Unit: A dwelling unit that complies with the "Type B" requirements applicable to units as set forth in the Standards for Accessible and Usable Buildings and Facilities published by the International Code Council and as referenced by the state building code.

Adjacent: Contiguous to a property boundary or across an adjoining right-of-way.

Adult Entertainment: Adult entertainment uses are sexually oriented business entertainment uses and accessory uses which exclude minors by virtue of age under the laws of the State of Oregon, whether or not such minors are accompanied by a consenting parent, guardian, or spouse. Such uses include but are not limited to adult motion picture theaters, video arcades, massage parlors, nude modeling studios, lotion studios, adult bookstores, nude photography studios, or eating and drinking establishments that have sexually oriented entertainment such as nude dancers, strippers, or other similar entertainers.

Affected Party: Any person who owns property or resides on property within the notification area for a development permit application, or any person who provides written or oral testimony in regard to a development permit application and who can demonstrate standing by virtue of an affected property interest.

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~~ 80 percent of the Albany area median income (AMI) as determined annually by the Oregon Housing and Community Services Department, adjusted for household size, and is subject to an affordable housing covenant as provided in ORS 456.270 to 456.295. See definition for Moderate Income Housing

Alarm System: Any electrical, mechanical, or electronic device or sensor used to prevent, detect, or alert law enforcement or occupants of burglary, theft, or intrusion of a structure or a vehicle used as a commercial structure.

Alley: A public accessway not over 30 feet wide that provides a means of access to private property. Alleys may be privately owned when approved by the City Engineer. An alley is not considered a "street" as used in this Code.

Alter, Alteration: Any human-induced physical change to the existing condition or occupancy of a building or structure, or to land including but not limited to clearing, grubbing, draining, removal of vegetation (chemical or otherwise), excavation, grading, placement of fill material, placement of structures or impervious surfaces or other construction.

Amendment: A change in the wording, context, or substance of the Code, or a change in the zone boundaries or use district boundaries upon the zoning map or a change in the Comprehensive Plan.

Amenity: A natural or created feature that enhances the aesthetic, functional or visual quality or makes a particular property a more attractive or appealing place or area.

Animal Daycare or Training: A place where small animals are cared for on a limited basis or where training classes are provided. Animals are not kept overnight.

Animal Grooming: A place where animals are bathed, clipped, or combed for compensation. Animals are not boarded overnight.

Animal Hospital/Veterinary Clinic: A business that provides care, observation, or treatment veterinary services, clipping, bathing, boarding, and other related services are rendered to dogs, cats, and other small animals and domestic pets.

Annexation: The incorporation of land area into the City of Albany, with a resulting change in the boundaries of the City.

Apartment Building~~House~~: See Dwelling, Multiple Dwelling Unit Housing.

Approval Authority: The Director, Hearings Board, Landmarks Commission, Planning Commission, or City Council, whichever has jurisdiction for making a determination under the various provisions of this Code.

Area, Net: The total area of a development site exclusive of proposed or existing public rights-of-way, public parks, public open space, protected natural features, and any other areas permanently precluded from development due to constraints, easements, or similar legal instruments.

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).

Arterial Street: A major street that functions primarily to move large amounts of traffic and is identified as such in the Transportation System Plan.

Attached Housing: Residential structures designed to contain two or more dwellings separated from each other by a fire wall and each unit having separate entrances from grade level. Units must share one or more vertical walls that exceed 25 percent of the length of the shared wall with one or more adjacent dwellings either on the same property or adjacent properties but are not categorized as a condominium. Examples include attached duplexes, triplexes, fourplexes, and townhouses.

Attached Structure: A structure that is attached to another structure by a common wall, by a roof, or by a breezeway ~~structural connections~~ that allows pedestrian ~~access~~ ingress or egress by ~~to both~~between structures on the same lot. ~~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.~~This definition does not apply to structures that share a common wall that exceeds 25 percent of the adjacent wall but not less than 12 feet, or that share an integrated roof system of not less than 12 feet.

Auto-oriented Land Uses. Auto-oriented land uses include uses related to the operation, sale, maintenance, or fueling of motor vehicles, and uses where the use of a motor vehicle is accessory to the primary use, including drive-through uses.

Battery-Charged Fence: A fence that interfaces with an alarm system in a manner that enables the fence to cause the connected alarm system to transmit a signal intended to summon law enforcement in response to an intrusion and has an energizer that is driven by battery.

Bed and Breakfast Home: An owner-occupied single-dwelling unit that provides temporary lodging and breakfast for compensation.

Bedroom: A private room planned and intended for sleeping, separable from other rooms by a door and accessible to a bathroom without crossing another bedroom, kitchen, or living room.

Berm: A mound of earth used to deflect sound or used as a buffer in landscaping provisions to separate incompatible areas or to provide aesthetic enhancement in site design.

Bike Path, Lane, Way: A bike path is completely separate from vehicular traffic and within an independent right-of-way or the right-of-way of another facility. A bike lane is part of the roadway or shoulder and delineated by pavement markings. A bikeway is any trail, path, or part of a highway, shoulder, sidewalk, or any other travelway specifically signed and/or marked for bicycle travel.

Block: An area of land containing one or more lots or parcels surrounded by a connecting network of streets, railroad rights-of-way, tracts and/or easements, or a combination thereof. A block may be bound by accessways without streets along one or more of its edges. The total distance around a block is referred to as Block Perimeter.

Block Length: The distance along a block between the edge of the curb, outside edges of the street or sidewalk right-of-way, tracts and/or easements that abut the block, or the outside edge of a storm drainage facility at either end of the block.

Block Perimeter: The total distance around the outside perimeter of a block. For vehicle block perimeter, the distance is measured along the outside edges of the street or sidewalk rights-of-way, tracts and/or easements, or storm drainage facility that abut the block. For pedestrian block perimeters, the distance is measured along the centerlines of the sidewalks or multiuse paths that form the block.

Board: See Hearings Board.

Boarding House: A building where lodging and meals are provided for more than two weeks for compensation, excluding bed and breakfast homes or other homes or institutions providing supervisory care.

Bond, Performance or Security: Collateral security for the performance of a specific action or duty imposed by the City.

Breezeway: A covered walkway providing ingress or egress from a primary structure to another primary structure or accessory structure on the same lot that has at least one (1) side entirely open. A breezeway shall be a minimum of six feet in width measured between the eaves of the breezeway and be visually integrated into the connecting structures exterior wall cladding or roof system.

Buffer, Buffering: A landscaped area that provides a separation between potentially conflicting land uses.

Buildable Land: Property that is unconstrained by dimensional, locational, environmental, topographical, legal, or regulatory impediments that would otherwise render it unbuildable.

Building: Any structure used or intended for supporting or sheltering any use or occupancy.

Building Footprint: The outline of total area covered by a building's perimeter at the ground level, with or without a roof covering.

Building, Principal: A building within which is conducted a principal use permitted on a lot.

Building Official: See Albany Municipal Code (AMC) 18.04.070.

Cargo Bicycle: A bicycle or tricycle designed for transporting loads with a platform for a container, or a container attached to it that sometimes has its own set of wheels. Cargo bicycles generally have longer wheelbases than a traditional bike and are wider than a typical bike when the cargo carrier is provided.



Carport: A structure consisting of a roof with its supports, and which is entirely open on two or more sides and is used for sheltering a motor vehicle.

Cemetery: Land used or intended to be used for the burial of the dead and dedicated for cemetery purposes including columbaria, crematories, mausoleums, and mortuaries.

Change of Use: Change of the primary use of a property from one use category to another or a change in use that may result in the need for additional parking or loading facilities, or other building or development standards to be brought into conformance with current regulations.

Child Care Home: A residence within which care is provided for children (including the children of the provider) under the age of fifteen years as permitted by ORS Chapter 657 and may require a license from the State of Oregon Children's Services Division.

Child Care Facility: An institution, establishment, or place in which care or supervision is regularly given to children apart from their parents or guardians per ORS Chapter 657A. See Section 22.200 for a description of this use category.

City: The City of Albany.

City Council: The Council of the City of Albany.

City Engineer: The Director of Public Works or a person designated as such by the City Manager.

City Recorder: The Finance Director of the City of Albany or the duly authorized representative.

Climate-Friendly Area (CFA): An urban mixed-use area containing, or planned to contain, a mixture of higher-density housing, jobs, businesses, and services. These areas are served by, or planned for service by, high-quality pedestrian, bicycle, and transit infrastructure and services to provide frequent and convenient connections to key destinations within the city and region. These areas feature a well-designed and connected pedestrian environment. To maximize community benefits these areas typically do not contain or require large parking lots and are provided with abundant tree canopy and vegetation to provide shade, cooling, and other amenities to visitors, residents, and employees. Climate-friendly areas will reduce the reliance on light duty motor vehicle trips for residents, workers, and visitors by providing more proximate destinations within climate-friendly areas, improved connectivity to key destinations elsewhere in the community, and enhanced alternative transportation options.

Clinic: Single or multiple offices for physicians, surgeons, dentists, chiropractors, osteopaths, and members of the healing arts, including incidental and appropriate accessory uses.

Cluster Development: A development design technique that concentrates buildings in specific areas on a site to allow remaining land to be used for recreation, common open space, or the preservation of environmentally or historically sensitive features. See Article 11, Sections 11.400 through 11.530.

Code: Shall mean the City of Albany Development Code.

Collector Street: A major street that transports traffic from local streets to the arterial street system and is identified as such on the Transportation System Plan.

Commission: The Albany City Planning Commission.

Common Courtyard: A common area for use by residents of a cottage cluster or other type of residential development. A common courtyard may function as a community yard. Hard and soft landscape features may be included in a common courtyard, such as pedestrian paths, lawn, groundcover, trees, shrubs, patios, benches, or gazebos.

Common Wall: A wall or set of walls in a single structure shared by two or more dwelling units. The common wall must be shared for at least 25 percent of the length of the side of the building of dwelling units. The common wall may be any wall of the building, including the walls of attached garages.

Comprehensive Plan: An official document that establishes the future land use patterns and land use policies for the City, as may be currently established by the City Council.

Condominiums: A type of residential development offering individual ownership of units and

common ownership of open spaces and other facilities and regulated, in part, by State Law (ORS Chapter 100).

Cottage Cluster: A grouping of detached dwelling units (cottages) with a density of at least four dwellings per gross acre, a footprint of less than 900 square feet each, and that includes a common courtyard. Cottage clusters are considered a type of middle housing and are not considered multiple dwelling units or single-dwelling unit detached dwellings. Cottage clusters typically have multiple cottages sharing a single lot; however, cottage clusters can also be divided so that cottages are on individual lots.

Cottage Cluster Project: A development site with one or more cottage clusters. Each cottage cluster as part of a cottage cluster project must have its own common courtyard.

Courtyard: A landscaped area enclosed by two or more walls. A "common courtyard" within a cottage cluster does not need to be enclosed by two or more walls.

Coverage: See lot coverage.

Crime Prevention Through Environmental Design (CPTED): The proper design and effective use of the built environment which~~that~~ can lead to a reduction in the fear and incidence of crime, and an improvement in the quality of life. The four basic elements of CPTED are natural surveillance, natural access control, territorial reinforcement, and image.

Crisis Stabilization Center: means a facility licensed by the Oregon Health Authority that meets the requirements adopted by the authority by rule under the Statewide coordinated crisis system) per ORS 430.627.

Criteria: A general rule or test on which a judgment or decision can be based.

Cul-de-sac: A short street that has one end open to traffic and usually terminated by a vehicle turn-around.

Cul-de-sac Bulb: The circular radius at the end of a cul-de-sac.

Daycare: See Daycare or Child Care Facility, Section 22.200.

Day(s): Shall mean calendar days, unless working days are specified, which shall mean Monday through Friday. If the last day of a time period addressed in the Albany Development Code, such as a 10-day appeal period, falls on a weekend or holiday, the final day of the time period is the first business day thereafter.

De Novo: A new hearing usually without consideration of any previous hearing testimony.

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 0.5 or greater shall be rounded up to the nearest whole number.

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 0.5 or greater shall be rounded up to the nearest whole number.

Developed Property: Property that has significant site improvements, such as utility installations, paving, and, in many instances, the construction of one or more structures.

Development: Any man-made change to improved or unimproved real estate, including but not

limited to construction, installation, or change of a building or other structure, land division, establishment or termination of a right of access, storage on the land, drilling and site alteration such as that due to land surface mining, dredging, paving, excavation, or clearing.

Development Permit: A permit issued by the Director for a development that is in compliance with this Code and the Comprehensive Plan.

Development Site: A tract of land either unsubdivided or consisting of two or more contiguous lots of record which, on the effective date of this Ordinance or subsequently, came under single or common ownership and continued to be so owned at the time a development permit was applied for.

Director: Director of the City's Community Development Department or his/her designee.

District: A portion of territory of the city within which certain uniform regulations and requirements of this Code apply.

Dividing Land: See Land Divisions.

Drainageway: Any natural or man-made watercourse, trench, ditch, swale, or similar depression into which surface water flows.

Duplex: A single-detached building containing two dwelling units. Both dwelling units are located on a single lot, except where a middle housing land division has been approved. For the purposes of this Code, a Non-Property Line Separated Townhouse constructed under the Oregon Residential Specialty Code has the same meaning.

Dwelling Unit: A single unit providing complete independent living facilities for one or more persons, including provisions for living, sleeping, food preparation, and bathroom.

Dwelling Unit, Quint definition was removed February 13, 2013, per Ord. 5801

Easement: A recorded interest in land owned by another that entitles its holder to a specific limited use or enjoyment such as for access or to locate utilities.

