

## CHAPTER 9: LAND USE PLANNING

### GOAL 1: CITIZEN INVOLVEMENT

*No Changes are proposed to Goal 1 Plan content, so this section is not show.*

### GOAL 2: LAND USE PLANNING

#### UPDATING AND AMENDING THE COMPREHENSIVE PLAN BACKGROUND SUMMARY

The Comprehensive Plan is the City of Albany's most significant expression of the community's values, image, and goals for the future. Because we live in a complex and ever-changing world, the Comprehensive Plan must not become outdated and inflexible. The Plan's usefulness over time is dependent upon its ability to keep pace with changing circumstances and needs. The goals and policies within the Comprehensive Plan are based upon known community characteristics and data and on assumptions and predictions that utilize known information. For example, assumptions concerning economic activity and population growth were used to project future urban land needs. As time passes, some projections and predictions within the Plan may prove accurate, but others will certainly show need for revision.

The Comprehensive Plan also reflects current community attitudes and priorities. These change over time as well. Changes often occur in financial and funding situations, new laws, and political conditions. Factors outside the community also affect the character of the Comprehensive Plan. The Plan must have the ability to respond to a dynamic state and national political environment. Since Albany's Comprehensive Plan was first adopted in 1980, there have been a number of judicial, legislative, and administrative revisions undertaken that affect the statewide land use planning process.

One of the most significant legislative changes that affected Albany's Comprehensive Plan was ORS 197.640.649 passed in 1983, which resulted in the Periodic Review Rule (OAR-660-Division 19). It was the intent of the Oregon Legislature to protect the State's investment in the planning process by avoiding Comprehensive Plan obsolescence. Jurisdictions are now required to review and update their Comprehensive Plans on a periodic basis. Senate Bill 2295 also included other substantive issues that must be addressed during the Comprehensive Plan Periodic Review process.

Cities and counties must undertake planning to provide adequate opportunities for industrial and commercial development and adopt a public facilities plan that demonstrates how key public facilities will be provided to meet anticipated development and growth. Planning for industrial and commercial development and public facilities are addressed as part of Goal 9: Economic Development, Goal 11: Public Facilities and Services, and Goal 12: Transportation.

Any effort to change the Comprehensive Plan must be based on meeting a particular public need and compliance with statewide planning goals and administrative rules. Albany's Comprehensive Plan should not be subject to capricious or arbitrary changes. The Plan is used as the policy basis for many day-to-day decisions and as a long-range planning tool. Its success on both a current and long-range basis depends on the City's ability to achieve the goals and policies identified as being important to the community. The Comprehensive Plan must achieve the balance between maintaining flexibility with changing circumstances and observing a degree of permanence and reliability over time.

Because the Comprehensive Plan was written to cover a 20-year planning period and includes many subjects, it is obvious that all desired actions cannot take place in any one year. Thus, statements within the Plan must be prioritized according to Albany's needs and available funds. Decisions must be made as to what specific projects to accomplish and allocation of staff time. These decisions are made on a frequent basis, and do not

require amendment to the Comprehensive Plan. However, at the time of Plan Periodic Review and Update, a more thorough evaluation priorities can be made. At this time, goals, policies, and implementation methods can be reviewed and updated to reflect new conditions and priorities.

## GOAL 2: LAND USE PLANNING

### UPDATING AND AMENDING THE PLAN GOALS, POLICIES, AND IMPLEMENTATION METHODS

#### 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.

#### POLICIES

1. Applications for Comprehensive Plan Amendments submitted by property owners shall be reviewed semi-annually by the Planning Commission. The City Council or Planning Commission may also initiate Plan amendments at any time they determine that the public interest would be best served by so doing.
2. Base approval of Comprehensive Plan amendments upon consideration of the following:
  - a. Conformance with goals and policies of the Plan.
  - b. Citizen review and comment.
  - c. Applicable Statewide Planning Goals.
  - d. Input from affected governmental units and other agencies.
  - e. Short- and long-term impacts of the proposed change.
  - f. Demonstration of public need for the change.
  - g. Demonstration that the proposed amendment will best meet the identified public need versus other available alternatives.
  - h. Any additional information as required by the Planning Commission or City Council.
3. Consider periodic review as the most appropriate time to receive requests to amend the Urban Growth Boundary. Amendment requests shall be based on:
  - a. Criteria required for amendment of the affected jurisdictions' comprehensive plans.
  - b. Demonstration that the amendment request will not impair the City's ability to implement the public facility plan to provide services.
  - c. The facility plan can be concurrently amended to provide services to the affected area.
4. Undertake periodic review and/or update of the Albany Comprehensive Plan at least every four to seven years.

#### IMPLEMENTATION METHODS

1. Concurrent with each Periodic Review or major revision, the City should undertake the following:
  - a. Evaluate the Comprehensive Plan and implementing ordinances to assure plan and ordinance

consistency.

- b. Evaluate past and ongoing City actions (Council decisions, improvement projects, planning approvals, completed developments etc.) to determine if they have achieved the intent of the Plan.
  - c. Utilize up-to-date data and other information to evaluate the applicability of Plan goal and policy statements and implementing ordinances.
  - d. Review the effectiveness of the City's Citizen Involvement Program in providing for citizen involvement in the planning process.
2. Provide adequate staff resources to monitor changing community conditions and to maintain the information and data base needed to update the Comprehensive Plan.
  3. Prioritize implementation methods and improvement projects intended to implement Plan goals and policies and prepare a periodic schedule for updating the Comprehensive Plan background reports. Monitor and record new information that documents changing circumstances, including development activity to assure adequate land is available for commercial, industrial, and housing development activities.
  4. Monitor land prices and housing costs to determine any artificial non-market price impacts or other trends that result from implementation of Plan goals and policies or other City actions.
  5. Annually review the Capital Improvement Program (CIP) element of the Public Facility Plan (PFP) to determine progress in achieving the objectives of the PFP.

### RECOMMENDATIONS

1. Encourage the State to provide funds commensurate with the costs of maintaining the Comprehensive Plan and conducting periodic review.
2. Encourage state agencies such as the Department of Environmental Quality (DEQ), Economic Development Department (EDD), Oregon Department of Transportation (ODOT), and the Oregon Housing Division to provide the City with new information and data relevant to the City's land use planning program as it becomes available.

## GOAL 2: LAND USE PLANNING

### LAND USE DESIGNATIONS BACKGROUND SUMMARY

#### COMPREHENSIVE PLAN MAP DESIGNATIONS

The land use designations on the Comprehensive Plan Map (Plate 14) indicate the type, location, and density of land development and redevelopment that will be permitted in the future. The map shows where various kinds of land use activities are appropriate for all areas within the Urban Growth Boundary. Although future development in Albany may never correspond exactly to the Plan Map, the map does show where different kinds of activities are appropriate and directs growth to these areas. The map also identifies potential development opportunities for meeting Albany's housing, commercial, and employment needs.

The Comprehensive Plan Map has five general categories of designations (residential, mixed-use, commercial, industrial, and special uses). Each general category is broken down into more specific categories as described below. [Ord. 5543, 10/23/2002]

**Staff Comment:** Updating zoning designations to reflect modifications to the zoning district names and the types of housing that are permitted.

#### RESIDENTIAL: GENERAL REQUIREMENTS

The two residential plan designations have the following common elements: 1) they provide for the establishment of dwelling units; 2) home occupations are permitted subject to Development Code requirements; 3) Office Professional and Neighborhood Commercial zoning are permitted within all residential Plan designations without a Plan change, but will be subject to rezoning requirements and conformance to special standards; 4) ~~density development~~ increase bonuses ~~will~~ may be permitted subject to Development Code regulations; and 5) schools, parks, cemeteries, churches, and certain public facilities may also be compatible in the residential Plan designations. [Ord. 5667, 4/25/2007]

**LOW DENSITY RESIDENTIAL (LDR):** Identifies areas predominantly suited or used for detached single-family dwelling units, ~~and~~ middle housing (duplex, triplex, fourplex, townhouses, cottage clusters), and small single room occupancy development. Manufactured home parks may be permitted by Site Plan Review. Cluster housing ~~is permitted in Cluster~~ and Planned Unit Developments are permitted with density ranging by zone. (~~Density as stated is gross density, unless specifically mentioned otherwise.~~) [Ord. 5667, 4/25/2007; Ord. 5968, 1/14/2022]

**MEDIUM DENSITY RESIDENTIAL (MDR):** Identifies areas suitable for multiple-family and middle housing development of three to five stories at densities ~~up to 35 units per acre~~. Manufactured home parks are permitted with Site Plan Review. MDR lands are located on collector or arterial streets. [Ord. 5667, 4/25/2007; Ord. 5968, 1/14/2022]

**HIGH DENSITY RESIDENTIAL (HDR):** Identifies areas suitable for high-density urban residential development up to 7 stories with densities up to 50 dwelling units per acre. HDR lands located adjacent to land designated Village Center or for commercial or employment uses, and on collector and arterial streets. A variety of housing types and other compatible uses may be permitted. [Ord. 5667, 4/25/2007; Ord. 6010, 7/1/2023]

**URBAN RESIDENTIAL RESERVE (URR):** Identifies areas between the developed urban area and the Urban Growth Boundary within which a variety of residential zones may be permitted to accommodate all needed housing types without a Plan change. All zoning decisions will be based upon criteria as specified in the

Development Code. However, the three following policies which will be utilized in converting Urban Residential Reserve (URR) land to a particular residential zoning classification:

1. The average developed density within the URR designation will be up to 35 units per acre. [Ord. 5667, 4/25/2007]
2. The City will at all times maintain at least a 5-year supply of land designated for low-, medium-, and high-density residential uses.
3. Land within the URR designation will be changed to low- and medium-density Plan designations if such changes are needed to develop accurate 5-year capital improvement plans involving any such area or, in some cases, upon annexation to the City.

In addition to residential uses, it is anticipated that approximately 20 to 50 acres of the Urban Residential Reserve land will be utilized for neighborhood commercial and office professional uses to 2025. Approximately 100 acres will be needed for new school and park sites to 2025. [Ord. 5667, 4/25/2007]

### MIXED USE: GENERAL REQUIREMENTS [Ord. 5543, 10/23/2002]

**VILLAGE CENTER:** Provides for a mixture of uses to serve nearby neighborhoods. These uses must include retail and residential uses and may include offices, community and personal services, and live-work units. Development within a Village Center will be pedestrian friendly, fit the desired scale and character of nearby neighborhoods and prevent the appearance of strip commercial development. Within the Village Center Plan designation there will be at least two zones. One is a mixed-use commercial zone, the other is a medium- to high-density residential zone that provides a mix of housing choices. Sub-categories of this designation may further specify the compatible zoning districts and intended purpose and character of village centers located in particular areas of the city, such as in East Albany. [Ord. 6010, 7/1/2023]

In order for additional land to be designated Village Center, applicants must demonstrate the need for the Village Center in a particular location and what residential populations it is intended to serve.

- **Village Center - East:** This designation is specific to the East Albany Plan Area. The Village East designation is considered a sub-category of the Village Center designation; its compatible zoning districts are limited to those identified for the East Albany Plan area. This designation provides for a mixture of uses to serve nearby neighborhoods, including residential uses, retail, office, community and personal services, live-work units, and similar uses. Development within the Village East designation will be pedestrian friendly, fit the desired scale and character of nearby neighborhoods, and prevent the appearance of strip commercial development. [Ord. 6010, 7/1/2023]

### COMMERCIAL: GENERAL REQUIREMENTS [Ord. 5543, 10/23/2002]

**NEIGHBORHOOD VILLAGE:** Provides for a mix of residential and limited commercial activities that include smaller scale office professional and neighborhood commercial uses that meet the frequent needs of area residents. This designation is used to provide a buffer between residential and more intensive uses, (such as between the Community Commercial District and the surrounding residential areas) and also to provide neighborhood commercial areas in close proximity to residential areas that fit the character of nearby neighborhoods are easily accessible and pedestrian friendly. [Ord. 6010, 7/1/2023]

**GENERAL COMMERCIAL:** Identifies areas from community services to regional commercial establishments, suitable for a wide range of retail sales and service establishments. Aside from recognition of existing commercial corridors, new commercial areas will develop under design guidelines to avoid the continuance of "strip commercial" development in order to more efficiently serve the shopping needs of the community and region.

## INDUSTRIAL: GENERAL REQUIREMENTS [Ord. 5543, 10/23/2002]

**EMPLOYMENT:** Identifies land that allows for a variety of employment opportunities, including larger employers in light industrial, office, and flex-space developments typically designed for multiple use types. Employment uses may include corporate offices, research and development, creative services, medical campuses, manufacturing, wholesaling, and other accessory, and compatible uses that have minimal environmental effects. Retail uses are allowed but are limited in intensity so as to maintain adequate employment development opportunities. [Ord. 6010, 7/1/ 2023]

**LIGHT INDUSTRIAL:** Identifies areas suitable for a wide range of light industrial uses including corporate offices, research and development, high technology, manufacturing, warehousing, wholesaling, and other accessory and compatible uses that have minimal environmental effects and can conform to the Development Code performance standards for the Industrial Park and Light Industrial Zones.

**HEAVY INDUSTRIAL:** Provides for most types of manufacturing and processing, storage and distribution, and other types of industrial uses that require large amounts of land in proportion to the number of employees and are potentially incompatible with most other uses but comply with the development and environmental standards of the Development Code.

## SPECIAL USE DESIGNATIONS

**OPEN SPACE:** Identifies and protects areas where development is infeasible or undesirable and where it is in the public interest to protect lands for the maintenance of natural drainageways and flood channels, to protect fish and wildlife habitats, to enhance scenic and historic areas, to protect natural resources, and to protect potential recreation trails and park sites. The principal private uses of these areas will include one single-family dwelling per property, grazing and crop production, and recreation and open space uses.

**PUBLIC AND SEMI-PUBLIC:** Identifies existing public and semi-public uses including public parks, schools, the community college, cemeteries, and other public buildings as well as major utility facilities. Planned locations for such facilities are also included within this designation; however, future sites and public facility developments may take place within other Plan designations subject to special regulations.

**WATER BODY:** Identifies those areas which are more or less permanently inundated by major natural or man-made water features. Development within a water body is limited to water-dependent uses. Developments which occur adjacent to these features must be sensitive to the resource and comply with all other applicable Comprehensive Plan and Development Code provisions. [Ord. 5543, 10/23/2002]

**SITES OF SPECIAL INTEREST:** Identifies areas where additional, unique policies apply due to conditions or circumstances associated with the site. Because of the limited applicability of these policies, they are site specific. Each special interest site has been assigned a number and identified on a map which can be found on Plate 15, page 146. For each site with a map number, there are corresponding policies. These policies can be found on pages 147 and 148 of this chapter.

## OVERLAY DESIGNATIONS [Ord. 5764, 12/01/11]

The following overlay designations are used to designate areas within the City where additional regulations apply to the standards of the base zoning district. The overlay designations will be applied at the time of annexation in accordance with the Comprehensive Plan Plate maps.

**FLOOD PLAIN (/FP):** Identifies lands located within the 100-year flood plain as determined by the Federal Emergency Management Agency on the Federal Insurance Rate Maps, as augmented by best available local knowledge.

**HABITAT ASSESSMENT (/HA):** Identifies lands where significant habitat for species listed as threatened,

endangered, or sensitive by the state or federal governments have been documented as shown on Plate 3.

HILLSIDE DEVELOPMENT (/HD): Identifies lands that have hillsides with slopes of 12 percent or greater as shown on Plate 7.

RIPARIAN CORRIDOR (/RC): Identifies significant riparian corridors adjacent to Albany's rivers, creeks, streams and drainageways as shown on Plate 4.

WETLANDS (/SW): Identifies lands located in the City's Local Wetland Inventory that are classified as significant wetlands, and which are subject to local, state, and/or federal land use regulations. Significant and non-significant wetlands are identified on Plate 6.

WILLAMETTE RIVER GREENWAY (/GW): Identifies lands located within the Willamette River Greenway boundary which are subject to special regulations intended to "protect, conserve, enhance, and maintain the natural, scenic, historical, agricultural, economic, and recreational qualities of lands along the Willamette River."

## ZONING DISTRICTS

Zoning is a major "tool" for implementing the Comprehensive Plan. By law, zoning must be "consistent" with the Comprehensive Plan. However, this does not mean that zoning designations simply duplicate Comprehensive Plan designations. The zoning cannot permit uses or intensities that are not allowed under the particular Plan category. It is possible to have zoning that is more restrictive than the Plan designation (e.g., if the land is not needed for such uses in the short run, or a particular area is not currently suitable for such development). In those instances, the zoning intensity would be increased when the land was needed and/or the suitability of the land for a particular use was assured.

Zone changes will occur since minor adjustments to the Comprehensive Plan undoubtedly will occur. Zone changes may also ~~will~~ occur concurrently with annexations, although the particular zone(s) attached to each annexation depends on the Plan classification, the need for the intended uses, and the suitability of the land for a particular use.

Zoning regulations within the Urban Growth Boundary will be administered by the City of Albany for areas inside the city limits and by Linn County for land outside the city limits. Zone changes in the urbanizing area will be reviewed by the City of Albany subject to the requirements of the joint Urban Growth Management Agreements with Linn County.

The Albany Development Code describes the zoning districts that apply within the city limits. For information on zones that apply in the urbanizing area, refer to the Linn County zoning code. [Ord. 5543, 10/23/2002]

## PLAN MATRIX

The relationship of the Plan designations to the zoning districts is summarized graphically in the "Plan Designation Zoning Matrix." This matrix is for determining the compatibility of a particular zoning district with any given Plan designation. The matrix shows what zoning districts are compatible with each Plan designation.

It should be noted that the listing of a zoning district as compatible does not mean that the referenced zone can automatically occur anywhere in the specified Plan designation. For example, a number of commercial zones (Neighborhood Commercial, Community Commercial, etc.) are compatible with the General Commercial Plan designation, but which zone should be used in a particular area depends on the location and characteristics of the site and the need for the uses allowed in that zone.

Districts not listed in the table as compatible zoning districts for a particular Comprehensive Plan designation require both a zone change and a Comprehensive Plan change. [Ord. 5543, 10/23/2002]

**Staff Comment:** Updating matrix to reflect modifications to the zoning district names and adding compatible zoning allowances from the East Albany Plan.

### PLAN DESIGNATION ZONING MATRIX

Plan Designation	Compatible Zoning Districts
Employment*	Employment (EMP), Industrial Park (IP), Office Professional (OP), <u>and land zoned Light Industrial (LI)* in the East Albany Plan area prior to June 30, 2023</u>
Light Industrial	Industrial Park (IP), Light Industrial (LI), Transit District (TD)
Heavy Industrial	Light Industrial (LI), Heavy Industrial (HI)
General Commercial	Neighborhood Commercial (NC), Office Professional (OP), Community Commercial (CC), Regional Commercial (RC)
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), Elm Street (ES), Main Street (MS), Pacific Boulevard (PB), Waterfront (WF), Mixed-Use Commercial (MUC), Mixed-Use Residential (MUR), Residential Medium Density (RM), Office Professional (OP), Community Commercial (CC)
	Village Center - East (East Albany Plan Area only): Mixed Use Commercial (MUC), Mixed Use Residential (MUR)
High Density Residential**	High Density Residential (HDR), <u>Residential Medium Density Attached (RMA), Mixed Use Residential (MUR); and land zoned Residential Medium Density (RM) in East Albany Plan area prior to June 30, 2023</u>
Medium Density Residential	<u>R-5 Residential Single Family (RS-5)</u> , Residential Medium Density (RM), Residential Medium Density Attached (RMA), Mixed Use Residential (MUR), Office Professional (OP), Neighborhood Commercial (NC)
Low Density Residential	<u>R-10, R-6.5 and R-5 Residential Single Family (RS-10, RS-6.5, RS-5);</u> Hackleman Monteith (HM), Residential Reserve (RR), Office Professional (OP), Neighborhood Commercial (NC)
Urban Residential Reserve	<u>R-10, R-6.5 and R-5 Residential Single Family (RS-10, RS-6.5, RS-5);</u> Residential Reserve (RR), Residential Medium Density (RM), Residential Medium Density Attached (RMA), Mixed Use Residential (MUR), Office Professional (OP), Neighborhood Commercial (NC)
Public & 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. 5443, 10/23/2002; Ord. 5667, 4/25,2007; Ord. 5895, 10/14/2017; Ord. 6010, 7/1/2023]

# ARTICLE 1<sup>1</sup>

## 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

*\*\*\* No changes are proposed to Section 1.010 through 1.085, so those sections are not provided. \*\*\**

#### Staff Comments for new ADC 1.090 and 1.095:

The Oregon Legislature adopted Senate Bill 1537 in 2024, which included numerous provisions related to housing and included parameters and timelines on the local review of housing development. Currently, a jurisdiction must apply the standards and criteria that were applicable at the time an application was first submitted. SB 1537 amends the “goal post” rule to enable an applicant for housing developments to “opt in” to new standards adopted by the city that were adopted after the application is submitted without having to withdraw or resubmit a new application. This is a practice Albany currently follows and is proposing to add to the code per below. This applies to all land use applications but does not apply to building permits.

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.

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

<sup>1</sup> Entire article replaced with Ordinance 5947, January 1, 2021.

were submitted. The city will determine what additional information, if any, is necessary to review the application under the newly applicable standards and criteria.

## 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. With the exception of Historic Resource decisions which are appealed to the Landmarks Commission, appeals of Type I-L decisions are heard by the Planning Commission.
  - (3) Type II Procedure (Staff Review with Notice of Decision). A Type II procedure is used when the land use standards and criteria require some discretion, interpretation, or policy or legal judgment. The Director is the person designated in accordance with ORS 227.175 to make Type II decisions. Type II decisions require public notice and an opportunity for appeal to a local hearing body. With the exception of Historic Resource decisions which are appealed to the Landmarks Commission, appeals of Type II decisions are heard by the Planning Commission.
  - (4) Type III Procedure (Quasi-Judicial Review—Public Hearing). A Type III procedure is used when the land use standards and criteria require discretion, interpretation, or policy or legal judgment or for large projects. Quasi-Judicial decisions implement established policy but typically involve discretion. Type III decisions are made by the Planning Commission, Hearings Board or Landmarks Commission and require public notice and a public hearing, with an opportunity for appeal to the City Council.
  - (5) Type IV-Q Procedure (Quasi-Judicial Review—City Council Public Hearing). The Type IV-Q procedure is used when the land use standards and criteria require discretion, interpretation, or policy or legal judgment and is the procedure used for site-specific land use actions initiated by an applicant. The application is heard by the Planning Commission, Hearings Board, or Landmarks Commission. If the recommending body makes a favorable recommendation, the City Council will hold a hearing and make a final decision. If the Planning Commission, Hearings Board, or Landmarks Commission recommends against a proposal, the City Council will only consider the proposal on appeal by the applicant. Appeal of the City Council's Type IV-Q decisions are heard by the state Land Use Board of Appeals.
  - (6) Type IV-L Procedure (Legislative Review). Legislative review procedures are used to review proposals to amend the Albany Comprehensive Plan, the City's land use regulations, and large-scale changes to the Comprehensive Plan or Plan Maps, and involve the creation, revision, or implementation of broad public policy. Legislative proposals are first considered by the Planning Commission, which makes a recommendation to City Council. City Council makes the final decision on a legislative proposal through the enactment of an ordinance. Appeals of legislative decisions are heard by the state Land Use Board of Appeals.

### **Staff Comments for Table 1.100-1, Procedure by Application Type:**

**Cluster Development Process** – The cluster development standards are clear and objective, so they can be approved at a staff level. Staff proposes to reduce the planning process from a Type III (public

hearing and approval by the Planning Commission or Hearings Board) to a Type II (staff decision, with an opportunity to appeal to Planning Commission or Hearings Board).

**Type III Historic Resources Review** – Staff propose to streamline the process for Type III land use applications submitted in conjunction with a Type III Historic Resource review, by combining the review of all Type III applications, so they are reviewed by one hearing body.

