



# ALBANY CITY COUNCIL AGENDA

**Wednesday, June 12, 2024**  
**6:00 p.m.**

Council Chambers, City Hall  
333 Broadalbin Street SW  
Watch on YouTube: <https://www.youtube.com/user/cityofalbany>

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

1. Call to order and pledge of allegiance
2. Roll call
3. Special presentations
  - a. Fire Chief Shane Wooton – Peter Troedsson
  - b. Ram's Horn Ministries – Ted Moreau

4. Public hearings

*Persons wanting to provide testimony during public hearings at city council meetings may:*

- 1- *Email written comments to the staff contact, listed below, including your name and subject of the public hearing, before **noon on the day of the meeting.***
- 2- *To testify virtually during the public hearing, register by emailing the staff contact, listed below, before **noon on the day of the meeting,** with your name; phone number; and if you are speaking for, against, or neutral on the project/subject. The mayor will call upon those who have registered to speak.*
- 3- *Appear in person at the meeting and register to speak using the sign-up sheet on the table.*

a. Public Works and Community Development fee adjustments [Pages 3-67]

*The staff contact for this public hearing is: [matthew.ruettgers@albanyoregon.gov](mailto:matthew.ruettgers@albanyoregon.gov)*

- |   |                    |
|---|--------------------|
| 1) Revising water system development charges                          | RES NO. _____p. 10 |
| 2) Revising wastewater system development charges                     | RES NO. _____p. 13 |
| 3) Revising transportation system development charges                 | RES NO. _____p. 19 |
| 4) Revising storm drainage system development charges                 | RES NO. _____p. 28 |
| 5) Revising park system development charges                           | RES NO. _____p. 30 |
| 6) Revising street connection charge                                  | RES NO. _____p. 32 |
| 7) Revising wastewater connection charge                              | RES NO. _____p. 33 |
| 8) Revising water connection charge                                   | RES NO. _____p. 34 |
| 9) Revising storm connection charge                                   | RES NO. _____p. 36 |
| 10) Revising Post-Construction Stormwater Quality Program permit fees | RES NO. _____p. 37 |
| 11) Adopting public works building permit review fee                  | RES NO. _____p. 41 |
| 12) Revising public works encroachment permit fee                     | RES NO. _____p. 45 |

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- 13) Revising planning division fees RES NO. \_\_\_\_\_p. 48  
14) Revising building division fees RES NO. \_\_\_\_\_p. 53
- b. Legislative ADC amendments (DC-03-24) – Liz Olmstead [Pages 68-165] ORD NO. \_\_\_\_\_p. 70  
*The staff contact for this public hearing is: [anne.catlin@albanyoregon.gov](mailto:anne.catlin@albanyoregon.gov).*
- c. Legislative Article 6 floodplain amendments (DC-02-24) - Jennifer Cepello [Pages 166-202] ORD NO. \_\_\_\_\_p. 168  
*The staff contact for this public hearing is: [Jennifer.cepello@albanyoregon.gov](mailto:Jennifer.cepello@albanyoregon.gov).*
5. Business from the public
6. Award of contract
- a. Unarmed security guard – Jeanna Yeager [Pages 203-205] RES NO. \_\_\_\_\_p. 205
7. Approval of agreement
- a. ODOT cooperative improvement agreement North Albany Road paving – Chris Cerklewski [Pages 206-225] RES NO. \_\_\_\_\_p. 208
8. Adoption of consent agenda
- a. Resignation [Pages 226-227]
- 1) Accepting Garry Barnes’s resignation from the Airport Advisory Commission
- b. Approval of minutes [Pages 228-233]
- 1) May 20, 2024, City Council work session
- 2) May 22, 2024, City Council meeting
- MOTION: \_\_\_\_\_
9. Business from the council
10. City manager report
11. Recess to executive session to discuss current litigation or litigation likely to be filed in accordance with ORS 192.660 (2)(h), and to discuss labor negotiations in accordance with ORS 192.660 (2)(d)
12. Reconvene
13. Possible action resulting from executive session MOTION: \_\_\_\_\_
14. Next meeting dates  
Monday, June 24, 2024; 4:00 p.m. work session  
Wednesday, June 26, 2024; 6:00 p.m. meeting
15. Adjournment




*This meeting is accessible to the public via video connection. The location for in-person attendance is accessible to people with disabilities. If you have a disability that requires accommodation, please notify city staff at least 48 hours in advance of the meeting at: [cityclerk@albanyoregon.gov](mailto:cityclerk@albanyoregon.gov)*


*Testimony provided at the meeting is part of the public record. Meetings are recorded, capturing both in-person and virtual participation, and are posted on the City website.* **2**



# MEMO

TO: Albany City Council

VIA: Peter Troedsson, City Manager   
Staci Belcastro, Assistant Public Works Director   
Kim Lyddane, Parks and Recreation Director 

FROM: Rob Emmons, P.E., Assistant City Engineer 

DATE: May 30, 2024, for the June 12, 2024, City Council Meeting

**SUBJECT:** Public Hearing: Adjustments to System Development Charges, Connection Charges, and Post-Construction Stormwater Quality Program Fees

## Action Requested:

Staff recommends City Council hold a public hearing to receive public input and consider adoption of the attached resolutions on proposed adjustments to System Development Charges (SDCs), Connection Charges, and Post-Construction Stormwater Quality (PCSWQ) Program Fees.

## Discussion:

### Background

The basic principle behind the application of SDCs and Connection Charges is to have all customers pay their fair share for the services and infrastructure that are available to them. The collection of SDCs and Connection Charges help pay for existing and future infrastructure costs associated with meeting demands of growth in the city. If these fees were not collected, existing residents and rate payers would be required to pay for all infrastructure improvements required for current and future capacity. In addition, without SDCs, there would be no mechanism to collect funds that can be used to assist developers with infrastructure improvements triggered by their development.

SDCs, Connection Charges, and PCSWQ fees have historically been adjusted annually, effective the first day of July. Although the Albany Municipal Code (AMC) (AMC 15.16.050(5)) states that annual adjustments for SDCs should be made automatically each July 1, council practice has been to hold a public hearing prior to considering any adjustments. The AMC, the adopted SDC methodologies, and the current pertinent resolutions all identify the process to make annual adjustments to the SDCs.

### Proposed Adjustments

City staff presented the proposed fees increases to council at the May 20, 2024, City Council Work Session. The adjustments presented for council consideration reflect the increased cost of construction (inflation) and the fifth phase-in step for water and wastewater SDCs.

The City uses a construction cost indicator to reflect the changing cost of constructing public improvements. The Engineering News-Record (ENR), an engineering and construction industry trade publication, publishes a regional Construction Cost Index (CCI) for Seattle that reflects the change in the cost of construction for the northwest. This index is routinely used by local agencies to represent the annual inflationary impact for construction projects. This year's April 2023 to April 2024 ENR CCI for Seattle has increased 3.07 percent, which is applied to SDCs, Connection Charges, and construction related PCSWQ program fees.

Water and wastewater SDC fees were updated in 2019, which resulted in new maximum allowable fees. Council decided to phase in these fees in a five-step process. The first phase-in step occurred in 2019. This year includes the fifth and final phase-in step.

Storm drainage SDCs are a new SDC fee implemented beginning January 2024. This new SDC represents an overall increase to the SDCs for proposed development. Therefore, council decided to phase-in the maximum allowable fee in five equal steps with this year (2024) being the first step.

For council reference, below is a table of various single dwelling home sizes and their respective SDC charges with the proposed inflationary adjustment (3.07 percent), the fifth phase-in step for water and wastewater and the first phase-in step for storm drainage.

Dwelling Size	Water	Wastewater	Transportation	Parks	Storm Drainage*	Total
1,000 SF 2 Bedroom	\$2,000	\$4,394	\$3,151	\$3,428	\$156	\$13,129
1,200 SF 2 Bedroom	\$2,400	\$5,357	\$4,051	\$3,706	\$187	\$15,701
1,500 SF 3 Bedroom	\$3,000	\$6,019	\$5,001	\$4,123	\$234	\$18,377
2,000 SF 3 Bedroom	\$4,000	\$6,019	\$5,001	\$4,818	\$312	\$20,150
2,500 SF 3 Bedroom	\$5,000	\$6,019	\$5,001	\$5,513	\$391	\$21,924
3,100 SF 4 Bedroom	\$6,200	\$6,561	\$6,702	\$5,659	\$484	\$25,606

\*Storm Drainage assumes a 1.42 multiplier to home size to account for total impervious area

Additional information about each fee can be found in Attachment A. Staff recommends council adopt the attached resolutions implementing the identified adjustments, provided as Attachments B through K.

**Budget Impact:**

If adopted, the fee adjustments will become effective on July 1, 2024. Actual revenue amounts will depend on development activity over the next fiscal year.

RE:kc

Attachments 11



## System Development Charges, Connection Charges, and Post-Construction Stormwater Quality Fee

### Current System Development Charges

State law (ORS 223.297-314) authorizes collection of System Development Charges (SDCs) to provide equitable funding for capital improvements to water, sewer, parks, transportation, and stormwater management systems. Albany has adopted long-range plans outlining the capital improvements needed to develop and maintain its water, sewer, parks, and transportation systems. These plans form the basis for the City's existing SDCs. The current SDC fees for a new single 2,250 SF dwelling with 3,200 SF of impervious area in Albany are shown in the following table:

	Maximum Allowable <sup>1</sup>	Reimbursement Amount <sup>1</sup>	Improvement Amount <sup>1</sup>	Compliance Fee <sup>1</sup>	Total Fee <sup>1</sup>	% of Max. Allowable Fee <sup>1</sup>
Transportation	\$21,341	\$734	\$4,268	NA	\$5,001	23
Water	\$4,733	\$1,958	\$2,543	NA	\$4,501	95
Wastewater	\$9,646	\$1,254	\$4,715	\$50	\$6,019	62
Storm Drainage	\$1,193	\$45	\$203	NA	\$248	21
Parks	\$10,720	\$1,092	\$4,157	\$4 (\$4.16)	\$5,253	49
Total	\$47,633	\$5,083	\$15,886	\$54	\$21,022	

<sup>1</sup> *Maximum allowable and current SDC for a single 2,250 SF dwelling with 3,200 SF of impervious area effective with the most recently adopted resolutions.*

### Proposed SDC

SDCs are initially considered for adoption after completion of a public facility plan or master plan and development of a related Capital Improvement Plan (CIP) for the completion of proposed public improvements. The adopted methodology for each SDC includes a specific list of proposed capital construction projects. The initial maximum allowable SDC for each system is based on the cost of those proposed projects plus the value of the available capacity in the existing system.

The annual July adjustment is typically based on the year-over-year change to the Engineering News-Record (ENR) Construction Cost Index (CCI) for April.

The proposed fee adjustments detailed below have been rounded to the nearest dollar. To avoid the compounding effect of annual rounding of the fees, the amount listed in parentheses has been adjusted by the appropriate percentage. The actual fee charged is shown in bold and is rounded to the nearest dollar.

**Water SDC Adjustment.** The water SDC methodology was updated in 2019 and involved updating project costs and moving completed projects from the improvement project list to the reimbursement project list. This resulted in an overall increase to the SDC and a shift in dollars from the improvement fee to the reimbursement fee. The maximum allowable fee represented a significant increase over the existing fee; therefore, council recommended phasing in the maximum allowable fee in five equal steps. The first four phase-in steps were established in 2019, 2021, 2022 and 2023 respectively. Council recommends implementing the fifth and final phase-in step this year.

The most recent inflationary adjustment to the water SDC was in July 2023. Adjusting the water SDC using the change in the ENR cost index from April 2023 to April 2024 and implementing the fifth phase-in step results in the following fee structure for residential development.

Category	Units	SDC-R Fee/Unit		SDC-I Fee/Unit		Total SDC/Unit	
		Current	Proposed	Current	Proposed	Current	Proposed
Single Dwelling Unit	SF	\$0.72	<b>\$0.87</b>	\$1.13	<b>\$1.13</b>	\$1.85	<b>\$2.00</b>
Duplex/Triplex/Fourplex	DU	\$879	<b>\$1,065</b>	\$1,396	<b>\$1,396</b>	\$2,275	<b>\$2,461</b>
Apartments (>4 Units)	DU	\$693	<b>\$840</b>	\$1,101	<b>\$1,101</b>	\$1,794	<b>\$1,941</b>

**Wastewater SDC Adjustment.** The wastewater SDC methodology was updated in 2019, which resulted in an overall increase to the SDC and the addition of a compliance fee. The maximum allowable fee represented a significant increase over the existing fee. As a result, council decided to develop a funded and unfunded list, which resulted in a reduced fee. Council recommended to phase-in the reduced fee in five equal steps. The first four steps were adopted in 2019, 2021, 2022 and 2023 respectively. Council recommends implementing the fifth and final phase-in step this year.

The most recent inflationary adjustment to the Wastewater SDC was in July 2023. Adjusting the Wastewater SDC using the change in the ENR cost from April 2023 to April 2024 and implementing the fourth phase-in step results in the following fee structure for a residential development:

Residential Tiers	SDC-I Fee		SDC-R Fee		Compliance Fee		Total SDC Fee	
	Current	Proposed	Current	Proposed	Current	Proposed	Current	Proposed
Tier 1 (<=1,000 SF)	\$3,280	<b>\$3,442</b>	\$737	<b>\$915</b>	\$28	<b>\$37</b>	\$4,045	<b>\$4,394</b>
Tier 2 (1,001 to 1,250 SF)	\$3,998	<b>\$4,197</b>	\$899	<b>\$1,116</b>	\$35	<b>\$45</b>	\$4,932	<b>\$5,357</b>
Tier 3 (1,251 to 3000 SF)	\$4,493	<b>\$4,715</b>	\$1,010	<b>\$1,254</b>	\$39	<b>\$50</b>	\$5,541	<b>\$6,019</b>
Tier 4 (>3000 SF)	\$4,897	<b>\$5,140</b>	\$1,101	<b>\$1,367</b>	\$42	<b>\$55</b>	\$6,040	<b>\$6,561</b>
Duplex/Triplex/Fourplex per Dwelling Unit	\$4,043	<b>\$4,244</b>	\$909	<b>\$1,128</b>	\$35	<b>\$45</b>	\$4,987	<b>\$5,417</b>
Apartment (>4 units) per Dwelling Unit	\$3,055	<b>\$3,207</b>	\$687	<b>\$853</b>	\$26	<b>\$34</b>	\$3,768	<b>\$4,093</b>

**Transportation SDC Adjustment.** The current transportation SDC methodology and Transportation System Plan list, originally adopted in 2011, was modified in 2013, 2015, 2017, 2018, and again in 2020 to reflect new or modified projects or priority levels. The most recent modification to the methodology occurred on September 28, 2022, to enact a scaled system for assessing residential SDC fees.

The SDC methodology adopted in 2011 resulted in maximum allowable fee that was significantly larger than the existing fee. In the interest of promoting economic development, council deemed it desirable to charge less than the maximum allowable fee. This was accomplished by creating a funded and unfunded list to limit the number of SDC-eligible projects.

The most recent adjustment to the Transportation SDC fees was in July 2023. Adjusting the Transportation SDC using the change in the ENR cost from April 2023 to April 2024 results in the following fee for a single dwelling unit:

Residential Tiers Home Sizes	SDC-I Fee		SDC-R Fee		Total SDC Fee	
	Current	Proposed	Current	Proposed	Current	Proposed
<b>Tier 1</b> (<=1,000 SF)	\$2,609	<b>\$2,689</b>	\$448	<b>\$462</b>	\$3,057	<b>\$3,151</b>
<b>Tier 2</b> (1,001 to 1,250 SF)	\$3,354	<b>\$3,457</b>	\$577	<b>\$594</b>	\$3,930	<b>\$4,051</b>
<b>Tier 3</b> (1,251 to 3000 SF)	\$4,141	<b>\$4,268</b>	\$712	<b>\$734</b>	\$4,852	<b>\$5,001</b>
<b>Tier 4</b> (>3000 SF)	\$5,548	<b>\$5,719</b>	\$954	<b>\$983</b>	\$6,502	<b>\$6,702</b>

**Stormwater SDC Adjustments.** The Storm Drainage SDC methodology report was adopted by City Council on November 8, 2023, which resulted in a maximum allowable fee of \$0.5158 per square foot of newly developed impervious area. This represented a brand new SDC fee which resulted an overall increase to the SDC for proposed development. To help promote economic development and help lessen the impact, council decided to phase in the maximum allowable fee in five equal steps. The first step was implemented on January 1, 2024.