Electric Vehicle: Any vehicle that operates, either partially or exclusively on electrical energy. "Electric vehicle" (EV) includes: (1) a battery electric vehicle; (2) a plug-in hybrid electric vehicle; (3) any micro-mobility vehicle such as a bicycle, scooter, or skateboard.

Electric Vehicle Charing Facility: Off-street electric vehicle chargers open to public use, with capacity to serve six or more electric vehicles at a time.

Electric Vehicle Charging Space: A parking space that is served by battery charging station equipment.

Employees: All persons, including proprietors, working on the premises during the largest shift at peak season.

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.

Façade: The plane of a wall of a structure that is visible from one side or perspective.

Façade, Front: The walls or any part of an exterior wall or elevation on a building that faces a public street.

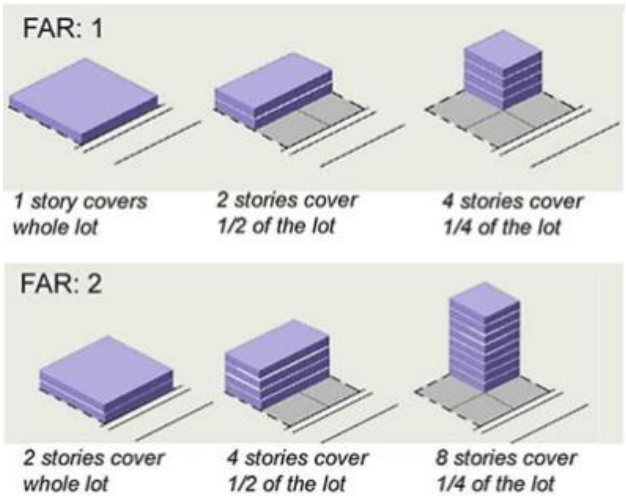
Findings: Written statements of fact, conclusions, and determinations based on the evidence presented in relation to the approval criteria and accepted by the approval authority in support of a decision.

Flag Lot: A lot that is located behind another lot and has access to a public street by a narrow strip of land or easement.

Floor Area, Gross: The combined floor area of each level or story of a building as measured within the exterior walls of such building.

Floor Area, Net: The combined floor area of each level or story of a building exclusive of vent shafts, courtyards, stairwells, elevator shafts, restrooms, rooms designed and used for the purpose of storage and operation of maintenance equipment and enclosed or covered parking area.

Floor Area Ratio: The ratio of gross floor area of all buildings on a lot or development site divided by the net area of a lot or development site on which the buildings are located. A floor area ration of 2.0 would indicate the gross floor area of the building is twice the area of the site.



Fourplex: A single detached building containing four dwelling units. All dwelling units are located on a single lot, except where a middle housing land division has been approved. For the purposes of this Code, a non-property line separated townhouse constructed under the Oregon Residential Special Code has the same meaning.

Frontage: That portion of a property that abuts a street right-of-way or private street.

Frontage Street: A local street parallel and adjacent to a major arterial street providing access to abutting properties and protection from through traffic.

Future Street Plan: An approved street plan indicating the location of future streets within undeveloped or partially developed portions of the Urban Growth Area.

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 and are not open for use by the general public.

Garage, Public Parking: See Parking Structure. 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 provided said parking spaces are clearly identified as free parking space(s) for the building or use.

Garage, Repair: A building used for the care and repair of motor vehicles, including major and minor work such as body and fender work or engine and transmission overhaul, and incidental storage or parking of vehicles.

Goals: Statements identified as such in the Comprehensive Plan.

Governmental Bodies: Shall mean city, county, state and federal boards, councils, commissions, agencies and the like.

Grade (Adjacent Ground Elevation): The lowest point of elevation of the finished surface of the ground, paving, or sidewalk within the area between the building and the property line, or when the property line is more than 5 feet from the building, between the building and a line 5 feet from and parallel to the building.

Gross Floor Area: The combined floor area of each level or story of a building as measured within the exterior walls of such building.

Ground Lease: A ground lease is an agreement in which a tenant is permitted to develop and use a piece of property during the lease period, after which the land and all improvements are turned over to the property owner.

Group Home or Residential Care Home: Any privately-owned or public institution-owned home that is maintained and operated for the care, boarding, housing, or training of five or fewer physically, mentally, or socially handicapped or delinquent, elderly or dependent persons by a person who is not the parent or guardian of, and who is not related by blood, marriage, or legal adoption of such persons. These homes are regulated the same as single-dwelling unit detached. See Oregon Revised Statutes Chapter 443.

Half Street: A portion of the width of a street, usually along the side of a subdivision where the remaining portion of the street could be provided in another subdivision.

Hearings Board: A subcommittee of the Planning Commission empowered with certain decision-making authority by City ordinance.

Height of Building: The vertical distance above "Grade" as defined herein to the highest point of the coping of a flat roof or to the deck line of a mansard roof or to the average height of the highest gable of a pitched or hipped roof (Figure 22.400-1). The "grade" measurement is taken from the highest adjoining sidewalk to ground surface within a 5-foot horizontal distance of the exterior wall of the building when such sidewalk or ground surface is not more than 10 feet above grade. When the sidewalk or ground surface is more than 10 feet above the lowest grade, the "grade" measurement is taken 10 feet above the lowest grade (Figure 22.400-2). The height of a stepped or terraced building is the maximum height of any segment of the building.

FIGURE 22.400-1. Measure building height by roof types.

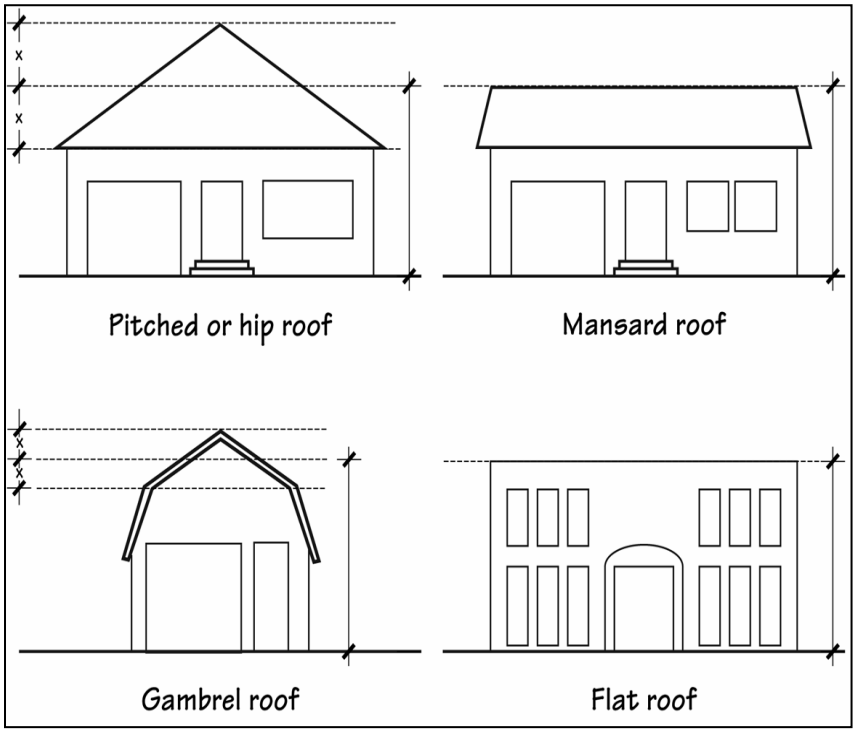
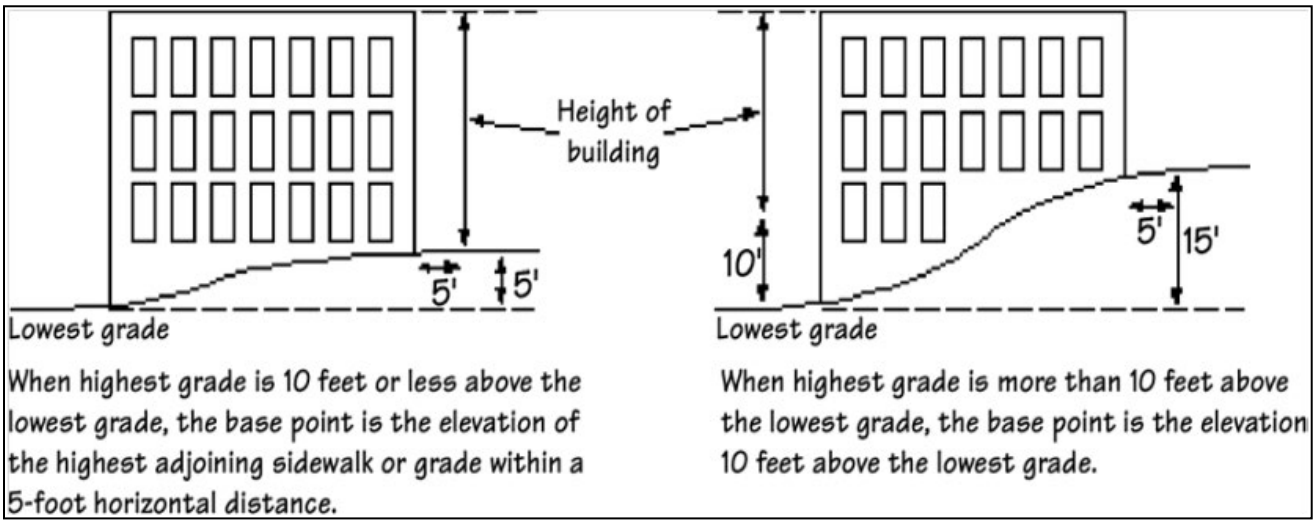


FIGURE 22.400-2. Measuring the height of buildings that have a portion below grade.



Hobby: An activity or interest pursued outside one's regular occupation and engaged in primarily for pleasure.

Home Business: A business carried on within a dwelling or residential accessory building provided the residential character of the building is maintained and the occupation is conducted in such a manner as not to give an outward appearance nor manifest any characteristics of a business in the ordinary meaning of the term, nor infringe upon the right of neighboring residents to enjoy the peaceful occupancy of their homes. Home businesses do not include hobbies as defined in this Code.

Homeless Shelter: A facility providing temporary housing to indigent, needy, homeless, or transient persons and that may provide ancillary services such as counseling, vocational training. See Section 22.170, Community Services.

Hospitals: Institutions devoted primarily to the rendering of healing, curing, and/or nursing care which maintain and operate facilities for the diagnosis, treatment, and care of two or more nonrelated individuals suffering from illness, injury, or deformity, or where other healing, curing, and/or nursing care is rendered and may include overnight or longer care ~~over a period exceeding 24 hours~~. Mental or psychiatric hospitals are licensed under ORS 441.025.

Hospice Care: Any coordinated program of home care with provision for inpatient care for terminally ill patients and their families.

Hospice Care Facility: A freestanding licensed hospice facility that provides palliative and supportive medical and other health services to meet the needs of terminally ill patients and their families.

Hotel (Motel, Motor Hotel, Tourist Court): A building or group of buildings with six or more guest rooms that provide lodging to the public for compensation.

Household: Person or persons who live together in one dwelling unit

Housing: See Dwelling types.

IEC Standards: The standards set by the International Electrotechnical Commission as most recently published on or before January 1, 2021.

Impervious surface: An improved, altered, or constructed surface which generally prevents infiltration of surface water including, but not limited to, paved streets, graveled or paved areas such as parking lots and driveways, oiled, macadam or other treated surfaces, walkways, roof surfaces, and patios.

Indoor Recreation Area: A room or rooms within an enclosed building designed and used for recreational purposes by the public and/or occupants of a residential development. Activities provided within an indoor recreation area may include but are not limited to, the following: indoor swimming pools, saunas, gymnasiums, exercising rooms, dance floors, tennis or handball courts, and games such as pool, ping pong, shuffleboard, etc. See ADC 22.100.

Infill: Development of land that has been bypassed, remained vacant, and/or is underused in otherwise built-out areas, or the intensification of an existing use due to redevelopment. Generally, water, sewer, streets and other public services are readily available. To be considered infill, such land must be less than 0.5 acres in size for residentially designated lands or less than one acre in size for non-residential lands.

Junkyard: Any premises upon which any of the following are kept outside an enclosed building:

a. The principal components of more than four (4) inoperable and unregistered vehicles.
b. The principal components of more than five (5) inoperable washers, dryers, hot water heaters, stoves, ranges, televisions, video cassette recorders, radios, stereos, or other major appliances.
c. More than six (6) inoperable bicycles or lawnmowers.

This definition is not intended to include salvage yards, which are separately defined in this Code.

Kennels: A lot or premise on which three or more adult dogs are kept overnight, whether by the owner(s) of the dogs or by person(s) providing facilities and care, whether or not for compensation.

An adult dog is one that has reached the age of six months.

Key Destination/Neighborhood Activity Center: A land use or place that is expected to attract a higher-than-average rate of pedestrian, bicycle, transit and/or vehicle trips. Key destinations may include, but are not limited to: Climate-friendly areas; pedestrian-oriented commercial areas outside of climate-friendly areas; transit stations, stops, and terminals; retail and service establishments, including grocery stores; Childcare facilities, schools, and colleges; parks, recreation centers, paths, trails, and open spaces; farmers markets; libraries, government offices, community centers, arts facilities, post offices, social service centers, and other civic destinations; and medical or dental clinics and hospitals.

Kitchen: An area used or designed to be used for preparation and storage of food. For the purposes of this Code, a kitchenette and wet bar have the same meaning.