**Table 1.100-1 – Procedure by Application Type**

Application / Action	Procedure Type	Decision Body	Pre-App Conference Required	Neighborhood Mtg Req.	Applicable Section
<b>Adjustments</b>	III	HB or PC	No	No	2.070
<b>Annexations</b>					
• 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
<b>Comprehensive Plan and Map Amendments</b>					
• 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
<b>Conditional Use</b>	II or III	CDD HB or PC	Yes	See 1.140	2.240
<b>Development Code Amendments</b>					
• Corrections to Development Code	I	CDD	No	No	2.280
• All other amendments	IV-L	CC	Yes*	No	2.280
<b>Interpretations</b>	I, I-L, II, III	See 1.040	Yes*	No	1.040
<b>Land Divisions and Planned Developments</b>					
• Cluster development	<del>III</del> II	<del>PC</del> CDD	Yes	Yes	11.430
• Land division (partition or subdivision) – preliminary plat	I-L	CDD	Yes	See 1.140	11.170
• Land division – final plat	I	CDD	No	No	11.170
• Planned development – preliminary review	III	PC	Yes	Yes	11.260
• Planned development – final approval	I	CDD	No	No	11.260
• Planned development – major changes	III	PC	Yes	Yes*	11.350
• Planned development – minor changes	I	CDD	No	No	11.350
• Property line adjustment	I	CDD	No	No	11.110
• Expedited land divisions***	N/A (ORS 197.360)	CDD	No; Recommended	No	11.600
• Middle housing land division***	N/A (ORS	CDD	No;	No	11.610

Application / Action	Procedure Type	Decision Body	Pre-App Conference Required	Neighborhood Mtg Req.	Applicable Section
	197.365)		Recommended		
<b>Manufactured Home Park (excluding Planned Developments)</b>	I-L	CDD	Yes	See 1.140	10.210
<b>Modifications</b>					
<ul style="list-style-type: none"> <li>Modification of Approved Site Plan Review and Conditional Use Applications</li> </ul>	Same procedure and decision body as original decision		Yes*	No	1.330
<ul style="list-style-type: none"> <li>Modification of Condition of Approval</li> </ul>	Same procedure and decision body as original decision		Yes*	No	1.340
<b>Nonconforming Use</b>					
<ul style="list-style-type: none"> <li>Nonconforming use review – change of use within same use category (see 2.345(1)(a) for criteria)</li> </ul>	I	CDD	No	No	2.350
<ul style="list-style-type: none"> <li>Nonconforming use review – all other situations</li> </ul>	II	CDD	Yes	No	2.350
<b>Recreational vehicle park</b>	I-L or III	CDD or PC	Yes		10.530
<b>Signs</b>					
<ul style="list-style-type: none"> <li>Standard Sign Permit</li> </ul>	I	CDD	No	No	13.610
<ul style="list-style-type: none"> <li>Sign Variance</li> </ul>	II	CDD	Yes	No	13.710
<b>Site Plan Review</b>	I or I-L	CDD	Yes*	See 1.140	2.415
<b>Vacations</b>	IV-Q or IV-L	CC	Yes*	No	2.620
<b>Variance</b>					
<ul style="list-style-type: none"> <li>Major Variance</li> </ul>	II	CDD	Yes	No	2.670
<ul style="list-style-type: none"> <li>Minor Variance</li> </ul>	I-L	CDD	Yes*	No	2.670, 2.694
<b>Zoning Map Amendments</b>					
<ul style="list-style-type: none"> <li>Quasi-judicial zoning map amendments</li> </ul>	IV-Q	PC or CC	Yes	No	2.720
<ul style="list-style-type: none"> <li>Legislative zoning map amendments</li> </ul>	IV-L	CC	Yes*	No	2.720
<b>OTHER APPLICATION TYPES</b>					
<b>Floodplain</b>					
<ul style="list-style-type: none"> <li>Floodplain Appeals</li> </ul>	II	See 6.091	Yes*	No	6.091
<ul style="list-style-type: none"> <li>Floodplain Development Permit</li> </ul>	I, I-L, II, III	See 6.093	Yes*	See 1.140	6.093
<ul style="list-style-type: none"> <li>Floodplain Variance</li> </ul>	II	CDD	Yes*	No	6.092
<b>Hillside Development</b>					
<ul style="list-style-type: none"> <li>Hillside review for development that only requires a building permit</li> </ul>	I	CDD	No	No	6.190
<ul style="list-style-type: none"> <li>Hillside review for all other</li> </ul>	I, I-L, II, III	See 6.190	No	See 1.140	6.190
<b>Historic Resources**</b>					

Application / Action	Procedure Type	Decision Body	Pre-App Conference Required	Neighborhood Mtg Req.	Applicable Section
• Designation of a resource or district	IV-Q or IV-L	LC and CC	No	No	7.040
• Amendments to Exist. Districts	IV-L	CC	No	No	7.040
• Local Historic Inventory Removal (outside districts, not on National Register, demolished or removed resources)	I	CDD	Yes*	No	7.040
• Individual Property Re-Rating	III	LC	Yes*	No	7.040
• Historic review of Ext. Alterations – no change in character; not visible	I	CDD	No	No	7.120
• Historic review of Ext. Alterations – all other, including all non-residential	III	LC	Yes*	See 1.140	7.120
• Substitute materials	III	LC	Yes*	See 1.140	7.180
• New construction	I-L	CDD	Yes*	No	7.240
• Demolitions / Relocations – contributing structures	III	LC	Yes*	See 1.140	7.310
<b>Natural Resource Impact Review</b>					
• 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
<b>Special Use Permit</b>	I	CDD	No	No	10.440 and 10.470
<b>Tree Removal</b>					
• 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
<b>Willamette River Greenway</b>					
• Greenway development review	II	CDD	Yes	No	6.520
LEGEND: City Council (CC), Director (CDD), Hearings Board (HB), Landmarks Commission (LC), Planning Commission (PC).					
* Unless waived by the Community Development Director. ** Additional application review procedures applicable to Historic Resources are found in Article 7. In cases of conflict with the procedures in Article 1, the procedures in Article 7 shall prevail. <u>When a Type III land use application is submitted with a Type III Historic Resource review application, the Landmarks Commission will</u>					

Application / Action	Procedure Type	Decision Body	Pre-App Conference Required	Neighborhood Mtg Req.	Applicable Section
<a href="#">review the associated application(s).</a> ***Application review procedures for Expedited and Middle Housing Land Divisions are found in Article 11 Sections 11.600 through 11.630.					

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

*\*\*\* No changes are proposed to Sections 1.105 through 1.150, so those sections are not provided. \*\*\**

**Staff Comments for ADC 1.160, Application Submittal Requirements:**

For a more thorough review of a land use application at the beginning of the application process, staff propose that applicants submit the most recent deed and/or recorded plat as well as all exceptions (i.e. recorded easements or restrictive covenants).

**APPLICATION SUBMITTAL AND COMPLETENESS REVIEW**

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).

[Ord. 6042, 7/12/24]

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

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

*\*\*\* No changes are proposed to Sections 1.165 to 1.790, so those sections are not provided. \*\*\**

## ARTICLE 2 REVIEW CRITERIA

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

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

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

**\*\*\* No changes are proposed to Sections 2.020 to 2.420, so those sections are not provided. \*\*\***

### SITE PLAN REVIEW

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 including 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.
- (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

[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]



## ARTICLE 3 RESIDENTIAL ZONING DISTRICTS

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

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

- Zoning Districts
- Schedule of Permitted Use
- Development Standards

### Staff Comments:

The Albany Housing Implementation Plan (HIP) recommends a variety of Development Code updates that reduce or remove barriers to various needed housing types.

1. Update the residential zoning district names and descriptions to reflect the types of housing allowed in the zone, such as middle housing.
2. Increase flexibility for Accessory Dwelling Units and allow one Single-Room Occupancy Unit per Single Dwelling Unit, in lieu of an accessory dwelling unit. See standards in Section 3.080 Special Condition 4 and additional staff comments before Section 3.080 (4).
3. Remove maximum densities and consider minimum densities in certain zones: As part of the approach to removing barriers to multiple-dwelling unit development, staff recommend removing maximum density limits in the city's higher-density zones. Allowing building and site controls to dictate density can also lead to more efficient use of land, as developers can design buildings that maximize the use of available space while meeting other design and amenity requirements. In addition, the Climate Friendly and Equitable Communities rules do not allow density caps in climate friendly areas. Building height and other site controls such as lot coverage and setbacks would limit the intensity of development. Removing strict density limits allows developers and property owners to respond more flexibly to market demands and evolving housing needs without being constrained by arbitrary caps.

This recommendation is reflected in Table 3.190-1 and other Code sections and the residential zone descriptions in Section 3.020, below, which are also being updated to better describe the types of permitted developments.

## ZONING DISTRICTS

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

- (1) RR—RESIDENTIAL RESERVE DISTRICT. The RR District is intended to recognize areas which, because of topography, level of services, or other natural or development factors are best served by a large lot designation. This district may be applied on an interim basis until urban services become available. The minimum lot size is five acres.
- (2) ~~RS-10—RESIDENTIAL SINGLE DWELLING UNIT DISTRICT.~~ The RS-10 District is intended primarily for a lower density residential environment consisting of detached single-dwelling units and middle housing. The average ~~minimum detached single-dwelling unit standard~~ lot size for single-dwelling units and duplexes is 10,000 square feet. [Ord. 6004, 12/28/22]
- (3) ~~RS-6.5—RESIDENTIAL SINGLE DWELLING UNIT DISTRICT.~~ The RS-6.5 District is intended primarily for low-density urban residential development that includes single dwelling units,

townhouses, and middle housing (duplexes, triplexes, fourplexes, and cottage clusters). The average standards lot size for minimum detached single-dwelling units and duplexes lot size is 6,500 square feet. [Ord. 6004/12/28/22]

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

(5) RM—RESIDENTIAL MEDIUM DENSITY DISTRICT. The RM District is primarily intended for medium-density residential urban development 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. ~~Multiple dwelling and townhouse development may not exceed 25 units per gross acre.~~ [Ord. 5673, 6/27/07; Ord. 6004, 12/28/22; Ord.6024, 12/29/23]

(6) RMA—RESIDENTIAL MEDIUM DENSITY ATTACHED DISTRICT. The RMA District is intended primarily for medium- to high-density urban residential development consisting of. Most units, whether single or multiple dwelling or middle housing, will be 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. ~~Development may not exceed 35 units per gross acre.~~ [Ord. 5673, 6/27/07; Ord. 6004, 12/28/22, Ord. 6024, 12/29/23]

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

(8) HM—HACKLEMAN-MONTEITH DISTRICT. The HM district is intended primarily to preserve the ~~existing residential~~ historic character of the existing residential resources in the Hackleman and Monteith National Register Historic Districts. ~~Conversion of single dwelling unit residential structures to non residential or multiple dwelling unit residential uses is not allowed.~~ 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. 6024, 12/29/23]

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 ~~shall all~~ 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 ~~shall~~ apply. The special purpose districts and the additional regulations that apply in such districts are summarized below:

<u>Special Purpose District</u>	<u>Applicable Articles</u>	
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	[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. [Ord. 5673, 6/27/07; Ord. 5947, 1/1/21]
- (2) Where a development proposal involves a combination of uses other than accessory uses, the more restrictive provisions of this Code ~~shall apply~~ ies. 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 ~~shall must~~ be reviewed using the Conditional Use criteria if concurrent approval of all uses is requested.  
[Ord. 5947, 1/1/21]
- (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]

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

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

The abbreviations used in the schedule have the following meanings:

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

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

[Ord. 5673, 6/27/07; Ord. 5947, 1/1/21]

**Table 3.050-1  
SCHEDULE OF PERMITTED USES**

Uses Allowed in Residential Zoning Districts									
USE CATEGORIES (See Article 22 for use descriptions.)	Spec. Cond.	RR	RS-10	RS-6.5	HM	RS-5	RM	RMA	HDR
<b>RESIDENTIAL: Dwellings</b>									
Single Dwelling Unit (SDU)	1, 22, 23	Y	Y	Y	Y	Y	Y	N	N
Primary Residence 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	Y	Y
Multiple-Dwelling Units	3, 22, 23, 25	N	N	N	N	N	S	S	S
<b>RESIDENTIAL: Care or Treatment</b>									
Assisted Living		CU	CU	CU	CU	CU	<del>CU</del>	<del>CU</del>	<del>CU</del>
Child or Adult Care Home	6	Y	Y	Y	Y	Y	Y	Y	Y
Residential Care or Treatment Facility (6 or more residents)		CU	CU	CU	CU	CU	CU	S	S
Residential or Group Care Home (5 or fewer residents)		Y	Y	Y	Y	Y	Y	Y	Y
<b>RESIDENTIAL: Miscellaneous Uses</b>									
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	N	Y
Temporary Residence	8	S	S	S	S	S	S	S	S
<b>INSTITUTIONAL</b>									
Basic Utilities		CU	CU	CU	CU	CU	CU	CU	CU
Community Services	24	CU	CU	CU	CU	CU	CU	CU	CU
Daycare Facility		CU	CU	CU	CU	CU	CU	S	S
Educational Institutions	13	CU	CU	CU	CU	CU	CU	CU	CU
Hospitals		N	N	N	N	N	CU	CU	CU
Jails & Detention Facilities		N	N	N	N	N	N	N	N
Parks, Open Areas, and Cemeteries	14	S/CU	S/CU	S/CU	CU	S/CU	S/CU	S/CU	S/CU
Religious Institutions	13	CU	CU	CU	CU	CU	CU	CU	CU
<b>COMMERCIAL: Limited Use Types</b>									
Entertainment and Recreation:									
Indoor	18, 23	CU	CU	CU	CU	CU	CU	CU	CU
Outdoor		CU	CU	CU	N	CU	CU	CU	CU
Offices	17, 19, 23	PD/CD	PD/CD	PD/CD	PD/CD	PD/CD	PD/CD	PD/CD	S
Recreational Vehicle Parks (See Article 10)	5, 10	N	N	N	N	N	CU	CU	CU
Restaurants, no drive-thru	17, 19, 23	PD/CD	PD/CD	PD/CD	PD/CD	PD/CD	PD/CD	PD/CD	S
Retail Sales and Service	17, 19, 23	PD/CD	PD/CD	PD/CD	PD/CD	PD/CD	PD/CD	PD/CD	S
Self-Serve Storage	15, 23	N	N	N	N	N	S	N	N
<b>OTHER CATEGORIES</b>									
Agriculture:									
Crop Production		Y	Y	Y	N	Y	Y	Y	Y
On-site Sales of Site-Produced Seasonal Goods		Y	S	CU	N	CU	CU	CU	CU
Plant Nurseries and Greenhouses		S	S	S	N	S	S	S	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

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]

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 ~~shall~~ apply to the particular use category as additional clarification or restriction.

- (1) One subdivision sales office is allowed in a subdivision for two years from the date it opens if the following requirements are met:
  - (a) The purpose of the office must be to sell lots or houses in the subdivision.
  - (b) The sales office must be placed on one or more of the lots in the subdivision.
  - (c) The sales office must be established within one year of the date the final subdivision plat is signed.
  - (d) At the time an application for the sales office is submitted, the owner of the subdivision must own all of the lots within 100 feet of the lot where the sales office will be located. The “owner of the subdivision” is the owner of more than 50 percent of the lots in the subdivision.
  - (e) The building must be placed in accordance with Section 3.190, Table 3.190-1 Development Standards.
  - (f) A manufactured building, a modular building, or a building constructed on the site is allowed for an office use. If a manufactured building is used, it must be placed in accordance with the standards for “Placement on Individual Lots” listed in Article 10. If a modular building is used, it must be removed from the property within two years of the date a building permit is issued for the sales office. If a manufactured or site-built building is used, the building does not have to be removed from the lot.
  - (g) Building permits must be obtained for the building. Manufactured and modular buildings must have 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.

[Ord. 5757, 12/4/11; Ord. 5673, 6/27/07; Ord. 5886, 1/6/17; Ord. 5947, 1/1/21; Ord. 6010, 7/1/23, Ord. 6042, 7/12/24]

- (2) When more than one single-dwelling unit ~~detached residence~~ is located on a property of record in a residential zoning district and the buildings were legally constructed, the property may be divided in conformance with Article 11, even if the resulting lots do not meet the required minimum lot area and dimensional standards for the zoning district, if required setbacks and lot coverage can be met.

[Ord. 5338, 1/28/98; Ord. 5673, 6/27/07; Ord. 6004, 12/28/22]

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

[Ord. 5673, 6/27/07; Ord. 5947, 1/1/21; Ord. 5968, 1/14/22; Ord. 6004, 12/28/22]

**Staff Comments for Special Condition (4):**

**(a) Increase Flexibility for Accessory Dwelling Units (ADUs)**

ADUs offer many benefits to the community, providing small footprint living, affordable rental opportunities, and options for homeowners to supplement their income or host a family member. The ADC already allows ADUs outright on any lot where single-dwelling units are allowed, as required by state law. The HIP recommends increasing flexibility for ADUs by allowing ADUs to be a larger percentage of the primary dwelling unit up to a maximum size. (Note: ADUs will still be subject to the lot coverage limits in Table 3.190-1.)

Section 3.080(4) currently limits ADUs to 50% of the floor area of the primary residence (excluding garages or carports) or 900 square feet, whichever is less. While the 900 square foot limit is relatively generous, the 50% limit is prohibitive if the ADU is constructed on a lot with a small home. For example, some older homes are only 800-1,000 SF and this would limit allowable ADUs to only 400-500 SF. The HIP recommends increasing the ratio of the ADU to the primary residence to allow a wider range of ADU sizes (up to 900 SF) that are still smaller than the primary dwelling unit.

To further increase flexibility for ADU's, staff recommend allowing conversion of an existing building into an ADU provided the size requirement is met, and conversion does not increase nonconformity of the structure, and building codes are met.

**2. Allow a Single Room Occupancy (SRO) Unit as an alternative to an ADU**

To provide further flexibility in housing, staff propose allowing one Single Room Occupancy Unit per SDU as an alternative to an ADU. This type of unit would provide additional private space within an existing dwelling unit without having to be completely separated. The SRO Unit would be an independently rented and lockable area providing living and sleeping space for the exclusive use of the unit occupant(s) but would not contain a kitchen and may or may not contain bathroom facilities. An SRO Unit could function as a space for multi-generational living or a separate rented space.

These proposals are also in Article 5 of the ADC.

- (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 a single legally established single-dwelling units, called the “primary residence dwelling unit”. ~~The ADU shall comply with the following standards:~~
- (a) Accessory Dwelling Units. Accessory Dwelling Units ~~shall be incidental in size to the primary residence and~~ must meet the following standards:
    - i. The size of an ADU ~~does not exceed 50 percent of the gross floor area of the primary residence (excluding garages or carports) or~~ may not exceed 900 square feet, ~~whichever is less.~~ (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 ~~residence~~ 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;
      - and
      - Interior 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.

[Ord. 5338, 1/28/98, Ord. 5673, 6/27/07; Ord. 5949, 1/1/21, Ord. 5968, 1/14/22; Ord. 5966 11/12/21, Ord. 6004, 12/28/22; Ord. 6042, 7/12/24]

- v. Conversion of an Existing Building. An existing accessory structure that was legally established prior to February XX, 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: [Ord. 6010, 7/1/23]
  - (a) The entire site must be located within 750 feet of the Interstate 5 right-of-way.
  - (b) The RV park access is limited to the Interstate 5 frontage road or streets servicing primarily industrial or commercial development.
- (6) “Child Care Homes” that include the day or nighttime care of no more than sixteen children, including the children of the provider or the care and treatment of adults for less than 24-hours are considered a residential use of the property and are allowed outright in zones that allow residential dwellings per the Oregon Revised Statutes (ORS). See ADC Section 22.200.  
[Ord. 5673, 6/27/07; Ord. 5968, 1/14/22; Ord. 6004, 12/28/22]
- (7) Bed and Breakfast facilities ~~shall~~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 ~~interior~~ side or rear residential lot line. [Ord. 5742, 7/14/10]
- (8) Temporary residences in conjunction with construction, emergency repair, or a night watchman are permitted with a Special Use Permit subject to the standards in Sections 10.440 through 10.510.  
[Ord. 5673, 6/27/07; Ord. 6042, 7/12/24]
- (9) The definitions of “Accessory Building” and “Accessory Use” in Article 22 ~~shall~~ apply. The Director ~~shall have~~ 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 750 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 ~~shall~~ 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

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.

[Ord. 5281, 3/26/97, Ord. 5673, 6/27/07, Ord. 5767, 12/7/11; Ord. 5947, 1/1/21, Ord. 5968, 1/14/22, Ord. 6024, 12/29/23; Ord. 6042, 7/12/24]

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

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

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

- (a) Antenna or antenna supports may not be located within any front setback area or within any required landscape buffer yard.
- (b) Antennas ~~shall~~ 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 ~~shall~~ 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 ~~shall~~ 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 ~~shall~~ 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.

[Ord. 5742, 7/14/10, Ord. 5886, 1/6/17]

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

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

- (14) Public park development activity subject to Conditional Use review includes major development; expansions of activities and development within parks which currently generate substantial traffic; or construction of major structures such as swimming pools, lighted ball fields, and community centers.



Conditional Use review is not required, however, for construction of play equipment, tennis courts, bike paths, picnic shelters, restrooms, landscaping, and similar activities within existing improved parks. [Ord. 5947, 1/1/21]

- (15) Self-Serve Storage is subject to the following standards:
- (a) Freestanding facilities ~~shall be~~ are limited to sites of one to three acres in size and maximum building coverage ~~shall be~~ is limited to 50 percent of the parcel.
  - (b) Building setbacks ~~shall be~~ are as follows: front - 25 feet, ~~interior~~ 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. No barbed wire fencing is permitted in residential districts.
  - (c) The minimum driveway width between buildings ~~shall be~~ is 20 feet for one-way drives and 24 feet for two-way drives.
  - (d) The maximum storage unit size ~~shall be~~ is 500 square feet.
  - (e) All outdoor lighting ~~shall~~ must be shielded to prevent reflection on adjacent properties.
  - (f) Repair of autos, boats, motors and furniture, and the storage of flammable materials ~~shall be~~ is prohibited on the premises and rental contracts ~~shall~~ 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 ~~shall~~ may be conducted on the premises.

[Ord. 5673, 6/27/07; Ord. 5742, 7/14/10]

- (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 ~~shall~~ 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 ~~shall~~ must be screened from adjacent land along its full perimeter, by providing screening, as defined in ADC Section 9.250.

[Ord. 5281, 3/26/97; Ord. 5445, 4/12/00; Ord. 5886, 1/6/17]

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

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

[Ord. 5673, 6/27/07]

- (19) In the HDR zone, office, restaurant, and retail sales/service uses are subject to Site Plan Review, provided they are limited to the ground floor of mixed-use buildings, with residential uses on the upper floors, and limited to 5,000 square-foot maximum floor area. All other office and retail sales/service uses must be considered through Planned Development and Cluster Development review, pursuant to Section 3.080(17). [Ord. 6010, 7/1/23]

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

[Ord. 6042, 7/12/24]

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

[Ord. 6042, 7/12/24]

- (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, or is public lands OR is owned by one of the following:
    - i. A local, state, or special government body, as defined in ORS Chapter 174; or
    - ii. A nonprofit corporation that is organized as a religious corporation or is organized as a public benefit corporation whose primary purpose is the development of affordable housing; or
    - iii. A housing authority as defined in ORS 456.005; or
    - iv. A manufactured dwelling park nonprofit cooperative, as defined in ORS 62.803.
  - (b) As used in this section, “affordable housing” means residential dwellings that are subject to an affordable housing covenant as provided in ORS 456.270 to 456.295 for a duration of no less than 30 years and meet either i, ii, or iii below.
    - i. Each unit on the property is made available to own or rent to households with incomes of 80 percent or less of the area median income (AMI); or
    - ii. All units on the property are made available to rent or own to households with incomes with a collective average of 60 percent or less of the AMI; or
    - iii. A manufactured dwelling park that serves only households with incomes of 120 percent or less of the AMI.
  - (c) Does not apply on lands where:
    - 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.

**Staff Comments for (d) Height and Area Bonuses:** This content is being moved to Section 3.220(6) to be located with other height and density bonuses.

- (d) Height and Area Bonuses. An affordable housing development proposal that meets the ~~standards~~ definition of affordable housing in (b) in this special condition and is located outside of a National Register historic district, will be granted the following additional height and area bonuses as applicable in Section 3.220(6).

<b>Maximum Zone Heights:</b>	<b>Height Increase Allowance:</b>
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

[Ord. 6042, 7/12/24]

- (23) The conversion of a building or a portion of a building from commercial to residential use ~~will~~ may be permitted through Site Plan Review. [Ord. 6042, 7/12/24]
- (24) Applications for emergency shelters sited under ORS 197.782 and ORS 197.783 are not a land use decision. [Ord. 6042, 7/12/24]

**Special Condition (25): Add clarification regarding townhouses versus “plexes”**

Clarification is needed to address the inconsistent definitions between the Oregon Building Code and the ADC for townhomes and “plex” type buildings used in middle housing (duplex, triplex, fourplex). The discrepancy is that the building codes allow townhomes to be both property line separated, and “non-property line separated”, whereas the ADC only considers property line separated attached units as townhouses. The misunderstanding between the definition of townhouses in the two codes end up costing developers’ money as the construction requirements for a townhouse and three or fourplex buildings are significantly different, with the latter being built as multifamily out of the commercial building code.

The goal of this amendment is to make it more transparent that a non-property line separated townhouse is allowed within the ADC where a triplex, fourplex, or multiple dwelling unit structure is permitted. New special condition (25) eliminates the confusion and the need to refer to a proposed structure as a “plex” or multiple dwelling unit structure for the ADC and a townhouse at the building permit stage.

(25) For the purposes of this code, “Non-Property Line Separated” Townhouses constructed under the Oregon Residential Specialty Code have the same meaning.

**SPECIAL STATUS**

3.085 Existing Residential Uses in the HM and RS-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 ~~shall~~must be deemed to be conforming to the Hackleman Monteith (HM) and Residential Single Dwelling Unit (RS-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 RS-5 zoning was first applied but will be subject to the regulations of any applicable overlay zone.

[Ord. 5886, 1/6/17; Ord. 5968, 1/14/22; Ord. 6004, 12/28/22]

The Special Status List is maintained by the Community Development Department Director.

[Ord. 5789, 10/10/12]

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.

[Ord. 5673, 6/27/07; Ord. 6004, 12/28/22]

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 RS-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 RS-5.

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

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. 5789, 10/10/12; Ord. 6018, 6/30/23]

*The Special Status list moved out of the Albany Development Code per Ord. 5789, 10/10/12.*

## HOME BUSINESSES

3.090 Purpose. The home business provisions recognize the needs of many persons 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 7.84.190.
- (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 7.84.190.
- (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 involves 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 ~~shall~~ must 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. [Ord. 5832, 4/9/14]

(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 III. The business ~~shall~~ 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]

3.110 Standards that Apply to All Home Businesses.

[Ord. 5832, 4/9/14]

- (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. [Ord. 5832, 4/9/14]
- (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]

**\*\*\* No changes are proposed to Sections 3.090 to 3.110 and 3.125 to 3.160, so those sections are not provided. \*\*\***

3.120 Standards for Home Businesses Allowed Outright. In order to be allowed outright, a home business ~~shall~~ **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 ~~on~~ **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 ~~shall~~ **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]

**\*\*\***

## DEVELOPMENT STANDARDS

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

[Ord. 5445, 4/12/00, Ord. 5768, 12/7/11; Ord. 5947, 1/1/21; Ord. 5968, 1/14/22, Ord. 6024, 12/29/23]

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

#### 1. Reduced Lot Sizes for Small Houses and Small Duplexes

The HIP recommends encouraging smaller dwelling units by allowing them to be built on smaller lots. Smaller houses typically do not have the same land needs as larger units and aren't being built with current standard lot sizes. Reducing the minimum lot size typically reduces the costs for developers and homebuyers because of the high cost of land. Lot coverage maximums would remain the same and would ensure that the smaller lots are not completely covered with dwellings. Because state law requires cities to allow duplexes on any lot regardless of lot size, the city must also allow small duplexes on these lots.