Since the storm drainage SDC just took effect in January 2024 and is indexed to ENR Seattle CCI April 2023 (15,031.28), an inflationary increase will be deferred until July 2025.

Storm Drainage SDC	SDC-I Fee \$/SF Impervious Area		SDC-R Fee \$/SF Impervious Area		Total SDC Fee \$/SF Impervious Area	
	Current	Proposed	Current	Proposed	Current	Proposed
First of five Phase-in Steps	\$0.0874	<b>(\$0.0901) \$0.09</b>	\$0.0157	<b>(\$0.0162) \$0.02</b>	\$0.1032	<b>(\$0.1063) \$0.11</b>

**Parks SDC Adjustments.** A new Parks SDC methodology report was approved by City Council on May 25, 2022, which resulted in a maximum allowable fee of \$4,266 per resident which equates to \$10,345 for an average size (2,250 sf) single dwelling unit. This represented a large increase over the existing fee, so council set the fee at forty-nine percent (49%) of the maximum allowable.

The most recent adjustment to the Parks SDC fees was in January 2024, which added clarity to how to access fees to multi-dwelling units. Adjusting the Parks SDC using the change in the ENR cost from April 2023 to April 2024 results in the following fee for a single dwelling unit:

Charge Component	Units	SDC-I Fee		SDC-R Fee		Compliance Fee		Total SDC Fee	
		Current	Proposed	Current	Proposed	Current	Proposed	Current	Proposed
Base Charge	Dwelling	\$1,564.53	<b>\$1,612.54</b>	\$411.18	<b>\$423.80</b>	\$1.85	<b>\$1.91</b>	\$1977.56	<b>\$2,038.25</b>
Dwelling Size	Square Foot	\$1.100	<b>\$1.131</b>	\$0.289	<b>\$0.297</b>	\$0.001	<b>\$0.001</b>	\$1.39	<b>\$1.43</b>

**Proposed Connection Charges**

For properties that have not previously participated in the cost to construct available public facilities, connection charges are applied at the time those properties connect to these facilities.

The most recent evaluation of the connection charges occurred in 2018 with new fees effective in January 2019. These fees have been adjusted for inflation each year with the most recent adjustment occurring in 2023. The inflationary adjustments detailed below for this year's adjustment use the ENR CCI for Seattle and have been rounded to the nearest dollar as previously described.

**Street Connection Charge Adjustment.** The Street Connection Charge is designed to recover the equivalent cost of constructing that portion of a local street that benefits a connecting property. A local street is the basis for calculating the fee. Adjusting the Street Connection Charge using the change in the ENR cost index results in the following fee:

Connection Charge	Current Fee	Proposed Fee
Street	\$192 (\$191.80) /ft of frontage	<b>\$198</b> (\$197.69) /ft of frontage

**Sanitary Sewer Connection Charge Adjustment.** The Sanitary Sewer Connection Charge is designed to recover the equivalent cost of constructing that portion of the sewer system that benefits a connecting property. An eight-inch pipe is the basis for calculating the fee. Adjusting the Sewer Connection Charge using the change in the ENR cost index results in the following fee:

Connection Charge	Current Fee	Proposed Fee
Sanitary Sewer w/o lateral	\$82 (\$82.20)/ft of frontage	<b>\$85</b> (\$84.72)/ft of frontage
Sanitary Sewer with lateral	\$99 (\$99.16)/ft of frontage	<b>\$102</b> (\$102.21)/ft of frontage

**Water Connection Charge Adjustment.** The Water Connection Charge is designed to recover the equivalent cost of constructing that portion of the water system that benefits a connecting property. An 8-inch pipe is the basis for calculating the fee for single dwelling unit residential land use zones, and a 12-inch pipe is the basis for calculating the fee for all other land use zones. Adjusting the Water Connection Charge using the change in the ENR cost index results in the following fee:

Connection Charge	Current Fee	Proposed Fee
Water: single-family residential w/o water meter	<b>\$57</b> (\$57.40) /ft of frontage	<b>\$59</b> (\$59.17) /ft of frontage
Water: single-family residential with water meter	<b>\$76</b> (\$75.68) /ft of frontage	<b>\$78</b> (\$78.00) /ft of frontage
Water: all other land use zones w/o water meter	<b>\$86</b> (\$86.11) /ft of frontage	<b>\$89</b> (\$88.76) /ft of frontage
Water: all other land use zones with water meter	<b>\$97</b> (\$96.55) /ft of frontage	<b>\$100</b> (\$99.514) /ft of frontage

**Storm System Connection Charge Adjustment.** The Storm System Connection Charge is designed to recover the equivalent cost of constructing that portion of the storm system that benefits a connecting property. The cost to provide drainage for an average lot in a fully improved subdivision is the basis for calculating the fee. Adjusting the Storm System Connection Charge using the change in the ENR cost index results in the following fee:

Connection Charge	Current Fee	Proposed Fee
Storm	\$106 (\$105.68)/ft of frontage	<b>\$108</b> (\$108.93)/ft of frontage

#### **Other Construction Fees**

In response to regulatory requirements, a Post-Construction Stormwater Quality (PCSWQ) Program for new development and redevelopment projects was established in 2015 to help protect the water quality of Albany's lakes, rivers, and streams.

Design review and construction inspection activities for new facilities are funded through a permit fee structure that is percentage based (similar to all other public infrastructure improvements), and no changes to that fee structure are proposed. However, the PCSWQ Program does have options available to the developer that transfer some responsibility to the City to construct improvements on their behalf. Those construction activities are funded through payment of an additional fee. Therefore, it makes sense that the construction-related fees be updated annually based on the change in the Seattle ENR CCI, like SDCs and connection charges.

The fees for off-site PCSWQ and for the transfer of landscaping responsibility to the City are established as a cost per square-foot rate that relates to the cost of construction and is, therefore, adjusted as follows:

Post Construction Stormwater Quality Fee	Current Fee	Proposed Fee
Off-site post-construction stormwater quality fee	\$67 (\$66.59) /square foot	<b>\$69</b> (\$68.63) /square foot
Transfer of Landscaping Responsibility to City		
– First 1,000 square feet	\$22 (\$22.20) /square foot	<b>\$23</b> (\$22.88) /square foot
– Additional square feet	\$15 (\$14.79) /square foot	<b>\$15</b> (\$15.25) /square foot



RESOLUTION NO. \_\_\_\_\_

A RESOLUTION REVISING WATER SYSTEM DEVELOPMENT CHARGES, REAFFIRMING AN APPEAL FEE, AND REPEALING RESOLUTION 7225

WHEREAS, through the previous adoption of ordinances establishing and amending Albany Municipal Code 15.16 regarding system development charges (SDC), the Albany City Council has declared its intent to comply with the provisions of ORS 223.297 through 223.314; and

WHEREAS, a methodology for the calculation of an improvement and reimbursement fee SDC for the water system in Albany has been developed as specifically described in Resolution No. 6767 and was recently modified and adopted on September 28, 2022, to enact a scaled system for assessing residential SDC fees as specifically described in Resolution No. 7138; and

WHEREAS, the adopted methodology resulted in a maximum allowable fee of \$3,523 per Equivalent Residential Unit (ERU) when indexed to the Engineering News Record (ENR) Seattle Construction Cost Index (CCI) for November 2018 (11,532.16), which if indexed to current dollars is equivalent to \$4,733 (using index ratio 15,492.56/11,532.16); and

WHEREAS, the maximum allowable fee represents a significant increase over existing water SDC charges and, therefore, is proposed to be phased in by five equal steps; and

WHEREAS, the first four phase-in steps were established in 2019, 2021, 2022, and 2023 respectively; and

WHEREAS, the council deems it desirable to establish the fifth phase-in step this year; and

WHEREAS, Section 15.16.050(5) of Ordinance 5306 allows for the annual adjustment of the herein established fees in accordance with the change in the ENR Seattle CCI; and

WHEREAS, the council deems it desirable to increase the existing fees to reflect inflation relative to the increase in the ENR CCI Seattle Index; and

WHEREAS, the index used in Resolution 7225 was 15,031.28 and the April 2024 Index to be applied for purposes of this resolution is 15,492.56 (index ratio = 15,492.56 /15,031.28= 1.0307).

NOW, THEREFORE, BE IT RESOLVED by the Albany City Council that Resolution No. 7225 is hereby repealed as of the effective date of the revised charges; and

BE IT FURTHER RESOLVED that an improvement fee and a reimbursement fee water system development charge for Albany hereby be revised to include the inflationary adjustment and fourth phase-in step as shown in Exhibit A; and

BE IT FURTHER RESOLVED that the effective date of these charges shall be **July 1, 2024**.

DATED THIS 12TH DAY OF JUNE 2024.

\_\_\_\_\_  
Mayor

ATTEST:

\_\_\_\_\_  
City Clerk



**EXHIBIT A***WATER SYSTEM DEVELOPMENT CHARGE*

The water system development charge (SDC) does not include the cost of meter or service line installation.

Residential Water SDC Schedule

The formula for single Dwelling Unit SDC is:

Living area (SF) x ~~\$1.85~~ **\$2.00** per SF

Residential housing with more than one unit will be charged based on the number of dwelling units and the cost per dwelling as shown in the table below.

Category	Units	SDC Reimbursement Fee/Unit <sup>1</sup>	SDC Improvement Fee/Unit <sup>1</sup>	Total SDC/Unit <sup>1</sup>
Single Dwelling Unit	SF	<del>\$0.72</del> <b>\$0.87</b>	<del>\$1.13</del> <b>\$1.13</b>	<del>-\$1.85</del> <b>\$2.00</b>
Duplex/Triplex/Fourplex/Single-Room Occupancy <sup>2</sup>	Dwelling Unit	<del>\$879</del> <b>\$1,065</b>	<del>-\$1,396</del> <b>\$1,396</b>	<del>\$2,275</del> <b>\$2,461</b>
Apartments (>4 Units)	Dwelling Unit	<del>\$693</del> <b>\$840</b>	<del>-\$1,101</del> <b>\$1,101</b>	<del>-\$1,794</del> <b>\$1,941</b>

<sup>1</sup>Indexed to April 2024 ENR Seattle CCI (15,492.56) and includes the fifth phase-in step.

<sup>2</sup> For Single-Room Occupancy (SRO) development, two SRO units equals one Dwelling Unit

Non-Residential Water SDC Schedule

Water SDC by meter size:

Meter Size (inches)	Hydraulic Capacity Factor	Reimbursement Fee <sup>1</sup>	Improvement Fee <sup>1</sup>	Total SDC Fee <sup>1</sup>
¾	1.00	<del>\$1,691</del> <b>\$2,050</b>	<del>\$2,685</del> <b>\$2,686</b>	<del>\$4,376</del> <b>\$4,737</b>
1	1.67	<del>\$2,825</del> <b>\$3,424</b>	<del>\$4,484</del> <b>\$4,486</b>	<del>\$7,308</del> <b>\$7,910</b>
1½	3.33	<del>\$5,632</del> <b>\$6,828</b>	<del>\$8,981</del> <b>\$8,946</b>	<del>\$14,573</del> <b>\$15,773</b>
2	5.33	<del>\$9,015</del> <b>\$10,929</b>	<del>\$14,310</del> <b>\$14,318</b>	<del>\$23,325</del> <b>\$25,247</b>
3	10.67	<del>\$18,047</del> <b>\$21,878</b>	<del>\$28,647</del> <b>\$28,663</b>	<del>\$46,694</del> <b>\$50,541</b>
4	16.67	<del>\$28,195</del> <b>\$34,180</b>	<del>\$44,757</del> <b>\$44,781</b>	<del>\$72,951</del> <b>\$78,961</b>
6	33.33	<del>\$56,372</del> <b>\$68,339</b>	<del>\$89,486</del> <b>\$89,536</b>	<del>\$145,859</del> <b>\$157,875</b>
8	53.33	<del>\$90,199</del> <b>\$109,347</b>	<del>\$143,184</del> <b>\$143,263</b>	<del>\$233,383</del> <b>\$252,610</b>
10	76.67	<del>\$129,675</del> <b>\$157,203</b>	<del>\$205,848</del> <b>\$205,962</b>	<del>\$335,523</del> <b>\$363,165</b>
12	103.33	<del>\$174,766</del> <b>\$211,867</b>	<del>\$277,427</del> <b>\$277,580</b>	<del>\$452,192</del> <b>\$489,446</b>

<sup>1</sup>Indexed to April 2024 ENR Seattle CCI (15,492.56) and includes the fifth phase-in step.

SDC IMPROVEMENT FEE CREDIT

Pursuant to Albany Municipal Code (AMC) Section 15.16.090 (2), a credit against the water SDC-I fee shall be given for the cost of a qualified public water improvement required as a condition of development approval and identified in the revised Water SDC Methodology (February 2019, Resolution 6767) as a project to be wholly or partially funded with water SDC-I fees.

APPEAL FEE

Pursuant to AMC Section 15.16.100(5), an appeal fee of \$100 per appeal is hereby established. Appeal submittal by parties appealing their calculated fee (AMC Section 15.16.100(3)) shall conform to AMC Section 15.16.100 procedure.



RESOLUTION NO. \_\_\_\_\_

A RESOLUTION REVISING WASTEWATER SYSTEM DEVELOPMENT CHARGES, REAFFIRMING AN APPEAL FEE, AND REPEALING RESOLUTION 7226

WHEREAS, through the previous adoption of ordinances establishing and amending Albany Municipal Code (AMC) 15.16 regarding System Development Charges (SDC), the Albany City Council has declared its intent to comply with the provisions of ORS 223.297 through 223.314; and

WHEREAS, a methodology for the calculation of an improvement, reimbursement and compliance fee SDC for the wastewater system in Albany has been developed as specifically described in Resolution No. 6766 and was recently modified and adopted on September 28, 2022, to enact a scaled system for assessing residential SDC fees as specifically described in Resolution No. 7139; and

WHEREAS, the maximum allowable fee adopted in the methodology is \$7,180 per Equivalent Dwelling Unit (EDU) when indexed to the Engineering News Record (ENR) Seattle Construction Cost Index (CCI) for November 2018 (11,532.16), which if indexed to current dollars (April 2024) is equivalent to \$9,646 (using the ratio 15,492.56/11,532.16); and

WHEREAS, in the interest of promoting economic development, the city council deemed it desirable to charge less than the maximum allowable charge resulting in a “reduced fee”; and

WHEREAS, the reduced fee still represents a significant increase over existing wastewater SDC charges and, therefore, is proposed to be phased in by 5 equal steps; and

WHEREAS, the first four phase-in step were established in 2019, 2021, 2022, and 2023 respectively; and

WHEREAS, the council deems it desirable to establish the fifth phase-in step this year; and

WHEREAS, Section 15.16.050(5) of Ordinance 5306 allows for the annual adjustment of fees established herein in accordance with the change in the ENR Seattle CCI; and

WHEREAS, the council deems it desirable to increase the existing fees to reflect inflation relative to the increase in the ENR CCI Seattle Index; and

WHEREAS, the index used in Resolution 7226 was 15,031.28 and the April 2024 index to be applied for purposes of this resolution is 15,492.56 (index ratio = 15,492.56/15,031.28 = 1.0307).