Land Division: The legal creation of a lot or parcel of land through the process of subdividing or partitioning land per ORS 92.010; or through recording a condominium plat as defined in ORS Chapter 100.; or if there were no applicable planning, zoning or land division ordinances or regulations, by deed or land sales contract.

Landscaping: The term "landscaping" includes ground cover, trees, grass, bushes, shrubs, flowers, and garden areas and ornamental concrete or stonework areas and artificial turf or carpeting.

Live/work dwelling unit: A dwelling unit in which a portion of the unit is designed for a non-residential use. The space designed for non-residential use is internally connected to the dwelling unit without passing through a common area shared by other units or businesses and is generally located on the ground floor. The non-residential use is operated by the same household that occupies the dwelling unit but needs not meet the definition of a home business. ~~Live/work dwelling units are considered to have multiple primary uses, with the residential and non-residential uses each subject to the regulations for their respective use categories; both the residential and the non-residential use must be permitted in the zone.~~

Loading Space: An off-street space or berth on the same lot with a main building or contiguous to a group of buildings for the temporary parking of commercial vehicles while loading or unloading that abuts a street, alley, or other appropriate means of ingress and egress.

Lot: A single unit of land that is created by a subdivision. Lots may be occupied by principal and accessory structures, together with the yards or open spaces required, and must have legal access to public right-of-way. "Lot," "parcel," and "property" may be used interchangeably in this Code to refer to a separate property regardless of its derivation.

Lot, Corner: A lot abutting two intersecting streets, other than an alley, provided that the streets do not intersect at an angle greater than 135 degrees.

Lot Coverage: That portion of a lot which, when viewed directly from above, would be covered by a building, or structure, pavement, or any area not vegetated or in a naturally permeable state. Lot coverage for single-dwelling unit detached and middle housing development shall only include the area of the lot covered by buildings or structures.

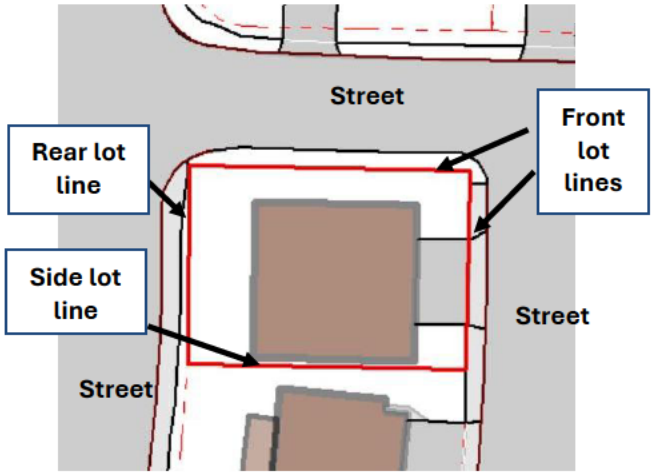
Lot, Depth: The horizontal distance from the midpoint of the front lot line to the midpoint of the rear lot line excluding any "panhandles."

Lot, Interior: A lot with frontage only on one street.

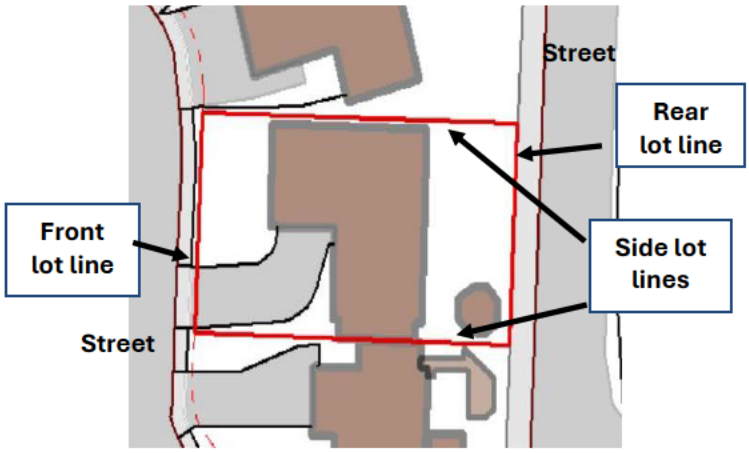
Lot Line: A line dividing one lot from another or from a street, alley or any public place. Any property line bounding a lot.

Lot Line, Front: A lot line abutting any street. To determine setback requirements, all sides of an interior lot or corner lot adjacent to a street must be considered frontage and setbacks must be provided as required. For triple frontage lots, one frontage may be considered a rear lot line for calculating setbacks, as long as two frontage lines intersect. For double frontage lots, the lot line abutting the street on the back side of the building may be considered a rear lot line for setback purposes. See the following examples.

Example 1: Triple Frontage Lot



Example 2. Double Frontage Lot



Lot Line, Side: Any lot line other than a front or rear lot line. For Flag Lots, all lot lines are considered side lot lines.

Lot Line, Rear: A lot line that is opposite a front lot line. A triangular lot has two side lot lines, but no rear lot line. For other irregularly shaped lots, the rear lot line is all lot lines that are most nearly opposite the front lot line.

Lot of Record: A lot shown as part of a recorded subdivision or approved partition map; or any parcel of land described by metes and bounds in a recorded deed, record of survey, or other appropriate document recorded in the Office of the County Recorder prior to December 12, 1956. No lot or parcel of land created without complying with the provisions of the Land Division Requirements of the State of Oregon and the City Subdivision Ordinance is recognized as a lot of record.

Lot, Width: The average horizontal distance between the side lot lines, ordinarily measured parallel to the rear lot line (excluding lot "panhandles") at the front and rear setbacks.

Main Entrance: The entrance to a building that most pedestrians, occupants, 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, but if design features make it difficult to discern which entrance is the main entrance, all similar entrances will be treated as main entrances. Sliding glass doors are not considered a main entrance.

Manager: The City Manager of the City of Albany or their designee or person otherwise appointed by the City Council.

Manufactured Home: A dwelling unit constructed on one or more chassis in an off-site manufacturing facility and designed to be used with a foundation as a dwelling unit on a year-round basis with approved connections to water, sewer, and electric utility systems. A commercial coach, motor home, camper, or other unit originally designed as a recreation vehicle is not a mobile or manufactured home for purposes of this Code and is not permitted for occupancy

purposes outside of approved locations for such units.

Manufactured Home Park: A parcel of land under common ownership on which four or more manufactured homes are occupied as residences and that conforms to the regulations of this Code.

Manufactured Home Space or Lot: A plot of ground within a home park or subdivision designed for the accommodation of one manufactured home, its accessory structures, parking spaces, and required yard areas.

Manufactured Home Subdivision: A subdivision developed under the provisions outlined in Article 11 in this Code and that meets the standards for conventional subdivisions as prescribed by State Statutes and this Code. Manufactured home subdivisions are designed for the sale of lots for residential occupancy by manufactured homes.

Middle Housing: A class of housing types that includes duplexes, triplexes, fourplexes, townhouses, and cottage clusters.

Middle Housing Child Lot: A unit of land created from the division of a middle housing parent lot through a middle housing land division.

Middle Housing Land Division: A partition or subdivision of a lot or parcel on which the development of middle housing is allowed under ORS 197.758 (2) and the partition or subdivision is processed in accordance with the provisions of ORS Chapter 92 and ADC 11.610 – 11.630. The lot or parcel that is the subject of the land division is referred to as the middle housing parent lot; a lot created by the division is referred to as a middle housing child lot.

Middle Housing Parent Lot: A lot or parcel that is developed, or proposed to be developed, with middle housing, and which may therefore be further divided through a middle housing land division to create middle housing child lots.

Middle Housing Zoning District: A zoning district in which residential dwellings are the primary use and single-dwelling units are permitted, and which implements a residential comprehensive plan map designation in accordance with OAR 660-046-0020. In the City of Albany that includes the following zoning districts:

- RR Residential Reserve District
- R-10 Residential District
- R-6.5 Residential District
- R-5 Residential District
- HM Hackleman-Monteith District
- RM Residential Medium Density District
- MUR Mixed Use Residential District
- ~~MUC Mixed Use Commercial District~~

Mobile Home: See "Manufactured Home."

Moderate Income Housing: Housing for households with income less than or equal to 120 percent and greater than 80 percent of the area median income for Albany as determined annually by the Oregon Housing and Community Services Department, adjusted for household size.

Modular Home: A factory fabricated transportable building designed to meet the adopted building code to be used by itself or incorporated with similar structures or units at a building site into a modular structure. The term is intended to apply to major assemblies and does not include buildings constructed at a site from prefabricated panels, trusses, and other prefabricated supplements.

Motel or Tourist Court: See Hotel.

Motor Vehicle and Trailer Sales Area: A lot used for display, sale, or rental of new or used motor vehicles or trailers where no repair work is done except minor, incidental repairs of motor vehicles or trailers to be displayed, sold, or rented for use off the premises.

Multiple Dwelling Unit Development: 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 defined as Multiple Dwelling Unit Housing if the development cannot otherwise meet the definition of Middle Housing. For the purposes of this code, a Non-Property Line Separated Townhouse constructed under the Oregon Residential Specialty Code has the same meaning.

Neighborhood Activity Center: See Key Destination definition.

Nonconforming Building: Any building that lawfully existed prior to the effective date of this Code but due to the requirements adopted herein, no longer complies with the height, yard, area, and/or coverage regulations, off-street parking requirements, or other provisions of this Code.

Nonconforming Development: Any physical development of land that lawfully existed on the effective date of this Code but which, due to the requirements adopted herein, no longer complies with the standards of this Code for the zoning district in which the development is located.

Nonconforming Lot: A lot or parcel of land that lawfully existed on the effective date of this Code or that was legally created after the effective date of this Code, but which in either case does not conform to the lot area and lot dimension standards for the zone in which it is located.

Nonconforming Situation: An inclusive term for a nonconforming lot, nonconforming use, and/or nonconforming development.

Nonconforming Use: Any use that lawfully existed on the effective date of this Code but which, due to the requirements adopted herein, no longer complies with the schedule of permitted uses and which has not been deemed terminated under the provisions of this Code.

Non-Property Line Separated Townhouse: A townhouse defined and constructed under the Oregon Residential Specialty Code and located on a single parcel of land.

OAR: Oregon Administrative Rules.

Opacity: The effectiveness of a buffer or screening method expressed as the percentage of vision that is blocked.

ORS: Oregon Revised Statutes.

Outdoor Living Area: Outdoor or semi-outdoor area designed to provide a more pleasant and healthful environment for the occupants of a dwelling unit and the neighborhood in which such the dwelling unit is located. It includes natural ground areas, landscaped areas, balconies, porches, patios, terraces, verandas, outdoor swimming pools, play areas, tennis courts, walkways, and similar areas developed for active or passive recreational activities. Outdoor living area does not include accessways, parking and loading areas, strips between buildings less than ten feet in width, storage areas, and other areas not usable for outdoor activities.

Owner: When used in relation to real property, "owner" means the legal owner of record or, when there is a recorded land sales contract in force, the purchaser of the land.

Parcel: a single unit of land that is created by a partition of land.

Parking Area, Private: Privately or publicly owned property, other than streets and alleys, on which parking spaces and travel aisles are defined, designated, or otherwise identified for use by the tenants, employees, or owners of the property for which the parking area is required and not open for use by the general public.

Parking Area, Public: Privately or publicly owned property other than streets or alleys, on which parking spaces and travel aisles are defined, designated, or otherwise identified for use by the general public, either free or for remuneration.

Parking Space: On- and off-street spaces designated for automobile parking, other than parking spaces reserved for carpools, vanpools, or parking under the Americans with Disabilities Act.

Parking Structure: 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 provided said parking spaces are clearly identified as free parking space(s) for the building or use. Parking on top of a structure where there is gross building area below the parking but nothing above, it is also structured parking.

Partition: The process of dividing a single property to create not more than three parcels of land that does not include the creation of a road or street within a calendar year for sale, taxation, development, or other purpose.

Pedestrian Amenity Space: A publicly accessible space such as a plaza, terrace, courtyard or small park, which abuts or is connected to the street and is provided and maintained by a private party.

Pedestrian and Bicycle Accessway/Connector: See Accessway/Connector, Pedestrian and Bicycle definition.

Pedestrian Facility: A continuous, unobstructed, reasonably direct route between two points that is intended and suitable for pedestrian use. Pedestrian facilities include but are not limited to sidewalks, walkways, accessways, stairways and pedestrian bridges. On developed parcels, pedestrian facilities are generally hard surfaced. In parks and natural areas, pedestrian facilities may be soft-surfaced pathways. On undeveloped parcels and parcels intended for redevelopment, pedestrian facilities may also include rights of way or easements for future pedestrian improvements.See also Walkway.

Pedestrian Scale: Site and building design elements that are dimensionally less than those intended to accommodate automobile traffic, flow, and buffering. Examples include ornamental lighting of limited height; bricks, pavers, or other modules of paving with small dimensions; a variety of planting and landscaping materials; arcades or awnings that reduce the height of walls; and signpost details that can only be perceived from a short distance.

Person: A person, their heirs, executors, administrators, or assigns, and includes a firm, partnership, or corporation, its or their successors or assigns, or the agent of any of the aforesaid and the singular includes the plural.

Pervious Pavement: A range of sustainable materials and techniques for permeable pavements that allow the movement of stormwater through the surface. Types of pervious pavement include porous asphalt, pervious concrete and paving stones.

Pharmacy: A business primarily devoted to the sale of prescription drugs, medicines, supplies, and equipment related to health needs.