The proposed amendments in Table 3.190-1 include reduced lot sizes for two tiers of small homes and duplexes:

~ **800 – 1,250 square feet (SF).** The proposed ratio for minimum lot size is approximately 60% of the standard minimum lot size in each zoning district.

~ **Less than 800 SF.** The proposed ratio for minimum lot size is approximately 50% of the standard minimum lot size in each zoning district.

**2.Remove land-area-per-unit requirements for multiple-dwelling unit development**

The land area per unit requirements makes it impossible to achieve the current maximum densities in the RM and RMA zones without pursuing density bonus options, even for one-bedroom units. The HIP recommends removing the area requirements to reduce code barriers to multiple-dwelling unit development, in addition to removing density limits in higher-density zones. This will enable more efficient use of land and potentially reduce development costs per unit. Also, since the current land-area-per-unit requirements are higher for units with more bedrooms, removing this requirement will benefit apartments and condos with multiple bedrooms, which can accommodate larger families. Building height and other site controls such as lot coverage and setbacks would limit the intensity of development rather than density or land-area-per-unit requirements.

**3.Remove maximum densities and add minimum densities in the higher density zones RM, RMA, and HDR**

The HIP recommends removing maximum density limits in the city’s higher-density zones to ensure these zones can accommodate higher density development. In addition, the Climate Friendly and Equitable Communities rules do not allow density caps in climate friendly areas. Building height and other site controls such as lot coverage and setbacks would limit the intensity of development. Removing strict density limits allows developers and property owners to respond more flexibly to market demands and evolving housing needs without being constrained by arbitrary caps. Allowing building and site controls to dictate density can also lead to more efficient use of land, as developers can design buildings that maximize the use of available space while meeting other design and amenity requirements.

This recommendation is reflected in the proposed amendments in Table 3.190-1, below, and other Code sections.

In addition, to ensure Albany’s higher-density zones are not developed with lower density development, minimum densities are proposed in RM, RMA and HDR.

**4.Modify Front and Rear Setbacks**

The City’s minimum front yard setbacks are larger than those in neighboring jurisdictions, and the city’s minimum rear yard setback (interior setback) is less than neighboring cities. Staff proposes to reduce the front setback and increase the rear setback. This change may result in larger usable backyards and making it easier to site smaller houses.

**5.Facilitate “tiny home villages” as cottage cluster housing**

The HIP recommends various strategies for encouraging tiny home villages, which offer appealing options for affordable homeownership and can also serve as alternative forms of low-income or transitional housing. Under the current ADC, up to eight tiny homes on a single lot would be considered a cottage cluster development. The minimum lot size for cottage clusters in the RS-6.5 through RMA zones is 7,000 SF. The HIP recommends allowing reduced lot sizes of 1,000 SF per unit for smaller tiny home clusters where units are less than 800 SF. This would allow, for example, infill development of 5-unit or smaller tiny home clusters on 5,000-SF lots. This proposed change is reflected in the repurposed note (17) for Table 3.190-1.

**TABLE 3.190-1**

RESIDENTIAL DISTRICT DEVELOPMENT STANDARDS								
STANDARD	RR	RS-10	RS-6.5	HM	RS-5	RM	RMA	HDR
<b>Minimum Property Size or Land Requirements by Unit Type (1)(18)</b>								
Single dwelling unit (SDU) <u>over 1,250 SF</u> (1)	5 acres (15)	10,000 sf	6,500 sf	5,000 sf	5,000 sf	3,500 sf	N/A	N/A
<u>Small SDU or Duplex 800 – 1,250 SF</u> (21)	<u>5 acres (15)</u>	<u>6,500 sf</u>	<u>4,000 sf</u>	<u>3,000 sf</u>	<u>3,000 sf</u>	<u>2,000 sf</u>	<u>N/A</u>	<u>N/A</u>
<u>Small SDU or Duplex Less than 800 SF</u> (21)	<u>5 acres (15)</u>	<u>5,000 sf</u>	<u>3,000 sf</u>	<u>2,500 sf</u>	<u>2,500 sf</u>	<u>1,500 sf</u>	<u>N/A</u>	<u>N/A</u>

RESIDENTIAL DISTRICT DEVELOPMENT STANDARDS								
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
Duplex <u>over 1,250 SF</u> (1)(23)	5 acres (15)	10,000 sf	6,500 sf	5,000 sf	5,000 sf	3,500 sf	3,500 sf	None
Triplex (1)(16)(20)(23)	5 acres	10,000 sf	6,500 sf	5,000 sf	5,000 sf	5,000 sf	5,000 sf	None (20)
Fourplex (1)(16)(20)(23)	5 acres	10,000 sf	7,000 sf	7,000 sf	7,000 sf	7,000 sf	7,000 sf (17)	None (20)
Cottage Cluster (1)(16)(17)(20)	5 acres	10,000 sf	7,000 sf	7,000 sf	7,000 sf	7,000 sf	7,000 sf	None (20)
Multiple-dwelling units: (23) Studio and 1 bedroom units (1)(20)	N/A	N/A	N/A	N/A	N/A	2,000 sf/ unit	1,500 sf/ unit	None (20)
2 and 3 bedroom units (1)(20)	N/A	N/A	N/A	N/A	N/A	2,400 sf/ unit <u>None</u>	1,800 sf/ unit <u>None</u>	None (20)
4 or more bedroom units (1)(20)	N/A	N/A	N/A	N/A	N/A	3,000 sf/ unit	2,200 sf/ unit	None (20)
Single Room Occupancy Development	5 acres (15)	10,000 sf	6,500 sf	5,000 sf	5,000 sf	500 sf/unit	500 sf/unit	500 sf/unit
Minimum Lot Widths (18): Townhouse All other uses (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 40 35 ft 30 ft	20 ft 30 ft 20 ft	None None None	None None N/A
<b>Residential Density (20):</b>								
Minimum Density (units per gross net acres) (20)	None	None	None	None	None	None 12	None 20	25
Maximum Density (units per gross acre) (20)	(20)	(20)	(20)	(20)	(20)	25 (20) None	35 None	50 None
<b>Setbacks (4)(18):</b>								
Minimum Front Setback (4)(18)	<del>20</del> 15 ft	<del>20</del> 12 ft	<del>45</del> 10 ft	<del>45</del> 10 ft	<del>45</del> 10 ft	<del>45</del> 10 ft	<del>42</del> 10 ft	10 ft
Maximum Front Setback (18)	None	None	None	None	None	(14)	(14)	(14)
Minimum Interior Side Setback: • single-story (4) • 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 Interior: two or more stories (4)	8 ft	8 ft	8 ft	6 ft	6 ft	40 ft (5)(6)	40 ft (5)(6)	40 ft (5)
Minimum Rear Setback (4)(18)(22)	15 ft	15 ft	125 ft	10 ft	10 ft	408 ft (6)	408 ft (6)	5 ft (6)
Minimum Building Separation	(12)	(12)	(12)	(12)	(12)	(12)	(12)	(12)
Min. Garage or Carport Vehicle Entrance Front Setback (10)	20 ft	20 ft	20 ft (7)	20 ft (7)	20 ft (7)	20 ft (7)	20 ft (7)	20 ft (7)
Maximum Height (8)	30 ft	30 ft	30 ft	30 ft	30 ft	45 ft	60 ft	75 ft
Maximum Lot Coverage (9)(18)	20% (11)	50%	60%	60%	60%	70%	70 75%	75 80%
Minimum Open Space	N/A (13)	N/A (13)	N/A (13)	N/A (13)	N/A (13)	(13)	(13)	(13)
Min. Landscaped Area (18)	None	(2)	(2)	(2)	(2)	(3)	(3)	(3)

N/A means not applicable.

- (1) Section 3.220 bonus provisions may reduce minimum lot size and area requirements of units.
- (2) All yards adjacent to streets.
- (3) All yards adjacent to streets plus required open space.
- (4) 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 at 9.210; ~~exceptions to Setbacks for Accessibility Retrofits are in Section 3.263; Zero Lot Line standards are in Sections 3.265 and~~ 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 ~~per unit requirements~~ stories. Multiple-dwelling unit (MDU) developments must also meet the setbacks in Section ~~8.270(3)~~ 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 = 15 feet, except in RR and RS-10 zoning districts where the setback ~~shall~~ must be 20 feet.
- (8) See exceptions to height restrictions, Section 3.340; Maximum height for cottage clusters is in Section 3.192.
- (9) Lot coverage for single-dwelling units and middle housing development ~~shall~~ 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 ~~shall~~ must be 10 feet for single-story buildings and 20 feet for two-story or taller buildings. Minimum building separation for cottage clusters is ~~in~~ provided in Section 3.192.
- (13) Open Space Requirements. Open Space is required in multiple dwelling unit developments of 10 Ten or more units require open space. S (see Section 8.220); and residential land divisions of 20 or more lots (see Section 11.095).
- (14) See Section 8.240 for standards.
- (15) A property line adjustment between two existing RR properties may be allowed as long as no new lots are created and the resulting properties are at least 20,000 square feet and approval of a septic system has been obtained by Benton County.
- (16) Triplexes, fourplexes, townhouses, and cottage clusters are not permitted on lots that are nonconforming with respect to the minimum lot size applicable to that housing type within the zoning district (see ADC 2.320) 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 floor area of each cottage is less than 800 square feet., the minimum lot size must be 1,000 square feet per cottage. In RMA, a fourplex with one or more studio or 1-bedroom units shall meet the minimum lot size standards for multi-dwelling unit development, except in no case shall the minimum lot size required for a fourplex exceed 7,000 square feet.
- (18) If a duplex, triplex, fourplex, or cottage cluster has been divided by a middle housing land division, the development standards that are applicable to the lot ~~shall~~ apply to the middle housing parent lot, not to the middle housing child lots.
- (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) ~~Lot sizes in the HDR zone are controlled by the allowed density range of 25 units to 50 units per gross acre. Maximum density for the RR, RS-10, RS-6.5, HM, and RS-5 District is controlled by minimum lot size requirements for~~ housing types, maximum building height, and lot coverage by each zone. See Section 3.191 for



~~maximum townhouse density.~~ Except for townhouses, middle housing development is not subject to maximum density requirements in the RM District.

- (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 development, 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.~~

[Table 3.190-1 and footnotes amended by 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. 6042, 7/12/24]

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

(1) Maximum Density.

(a) In the RR, RS-10, RS-6.5, RS-5, and HM districts, the maximum permitted density for a townhouse project shall be based on the total area of the townhouse project, ~~excluding any right-of-way dedications.~~ For the purposes of calculating density, the net area required for each townhouse unit ~~shall be~~ **is** as follows:

- RR: 1.25 acres per townhouse unit
- RS-10: 2,500 square feet per townhouse unit
- RS-6.5, RS-5, HM: 1,700 square feet per townhouse unit

(b) In the RM, RMA, and HDR districts, the maximum ~~permitted density for~~ **of** a townhouse project is ~~based on the number of units permitted per gross acre, as follows~~ **not regulated**:

- ~~RM: 25 units per gross acre~~
- ~~RMA: 35 units per gross acre~~
- ~~HDR: 50 units per gross acre~~

(2) Number of Attached Dwelling Units.

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

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

- RR, RS-10, RS-6.5, and HM districts: maximum of 4 attached units per group
- RS-5 district: maximum of 6 attached units per group
- RM and RMA districts: maximum of 10 attached units per group
- HDR district: no maximum

[Ord. 5968, 1/14/22; Ord. 6010, 7/1/23; Ord. 6042, 7/12/24]

3.192 Development Standards for Cottage Clusters. Cottage clusters ~~shall~~ **must** meet the standards in subsections (1) through (5) below. Cottage clusters ~~shall~~ **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 ~~shall~~ must be separated by a minimum distance of six (6) feet. The minimum distance between all other structures, including accessory structures, ~~shall~~ must be in accordance with building code requirements.
- ~~(b)~~(c) Rear Setback. The minimum rear setback for cottages is 5 feet for one-story cottages and 8 feet for two-story cottages.
- ~~(c)~~(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]

3.200 Lot Size Variation Within a Land Division. Up to 50 percent of the total number of standard size ~~detached~~ 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 ~~shall~~ must indicate that the larger lots may not be further divided or deed restrictions ~~shall~~ 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]

3.210 Lot Size Variation Within Planned Developments. In the RS-6.5, RS-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]

**Staff Comments for 3.220 Development Bonus Provisions:**

**3.220(6) - Use height and area bonuses to support housing for low- and moderate-income households**

The HIP recommends using zoning incentives such as height and area requirement bonuses to encourage affordable housing development for households with incomes up to 120% of the area median income (AMI). The ADC already includes a density bonus for low- and moderate-income housing, and the incentives are scaled to offer larger density bonuses for projects that include units with deeper affordability requirements. The HIP recommends providing a more generous density bonus for units with the deepest affordability requirements (for households earning up to 60% of the AMI—the state’s income threshold for funding).

Without density limits, a density or area reduction bonus is meaningless, so a height bonus is proposed that is scaled to the level of affordability, the number of qualifying units, and the zone. Lot size bonuses will still be available in the single-dwelling unit zones. Note: Height and density bonuses are also available to affordable housing that meets certain criteria, as required by state law (Senate Bill 8, 2021 legislative session; ORS 197A.445). These provisions are included in Section 3.080(22).

**3.220 (8) - Use height and lot coverage bonuses to encourage accessible housing units**

As noted above, the HIP recommends several strategies to facilitate development of more accessible housing units, including new height and lot coverage bonuses. Like the affordability bonuses, the accessibility bonuses are scaled based on the level of accessibility (fully vs. partially accessible), the number of qualifying units, and the zone. These

bonus offerings would help offset some of the additional costs associated with requiring enhanced accessibility for City-supported developments, as described in Section 3.192.

3.220 Area, Density, and Height Bonus Provisions for Reduction in Lot Size and Area Requirements. 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 ~~and area per unit requirements~~, or increases in allowed building height, as indicated. In no instance ~~shall~~ 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 lot area per unit requirements~~ or result in a density that exceeds the allowed density in the zone by more than 20 percent, or ~~by more than 30~~ 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. [Ord. 5338, 1/28/98; Ord. 5673, 6/27/07; Ord. 5966, 11/12/21; Ord. 5968, 1/14/22]

Relationship to Transportation.

- (1) For single-dwelling unit ~~detached~~ 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. ~~area per unit requirements in those buildings can be reduced by 10 percent.~~ [Ord. 5673, 6/27/07; Ord. 5968, 1/14/22; Ord. 6004, 12/28/22]

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, ~~or lot area per unit requirements~~, is allowed in order to accommodate the density transfer.

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 bonus of up to 10 percent in reduced lot size ~~or area~~ requirements, ~~as applicable~~, may be allowed. Table 3.220-1 indicates the amount of bonus that ~~shall~~

~~shall~~ 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 ~~shall~~ 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 ~~shall~~ must receive this same solar access protection for south facing walls, and the south facing glass of those units ~~shall~~ must total at least 7 percent of the conditioned area. (South facing is defined as being within 25 degrees of true south.)

[Ord. 5764, 12/1/11; Ord. 5947, 1/1/21; Ord. 5966, 11/12/21; Ord. 5968, 1/14/22; Ord. 6004, 12/28/22]

**TABLE 3.220-1**

<b>ENERGY CONSERVATION BONUS STANDARDS</b>			
<b>Development Type</b>	<b>Percentage of Lots or Units Protected</b>	<b>Area Reduction Bonus Permitted</b>	<b>Height Bonus Permitted</b>
Subdivision for Single-Dwelling Unit Development	80 percent or more of lots	10 percent	<u>N/A</u>
	At least 60 percent and up to 80 percent	5 percent	<u>N/A</u>
Middle Housing or Multiple-Dwelling Unit Development	80 percent or more of units	10 percent	<u>20 percent</u>
	At least 60 percent and up to 80 percent	5 percent	<u>10 percent</u>

[Ord. 5947, 1/1/21, Ord. 5966, 11/12/21; Ord. 5968, 1/14/22; Ord. 6004, 12/28/22]

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 ~~area requirement~~ increase in height is permitted for all units within the development, or development phase for phased developments, as provided in Table 3.220-2. [Ord. 5966, 11/12/21]

- (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 ~~include~~ be subject to an affordable housing covenant as provided in ORS 456.220 to 456.295 ~~contractual obligations~~ for continued availability to low- and moderate-income persons for a period of at least 30 years. [Ord. 5947, 1/01/21]

TABLE 3.220-2

AFFORDABLE HOUSING DENSITY <u>AREA &amp; HEIGHT</u> BONUS STANDARDS					
Affordability Level	Percent of units set aside for persons whose household income is less than or equal to the affordability level (including bonus units)	<u>Lot Area Reduction Bonus Permitted*</u>	<u>Height bonus in historic districts and HM, MUR, LE, ES</u>	<u>Height Bonus in RM, RMA, WF, CB, DMU, HD</u>	<u>Height Bonus in HDR &amp; MUC</u>
120% AMI	50 percent of units	5 percent	<u>N/A</u>	<u>N/A</u>	<u>12 feet</u>
100% AMI	50 percent of units	10 percent	<u>N/A</u>	<u>N/A</u>	<u>12 feet</u>
80% AMI	5 percent of units	<del>5</del> <u>10</u> percent	<u>N/A</u>	<u>N/A</u>	<u>12 feet</u>
	10 percent of units	<del>10</del> <u>15</u> percent	<u>N/A</u>	<u>N/A</u>	<u>12 feet</u>
	20 percent of units	<del>20</del> <u>25</u> percent	<u>N/A</u>	<u>12 feet</u>	<u>24 feet</u>
<del>50</del> <u>60</u> % AMI	5 percent of units	<del>10</del> <u>15</u> percent	<u>N/A</u>	<u>12 feet</u>	<u>24 feet</u>
	10 percent of units	<del>20</del> <u>25</u> percent	<u>12 feet</u>	<u>24 feet</u>	<u>36 feet</u>
	20 percent of units	<del>30</del> <u>35</u> percent	<u>12 feet</u>	<u>24 feet</u>	<u>36 feet</u>

\*for Single-Dwelling Units and Middle Housing Types

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

(c) Per ORS 197A.445, an affordable housing development 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.

TABLE 3.220-3

<u>Zoning District</u>	<u>Height Increase Allowance</u>	<u>Reduced Lot Size Allowance*</u>
<u>RR, R-10, R-6.5, R-5, HM, LE, ES, DMU, HD</u>	<u>Up to 12 feet</u>	<u>50%</u>
<u>RM, RMA, MUR, WF, CB, MS, PB</u>	<u>Up to 24 feet</u>	<u>25%</u>
<u>HDR, MUC</u>	<u>Up to 36 feet</u>	<u>20%</u>

\* for Single-Dwelling Units and Middle Housing Types

Alley Access.

(7) 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. [Ord. 5338, 1/28/98; Ord. 5445, 4/12/00; Ord. 5947, 1/1/21]

Accessible and Adaptable Housing

(8) 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**

<u>Unit Type</u>	<u>Percent of Units that are Accessible or Type A (including bonus units)</u>	<u>Lot Coverage Bonus (Increase) Permitted</u>	<u>Height Bonus in LE, ES, DMU, HD, HM &amp; MUR</u>	<u>Height Bonus in RM, RMA, WF, CB, PB &amp; MS</u>	<u>Height Bonus in HDR &amp; MUC</u>
<u>Accessible Unit</u>	<u>10 percent of units</u>	<u>10 percent</u>	<u>12 feet</u>	<u>12 feet</u>	<u>24 feet</u>
	<u>20 percent of units</u>	<u>20 percent</u>	<u>12 feet</u>	<u>24 feet</u>	<u>36 feet</u>
<u>Type A Unit</u>	<u>20 percent of units</u>	<u>10 percent</u>	<u>12 feet</u>	<u>12 feet</u>	<u>24 feet</u>
	<u>50 percent of units</u>	<u>20 percent</u>	<u>12 feet</u>	<u>24 feet</u>	<u>36 feet</u>

**SETBACKS**

3.230 Setback Measurements. All setbacks must meet the minimum standards as set forth in Tables 3.190-1 and 3.230-1, as appropriate. Setback distances ~~shall~~ must be measured perpendicular to all portions of a property line. In addition to the setbacks in this article, all developments ~~s~~ must comply with Section 12.180, Clear Vision Area. See also Table 3.230-1, Accessory Structure Standards.

[Ord. 5673, 6/27/07; Ord. 5947, 1/1/21; Ord. 6004, 12/28/22]

**TABLE 3.230-1**

<b>ACCESSORY STRUCTURE STANDARDS</b>	
<b>STRUCTURE</b>	<b>STANDARD</b>
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)	<del>Interior</del> <u>Side and rear</u> setback = 3 feet (1)(3)
Attached Structure	<del>Interior</del> <u>Side and rear</u> setback = 5 feet (1)
Detached Structure walls greater than 8 feet tall (2)	<del>Interior</del> <u>Side and rear</u> 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 <del>interior</del> setbacks=see Table 3.190-1
Structures, including fences, intended for housing animals	See AMC 6.10.020

ACCESSORY STRUCTURE STANDARDS	
STRUCTURE	STANDARD
Fences greater than <del>6</del> 8 feet tall <i>All fences, see 9.360 through 9.380.</i>	Fences over <del>6</del> 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	<del>Interior</del> <u>Side and rear</u> setback = 10 feet
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	<del>Interior</del> <u>Side and rear</u> setback = 3 feet

[Ord. 5832, 4/9/14; Ord. 5947, 1/1/21; Ord. 5949, 1/1/21; Ord. 6024, 12/29/23]

- (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. [Ord. 5673, 6/27/07]
- (3) Accessory Structures up to 200 square feet or less that are exempt from building permit requirements under the Oregon Residential Specialty Code and no habitable may have a reduced interior setback of 2 feet with a roof overhang no more than 12 inches. [Ord. 6024, 12/29/23]

**\*\*\* No changes are proposed to Section 3.240 and 3.260 and 3.300 to 3.330, so those sections are not provided. \*\*\***

3.250 ~~Parking Standards~~ Restrictions in Setback or Yard Areas. No parking shall ~~must occur~~ 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]

\*\*\*

3.263 Exceptions to Setbacks for Accessibility Retrofits. An encroachment into the interior setback 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 ~~an interior~~ side and rear setbacks; and
- (4) A minimum of a 3-foot ~~interior~~ side and rear setback is retained adjacent to the expansion.

[Ord. 5832, 4/9/14]

3.265 Zero Lot Line. Any residential dwelling unit or residential accessory building may be located on ~~the interior~~ 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 ~~shall~~ 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 ~~an interior~~ 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]

3.270 Setbacks for Townhouses. The ~~interior-side~~ setback requirements for townhouse units ~~shall be~~ 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.; however, all other ~~The front and rear~~ setbacks ~~shall~~ must conform to this Code.  
[Ord. 5968, 1/14/22]

[3.275 Repealed by Ord. 5947, 1/01/21]

3.290 Setback and Fencing for Swimming Pools. Swimming pools ~~shall~~ must conform to the setback regulations for main buildings, except that outdoor swimming pools ~~shall~~ must be set back not less than 10 feet from all ~~interior-side and rear lot~~ property lines. Also, all swimming pools ~~shall~~ must be fenced or equipped with electric alarm systems in a manner that will prevent entry or trigger an alarm upon entry. 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]

## BUILDING HEIGHT

3.340 Height Exceptions. Height limitations are shown in Table 3.190-1, Development Standards. See also subsection 3.080(9).  
[Ord. 5968, 1/14/22]

- (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 ~~shall~~ 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]

[Section 3.350 repealed by Ordinance 6024, 12/29/23]

### Staff Comments for 3.350, Transition Heights Abutting Lower Density Uses:

Staff proposes to relocate the “Transition Heights Abutting Lower Density Uses” provision from Article 8 Design Standards to Article 3, as it relates more to building height than building design. Staff also proposes a stepped building height approach to give more flexibility to higher density properties while still protecting lower density uses.

### 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, or 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.



## LANDSCAPING

3.360 Requirements. All front yards ~~shall~~ must be landscaped in accordance with Section 9.140. [Ord. 5673, 6/27/07]

## 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, outside storage or display of materials, junk, parts, or merchandise ~~shall~~ is not be permitted in required front setbacks or buffer areas.

3.390 Screening of Refuse Containers. The following standards apply to all residential development, except for refuse containers or disposal areas serving four or fewer dwellings. Any refuse container or refuse disposal area which would otherwise be visible from a public street, customer or resident parking area, any public facility, or any residential area, ~~shall~~ must be screened from view by placement of a sight-obscuring fence, wall or hedge at least 6 feet in height. All refuse materials ~~shall~~ 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 ~~shall~~ 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]

## ARTICLE 4

### COMMERCIAL AND INDUSTRIAL ZONING DISTRICTS

4.010 Overview. The zones created in this article are intended to provide land for commercial, office and industrial uses. The differences among the zones, in the permitted uses and development standards, reflect the existing and potential intensities of commercial and industrial development. The site development standards allow for flexibility of development while minimizing impacts on surrounding uses. The regulations in this article promote uses and development that will enhance the economic viability of specific commercial and industrial areas and the city as a whole. Development may also be subject to the provisions in Article 8, Design Standards, Article 9, On-Site Development and Environmental Standards, and Article 12, Public Improvements. Sites within overlay districts are also subject to the provisions in Article 6, Natural Resource Districts, and Article 7, Historic Overlay Districts. [Ord. 5555, 2/7/03; Ord. 6042, 7/12/24]

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

*\*\*\* No changes are proposed to Sections 4.020 to 4.035, so those sections are not provided. \*\*\**

#### 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 ~~shall~~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 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.
- (2) Where a development proposal involves a combination of uses other than accessory uses, the more restrictive provisions of this Code ~~shall~~ 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 ~~shall~~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]

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.