NOW, THEREFORE, BE IT RESOLVED by the Albany City Council that Resolution No. 7226 is hereby repealed as of the effective date of the revised charges; and

BE IT FURTHER RESOLVED that an improvement, reimbursement, and compliance fee wastewater system development charge for Albany be revised to include the inflationary adjustment and the fifth phase-in step as shown in Exhibit ‘A’; and

BE IT FURTHER RESOLVED that the effective date of these charges shall be **July 1, 2024**.

DATED THIS 12TH DAY OF JUNE 2024.

\_\_\_\_\_  
Mayor

ATTEST:

\_\_\_\_\_  
City Clerk

**EXHIBIT A***WASTEWATER SYSTEM DEVELOPMENT CHARGE*

Wastewater SDC fees by customer class are shown below.

Residential Wastewater SDC

Residential Tiers	EDU	SDC-I Fee <sup>1</sup>	SDC-R Fee <sup>1</sup>	Compliance Fee <sup>1</sup>	Total SDC Fee <sup>1</sup>
Tier 1 – Home size <=1,000 SF	0.73	\$3,280 <b>\$3,442</b>	\$737 <b>\$915</b>	\$28 <b>\$37</b>	\$4,045 <b>\$4,394</b>
Tier 2 – Home size 1001 to 1250 SF	0.89	\$3,998 <b>\$4,197</b>	\$899 <b>\$1,116</b>	\$35 <b>\$45</b>	\$4,932 <b>\$5,357</b>
Tier 3 – Home size 1251 to 3000 SF	1.00	\$4,493 <b>\$4,715</b>	\$1,010 <b>\$1,254</b>	\$39 <b>\$50</b>	\$5,541 <b>\$6,019</b>
Tier 4 – Home size > 3000	1.09	\$4,897 <b>\$5,140</b>	\$1,101 <b>\$1,367</b>	\$42 <b>\$55</b>	\$6,040 <b>\$6,561</b>
Duplex/Triplex/Fourplex/Single-Room Occupancy per Dwelling Unit <sup>2</sup>	0.90	\$4,043 <b>\$4,244</b>	\$909 <b>\$1,128</b>	\$35 <b>\$45</b>	\$4,987 <b>\$5,417</b>
Apartment (>4 units) per Dwelling Unit	0.68	\$3,055 <b>\$3,207</b>	\$687 <b>\$853</b>	\$26 <b>\$34</b>	\$3,768 <b>\$4,093</b>

<sup>1</sup> Indexed to April 2024 ENR Seattle CCI (15,492.56) and include the fifth phase-in step.

<sup>2</sup> For Single-Room Occupancy (SRO) development, two SRO units equals one Dwelling Unit

Commercial Wastewater SDC

Commercial customers vary significantly in terms of wastewater volumes. A plumbing fixture count is used to represent different wastewater volumes from commercial customers. Commercial customers also tend to vary significantly in terms of wastewater strengths. The combined BOD and TSS for the low-strength customer category are similar to the combined BOD and TSS for typical residential customers. Customers with medium-strength or high-strength pollutant loads have larger capacity demands per EDU than residential or low-strength commercial customers. A list of typical customer types in each strength category is included in Appendix I.

The classification of a new commercial customer will be determined by using the Commercial Customer Classification List (Appendix I). If the commercial customer cannot be easily categorized, they will be asked to submit estimated wastewater flow and strength data with a description of the type of business activities to the Public Works Director or designee. If multiple business types are tributary to a single pipe discharging to the wastewater collection system, the commercial customer classification for each tributary facility will be determined, and the classification with the highest strength will become the commercial customer classification for the entire facility. The Public Works Director, or designee, will make the final determination of customer classification for each new commercial customer.

For commercial development, the SDC fee is as follows:

Customer Class <sup>1</sup>	SDC-r per EDU <sup>3</sup>	SDC-i per EDU <sup>3</sup>	Compliance Fee per EDU <sup>3</sup>	Total SDC per EDU <sup>3</sup>	Cost per Additional Fixture over 6 <sup>3</sup>
Commercial – Low	\$1,010 <b>\$1,255</b>	\$4,493 <b>\$4,717</b>	\$39 <b>\$50</b>	\$5,541 <b>\$6,022</b>	\$924 <b>\$1,004</b>
Commercial – Medium <sup>2</sup>	\$1,116 <b>\$1,378</b>	\$6,819 <b>\$7,214</b>	\$39 <b>\$50</b>	\$7,973 <b>\$8,641</b>	\$1,329 <b>\$1,440</b>
Commercial – High	\$1,317 <b>\$1,612</b>	\$11,737 <b>\$12,593</b>	\$39 <b>\$50</b>	\$13,093 <b>\$14,254</b>	\$2,182 <b>\$2,376</b>

<sup>1</sup> See Appendix I for Commercial Customer Classification List.

<sup>2</sup> For Recreational Vehicle (RV) Parks, the SDC is calculated based upon an assignment of three plumbing fixtures per pad or space.

<sup>3</sup> Indexed to April 2024 ENR Seattle CCI (15,492.56) and includes fifth phase-in step.

### Industrial Wastewater SDC

Industrial customers' use of the system is highly variable. Once connected to the wastewater system, each industrial customer is required to monitor and report its specific use of the system on a monthly basis. However, to determine the SDC fee for each industrial customer prior to collection of specific data, individualized flows and loads will be estimated and applied to the same unit cost of capacity as is used for the residential and commercial customers. The unit cost of capacities is shown in the following table:

FEE PER UNIT OF CAPACITY <sup>1</sup>				
Units	Avg Dry Weather Flow mgd	Peak Flow mgd (a)	MMBOD lbs/day (b)	MMTSS lbs/day (b)
SDC-r Unit Costs	\$62,148	\$1,164,818	\$7	\$357
	<b>\$0</b>	<b>\$1,500,723</b>	<b>\$0.08</b>	<b>\$434</b>
SDC-i Unit Costs	\$432,765	\$3,460,076	\$3,696	\$1,458
	<b>\$0</b>	<b>\$3,698,118</b>	<b>\$4,106</b>	<b>\$1,191</b>
TOTAL Unit Costs	\$494,913	\$4,624,894	\$3,703	\$1,815
	<b>\$0</b>	<b>\$5,198,841</b>	<b>\$4,106</b>	<b>\$1,625</b>

(a) Peak Flows are MMDWF and PWWF unit costs combined and assessed each industrial customer based on their peak day flow.  
(b) Maximum month loading expressed in pounds per day

<sup>1</sup> Indexed to April 2024 ENR (15,492.56) and includes fifth phase-in step

For industrial development, the SDC fee is calculated by multiplying the individual customer's projected flows and loads by the unit costs of capacity shown above. The total SDC is the sum of the individual SDCs by parameter plus the compliance fee.

#### Total Industrial SDC Fee:

~~Average flow (mgd) X \$494,913 + Peak flow (mgd) X \$4,624,894 + MMBOD (lbs/day) X \$3,703 + MMTSS (lbs/day) X \$1,815~~

Average flow (mgd) X **\$0** + Peak flow (mgd) X **\$5,198,841** + MMBOD (lbs/day) X **\$4,106** + MMTSS (lbs/day) X **\$1,625**

Compliance Charge = ~~\$39~~ **\$50** X number of EDUs, where EDUs = (Combined SDCi and SDCr) / ~~\$5,541~~ **\$6,019**

Industrial customers are required to submit periodic compliance reports (Albany Municipal Code (AMC) 10.06.070) indicating the nature and concentration of pollutants in the discharge and the average and maximum daily flows for the reporting period. Within 12 months from connection or at a mutually agreed upon time when the industrial customer's wastewater discharge characteristics have stabilized, the SDC may be recalculated based on the actual pollutant loading and flow and an adjusted payment (or refund) may be required.

Each industrial user is required to notify the City of any planned significant changes to the industrial user's operations that might alter the nature, quality, or volume of its wastewater (AMC 10.06.070(7)). If at any time after the initial SDC fee is paid and process or production changes result in increased flows and loads above those used to calculate original wastewater SDCs at the time of connection, the industry shall be responsible for payment of additional SDCs based on the unit costs of capacity in effect at the time of the increase. If, however, the process or production change results in decreased flows and loads, the industry will not be eligible for an SDC refund.

#### SDC IMPROVEMENT FEE CREDIT

Pursuant to AMC Section 15.16.090 (2), a credit against the sewer SDC-i fee shall be given for the cost of a qualified public wastewater improvement required as a condition of development approval and identified in the revised Wastewater System Development Charge Methodology (February 2019, Resolution 6766) as a project to be wholly or partially funded with wastewater SDC-i fees.

#### APPEAL FEE

Pursuant to Albany Municipal Code (AMC) Section 15.16.100(5), an appeal fee of \$100 per appeal is hereby established. Appeal submittal by parties appealing their calculated fee (AMC Section 15.16.100(3)) shall conform to AMC Section 15.16.100 procedure.



## APPENDIX I

**CITY OF ALBANY COMMERCIAL CUSTOMER CLASSIFICATION  
COMBINED AVERAGE STRENGTH CATEGORIES & STANDARD INDUSTRIAL CLASSIFICATION**

Waste Characteristic Allocation: The City of Albany does not have a monitoring program for all commercial customers and, consequently, does not have specific monitoring data on all of Albany's commercial customers. However, an extensive project was undertaken by the City of Portland Bureau of Environmental Services (BES) to determine wastewater characteristics by Standard Industry Classification (SIC) codes based upon monitoring data for Portland's customers and using data from other cities.

The City of Portland's wastewater characteristic study data is based on BOD and TSS information from commercial customers in Portland and 28 additional cities, and the customer list is representative of the Albany commercial businesses. The City of Salem is also using the Portland BES data to classify their commercial customers. Albany will continue to refine this database as additional waste characterization data becomes known.

**COMMERCIAL LOW-STRENGTH (UP TO 450 MG/L COMBINED BOD/TSS)**

Offices and Services:

- Accounting, Auditing, and Bookkeeping Services (8721)
- Adjustment and Collection Services (7322)
- Amusement and Recreation Services NEC (7999)
- Banks and Credit Unions (6021, 6022, 6141)
- Barber and Beauty Shops (7241, 7231)
- Child Day Care Services (8351)
- Computer and Computer Software Stores (5734)
- Correctional Institutions (9223)
- Employment Agencies (7361)
- Engineering Services (8711)
- Gasoline Service Stations (5541)
- Individual and Family Social Services (8322)
- Insurance Agents, Brokers, and Service (6411)
- Investment Advice (6282)
- Legal Services (8111)
- Libraries (8231)
- Medical and Dental Offices and Clinics (including chiropractors, health practitioners, optometrists)  
(8011, 8021, 8041, 8042, 8049)
- Motels (7011)
- Museums and Art Galleries (8412)
- Nursing Care Facilities (8051)
- Schools (Elementary and Secondary) and Educational Services (8211)
- Taxicabs (4121)
- Title Insurance (6361)
- Trucking - local with storage (4214)

General Retail Businesses:

- Apparel, Accessory, Jewelry and Shoe Stores (5699, 5641, 5651, 5944, 5661)
- Auto equipment/supplies, new/used - NEC (5599 - see printout)
- Beer, Ale, and Liquor Stores - wholesale and distribution (5181 and 5921)
- Boat Dealers (5551)
- Book Stores (5942)
- Coin-Operated Laundries (7215)
- Department Stores (5311)
- Floor Covering Stores (5713)
- Florists (5992)
- Groceries, wholesale and distribution (5141)

Hobby, Toy, and Game Shops (5945)  
 Home Furnishings and Hardware Stores (5719, 5251)  
 Miscellaneous food stores - minimarts without kitchens (5499)  
 Musical Instrument Stores (5736)  
 Paint, Glass, and Wallpaper Stores (sales but no mixing) (5231)  
 Sporting Goods Stores and Bicycle Shops (5941)  
 Tobacco Stores and Standards (5993)  
 Used Merchandise Stores (5932)  
 Video Tape Rental (7841)

**COMMERCIAL MEDIUM-STRENGTH (451 - 1,125 MG/L COMBINED BOD/TSS)**

Automotive/Mechanical Repair and/or Wash:

Airports, Flying Fields, and Airport Terminal Services  
 Automotive Repair Shops NEC (7539-see printout)  
 Carwashes (7542)  
 Motor Vehicle Dealers - used cars (5521)

Specialty with medium-strength waste discharge:

Dry Cleaning Facilities (7216)  
 Restaurants, Eating Places, Bars, and Taverns (5812)  
 Funeral Services and Crematories (7261)  
 Hospitals (8060)  
 Junior Colleges and Technical Institutes (8222)  
 Meat and Fish Markets, Including Freezer Provisioners (5421)  
 Paints/Varnishes/Lacquers/Enamels mixing (2851)  
 Photofinishing Laboratories (7384)  
 Recreational Vehicle Parks (7033)  
 Trucking – local with storage (4212)

**COMMERCIAL HIGH-STRENGTH (GREATER THAN 1,126 MG/L COMBINED BOD/TSS)**

Automotive:

Exhaust System Repair (7533), Transmission Repair (7537), Tire Shop (7534), General Automotive Repair (7538-see printout), Automotive Services (7549), Armature Rewinding Shop (7694)  
 Motor Vehicle Dealers - new cars (5511)

Specialty with high-strength waste discharge:

Candy, Nut, and Confectionery Stores (5441)  
 Disinfecting and Pest Control Services (7342)  
 Fire Protection (9224)  
 Grocery Stores with garbage disposals (5412)  
 Industrial Launderers (7218)  
 Malt Beverage Brewery (2082)  
 Pharmaceutical Preparations (2834)  
 Retail Bakeries - with kitchen (5461)  
 Printing and Stamping on Fabric Articles - silk screening (2396)  
 Trucking - long distance, not local (4213)  
 Passenger car rental, no drivers for hire (7514)



RESOLUTION NO. \_\_\_\_\_

A RESOLUTION REVISING TRANSPORTATION SYSTEM DEVELOPMENT CHARGES FOR IMPACTS TO THE ALBANY TRANSPORTATION SYSTEM, REAFFIRMING THE APPEAL FEE, AND REPEALING RESOLUTION NO. 7227

WHEREAS, through the previous adoption of ordinances establishing and amending Albany Municipal Code (AMC) 15.16 regarding system development charges (SDC), the Albany City Council has duly declared its intent to comply with the provisions of ORS 223.297 through 223.314; and

WHEREAS, a methodology for the calculation of an improvement and reimbursement fee SDC for the transportation system in Albany was adopted in 2011 and was modified to reflect changes in the project lists in 2013, 2015, 2017, 2018, and 2020 and was most recently modified and adopted on September 28, 2022, to enact a scaled system for assessing residential SDC fees as specifically described in Resolution No. 7140; and

WHEREAS, the adopted methodology resulted in a maximum allowable fee of \$11,911 based on February 2010 dollars, which if indexed to current rates (April 2024) is equivalent to \$21,341 (using index ratio  $15,492.56/8647=1.792$ ); and

WHEREAS, Section 15.16.050(5) of Ordinance 5306 allows for the annual adjustment of the herein established fees in accordance with the change in the Engineering News-Record (ENR) Seattle Construction Cost Index (CCI); and

WHEREAS, the Albany City Council deems it desirable to increase the existing fees to reflect inflation relative to the increase in the ENR Seattle CCI; and

WHEREAS, the ENR Seattle CCI used in Resolution 7227 was 15,031.28, and the April 2024 ENR Seattle Construction Cost Index to be applied for purposes of this resolution is 15,492056 (index ratio =  $15,492.56/15,031.28= 1.0307$ ).

NOW, THEREFORE, BE IT RESOLVED by the Albany City Council that Resolution No. 7227 is hereby repealed as of the effective date of the revised charges; and

BE IT FURTHER RESOLVED that transportation system development charges are hereby amended as shown in Exhibit A; and

BE IT FURTHER RESOLVED that an appeal fee is hereby reaffirmed as described herein; and

BE IT FURTHER RESOLVED that the effective date of these charges shall be **July 1, 2024**.

DATED THIS 12TH DAY OF JUNE 2024.