Planned Development (PD): A tract of land developed under provisions of this Code that provides for flexibility and innovation in design and placement of structures. The terms Planned Development (PD) and Planned Unit Development (PUD) may be used interchangeably. See Article 11 for Planned Development Standards.

Plat, Final: A final drawing or map and other writing containing all the descriptions, locations, specifications, dedications, provisions and information concerning a subdivision or a partition and includes a final subdivision plat, replat or partition plat. See ORS 92.010.

Post-construction stormwater quality: The quality of stormwater runoff, after construction is complete, from a development or redevelopment project.

Post-construction stormwater quality facility: Permanent stormwater infrastructure incorporated into a development or redevelopment project designed to reduce pollutant loads and runoff velocity from impervious surfaces and which may also include improvements constructed to reduce the quantity of stormwater runoff leaving the site.

Prefabricated Dwelling Unit: A building or subassembly that has been in whole or substantial part manufactured or assembled using closed construction at an off-site location to be wholly or partially assembled on-site and is used as a dwelling unit. A prefabricated dwelling unit does not mean a "manufactured dwelling" (a dwelling built to federal HUD standards) as defined in ORS 446.003, or a "small home" (400 square feet or less built to a residential code) as defined in ORS 455.616 (referenced as "Section 2, Chapter 401, Oregon Laws 2019" or House Bill 2423 (2019)).

Primary Structure: A structure or combination of structures of main importance or function on a site. In general, the primary use of the site is carried out in a primary structure. The difference between a primary and accessory structure is determined by comparing the size, placement, similarity of design, use of common building materials, and the orientation of the structures on a site.

Primary Use: An activity or combination of activities of chief importance on the site. One of the main purposes for which the land or structures are intended, designed, or ordinarily used. A site may have more than one primary use.

Private Driveway: A driveway to serve residential premises.

Property: When used in this Code, property refers to a piece of land, lot or parcel and all of the structures thereon. "Lot," "parcel," and "property" may be used interchangeably in this Code to refer to a separate property regardless of its derivation.

Property Line: See Lot Line.

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.

Public and Semi-Public Building: A building or use owned or operated by a government agency or a public utility. Such buildings and uses include, but are not limited to, fire stations, law enforcement facilities, public educational facilities, utility substations, public parks, and playgrounds.

Public Need: A conclusion based on the presentation of factual evidence that demonstrates that a particular request for a change is in the best public interest for economic, social, and environmental reasons.

Qualified Professional: A person with extensive knowledge in the relevant subject matter, and whose combination of training, education, certification, and experience ~~qualify~~qualifies him/her to perform services of a professional nature and to make credible findings and recommendations. The Director has the authority to accept or reject the qualifications of a professional if they are not deemed suitable to the relevant subject matter.

Ramada: A structure having a roof extending over a manufactured home or manufactured home space designed for the protection of the manufactured home from sun and rain.

Reasonably Feasible: Means that, under the circumstances, reasonable efforts have been undertaken to comply with the regulation, that the costs of compliance clearly outweigh the potential benefits to the public or would unreasonably burden the proposed project, and reasonable steps have been undertaken to minimize any potential harm or adverse impacts resulting from noncompliance with the regulation.

Redemption Center: An indoor retail facility approved by the Oregon Commission as provided for in ORS 459A that facilitates the return of empty beverage containers and serves dealers of beverages, at which any person may return empty beverage containers and receive payment of the refund value of such beverage containers.

Replat: The act of platting the lots, parcels, and easements in a recorded subdivision or partition plat to achieve a reconfiguration of the existing subdivision or partition plat.

Residential Care Facility: Any private or public institution or facility maintained and operated for the care, boarding, housing, training, or rehabilitation of six or more physically, mentally, or socially handicapped or delinquent, elderly, or drug or alcohol dependent persons in one or more buildings on contiguous properties. See Section 22.260, Residential Care or Treatment Facility and ORS Chapter 443.

Right-of-way: The area between boundary lines of a street.

Roadway: The portion or portions of a street right-of-way available for vehicular traffic.

Salvage Yard: Any premises upon which any type of material is dismantled, stored, and disposed of for the purpose of recycling the base material or its components. It is the intention of this definition to include the type of operation commonly known as an auto wrecking yard.

Satellite Dish Antenna: A device incorporating a reflective surface that is solid, open mesh, or bar configured and is in the shape of a shallow dish, cone, horn, or cornucopia. Such device shall be used to transmit and/or receive signals. This definition is meant to include but not be limited to what is commonly referred to as satellite earth stations, and satellite microwave antennas.

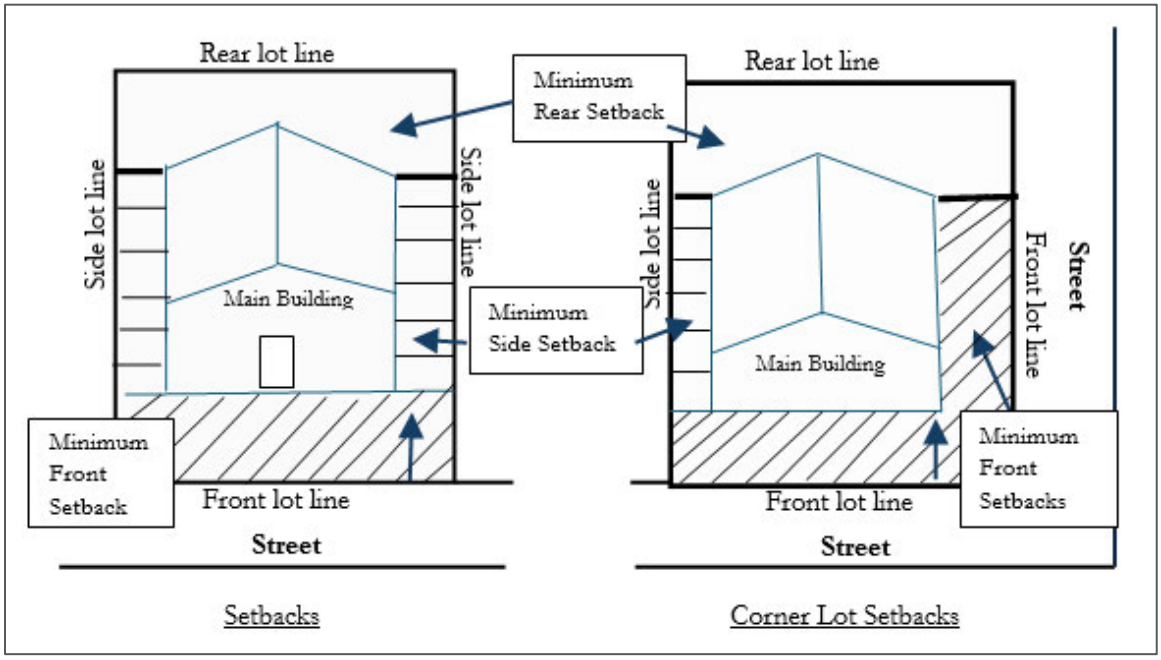
Service Station: A place or station selling motor fuel and oil for motor vehicles, servicing batteries, furnishing repair and service, excluding painting, bodywork, steam cleaning, tire recapping, and mechanical car washing which necessitates equipment to wash more than one car at a time and at

which accessory sales or incidental services are conducted. See Section 22.170, Vehicle Service, Quick.

Service Driveways: Any driveway constructed, installed, maintained in or over any portion of the public streets for the purpose of ingress and egress of vehicles from the street to the property abutting the street.

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.

Figure 22.400-3: Setbacks



Setback, Front: The minimum horizontal distance required from the front lot line to the nearest vertical wall of a building or structure, fence, or other element as defined by this Code.

Setback, Minimum: The minimum allowable horizontal distance from a property line (unless otherwise noted) to the nearest vertical 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 vertical wall of a building or structure.

Setback, Rear: The minimum horizontal distance from a rear property line to the nearest vertical wall of a building or structure, fence, or other element as defined by this code.

Setback, Side: The minimum horizontal distance from a side property line to the nearest vertical wall of a building or structure, fence, or other element as defined by this Code.

Setback Line: The innermost line of any required yard area on a lot that is parallel to the corresponding property line.

Shelter, Temporary: A structure providing temporary shelter or sanctuary to homeless or abused persons. The shelter may or may not have food preparation or shower facilities. The shelter is managed by a public or non-profit agency to provide shelter, with or without a fee, on a daily basis. Shelters are considered a Community Facility, Section 22.340.

Single-Dwelling Unit (SDU): A single detached building containing one dwelling unit on a lot. Where allowed by this Code, an SDU may also contain an Accessory Dwelling Unit (ADU) or one Single Room Occupancy (SRO) Unit. For the purposes of calculating density, an SDU with or without an ADU or one SRO Unit is considered one Dwelling Unit. Dwelling Units on individual lots that are part of a cottage cluster are not single-dwelling units for the purposes of this Code.

Single Room Occupancy (SRO) Development: A detached building or buildings with no less than four attached but separate Single Room Occupancy Units and a shared Kitchen. Sanitary facilities (bathrooms) may be shared or may be provided within or between SRO units. For purposes of this Code, density must be calculated as one dwelling for every 2 SRO units or fraction thereof, except that one SRO development with a minimum of four and no more than six SRO units sited on a property zoned to allow single dwelling units is considered one dwelling unit. See definition for a Single Room Occupancy Unit.

Single Room Occupancy (SRO) Unit. Area within a Single Room Occupancy Development or a Single Dwelling Unit (SDU) that is independently rented and lockable and provides living and sleeping space for the exclusive use of the unit occupant(s). The SRO unit must share the kitchen with other SRO Units or the SDU and may or may not share bathroom facilities.

Solar Systems: Active or indirect solar heating or collector system that collects solar radiation and transforms it into thermal, chemical, or electrical energy. A passive solar system is any method that requires no external collector system to disperse solar heat. In new building design, this means utilizing site design, building orientation, window placement, insulation, vegetation, etc. to heat and cool a building. Passive solar systems may also include the addition of such solar collectors as greenhouses, water traps, improved insulation, or other weatherization techniques.

Special Purpose District: Overlay zone designations that set forth specific land use regulations in addition to the standards of the underlying base zoning district.

Staff: An employee or employees of the City of Albany.

Stand: A hard surfaced area within a manufactured home space or lot designed for placement of a manufactured home.

Story: That portion of a building included between the upper surface of any floor and the upper surface of the next floor above, except that the top story shall be that portion of a building included between the upper surface of the top floor and the ceiling above. If the finished floor level directly above a basement or cellar is more than 6 feet above grade, such basement or cellar shall be considered a story.

Story, Half: A basement or cellar, except as provided in this Code, that has less than 6 feet of its height above grade.

Street: A public thoroughfare or right-of-way dedicated, deeded or condemned; other than an alley, that affords the principal means of access to abutting property, including avenue, place, way, drive, land, boulevard, highway, road, and other thoroughfares except as excluded in this Code. The word “street” shall include all arterial highways, freeways, traffic collector streets, and local streets.

Street Lot Line: A property line abutting a street.

Structure: That which is built or constructed, including buildings, decks, fences, towers, flag poles, signs, and other similar objects. Structure does not include at-grade paved areas or vegetative landscaping materials.

Subdivide Land: To divide a land into four or more lots within a calendar year.

Subdivision: Either an act of subdividing land or an area or a tract of land into four or more lots as defined in this Code.

Temporary Residence: A residence, which may be a manufactured home, that is: a) located on the same property as a residence made uninhabitable by fire, flood, or other natural disaster and occupied by the persons displaced by such disaster, or b) located on the same property as a residence that is under construction or undergoing substantial repairs or reconstruction and occupied by the persons intending to live in such permanent residence when the work is completed, or c) located on a non-residential site and occupied by persons having construction or security responsibilities over such site. See Article 10, Sections 10.440-10.510.

Townhouse: A dwelling unit that is part a grouping of two or more common wall dwelling units, each unit of which is built upon an individual subdivided or partitioned lot or parcel. Townhouses are also called single-dwelling unit attached houses, rowhouses, and zero-lot-line houses. "Non-property line" townhouses are not considered townhouses.

Townhouse Project: One or more townhouse structures constructed, or proposed to be constructed, together with the development site where the land has been divided, or is proposed to be divided, to reflect the townhouse property lines and any commonly owned property.

Trailer/Travel Trailer: A portable structure capable of being towed or driven, having a width of fewer than ten feet, and that is designed to be used as a temporary dwelling unit.

Transit Facility: Any physical facility that moves or assists in the movement of people or goods including but not limited to train stations, bus stops and pullouts, bus shelters, park and ride stations, and similar facilities.

Travel Aisle: An unobstructed way that provides vehicles ingress and egress to parking spaces.

Triplex: A single detached building containing three dwelling units. All dwelling units are located on a single lot, except where a middle housing land division has been approved. For the purposes of this code, a non-property line separated townhouse constructed under the Oregon Residential Specialty Code has the same meaning.

Two Primary Units: When referring to a permitted use, this means two buildings on a lot, each containing one primary dwelling unit. This use is distinct from a single-dwelling unit with an accessory dwelling unit.

Unbuildable Land: Property that due to its size, shape, frontage, location, topography, environmental constraints, easements, or regulations cannot be developed with site improvements even if assembled with adjacent property under the same ownership.

Undeveloped Property: Land in its natural state with no previous development activities or man-made changes.

Use: The purpose for which land or a building is arranged, designed, or intended or for which either land or a building is or may be occupied or maintained.

Visible Transmittance: a property of glass or window material that indicates the fraction of visible light transmitted through the window.