**Staff Comments for Table 4.050-1:**

Some clarifying edits regarding applicable special conditions are needed regarding when housing and affordable housing are allowed in commercial zones to comply with state law.

**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
<b>INDUSTRIAL USE CATEGORIES</b>										
Contractors and Industrial Services		N	N	S-1	N	S-1	S-1	S-1	S-1	S
Manufacturing and Production	2	S/CU	N	S/CU-3	N	S/CU	S/CU-26	S/CU	S/CU	S
Small-scale Manufacturing	2	S/CU	N	S/CU	S/CU	S/CU	S/CU-26	S/CU	S/CU	S/CU
Railroad Yard		N	N	N	N	S	N	N	S	S
Warehousing and Distribution		N	N	N	N	N	CU	CU	S	S
Waste and Recycling Related	4	N	N	CU	N	N	N	N	S/CU	S/CU
Wholesale Sales		N	N	N	N	N	S-5	S-5	S	N
<b>COMMERCIAL USE CATEGORIES</b>										
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 w/ drive-thru or mostly delivery	25	CUII N	S CU-10	S S	S S	S N	S CU	S CU	N N	N N
Retail Sales and Service		S-11	S-11	S	S	S	S-11	S-11	S/CU /N-11	N
Self-Serve Storage	12	N	N	S	S	N	N	CU	S	S-13
Taverns, Bars, Brewpubs, Nightclubs	25	CUII	CUII	S	S	S	CU	CUII	CUII	CUII
Vehicle Repair		N	N	S	S	N	N	N	S	N
Vehicle Service, Quick		N	N	S	S	N	N	CU	N-14	N

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
gas/oil/wash										
<b>INSTITUTIONAL USE CATEGORIES</b>										
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
Daycare Facility		CU	CU	S	N	N	S	S	CU	N
Educational Institutions	16	N	N	CU	N	CU	S/CU	S/CU	S/CU	N
Hospitals		CU	N	N	N	N	CU	CU	CU	N
Jails and Detention Facilities		N	N	N	N	N	N	N	CU	N
Parks, Open Areas and Cemeteries	17	CU	CU	CU	N	CU	CU	CU	CU	N
Religious Institutions	16	CU	CU	S	N	N	CU	CU	CU	N
<b>RESIDENTIAL USE CATEGORIES</b>										
Assisted Living Facility		CU	CU	CU	N	N	N	N	N	N
Home Businesses (See 3.090-3.180 to determine if CU.)		Y/CU	Y/CU	Y/CU	Y/CU	Y/CU	Y/CU	Y/CU	Y/CU	Y/CU
Residential Care or Treatment Facility		S	S	S	N	N	N	N	N	N
Single Dwelling Unit (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- <del>7</del> - <del>S-28, 29</del>	N/ <del>7</del> - <del>S-28, 29</del>	N/ <del>3</del> - <del>S-28, 29</del>	N/ <del>3</del> - <del>S-28, 29</del>	N	N/ <del>S-28</del>	N/ <del>S-28</del>	N/ <del>S-28</del>	N
Units Above or Attached to a Business	27, 28	S, 29	S, 29	S, 29	CU/ <del>S-29</del>	S	S	S	S	N
Residential Accessory Buildings	21	Y/S	Y/S	N	N	N	N	N	N	N
<b>OTHER USE CATEGORIES</b>										
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	<del>Y/S-48</del>	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]

### SPECIAL CONDITIONS

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

- (1) Contractors and Industrial Services in the CC, TD, IP, EMP, and LI zones.
  - (a) Limited Uses. Salvage or wrecking operations are prohibited in the CC, TD, IP, EMP, and LI zones. See Section 4.290 for outside storage standards.
  - (b) Prohibited Uses in EMP. The following Contractors and Industrial Services uses are prohibited in the EMP zone: salvage or wrecking of heavy machinery, metal, and building materials; towing

and vehicle storage; overnight or long-term equipment storage; heavy truck servicing and repair; tire retreading or recapping; and solid fuel yards.

- (2) Manufacturing and Production. The environmental performance standards of Article 9 may limit the placement of certain uses in some districts. If the site is located within 300 feet of residentially zoned land, the use may require a Conditional Use approval.
- (3) Manufacturing in the CC zone. Manufacturing uses in CC must have a retail storefront and sell their products to the public on site.
- (4) Waste and Recycling Related Uses in the CC, LI, and HI zones.
  - (a) Limited uses in CC. Only processing and sorting operations conducted within enclosed structures less than 5,000 sq. ft. in total area are considered with a Conditional Use review.
  - (b) Limited uses in LI. Processing and sorting operations conducted within enclosed structures less than 5,000 sq. ft. in total area are allowed with Site Plan Review. Salvage yards, junkyards, and refuse transfer stations are not permitted. All other material and recycling operations are considered through a Conditional Use review.
  - (c) Limited uses in HI. Processing and sorting operations conducted within enclosed structures less than 5,000 sq. ft. in total area and all other material and recycling operations, excluding salvage yards and junkyards, are allowed with Site Plan Review. Salvage yards, junkyards, sanitary landfills, and refuse transfer stations require a Conditional Use review.
- (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 ~~shall~~ must meet the following standards:
  - (a) An adult entertainment use ~~shall~~ may not be established or expanded within 300 feet of the district boundary line of any residential zoning district.
  - (b) An adult entertainment use ~~shall~~ may not be established or expanded within 300 feet of any other adult entertainment use.
  - (c) An adult entertainment use ~~shall~~ 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 ~~shall~~ 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 ~~shall~~ 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 ~~shall~~ must so specify.
- (13) Self-Serve Storage in the HI zone. Self-Serve storage units are allowed in HI only on sites less than 3 acres.
- (14) Truck Stops/Fuel Sales in the LI zone. This use is classified as Contractors and Industrial Services, rather than Vehicle Service, Quick.
- (15) Community Service Uses. Community Service uses that may have significant off-site impacts, 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.
- (16) Educational and Religious Institutions.
- (a) Vocational or trade schools in EMP, IP, LI and HI are allowed through Site Plan Review. All other educational and religious institutions are reviewed as a Conditional Use.
  - (b) The Conditional Use 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.

Any expansion to an existing educational or religious institution ~~shall~~ 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 4.260(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 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 ~~residence~~ dwelling unit”. The ADU ~~shall~~ 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 ~~detached residence~~ unit, called the “primary ~~residence~~ dwelling unit”. The ADU ~~shall~~ must comply with the standards for ADUs in ADC 5.070(15).
- (20) Single-Dwelling Units and Middle Housing Townhouses. ~~See Section 4.075. New single dwelling units and townhouses are not permitted unless allowed in the zoning district.~~
  - (a) New single-dwelling units and townhouses are not permitted unless allowed in the zoning district. See section 4.075.
  - (b) 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 ~~shall~~ 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 ~~shall~~ must be screened with a six-foot solid screen fence, wall, hedge, or other landscaping.
  - (c) Antennas used to display sign messages ~~shall~~ 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 for single dwelling units. SRO development is also permitted through Site Plan Review as a multiple dwelling unit development, but each individual SRO unit is considered 0.5 dwelling units when calculating density. Accessory Dwelling Units are not permitted with SRO developments.
- (28) Housing. Affordable housing and conversion of buildings or portion of buildings in commercial use to housing will be permitted through Site Plan Review when the following standards are met.
  - (a) Affordable housing as defined in (b) is permitted on property zoned for commercial uses, religious assembly, or public lands OR is owned by one of the following:
    - 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) The Affordable housing residential uses as defined and used in this Section ~~described in (a) through (c) above are~~ 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 Housing. Per ORS 197A.460, affordable housing development subject to an affordable housing covenant as provided in ORS 456.270 to 456.295 is permitted through Site Plan Review in the OP, NC, CC and RC zones when the following standards are met.
- (a) Each unit is affordable to a household with income less than or equal to 60 percent of the area median income (AMI) as defined in ORS 456.270; or
  - (b) Mixed use structures with ground floor commercial units and 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.

**Clarification of “Townhouses” and attached “plexes”:**

Clarification is needed to address the inconsistent definitions between the Oregon Building Code and the ADC for townhomes and middle housing “plex” type buildings (duplex, triplex, fourplex) and multiple dwelling units. The discrepancy is that the state building codes allow townhomes to be both property line separated, and non-property line separated, whereas the ADC only considers townhouses as property line separated attached units. The misunderstanding between the definition of townhouses in the two codes can end up costing developers’ money and time as the construction requirements for a townhouse versus a triplex, fourplex, or multiple dwelling unit buildings are significantly different under Oregon building codes, with the latter being built as multifamily out of the commercial building code.

The goal of this amendment is to make it more transparent that non-property line separated townhouses per the Oregon building codes are considered a triplex or fourplex structure (middle housing) or a multiple dwelling unit structure and are only permitted where these uses are permitted. The special condition eliminates the confusion needing to refer to a proposed structure as a “plex” or multiple dwelling unit structure for the ADC and a townhouse at the building permit stage.

(30) For the purposes of this code, Non-Property Line Separated Townhouses constructed under the Oregon Residential Specialty Code or Oregon Structural Specialty Code have the same meaning.

[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]

## 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 ~~detached~~ unit, and townhouse dwellings built before January 1, 2002, on commercial or industrially zoned properties ~~shall~~ 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 ~~detached~~ 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]

## 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 address special circumstances and exceptions. See Article 8 for design standards for single-dwelling, middle housing, and multiple-dwelling developments.  
 [Ord. 5445, 4/12/00, Ord. 5555, 2/7/03; Ord. 5742, 7/14/10, Ord. 5768, 12/7/11; Ord. 5947, 1/1/21; Ord. 5968, 1/14/22; Ord. 6018, 6/30/23]

**TABLE 4.090-1**

<b>Commercial and Industrial District Development Standards</b>									
<b>STANDARD</b>	<b>OP</b>	<b>NC</b>	<b>CC</b>	<b>RC</b>	<b>TD</b>	<b>EMP</b>	<b>IP</b>	<b>LI</b>	<b>HI</b>
<b>MINIMUMS</b>									
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	10'	10'	10'	10'	10'	15'(11)	15'(11)	15'(11)	15'
<del>Interior</del> <u>Side and rear</u> setbacks - abutting non-res'l	5'	None	None	None	None	15'(6)	15'(6)	None	None
<del>Interior</del> <u>Side and rear</u> setbacks - abutting residential <del>district</del> <u>zones</u>	10'(5)	10'(5)	10'(5)	10' (5)(6)	10' (5)(6)	30'(11)	30'(11)	40'(11)	50'
<b>MAXIMUMS</b>									
Building Size	None(10)	None(10)	100,000 (13)	None	None	None	None(10)	None	None
Lot size (sq. ft.)	None	30,000(2)	None	None	None	None	None	None	None
Height (8)	30'	30'	50'	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 30,000 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 residential ~~the R-5, R-6.5, R-10, RR, HM, and MUR~~ districts and/or uses 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 ~~detached~~ units and middle housing development ~~shall~~ 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) Unless in Airport Approach Overlay District. See Sections 4.400 to 4.440.
- (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 ~~shall~~ 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 structures permitted by Conditional Use approval.
- (13) The maximum building size may be exceeded for non-commercial and non-office uses when the building is multi-story.

[Table and footnotes amended by 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]

## 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 also 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]
- 4.110 Measurements. Setback distances must be measured perpendicular to all portions of a property line.
- 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 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 up to 5 feet and into the required ~~interior~~ 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]
- 4.150 Zero Lot Line. Any residential dwelling or residential accessory building may be located on the ~~interior~~ 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 ~~shall~~ 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 an ~~interior~~ side or rear setback, then no maintenance agreement is required. This easement ~~shall~~ must be written so it 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]
- 4.160 Interior Side and Rear Setbacks for Attached Dwellings. The ~~interior~~ 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]
- 4.170 Setbacks and Fencing for Swimming Pools. Swimming pools must conform to the setback regulations for main buildings, except that outdoor swimming pools must be set back at least 10 feet from all ~~interior~~ side and rear ~~lot~~ property lines. Also, all swimming pools must be fenced 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.
- 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. Also, 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]

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:

<u>Street/Highway</u>	<u>Additional Setback</u>
Interstate 5	50 feet
Pacific Boulevard (Hwy. 99E)	25 feet
Santiam Highway (Hwy. 20)	25 feet
Waverly Drive (S. of Santiam Hwy.)	10 feet
Geary Street (Pacific to Grand Prairie)	10 feet
Queen Avenue	10 feet

In reviewing development proposals, the review body may require additional noise-mitigating features such as berms, landscaping, fences, or walls within the above-described setback areas.

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 ~~or interior~~, 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]

4.220 Parking Restrictions in Setback Areas. Parking and loading spaces must not be located in a required ~~front or interior~~ setbacks, except:

- (1) Paved driveways provided for single-dwelling unit ~~detached~~, 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]

## 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]

[4.250 and 4.260 OFF-STREET PARKING AND LOADING REQUIREMENTS moved to Article 9 per Ord 5832, 4/9/14 and Ord. 6018, 6/30/23]

## 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]

## OUTSIDE STORAGE

### 4.290 General.

- (1) In the NC, OP, TD, EMP, and IP zoning districts, outside storage or display of materials, junk, parts, or merchandise is not permitted, except for automobile sales (where allowed). [Ord. 6010, 7/1/23]
- (2) In the PB and CC zones, outside storage is allowed 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. 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 ~~interior~~ 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 ~~interior~~ 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.  
[Ord. 5555, 2/7/03; Ord. 5742, 7/14/10; Ord. 5886, 1/6/17]

- 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, ~~and must~~ 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]

[4.310 to 4.320 Fence standards moved to Article 9, Ord. 5751, 3/9/11.]

**\*\*\* No changes are proposed to Section 4.400 to 4.440, so those sections are not provided. \*\*\***

## ARTICLE 5 MIXED USE ZONING DISTRICTS

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

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

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

[Ord. 5894, 10/14/17]

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

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

- Zoning Districts
- Schedule of Permitted Uses
- Development Standards

[Ord. 5673, 6/27/07]

### ZONING DISTRICTS

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

- (1) HD – HISTORIC DOWNTOWN DISTRICT. The HD district is intended for a dense mixture of uses with an emphasis on entertainment, theaters, restaurants, nightlife and specialty shops. High-density residential infill on upper floors is encouraged, as is the continued presence of the government center and supporting uses.
- (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, personal services, offices and medium density residential uses. The district would typically be anchored by a grocery store and may include a mix of smaller retailers, offices, live-work units, and residences. The MUC district is easily accessible to nearby residences, and commercial uses are compatible in scale and design with adjacent neighborhoods. Uses in the MUC zone will serve area residents and should not draw from the region.

[Ord. 5556, 2/21/03; Ord. 5577, 7/28/04; Ord. 5555, 2/7/03; 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]

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 ~~shall~~ 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 ~~shall~~ apply. The special purpose districts and the additional regulations that apply in such districts are summarized below:

<u>Special Purpose District</u>	<u>Applicable Articles</u>
Airport Approach	Article 4
Floodplain	Article 6
Wetlands	Article 6
Willamette Greenway	Article 6
Hillside Development	Article 6
Historic Overlay	Article 7

[Ord. 5555, 2/7/03]

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]



**Staff Comments: Clarifications and consistency**

Some clarifying edits are needed to comply with state law regarding when housing is allowed in commercial zones per ORS 197A.445 and to clarify the state building code use of “townhouses” does not apply to attached “plexes” or multiple dwelling units in the ADC.

**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 ~~shall~~ 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 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.
- (2) Where a development proposal involves a combination of uses other than accessory uses, the more restrictive provisions of this Code ~~shall~~ 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 ~~shall~~ 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]

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 Use permitted that requires a site plan approval prior to the development or occupancy of the site or building.
- CU Use considered conditionally under the provisions of Sections 2.230-2.260 through the Type III procedure.
- CUII Uses considered conditionally through the Type II procedure under the provisions of Sections 2.230-2.260.
- 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.

**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
<b>INDUSTRIAL USE CATEGORIES</b>											
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
<b>COMMERCIAL USE CATEGORIES</b>											
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 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
<b>INSTITUTIONAL USE CATEGORIES</b>											
Basic Utilities	10	CU	CU	CU	CU	CU	CU	CU	CU	CU	CU
Daycare Facility		S	S	S	S	S	N	CU	S	S	S
Community Services	11	CU	CU	S (11)	S (11)	S (11)	S (11)	S (11)	S (11)	S (11)	CU
Educational Institutions	12	CU	CU	CU	CU	CU	CU	N	CU	CU	CU
Hospitals		N	CU	CU	CU	S	S	CU	N	CU	CU
Jails & Detention Facilities		N	N	N	N	N	N	N	N	N	N
Parks, Open Areas, and Cemeteries	13	CU	CU	CU	CU	CU	CU	CU	CU	CU	CU
Religious Institutions	12	CU	CU	CU	CU	S	S	CU	CU	CU	CU
<b>RESIDENTIAL USES</b>											
Residential Care or Treatment Facility	14	S	CU	S	S	S	S	N	S	S	S
Assisted Living Facility		<del>CU</del>	CU	CU	CU	CU	CU	CU	CU	CU	<del>CU</del>
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

Use Categories (See Article 22 for use category descriptions.)	Spec. Cond.	MUC	WF	HD	DMU	CB	LE	PB	MS	ES	MUR
Duplex	15, 28, 29, <u>30</u>	Y-17	S-16	N	S-16	S-16	Y	N	N	CU	Y
Townhouse	15, 28, 29	Y-17	S-16	N	S-16	S-16	N	N	N	CU	Y
Triplex or Fourplex	<u>15</u> , 28, 29, <u>30</u>	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, <u>30</u>	S-17	S-17	N	S-17	S-17	S	N	CU	CU	S
Units Above or Attached to a Business	<u>27</u> , 28, 29	S-17	S	S-17	S	S	S	S	S	S	S
Home Business (See 3.090-3.180 to determine if CU.)		Y/CU	Y/CU	Y/CU	Y/CU	Y/CU	Y/CU	Y/CU	Y/CU	Y/CU	Y/CU
Residential Accessory Buildings	18	Y/S	Y/S	Y/S	Y/S	Y/S	CUII	N	Y/CUII	Y/CUII	Y/S
<b>OTHER USE CATEGORIES</b>											
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

Y = Yes, allowed, no Site Plan review required

N = No, not allowed

CU = Conditional Use review required, Type III procedure

S = Site Plan Review required

CUII = Conditional Use review required, Type II procedure

[Schedule of Uses amended by 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]

### SPECIAL CONDITIONS

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

- (1) Contractors and Industrial Service Uses in CB, LE and PB zones.
  - (a) Limited Uses in CB, LE and PB zones. Salvage or wrecking operations are prohibited. See Section 5.360 for outside storage standards by zone. [Ord. 5894, 10/14/17]
- (2) Manufacturing and Production. The environmental performance standards of Article 9 may further limit the placement of certain uses in some districts. Developments on sites located within 300 feet of residentially zoned land may require a Conditional Use approval. [Ord. 5894, 10/14/17]
- (3) Manufacturing and Production in the CB and HD zones.

- (a) Limited uses in the CB zone. The following manufacturing and production uses are prohibited in the CB zone: slaughterhouses, meat packing, and concrete and asphalt production.
  - (b) Limited uses in the HD zone. Expansion of existing Small-Scale Manufacturing uses into more than 10,000 square feet of floor area is allowed with a Conditional Use approval, subject to the following limitations. All other manufacturing and production uses are prohibited.
    - i. Retail must be included as an accessory use.
    - ii. The Small-Scale Manufacturing Use must have occupied the space for at least 12 months prior to applying to expand.
    - iii. The use ~~shall~~ 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. [Ord. 5947, 1/1/21]
- (5) Indoor Entertainment and Recreation in the WF, PB, MS, ES and MUC zones.
- (a) Limited Uses in PB and MUC. The following indoor entertainment and recreation uses are prohibited in PB and MUC: movie theaters, indoor firing ranges, paint gun, coliseums, stadiums, and similar facilities. [Ord. 5894, 10/14/17]
  - (b) Limited Uses in MS and ES. Only the following indoor entertainment and recreation uses are allowed in MS and ES: athletic or exercise facilities, bowling alleys, skating rinks, pool halls, games, amusements, arcades and uses with similar impacts. All other indoor entertainment and recreation uses are prohibited.
  - (c) Limited Uses in WF. The following indoor entertainment and recreation uses are prohibited in WF, except as specified for Special Status sites pursuant to ADC Section 5.085: indoor firing ranges, coliseums, stadiums and similar facilities. [Ord. 5894, 10/14/17]
- (6) Outdoor Entertainment and Recreation in the CB zone.
- (a) Conditional Uses in CB and WF. The following Outdoor Entertainment and Recreation uses are allowed with a Conditional Use approval: tennis courts, miniature golf, skateboard parks and similar uses. All other uses in the Outdoor Entertainment and Recreation use category are prohibited. [Ord. 5894, 10/14/17]
- (7) Parking Facility in the ES zone.
- (a) Limited Uses. Parking that is provided for a primary use on the same or adjacent property is allowed. Fee parking for people not connected to the primary use is limited to parking structures. [Ord. 5635, 1/11/06; Ord. 5894, 10/14/17; Ord. 6018, 6/30/23]
- (8) Retail Sales and Service in the MS, ES, HD, WF, DMU, MUC and MUR zones. [Ord. 5894, 10/14/17]
- (a) Limited Uses in MS, ES, and MUR. The following retail uses are permitted: convenience and personal service-oriented commercial intended to serve nearby residents and employees; specialty retail stores and studios; small appliance rental and repair, shoe repair, and tailoring. All other retail uses are prohibited. See Article 22 for descriptions of convenience-oriented and personal service-oriented commercial uses.
  - (b) Limited Uses in MUC. The following retail uses are prohibited: sale, leasing, and rental of vehicles and trucks; hotels and motels. [Ord. 5556, 2/21/03; Ord. 5894, 10/14/17]

- (c) Limited Uses in HD, WF, and DMU zones. The following retail uses are prohibited, except as specified for Special Status sites pursuant to ADC Section 5.085: sale, leasing, and rental of vehicles and trucks. [Ord. 5894, 10/14/17]
- (9) Self-Serve Storage. These facilities are subject to the following standards:
- (a) The minimum driveway width between buildings is 20 feet for one-way drives and 24 feet for two-way drives.
  - (b) The maximum storage unit size is 1,000 square feet.
  - (c) All outdoor lighting ~~shall~~ 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 ~~shall~~ 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. 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. [Ord. 6042, 7/12/24]
- (12) Conditional Use Approval for Religious and Educational Institutions includes the following secondary uses: educational activities; sports and other recreational activities; religious activities; political activities; meals programs; before- and after-school childcare activities; fundraising activities; and cultural programs. Such uses will not be required to go through the land use process if all of the activities that constitute the use (excluding parking and travel to and from the site) take place on the site and no external noise is audible or light visible between 10:30 p.m. and 8:00 a.m.
- Expansion of an educational or religious institution ~~shall~~ must be reviewed through the Conditional Use Type II procedure. An expansion includes the addition of building area, increase in parking lot coverage, or expansion of athletic facilities.
- An educational institution having a capacity greater than 25 students ~~shall~~ must have a driveway designed for the continuous forward flow of passenger vehicles for the purpose of loading and unloading children. [Ord. 5673, 6/27/07; Ord. 5947, 1/1/21]
- (13) Public Park development activity subject to Conditional Use review includes major development; expansions of activities and development within parks which currently generate 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. [Ord. 5947, 1/1/21]
- (14) Residential Care or Treatment Facility. A residential care facility (six or more residents) requires a Site Plan Review. A “residential home” (as defined in ORS Chapter 443) or group home that includes five or fewer residents is permitted outright in any zone that allows single-dwelling unit residences. [Ord. 5673, 6/27/07; Ord. 5742, 7/14/10]
- (15) Single-Dwelling Units, Townhouses, ~~Triplexes, Fourplexes,~~ and Duplexes.
- (a) Single-dwelling ~~units~~, townhouse, triplex, fourplex, and duplex units that were legally constructed ~~built~~ before December 11, 2002, may remain as a permitted use in any zone without being nonconforming. See Section 5.080. [Ord. 5673, 6/27/07; Ord. 5968, 1/14/22]
  - (b) In CB, ES, HD, DMU, and LE: Buildings originally built as a single-dwelling unit, house, or church may be converted to a single dwelling unit residential use without requiring a land use application. In HD all other single dwelling units and middle housing are prohibited.

[Ord. 5673, 6/27/07; Ord. 5894, 10/14/17; Ord. 5968, 1/14/22; Ord. 6042, 7/12/24]

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

[Ord. 5947, 1/1/21; Ord. 5968, 1/14/22; Ord. 6042, 7/12/24]

**Staff Comments for Special Condition (16):**

The following proposed amendments to mixed-use districts in Article 5 are consistent with the proposed changes in Article 3. Please refer to the commentary boxes in Article 3 for a more detailed discussion of these recommendations.

- Increased flexibility for Accessory Dwelling Units (ADUs) to be a larger percentage of the primary dwelling; and
- Allow one Single Room Occupancy (SRO) Unit as an alternative to an ADU.