\_\_\_\_\_  
Mayor

ATTEST:

\_\_\_\_\_  
City Clerk

## EXHIBIT A

**Transportation System Development Charges****BASE FEE**

The base unit for the Transportation System Development Charge improvement (SDCi) and reimbursement (SDCr) fee will be p.m. peak hour trip end as defined in the latest version of the Trip Generation manual by the Institute of Transportation Engineers (ITE).

The adjusted base fee for a single trip is a combination of the adjusted improvement and reimbursement base fees as shown below.

<b>Base SDCi Fee</b>	<b>Base SDCr Fee</b>	<b>Total Base Fee for a Single Trip End</b>
<del>\$4,404.94</del> <b>\$4,540.18</b>	<del>\$757.20</del> <b>\$780.45</b>	<del>\$5,162.15</del> <b>\$5,320.63</b>

*Base Fees are indexed to April 2024 ENR Seattle CCI (15,492.56)*

**CALCULATING THE SYSTEM DEVELOPMENT CHARGE**

Residential SDC fees are categorized into a four -tiered system based on dwelling unit size ( finished area in square feet) as shown in the table below. The fees are computed by multiplying the base SDC fee for a single trip end by three separate factors: 1) The single- family residential ITE Peak PM trip rate 2) the ITE adjustment factor for each tier 3) the pass by factor.

A sample SDC calculation for a single dwelling home (ITE Category 210) is shown below.

<b>Tiers for Single Dwelling Residential (ITE Code 210)</b>	<b>Dwelling Units</b>	<b>Base Fee per Trip<sup>1</sup></b>	<b>ITE 210 Peak PM Trip Rate<sup>2</sup></b>	<b>ITE Adjust ment Factor<sup>3</sup></b>	<b>Pass By Factor<sup>4</sup></b>	<b>SDC Fee<sup>1</sup></b>
Tier 1 (<=1000 SF)						
Improvement Fee	Per unit	<del>\$4,404.94</del> <b>\$4,540.18</b>	0.94	0.63	1	<del>\$2,609</del> <b>\$2,689</b>
Reimbursement Fee	Per unit	<del>\$757.20</del> <b>\$780.45</b>	0.94	0.63	1	<del>\$448</del> <b>\$462</b>
Total Fee	Per unit	<del>\$5,162.15</del> <b>\$5,320.63</b>				<del>\$3,057</del> <b>\$3,151</b>
Tier 2 (1001 to 1250 SF)						
Improvement Fee	Per unit	<del>\$4,404.94</del> <b>\$4,540.18</b>	0.94	0.81	1	<del>\$3,354</del> <b>\$3,457</b>
Reimbursement Fee	Per unit	<del>\$757.20</del> <b>\$780.45</b>	0.94	0.81	1	<del>\$577</del> <b>\$594</b>
Total Fee	Per unit	<del>\$5,162.15</del> <b>\$5,320.63</b>				<del>\$3,930</del> <b>\$4,051</b>
Tier 3 (1251 to 3000 SF)						
Improvement Fee	Per unit	<del>\$4,404.94</del> <b>\$4,540.18</b>	0.94	1.00	1	<del>\$4,144</del> <b>\$4,268</b>
Reimbursement Fee	Per unit	<del>\$757.20</del> <b>\$780.45</b>	0.94	1.00	1	<del>\$712</del> <b>\$734</b>
Total Fee	Per unit	<del>\$5,162.15</del> <b>\$5,320.63</b>				<del>\$4,852</del> <b>\$5,001</b>
Tier 4 (> 3000 SF)						
Improvement Fee	Per unit	<del>\$4,404.94</del> <b>\$4,540.18</b>	0.94	1.34	1	<del>\$5,548</del> <b>\$5,719</b>
Reimbursement Fee	Per unit	<del>\$757.20</del> <b>\$780.45</b>	0.94	1.34	1	<del>\$954</del> <b>\$983</b>
Total Fee	Per unit	<del>\$5,162.15</del> <b>\$5,320.63</b>				<del>\$6,502</del> <b>\$6,702</b>

<sup>1</sup> Indexed to April 2024 ENR Seattle CCI (15,492.56)

<sup>2</sup> P.M. Peak Trip Rate for given land uses are defined in the latest edition of the ITE manual.

<sup>3</sup> Oregon Household Activity Survey data were used to develop an ITE Adjustment Factor based on dwelling unit size.

<sup>4</sup> Data for pass-by trip reduction factors are taken from an analysis of traffic impact fees developed by Anthony Rufolo, Center for Urban Studies, Portland State University

A sample SDC calculation for other land uses is shown below.

ITE Code	Description	Units	PM Peak Trips <sup>1</sup>	Pass by Factor <sup>2</sup>	2023 Base Fee for a Single Trip Fee <sup>3</sup>	SDC Fee <sup>3</sup>
220	1 Low Rise Apartment	1 unit	0.51	1.00	<del>\$5,162.15</del> <b>\$5,320.63</b>	<del>\$2,633</del> <b>\$2,714</b>
221	1 Mid Rise Apartment	1 unit	0.39	1.00	<del>\$5,162.15</del> <b>\$5,320.63</b>	<del>\$2,013</del> <b>\$2,075</b>
110	Light Industrial	1,000 sf	0.65	0.92	<del>\$5,162.15</del> <b>\$5,320.63</b>	<del>\$3,087</del> <b>\$3,182</b>
140	Manufacturing	1,000 sf	0.74	0.92	<del>\$5,162.15</del> <b>\$5,320.63</b>	<del>\$3,514</del> <b>\$3,622</b>
520	Elementary School	Per student	0.16	0.80	<del>\$5,162.15</del> <b>\$5,320.63</b>	<del>\$661</del> <b>\$681</b>
710	General Office	1,000 sf	1.44	0.92	<del>\$5,162.15</del> <b>\$5,320.63</b>	<del>\$6,839</del> <b>\$7,049</b>
720	Medical Office	1,000 sf	3.93	0.92	<del>\$5,162.15</del> <b>\$5,320.63</b>	<del>\$18,664</del> <b>\$19,237</b>
820	Shopping Center	1,000 sf	3.40	0.50	<del>\$5,162.15</del> <b>\$5,320.63</b>	<del>\$8,776</del> <b>\$9,045</b>
862	Home Improvement Superstore	1,000 sf	2.29	0.50	<del>\$5,162.15</del> <b>\$5,320.63</b>	<del>\$5,911</del> <b>\$6,092</b>
911	Walk-In Bank	1,000 sf	12.13	0.50	<del>\$5,162.15</del> <b>\$5,320.63</b>	<del>\$31,308</del> <b>\$32,270</b>
931	Quality Restaurant	1,000 sf	7.80	0.50	<del>\$5,162.15</del> <b>\$5,320.63</b>	<del>\$20,132</del> <b>\$20,750</b>
932	High Turnover Restaurant	1,000 sf	9.05	0.50	<del>\$5,162.15</del> <b>\$5,320.63</b>	<del>\$23,359</del> <b>\$24,076</b>
934	Fast Food W/Drive Thru	1,000 sf	32.21	0.50	<del>\$5,162.15</del> <b>\$5,320.63</b>	<del>\$85,717</del> <b>\$88,349</b>

<sup>1</sup> P.M. Peak Trip Rate for given land uses are defined in the latest edition of the ITE manual

<sup>2</sup> Data for pass-by trip reduction factors are taken from an analysis of traffic impact fees developed by Anthony Rufolo, Center for Urban Studies, Portland State University

<sup>3</sup> Indexed to April 2024 ENR Seattle CCI (15,492.56)

## SDC CREDITS

Pursuant to Albany Municipal Code Section 15.16.090, a credit against the transportation SDC fee shall be given in the following situations:

### A. Credit for prior use:

Pursuant to AMC 15.16.090 (1), a credit against the reimbursement and improvement fee portions of the SDC shall be given in an amount of the SDC<sub>i</sub> and SDC<sub>r</sub> calculated for the existing use if it is less than the SDC<sub>i</sub> and SDC<sub>r</sub> calculated for the proposed use. If the change in use results in the SDC<sub>i</sub> or SDC<sub>r</sub> for the proposed use being less than the SDC<sub>i</sub> or SDC<sub>r</sub> for the existing use, no SDC<sub>i</sub> or SDC<sub>r</sub> shall be required for that fee portion; however, no refund or credit shall be given.

### B. Credit for the cost of a qualified public improvement associated with the development:

Pursuant to AMC 15.16.090 (2), a credit against the improvement fee portion of the SDC shall be given for the cost of a qualified public improvement required as a condition of development approval. A qualified public improvement must also be identified in the funded section of the project list in *Figure A: SDC Eligible Projects Funded by the Adopted Fee Schedule* (see below). A funded project can be either wholly or partially funded with SDC<sub>i</sub> fees. Projects can move between the funded and unfunded sections according to AMC 15.16.060(3).

The credit shall not exceed the dollar amount (adjusted annually using ENR Seattle CCI) in the SDC column in *Figure A* associated with a qualified improvement in the funded projects group. If the credit exceeds the amount of TSDCi to be paid by the development, then the excess credit may be applied against transportation improvement fees that accrue in subsequent phases of the original development project. In summary, credits are possible only for projects identified in *Figure A* as having SDC funding and only to the extent that it is SDC funded.

On-site: A project that meets these qualification criteria and is located in whole or in part, on or contiguous to the property, and that is required to be built with greater capacity than is necessary for the particular development needs and exceeds the minimum standard facility size, will have reserve capacity. The applicant shall have the burden of demonstrating that a particular qualified transportation improvement will have a reserve capacity. The Highway Capacity Manual (HCM), or other City-approved traffic engineering methodology, shall be the approved method for calculating reserve capacity. The reserve capacity shall be expressed as a percent of the construction cost for said improvement. That portion of the construction cost that represents the reserve capacity, when multiplied by the percent of said project funded with the SDCi fee as identified in *Figure A*, will be the estimated credit. The actual credit will be the lower of the estimated credit and the dollar amount (adjusted using ENR Seattle Construction Cost Index) in the funded SDC column in *Figure A* associated with said project.

Off-site: A project that meets these qualification criteria that is not located on or contiguous to property (an off-site improvement) is qualified for a SDCi credit. The credit shall be the lower of the actual construction cost or the dollar amount (adjusted using ENR Seattle CCI) in the funded SDC column in *Figure A* associated with said project.

C. Credit for reducing the number of trip ends the development will generate using automobiles:

Transit or Pedestrian: A credit against the improvement fee portion of the SDC shall be possible if the development is in an established transit or pedestrian district or if a program to be instituted in connection with the development is determined by the City Engineer to materially reduce the number of trip ends the development will generate using automobiles and the extent of improvements necessary to serve the development and that the reduction will continue for at least 10 years after the development is occupied.

The reduced SDC will be calculated based upon the number of trip ends the development will generate with the trip end reduction program in effect. Before granting the credit, the City shall receive assurances that will bind the owner and the owner's successors to perform the program for the time required.

D. Credit for reducing the number of peak hour trips the development will generate using automobiles:

Off-Peak Work Hours: A credit against the improvement fee portion of the SDC shall be possible if a program to be instituted in connection with the development is determined by the City Engineer to materially reduce the number of peak hour trips the development will generate using automobiles and the extent of improvements necessary to serve the development, and that the reduction will continue for at least 10 years after the development is occupied. The reduced SDC will be calculated based upon the number of trip ends the development will generate with the peak hour trip reduction program in effect. Before granting the credit, the City shall receive assurances that will bind the owner and the owner's successors to perform the program for the time required.

### APPEAL PROCEDURE AND FEE

Pursuant to Albany Municipal Code Section 15.16.100(5), an appeal fee of \$100 per appeal is hereby established.

Appeal submittal by parties appealing their calculated fee (AMC Section 15.16.100(3)) shall:

- A. Conform to AMC Section 15.16.100 procedures; and
- B. Use standard study methodology and data collection forms and procedures for conducting a local trip generation study described in Albany's adopted "Traffic Impact Study Guidelines" and the ITE Trip Generation Manual; and
- C. Be prepared by or under the direct supervision of a Professional Civil or Transportation Engineer currently licensed to practice within the State of Oregon, and with special training and experience in transportation engineering and planning. The engineer shall certify the document by providing a signature and seal of approval.



### Figure A: SDCi Eligible Projects Funded by the Adopted Fee Schedule

Costs are based on the *Engineering News Record* (ENR) Construction Cost Index (Seattle) in February 2010 of 8647.

*Year 1-10 funded projects are in column 7. All short- and mid-term projects are funded.*

*Year 11-20 funded projects are in column 8.*

1	2	3	4	5	6	7	8
Project #	Project	TSP Priority	Growth Percentage	Total Project Cost (2010 \$)	TSDCi Eligible	TSDCi Eligible & Funded Years 1-10	TSDCi Eligible & Funded Years 11-20
B1	14th Avenue	short	100%	\$2,000	\$2,000	\$2,000	
B2	Waverly Drive	short	100%	\$5,000	\$5,000	\$5,000	
B3	Hill Street	long/dev	100%	\$743,000	\$743,000		\$743,000
B4	24th Avenue	short	100%	\$5,000	\$5,000	\$5,000	
B5	Jackson Street	short	100%	\$674,000	\$674,000	\$110,000	
B6	Center Street	short	100%	\$6,000	\$6,000	\$6,000	
B7	US 20, North Albany	long/dev	100%	\$31,000	\$31,000		
B8	1st Avenue	long/dev	100%	\$43,000	\$43,000		
B9	2nd Avenue	long/dev	100%	\$43,000	\$43,000		
B10	Madison Street/7th Avenue	long/dev	100%	\$40,000	\$40,000		
B11	7th Avenue	long/dev	100%	\$95,000	\$95,000		
B12	Takena	long/dev	100%	\$53,000	\$53,000		\$53,000
B13	Liberty/Lakewood	long/dev	100%	\$76,000	\$76,000		
B14	12th Avenue (West)	mid	100%	\$32,000	\$32,000	\$32,000	
B15	Bain Street	long/dev	100%	\$49,000	\$49,000		
B16	South Shore Drive	long/dev	100%	\$33,000	\$33,000		
B17	Shortridge Street	long/dev	100%	\$27,000	\$27,000		
B18	24th Avenue	long/dev	100%	\$44,000	\$44,000		\$44,000
B19	38th Avenue and 39th Avenue	mid	100%	\$106,000	\$106,000	\$106,000	
B20	Lyon Street	short	100%	\$2,000	\$2,000	\$2,000	
B21	Ellsworth Street	short	100%	\$4,000	\$4,000	\$4,000	
I1	Main Street/Salem Avenue/3rd Avenue	short	100%	\$1,088,000	\$1,088,000	\$1,088,000	
I2	Main Street/Santiam Avenue/4th Avenue	short	69%	\$255,000	\$175,950	\$175,950	
I3	14th Avenue/Heritage Mall Access	short	100%	\$41,000	\$41,000	\$23,000	
I4	14th Avenue/Clay Street	short	100%	\$10,000	\$10,000	\$7,000	
I5	Waverly Avenue/14th Avenue	short	100%	\$41,000	\$41,000	\$23,000	
I6	Waverly Avenue/Queen Avenue	long/dev	100%	\$72,000	\$72,000		
I7	Waverly Avenue/Grand Prairie	long/dev	100%	\$175,000	\$175,000		
I8	US 20/North Albany Road	short	13%	\$40,000	\$5,200	\$5,200	
I9	US 20/Springhill Drive	short	23%	\$14,000	\$3,220	\$3,220	
I10	Knox Butte/Century Drive	short	0%	\$345,000	\$0		
I11	34th Avenue/Marion Street	mid	100%	\$345,000	\$345,000	\$345,000	
I12	US 20 (Lyon Street)/2nd Avenue	mid	16%	\$23,000	\$3,680	\$3,680	
I13	US 20/Clay Street	mid	20%	\$185,000	\$37,000	\$37,000	
I14	OR 99E/34th Avenue	long/dev	32%	\$192,000	\$61,440		\$61,440
I15	34th Avenue/Hill Street	long/dev	100%	\$350,000	\$350,000		\$350,000
I16	Ellingson Road/Columbus Street	long/dev	100%	\$500,000	\$500,000		\$250,000
I17	Waverly Avenue/14th Avenue	long/dev	100%	\$77,000	\$77,000		\$77,000
I18	Queen Avenue/Geary Street	long/dev	100%	\$1,901,000	\$1,901,000		\$950,500
I19	Waverly Avenue/34th Avenue	long/dev	100%	\$42,000	\$42,000		
I20	US 20 (Ellsworth Street)/1st Avenue	mid	22%	\$18,000	\$3,960	\$3,960	
I21	US 20 (Lyon Street)/1st Avenue	mid	23%	\$80,000	\$18,400	\$18,400	
I22	US 20 (Lyon Street)/1st Avenue	mid	23%	\$10,000	\$2,300	\$2,300	