Vocational or Trade School: A school established to teach business trades such as industrial, electrical, mechanical, clerical, managerial, accounting, data processing, and other trade technology or skills.

Walkway: Any paved public or private route intended to provide pedestrian access to adjacent streets and properties.

Water-Dependent: A use or activity that can be carried out only on, in, or adjacent to water areas because the use requires access to the water body for waterborne transportation, recreation, energy production, or source of water.

Water-Oriented Use: Any use that received a demonstrable benefit from being located with a view of the river. Examples might include restaurants, residential structures, and commercial structures when river views are incorporated into the design of the river.

Water-Related: Uses that are not directly dependent upon access to a water body, but that provide goods or services that are directly associated with water-dependent land or waterway use and which, if not located adjacent to water, would result in a public loss of quality in the goods or services offered.

Wetland: Areas that are inundated or saturated by surface or groundwater at a frequency and duration sufficient to support, and under normal circumstances do support, a prevalence of vegetation typically adapted for life in saturated soil conditions.

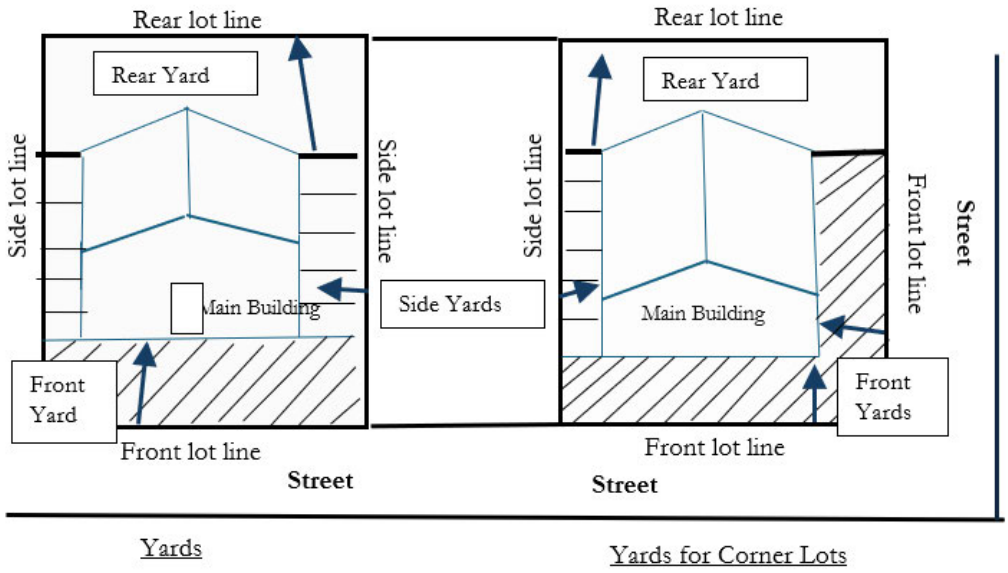
Wetland Delineation: Process of determining the boundary between a Wetland and uplands. Delineations must be carried out following the guidelines of the U.S. Army Corps of Engineers and the Oregon Department of State Lands. A Wetland Delineation locates the boundary between the Wetland and upland, based 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.

Wrecking Yard, Motor Vehicles, and Building Materials: Any premises used for the storage, dismantling, or sale of used motor vehicles, trailers, machinery and/or building materials, or parts.

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.

Figure 22.400-4. Yards



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. See Figure 22.400-4.

Yard, Rear: The area between the rear property line and any building on that same lot, extending across the full width of a lot, required or otherwise, and that is not a front or side yard, and that is adjacent to a rear lot line. See Figure 22.400-4.

Yard, Side: The area between the building and the side lot line extending from the front yard or front lot line to the rear yard or lot line across the full depth of a lot, required or otherwise, that is not a front or rear yard and that is adjacent to a side lot line. See Figure 22.400-4.

Zoning District: A classification of land in which only uses specified by this Code are allowed, except for nonconforming uses, and for which specific requirements are set forth pertaining to height, yard, area, coverage, landscaping, parking, and other land use restrictions.

[Ord. 5281, 3/26/97; Ord. 5338, 1/28/98; Ord. 5742, 7/14/10; Ord. 5764, 12/1/11; Ord. 5768, 12/7/11; Ord. 5801, 2/13/13; Ord. 5831, 2/26/14; Ord. 5832, 4/9/14; Ord. 5842, 1/01/15; Ord. 5894, 10/14/17; Ord. 5945, 9/25/20; Ord. 5947, 1/01/21; Ord. 5949, 1/01/21; Ord. 5966, 11/12/21; Ord. 5968, 1/14/22; Ord. 6004, 12/28/22; Ord. 6018, 6/30/23; Ord. 6024, 12/29/23; Ord. 6042, 7/12/24; Ord. 6059, 3/14/25; Ord. 6062, 5/23/25; Ord. 6068, 11/8/25]

No changes are proposed to the Natural Resource Overlay District Definitions, so these are not included.*

New text is shown in black double underlined font and removed text is shown in ~~strikethrough~~ font. Staff comments in blue font are provided to explain the proposed amendments but are not amendments.

Staff Comments: Middle and Infill Housing Amendments to Comply with House Bill 2138. Below is a summary of the proposed changes that will go into effect January 1, 2027. Changes related to middle housing land divisions are included in the amendment package going into effect in July, 2026.

Article 3: Residential Zoning Districts

- Must allow middle housing on lots that have an existing single dwelling unit, accessory dwelling unit (ADU), single dwelling unit and ADU, or a duplex
- Middle housing bonus units must be permitted when no less than one accessible or affordable middle housing unit (incomes up to 120% of area median) is provided. Within a duplex or triplex, one additional unit is permitted creating a triplex or fourplex; for townhouses, fourplexes, and cottage cluster units, up to two additional units must be permitted.
- Accessory Dwelling Units for Middle Housing - City will permit one accessory dwelling unit (ADUs) with middle housing or subsequent middle housing land division (MHLD) provided the "child" lot created by a MHLD is at or above the minimum density for the zone.

Article 8, Design Standards. Amendments refer to the new bonus unit provisions when at least one accessible or affordable middle housing unit is provided.

Article 11, Land Divisions. Changes are also needed to the Middle Housing Land Division process to allow MHLDs concurrently with standard land divisions that create the parent lots, and notices of MHLDs are limited to the applicant; third parties may not intervene in MHLDs.

Article 22, Definitions:

- Middle Housing Definitions – change the definitions for duplexes, triplexes, and quadplex units to allow as detached or attached dwellings in any configuration.
- Single Room Occupancy (SRO) Developments Density –must be allowed at three times the maximum density applied to multi-dwelling housing. Currently each individual SRO unit is considered 0.5 units for calculating minimum density but will change to 0.33 units.

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 4, 6, 7 and 14.

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

- Zoning Districts
- Schedule of Permitted Use
- Development Standards

New text is shown in black double underlined font and removed text is shown in ~~strikethrough~~ font. Staff comments in blue font are provided to explain the proposed amendments but are not amendments.

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) R-10 - RESIDENTIAL DISTRICT. The R-10 District is intended primarily for a lower density residential environment consisting of detached single-dwelling units and middle housing. The average standard lot size for single-dwelling units and duplexes is 10,000 square feet.

(3) R-6.5 - RESIDENTIAL DISTRICT. The R-6.5 District is intended primarily for low-density urban residential development that includes single dwelling units, townhouses, and middle housing (duplexes, triplexes, fourplexes, and cottage clusters). The average standard lot size for single-dwelling units and duplexes is 6,500 square feet.

(4) R-5 - RESIDENTIAL DISTRICT. The R-5 District is intended primarily for low- to moderate-density residential development. The average standard lot size for single-dwelling units and duplexes is 5,000 square feet.

(5) RM - RESIDENTIAL MEDIUM DENSITY DISTRICT. The RM District is primarily intended for medium-density residential urban development that includes single-dwelling units, townhouses, duplexes, triplexes, fourplexes, cottage clusters, and apartments up to 45 feet tall. New RM districts should be located on a collector or arterial street or in Village Centers.

(6) RMA - RESIDENTIAL MEDIUM DENSITY ATTACHED DISTRICT. The RMA District is intended primarily for medium- to high-density urban residential development consisting of attached housing types, including duplexes, triplexes, fourplexes, and apartments up to 60 feet tall. New RMA districts should be located on a collector or arterial street or in Village Centers.

(7) HDR - HIGH DENSITY RESIDENTIAL DISTRICT. The HDR District is intended primarily for high-density urban residential multiple story development and other compatible uses. This district supports the highest residential density in the city and must be located on a collector or arterial street, and adjacent to mixed use, commercial, or industrial zoned land. Development in the HDR district must achieve a density of at least 25 units per gross acre.

(8) HM - HACKLEMAN-MONTEITH DISTRICT. The HM district is intended primarily to preserve the historic character of the existing residential resources in the Hackleman and Monteith National Register Historic Districts. Low-density residential infill that is compatible with the historic character of the district is permitted.

[Ord. 5555, 2/7/03; Ord. 5673, 6/27/07; Ord. 5968, 1/14/22; Ord. 6004, 12/28/22; Ord. 6010, 7/1/23; Ord. 6024, 12/29/23; Ord. 6059, 3/14/25]

3.030 Establishment of Special Purpose Districts. Special purpose districts are overlay districts that may be combined with a major zoning district. The regulations of a special purpose district are

supplementary to the regulations of the underlying major zoning district. The regulations of a special purpose district and the major zoning district apply to any site that has both designations. Where the regulations and permitted uses of a major zoning district conflict with those of a special purpose district, the more restrictive standards apply. The special purpose districts and the additional regulations that apply in such districts are summarized below:

Special Purpose District	Applicable Articles
Airport Approach	Article 4
Floodplain	Article 6
Hillside Development	Article 6
Significant Wetlands	Article 6
Riparian Corridors	Article 6
Wildlife Habitat	Article 6
Willamette Greenway	Article 6
Historic Overlay	Article 7
Climate Friendly Areas	Article 14

[Ord. 5764, 12/1/11]

Schedule of Permitted Uses

3.040 Interpretation. The following provisions are used to interpret the schedule of permitted uses found in this Article:

(1) The schedule of permitted uses cannot anticipate all uses that may be located within the City. There are also situations where proposed uses may relate to more than one type of use. In both instances, the Director will determine the appropriate use category based on operating characteristics and land use impacts. Where ambiguity exists concerning the appropriate classification of a particular use, the use may be reviewed as a Conditional Use where the Director determines that the proposed use is consistent with other uses allowable within the subject district due to similar characteristics. Use categories not listed in the schedule of permitted uses are not permitted in the residential zoning districts.

(2) When a development proposal involves a combination of uses other than accessory uses, the more restrictive provisions of this Code apply. For example, if a portion of a development is subject to Conditional Use approval and the balance is subject only to Site Plan Review, the entire development must be reviewed using the Conditional Use criteria if concurrent approval of all uses is requested.

(3) A change in the use of a property is subject to review as specified by the schedule of permitted uses:

(a) When the change involves a change from one use category to another in the schedule of permitted uses and the Director has not waived review under the provisions of Section 1.105, or

(b) When a property that has been unoccupied for more than one year.

[Ord. 5673, 6/27/07; Ord. 5947, 1/1/21; Ord. 6059, 3/14/25; Ord. 6062, 5/23/25]

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 require 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: Now that middle housing can be attached or detached, "Two Primary (detached) Units" is not needed and is being removed.

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**	**R-10**	**R-6.5**	**HM**	**R-5**	**RM**	**RMA**	**HDR**
RESIDENTIAL: Dwellings									
Single Dwelling Unit (SDU)	1, 2, 22, 23	Y	Y	Y	Y	Y	Y	N	N
SDU with one Accessory Dwelling Unit (ADU) or Single Room Occupancy Unit	4, 22	Y	Y	Y	Y	Y	Y	Y	N
~~Two Primary Units~~	~~2~~	~~N~~	~~PD/CD~~	~~PD/CD~~	~~S~~	~~PD/CD~~	~~Y~~	~~Y~~	~~N~~
Duplex, Triplex, and Fourplex with or without one ADU	3, 4, 22, 23, 25	Y	Y	Y	Y	Y	Y	Y	Y
Townhouse with or without one ADU	4, 22, 23	Y	Y	Y	Y	Y	Y	Y	Y
Cottage Cluster	3, 22	Y	Y	Y	Y	Y	Y	N	Y
Single Room Occupancy Development	20, 22, 23	Y	Y	Y	Y	Y	Y/S	Y/S	Y/S
Multiple-Dwelling Units	3, 22, 23, 25	N	N	N	N	N	S	S	S
RESIDENTIAL: Care or Treatment									
Assisted Living		CU	CU	CU	CU	CU	S	S	S

New text is shown in black double underlined font and removed text is shown in ~~strikethrough~~ font. Staff comments in blue font are provided to explain the proposed amendments but are not amendments.