- (16) Single Dwelling Unit with One Accessory Dwelling Units 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 ~~a one~~ single legally established detached single-dwelling unit, called the “primary residence dwelling unit”. [Ord. 5949, 1/01/21; Ord. 5968, 1/14/22]

- (a) Accessory Dwelling Units. Accessory ~~d~~ Dwelling ~~u~~ Units ~~shall~~ must be incidental in size to the primary residence and meet the following standards:

i. The size of an ADU may not exceed ~~50 percent of the gross floor area of the primary residence (excluding garages or carports) or 900 square feet, whichever is less. (Note: ADU's greater than 900 square feet that were legally constructed before July 1, 2007, may remain.) If the primary dwelling unit~~ 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 Dwelling Unit.

ii. The lot was legally established. [Ord. 5966, 11/12/21]

iii. The front door of an ADU may not be located on the same façade as the front door of the primary residence ~~dwelling unit~~ Dwelling Unit unless the door already exists or the wall that contains the ADU front door is set back at least five feet from the front facade of the primary residence ~~dwelling unit~~ Dwelling Unit.

iv. Exterior additions must substantially match the existing materials, colors, and finish of the primary structure ~~dwelling unit~~ Dwelling Unit.

v. All required building permits must be obtained. If the primary residence ~~dwelling unit~~ Dwelling Unit is on the Local Historic Inventory, historic review may be required per Article 7.

vi. The front setback ~~shall~~ must be greater than or equal to the location of the front wall of the primary residence ~~dwelling unit~~ Dwelling Unit. All other setbacks must meet the requirements of the zone. [Ord. 5673, 6/27/07; Ord. 5949, 1/1/21]

vii. Conversion of an Existing Building to an ADU. An existing accessory structure that was legally established prior to February XX, 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 Dwelling Unit.

ii. The SRO Unit must share a kitchen with the primary dwelling unit Dwelling Unit and must not contain food preparation facilities.

iii. The SRO Unit must have an interior door connecting to the primary dwelling unit 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~~Dwelling Unit unless converted to an accessory dwelling unitDwelling Unit after all required building permits have been obtained.

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

- (a) In MUC, residential development ~~shall~~must develop at a minimum gross density of 10 units an acre. Residences above a business or office are exempt from meeting the minimum density. In MUC districts located east of interstate 5, new development of uses in the Residential Use Categories is only permitted in conjunction with a primary use from the Commercial or Institutional Use Categories. The new residential use must be in the same building or on the same property as the primary non-residential use. [Ord. 5556, 2/21/03; Ord. 5947, 1/1/21; Ord. 6010, 7/1/23]
- (b) In HD, dwelling units above or attached to a business are limited as follows. For the purposes of this section, the non-residential portion of a live/work dwelling unit is regulated as part of the dwelling unit and subject to all of the standards below.
- i. Units above a business: Dwelling units on the second story or above are permitted.
  - ii. Units behind a business: Dwelling units on the first story that are separated from the front lot line by a non-residential use are permitted. The non-residential use may be located within the same building or in another building.
  - iii. Units attached to a business on a multiple frontage lot: On a lot with three or more street frontages, dwelling units are permitted on the first story facing a street line that is considered an ~~interior~~side or rear lot line pursuant to the definition of front lot line in Article 22; however, in no case ~~shall~~may first-story dwelling units face onto First or Second Avenue. Street-facing first-story dwelling units ~~shall~~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.
  - iv. All other units above or attached to a business are prohibited.  
[Ord. 5894, 10/14/17; Ord. 5947, 1/1/21]
- (c) In CB, WF, and DMU, triplexes, fourplexes, and multifamily units with individual driveways that meet the standards of 8.150(1) are permitted subject to Site Plan Review. An Adjustment may be requested for units with driveways that do not meet the standards in ADC 8.150 (1).  
[Ord. 5947, 1/1/21; Ord. 5968, 1/14/22]

(18) Residential Accessory Buildings. Accessory buildings are permitted outright in MUC, MUR, WF, HD, DMU, CB, ES, LE, and MS if they meet the following conditions: [O

- (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 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.

[Ord. 5556, 2/21/03; Ord. 5673, 6/27/07; 5767, 12/7/11; Ord. 5894, 10/14/17; Ord. 5949, 1/1/21; Ord. 6042, 7/12/24]

(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 ~~shall~~may be located within any front yard setback area or within any required landscape buffer yard
- (b) Dish antennas larger than three feet in diameter and located within 10 feet of a residential lot line or visible from a public street, ~~shall~~must be screened with a six-foot solid screen fence, wall, hedge, or other landscaping.
- (c) Antennas used to display sign messages ~~shall~~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.

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

- (21) Communication towers and poles at least 50 feet in height when measured from the ground or over 15 feet above a rooftop, may be considered through a Conditional Use review, Type II process No communication structure is allowed in any front setback. Article 8 for telecommunication facility design standards also apply. [Ord. 5742, 7/14/10; Ord. 5886, 1/6/17]
- (22) Kennels. Kennels do not include indoor veterinary hospital kennels. [Ord. 5555, 2/7/03]
- (23) Hours of Operation. Hours of operation for establishments or outdoor seating areas within 300 feet of a residence may be restricted through conditions of approval to be compatible with neighbors. [Ord. 5728, 1/27/10]
- (24) Additional uses for Special Status List sites in the WF zone. Limited additional uses may be considered through the Conditional Use process for Special Status List sites, pursuant to ADC Section 5.085.
- (25) Developments on sites located within 300 feet of residentially zoned land require a Type II Conditional Use approval.
- (26) Non-residential uses in MUR. In MUR districts located east of Interstate 5, new development of uses in nonresidential Use Categories is only permitted in conjunction with a primary use from the Residential Use Categories. The new nonresidential use must be in the same building or on the same property as the primary Residential Use. [Ord. 2010, 7/1/23]
- (27) One Single Room Occupancy (SRO) ~~and~~ Development with no less than four and no more than six individual SRO units is permitted outright per property zoned to allow for single dwelling units. SRO development is also permitted through Site Plan Review as a multiple dwelling unit development, but each individual SRO unit is considered 0.5 dwelling units when calculating density. [Ord. 6x, 7/1/24]
- (28) Housing. Affordable housing and conversion of buildings or portion of buildings in commercial use to housing will be permitted through Site Plan Review when the following standards are met.
  - (a) Affordable housing as defined in (b) is permitted on property zoned for commercial uses, religious assembly, or public lands OR is owned by one of the following:
    - 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





for the ADC and a townhouse at the building permit stage.

(30) For the purposes of this code, Non-Property Line Separated Townhouses constructed under the Oregon Residential Specialty Code have the same meaning.

## 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 units ~~detached~~, townhouse, and duplex dwellings legally established before January 1, 2002, ~~shall~~ 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 ~~shall~~ must thereafter conform to the requirements of Article 5. The special status granted herein ~~shall~~ will be lost if it 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]

*\*\*\* No changes are proposed to Section 5.085 to 3.110 and 5.087, so those sections are not provided. \*\*\**

## DEVELOPMENT STANDARDS

### Staff Comments for Table 5.090-1, Development Standards:

The following proposed amendments to mixed-use district standards in Article 5 are consistent with the proposed changes in Article 3. Please refer to the commentary boxes in Article 3 for a full discussion of these recommendations.

- Remove the land-area-per-unit requirements for multiple-dwelling unit development.
- Facilitate “tiny home villages” as cottage cluster housing by allowing reduced lot sizes for cottages under 800 SF.
- Require enhanced accessibility for publicly supported housing units.

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 standards are located in Article 8.

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

**TABLE 5.090-1  
MIXED-USE VILLAGE CENTER DEVELOPMENT STANDARDS**

STANDARD	MUC	WF	HD	DMU	CB	LE	PB	MS	ES	MUR
<b>Minimum Lot Size or Area Requirement (sq.ft.) (3) (21) (24)</b>										
Single-Dwelling Unit detached (20)(21)	None	None	None	None	None	N/A	N/A	N/A	5,000 <del>None</del>	None
Townhouse, Per lot (21)	None	1,600 <del>No</del> <del>ne</del>	N/A	None	None	N/A	N/A	None	None	None
Duplex (21)(25)	None	3,600 <del>No</del> <del>ne</del>	N/A	None	None	None	N/A	N/A	7,000 <del>None</del> <del>one</del>	None
Triplex and Fourplex (25)	None	N/A	N/A	None	N/A	None	N/A	None	None	(22)
Cottage Cluster (21)	None	N/A	N/A	7,000 <del>None</del> <del>e</del>	N/A	N/A	N/A	N/A	N/A	7,000 <del>None</del> <del>e</del>
Multiple-Dwelling Unit (24)(25)	None	1,600/u <del>None</del>	N/A	None	None	None	1,600/u <del>None</del>	1,600/u <del>None</del>	3,300/u <del>None</del>	1,600/u <del>None</del>
All other uses	6,000	5,000	1,000	1,000	1,000	2,000	15,000	6,000	5,000	10,000
<b>Maximum Building Size (sq. ft.) (16)</b>										
Non-grocery (16)	20,000	None	None	None	None	None	None	None	None	None
Grocery-anchored	80,000 (13)	None	None	None	None	None	None	None	None	None
<b>Maximum Business Footprint (sq. ft.) (16)(17)</b>										
Non-grocery (16)	20,000	None	None	None	None	None	25,000	10,000	10,000	10,000
Grocery-anchored	80,000 (13)	None	None	None	None	None	60,000	60,000	60,000	60,000
<b>Lot Width, minimum</b>	None	None	20'	None	None	20'	None	None	None	None
<b>Lot Depth, minimum</b>	None	None	50'	None	None	50'	None	None	None	None
<b>Landscaped Area (24)</b>	100% (2)	None	None	None	None	100% (2)	100% (2)	100% (2)	100% (2)	100% (2)
<b>Minimum Open Space</b>	(12)	(12)	(12)	(12)	(12)	(12)	(12)	(12)	(12)	(12)
<b>Maximum Front Setbacks: (10)(24)</b>	10' (15)	5'/15' (18)	0'	5'/15' (18)	5'/15' (18)	None	20'	10'	10'	20'
<b>Minimum Setbacks: (24)</b>										
Front (5) (14)	5'	0'	0'	0'	0'	0'	5'	5'	5'	15'
<del>Side and Rear Interior</del> (5) (14)	(11)(4)	0' (1)(4)	0'(4)	0' (1) (4)	0' (1) (4)	(4)	(4)	(1)(4)	5'	10'(11)
Garage Entrance (9)	20' (8)	5' or 20' (8)(7)	None	5' or 20' (8) (7)	5' or 20' (8) (7)	20'	20'	20'(8)	20'	20'
<b>Height, maximum (23)</b>	85'	55'	85' (19)	85' (19)	65'	60' (19)	50'	50'	50' (19)	45'
<b>Lot Coverage, maximum (6)(24)(3)</b>	80%	100%	100%	100%	100%	100%	80%	90%	80%	70%

“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. [Ord. 5894, 10/14/17; Ord. 6010, 7/1/23]

- (1) Single-dwelling units ~~detached homes~~, townhouses, and duplexes, where permitted, must have a 3-foot ~~interior~~ side setback for single-story buildings, and a five-foot ~~interior~~ side setback for two-or more story buildings. See Sections 5.150 and 5.160 for zero lot line options and townhouses and 5.091 for townhouse development standards.  
[Ord. 5742, 7/14/10; Ord. 5894, 10/14/17; Ord. 5966, 11/12/21; Ord. 5968, 1/14/22; Ord. 6024, 12/29/23]
- (2) All yards adjacent to streets. Approved vegetated post-construction stormwater quality facilities are allowed in landscaped areas. [Ord. 5842, 1/1/15]
- (3) Lots with only alley or rear access where garages and/or parking areas are accessed from the rear property line may be up to 10 percent smaller than the minimum lot size for the zone and may increase lot coverage by ten percent.  
[Ord. 5338, 1/28/98; Ord. 5445, 4/12/00]
- (4) See ADC Section 5.115 for special ~~interior~~ setback standards abutting residential zones and uses. [Ord. 5894, 10/14/17]

- (5) Minimum front ~~and interior~~, side, and rear setbacks are not required for buildings abutting railroad rights-of-way; Setbacks for cottage clusters are in Section 5.092. [Ord. 5968, 1/14/22]
- (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 ~~shall~~ only includes 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. [Ord. 5768, 12/7/11, Ord. 5894, 10/14/17; Ord. 5968, 1/14/22]
- (7) To prevent parked vehicles from intruding in the street right-of-way, garage entrances ~~shall~~ must be set back 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. For garages with alley access, see Table 5.100-1. [Ord. 5894, 10/14/17]
- (8) Garage setback for non-vehicle entrance must conform to the requirements for interior front, side or rear setbacks.
- (9) For garages with alley access, see Table 5.100-1. [Ord. 5894, 10/14/17; Ord. 5947, 1/1/21] See Section 5.092 for Cottage Cluster development standards. For Cottage Cluster projects with six or fewer cottages, when the floor area of each cottage is less than 800 square feet, the minimum lot size must be 1,000 square feet per cottage.
- (10) The maximum front 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. [Ord. 5894, 10/14/17]
- (11) In MUC and MUR, single-dwelling units ~~detached homes~~ and middle housing must have a 3-foot interior side setback for single-story buildings, and a five-foot interior side setback for two-story buildings. See Section 5.150 and 5.160 for zero lot line options and attached dwellings units. [Ord. 5968, 1/14/22]
- (12) Open Space Requirements. Open space is required in Ten or more residential multiple-dwelling units developments of 10 or more units require common open space. (See Section 8.220) and residential land divisions of 20 or more lots (see Section 11.095). [Ord. 5894, 10/14/17; Ord. 5968, 1/14/22; Ord. 6024, 12/29/23]
- (13) The building and business 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 also 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. [Ord. 5947, 1/1/21; Ord. 6024, 12/29/23]
- (16) The maximum building size and business footprint size may be exceeded for mixed-use developments when the building is multi-story. [Ord. 6010, 7/1/23]
- (17) In shopping centers with multiple tenants, “business” refers to each individually leasable space. “Footprint” refers to the amount of area covered by the first floor. Businesses may build on additional floors.
- (18) 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. [Ord. 5894, 10/14/17]
- (19) In order to maintain compatibility with existing historic structures and the character of designated historic districts, maximum building heights in the HD, ~~and DMU~~, ES, and LE 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~~, ES and LE zones is 45 feet. [Ord. 5894, 10/14/17]
- (20) Where new single-dwelling units ~~detached~~ housing is are 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. [Ord. 5894, 10/14/17]
- (21) Section 3.220 bonus provisions may reduce minimum area requirements for residential developments. [Ord. 5966, 11/12/21]

- (22) In MUR, in no case shall ~~may~~ the minimum lot size required for a triplex exceed 5,000 square feet, or for a fourplex exceed 7,000 square feet. [Ord. 5968, 1/14/22]
- (23) Maximum height for cottage clusters is in Section 5.092. [Ord. 5968, 1/14/22]
- (24) 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 shall apply to the middle housing parent lot, not to the middle housing child lots. [Ord. 5968, 1/14/22]

(25) For the purposes of this code, Non-Property Line Separated Townhouses constructed from the Oregon Residential Specialty Code have the same meaning.

[Table and footnotes amended by 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]

5.091 Standards for Townhouses. Where permitted, townhouses shall ~~shall~~ must meet the standards below. Townhouses shall ~~shall~~ must also meet the applicable design standards in ADC Sections 8.110 through 8.170.

- (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]

5.092 Standards for Cottage Clusters. Where permitted, cottage clusters shall ~~shall~~ must meet the standards in subsections (1) through (5) below. Cottage clusters shall ~~shall~~ 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 shall ~~shall~~ must be separated by a minimum distance of six (6) feet. The minimum distance between all other structures, including accessory structures, shall ~~shall~~ 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 shall have a building footprint of must be less than 900 square feet. Individual Attached garages or carports up to 200 square feet shall be exempted from the calculation of maximum building footprint for each cottage. Detached garages, carports, or accessory structures are not included in the maximum footprint of each cottage. [Ord. 5968, 1/14/22]

## 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	<del>Interior</del> <u>Side and rear</u> setback = 3 feet (1)
Detached, walls greater than 8 ft. tall	<del>Interior</del> <u>Side and rear</u> setback = 5 feet
Attached structure	<del>Interior</del> <u>Side and rear</u> 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 <del>interior</del> setbacks, see Table 5.090-1
Structures, including fences, intended for housing animals	See AMC 6.10.020
Fences more than <del>68 feet. High</del> <u>tall</u> <i>All fences, see 9.360 through 9.380</i>	<del>Fences over 8 feet tall must meet setbacks standards;</del> in Table 5.090-1 <del>apply by zone, unless except when</del> permitted along property lines in Sections 9.3760(4)(d) through 9.380.
Outdoor swimming pools with depths greater than or equal to 24 inches	<del>Interior</del> <u>Side and rear</u> setbacks = 10 feet
Decks less than 30 in. off grade, no rails, covers	No setback from property line
Decks greater than or equal to 30 in. off grade	<del>Interior</del> <u>Side and rear</u> 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 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. 6x, 7-1-24]

5.110 Measurements. Setback distances must be measured perpendicular to all portions of a lot line.

5.115 Special ~~interior~~ Side and Rear Setbacks. In order to provide compatible transitions to residential zones and uses and to historic buildings, additional ~~interior~~ side and rear setbacks are required as follows.

- (1) Special ~~interior~~ 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 ~~interior~~ side or rear setback is required.
- (2) Special ~~interior~~ setbacks in the HD, DMU, CB and WF zoning districts. New buildings and expansions to existing buildings must provide ~~interior~~ 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 ~~interior~~ side and rear setback ~~shall~~ 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 ~~interior side and rear~~ setback ~~shall~~ must be 5 feet. [Ord. 5894, 10/14/17]

5.120 Maximum Front Setbacks in HD, CB, DMU and WF. 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. [Ord. 5894, 10/14/17]

(1) Non-residential and mixed-use development:

(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 ~~shall~~ 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). [Ord. 5947, 1/01/21]
- ii. Accessory buildings less than 750 square feet are exempt from maximum setback standards. [Ord. 5894, 10/14/17]

(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. [Ord. 5894, 10/14/17]

(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. [Ord. 5894, 10/14/17]

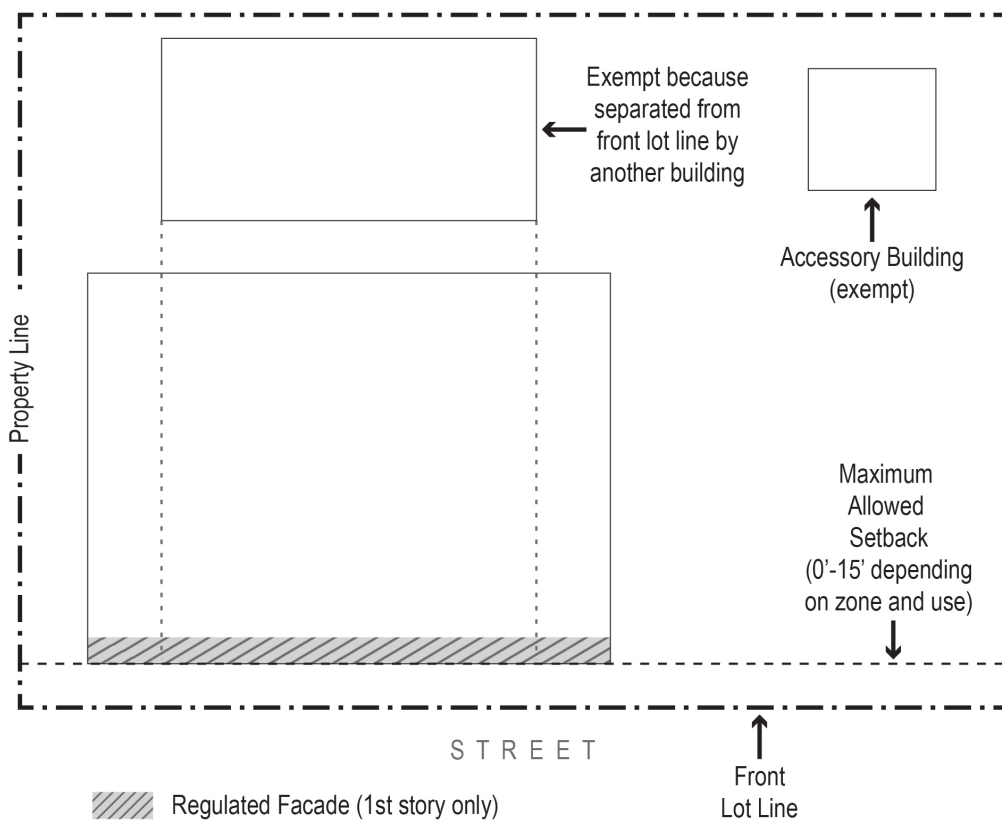
(2) Residential development:

(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 ~~shall~~ **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). [Ord. 5947, 1/01/21]
  - 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. Where units with individual garages facing the front lot line are permitted, 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. [Ord. 5894, 10/14/17]

**FIGURE 5.120-1. Regulated façades for maximum setback.**



[Ord. 5947, 1/1/21]

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 ~~shall~~ may approve an alternative setback request if the applicant demonstrates that the following criteria are met: [Ord. 5947, 1/1/21; Ord. 5968, 1/14/22]

- (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. [Ord. 5742, 7/14/10; Ord. 5947, 1/1/21]
- (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. [Ord. 5742, 7/14/10]
- (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]

5.140 General Exceptions to Setback Requirements. The following may project into required setbacks, provided that they conform to the conditions and limitations indicated: [Ord. 5742, 7/14/10]

- (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. [Ord. 5742, 7/14/10]
- (2) Projecting Building Features. The following may project into the required front setback no more than five feet and into the required ~~interior~~ side and rear setbacks no more than two feet: [Ord. 5742, 7/14/10]
  - (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.

5.150 Zero Lot Line. Any residential dwelling or residential accessory building may be located on the ~~interior~~ side 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 ~~shall~~ 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 an ~~interior~~ 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]

5.160 Setbacks for Townhouses. The ~~interior~~ 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]

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:

<u>Waterway</u>	<u>Setback</u>
Calapooia River	100 feet

5.180 Setback and Fencing for Swimming Pools. Swimming pools must conform to the setback regulations for main buildings, except that outdoor swimming pools must be set back at least 10 feet from all ~~interior side and rear~~ or ~~lot~~-property lines. Also, all swimming pools must be fenced 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.

*\*\*\* No changes are proposed to Sections 5.190 to 5.207, so those sections are not provided. \*\*\**

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 district. Stockpiling or storage of materials or equipment is not permitted in the ~~front or interior~~ 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]

5.220 Parking Restrictions in Setback Areas. Parking and loading spaces ~~shall~~-must not be located in a ~~required front or interior~~-setbacks, except:

- (1) Paved driveways ~~used to fulfill parking requirements~~ for single-dwelling units ~~detached residences~~, 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]

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]

*\*\*\* No changes are proposed to Sections 5.240 to 5.360, so those sections are not provided. \*\*\**

## OUTSIDE STORAGE

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~~ shall 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]

[5.380 to 5.410 Fence standards moved to Article 9, Ord. 5751, 3/9/11.]

## ARTICLE 8 DESIGN STANDARDS

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

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

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

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

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

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

### SINGLE DWELLING UNIT HOMES AND MIDDLE HOUSING

8.110 Applicability.

(1) The standards of ADC Sections 8.110 through 8.170 apply to all new single-dwelling ~~detached~~ units, manufactured homes, duplexes, two ~~detached~~ primary units, townhouses, triplexes, and fourplexes in all zones that allow these housing types, except as otherwise noted.

[Ord. 5894, 10/14/17; Ord. 5947, 1/1/21; Ord. 5968, 1/14/22; Ord. 6004, 12/28/22]

(2) In addition, except as otherwise noted, the standards of ADC Sections 8.110 through 8.160 apply to multiple-dwelling units with individual driveways permitted pursuant to ADC 12.100(2) that are ~~located~~ in the WF, CB, or DMU zone, or in the HD zone in a building where ground-floor residential use is permitted pursuant to ADC 5.070(17).

[Ord. 5894, 10/14/17; Ord. 5947, 1/1/21; Ord. 6004, 12/28/22]

(3) These standards do not apply to detached accessory dwelling units, existing structures, new additions to existing structures, or to homes in manufactured home parks.

[Ord. 5894, 10/14/17; Ord. 5949, 1/1/21; Ord. 5968, 1/14/22]

(4) Development on flag lots or on lots that slope up or down from the street with an average slope of 20 percent or more is exempt from these standards in Section 8.130 through 8.160.

[Ord. 5445, 4/12/00; Ord. 5894, 10/14/17; Ord. 5968, 1/14/22]

(5) New cottage cluster development ~~shall~~ must meet the standards in Sections 8.175 in all zoning districts where permitted.

[Ord. 5968, 1/14/22]

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

[Ord. 5968, 1/14/22]

**\*\*\* No changes are proposed to Sections 8.120 to 8.170, so those sections are not provided. \*\*\***

**Staff Comments for ADC 8.175: Facilitate “tiny home villages” as cottage cluster housing**

The HIP recommends various strategies for encouraging tiny home villages, which offer appealing options for affordable homeownership and can also serve as alternative forms of low-income or transitional housing. Under the current ADC, up to eight tiny homes on a single lot would be considered a cottage cluster development. The HIP recommends allowing more than eight cottages in a cluster if all dwellings are less than 800 SF. These tiny homes would be significantly smaller than the maximum allowed cottage size of 1,400 SF. Therefore, additional homes could fit onto the same size lot and would have less impact on neighbors than larger cottages. The HIP also recommends scaling the maximum number of tiny homes in a cottage cluster by the intensity of the zone. These recommendations are reflected in the proposed amendments below.

In addition, the proposed amendments in this section and clarify some of the existing standards and add flexibility by:

- Increasing the average floor area limit for standard-size cottages;
- Allowing reduced open space for small cottage clusters (four or fewer units); and
- Allowing more than one cottage cluster in a cottage cluster project.

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.