1	2	3	4	5	6	7	8
Project #	Project	TSP Priority	Growth Percentage	Total Project Cost (2010 \$)	TSDCi Eligible	TSDCi Eligible & Funded Years 1-10	TSDCi Eligible & Funded Years 11-20
I23	US 20 (Ellsworth Street)/2nd Avenue	mid	23%	\$17,000	\$3,910	\$3,910	
I24	OR 99E/Waverly Avenue	long/dev	27%	\$959,000	\$258,930		\$258,930
I25	US 20/Waverly Drive	long/dev	29%	\$853,000	\$247,370		\$247,370
I26	US 20/Waverly Drive	long/dev	29%	\$240,000	\$69,600		\$69,600
I27	OR 99E/Queen Avenue	long/dev	26%	\$894,000	\$232,440		\$232,440
I28	OR 99E/34th Avenue	long/dev	32%	\$456,000	\$145,920		
I29	OR 99E/Killdeer Avenue	long/dev	28%	\$3,207,000	\$897,960		
I30	US 20/Timber Street	long/dev	44%	\$571,000	\$251,240		\$251,240
I31	US 20/Timber Street	long/dev	44%	\$619,000	\$272,360		
I33	Knox Butte/New North/South Collector	long/dev	100%	\$525,000	\$525,000		
I34	Springhill Dr./Hickory St.	long/dev	100%	\$345,000	\$345,000		\$172,500
I35	Gibson Hill Rd/Crocker Ln	mid	100%	\$410,000	\$410,000	\$410,000	
I36	Timber St Extension/18th Ave/Spicer Dr ROW	short	100%	\$650,000	\$650,000		\$325,000
I36	Timber Str. Extension/18th Ave/Spicer Dr	long/dev	100%	\$863,000	\$863,000		\$441,000
I37	OR 99E / 29th Ave	long/dev	28%	\$106,000	\$29,680		
I38	Salem Avenue/Geary Street	long/dev	28%	\$845,000	\$236,600		\$236,600
I39	OR 99E/Lyon Street	long/dev	16%	\$205,000	\$32,800		
I40	OR 99E/53rd Avenue	long/dev	38%	\$550,000	\$209,000		
I41	Ellingson Road / Lochner Road	long/dev	100%	\$500,000	\$500,000		\$250,000
I42	53 <sup>rd</sup> Avenue Extension / Industrial Property Access	long/dev	100%	\$500,000	\$500,000		
I43	Clover Ridge Road / Knox Butte	long/dev	100%	\$350,000	\$350,000		
I44	Goldfish Farm Road / Knox Butte	long/dev	100%	\$350,000	\$350,000		
L1	53rd Avenue Extension	long/dev	54%	\$18,600,000	\$10,044,000		
L2	Waverly Drive	long/dev	36%	\$1,394,000	\$501,840		
L3	Washington/Calapooia/1st/2nd	short	42%	\$100,000	\$42,000	\$42,000	
L4	Timber Street Extension ROW	short	100%	\$966,000	\$966,000		\$483,000
L4	Timber Street Extension	long/dev	100%	\$2,708,000	\$2,708,000		\$677,000
L5	Main Street - 7th Avenue - Hill Street	mid	64%	\$1,292,000	\$826,880	\$385,260	
L6	North Albany Road	mid	29%	\$5,847,000	\$1,695,630	\$1,695,630	
L6	North Albany Road ROW	short	100%	\$19,000	\$19,000		\$19,000
L9	Queen Avenue	long/dev	12%	\$0	\$0		
L10	New North Albany Connector <i>Funding is for 15% construction west of Crocker (\$145/lf) and 40% construction east of Crocker</i>	long/dev	100%	\$5,818,000	\$5,818,000		\$1,154,053
L11	Spicer Drive Extension (West of Timber St.)	long/dev	100%	\$982,000	\$982,000		\$245,000
L12	Spicer Drive Extension (East of Timber St.)	long/dev	100%	\$1,666,000	\$1,666,000		
L13	Goldfish Farm Road Extension	long/dev	100%	\$1,013,000	\$1,013,000		\$253,350
L14	Dogwood Avenue Extension	long/dev	100%	\$3,294,000	\$3,294,000		\$0
L15	New North/South Collector – LID Knox Butte to Somerset	short	100%	\$2,548,000	\$2,548,000		
L15	New North/South Collector – Knox Butte to US 20 (Santiam)	long/dev	100%	\$3,662,000	\$3,662,000		\$549,300
L16	New East/West Collector	long/dev	100%	\$3,723,000	\$3,723,000		\$0
L17	Expo Parkway Extension (south of Dunlap)	long/dev	100%	\$996,000	\$996,000		\$149,400
L18	Timber St Extension to Somerset Avenue	long/dev	100%	\$1,720,000	\$1,720,000		\$258,000
L19A	Somerset Avenue Extension - LID	short	100%	\$383,000	\$383,000		
L19B	Somerset Avenue Extension – wetlands to Charlotte	long/dev	100%	\$566,000	\$566,000	\$566,000	\$0
L19C	Somerset Avenue Extension – Timber Ridge Road to NE +/- 950 feet	long/dev	100%	\$625,000	\$625,000		\$410,000

1	2	3	4	5	6	7	8
Project #	Project	TSP Priority	Growth Percentage	Total Project Cost (2010 \$)	TSDCi Eligible	TSDCi Eligible & Funded Years 1-10	TSDCi Eligible & Funded Years 11-20
L20	Santa Maria Avenue Extension	long/dev	100%	\$1,872,000	\$1,872,000		\$0
L21	Knox Butte Road Widening ROW	short	100%	\$1,478,000	\$1,478,000		\$1,478,000
L21	Knox Butte Road Widening	long/dev	60%	\$3,169,000	\$1,901,400		\$1,901,400
L22	Knox Butte Road Widening ROW	short	100%	\$31,000	\$31,000		
L22	Knox Butte Road Widening	long/dev	56%	\$825,000	\$462,000		
L23A	Knox Butte Road Widening – from Goldfish Farm Road 970 feet to the east	long/dev	52%	\$717,000	\$372,840		
L23B	Knox Butte Road Widening - from Timber Ridge Street 730 feet to the west <i>Funding is 25% of street improvement + 50% of pedestrian bridge</i>	long/dev	52%	659,000	\$342,680	\$194,750	
L24A	Knox Butte Road Widening – from Timber Ridge Street 1,120 feet to the east	long/dev	47%	\$896,000	\$421,120	\$224,000	
L24B	Knox Butte Road Widening – from UGB 8,485 feet to the west	long/dev	47%	\$6,792,000	\$3,192,240		
L25	Dunlap Avenue Extension	long/dev	100%	\$1,045,000	\$1,045,000		\$156,750
L26	Springhill Road Widening	long/dev	61%	\$3,406,000	\$2,077,660		
L27	US 20 Widening	long/dev	18%	\$8,351,000	\$1,503,180		
L28	Ellingson Road Extension	long/dev	61%	\$5,740,000	\$3,501,400		
L30	Oak Street	short	100%	\$2,130,000	\$2,130,000	\$2,130,000	
L31	Fescue Street to Three Lakes Road Connector	long/dev	100%	\$886,000	\$886,000		\$132,900
L32	Fescue Street Extension	long/dev	100%	\$3,054,000	\$3,054,000		
L33	Three Lakes Road Realignment ROW	short	59%	\$750,000	\$442,500		
L33	Three Lakes Road Realignment	long/dev	59%	\$1,868,000	\$1,102,120		
L34	Looney Lane Extension	long/dev	100%	\$914,000	\$914,000		\$137,100
L35	Albany Avenue Widening	long/dev	26%	\$1,177,000	\$306,020	\$306,020	
L36	W Thornton Lk Dr, N Albany Rd & N Alb Middle School	long/dev	11%	\$565,000	\$62,150	\$62,150	
L37	Springhill Drive	long/dev	18%	\$4,158,000	\$748,440		
L38	Scenic Drive	long/dev	10%	\$6,842,000	\$684,200		
L39	Century Drive	long/dev	52%	\$3,199,000	\$1,663,480		
L40	Gibson Hill Road	long/dev	6%	\$3,816,000	\$228,960		\$228,960
L41	Skyline Drive	long/dev	0%	\$1,523,000	\$0		
L42A	Crocker Lane North (LID)	short	30%	\$1,721,000	\$516,300	\$417,000	
L42B	Crocker Lane South – from Gibson Hill Road north to L42A <i>Funding is 15% of Pheasant Run frontage</i>	long/dev	30%	\$2,808,000	\$842,400	\$107,150	
L43	Valley View Drive	long/dev	40%	\$3,695,000	\$1,478,000		
L44	West Thornton Lake Drive	long/dev	11%	\$6,097,000	\$670,670		
L45	Allen Lane	long/dev	56%	\$2,689,000	\$1,505,840		
L46	Columbus Street	long/dev	49%	\$4,549,000	\$2,229,010		\$1,137,250
L47	Grand Prairie Road	long/dev	53%	\$2,260,000	\$1,197,800		
L48	Spicer Drive	long/dev	32%	\$868,000	\$277,760		
L49	Scravel Hill Road	long/dev	21%	\$9,699,000	\$2,036,790		
L50	Quarry Road	long/dev	21%	\$3,493,000	\$733,530		
L51	Spicer Road	long/dev	54%	\$676,000	\$365,040		
L52A	Goldfish Farm Road – from Dogwood Avenue south 1,365 feet <i>Funding is right-of-way only</i>	long/dev	82%	\$1,645,500	\$1,349,310	\$158,000	
L52B	Goldfish Farm Road – from Highway 20 north 2,320 feet	long/dev	82%	\$2,798,500	\$2,294,770	\$341,000	
L53	Ellingson Road	long/dev	49%	\$5,847,000	\$2,865,030		\$1,979,250

1	2	3	4	5	6	7	8
Project #	Project	TSP Priority	Growth Percentage	Total Project Cost (2010 \$)	TSDCi Eligible	TSDCi Eligible & Funded Years 1-10	TSDCi Eligible & Funded Years 11-20
	<i>Funding is for 24ft of right-of-way (3 to 5 lanes) at \$6/s.f. and 25% construction</i>						
L54-a	Lochner Road – North	short	44%	\$3,722,000	\$1,637,680	\$1,007,475	
L54-b	Lochner Road - South	long/dev	44%	\$4,548,000	\$2,001,120		\$1,137,125
L55	Three Lakes Road ROW	short	42%	\$287,000	\$120,540		\$120,540
L55	Three Lakes Road	long/dev	42%	\$4,569,000	\$1,918,980		
L56	US 20 - East of I-5	long/dev	44%	\$2,068,000	\$909,920		
L57	Santa Maria Avenue	long/dev	91%	\$694,000	\$631,540		
L58	Oak Street	short	65%	\$2,187,000	\$1,421,550	\$1,421,550	
L59	Water Avenue	short	50%	\$4,070,000	\$2,035,000		
L60	US 20 Superelevation and Widening	long/dev	22%	\$3,122,000	\$686,840		
L61	Three Lakes Road	long/dev	0%	\$1,879,000	\$0		
L62	Oak Creek Parkway <i>Funding is for 25% construction west of Columbus</i>	long/dev	100%	\$16,456,000	\$16,456,000		\$1,812,719
M1	Queen/Geary Periwinkle Path	short	70%	\$46,000	\$32,200	\$32,200	
M2-a	Oak Creek Loop Trail (south of Oak Creek)	long/dev	70%	\$2,680,000	\$1,876,000	\$200,000	
M2-b	Oak Creek Loop Trail (north of Oak Creek)	long/dev	70%	\$1,787,000	\$1,250,900		
M2-c	Oak Creek Crossing Trails	long/dev	70%	\$838,000	\$586,600		
M3	West Timber-Linn Trail	mid	70%	\$161,000	\$112,700	\$112,700	
M4	South Waterfront Trail	mid	70%	\$76,000	\$53,200	\$53,200	
M5	Albany-Corvallis Multiuse Path	mid	70%	\$1,477,000	\$1,033,900	\$304,500	
M6	Albany-Corvallis Multiuse Path	long/dev	70%	\$761,000	\$532,700		
M7	East Timber-Linn Trail	long/dev	70%	\$277,000	\$193,900		\$193,900
M8	Bain Street/Waverly Lake Trail	long/dev	70%	\$153,000	\$107,100		\$107,100
M9	Lebanon Trail	long/dev	70%	\$581,000	\$406,700		
M10	Periwinkle Trail Extension	long/dev	70%	\$1,528,000	\$1,069,600		
M11	East Albany Willamette River Bridge	long/dev	70%	\$7,657,000	\$5,359,900		
M12	99E/Oak Creek	long/dev	70%	\$129,000	\$90,300		
M13	US 20/99E Undercrossing	long/dev	70%	\$1,500,000	\$1,050,000		
P1	Springhill Drive	mid	70%	\$542,000	\$379,400	\$379,400	
P2	99E/24th Avenue	long/dev	70%	\$129,000	\$90,300		
P3	Oregon 99E: Burkhart to Waverly	long/dev	70%	\$129,000	\$90,300		
P4	Ferry Street	long/dev	70%	\$725,000	\$507,500		
P5	Columbus Street	long/dev	70%	\$277,000	\$193,900		
P6	Geary Street	long/dev	70%	\$791,000	\$553,700	\$553,700	
P7	Airport Road	long/dev	70%	\$485,000	\$339,500		
P8	Killdeer Street	long/dev	70%	\$174,000	\$121,800		
P9	Waverly Drive	long/dev	70%	\$88,000	\$61,600		
P10	Albany-Santiam Canal Pedestrian Esplanade	long/dev	70%	\$1,232,000	\$862,400		
P11	Thurston Street Canal Pedestrian Esplanade	long/dev	70%	\$1,863,000	\$1,304,100		
P12	Gibson Hill Road	short	70%	\$1,034,000	\$723,800	\$255,170	
S1	ADA Accessibility Audit	short	0%	\$25,000	\$0		
S2	Hwy 20 Corridor & Downtown Refinement Plan	short	100%	\$250,000	\$250,000	\$250,000	
S3	Safety Audit	short	0%	\$30,000	\$0		
S4	OR 99E Speed Study	short	0%	\$0	\$0		
S5	Downtown STA	short	0%	\$0	\$0		
S6	Albany TSP MPO Update	mid	32%	\$350,000	\$112,000	\$112,000	
S7	Major Corridors	long/dev	0%	\$0	\$0		
S8	Wayfinding	long/dev	0%	\$25,000	\$0		

1	2	3	4	5	6	7	8
Project #	Project	TSP Priority	Growth Percentage	Total Project Cost (2010 \$)	TSDCi Eligible	TSDCi Eligible & Funded Years 1-10	TSDCi Eligible & Funded Years 11-20
S9	Interstate 5 / OR 99E / Knox Butte	long/dev	100%	\$100,000	\$100,000	\$100,000	
S10	Interstate 5 / US 20 (Santiam)	long/dev	100%	\$100,000	\$100,000	\$100,000	
T1	ADA Accessibility Projects	mid	70%	\$430,000	\$301,000	\$301,000	
TOTALS				\$267 M	\$155 M	\$14.2 M	\$19.7 M



RESOLUTION NO. \_\_\_\_\_

A RESOLUTION REVISING STORM DRAINAGE SYSTEM DEVELOPMENT CHARGES, ESTABLISHING AN APPEAL FEE, AND REPEALING RESOLUTION 7276

WHEREAS, through the previous adoption of ordinances establishing and amending Albany Municipal Code 15.16 regarding system development charges (SDC), the Albany City Council has declared its intent to comply with the provisions of ORS 223.297 through 223.316; and

WHEREAS, a methodology for the calculation of an improvement and reimbursement fee SDC for the storm drainage system in Albany has been developed as specifically described in the Stormwater SDC methodology report dated September 8, 2023, and adopted via resolution on November 8, 2023; and

WHEREAS, the adopted methodology resulted in a maximum allowable fee of \$0.5158 per square foot of impervious area when indexed to the Engineering News Record (ENR) Seattle Construction Cost Index (CCI) for April 2023 (15,031.28), and which if indexed to current dollars is equivalent to \$0.5316 per square foot of impervious area (using index ratio 15,492.56/15,031.28); and

WHEREAS, the storm drainage SDC is a new SDC and represents an increase to the overall SDC charges for development and, therefore, is proposed to be phased in by five equal steps; and

WHEREAS, the council deemed it desirable to establish the first phase-in step effective January 2024; and

WHEREAS, Section 15.16.050(5) of Ordinance 5306 allows for the annual adjustment of the herein established fees in accordance with the change in the ENR Seattle CCI; and

WHEREAS, the council deems it desirable to increase the existing fees to reflect inflation relative to the increase in the ENR CCI Seattle Index; and

WHEREAS, the index used in Resolution 7276 was 15,031.28 and the April 2024 Index to be applied for purposes of this resolution is 15,492.56 (index ratio = 15,492.56 / 15,031.28 = 1.0307).