Uses Allowed in Residential Zoning Districts									
USE CATEGORIES (See Article 22 for use descriptions.)	**Spec. Cond.**	**RR**	**R-10**	**R-6.5**	**HM**	**R-5**	**RM**	**RMA**	**HDR**
Child or Adult Care Home	6	Y	Y	Y	Y	Y	Y	Y	Y
Residential Care or Treatment Facility	26	S	S	S	S	S	S	S	S
Residential or Group Care Home (5 or fewer residents)	26	Y	Y	Y	Y	Y	Y	Y	Y
RESIDENTIAL: Miscellaneous Uses									
Manufactured Home Parks	10, 22	N	N	S	N	S	S	S	S
Accessory Buildings	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	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/S-19	N/S-19	S
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	S-24/ CU	S-24/ CU	S-24/ CU
Daycare Facility or Child Care Center		CU	CU	CU	CU	CU	S	S	S
Educational Institutions	13	CU	CU	CU	CU	CU	CU /S-13	CU /S-13	CU /S-13
Hospitals	27	N	N	N	N	N	CU/S-27	CU/S-27	CU/S-27
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, 23	CU CU	CU CU	CU CU	CU N	CU CU	CU CU	CU CU	CU CU
Offices	17, 19, 23	PD/CD	PD/CD	PD/CD	PD/CD	PD/CD	S-19/ PD/CD	S-19/ PD/CD	S-19
Recreational Vehicle Parks (See Article 10)	5, 10	N	N	N	N	N	CU	CU	CU
Restaurants, no drive-thru	17, 19, 23	PD/CD	PD/CD	PD/CD	PD/CD	PD/CD	S-19 PD/CD	S-19 PD/CD	S-19
Retail Sales and Service	17, 19, 23	PD/CD	PD/CD	PD/CD	PD/CD	PD/CD	S-19 PD/CD	S-19 PD/CD	S-19
Self-Serve Storage	15, 23	N	N	N	N	N	S	N	N
Taverns, Bars, Brewpubs, Nightclubs		N	N	N	N	N	S-19	S-19	S-19
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 member of Amateur Radio Service		Y	Y	Y	Y	Y	Y	Y	Y
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

[Ord. 5281, 3/26/97; Ord. 5555, 2/7/03; Ord. 5673, 6/27/07; Ord. 5742, 7/14/10; Ord. 5801, 2/13/13; Ord. 5832, 4/9/14; Ord. 5886, 1/6/17; Ord. 5947, 1/1/21; Ord. 5949, 1/1/21; Ord. 5968, 1/14/22; Ord. 6004, 12/28/22; Ord. 6008, 1/27/23; Ord. 6010, 7/1/23; Ord. 6024, 12/29/23; Ord. 6042, 7/12/24; Ord. 6059, 3/14/25; Ord. 6062, 5/23/25]

3.060 – 3.070, Open Space district moved to Article 6; Ord. 5764, 12/1/11.

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 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 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 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 is located on a property of record in a residential zoning district and the dwellings were legally constructed, the property may be divided in conformance with Article 11 resulting in one unit per lot, 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.

(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.

(4) ~~Single Dwelling Unit with~~ One Accessory Dwelling Unit or Single Room Occupancy Unit. Where single-dwelling units and middle housing units are permitted outright, one Accessory Dwelling Unit (ADU) may be permitted on each legally established lot or parent lot for middle housing if the standards in (a) below are met. In addition, existing legally established single-dwelling units may have ~~or~~ one Single Room Occupancy (SRO) unit ~~may be allowed on each lot~~in lieu of the ADU when the standards in (b) are met. ~~that has one~~ Existing legally established single-dwelling units or middle housing units are referred to~~, called~~ the "primary dwelling unit(s)" for the purposes of this section.

(a) Accessory Dwelling Units. Accessory Dwelling Units must meet the following standards:

i. The size of an ADU may not exceed 900 square feet. (Note: ADUs greater than 900 square feet that were legally constructed before July 1, 2007, may remain.) If the primary ~~D~~dwelling ~~U~~unit is or primary middle housing units are less than or equal to 900 square feet, the ADU must be at least 25 square feet ~~less~~ smaller than the primary ~~D~~dwelling ~~U~~unit(s).

ii. All required building permits have been obtained. If the primary dwelling unit(s) is/are on the Local Historic Inventory, historic review may be required, per Article 7.

iii. The lot was legally established and primary dwellings were legally established. .

iv. 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;

Side and Rear Setbacks: 5 feet for one-story; 8 feet for two-story; and

Maximum Height: 24 feet to the ridge of the roof.

v. Conversion of an Existing Building: An existing accessory structure that was legally established prior to March 14, 2025, may be converted into an ADU, provided the conversion does not increase the nonconformity of the structure and complies with applicable building codes.

(b) Single Room Occupancy (SRO) Unit. The SRO Unit must meet the following standards:

i. The SRO Unit must be located interior to the primary ~~D~~dwelling ~~U~~unit.

ii. The SRO Unit must share a Kitchen with the primary ~~D~~dwelling ~~U~~unit and must not contain food preparation facilities.

iii. The SRO Unit must have an interior door connecting the primary ~~D~~dwelling ~~U~~unit and may have an exterior door located in the rear yard.

iv. The SRO Unit must not operate independently of the primary ~~D~~dwelling ~~U~~unit unless converted to an Accessory Dwelling Unit after all required building permits have been obtained.

******No further changes are proposed to the remaining special conditions in 3.080 or to 3.085 through 3.090, so these sections are not shown.******

3.191 Development Standards for Townhouses. Townhouses must meet the standards in subsections (1) and (2) below. Townhouses must also meet the applicable design standards in ADC

Sections 8.110 through 8.170. Townhouse projects may be eligible for bonus provisions in 3.220.

(1) Maximum Density.

(a) In the RR, R-10, R-6.5, R-5, and HM districts, the maximum permitted density for a townhouse project shall be based on the total area of the townhouse project, excluding any right-of-way dedications. For the purposes of calculating density, the net area required for each townhouse unit is as follows:

- RR: 1.25 acres per townhouse unit
- R-10: 2,500 square feet per townhouse unit
- R-6.5, R-5, HM: 1,700 square feet per townhouse unit

(b) In the RM, RMA, and HDR districts, the maximum density of a townhouse project is not regulated.

(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, R-10, R-6.5, and HM districts: maximum of 4 attached units per group
- R-5 district: maximum of 6 attached units per group
- RM and RMA districts: maximum of 8 attached units per group
- HDR district: maximum of 10 attached units per group

[Ord. 5968, 1/14/22; Ord. 6010, 7/1/23; Ord. 6042, 7/12/24; Ord. 6059, 3/14/25]

3.192 Development Standards for Cottage Clusters. Cottage clusters must meet the standards in subsections (1) through (5) below. Cottage clusters must also meet all of the design standards in ADC Section 8.175. Cottage Cluster developments are eligible for bonus provisions in Section 3.220.

(1) Definition. A cottage cluster is a grouping of 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. Individual ~~Cottages~~ cottages or attached cottage buildings must be separated by a minimum distance of six (6) feet. The minimum distance between all other structures, including accessory structures, must be in accordance with building code requirements.

(c) Rear Setback. The minimum rear setback for cottages is 5 feet for one-story cottages and 8 feet for two-story cottages.

(d) All other setbacks, including setbacks 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 each cottage must be less than 900 square feet. Attached garages or carports up to 200 square feet are exempt from the maximum footprint for each cottage. Detached garages, carports, or accessory structures are not included in the maximum footprint of each cottage.

No changes are proposed to 3.195 through 3.210, so these sections are not shown.

3.220 Area, Density, and Height Bonus Provisions. The following standards may be applied to development sites in residential and mixed-use zoning districts resulting in allowed reductions in the average minimum lot size, or increases in allowed building height or lot coverage, as indicated. In no instance may the combined total of all bonus provisions applied to a development result in an overall reduction of more than 30 percent in the standard site size, or more than 50 percent in the standard site size when housing is provided that is affordable to persons earning 50 percent or less of the area median income (AMI) per 3.220(6) and Table 3.220-2. Housing that meets the affordable housing definition and terms in Section 3.080(22)(b) is subject to the maximums provided in subsection (6)(c). Some bonuses are available for lot design only, with additional bonuses available due to building design or construction.

Relationship to Transportation.

(1) For single-dwelling unit and middle housing developments, a 10 percent reduction in the average minimum lot size required in a zoning district is allowed for proposed lots that meet the following qualifications:

(a) At least 50 percent of the lot area is located within 200 feet of a designated collector or arterial street; and

(b) The lot will not have direct access to an arterial.

For example, if the average minimum lot size for the zone is 10,000 square feet, the average lot size may be 9,000 square feet for those properties within 200 feet of the collector or arterial. The remaining lots in the development must average 10,000 square feet.

(2) For multiple-dwelling unit developments, when any portion of a building is located within 200 feet of a designated arterial, the maximum height may be increased by 10 percent or 5 feet, whichever is greater.

(3) Lots with vehicular access only from an alley or shared access easement from the rear of the lot may be up to 10 percent smaller than the minimum lot size for the zone.

Significant Natural Resource Overlays. A transfer of development density from undeveloped buildable land within the Significant Natural Resource Overlay Districts to other property within the development proposal site under the same ownership is allowed if it meets the following standards:

(3) Development Density to Transfer from Overlay Districts. The land area from which density can be transferred excludes developed and unbuildable areas, such as water bodies, areas below ordinary high-water mark, floodways, the unbuildable portions of lands within the Significant Natural Resource Overlay Districts, and easements.

- Residential Zoning – The applicant may choose to transfer up to 50 percent of the development density if the above standard is met. For example, if the base zoning would have allowed 8 single-dwelling units (net), 4 units can be transferred; if it would have allowed 20 multiple-dwelling units (net), 10 units can be transferred.
- Open Space Zoning – If the lot was legally created prior to July 1, 1991, and the area is of sufficient size and dimension to comply with the development standards for a single-dwelling unit home, one single- dwelling unit can be transferred.

(4) Development Density in Receiving Area. Up to a maximum 20 percent reduction in average minimum lot size is allowed in order to accommodate the density transfer.

(5) Solar Access Protection. If buildings are sited (either by site design or defining buildable areas) and covenants or other mechanisms are established that protect solar access of south building walls from shading by structures and vegetation, energy conservation bonuses may be allowed per Table 3.220-1. For subdivisions to receive a bonus, a covenant or other mechanism must be established that provides and protects solar access for the southerly building area of protected lots from 9:30 a.m. to 2:30 p.m. on December 21. For middle housing or multiple-dwelling unit developments to receive a bonus, protected units must receive this same solar access protection for south facing walls, and the south facing glass of those units must total at least 7 percent of the conditioned area. (South facing is defined as being within 25 degrees of true south.)

TABLE 3.220-1

ENERGY CONSERVATION BONUS STANDARDS			
Development Type	**Percentage of Lots or Units Protected**	**Area Reduction Bonus Permitted**	**Height Bonus Permitted**
Subdivision for Single-Dwelling Unit Development	80 percent or more of lots	10 percent	N/A
	At least 60 percent and up to 80 percent	5 percent	N/A
Middle Housing or Multiple-Dwelling Unit Development	80 percent or more of units	10 percent	20 percent
	At least 60 percent and up to 80 percent	5 percent	10 percent

New text is shown in black double underlined font and removed text is shown in ~~strikethrough~~ font. Staff comments in blue font are provided to explain the proposed amendments but are not amendments.

Staff Comments: HB 2138 requires cities to allow bonus units to middle housing developments when at least one middle housing unit is either accessible or affordable to low- or moderate-income households.

Moderate-Cost and Affordable Housing

(6) Provision of Moderate Cost and Affordable Housing. For the provision of housing that is affordable to low- and moderate-income households earning 120 percent or less of the area median income (AMI), a density bonus through reductions in lot size or increase in height is permitted for all units within the development or development phase for phased developments, as provided in Table 3.220-2. See subsection (7) for Bonus Units for Affordable or Accessible Middle Housing.

(a) For the purpose of this section, "AMI" means the area median income for the county in which the project is located.

(b) "Affordable" as used in Table 3.220-2 means that the sales price or rental amount is within the means of a household that may occupy moderate- and low-income housing. In the case of dwelling units for sale, affordable means housing in which the mortgage, amortization, taxes, insurance, and condominium or association fees, if any, constitute no more than 30 percent of such gross annual household income for a household of the size that are most likely to or intended to occupy the unit in question. In the case of dwelling units for rent, affordable means housing for which the rent and utilities constitute no more than 30 percent of such gross annual household income for a household of the size that are most likely to or intended to occupy the unit in question. Projects must be subject to an affordable housing covenant as provided in ORS 456.220 to 456.295 for continued availability to low- and moderate-income persons for a period of at least 30 years for rental housing and 10 years for owned-housing.

TABLE 3.220-2

AFFORDABLE HOUSING AREA & HEIGHT BONUS STANDARDS						
Affordability Level	**Percent of units (including bonus units) set aside for persons whose household income is less than or equal to the affordability level**	**Reduced Lot Size Allowance ***	**Height bonus in historic districts, HM, MUR, LE, ES**	**Height Bonus in RM, RMA, WF, CB, DMU, HD**	**Height Bonus in HDR & MUC**	**Reduced Separation between buildings 30 feet or taller**
120% AMI	50 percent of units	5 percent	N/A	N/A	12 feet	None
100% AMI	50 percent of units	10 percent	N/A	N/A	12 feet	None
80% AMI	5 percent of units	10 percent	N/A	N/A	12 feet	18 feet
	10 percent of units	15 percent	N/A	N/A	12 feet	16 feet
	20 percent of units	25 percent	N/A	12 feet	24 feet	16 feet
60% AMI	5 percent of units	15 percent	N/A	12 feet	24 feet	15 feet
	10 percent of units	25 percent	~~12~~ 5 feet	24 feet	36 feet	14 feet

New text is shown in black double underlined font and removed text is shown in ~~strikethrough~~ font. Staff comments in blue font are provided to explain the proposed amendments but are not amendments.