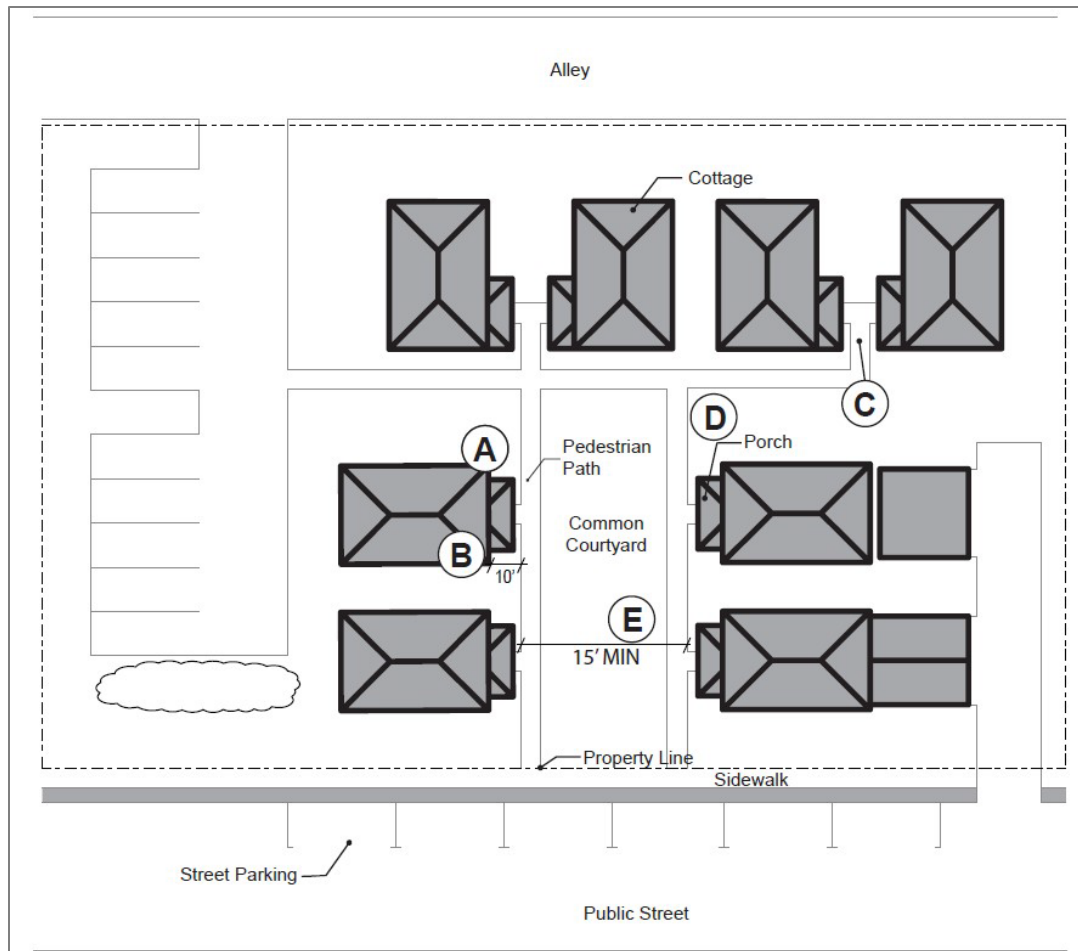
[Ord. 6018, 6/30/23]

- (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 ~~shall~~ must contain a minimum of three (3) and a maximum of eight (8) cottages.
  - (b) Except as provided in subsection (c), a lot ~~shall~~ 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, RS-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 ~~each~~ 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. ~~Community buildings shall be included in the average floor area calculation for a cottage cluster.~~
- (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 ~~150~~ 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, and MUR zones.
  - (d) The common courtyard must be a minimum of 15 feet wide at its narrowest dimension.
  - (e) The common courtyard ~~shall~~ 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 ~~shall~~ 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 ~~shall~~ 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. [Ord. 5968, 1/14/22]

**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 its narrowest width.

[Ord. 5968, 1/14/22]

- (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 ~~shall~~ **must** have a maximum floor area of 1,400 square feet. ~~In addition, the community building shall count towards the maximum average floor area of the cottage cluster, pursuant to subsection 8.175(2)(c).~~
  - (c) Community buildings ~~shall~~ **must** not be used for long-term residential occupancy. For the purposes of this standard, long-term residential occupancy ~~shall mean~~ **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.

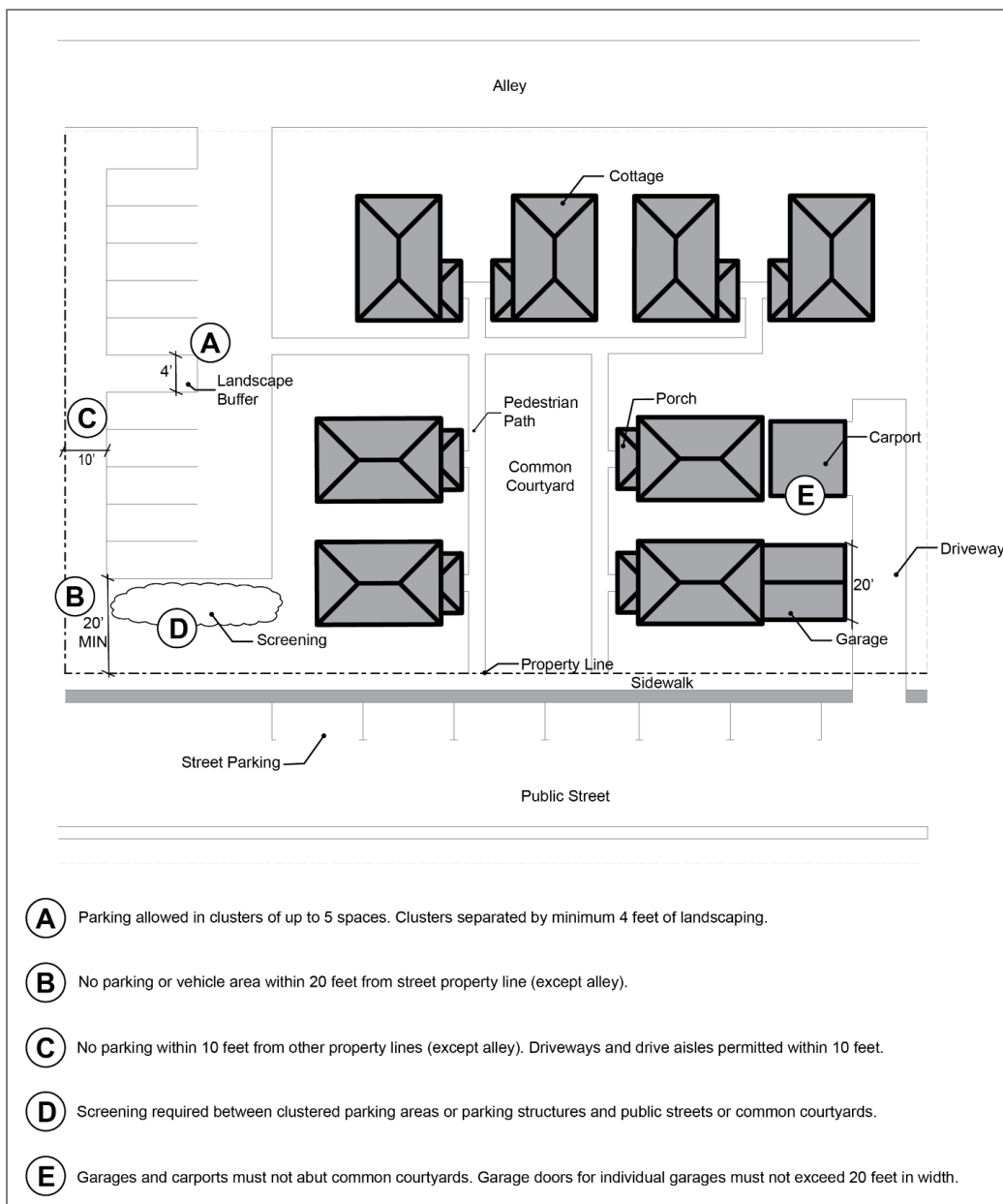
- (6) Pedestrian Access. The purpose of these standards is to ensure that pedestrian circulation systems are designed to provide safe and convenient connections within a cottage cluster development and to adjacent public streets/sidewalks.
- (a) An accessible pedestrian path must be provided that connects 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.

[Ord. 6018, 6/30/23]
- (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. Parking areas must also meet the standards in ADC Section 9.100, and parking areas that exceed 1,000 square feet must 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 ~~shall~~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 ~~shall~~may not be located within 10 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 ~~shall~~must meet the access standards in ADC Section 12.100.
  - (d) Screening. Landscaping, fencing, or walls at least three feet tall ~~shall~~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 ~~shall~~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 ~~detached~~ 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 ~~shall~~ **must** be excluded from the calculation of average floor area for the cottage cluster, per subsection 8.175(2)(c).
- (d) The existing dwelling ~~shall~~ **must** be excluded from the calculation of orientation toward the common courtyard, per subsection 8.175(3)(b). [Ord. 5968, 1/14/22; Ord. 6004, 12/28/22]

**Figure 8.175-2. Cottage Cluster Parking Design Standards**



[Ord. 5968, 1/14/22]



## 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]

### **Staff Comments: Address multiple dwelling unit open space requirements that pose barriers to housing development**

While the HIP does not specifically mention addressing open space requirements for multiple-dwelling unit development, City of Albany staff recommend updates to this section. The city's **private open space** requirements (typically balconies) exceed those of neighboring jurisdictions both in quantity and size and tend to limit design flexibility. In addition, balconies can be a weak spot for water intrusion, have a shorter lifespan than other building components, and they add cost, which can be challenging for affordable housing developments. Also, outdoor balconies are not always practical, given Albany's rainy climate, and location along busy streets. The recommended solution is to reduce the minimum size of required private open spaces and allow usable common open space to count towards a portion of private open space (ADC 8.220(3)).

**Common Open Space:** Common open space provided by multiple dwelling unit developments typically have extensive lawn areas and few other amenities or landscaping. The proposed amendments distinguish between usable/active and passive/remaining common open space, to ensure more space is devoted to other usable amenities.

**Children's Play Areas:** Currently the code requires children's play areas when there are 10 or more units with 2 or more bedrooms, excluding housing for seniors and the disabled. Since there may be situations where a parent and child share a room, staff proposes modifying the play area requirement to apply to developments with 20 or more units, regardless of size with the same exclusions for seniors, senior living facilities, and housing for persons with mental or physical disabilities.

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

- 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]

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

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

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

Open Space	CB, HD, DMU, LE, WF, <u>MUC, and MUR, OP, NC, CC, and RC</u> 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 <del>floor</del> area) <del>in size</del> subject to ADC 8.220(1)	15% of the total development site area, and subject to the standards in ADC 8.220(2)
Children’s Play Areas		
• Developments with fewer than <del>40-20</del> units <del>that have 2 or more bedrooms</del>	Not required	Not required
• Developments <del>that have</del> <u>with 20</u> 40 or more units, <u>excluding developments for seniors, senior living facilities, and housing for persons with mental or physical disabilities</u> <del>with 2 or more bedrooms</del>	Not required	Required and subject to the standards in ADC 8.220( <del>23</del> )( <del>ac</del> )( <del>ix</del> )
Private Open Space		
	Not required	Required for at least 80% of units and subject to the standards in ADC 8.220( <u>1</u> ) <u>and</u> ( <u>3</u> )

[Ord. 5947, 1/1/21; Ord. 6004, 12/28/22; Ord. 6042, 7/12/2024]

- (1) Common Open Space in All Zoning Districts. A multi-use path must be provided if identified in the Parks Master Plan, the Transportation Systems 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 entered into for future construction and/or financial assurance thereof.
- (2) Common Open Space in the CB, HD, DMU, WF, LE, MUC, and MUR, OP, NC, CC, and RC Zoning Districts. When required by Table 8.220-1, common open space ~~shall~~ 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. [Ord. 5947, 1/1/21]
- (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, and MUR, OP, NC, CC, and RC Zoning Districts, the following standards apply.
  - (a) Required Minimum Usable eCommon eOpen sSpace. For developments with ~~40-20~~ or more units, - usable common areas ~~shall~~ must be provided as specified below with ~~have~~ 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

~~(a)~~(b) Required Usable Common Open Space and shall 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 Ppatios and decks or pavement abutting and within 50 feet of the swimming pool, spa, or hot tub may be included. ~~These amenities may not account for more than 60 percent of the required common open spaces.~~
- ii. Regulation sized and equipped sports courts for tennis, handball, volleyball, pickleball, and/or basketball. ~~These amenities may not account for more than 50 percent of the required common open space.~~
- iii. Community Ggardens for use by residents to grow food and other vegetation. Gardens must have irrigation available for use by the residents. ~~This amenity may not account for more than 50 percent of the required common open space.~~
- iv. Rooftop terrace or ground level courtyard accessible to residents. A tterrace or courtyard must include barbecues, tables, and seating that are available for use by residents.
- v. Indoor community room. ~~This amenity may not account for more than 50 percent of the required common open space requirements.~~
- ~~vi.~~ Multi-use path at least 10-foot wide, centered within a 20-wide-easement constructed to city standards as approved by the City Engineer. The Ppath must connect to a nearby proposed or existing trail, if applicable.
- Children's Play Areas that meet the standards in Section 8.220(3)(c):

~~(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 three~~two~~(3) of the following~~different children's play amenities/equipment~~ : a swing structure with at least two (2) swings, a slide, a permanent sand box, permanent wading pool, or other children's play equipment approved for use in a public playground. Required play equipment may or may not be attached to the primary play structure. Equipment must be manufactured to American Society for Testing and Materials (ASTM) F1487-11 standards or other comparable standards applicable to public playground equipment. The play area and open space located within 50~~25~~ feet of the play structure(s) or equipment may count towards the required usable common open space requirement in 8.220(2)(b)~~be included~~. Each children's play area must be fenced along any perimeter that is within 10 feet of a street, alley, property line, ~~or~~ parking area, or abutting the RR, R-10, R-6.5, R-5, and HM.

(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, 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, ~~and~~ drinking fountains, paths, garden art, or structures. This amenity may not account for more than ~~70~~50 percent of the remaining requirement~~d for common open space after usable open space requirements are met~~. If this amenity accounts for more than ~~50~~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.

~~(d)~~(e) Limitations to Common Open Space Areas.

- i. Streets, driveways, refuse containers and parking areas, including areas required to satisfy parking lot landscape standards, ~~shall~~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, ~~and~~ children's play areas, and common courtyards or covered areas shall are not be allowed in any required setbacks.
- iii. No more than 20 percent of the common open space requirement ~~shall~~ must be on land with slopes greater than 20 percent.

~~(e)~~ (f) Common Open Space Area Credit.

- i. A credit, not to exceed 25 percent of the required common open space area, ~~shall~~ must 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 and recreation area or publicly accessible school playground.
- ii. A credit toward the minimum common open space area required by Table 8.220-1 ~~shall~~ must be granted to development projects providing high value outdoor recreation amenities. Provision of high value amenities is determined by the dollar amount spent on the amenities as a proportion of the overall project cost (including all construction costs except land cost). The credit is calculated as follows: if one percent (1%) of the overall project development cost is spent on outdoor recreation facilities, the minimum amount of required common open space ~~shall~~ must be reduced by 10 percent. Further reductions in the minimum required common open space area ~~shall~~ 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 ~~shall~~ must be reduced by 15 percent. The total reduction ~~shall~~ 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. [Ord. 5947, 1/1/21; Ord. 6004, 12/28/22]

(3) Private Open Space. When required by Table 8.220-1, private open space ~~shall~~ must be provided ~~that~~ to meets the standards of this section. Development in the CB, HD, DMU, WF, LE, MUC and MUR, OP, NC, CC, and RC Zoning Districts and assisted living and nursing home developments for seniors, senior living facilities, and housing for persons with mental or physical disabilities developments in all zoning districts are exempt from these requirements.

- (a) ~~For Each~~ dwelling units providing required private open space, ~~each dwelling unit located at finished grade, or within five feet of finished grade, shall have at least 80 square feet of private open space. All other dwelling units providing required private open space shall~~ must each have at least ~~72~~ 48 square feet of private open space.
- (b) No dimension of the required private open space shall be less than ~~six~~ four feet. Accessible units must meet ADA standards.
- (c) All required private open space ~~shall~~ must be directly accessible from the dwelling unit through a doorway.
- (d) Except for front porches, required private open space ~~shall~~ must be physically and/or visually separated from common open space.
- (e) Except for front porches, required private open space for at-grade dwellings ~~shall~~ must be screened ~~from view from public streets~~ in accordance with ADC 9.240.
- (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 spaces. All transferred private open space is in addition to the required usable common open space.

- (4) Open Space Designated on Site Plan. Areas provided to satisfy the minimum open space requirements shall ~~must~~ be so-designated on the development site plan and shall ~~must~~ be reserved as common or private space, as applicable. [Ord. 5947, 1/1/21]

**\*\*\* No changes are proposed to Sections 8.240 to 8.266 and 8.280 to 8.360, so those sections are not provided. \*\*\***

[Section 8.270 Transition to Lower Density Uses moved to Article 3, Section 3.220(6) per Ord. xxxxx, 2/x/25]

~~8.270 Transition to 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, in order 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 the lower density development. [Ord. 5947, 1/1/21; Ord. 6004, 12/28/22]
- (2) ~~Applicability.~~ These standards apply to multiple dwelling unit housing in all zoning districts except HD, DMU, CB, and WF, which are subject to special interior setbacks in ADC Section 5.115. These standards shall not apply when the abutting property is developed with a non-residential use. [Ord. 5894, 10/14/17; Ord. 5947, 1/1/21; Ord. 5966, 11/12/21; Ord. 6004, 12/28/22]
- (3) Multiple dwelling unit buildings shall be set back at least one foot for each foot in building height from a shared property line, up to a maximum required setback of 30 feet, when the abutting lot sharing the property line meets criteria (a) or (b) below, or both. Building height is measured from the average grade to the top of the wall facing the property line or to the top of the highest window or door, whichever is higher.
- (a) The abutting lot is in a residential single dwelling unit zoning district or in the HM zoning district, and is developed with single dwelling unit, residential or middle housing, uses or is underdeveloped or vacant. [Ord. 5966, 11/12/21; Ord. 6004, 12/28/22]
- (b) The abutting lot has a pre-existing single dwelling unit home and is in a zoning district other than the NC, CC, RC, LI, HI, or IP. For the purposes of this section a “pre-existing single dwelling unit home” is one constructed prior to January 1, 2021. [Ord. 5947, 1/1/21; Ord. 6004, 12/28/22]
- (4) ~~Active recreation areas, loading areas and dumpsters shall not be located between multiple dwelling unit buildings and abutting pre-existing single dwelling unit homes.~~ [Ord. 5445, 4/12/00; Ord. 5947, 1/1/21; Ord. 6004, 12/28/22]

## COMMERCIAL AND INSTITUTIONAL SITE DESIGN

8.365 Pedestrian Amenities in the HD, CB, DMU, and WF zoning districts. Pedestrian amenities are required in the HD, CB, DMU and WF zoning districts. 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. The standards in (1) - (3), 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. [Ord. 5894, 10/14/17; Ord. 5947, 1/1/21]

- (1) Each development shall ~~must~~ provide a minimum of one of the following improvements.
- (a) Street trees in tree wells along the public street frontage, excluding any driveways. Development on lots with multiple frontages must meet this standard on all frontages. Street trees shall ~~must~~ be selected from the list of approved street trees established by the City and meet all applicable spacing

standards.

- (b) Benches or outdoor public seating for at least four people. Benches or seating must be located 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 ~~shall~~ 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. [Ord. 6024, 12/29/23]
  - (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 in horizontally ~~distance~~ from the building wall.
  - (e) Pedestrian-scale streetlights along the full site frontage, excluding any driveways. Development on lots with multiple frontages must meet this standard on all frontages. Suitable light fixtures and spacing ~~shall~~ 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) Improvements within the public right of way require the approval of the City Engineer.
  - (3) 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]

**\*\*\* No changes are proposed to Sections 8.390 to 8.620, so those sections are not provided. \*\*\***

## ARTICLE 9

### ON-SITE DEVELOPMENT AND ENVIRONMENTAL STANDARDS

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

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

\*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]

*\*\*\* No changes are proposed to Sections 9.020 to 9.250 and 9.260 to 9.270, so those sections are not provided. \*\*\**

**Staff Comments.** Minor clarifications and amendments are proposed throughout, such as changing “shall” to “must” “may”, or “are”.

#### BUFFERING AND SCREENING

9.255 Screening of Refuse Containers. The following standards apply to all developments except for refuse containers or disposal areas serving four or fewer dwellings. Any refuse container or disposal area that would otherwise be visible from a public street, customer or resident parking area, any public facility, or any residential area, must be screened from view by placement of a sight-obscuring fence, wall, or hedge at least 6 feet tall. Refuse disposal areas may not be located in required setback areas or buffer yards and must be contained within the screened area. All refuse materials ~~shall~~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 ~~shall~~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]

#### FENCES

9.360 Purpose. Fences can create a sense of privacy, protect children and pets, provide separation from busy streets, and enhance the appearance of property. The negative effects of fences can include the creation of street walls that inhibit police and community surveillance, decrease the sense of community, hinder emergency access, lessen solar access, hinder the safe movement of pedestrians and vehicles, and create an unattractive appearance. These standards are intended to promote the positive aspects of fences and to limit the negative ones.  
[Ord. 5751, 3/9/11]

9.370 Materials. Fences and walls ~~shall~~may not be constructed of or contain any material that will do bodily harm, such as electric or barbed wire, broken glass, spikes, or any other hazardous or dangerous materials, except as follows:  
[Ord. 5446, 5/10/00]

- (1) Barbed wire is permitted on top of a six-foot-tall fence in commercial, industrial, and mixed-use zones except for HD, DMU, MUC, and MUR. The total height of the fence and barbed wire is limited to 8

- feet. Barbed-wire-only fences are prohibited except as allowed under subsection (2).
- (2) Correctional Institutions and High-Security Areas. Concertina wire or barbed-wire only fences may be used around correctional institutions and high-security areas provided that the fences are posted at 15-foot intervals with clearly visible warnings of the hazard.
  - (3) Large Animal Containment. Where cattle, sheep, horses or other livestock are permitted or existed when the property was annexed to the City, barbed wire is permitted within six inches from the top of a fence at least four feet tall that is used to contain or restrict large animals. Fences for this purpose must meet the standards in AMC 6.10.
  - (4) 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. Battery-charged fences are permitted when the following standards can be met:
    - (a) Must use a battery that is not more than 12 volts of direct current; and
    - (b) Must produce an electric charge on contact that does not exceed energizer characteristics set for electric fence energizers by IEC standards; and
    - (c) Must be surrounded by a nonelectric perimeter fence or all that is not less than five feet in height; and
    - (d) May not be higher than the greater of 10 feet in height or two feet higher than the height of the non-electric perimeter fence or all; and
    - (e) Must be marked with conspicuous warning signs that are located on the fence at not more than 30-foot intervals and that read: “WARNING: ELECTRIC FENCE.” [Ord. 6004, 12/28/22]
  - (5) Electrically charged fences are permitted in the LI and HI zones when the following standards can be met:
    - (a) The fence is located outside the front setback and required landscaping, buffering or screening; and
    - (b) The electrically charged fence ~~shall~~must not exceed 10 feet in height; and
    - (c) The electrically charged fence ~~shall~~must be a pulsed charge system and not a continuous charge system.
    - (d) No electric fence ~~shall~~may be installed or used unless it is completely surrounded by a perimeter non-electrical fence or wall that is not less than six feet tall; and
    - (e) Warning signs stating, “Warning, Electric Fence” ~~shall~~must be posted at intervals not less than 50 feet; and
    - (f) When property lines are shared with a residential zoning district, the following additional standard ~~shall~~must be met:
      - i. A solid fence or wall between 6 and 8 feet tall ~~shall~~must be placed at the shared property line(s); and
      - ii. Warning signs ~~shall~~must be posted at intervals of not less than 25 feet.
    - (g) The fence ~~shall~~must be tested and approved by the State of Oregon approved testing laboratory; and
    - (h) The fence ~~shall~~must be installed and used accordance with the Oregon Electrical Specialty Code, the listing, and the manufacturer’s installation instructions; and
    - (i) Electrical permits and inspections ~~shall be~~are required for the installation. Work must be performed by a licensed Oregon electrician.
    - (j) In addition to the Fire Department access requirements in the Oregon Fire Code, the following additional standards are required for properties protected by an electric fence:
      - i. Each vehicle gate ~~shall~~must open automatically using a sensing device approved by the fire department. This automatic operation ~~shall~~must be supplemented by the installation of a Knox electric switch (with dust cover) to be installed in an approved location.
      - ii. The gate opening equipment ~~shall~~must be equipped with a battery backup in the advent of power failure (both ingress & egress sides).



- iii. Power to the electrified fence, excluding gate opening controls, ~~shall~~must be deactivated upon activation of automatic or manual fire department access for ingress or egress through the gate.
- iv. The vehicle gate ~~shall~~must provide a means for the fire department to egress from the site.
- v. A pedestrian type gate ~~shall~~must be installed immediately adjacent to all vehicle access gates. [Ord. 5751, 3/9/11]

**Staff Comments for ADC 9.380: Increase maximum fence height to 8 feet**

The current development code restricts the height of fences in residential, mixed use, and commercial zones to six feet in most circumstances. Staff propose to increase the height limit to eight feet in these zones to align with the Oregon Building Code, which allows fence heights of 8 feet without a permit. In addition, residents often request fences taller than six feet in height. This will align with the building code and reduce the amount of code compliance cases for fences.

9.380 Standards. Fences and walls ~~shall~~must meet the following standards. If a fence or wall is used to meet required screening, it ~~shall~~must meet the provisions of Section 9.385. [Ord. 5751, 3/9/11]

Standards in Residential, MUR and MUC zones:

- (1) Fences in front setbacks. Fences ~~shall~~must be no taller than 4 feet in required front setbacks unless allowed below. [Ord. 5742, 7/14/10; Ord. 5751, 3/9/11]
  - (a) Properties listed on the National Register of Historic Places may have front yard fences taller than 4 feet if the fence is appropriate to the building style and scale and is approved by the Landmarks Commission. [Ord. 5689, 3/12/08; Ord. 5945, 9/25/20]
- (2) Corner properties, which ~~by definition~~ have two front yards, may have a fence no taller than 6 feet in the front yard adjacent to the street that does not contain the main door entrance when the fence does not extend in front of the building and one of the following conditions is met:
  - (a) If the adjoining street is improved with sidewalks and a planter strip, the fence may be on or behind the property line.
  - (b) If the adjoining street is improved with sidewalks but no planter strip, the fence is located a minimum of three feet from the sidewalk.
  - (c) If the adjoining street is improved with curbs and gutters but no sidewalks, the fence is located 10 feet from the face of the curb.
  - (d) If the adjoining street is unimproved, the fence is no closer than three feet from the property line. [Ord. 5673, 6/27/07; Ord. 5689, 3/12/08]

(3) ~~Interior~~ Side and Rear Setbacks.