NOW, THEREFORE, BE IT RESOLVED by the Albany City Council that Resolution No. 7276 is hereby repealed as of the effective date of the revised charges; and

BE IT FURTHER RESOLVED that an improvement fee and a reimbursement fee storm drainage system development charge for Albany hereby be revised to include the inflationary adjustment as shown in Exhibit A; and

BE IT FURTHER RESOLVED that the effective date of these charges shall be **July 1, 2024**.

DATED THIS 12TH DAY OF JUNE 2024.

\_\_\_\_\_  
Mayor

ATTEST:

\_\_\_\_\_  
City Clerk



**EXHIBIT A***STORM DRAINAGE SYSTEM DEVELOPMENT CHARGE*

The Storm Drainage system development charge (SDC) is assessed to development for the creation of additional impervious area.

Storm Drainage SDC by square foot of impervious area (\$/SF of Imp. Area):

<b>Storm Drainage SDC**</b>	<b>SDC Reimbursement* \$/SF or Imp. Area</b>	<b>SDC Improvement* \$/SF or Imp. Area</b>	<b>SDC Total* \$/SF or Imp. Area</b>
First of Five Phase-In Steps	<del>\$0.0157</del> (\$0.0162) <b>\$0.02</b>	<del>\$0.0874</del> (\$0.0901) <b>\$0.09</b>	<del>\$0.1032</del> ( <b>\$0.1063</b> ) <b>\$0.11</b>

\* Indexed to April 2024 ENR CCI Seattle (15,492.56)

\*\*Numbers in parentheses are used for tracking accuracy. The fees used to calculate the fees charged are shown in bold and rounded to the nearest penny.

*SDC IMPROVEMENT FEE CREDIT*

Pursuant to Albany Municipal Code (AMC) Section 15.16.090 (2), a credit against the storm drainage SDC-I fee shall be given for the cost of a qualified public water improvement required as a condition of development approval and identified in the Stormwater SDC Methodology (Adopted November 2023) as a project to be wholly or partially funded with storm drainage SDC-I fees.

*APPEAL FEE*

Pursuant to AMC Section 15.16.100(5), an appeal fee of \$100 per appeal is hereby established. Appeal submittal by parties appealing their calculated fee (AMC Section 15.16.100(3)) shall conform to AMC Section 15.16.100 procedure.



RESOLUTION NO. \_\_\_\_\_

A RESOLUTION REVISING PARK SYSTEM DEVELOPMENT CHARGES, ESTABLISHING AN APPEAL FEE, AND REPEALING RESOLUTION 7291

WHEREAS, through the previous adoption of ordinances establishing and amending Albany Municipal Code 15.20 regarding system development charges (SDC), the Albany City Council has declared its intent to comply with the provisions of ORS 223.297 through 223.314; and

WHEREAS, a methodology for the calculation of an improvement, reimbursement and compliance SDC for the parks and recreation system in Albany has been developed as specifically described in the document reviewed and adopted on May 25, 2022; and

WHEREAS, the adopted methodology resulted in a maximum allowable fee of \$4,266 per resident when indexed to the Engineering News Record (ENR) Seattle Construction Cost Index (CCI) for April 2020 (12,141.53), which if indexed to current dollars is equivalent to \$5,443 per resident (using index ratio 15,492.56/12,141.53); and

WHEREAS, the maximum allowable fee represented a significant increase over the existing Parks SDC charges. Therefore, per Resolution 7291, the SDC fee was set at forty-nine percent (49%) of the maximum allowable fee making the SDC fee comparable to other Cities in the Willamette Valley (Corvallis, Lebanon, Eugene, Springfield, and Salem); and

WHEREAS, the Engineering News Record (ENR) Seattle Construction Cost Index (CCI) for April 2023 was 15,031.28, and the April 2024 ENR Seattle CCI to be applied for purposes of this resolution is 15,492.56 (index ratio = 15,492.56/15,031.28= 1.0307).

NOW, THEREFORE, BE IT RESOLVED by the Albany City Council that Resolution No. 7291 is hereby repealed as of the effective date of the revised charges; and

BE IT FURTHER RESOLVED that it is the intent of the Albany City Council to annually adjust the Parks SDC's outlined in this Resolution on the first day of July each calendar year in proportion to the change in the Seattle Construction Cost Index as published in the Engineering News Record. The adjustment shall be made by calculating the percentage increase/decrease in the index from the last adjustment and then applying that percentage to the previous year's connection charge; and

BE IT FURTHER RESOLVED that an improvement fee, a reimbursement fee and a compliance fee for the Parks and Recreation system development charge for Albany hereby be revised to include the inflationary adjustment as shown in Exhibit A; and

BE IT FURTHER RESOLVED that the effective date of these charges shall be **July 1, 2024**.

DATED THIS 12TH DAY OF JUNE 2024.

\_\_\_\_\_  
Mayor

ATTEST:

\_\_\_\_\_  
City Clerk

**EXHIBIT A***PARKS SYSTEM DEVELOPMENT CHARGE*

Parks SDCs are charged to all residential development. Single-dwelling units are charged a base charge plus a charge per square foot of dwelling size. Multi-dwelling units and accessory dwelling units (ADU's) are charged based on the number of dwellings.

Single Dwelling Units

Charge Component	Units	SDCi	SDCr	SDCc	SDC Total
Base Charge	Dwelling	\$1,612.54	\$423.80	\$1.91	\$2,038.25
Dwelling Size <sup>1</sup>	Square Foot	\$1.131	\$0.297	\$0.001	\$1.43

1. Maximum single-dwelling unit size for SDC calculations is capped at 2605 sf.

Multiple Dwelling Units

Category	Units	SDCi	SDCr	SDCc	SDC Total
Multi-Dwelling Units <sup>1</sup>	Dwelling	\$3,143.48	\$826.15	\$3.73	\$3,973.36
Accessory Dwelling Unit (ADU)	Dwelling	\$1,827.32	\$480.25	\$2.17	\$2,309.73

1. Multi-Dwelling Units include Duplex, Triplex, Fourplex, Single-Room Occupancy and Apartments. For Single-Room Occupancy (SRO) development, two SRO units equals one dwelling unit.

SDC IMPROVEMENT FEE CREDIT

Pursuant to Albany Municipal Code (AMC) Section 15.20.09, a credit against the Parks SDC-I fee shall be given for the cost of a qualified public water improvement required as a condition of development approval and identified in the Parks SDC Methodology (Adopted May 2022) as a project to be wholly or partially funded with Parks SDC-I fees.

APPEAL FEE

Pursuant to AMC Section 15.20.100, an appeal fee of \$100 per appeal is hereby established. Appeal submittal by parties appealing their calculated fee (AMC Section 15.20.100(2)) shall conform to AMC Section 15.20.100 procedure.



## RESOLUTION NO. \_\_\_\_\_

A RESOLUTION REVISING CONNECTION CHARGES FOR STREET CONNECTIONS TO IMPROVED CITY STREETS OF UNASSESSED PROPERTIES IN THE CITY OF ALBANY AND REPEALING RESOLUTION 7229

WHEREAS, Chapter 15.30 of the Albany Municipal Code sets forth requirements for connection charges for connections to improved streets of unassessed properties within the City of Albany; and

WHEREAS, connection charges are designed to recover the equivalent cost of constructing the standard portion of a street system that benefits the connecting property; and

WHEREAS, a local street shall be the basis for calculating the per foot of frontage cost for all properties; and

WHEREAS, the per foot of frontage dimension shall be calculated by measuring the entire length of the property frontage that is adjacent to improved streets regardless of the length of the street along that frontage; and

WHEREAS, it is important to annually adjust connection charges to keep pace with the changing cost of public improvement projects; and

WHEREAS, the Engineering News Record (ENR) Seattle Construction Cost Index (CCI) used in Resolution 7229 was 15,031.28, and the April 2024 ENR Seattle CCI to be applied for purposes of this resolution is 15,492.56 (index ratio =  $15,492.56/15,031.28 = 1.0307$ ).

NOW, THEREFORE, BE IT RESOLVED by the Albany City Council that Resolution 7229 is hereby repealed as of the effective date of the revised charges; and

BE IT FURTHER RESOLVED that the following street connection charge rate is hereby established:

Street Connection Charge Rate: ~~\$192~~ (calculated fee \$197.69) **\$198** per front foot; and

BE IT FURTHER RESOLVED that in no case shall the total connection charge be for less than an equivalent of 50 feet of frontage; and

BE IT FURTHER RESOLVED that it is the intent of the Albany City Council to annually adjust the connection charges outlined in this Resolution on the first day of July each calendar year in proportion to the change in the Seattle Construction Cost Index as published in the Engineering News Record. The adjustment shall be made by calculating the percentage increase/decrease in the index from the last adjustment and then applying that percentage to the previous year's connection charge; and

BE IT FURTHER RESOLVED that the effective date of these charges shall be **July 1, 2024**.

DATED THIS 12TH DAY OF JUNE 2024.

\_\_\_\_\_  
Mayor

ATTEST:

\_\_\_\_\_  
City Clerk



RESOLUTION NO. \_\_\_\_\_

A RESOLUTION REVISING CONNECTION CHARGES FOR SEWER CONNECTIONS OF UNASSESSED PROPERTIES IN THE CITY OF ALBANY AND REPEALING RESOLUTION 7230.

WHEREAS, Chapter 15.30 of the Albany Municipal Code sets forth requirements for connection charges for sewer connections of unassessed properties within the City of Albany, and

WHEREAS, connection charges are designed to recover the equivalent cost of constructing the standard portion of a sewer system that benefits the connecting property; and

WHEREAS, the minimum size sanitary sewer (8-inch pipe) shall be the basis for calculating the per foot of frontage cost for all properties; and

WHEREAS, the per foot of frontage dimension shall be calculated by measuring the entire length of the property frontage that is adjacent to the sanitary sewer regardless of the length of the sewer on that frontage; and

WHEREAS, it is important to annually adjust connection charges to keep pace with the changing cost of public improvement projects; and

WHEREAS, the Engineering News Record (ENR) Seattle Construction Cost Index (CCI) used in Resolution 7230 was 15,031.28, and the April 2024 ENR Seattle CCI to be applied for purposes of this resolution is 15,492.56 (index ratio = 15,492.56/15,031.28= 1.0307); and

NOW, THEREFORE, BE IT RESOLVED by the Albany City Council that Resolution 7230 is hereby repealed as of the effective date of the revised charges; and

BE IT FURTHER RESOLVED that the following sanitary sewer connection charge rate is hereby established:

Sanitary Sewer Connection Charge Rate:

Property without service lateral - ~~\$82~~ per front foot (calculated fee \$84.72) **\$85** per front foot

Property with service lateral - ~~\$99~~ per front foot (calculated fee \$102.21) **\$102** per front foot; and

BE IT FURTHER RESOLVED that in no case shall the total connection charge be for less than an equivalent of 50 feet of frontage; and

BE IT FURTHER RESOLVED that it is the intent of the Albany City Council to annually adjust the connection charges outlined in this resolution on the first day of July each calendar year in proportion to the change in the Seattle Construction Cost Index as published in the Engineering News Record. The adjustment shall be made by calculating the percentage increase/decrease in the index from the last adjustment, and then applying that percentage to the previous year's connection charge; and

BE IT FURTHER RESOLVED that the effective date of these charges shall be **July 1, 2024**.

DATED THIS 12TH DAY OF JUNE 2024.

\_\_\_\_\_  
Mayor

ATTEST:

\_\_\_\_\_  
City Clerk



## RESOLUTION NO. \_\_\_\_\_

A RESOLUTION REVISING CONNECTION CHARGES FOR WATER CONNECTIONS OF UNASSESSED PROPERTIES IN THE CITY OF ALBANY AND REPEALING RESOLUTION 7231

WHEREAS, Chapter 15.30 of the Albany Municipal Code sets forth requirements for connection charges for water connections of unassessed properties within the City of Albany; and

WHEREAS, connection charges are designed to recover the equivalent cost of constructing the standard portion of a water system that benefits the connecting property; and

WHEREAS, the connection charge for water is generally dependent on the minimum size water line to serve the property according to land use zone; and

WHEREAS, the minimum size water line for single-family residential land use zones (8-inch pipe) and for multi-family, commercial, and industrial land use zones (12-inch pipe) shall be the basis for calculating the per foot of frontage cost for all properties; and

WHEREAS, water lines constructed by the North Albany County Service District were financed by property taxes levied by the district; and

WHEREAS, the per foot of frontage dimension shall be calculated by measuring the entire length of the property frontage that is adjacent to the water line regardless of the length of the water line along that frontage; and

WHEREAS, it is important to annually adjust connection charges to keep pace with the changing cost of public improvement projects; and

WHEREAS, the Engineering News Record (ENR) Seattle Construction Cost Index (CCI) used in Resolution 7231 was 15,031.28, and the April 2024 ENR Seattle CCI to be applied for purposes of this resolution is 15,492.56 (index ratio =  $15,492.56/15,031.28 = 1.0307$ ); and

NOW, THEREFORE, BE IT RESOLVED by the Albany City Council that Resolution 7231 is hereby repealed as of the effective date of the revised charges; and

BE IT FURTHER RESOLVED that the following water connection charge rate is hereby established:

Water Connection Charge Rate:

Single-family Residential:

Without water service - ~~\$57~~ per front foot (calculated fee \$59.17) **\$59** per front foot

With water service - ~~\$76~~ per front foot (calculated fee \$78.00) **\$78** per front foot

Multi -family, Commercial, or Industrial:

Without water service - ~~\$83~~ per front foot (calculated fee \$88.76) **\$89** per front foot

With water service - ~~\$93~~ per front foot (calculated fee \$99.51) **\$100** per front foot; and

BE IT FURTHER RESOLVED that properties within the City of Albany connecting to water lines constructed by the North Albany County Service District shall be exempt from the water connection charge; and

BE IT FURTHER RESOLVED that in no case shall the total connection charge be less than an equivalent of 50 feet of frontage; and

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BE IT FURTHER RESOLVED that it is the intent of the Albany City Council to annually adjust the connection charges outlined in this resolution on the first day of July each calendar year in proportion to the change in the Seattle Construction Cost Index as published in the Engineering News Record. The adjustment shall be made by calculating the percentage increase/decrease in the index from the last adjustment and then applying that percentage to the previous year's connection charge; and

BE IT FURTHER RESOLVED that the effective date of these charges shall be **July 1, 2024**.