AFFORDABLE HOUSING AREA & HEIGHT BONUS STANDARDS						
Affordability Level	**Percent of units (including bonus units) set aside for persons whose household income is less than or equal to the affordability level**	**Reduced Lot Size Allowance ***	**Height bonus in historic districts, HM, MUR, LE, ES**	**Height Bonus in RM, RMA, WF, CB, DMU, HD**	**Height Bonus in HDR & MUC**	**Reduced Separation between buildings 30 feet or taller**
	20 percent of units	35 percent	~~12~~ 7 feet	24 feet	36 feet	12 feet

*For Single-Dwelling Units and Middle Housing Types

(c) Per ORS 197A.445, an affordable housing development subject to an affordable housing covenant as provided in ORS 456.270 to 456.295 of no less than 30 years and that meet the income standards below in a residential or mixed-use zone outside of a National Register historic district is permitted the following height and density bonuses* **in lieu of the bonuses provided in (b) of this section**.

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.

TABLE 3.220-3: 30-Year Affordability Bonuses

Zoning District	Height Increase Allowance	Reduced Lot Size Allowance*
RR, R-10, R-6.5, R-5, HM, LE, ES, DMU, HD	Up to 12 feet	50%
RM, RMA, MUR, WF, CB, MS, PB	Up to 24 feet	25%
HDR, MUC	Up to 36 feet	20%

* For Single-Dwelling Units and Middle Housing Types

(7) Accessible and Adaptable Housing, Excluding Middle Housing. For the provision of housing that is accessible to people with disabilities, or that can be adapted to be fully accessible, a density bonus through increase in lot coverage and heights. The terms "Accessible Unit" and "Type A Unit" are defined below. See subsection (8) Bonus Units for Affordable and Accessible Middle Housing.

(a) "Accessible Unit" means a dwelling unit that complies with the Oregon Structural Specialty Code and the provisions for Accessible units in ICC A117.1.

(b) "Type A Unit" (i.e., partially accessible unit) means a dwelling unit that is designed and constructed for accessibility in accordance with the Oregon Structural Specialty Code and the provisions for Type A units in ICC A117.1.

TABLE 3.220-4

ACCESSIBLE & ADAPTABLE HOUSING BONUS STANDARDS					
Unit Type	**Percent of Units that are Accessible or Type A (including bonus units)**	**Lot Coverage Bonus (Increase) Permitted**	**Height Bonus in LE, ES, DMU, HD, HM & MUR**	**Height Bonus in RM, RMA, WF, CB, PB & MS**	**Height Bonus in HDR & MUC**
Accessible Unit	10 percent of units	10 percent	12 feet	12 feet	24 feet
	20 percent of units	20 percent	12 feet	24 feet	36 feet
Type A Unit	20 percent of units	10 percent	12 feet	12 feet	24 feet
	50 percent of units	20 percent	12 feet	24 feet	36 feet

[Ord. 5338, 1/28/98; Ord. 5445, 4/12/00; Ord. 5764, 12/1/11; Ord. 5673, 6/27/07; Ord. 5947, 1/1/21; Ord. 5966, 11/12/21; Ord. 5968, 1/14/22; Ord. 6004, 12/28/22; Ord. 6059, 3/14/25]

(8) Bonus Units for Affordable and Accessible Middle Housing. In lieu of the bonus standards provided in (6) and (7) above, the following bonus units and standards will be permitted for eligible middle housing developments sited or proposed on any eligible lot or parcel.

(a) Bonus Eligibility. In order to qualify for bonus units outlined in (b) below, no less than one unit in a duplex, triplex, fourplex, townhouse project with up to six townhouses or cottage cluster up to six cottages must be accessible and/or affordable as defined below.

i. Accessible units are those that are fully accessible or "Type A" units as described in (7).

ii. Affordable units are those available to purchase for a maximum sales price affordable to households with an income below 120 percent of the area median income, with the maximum price and income threshold as published per region on annual basis by the division of Oregon Department of Administrative Services. Affordable dwellings are subject to an enforceable affordable housing covenant as described in ORS 456.270 to 456.295 for no less than 10 years.

(b) Bonus Units by Housing Type. The following bonus units are permitted by housing type. A middle housing development may qualify for more than one category provided that each individual bonus unit may only count toward meeting one affordability and one accessibility category. All bonuses earned may be used individually or in combination.

i. Duplex or triplex, one additional dwelling unit is permitted resulting in a triplex or fourplex.

ii. Fourplex, up to two additional dwelling units are permitted resulting in a five- or six-unit development.

iii. Townhouse project of up to six units, up to two additional dwelling units are permitted, resulting in additional townhouses. A townhouse project may qualify for more than one bonus provided that each bonus unit may only count toward meeting one affordability and one accessibility category for every six townhouses

regardless of the number of townhouses in the project. For example, a 12-unit townhouse project can earn separate bonus units for two groups of 6 townhouses.

iv. Cottage cluster development of up to six units, up to two additional dwelling units are permitted, resulting in additional townhouses or cottages. A cottage cluster development of more than six units may qualify for more than one bonus provided that each bonus unit may only count toward meeting one affordability and one accessibility category for every six cottages when no less than one unit in every six cottages is either accessible or affordable as defined above. Allowable bonus units do not count towards the maximum number of cottages per cluster.

(b) Development Standards Bonuses. Additional bonus units permitted under this section are subject to the middle housing regulations under ORS 197A.520(5) and applicable standards by zone except the city shall permit the following standards in order to accommodate the bonus units:

i. an increase to the maximum height of up to five feet,

ii. and an increase in the maximum lot coverage by up to ten percent of the current maximum.

iii. Cottage cluster projects are also permitted an additional 100 square feet to the maximum cottage size and 100 square feet to the maximum average size for all cottages in a cluster. The minimum common courtyard area per cottage may be reduced by 25 feet.

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).

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

- Single Dwelling Units 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

No changes are proposed until 8.175 so the earlier sections are not provided.

8.175 Cottage Cluster Design Standards. Cottage clusters are clusters of small~~, detached~~ dwelling

units (cottages) that are oriented around a common courtyard. Cottage clusters typically share amenities such as open space. The purpose of this section is to provide standards that promote quality development; create a sense of openness and community; and enhance the livability, walkability, and safety of the community. When bonus units are permitted in Section 3.220, then the maximum number of cottages may increase by the number of permitted bonus units and the maximum floor area and average floor area may increase as permitted in 3.220.

(1) Number of Dwellings. The purpose of these standards is to place appropriate limits on the scale of cottage clusters, and to limit the number of cottages that can be developed on an individual lot.

(a) Except as provided in subsection (c), a single cottage cluster must contain a minimum of three (3) and a maximum of eight (8) cottages.

(b) Except as provided in subsection (c), a lot must contain no more than eight (8) cottages, arranged in one or more cottage clusters.

(c) When all cottages on a lot are less than 800 square feet in floor area, the maximum number of cottages permitted on one lot is as follows:

- R-10, R-6.5, and HM districts: 10 cottages
- R-5 district: 12 cottages
- RM and MUR districts: 16 cottages

(2) Floor Area. The purpose of these standards is to ensure that cottages are limited in size while providing flexibility for a range of unit sizes within a cottage cluster. Limiting unit size promotes lower-cost housing choices and promotes accessibility for residents of various ages and abilities.

(a) "Floor area" is defined in ADC Section 22.400; however, for the purpose of this section, "floor area" includes stairwells, ramps, shafts, chases, and the area devoted to garages. Floor area does not include porches, exterior balconies, or other similar areas, unless they are enclosed. Floor area is measured for each floor from the exterior faces of a building or structure.

(b) Floor Area. The maximum permitted floor area of an individual cottage is 1,400 square feet.

(c) Average Floor Area. The maximum average floor area permitted for all cottages in a cottage cluster project is 1,100 square feet.

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
- 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]

******Changes are only proposed in sections 11.610 and 11.620 related to Middle Housing Land Divisions. The rest of the article is not provided here; however, the full article is provided in Exhibit A.******

Staff Comments – Middle Housing Land Division Amendments to comply with HB 2138:

- Third parties may not intervene in MHLDs, so notice will not be required for stand along MHLDs.
- Notice of decision is only issued to the applicant and only the applicant may appeal a decision.

11.610 Middle Housing Land Division. A middle housing land division (MHLD) is a partition or subdivision of a lot or parcel (the parent lot) within a middle housing zoning district where the development of middle housing is permitted under ORS 197A.420 and where middle housing is developed or proposed. MHLDs are regulated by this Code and ORS Chapter 92, Section 92.031. The purpose of a MHLD is to provide a simplified and expedited process for subdividing or partitioning lots with existing or proposed middle housing so that each unit is on a separate property, which enables the units to be sold and owned individually

(1) Eligibility. Any lot (parent lot) developed, or proposed to be developed, with middle housing pursuant to ORS 197A.420(2) is eligible for an MHLD. The following types of middle housing are eligible for a MHLD:

(a) A single duplex, triple, quadplex, cottage cluster, or a single structure containing townhouses;

(b) Additional bonus units as permitted by Sections 3.220 and House Bill 2138 (2025 Session), as applicable; and

(c) Any retained ore rehabilitated existing single dwelling unit with or without one accessory dwelling unit or one duplex.

(2) Applicability of Middle Housing Regulations. An MHLD creates two or more lots from a single parent lot on which middle housing is developed or proposed. After an MHLD is completed, the resulting lots are "child lots." The development is still subject to the requirements and standards that applied to the parent lot prior to the MHLD. In other words, the middle housing development is still defined and regulated as the original middle housing type after an MHLD is completed. For example, an attached triplex that undergoes an MHLD does not become a townhouse development; the structure and property are still subject to requirements/standards for a triplex.

(3) Application Timing and Sequencing.

(a) An application for a tentative plat for an MHLD may be submitted before, after, or at the same time as a submission of an application for building permits for the middle housing.

(b) An application for an MHLD may be submitted at the same time as an application for a standard subdivision or partition. The standard lad division would create the parent lot(s), and the MHLD would further subdivide the lot(s) into middle housing child lots.

(c) An application for one or more MHLDs submitted at the same time as an application for a standard subdivision or partition will be consolidated into a single application subject to the procedural requirements for the standard subdivision or partition.

(d) Within the same calendar year as an original partition that was not an MHLD, one or more of the resulting vacant parcels may be further partitioned into not more than 3 parcels through an MHLD.

(4) Further Division of Child Lots. Middle housing child lots may be further divided by a subsequent MHLD if at least one of the following conditions is met"

(a) The child lot is two or more times larger than the minimum lot size of the zone, meaning that it could be divided through a standard land division into two or more lots that meet the minimum lot size; or

(b) Further division of the child lot would enable the applicable minimum density requirements to be met.

(5) 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 will comply 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. Exception: any retained or rehabilitated existing units on the lot as permitted under ORS 197A.420(4), as applicable, are not required to comply with the siting and design standards applicable to the parent lot.

(b) Separate utility service connections for public water, sewer, and stormwater will be provided for each dwelling unit. When stormwater services are shared, a shared maintenance easement and agreement is recorded outlining the obligations of individual owners.

(c) Easements will be provided as necessary for each dwelling unit on the site for:

i. Locating, accessing, replacing, and servicing all utilities;
ii. 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.

(d) Exactly one dwelling unit will be located on each resulting lot (referred to as middle housing child lots), except for:

i. Lots or tracts used as common areas, on which no dwelling units will be permitted.

ii. Lots containing one existing retained single dwelling unit with or without an accessory dwelling unit or one duplex as permitted under ORS 197A.420(4). Such retained units shall be considered a single middle housing unit for the purposes of the MHLD.

iii. Lots containing one middle housing dwelling unit plus the one accessory dwelling unit (ADU) permitted for each duplex, triplex, fourplex or townhouse when the development creates housing that is at or above the minimum density for the zone when applicable. For example, a triplex is permitted one (ADU); the one ADU will be located on a child lot with one of the triplex units resulting from an MHLD. Each townhouse may have one accessory dwelling unit.

(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.

(6) 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 existing or proposed 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) – (21), copies of a plat showing the following details:

i. Separate utility connections for each dwelling unit, demonstrating compliance with approval criterion 11.610(~~1~~4)(b).

ii. Existing or proposed easements necessary for each dwelling unit on the plan, demonstrating compliance with the criterion 11.610(~~1~~4)(c).

(c) Copies of all required easements in a form approved by the City Attorney.

(7) Tentative Plat Conditions of Approval. The City may attach conditions of approval of a tentative plat for a middle housing land division to:

(a) Prohibit further division of the resulting child lots. However, further division of the child lots may be permitted as provided in subsection (3) of this section.

(b) Require that a notation appear on the final plat indicating:

i. The approval was given under ORS Chapter 92.031.

ii. 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.

iii. Accessory dwelling units are not permitted on child lots resulting from a middle housing land division except as provided below.

A. The child lots are used to create housing that is at or above the applicable minimum density standard and only one ADU is provided on one child lot for each duplex, triplex, fourplex or townhouse; or

~~A.~~B. The accessory dwelling unit is provided as a bonus unit under Section 3.220 (7) and (8).

(c)~~iii.~~ Ensure that improvements associated with review criteria in ADC 11.610 (5) are provided.

(d~~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.

(e~~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; Ord. 6042, 7/12/24]

11.620 Tentative Plat Procedures for Expedited and Middle Housing Land Divisions. Unless the applicant requests to use the standard land division procedures 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) Concurrent Review Option. An application of one or more than one MHLD submitted at the same time as an application for a standard subdivision or partition will be consolidated into a single application subject to the procedural requirements for the standard land division.

(2) Completeness Review.

(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 30 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.