Fences in a residential zone in Article 3 or in the MUR or MUC zone may have fences up to ~~six~~8 feet tall in the ~~interior~~side and rear setbacks, ~~except that a single dwelling use or zone that shares an interior property line with a multiple dwelling unit, commercial or industrial use or zone may have a fence up to eight feet tall along the property line.~~ [Ord. 5742, 7/14/10; Ord. 5751, 3/9/11; Ord. 6004, 12/28/22]

Standards in Commercial, Industrial, ES, LE, MS, PB, and TD zones: [Ord. 5894, 10/14/17]

- (4) Fences in front setbacks. Fences ~~shall~~must be no taller than ~~6~~8 feet in required front setbacks. ~~6~~8-foot fences containing barbed wire on top or fences taller than ~~6~~8 feet are not permitted in the front setback. [Ord. 5751, 3/9/11]

Standards in HD, DMU, CB, and WF zones: [Ord. 5894, 10/14/17]

- (5) Fences in front setbacks. Fences ~~shall~~may be no taller than 4 feet within 10 feet of a front lot line unless allowed under (a)-(c), below. Barbed wire on top of fences is not permitted within 10 feet of a front lot line.

- (a) Properties listed on the National Register of Historic Places may have fences taller than four feet within 10 feet of a front lot line if the fence is appropriate to the building style and scale and is approved by the Landmarks Commission. [Ord. 5945, 9/25/20]
- (b) The following uses (where allowed in the applicable zone) may have fences up to ~~six~~ 8 feet tall within 10 feet of a front lot line:
  - i. All industrial uses
  - ii. All institutional uses
  - iii. Vehicle Repair
  - iv. Rail and Utility Corridors
- (c) Corner properties, which by definition have two front yards, may have a fence no taller than six feet within 10 feet of the front lot line that does not contain the main door entrance provided the fence does not extend in front of the building. [Ord. 5894, 10/14/17]

Standards for All fences:

- (6) In no instance or zone ~~shall~~ may a fence exceed ~~eight~~ 8-feet except when permitted in 9.370. [Ord. 5742, 7/14/10; Ord. 5751, 3/9/11]  
 Fences over ~~six~~ 8 feet tall ~~shall~~ must meet building setbacks, except when permitted along property lines in Sections 9.370(4)(d) or permitted in required setbacks in 9.380(3). [Ord. 5742, 7/14/10; Ord. 5751, 3/9/11, Ord. 5886, 1/6/17]
- (7) In no instance ~~shall~~ may a fence extend beyond the property line.
- (8) All fences ~~shall~~ must meet the Clear Vision Area standards in Section 12.180.
- (9) Measuring Fence Height. Fence height ~~shall~~ must be measured from the average height of the grade adjacent to where the fence is to be located. If a fence is to be constructed on top of a berm or retaining wall, the height ~~shall~~ must be measured from the bottom of the berm. Fence height includes the height of the fence, wall, or picket, and does not include the posts, or arbors and trellises at entrance gates. [Ord. 5446, 5/10/00; Ord. 5689, 3/12/08]
- (10) Maintenance. Every fence, whether required or not, will be maintained. No fence is allowed to become or remain in a condition of disrepair including, but not limited to noticeable leaning, missing slats, broken supports, and overgrowth of weeds or vines.

9.385 Screening. Whenever a sight-obscuring fence, wall or hedge is required under the provisions of this Code, it must meet the following provisions and the vision clearance standards in Section 12.180:

- (1) Opacity. In order to be “sight-obscuring,” fences and walls must be at least 75 percent opaque when viewed from any angle at a point 25 feet away from the fence or wall. Hedges must be an evergreen species that will meet the standards year-round within two years of planting. [Ord. 5742, 7/14/10]
- (2) Height. Fences and walls will be a minimum of 6 feet tall. Hedges will be of a species capable of attaining a height of at least six feet within two years of planting, given their age, height, and health when planted. [Ord. 5742, 7/14/10]
- (3) Maintenance. Fences and walls will be maintained in safe condition and opacity is maintained as required in subsection (a) of this section. Wooden materials will be protected from rot, decay, and insect infestation. Plants forming hedges will be replaced within six months after dying or becoming diseased to the point that the opacity required in subsection (a) of this section is not met. [Ord. 5742, 7/14/10]

9.390 Non-conforming Fences. Existing fences that were constructed legally and/or that were in place at the time the property was annexed to the City that do not meet the current fencing standards ~~shall~~ are be considered a legal non-conforming use, provided that the barbed wire or upturned barbed selvage does not extend over a street or alley and where it does slant toward the public right-of-way, it is located not less than one foot from said right-of-way.

[Ord. 5446, 5/10/00; Ord. 5555, 2/7/03; Ord. 5556, 2/21/03; Ord. 5673, 6/27/07; Ord. 5689, 3/12/08; Ord. 5742, 7/14/10; Ord. 5751, 3/9/11]

*\*\*\* No changes are proposed to Section 9.400 to 9.500, so those sections are not provided. \*\*\**

# ARTICLE 11

## LAND DIVISIONS AND PLANNED DEVELOPMENTS

11.000 Overview. The most permanent feature of a community is the way land is divided into parcels. This article describes the process of converting raw land into building sites. The primary goals of this design review are to better ensure that natural features have been taken into account; that roads and utilities are properly designed and installed, and that adequate open space has been provided. This article establishes the standards and procedures for property line adjustments, partitions, subdivisions, planned developments, and condominiums.

The following is a list of the main headings in this article.

- General Provisions
- 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]

*\*\*\* No changes are proposed to Sections 11.010 to 11.090, so those sections are not provided. \*\*\**

### Staff Comments: Provide open space in residential subdivisions.

Through the public engagement process with this project, middle housing, and the HIP, staff heard that green space and access to green space is important, especially in denser developments. Staff propose to add an open space requirement in residential subdivisions of 20 or more lots. The open space would consist of a pocket park; and any remaining open space could include, but not is not limited to walking trails, gardens, landscaping and trees, storm water quality facilities, and natural resources.

### 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 1/4 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.

*\*\*\* No changes are proposed to Sections 11.100 to 11.140, so those sections are not provided. \*\*\**

## SUBDIVISIONS AND PARTITIONS

- 11.150 Difference Between Partitions and Subdivisions. A subdivision relates to the division of land into four or more lots within a calendar year. A partition relates to the division of land into two or three parcels within a calendar year. A partition does not include the three exclusions set forth in ORS 92.010 (7), including property line adjustments as described in Section 11.100 of this article.
- 11.160 Explanation of Process. Partitions and subdivisions are reviewed at two stages. A tentative plat is reviewed primarily for design aspects, such as connections to existing and future streets, preservation of natural features, drainage and floodplain considerations, and compliance with requirements of other portions of this Code. The tentative plat need not be prepared by a surveyor. The final plat is reviewed for conformance to the tentative plat as approved (with or without conditions) and applicable state or county laws or rules. The final plat must be prepared by a licensed land surveyor and is the instrument by which the land division is recorded.

**Staff Comments for Cluster Development Process in ADC 11.170 and 11.430:** The cluster development standards are clear and objective, so they can be approved at a staff level. Staff proposes to reduce the planning process from a Type III (public hearing and approval by the Planning Commission or Hearings Board) to a Type II (staff decision, with an opportunity to appeal to Planning Commission or Hearings Board).

- 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 ~~III~~ II-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]
- 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 proposal meets the development standards of the underlying zoning district, ~~and~~ applicable lot and block standards, and open space requirements of this Article.
  - (2) Development of any remainder of property under the same ownership can be accomplished in accordance with this Code.
  - (3) Adjoining land can be developed or is provided access that will allow its development in accordance with this Code.
  - (4) The Public Works Director has determined that transportation improvements are available to serve the proposed subdivision or partition in accordance with Article 12 or will be made available at the time of development.

- (5) The Public Works Director has determined that public facilities and utilities are available to serve the proposed subdivision or partition in accordance with Article 12 or will be made available at the time of development.
- (6) Activities and developments within special purpose districts must comply with the regulations described in Articles 4 (Airport Approach), 6 (Natural Resources), and 7 (Historic), as applicable.

[Ord. 5764, 12/1/11; Ord. 5886, 1/6/17; Ord. 5968, 1/14/22]

*\*\*\* No changes are proposed to Sections 11.190 to 11.230, so those sections are not provided. \*\*\**

## **PLANNED DEVELOPMENTS**

11.240 Definition. A planned development is a master planned environment intended for a variety of related activities. It promotes an integrated, coordinated development of land, normally involving increased flexibility in use and design standards, with special incentives or restrictions on development. A planned development may be primarily residential uses with associated commercial uses, a mixed-use development, or it may be a commercial or industrial development.

11.250 Purposes. The purposes of a Planned Development are to:

- (1) Encourage more innovative planning that results in more desirable or sustainable environments or neighborhoods, improved protection of open spaces, transportation options, and site phasing of developments through the application of flexible and diversified land development standards than would otherwise occur under conventional land development procedures; and
- (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]

*\*\*\* No changes are proposed to Sections 11.260 to 11.325, so those sections are not provided. \*\*\**

### **Staff Comments for Updates to Maximum Density in Cluster and Planned Developments (11.330 & 11.495):**

The Albany Housing Implementation Plan (HIP) recommends a variety of Development Code updates that reduce or remove barriers to various needed housing types. As part of its approach to removing barriers to multiple-dwelling unit development, City of Albany staff recommend removing maximum density limits in the city's higher-density zones and allowing smaller homes on smaller lots. The density limits in the Cluster and Planned Development sections are being revised to reflect these changes elsewhere in the ADC.

**Cluster Development Process (11.430)** – The cluster development standards are clear and objective, so they can be approved at a staff level. Staff proposes to reduce the planning process from a Type III (public hearing and approval by the Planning Commission or Hearings Board) to a Type II (staff decision, with an opportunity to appeal to Planning Commission or Hearings Board).

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 ~~shall~~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 ~~shall~~must be devoted to open space, outdoor living area or common areas as follows. [Ord. 5968, 1/14/22]
  - (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 ~~shall~~may open space of less than 15 percent of the gross land area be approved. [Ord. 5968, 1/14/22]
  - (c) Locations, shapes, sizes and other characteristics of open spaces ~~shall~~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. [Ord. 5968, 1/14/22]
  - (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 for public parks ~~shall~~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. [Ord. 5832, 4/9/14; Ord. 5842, 1/1/15]
  - (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. [Ord. 5968, 1/14/22]
- (2) Natural Resources. The planned development ~~shall~~must 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~~must integrate the proposed development with the environmental characteristics of the site and adjacent uses. [Ord. 5832, 4/9/14]
- (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~~must 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 area including streets and park land dedications ~~shall~~must be included, except for land in the Significant Wetland overlay

district and waterways. The maximum density permitted per zoning district is outlined in Table 11.330-1 below. [Ord. 5947, 1/1/21; Ord. 5968, 1/14/22]

**Staff Comments for Table 11.330-1 Updates:**

Since the city proposes to encourage smaller houses and duplexes with smaller lots, more units will essentially be allowed per acre when smaller dwelling lots are proposed. The allowable density tables need to be updated to include the maximum density allowed for smaller single dwelling units and duplexes on smaller lots. The maximum density in the RM and RMA zones also needs to be removed.

The HDR zone also needs to be added to the table.

**TABLE 11.330-1. Maximum density permitted per zoning district.**

	RS-10	RS-6.5	RS-5 & HM	RM	RMA	HDR	OS
Maximum dwelling units per acre*	4	6	8	<del>25</del> None	<del>35</del> None	None	1**
<u>Small SDU or Duplex 800-1,250 SF per net acres</u>	<u>6</u>	<u>9</u>	<u>12</u>	None	None	None	<u>1**</u>
<u>Small SDU or Duplex less than 800 SF per net acres</u>	<u>8</u>	<u>12</u>	<u>16</u>	None	None	None	<u>1**</u>

\* In Middle Housing Zoning Districts, additional density to allow for middle housing may be permitted. Middle housing lot sizes ~~shall~~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  
[Ord. 5801, 2/13/13; Ord. 5832, 4/9/14; Ord. 5947, 1/1/21; Ord. 5968, 1/14/22]

- (5) Building Spacing and Yard Requirements. The plan ~~shall~~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 ~~shall~~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. [Ord. 5832, 4/9/14]
- (6) Building Locations. Taller buildings ~~shall~~must be located within the planned development in such a way as to avoid adverse impact on neighboring lower buildings and ~~shall~~must not invade the privacy of the occupants of adjacent lower buildings. [Ord. 5832, 4/9/14]
- (7) Perimeter Compatibility. The plan ~~shall~~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 ~~shall~~must provide additional setbacks, buffering or screening between residential and non-residential uses. [Ord. 5832, 4/9/14]

**\*\*\* No changes are proposed to Section 11.340 to 11.390, so those sections are not provided. \*\*\***

**CLUSTER DEVELOPMENT**

11.400 Purpose. 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) Natural and Other Special Features. The site must contain one or more of the features listed in Section 11.460
  - (3) 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 ~~III~~II procedure. [Ord. 5562, 10/10/03; Ord. 5668, 4/11/07]
- 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: [Ord. 5968, 1/14/22]
- (1) The proposed development meets all of the requirements for cluster development.
  - (2) 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]
- 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 ~~shall~~ must be designated in the following priority order: [Ord. 5968, 1/14/22]
- (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 and one-half feet in circumference (approximately 25 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. [Ord. 5801, 2/13/13; Ord. 5947, 1/1/21]
  - (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 ~~shall~~ 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 ~~shall~~must be satisfied in the following order:  
[Ord. 5968, 1/14/22]
- (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.  
[Ord. 5947, 1/1/21]
  - (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.  
[Ord. 5801, 2/13/13]
  - (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.

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 ~~shall be~~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 ~~shall~~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) 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. [Ord. 5801, 2/13/13; Ord. 5842, 1/1/15]
- (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 ~~shall~~ **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]

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 RS-6.5 and RS-10 may be multiple dwelling units. [Ord. 5968, 1/14/22; Ord. 6004, 12/28/22]
- (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 ~~shall~~ **must** be 3,000 square feet. Commercial and office uses ~~shall~~ **are** be 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]

**Staff Comments for Table 11.495-1 Updates:**

Since the city proposes to encourage smaller houses and duplexes with smaller lots, more units will essentially be allowed per acre when smaller dwelling lots are proposed. The allowable density tables need to be adjusted tare being updated to include the maximum density allowed for smaller single dwelling units and duplexes on smaller lots. The HDR zone also needs to be added to the table.

11.495 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 maximum density permitted by zoning district is specified in the following table. [Ord. 5923, 2/8/19; Ord. 5947, 1/1/21; Ord. 5968, 1/14/22]

**TABLE 11.495-1. Allowable density ranges per zone.**

Standard	RS-10	RS-6.5	RS-5 & HM	RM	RMA	HDR	OS
<del>Max. Single Dwelling Units (SDU) per gross-net acre (1)</del>	4	6	8	<del>25</del> None	<del>35</del> None	None	1 (5)
<del>Small SDU or Duplex 800 -</del>	<u>6</u>	<u>9</u>	<u>12</u>	None	None	None	<u>1 (5)</u>

<u>1,250 SF per net acres (1)</u>							
<u>Small SDU or Duplex Less than 800 SF per net acres (1)</u>	<u>8</u>	<u>12</u>	<u>16</u>	<u>None</u>	<u>None</u>	<u>None</u>	<u>1 (5)</u>
Minimum Lot Size (2)	None	None	None	None	None	<u>None</u>	N/A
Minimum Lot Width	None	None	None	None	None	<u>None</u>	N/A
<del>Minimum Lot Depth</del>	<del>None</del>	<del>None</del>	<del>None</del>	<del>None</del>	<del>None</del>		<del>N/A</del>
Minimum front setback (3)	<del>15</del> <u>12</u> ft.	10 ft.	10 ft.	10 ft.	10 ft.	<u>10 ft.</u>	N/A
Maximum Lot Coverage (4)	70%	70%	70%	<del>70</del> <u>75</u> %	<del>75</del> <u>80</u> %	<u>85</u> %	N/A

- (1) In Middle Housing Zoning Districts, additional density to allow for middle housing may be permitted. Density for middle housing ~~shall be~~ 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 ~~shall~~ 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 ~~shall~~ 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 residential unit per existing lot.

[Ord. 5801, 2/13/13; Ord. 5947, 1/1/21; Ord. 5968, 1/14/22]

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 ~~shall~~ 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. [Ord. 5968, 1/14/22]

Example:

<b>Proposed Cluster Development</b> <b><u>RS-6.5</u></b> Perimeter lots must be at least 6,500 SF	Abutting Property w/ Lower Density Residential <b><u>RS-10 Zoning</u></b>
---	--

- (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 ~~shall~~ 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. [Ord. 5968, 1/14/22]

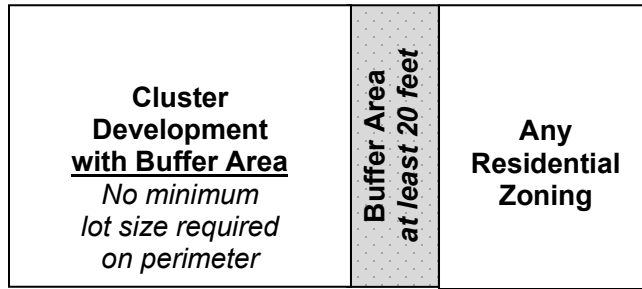
Example:

<b>Proposed Cluster Development in <u>RS-10</u></b> Perimeter lots must be at least 7,000 SF (70% of minimum lot size for underlying zoning)	<b>Abutting Property w/ Same Residential Zoning:</b> <b><u>RS-10 Zoning</u></b>
---	--

- (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 lots share 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 ~~shall~~must become a permanent natural area and ~~shall~~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]

**\*\*\* No changes are proposed to Section 11.520 to 11.630, so those sections are not provided. \*\*\***

## ARTICLE 12 PUBLIC IMPROVEMENTS

12.000 Overview. This article provides public improvement standards to address the City’s concerns relative 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]

*\*\*\* No changes are proposed to Section 12.010 to 12.090, so those sections are not provided. \*\*\**

**Staff Comment:** Removing the word “detached” which was missed with a previous code update.

### STREETS

12.100 Access to Public Streets. With the exceptions noted in Section 1.105, the location and improvement of an access point onto a public street ~~shall~~**must** be included in the review of a development proposal. In addition, the following specific requirements ~~shall~~ apply to all access points, curb cuts, and driveways: [Ord. 5947, 1/01/21]

(1) Approaches and driveways to City streets and alleys must be paved and constructed in accordance with the Standard Construction Specifications. Driveways serving more than one property ~~shall~~**must** be paved the full length of the shared portion. [Ord. 5720, 08/12/2009]

(2) Driveways for single-dwelling unit ~~detached~~ dwellings and middle housing must have a minimum width of 10 feet and a maximum width of 24 feet (not to exceed the width of the driveway curb cut) and minimum separation of 5 feet. See also the additional driveway standards in ADC Section 8.140. Spacing between driveways is measured along the front property line. [Ord. 5968, 1/14/22; Ord. 6004, 12/28/22]

Triplexes and fourplexes are also subject to the driveway design standards in ADC Section 8.165. Townhouses are also subject to the driveway design standards in ADC Section 8.170. Where the standards in Sections 8.165 or 8.170 conflict with this subsection (2), the Article 8 standards ~~shall~~**must** control. [Ord. 5968, 1/14/22]

Driveways for all other uses must have widths of 12-16 feet for one-lane (one-way) driveways, 24-32 feet for two-lane driveways, and 36 feet for three-lane driveways. Three-lane driveways must have designated lanes and turning movements. Industrial driveways ~~shall~~**must** have a width of 24-48 feet. There must be a minimum separation of 22 feet between all driveways except for single- and two-unit dwellings, and middle housing of four units or less. The width of a driveway will be determined by

measuring at the curb line and will exclude the transitions which must conform to standards fixed by the City Engineer. [Ord. 5947, 1/01/21]

- (3) All driveways must be located as far as practical from a street intersection, and in no instance ~~shall~~ may the distance from an intersection be less than the following, as measured from the nearest curb return radius:

Arterial Street	40 feet
Collector Street	20 feet
Local Street	10 feet

At intersections with bulb-outs or post-construction stormwater quality curb extensions incorporated into the curb return the measurement will be made from the nearest curb return radius. When different classes of streets intersect, the distance required is between an access point and the intersection of the street type that requires the greater distance. [Ord. 5842, 1/01/15]

- (4) The location, width, and number of accesses to a public street may be limited for developments that are subject to land use review. [Ord. 5947, 1/01/21]

- (5) Access points to a public street ~~shall~~ must be the minimum necessary to provide reasonable access while not inhibiting the safe circulation and carrying capacity of the street. [Ord. 5720, 8/12/2009]

- (6) Properties with frontage on more than one street may be restricted to access on the street(s) of a lower classification through site plan, land division, or other review procedures.

- (7) A common access point at a property line is encouraged and may be required in order to reduce the number of access points to streets. Construction of common access points must be preceded by recording of joint access and maintenance easements.

- (8) Driveways ~~shall~~ must comply with applicable fire and building codes. Approach grades must not exceed 10 percent slope within 20 feet of a public street, except as specified below.

- (a) Residential driveways serving four (4) or fewer units may exceed the maximum slope specified above. [Ord. 5968, 1/14/22]

- (9) Access to designated state highways is subject to the provisions of this Article in addition to requirements of the State Highway Division and State Department of Transportation. When regulations of the City and State conflict, the more restrictive requirements apply.

- (10) For developments on property larger than five acres in contiguous ownership fronting on an arterial street or limited access highway, a frontage road may be required in order to provide a single access determined by the review body to be the most appropriate location for safety and convenience.

- (11) When access is allowed on an arterial street, efforts ~~shall~~ must be made to locate it adjacent to the interior property line where it could be shared by the adjacent property. [Ord. 5338, 1/28/1998; Ord. 5445, 4/12/2000]

12.140 Additional Rights-of-Way. A development project requiring land use review is required to dedicate additional right-of-way if an existing street abutting or within the development does not meet the widths designated in Section 12.120. This provision does not apply to property line adjustments or historic review. While not required to dedicate additional right-of-way, single-dwelling units ~~detached dwellings~~ and middle housing (and related accessory buildings) and parking lot and building additions listed in Section 1.105 are subject to setbacks from future street rights-of-way as provided in Section 3.190.

[Ord. 5947, 1/01/21; Ord. 5968, 1/14/22; Ord. 6004, 12/28/22]

**\*\*\* No changes are proposed to Sections 12.150 to 12.190, so those sections are not provided. \*\*\***

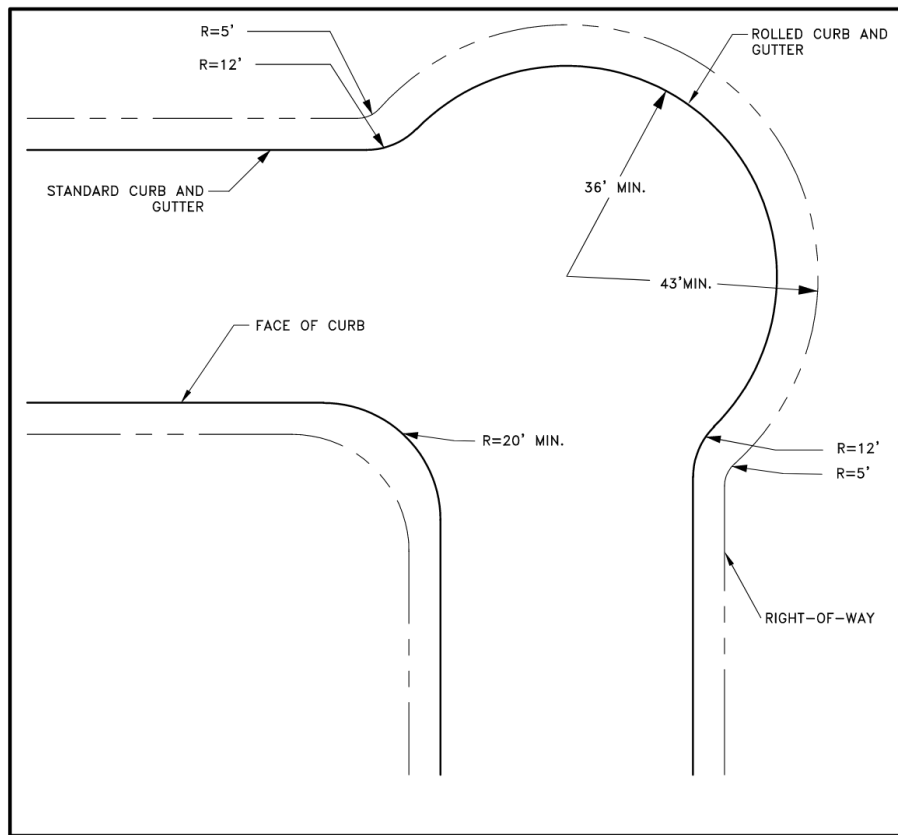
12.200 Street Abutting New Development. Sections of existing streets that directly abut a new development and do not meet City standards ~~shall~~must be constructed to City standards. The City Engineer may approve construction of a partial-width street, provided the design is determined to be adequate to accommodate needed public facilities, storm drainage runoff, traffic volumes, and traffic loadings. The design of the improvement ~~shall~~must consider the ultimate design of the fully widened street. For purposes of this section, “development” does not include the construction of a single-dwelling unit ~~detached home~~ or middle housing on an existing lot. [Ord. 5886, 1/6/17; Ord. 5968, 1/14/22; Ord. 6004, 12/28/22]

A future improvement assurance, as described in Section 12.600, may be accepted by the City when the City Engineer determines that the street improvement would not be timely. [Ord. 5338, 1/28/1998]

**Staff Comments for ADC 12.210:** Revising the Slope and Curves section to clarify street layouts when two terminating streets create a 90-degree curve.