DATED THIS 12TH DAY OF JUNE 2024.

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Mayor

ATTEST:

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City Clerk



## RESOLUTION NO. \_\_\_\_\_

A RESOLUTION REVISING CONNECTION CHARGES FOR STORM CONNECTIONS OF UNASSESSED PROPERTIES IN THE CITY OF ALBANY AND REPEALING RESOLUTION 7232

WHEREAS, Chapter 15.30 of the Albany Municipal Code sets forth requirements for connection charges for connections to the storm system of unassessed properties within the City of Albany; and

WHEREAS, connection charges are designed to recover the equivalent cost of constructing the standard portion of a storm system that benefits the connecting property; and

WHEREAS, the cost to provide drainage for an average lot in a fully improved subdivision shall be the basis for calculating the per foot of frontage cost for all properties; and

WHEREAS, properties draining to a street that meets the standards for an improved street or connected to a storm drain pipe shall be considered served by storm drainage; and

WHEREAS, the per foot of frontage dimension shall be calculated by measuring the entire length of the property frontage that is adjacent to storm drain regardless of the length of the storm drain along that frontage; and

WHEREAS, it is important to annually adjust connection charges to keep pace with the changing cost of public improvement projects; and

WHEREAS, the Engineering News Record (ENR) Seattle Construction Cost Index (CCI) used in Resolution 7232 was 15,031.28, and the April 2024 ENR Seattle CCI to be applied for purposes of this resolution is 15,492.56 (index ratio =  $15,492.56/15,031.28 = 1.0307$ ); and

NOW, THEREFORE, BE IT RESOLVED by the Albany City Council that Resolution 7232 is hereby repealed as of the effective date of the revised charges; and

BE IT FURTHER RESOLVED that the following storm connection charge rates are hereby established:

Storm Connection Charge Rate: ~~\$106~~ (calculated fee \$108.93) **\$108** per front foot; and

BE IT FURTHER RESOLVED that in no case shall the total connection charge be for less than an equivalent of 50 feet of frontage; and

BE IT FURTHER RESOLVED that it is the intent of the Albany City Council to annually adjust the connection charges outlined in this resolution on the first day of July each calendar year in proportion to the change in the Seattle Construction Cost Index as published in the Engineering News Record. The adjustment shall be made by calculating the percentage increase/decrease in the index from the last adjustment, and then applying that percentage to the previous year's connection charge; and

BE IT FURTHER RESOLVED that the effective date of these charges shall be **July 1, 2024**.

DATED THIS 12TH DAY OF JUNE 2024.

\_\_\_\_\_  
Mayor

ATTEST:

\_\_\_\_\_  
City Clerk





RESOLUTION NO. \_\_\_\_\_

A RESOLUTION REVISING POST-CONSTRUCTION STORMWATER QUALITY PROGRAM PERMIT FEES AND REPEALING RESOLUTION 7228

WHEREAS, Ordinance 5841 created a post-construction stormwater quality (PCSWQ) program and provided authorization by resolution for the formation of PCSWQ program permit fees; and

WHEREAS, the PCSWQ program and permit fees became effective January 1, 2015; and

WHEREAS, it is important to annually adjust the construction-related program fees in order to keep pace with the changing cost of public improvement projects; and

WHEREAS, the Engineering News Record (ENR) Seattle Construction Cost Index (CCI) used in Resolution 7228 was 15031.28, and the April 2024 ENR Seattle CCI to be applied for purposes of this resolution is 15,492.56 (index ratio = 15,492.56/15,031.28= 1.0307); and

WHEREAS, the calculated fee will be used to apply next year’s annual adjustment, but the rounded fee (rounded to the nearest dollar) will be the established rate this year.

NOW, THEREFORE, BE IT RESOLVED by the Albany City Council that Resolution 7228 is hereby repealed as of the effective date of the revised permit fees; and

BE IT FURTHER RESOLVED that the post-construction stormwater quality program permit fees are hereby revised as described in Exhibit A; and

BE IT FURTHER RESOLVED that the effective date of these fees shall be **July 1, 2024**.

DATED THIS 12TH DAY OF JUNE 2024.

\_\_\_\_\_  
Mayor

ATTEST:

\_\_\_\_\_  
City Clerk

## EXHIBIT A

**City of Albany Post-Construction Stormwater Quality Program Permit Fees**DRAWING REVIEW AND APPLICATION

- A. A fixed fee of \$100\*, plus
- B. 0.6 PERCENT of the Engineer's construction cost estimate

\*If a fixed fee has already been paid with an associated Site Improvement permit, an additional fixed fee is not required for the Post-Construction Stormwater Quality (PCSWQ) permit.

PERMIT TO CONSTRUCT FACILITIES

- A. A fixed fee of \$100\*, plus
- B. 4 percent of the project cost from \$0 to \$25,000, plus
- C. 3 percent of the project cost from \$25,000 to \$50,000, plus
- D. 2.5 percent of the project cost above \$50,000

\*If a fixed fee has already been paid with an associated Site Improvement permit, an additional fixed fee is not required for the PCSWQ permit.

OTHER FEES

- A. Off-site PCSWQ – (PCSWQ facilities impractical or ineffective for proposed development) ~~\$67~~ (calculated fee \$68.63) **\$69** per square foot of required post-construction stormwater quality facility. Director approval required per Albany Municipal Code (AMC) 12.45.040.
- B. Transfer of Landscaping Responsibility to the City – Per AMC 12.45.110, the applicant can, when approved by the Public Works Director, transfer landscaping responsibilities to the City for public PCSWQ facilities. Whether or not the City accepts this responsibility is at the sole discretion of the Director. Costs associated with transferring landscaping responsibility are as follows:
  - i. First 1,000 square feet ~~-\$22~~ (calculated fee \$22.88) **\$23** per square foot of facility to be planted\*
  - ii. Additional square feet ~~-\$15~~ (calculated fee \$15.25) **\$15** per square foot of facility to be planted\*

\*Street trees not included. Costs for transfer of street tree planting responsibility established under separate fee schedule. Transfers of responsibility for landscaping and/or street tree planting must be compatible.
- C. Third Party Review – When the City requires third party plan review or special inspections, those costs shall be the responsibility of the applicant and are in addition to all other fees identified herein.
- D. Permit Transfer – \$25
- E. Permit Extension – Approval of extensions are at the sole discretion of the Public Works Director per AMC 12.45.070. The first two extensions are free. Subsequent extensions are \$250 per extension.
- F. Work without permit – Permit fees shall be doubled.



# MEMO

**FTO:** Albany City Council

**VIA:** Peter Troedsson, City Manager *PT*  
 Staci Belcastro, P.E., City Engineer/Assistant Public Works Director *SB*

**FROM:** Aaron Hiemstra, P.E., Engineering Manager *AH*

**DATE:** May 30, 2024, for the June 12, 2024, City Council Meeting

**SUBJECT:** Public Hearing: Create New Public Works Fee for Building Permit Review

**Action Requested:**

Staff recommends City Council hold a public hearing to receive public input and consider adoption of the attached resolution (Attachment 1) implementing new fees for Public Works review of building permits.

**Discussion:**

Public Works reviews all building permit applications to verify development is consistent with the City’s standards and codes for public infrastructure; determine Public Works fees including Connection Charges, Stormwater Utility Fees, and System Development Charges; and identify if there are conflicts with public infrastructure (for example a public sewer pipe could run through the property within a utility easement). Public Works currently does not assess a fee to review building permits. This is inconsistent with other City departments, including planning and fire, who also review building permit applications.

The Planning Department charges a fee of 25 percent of the base permit fee for all building permits. The Fire Department charges a fee of 15 percent of the base fee for Commercial Permits only. In 2023, Public Works staff spent 429 hours reviewing building permits, which equates to an estimated staff cost of approximately \$47,000. The Engineering Services budget covers this cost and is supported by transfers from transportation, sewer, stormwater, and water funds.

The table below summarizes an audit staff completed to compare what Public Works Departments in other jurisdictions charge for building permit application reviews. Fees have been rounded to the nearest dollar.

Building Plan Review Fee Comparison								
Engineering Review	Albany	Corvallis*	Eugene**	Salem	Lebanon	Gresham	Springfield	Keizer
Residential New	\$0	33%	\$960	\$107	\$50	\$359	\$593 + cy escalator	\$0
Residential Add/Alt	\$0	33%	\$960	\$54	\$50	\$359	\$593 + cy escalator	\$0
Commercial New	\$0	33%	\$960	\$447/0.1 acre +\$29/0.1 acre	\$500 plus \$350/acre	\$359	\$593 + cy escalator	\$0
Commercial Alt	\$0	33%	\$960	\$447/0.1 acre +\$29/0.1 acre	\$500 plus \$350/acre	\$359	\$593 + cy escalator	\$0

\*Percent of building permit base fee

\*\*Public Works and Planning fee with inspections



**May 30, 2024, for the June 12, 2024, City Council Meeting**

At the May 20, 2024, work session, staff presented to council options for a Public Works building permit review fee for consideration. The current base fee for a 1,500 square foot home is \$710. Implementing a Public Works review fee of 10 percent of the base fee would increase the permit cost by \$71 and generate revenue of approximately \$24,000 based on building permits issued in 2023. Implementing a Public Works review fee of 15 percent of the base fee would increase the permit cost by approximately \$100 and generate revenue of approximately \$37,000 based on building permits issued in 2023. Staff recommended implementation of a Public Works review fee of 10 percent and council concurred. The attached resolution will create a new Public Works review fee of building permits calculated by multiplying the base fee by 10 percent.

**Budget Impact:**

The Engineering Services budget covers the cost of Public Works staff to review building permits. Revenue received as a result of a new building permit fee would be transferred to the transportation, sewer, stormwater, and water funds that support the Engineering Services budget. If adopted, the new building review fee for Public Works will become effective on July 1, 2024.

AH:SB:kc



RESOLUTION NO. \_\_\_\_\_

A RESOLUTION ESTABLISHING A PUBLIC WORKS FEE TO REVIEW BUILDING PERMIT APPLICATIONS

WHEREAS, the Public Works Engineering Division reviews all building permit applications to verify development is consistent with the City’s standards and codes for public infrastructure; and

WHEREAS, the Engineering Services budget covers the costs incurred for Public Works staff to review building permits; and

WHEREAS, the Engineering Services budget is supported by transfers from transportation, sewer, stormwater, and water funds; and

WHEREAS, the council deems it desirable to establish a Public Works review fee of building permits to facilitate cost recovery; and

WHEREAS, the Public Works review fee of building permits will be calculated by multiplying the permit base fee by 10 percent; and

WHEREAS, the Albany City Council reviewed the proposed building review fee and held a public hearing on the proposed fee on June 12, 2024.

NOW, THEREFORE, BE IT RESOLVED by the Albany City Council that Public Works building permit review fees calculated by multiplying the building permit base fee by 10 percent shall be applied to all building permit applications effective July 1, 2024.

DATED THIS 12TH DAY OF JUNE 2024.

\_\_\_\_\_  
Mayor

ATTEST:

\_\_\_\_\_  
City Clerk



# MEMO

TO: Albany City Council

VIA: Peter Troedsson, City Manager *PT*  
Staci Belcastro, P.E., City Engineer/Assistant Public Works Director *SB*

FROM: Aaron Hiemstra, P.E., Engineering Manager *AH*

DATE: May 30, 2024, for the June 12, 2024, City Council Meeting

**SUBJECT:** Public Hearing: Adjustments to Encroachment Permit Fees  
Relates to Strategic Plan theme | Relates to: Effective Government

### Action Requested:

Staff recommends City Council hold a public hearing to receive public input and consider adoption of the attached resolution (Attachment 1) for adjustment of fees for encroachment permits.

### Discussion:

Public Works issues encroachment permits under titles 10, 12, and 14 of the Albany Municipal Code (AMC). Encroachment permit fees have not been adjusted since the mid-1990s. Staff recently completed an audit and community comparison of fees collected for encroachment permits, which revealed that the cost of staff time to review, issue, and administer encroachment permits is far more than what is recovered through permit fees. In 2023 there were 377 encroachment permits issued, and there are currently 598 open encroachment permits where work is ongoing or that requires final inspection. Revenue received from encroachment permits issued in 2023 was \$8,280. Staff time spent on encroachment permits in 2023 was 1,254 hours, which equates to an estimated staff cost of \$137,940.

The gap in funding is absorbed by the Engineering Services budget that is supported by transfers from transportation, sewer, stormwater, and water funds similar to other non-project and non-revenue generating work activities in the Engineering work group. The intent of the proposed fee adjustments is not to fully recover staff costs, which would overburden customers and development, but to move closer to no net budget impact. The proposed fee adjustments also recognize that staff time required to issue, inspect, and close out an encroachment permit varies depending on the encroachment permit type.

Encroachment permits issued for work in the right-of-way (ROW) or temporary use of the ROW include sidewalk and driveway replacement or taps on public storm or sewer pipe. Staff process permit applications, complete plan review, and conduct multiple inspections depending on the location and complexity of the work. Encroachment permits issued for the construction of sidewalk and driveway in the ROW are often associated with new construction. Encroachment permits issued for the temporary use of the ROW happen less frequently and are typically for locating a dumpster or shipping container for a set period of time. The current cost to obtain an encroachment permit for the above-described work is \$30.

Encroachment permits are also issued to franchise utilities performing work in the ROW. Franchise utilities have franchise agreements with the City to occupy city ROW and include Pacific Power, Northwest Natural Gas, and Xfinity. Processing includes the intake of franchise encroachment permits, completion of plan review, review of traffic control plans, and conducting close-out inspections. Currently, franchise encroachment permits are issued at no charge, even though franchise agreements outlined in the AMC allow for fees to be charged.



Public Works staff are also responsible for the review and preparation of license to occupy public ROW encroachment permits. Staff prepare the agreement and present them to council for approval. If approved, the agreement is recorded with either Linn or Benton counties, and the recording fees are split between the City Manager’s Office and Public Works. Current recording fees are \$105 for the first page and \$5 for each additional page. A typical recording fee for a license to occupy public ROW is \$120. License to occupy ROW permits are currently issued at no cost.

The table below summarizes the current fees Albany charges per encroachment permit type compared with fees charged by other Oregon cities.

<b>Current Encroachment Permit Fee City Comparisons</b>								
* City may bill licensed utilities on a regular basis for permits								
** City may review and permit separately								
Permit Type	Albany	Corvallis	Eugene	Salem	Lebanon	Gresham	Springfield	Keizer
Sidewalk	\$30	\$10-\$25	\$277	\$101	\$135	\$118	\$113	\$76
New Residential DW	\$30	\$75	\$200	\$101	\$135-165	\$118	\$113	\$96
New Commercial DW	\$30	\$150	\$277	\$101	\$135-165	\$118	\$113	\$96
Repair Residential DW	\$30	\$75	\$243	\$101	\$135-165	\$118	\$113	\$96
Repair Commercial DW	\$30	\$150	\$243	\$101	\$135-165	\$118	\$113	\$96
Sewer Tap in Street	\$30	\$200-\$250	\$641	\$353	\$210	\$403	\$0	1%
Sewer Tap in Backlot	\$30	\$200-\$250	\$214	\$186	\$210	\$97	\$0	1%
Storm in Street	\$30	\$200-\$250	\$641	\$375	\$210	\$356	\$0	2.50%
Storm Tap Backlot	\$30	\$200-\$250	\$214	\$375	\$210	\$50	\$0	2.50%
Franchise Utility Review	\$0	\$0	\$641	\$107-\$548	\$0	*	*	**\$96
License to Occupy	\$0	\$100	\$698	\$408-\$1281	\$50	\$0	\$1,280	\$0
Stormwater Facility	\$0	\$0	\$310	\$1,562	\$0	\$0	Actual Cost	\$0
Re-Inspection Fee	\$60	\$75	\$0	\$107	\$0	\$0	\$129	\$0
Temp. Use of ROW	\$30	\$0	\$74	\$134	\$50	\$0	\$369	\$0

Staff presented a phased approach to increase encroachment permit fees based on permit type to council at the May 20, 2024, work session. The proposed encroachment permit fee schedule is set up in three phases, with each phase building closer to 100 percent cost recovery. The proposed fees for encroachment permit type vary depending on required staff time. The phased approach to increase fees by encroachment permit type is summarized in the table on the next page. Adoption of the attached resolution will implement Phase 1.