(3) ~~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.~~

~~(4) There shall be a 14-day period to allow for submission of written comments prior to the Director's decision.~~

(~~5~~3) There shall be no written notice or a ~~There shall be no~~ public hearing on the application. The city will not accept written comments from third parties on the application.

(~~6~~4) The Director shall make a decision to approve or deny the application based on compliance or noncompliance with the applicable review criteria within 63 days of receiving a completed application as described in ORS 227.178.

(~~7~~5) The Director's decision shall be based on applicable elements of the Albany Development Code and Comprehensive Plan. An approval may include conditions of approval pursuant to section 11.610(7) to ensure that the application meets the applicable land use regulations.

(~~8~~6) 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.

(~~9~~7) 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 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.

(~~10~~8) Only ~~T~~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 for an MHLD as an expedited land division made under this section 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.

(~~1~~9~~1~~) 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.

New text is shown in black double underlined font and removed text is shown in ~~strikethrough~~ font. Staff comments in blue font are provided to explain the proposed amendments but are not amendments.

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

No changes are proposed to the other use categories, so they are not shown.

RESIDENTIAL USE CATEGORIES

22.280 Single-Dwelling Units ~~and Two Primary Units~~.

(1) Single Dwelling Units are one dwelling unit on one lot, with or without one accessory dwelling unit or Single Room Occupancy (SRO) Unit. ~~Two primary units are two primary detached dwellings on one lot.~~

(2) Use Examples. Single detached units, a single dwelling unit with one Accessory Dwelling Unit, a Single Dwelling Unit with one SRO Unit, ~~two detached primary dwelling units,~~ one 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.

(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 are 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.

(d) Dwelling units located above, behind, or contiguous to a business or office on the ground floor(s) or that meet the definition of live/work dwelling units are classified as Units Above or Attached to a Business.

22.285 Middle Housing.

(1) Middle housing includes the following housing types as defined in Section 22.400: duplexes, triplexes, fourplexes, townhouses, and cottage clusters. One accessory dwelling unit is permitted for each duplex, triplex, fourplex or townhouse and middle housing includes bonus units for affordable and accessible units when permitted per Section 3.220(8).

(2) Use Examples. Duplexes, triplexes, fourplexes, townhouses, and cottage clusters, with or without one accessory dwelling unit, with or without any bonus units permitted per Section 3.220(8). See Figures 22.285-1 through 22.285-~~8~~6 for examples of possible configurations for duplexes, triplexes, and fourplexes.

(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) Dwelling units located above, behind, or contiguous to a business or office on the ground floor(s) or that meet the definition of live/work dwelling unit are classified as Units Above or Attached to a Business.

(c) With the exception of a cottage cluster, any lot with five or more dwelling units is classified as Multiple Dwelling Unit Housing.

Figure 22.285-1. Stacked Duplex

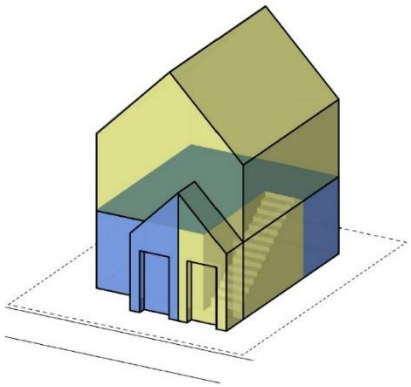


Figure 22.285-2. Side-by-Side Duplex

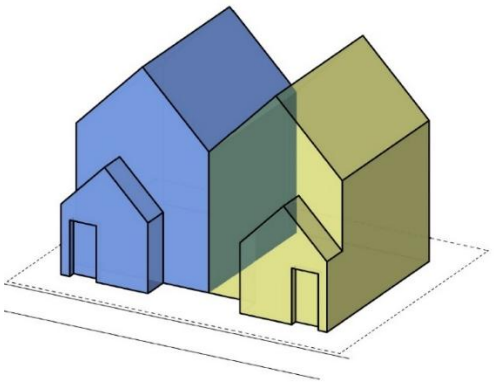


Figure 22.285-3. Duplex Attached by Breezeway Wall

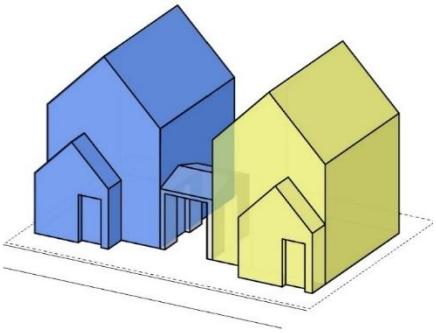


Figure 22.285-4. Duplex Attached by Garage

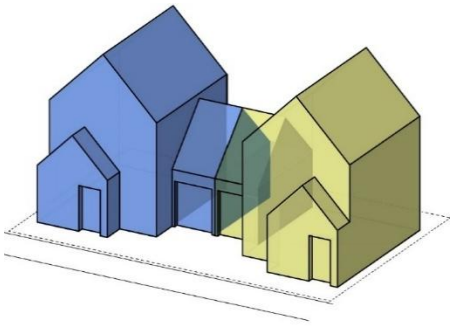


Figure 22.285-5. Detached Duplex Unit Examples

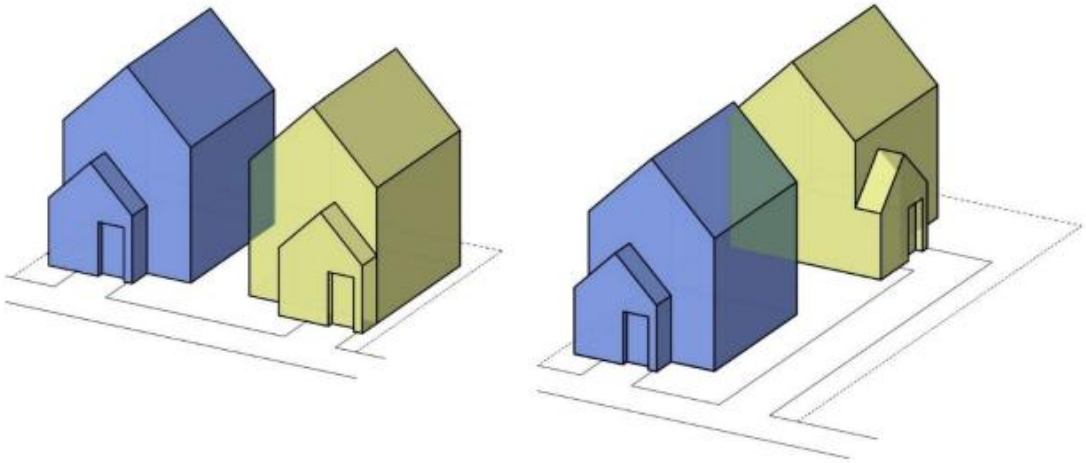


Figure 22.285-~~5~~6. Triplex Front and Back

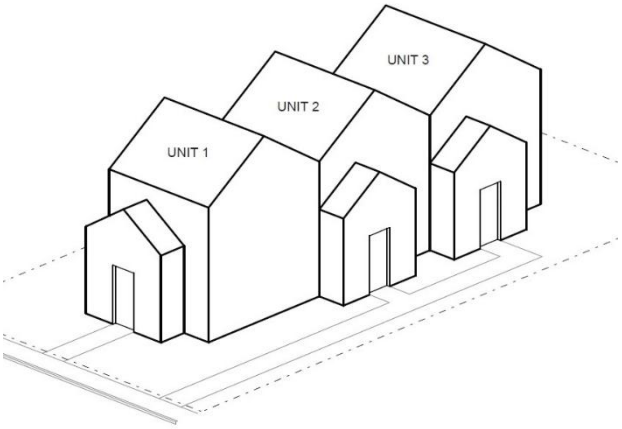


Figure 22.285-6~~7~~. Stacked Fourplex

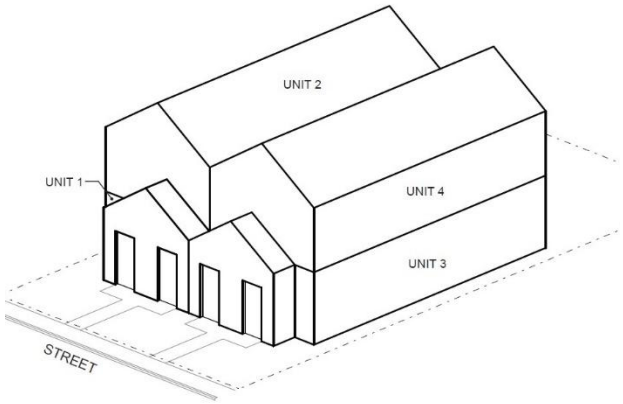
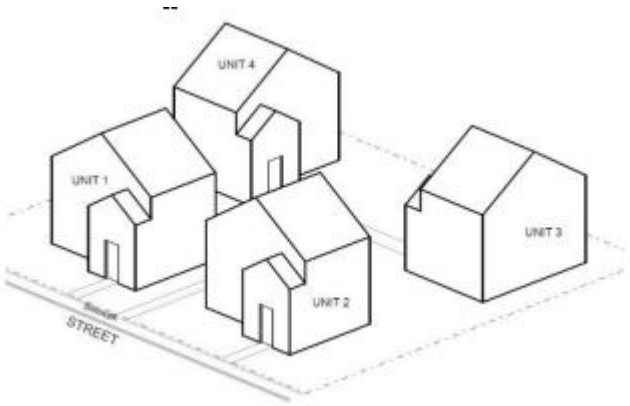


Figure 22.285-8 Detached Fourplex



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

New text is shown in black double underlined font and removed text is shown in ~~strikethrough~~ font. Staff comments in blue font are provided to explain the proposed amendments but are not amendments.

22.280 Single-Dwelling Units ~~and Two Primary Units~~.

(4) Single Dwelling Units are one dwelling unit on one lot, with or without one accessory dwelling unit or Single Room Occupancy (SRO) Unit. ~~Two primary units are two primary detached dwellings on one lot.~~

(5) Use Examples. Single detached units, a single dwelling unit with one Accessory Dwelling Unit, a Single Dwelling Unit with one SRO Unit, ~~two detached primary dwelling units,~~ one 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.

(6) Exceptions.

(e) 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.

(f) Dwellings and SRO developments where care or treatment are provided and that typically provide common dining are classified as a Group or Residential Care Home or Residential Care or Treatment Facility.

(g) Attached primary dwelling units are classified as Middle Housing (either a duplex, triplex, fourplex, or townhouse) or Multiple Dwelling Unit Development.

(h) 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 or that meet the definition of Live/work dwelling units

DEFINITIONS

22.400 Definitions. As used in this Code, the following words and phrases shall have the following meanings:

Accessible Unit: A dwelling unit that complies with the Oregon Structural Specialty Code and the provisions for Accessible units in ICC A117.1. A "Type A Unit" (i.e., partially accessible unit) means a dwelling unit that is designed and constructed for accessibility in accordance with the Oregon Structural Specialty Code and the provisions for Type A units in ICC A117.1.

Cottage Cluster: A grouping of detached dwelling units (cottages) with a density of at least four dwellings per gross acre, a footprint of less than 900 square feet each, and that includes a common courtyard. Cottage clusters are considered a type of middle housing and are not considered multiple dwelling units or single-dwelling unit detached dwellings. Cottage clusters typically have multiple cottages sharing a single lot; however, cottage clusters can also be divided so that cottages are on individual lots.

Cottage Cluster Project: A development site with one or more cottage clusters. Each cottage cluster as part of a cottage cluster project must have its own common courtyard. ~~Duplex: A single-detached building containing two dwelling units. Both dwelling units are located on a single lot, except where a middle housing land division has been approved. For the purposes of this Code, a Non-Property Line Separated Townhouse constructed under the Oregon Residential Specialty Code has the same meaning.~~

Duplex: Two attached or ~~A single-~~detached ~~building containing two~~ dwelling units in any configuration on a lot or parcel other than a lot or parcel created by a Middle Housing Land Division. Both dwelling units are located on a single lot, except where a middle housing land division has been approved. For the purposes of this Code, a Non-Property Line Separated Townhouse constructed under the Oregon Residential Specialty Code has the same meaning.

Fourplex: ~~A single detached building containing f~~Four dwelling units that are attached or detached in any configuration on a lot or parcel other than a lot or parcel created by a Middle Housing Land Division. All dwelling units are located on a single lot, except where a middle housing land division has been approved. For the purposes of this Code, a non-property line separated townhouse constructed under the Oregon Residential Special Code has the same meaning.

Single Room Occupancy (SRO) Development: A detached building or buildings with no less than four attached but separate Single Room Occupancy Units and a shared Kitchen. Sanitary facilities (bathrooms) may be shared or may be provided within or between SRO units. For purposes of this Code, density must be calculated as one dwelling for every ~~2~~three SRO units or fraction thereof, except that one SRO development with a minimum of four and no more than six SRO units sited on a property zoned to allow single dwelling units is considered one dwelling unit. See definition for a Single Room Occupancy Unit.

Townhouse: A dwelling unit that is part a grouping of two or more common wall dwelling units, each unit of which is built upon an individual subdivided or partitioned lot or parcel. Townhouses are also called single-dwelling unit attached houses, rowhouses, and zero-lot-line houses. “Non-property line” townhouses are not considered townhouses.

Triplex: ~~A single detached building containing t~~Three dwelling units that are attached or detached in any configuration on a lot or parcel other than a lot or parcel created by a Middle Housing Land Division. All dwelling units are located on a single lot, except where a middle housing land division has been approved. For the purposes of this code, a non-property line separated townhouse constructed under the Oregon Residential Specialty Code has the same meaning.