12.210 Slope and Curves. Slope ~~shall~~must not exceed 6 percent on arterials, 10 percent on collectors ~~streets~~, or 12 percent on other streets. Center line radii or curves ~~shall~~must be not less than 600 feet on arterials, 400 feet on collectors, or 200 feet on other streets. For two terminating streets that create a sharp curve, a “knuckle” must be used to maintain on-street parking and allow for emergency vehicle access through the curve. When existing conditions, particularly the topography, make it otherwise impractical to provide buildable sites, steeper grades and sharper curves may be approved by the review body City Engineer. In flat areas, allowance ~~shall~~must be made for finished street grades having a minimum slope of at least 0.5 percent, when possible.

Figure 12.210-1. Example Knuckle Layout



**\*\*\* No changes are proposed to Sections 12.220 to 12.280, so those sections are not provided. \*\*\***



## SIDEWALKS

12.290 Requirement. All development for which land use applications are required, and all expedited and middle housing land divisions, must include sidewalks adjacent to public streets. This requirement also applies to new single-dwelling units ~~detached houses~~ and middle housing units if they are located on arterial or collector streets or on curbed local streets, if there is an existing sidewalk within 500 feet on the same side of the street. [Ord. 5947, 1/01/21; Ord. 5968, 1/14/22; Ord. 6004, 12/28/22]

Sidewalks ~~shall~~ must be built when arterial and collector streets are constructed and at the discretion of the City Engineer during their reconstruction. This provision ~~shall~~ also apply to local streets that serve commercial and multiple dwelling unit development. Sidewalks are required on both sides of all streets. If an interim street standard is being constructed which does not include bike lanes or sidewalks, interim bikeways or walkways for pedestrians ~~shall~~ must be provided by paved roadway shoulders at least 8 feet wide on arterials and 6 feet on other streets. Provision of sidewalks may be waived when the street serves a use or combination of uses that generate fewer than 50 trips a day (based on ITE standards) and cannot be continued or extended to other properties. [Ord. 5445, 4/12/2000; Ord. 6004, 12/28/22]

*\*\*\* No changes are proposed to Sections 12.300 to 12.324, so those sections are not provided. \*\*\**

### Staff Comments: Bikeways in Other Plans

Since the Transportation Systems Plan was adopted in 2010, bikeways have been identified in area plans adopted by the city into the Albany Comprehensive Plan. Until these bikeways are added to the TSP, staff proposes to reference these area plans so that these facilities are constructed with development.

## BIKEWAYS

12.330 Master Bikeways Plan. The City's Transportation System Plan and adopted area plans identifies existing and proposed bicycle facilities. [Ord. 5947, 1/01/21]

12.340 Provisions for Bikeways. Developments adjoining or containing proposed bikeways identified in the Transportation System Plan or an adopted area plan ~~shall~~ must construct and extend said facilities to and through the property's frontage and along its interior, or to a point identified by the City Engineer to accommodate likely system expansion. Where the City Engineer has determined construction is untimely, provisions ~~shall~~ must be made for the future construction and extension of said facilities.

In the case of arterial or collector streets, bike facilities ~~shall~~ must be built during their construction and considered during their reconstruction. This provision ~~shall~~ also applies to local streets in other than single-dwelling unit residential developments. [Ord. 5947, 1/01/21; Ord. 6004, 12/28/22]

12.350 Bikeway Design. The design of on-street bike lanes and facilities ~~shall~~ must be in accordance with the Transportation System Plan and the City's Engineering Standards, and must be approved by the City Engineer. The minimum width for two-way bikeways not on a roadway ~~shall~~ must be 10 feet. A reduction in standards may be allowed when the City Engineer finds that no safety hazard will be created and special circumstances (such as physical constraints) exist. [Ord. 5947, 1/01/21]

*\*\*\* No changes are proposed to Sections 12.360 to 12.405 so those sections are not provided. \*\*\**

## WATER

12.410 When Public Water is Available. All new development, including a single-dwelling unit residence, must extend and connect to the public water system when service is available within 150 feet of the property. Fire hydrants, mains, and related appurtenances ~~shall~~ must be installed as required by the City Fire Marshal. [Ord. 6004, 12/28/22]

12.420 When Public Water is Not Available. No new development is allowed on private well systems, except for construction of one single-dwelling unit ~~detached dwelling~~ or one duplex on an existing lot of record.

Residential lots created by a land partition may be served by private wells if approved by the City, and provided the new lots are subject to a Petition for Improvement/Waiver of Remonstrance for a future assessment district for public water. If a second partition plat is filed on the same parcel, the application will be subject to the subdivision requirement that the development be served by public water.

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

- 12.430 Extension Along Property Frontage and Within Interior. Water distribution mains must be extended along the full length of the property's frontage along the right-of-way or to a point identified by the City Engineer as necessary to accommodate likely system expansion. Main extensions may be required through the interior of properties when necessary to provide service to other properties or to provide looping for fire flows.
- 12.440 Water Plan Approval. Preliminary water plans and systems must be submitted to the City Engineer as part of the tentative plat or Site Plan Review application. These plans must provide enough information to enable the City Engineer to determine that the proposed development is feasible, but are not required to be detailed construction level documents. The City's Engineering Standards, while not land use criteria, may be used, in whole or in part, by the City Engineer to determine the feasibility of a proposed plan.  
[Ord. 5720, 8/12/2009]
- 12.450 Design Requirements for New Development. All new development within the City must, when appropriate, make provisions for the continuation or appropriate projection of existing principal water lines serving surrounding areas.
- 12.460 Restriction of Development. The review body may restrict development approvals when a deficiency exists in the water system or portion thereof which cannot be corrected as a part of the development improvements.

## SANITARY SEWERS

- 12.470 When Public Sewer is Available. All new development must extend and connect to the public sewer system when service is available within 300 feet of the property.
- 12.480 When Public Sewer is Not Available. Where sewer is not available within 300 feet of the property, no development is allowed on private septic systems, except for construction of one single-dwelling unit ~~detached~~ with or without one ADU or SRO unit or one duplex on an existing lot of record or on a parcel no smaller than five acres created through the land division process. Any private on-site system allowed by this section must be approved by the county.  
[Ord. 5968, 1/14/22; Ord. 6004, 12/28/22]
- 12.490 Extension Along Property Frontage and Within Interior. Sewer collection mains must be extended along the full length of the property's frontage along the right-of-way or to a point identified by the City Engineer as necessary to accommodate likely system expansion. When private sanitary sewer services will exceed 100 feet long, as measured from the public main to the structure, the City Engineer may require extension of public sewers into the interior of the property.
- 12.500 Sewer Plan Approval. Preliminary sewer plans and systems must be submitted to the City Engineer as part of the tentative plat or Site Plan Review application. These plans must provide enough information to enable the City Engineer to determine that the proposed development is feasible, but are not required to be detailed construction level documents. The City's Engineering Standards, while not land use criteria, may be used, in whole or in part, by the City Engineer to determine the feasibility of a proposed plan.  
[Ord. 5720, 8/12/2009]
- 12.510 Design Requirements for New Developments. All new development within the City must, where appropriate, make provisions for the continuation or appropriate projection of existing sewer lines serving surrounding areas. Line extensions may be required through the interior of a property to the developed when the City Engineer determines that the extension is needed to provide service to upstream properties.
- 12.520 Restriction of Development. The review body may restrict development approvals where a deficiency exists in the sewer system or portion thereof that cannot be corrected as a part of the development improvements.

**\*\*\* No changes are proposed to Sections 12.530 to 12.610, so those sections are not provided. \*\*\***

# ARTICLE 22

## USE CATEGORIES AND DEFINITIONS

The following is a list of content in this article.

- Use Categories 22.030 – 22.370
- Definitions 22.400
- Natural Resource Definitions 22.500

### USE CATEGORIES

[Use Categories in Sections 22.010 – 22.370 added by Ord. 5555, 2/7/03]

22.010 Introduction to the Use Categories. This section classifies land uses and activities into use categories based on common functional, product, or physical characteristics. The use categories provide a systematic basis for assigning present and future uses to zones. The decision to allow or prohibit the use categories in the various zones is based on the zoning district purpose statements.

The Schedules of Permitted Uses (by zoning district), special conditions and the development standards are located in Article 3, Residential Zoning Districts; Article 4, Commercial and Industrial Zoning Districts; and Article 5, Mixed Use Village Center Zoning Districts. The environmental performance standards in Article 9, On-site Development and Environmental Standards, may limit the placement of certain uses in some zoning districts.

#### INDUSTRIAL USE CATEGORIES

- 22.030 Contractors and Industrial Services
- 22.040 Manufacturing and Production
- 22.045 Small-scale Manufacturing
- 22.050 Railroad Yards
- 22.060 Warehousing and Distribution
- 22.070 Waste and Recycling Related
- 22.080 Wholesale Sales

#### COMMERCIAL USE CATEGORIES

- 22.090 Adult Entertainment
- 22.100 Entertainment and Recreation, Indoor and Outdoor
- 22.110 Offices
- 22.120 Parking Facility
- 22.125 Recreational Vehicle Park
- 22.130 Restaurants
- 22.140 Retail Sales and Service
- 22.150 Self-Serve Storage
- 22.155 Taverns, Bars, Breweries and Night Clubs
- 22.160 Vehicle Repair
- 22.170 Vehicle Service, Quick

#### INSTITUTIONAL USE CATEGORIES

- 22.180 Basic Utilities
- 22.190 Community Services
- 22.200 Daycare Facility
- 22.210 Educational Institutions
- 22.220 Hospitals
- 22.230 Jails and Detention Facilities
- 22.240 Parks, Open Areas and Cemeteries
- 22.250 Religious Institutions

## RESIDENTIAL USE CATEGORIES

- 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]

**\*\*\* No changes are proposed to Sections 22.020 to 22.170, so those sections are not provided. \*\*\***

## 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. [Ord. 5742, 7/14/10]
- (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.

**Staff Comment: When the Community Services use was revised during the last code update too many uses were removed, affecting where community services could be located.**

### 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.
- (1) 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.

~~Public services provided to customers in an office building are classified as Offices.~~

[Ord. 5742, 7/14/10; Ord. 6042, 7/12/24]

**\*\*\* No changes are proposed to Sections 22.200 to 22.270, so those sections are not provided. \*\*\***

**Staff Comments:**

**Single Room Occupancy Units:** Updating language for consistency with previous code update regarding Single Room Occupancy Units and allowance of one SRO unit per primary dwelling unit in lieu of an accessory dwelling unit.

**Residential Accessory Buildings:** Updating to clarify that residential accessory buildings may not contain sleeping rooms or kitchens unless approved as part of an Accessory Dwelling Unit.

**RESIDENTIAL USE CATEGORIES**

22.280 Single- Dwelling Unit and Two Primary Units.

- (2) Single- ~~d~~Dwelling ~~U~~units are one dwelling unit on one lot, with or without ~~an~~ one accessory dwelling unit or Single Room Occupancy (SRO) Unit. Two primary units are two primary detached dwellings on one lot.
- (3) Use Examples. Single detached units, a single dwelling unit with one Accessory Dwelling Unit, a Single Dwelling Unit with one Single Room Occupancy SRO Unit, two detached primary dwelling units, one ~~Single Room Occupancy (SRO) d~~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.
- (1) Exceptions.
  - (a) In certain situations, lodging where tenancy may be arranged for periods less than one month, such as short-term housing or homeless shelter, may be classified as Community Service uses.
  - (b) Dwellings and SRO developments where care or treatment is provided and that typically provide common dining are classified as a Group or Residential Care Home or Residential Care or Treatment Facility.
  - (c) Attached primary dwelling units are classified as Middle Housing (either a duplex, triplex, fourplex, or townhouse) or Multiple Dwelling Unit Development.
  - (d) Dwelling units located above, behind, or contiguous to a business or office on the ground floor(s) are classified as Units Above or Attached to a Business.

[Ord. 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.

**\*\*\* No changes are proposed to Section 22.285 to 22.310, so those sections are not provided. \*\*\***

22.320 Residential Accessory Buildings.

- (1) A detached building that is subordinate to and consistent with the ~~principal~~ primary residential use of the property and located on the same property as the ~~principal~~ 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]

**\*\*\* No changes are proposed to Section 22.325 to 22.370, so those sections are not provided. \*\*\***  
**\*\*\* Definitions not being revised are not provided. \*\*\***

**Staff Comments:** Adding new definitions and updating/clarifying existing to reflect changes to the ADC. Only new or changing definitions are provided or definitions that provide additional context to other definitions.

## 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.

Accessory Dwelling Unit: A self-contained ~~living~~ 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) ~~that is incidental and subordinate to the principal dwelling unit (primary residence).~~

[Ord. 5338, 1/28/98; Ord. 5801, 2/13/13; Ord. 5949, 1/01/21; Ord. 6004, 12/28/22]

Building Official: The Superintendent of the Building Division or a person designated by the City Manager as such. See Albany Municipal Code (AMC) 18.04.070.

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.

[Ord. 5801, 2/13/13; Ord. 5968, 1/14/22]

Dwelling Unit: ~~One or more habitable rooms that are occupied or intended or designed to be occupied by residents with housekeeping facilities for living, sleeping, cooking, and eating.~~ A single unit providing complete independent living facilities for one or more persons, including provisions for living, sleeping, food preparation, and bathroom.

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.

[Ord. 5801, 2/13/13; Ord. 5968, 1/14/22]

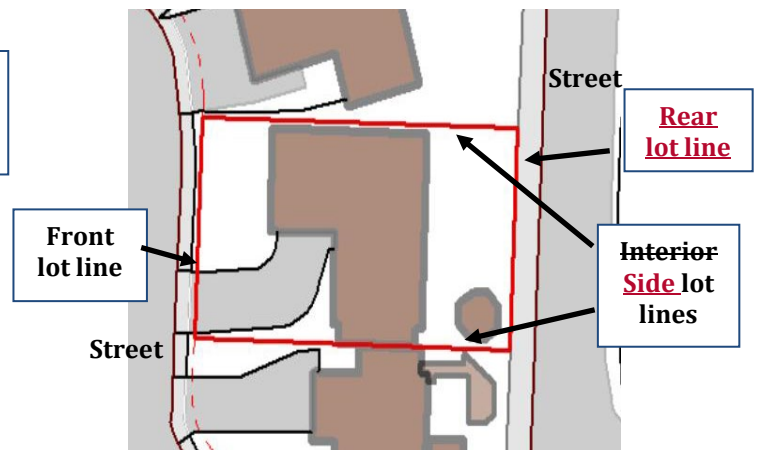
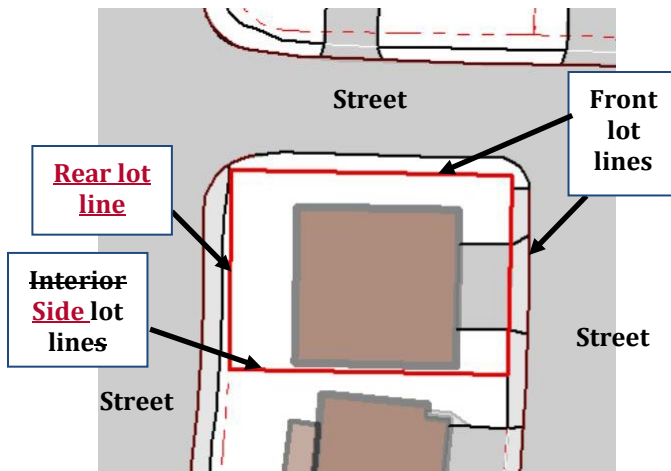
Kitchen: An area used or designed to be used for preparation and storage of food. For the purposes of this Code, a kitchenette and wet bar has the same meaning.

Lot, Interior: A lot with frontage only on one street.

Lot Line, Front: A lot line abutting any street. ~~For the purpose of To determining setback requirements, all sides of an interior lot or corner lot adjacent to a street shall~~ must be considered frontage and setbacks ~~shall~~ must be provided as required. For triple frontage lots, one frontage may be considered a rear interior 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 interior lot line for setback purposes. See the following examples. [Ord. 5768, 12/7/11, Ord. 5894, 10/14/17]

Example 1: Triple Frontage Lot

Example 2: Double Frontage Lot



[Ord. 5742, 7/14/10, Ord. 5768, 12/7/11]

Lot Line, Interior: Any lot line other than a front lot line.

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 Line, Interior Side: Any lot line other than a front or rear lot line. For Flag Lots, all lot lines are considered side lot lines.

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
- RS-10 Residential Single-Dwelling Unit District
- RS-6.5 Residential Single-Dwelling Unit District
- RS-5 Residential Single-Dwelling Unit District
- HM Hackleman-Monteith District
- RM Residential Medium Density District
- MUR Mixed Use Residential District
- MUC Mixed Use Commercial District

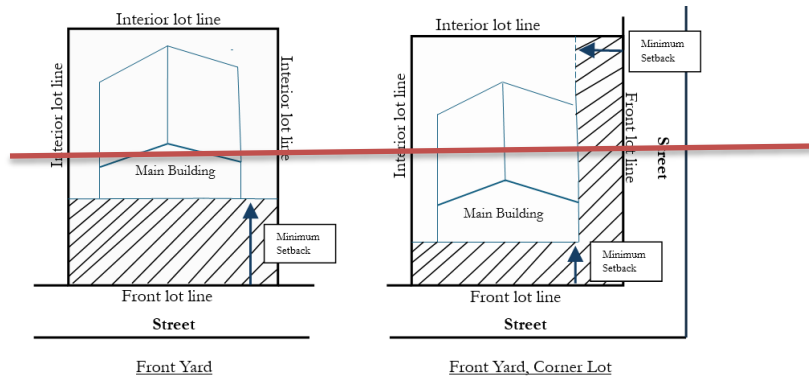
[Ord. 5968, 1/14/22; Ord. 6004, 12/28/22]

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 Special code has the same meaning.

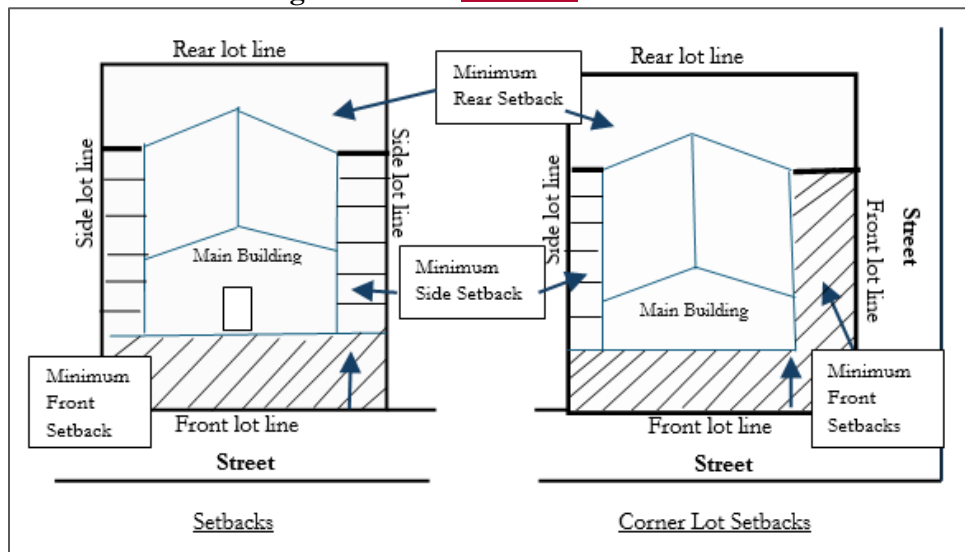
Non-Property Line Separated Townhouse: A townhouse defined and constructed under the Oregon Residential Specialty Code and located on a single parcel of land.

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

**Setback, Front:** The minimum horizontal distance required from the front property lot line to the nearest vertical wall of a building or structure, fence, or other element as defined by this Code. [Ord. 6042, 7/12/24]



**Figure 22.400-3: Setbacks Front Yard**



**Setback, Interior:** The minimum horizontal distance from an interior property line to the nearest vertical wall of a building or structure, fence, or other element as defined by this Code. [Ord. 6042, 7/12/24]

**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.

**Single-Dwelling Unit-Detached (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 as one Dwelling Unit. Dwelling Units on individual lots that are part of a cottage cluster are not single-dwelling units detached for the purposes of this Code. [Ord. 5968, 1/14/22; Ord. 6004, 12/28/22]

**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 or food preparation facility(ies). Sanitary facilities (bathrooms) may be shared or may be provided within or between SRO units. For purposes of this Code, density shall 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. [Ord. 5801, 2/13/13; Ord. 6042, 7/12/24]



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 living and sleeping space SRO unit must share the Kitchen with other SRO Units or the SDU and may or may not include sanitary share bathroom facilities. See definitions for SRO Development. [Ord. 6042, 7/12/24]

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. [Ord. 5742, 7/14/10; Ord. 5968, 1/14/22; Ord. 6004, 12/28/22]

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. [Ord. 5968, 1/14/22]

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 Special eCode has the same meaning. [Ord. 5801, 2/13/13; Ord. 5968, 1/14/22]

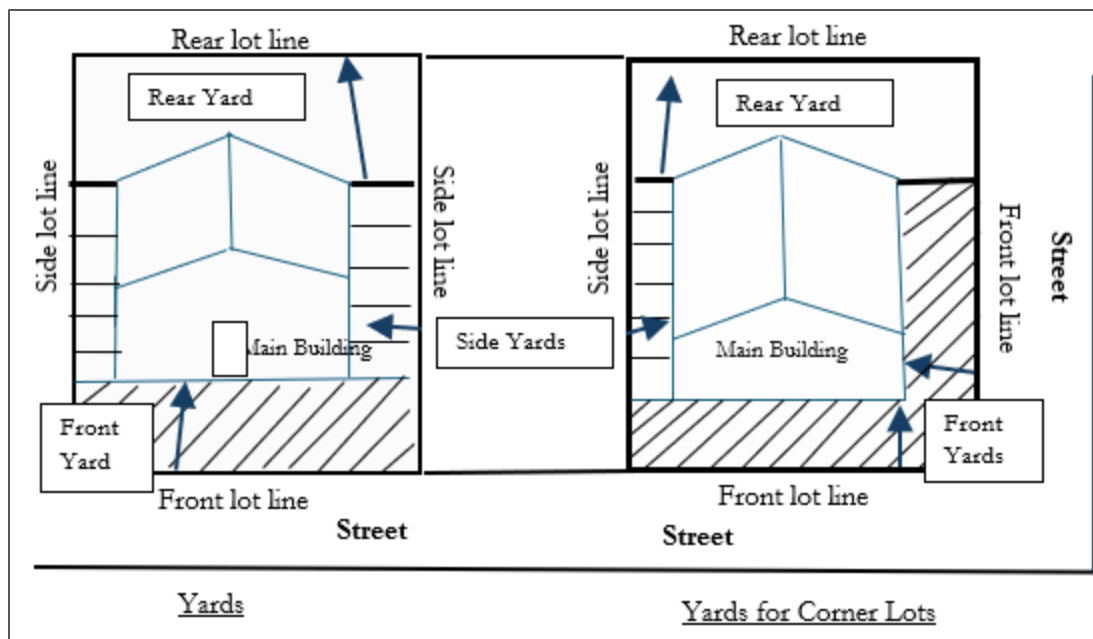
Yard, Front: The area between the front property line and the nearest point of any building on that same parcel. Corner properties have two front yards. See Figure 22.400-4. [Ord. 6042, 7/12/24]

Yard, Interior: Any yard extending across the full width or depth of a lot, required or otherwise, that is not a front yard and that is adjacent to an interior lot line. [Ord. 6042, 7/12/24]

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.

**Figure 22.400-4. Yards**



\*\*\* No changes are proposed to Section 2.440 to 2.670, so those sections are not provided. \*\*\*

## ZONING MAP AMENDMENTS

2.760 Zoning. For rezoning and annexation zoning requests, the zoning of the property shall ~~shall~~ **must** be compatible with the Comprehensive Plan designation as provided in ~~the~~ 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. [Ord. 5947, 1/1/21]

**Staff Comment:** Updating the (comprehensive) Plan Designation Zoning Matrix in Table 2.760-1 to reflect modifications to the zoning district names and adding compatible zoning allowances for existing LI and RM-zoned property in East Albany where the Comprehensive Plan designations changed with adoption of the East Albany Plan.

**TABLE 2.760-1  
PLAN DESIGNATION ZONING MATRIX**

Comprehensive Plan Designation	Compatible Zoning Districts
Employment*	Employment (EMP), Industrial Park (IP), Office Professional (OP), <u>and land zoned Light Industrial (LI)* in the East Albany Plan area prior to June 30, 2023*</u>
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 (CC)
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); <u>and land zoned Residential Medium Density (RM) in East Albany prior to June 30, 2023**</u>
Medium Density Residential	<u>R-5 Residential Single Dwelling Unit (RS-5)</u> , Residential Medium Density (RM), Residential Medium Density Attached (RMA), Mixed Use Residential (MUR), Office Professional (OP), Neighborhood Commercial (NC)
Low Density Residential	<u>R-10, R-6.5, and R-5 Residential Single Dwelling Unit (RS-10, RS-6.5, RS-5)</u> , Hackleman-Monteith (HM), Residential Reserve (RR), Office Professional (OP), Neighborhood Commercial (NC)

Urban Residential Reserve	<u>R-10, R-6.5, and R-5</u> Residential <del>Single Dwelling Unit</del> (RS-10, RS-6.5, RS-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]