<b>Phased Approach to Adjust Encroachment Permit Fee by Type</b>			
<b>Permit Work Type</b>	<b>Phase 1</b>	<b>Phase 2</b>	<b>Phase 3</b>
Temp ROW (shipping containers, dumpsters, sidewalk closures, etc.)	\$30	\$40	\$50
License to Occupy	\$150	\$200	\$300
Sidewalk/Driveway/Outfall	\$50	\$100	\$125
Public Main Connection (soft surface work)	\$100	\$150	\$200
Public Main Connection (street cut)	\$150	\$200	\$350
Reinspection Fee	\$60	\$75	\$100
Franchise Utility Permit Fee	\$50 Aerial \$100 UG or UG and aerial Additional review fee after 2 resubmittals	\$50 Aerial \$150 UG or UG and aerial Additional review fee after 2 resubmittals	\$100 Aerial \$200 UG or UG and aerial Additional review fee after 2 resubmittals

**Budget Impact:**

Revenue received as a result of the proposed fee adjustments will help recover staff costs. Otherwise, the gap in funding is absorbed by the Engineering Services budget that is supported by transfers from transportation, sewer, stormwater, and water funds similar to other non-project and non-revenue generating work activities in the Engineering work group. If adopted, the fee updates will become effective on July 1, 2024.

AH:SB:kc





RESOLUTION NO. \_\_\_\_\_

A RESOLUTION TO ADOPT NEW FEES FOR PUBLIC WORKS ENCROACHMENT PERMIT FEES

WHEREAS, the Albany Public Works Engineering Division issues encroachment permits under titles 10, 12, and 14 of the Albany Municipal Code for work that takes place in the City right-of-way; and

WHEREAS, costs for Public Works staff to review and inspect Public Works encroachment permits for compliance with the municipal code and engineering standards significantly exceed revenue for the same; and

WHEREAS, encroachment permit fees have not been adjusted since the mid-1990s; and

WHEREAS, the Engineering Services budget covers costs that exceed revenue received to review encroachment permits; and

WHEREAS, the Engineering Services budget is supported by transfers from transportation, sewer, stormwater, and water funds; and cost recovery for providing these services is appropriate and necessary; and

WHEREAS, to facilitate cost recovery, a proposed update to Public Works encroachment permit fees has been proposed in Exhibit A; and

WHEREAS, the Albany City Council reviewed the proposed Public Works permit fee updates and held a public hearing on the proposed fee on June 12, 2024.

NOW, THEREFORE, BE IT RESOLVED by the Albany City Council that the Public Works updated permit fees shall be applied to all encroachment permits permit applications effective July 1, 2024.

DATED THIS 12TH DAY OF JUNE 2024.

\_\_\_\_\_  
Mayor

ATTEST:

\_\_\_\_\_  
City Clerk

## EXHIBIT A

<b>Encroachment Permit Fee Schedule by Type</b>	
<b>Permit Work Type</b>	<b>Fee</b>
Temporary ROW (shipping containers, dumpsters, sidewalk closures, etc.)	\$30
License to Occupy	\$150
Sidewalk/Driveway/Outfall	\$50
Public Main Connection (soft surface work)	\$100
Public Main Connection (street cut)	\$150
Reinspection Fee	\$60
Franchise Utility Permit Fee	\$50 Aerial \$100 UG or UG and aerial Additional review fee after 2 resubmittals



# MEMO

TO: Albany City Council

VIA: Peter Troedsson, City Manager *PT 6/6*

FROM: Matthew Ruetters, Community Development Director *MR*  
David Martineau, Current Planning Manager *DM*

DATE: May 31, 2024, for the June 12, 2024, City Council Meeting

**SUBJECT:** Public Hearing Regarding Planning Division Fee Adjustments  
Relates to Strategic Plan theme: Effective Government

## Action Requested:

Staff recommends that the City Council hold a public hearing on June 12, 2024, to receive public input and consider adopting a resolution increasing Planning Division fees.

## Discussion:

It has been city council's practice to provide for annual inflationary adjustments to Planning Division fees based on the year-to-year increase in the April U.S. Bureau of Labor and Statistics Consumer Price Index for Urban Wage Earners and Clerical Workers (CPI-W). The April 2024 CPI-W figure (307.811) represents a 3.39 percent increase over the April 2023 CPI-W figure (297.730). Based on this increase, staff recommends a corresponding increase of 3.39 percent for Planning Division fees. The attached fee sheet (Exhibit A of the proposed Resolution) shows the difference between current and proposed fees.

In addition, the Planning Division is proposing to add two new fees. The first fee is for building permit land use inspections. This aims to provide some cost recovery when a planner needs to conduct a site inspection in cases where no land use review is required such as middle housing. The second fee is a code compliance investigation fee. Currently the only method with any monetary costs related to code compliance are civil penalties. Adding this fee is consistent with current Building Division practices and allows the people using this service to help pay its cost.

Several existing fees are also being modified to help capture costs associated with floodplain review of building permits, which includes the establishment of a \$50 minimum review fee. Lastly, a \$50 administrative charge has been added for the processing of refunds. The additional fees and modification of existing fees outside of the inflationary increases are designed to assist in true cost recovery of direct staffing costs.

## Budget Impact:

Depending on the number and type of applications, increasing Planning Division fees by 3.39 percent will increase General Fund revenues.

DM:km

Attachment (1): Resolution



RESOLUTION NO. \_\_\_\_\_

A RESOLUTION SETTING FEES AND CHARGES FOR DEVELOPMENT CODE PROVISIONS AND REPEALING RESOLUTION NO. 7223 (A RESOLUTION SETTING FEES AND CHARGES FOR DEVELOPMENT CODE PROVISIONS AND REPEALING RESOLUTION NUMBER 7120)

WHEREAS, it is appropriate that the City recover costs associated with processing land use applications; and

WHEREAS, in December 2000, the City Council passed Resolution No. 4367 establishing that Albany Development Code fees are to be adjusted on July 1 of each year based on the April CPI-W national index; and

WHEREAS, inflationary adjustments were last made in 2023; and

WHEREAS, the April CPI-W national index in 2023 was 297.730 and the April CPI-W national index in 2024 was 307.811, representing a 3.39 percent increase.

NOW, THEREFORE, BE IT RESOLVED that fees established for the Planning Division to administer the development code shall be as shown in the attached “Exhibit A,” and

BE IT FURTHER RESOLVED that the Planning Division's fees and charges shown in “Exhibit A” shall become effective on July 1, 2024, and shall be applied to all applications received after June 30, 2024; and

BE IT FURTHER RESOLVED that the fees and charges shown in “Exhibit A” are not subject to the limits of Section 11b, Article XI, of the Oregon Constitution; and

BE IT FURTHER RESOLVED that Resolution No. 7223 is repealed as of the effective date of the revised fees.

DATED THIS 12th DAY OF JUNE 2024.

\_\_\_\_\_  
Mayor

ATTEST:

\_\_\_\_\_  
City Clerk

## PLANNING DIVISION FEES TO ADMINISTER THE ALBANY DEVELOPMENT CODE

Effective July 1, 2024

TYPE OF APPLICATION	ADJUSTMENT	CURRENT FEES	PROPOSED FEES
<b>Adjustment (Type III)</b>			
First, or individual adjustment to a code section (Type III)	1.0339	<del>\$1,087</del>	<b>\$1,124</b>
Each additional concurrent adjustment to a code section	1.0339	<del>\$726</del>	<b>\$751</b>
<b>Annexations – (set by separate resolution)</b>			
		Varies	Varies
<b>Appeals</b>			
Appeal to City Council (Type III)	1.0339	<del>\$1,087</del>	<b>\$1,124</b>
Appeal to PC only (Type I-L that had a neighborhood meeting)	1.0339	<del>\$362</del>	<b>\$374</b>
Appeal to Hearings Officer or Referee – Expedited Land Division	1.0339	<del>\$300 dep./max \$500 (b)</del>	<b>\$300 dep./max \$500 (b)</b>
<b>Building Permit Planning Review Fee</b>			
		(h)	(i)
<b>Comprehensive Plan Amendment (Type IV)</b>			
Map Amendment – Without Concurrent Zoning Map Amendment	1.0339	<del>\$4,532</del>	<b>\$4,686</b>
Map Amendment – Concurrent with Zoning Map Amendment	1.0339	<del>\$6,347</del>	<b>\$6,562</b>
Text Amendment	1.0339	<del>\$5,077</del>	<b>\$5,249</b>
<b>Conditional Uses</b>			
New Construction (Type III)	1.0339	<del>\$3,628 plus (c)</del>	<b>\$3,751 plus (c)</b>
New Construction (Type II)	1.0339	<del>\$2,355 plus (c)</del>	<b>\$2,435 plus (c)</b>
Existing Building – Expand or Modify (Type III)	1.0339	<del>\$2,355</del>	<b>\$2,435</b>
Existing Building – Expand or Modify (Type II)	1.0339	<del>\$1,333</del>	<b>\$1,378</b>
Existing Parking Lot – Expand or Modify (Type II & III)	1.0339	<del>\$1,333</del>	<b>\$1,378</b>
Home Businesses requiring Conditional Use Approval	1.0339	<del>\$674</del>	<b>\$697</b>
Additional fee if Design Standards apply (Type II & III)	1.0339	<del>\$397</del>	<b>\$410</b>
Additional fee if Traffic Report required (Type II & III)	1.0339	<del>\$905</del>	<b>\$936</b>
<b>Development Code Amendment (Type IV)</b>			
Text Amendment	1.0339	<del>\$5,047</del>	<b>\$5,218</b>
<b>Floodplain Development Permit</b>			
New Construction, Additions, or Alterations (Type I)		(h)	(h)
<b>Repairs or Equipment Replacement (Type I)</b>			(j)
Placing an RV over 180 days (Type I)	1.0339	<del>\$99</del>	<b>\$102</b>
Fencing and freestanding walls (Type I)	1.0339	<del>\$99</del>	<b>\$102</b>
Site Plan Improvement in the Floodplain (Type I)	1.0339	<del>\$99</del>	<b>\$102</b>
Development in the Floodway (Type I-L)	1.0339	<del>\$197 plus (f)</del>	<b>\$204 plus (f)</b>
Grading, Excavation, Fill, Paving, Mining, and Drilling (Type I-L)	1.0339	<del>\$299 plus (g)</del>	<b>\$309 plus (g)</b>
Continuous Storage Operation (Type I-L)	1.0339	<del>\$197 plus (f)</del>	<b>\$204 plus (f)</b>
Land Divisions of 19 Lots or Less (Type I-L)	1.0339	<del>\$299 plus (g)</del>	<b>\$309 plus (g)</b>
Alteration of a watercourse (Type II)	1.0339	<del>\$991 plus (g)</del>	<b>1,025 plus (g)</b>
Land Divisions of 20 or more lots, Cluster Developments, Planned Developments, and Manufactured Home Parks (Type III)	1.0339	<del>\$991 plus (f)</del>	<b>\$1,025 plus (f)</b>
<b>Historic Review</b>			
Exterior Alteration; Designation of Landmark (Type I & Type I-L)	1.0339	<del>\$54</del>	<b>\$56</b>
New Construction; Substitute Materials (Type I & Type I-L)	1.0339	<del>\$54</del>	<b>\$56</b>
Demolition/Moving (Type III)	1.0339	<del>\$905</del>	<b>\$936</b>
<b>Interpretation of the Code</b>			
Quasi-Judicial (Type II)	1.0339	<del>\$905</del>	<b>\$936</b>
Legislative (Type IV)	1.0339	<del>\$1,811</del>	<b>\$1,872</b>
<b>Land Divisions</b>			
<u>Partition (2 or 3 parcels)</u>			
Tentative Plat – (Type I-L, Expedited)	1.0339	<del>\$2,913</del>	<b>\$3,012</b>
Tentative Plat – (Type III)	1.0339	<del>\$4,170</del>	<b>\$4,311</b>
Final Plat – (Type I-L) [not applicable to replats]	1.0339	<del>\$732</del>	<b>\$757</b>
<u>Subdivision (4 or more lots)</u>			
Tentative Plat – (Type I-L, Expedited)	1.0339	<del>\$3,265 + \$50 per lot</del>	<b>\$3,376 + \$50 per lot</b>
Tentative Plat – (Type III)	1.0339	<del>\$4,531 + \$50 per lot</del>	<b>\$4,685 + \$50 per lot</b>
Additional fee if Traffic Report required	1.0339	<del>\$905</del>	<b>\$936</b>
Final Plat (Type I-L) [not applicable to replats]	1.0339	<del>\$913</del>	<b>\$944</b>
<b>Land Use Status Letter (Type I)</b>			
	1.0339	<del>\$77</del>	<b>\$80</b>
<b>Manufactured Home Park (Type I-L)</b>			
	1.0339	<del>\$3,265 + \$20 per space</del>	<b>\$3,376 + \$20 per space</b>
Additional fee if in Floodplain (Type III)	1.0339	<del>\$1,270</del>	<b>\$1,313</b>
Additional fee if Traffic Report required	1.0339	<del>\$905</del>	<b>\$936</b>

<b>Natural Resource Impact Review</b>			
Natural Resource Impact review (Concurrent with another development application)	1.0339	\$198-	<b>\$205</b>
Natural Resource Impact Review for Residential Development (Not concurrent with another development application)	1.0339	\$99-	<b>\$102</b>
Natural Resource Impact review for other development (Not concurrent with another development application)	1.0339	\$198-	<b>\$205</b>
Natural Resource boundary corrections and refinements	1.0339	\$99-	<b>\$102</b>
<b>Nonconforming Situations (Type II)</b>			
New Construction	1.0339	\$1,087 plus (e)	<b>\$1,124 plus (c)</b>
No New Construction	1.0339	\$544-	<b>\$562</b>
<b>Planned Development – 2-Step Process</b>			
Preliminary (Type III)	1.0339	\$5,077-	<b>\$5,249</b>
Final (Type I)	1.0339	\$905-	<b>\$936</b>
Additional fee if Traffic Report required	1.0339	\$905-	<b>\$936</b>
<b>Property Line Adjustment (Type I)</b>	1.0339	\$362-	<b>\$374</b>
<b>Replat (Type I-L – Only for moving or removing existing subdivision or partition property lines)***</b>	1.0339	\$362-	<b>\$374</b>
<b>Request for Public Hearing of a Type II Application</b>	1.0339	\$336 (e)	<b>\$347 (e)</b>
<b>Residential Accessory Buildings (Type I-L and Type CUII)</b>	1.0339	\$544-	<b>\$562</b>
<b>Revision to Application in Process</b>	1.0339	\$361-	<b>\$373</b>
Additional fee if re-notification required	1.0339	\$180-	<b>\$186</b>
<b>Revised Decision</b>			
Staff Decision (Type I, II, or I-L)	1.0339	\$544-	<b>\$562</b>
PC or CC Decision (Type III or IV)	1.0339	\$1,270-	<b>\$1,313</b>
<b>Site Plan Review (d)</b>			
New construction (Type I-L)	1.0339	\$3,447 plus (e)	<b>\$3,564 plus (c)</b>
Modify existing development or development with minimal impact (Type I-L)	1.0339	\$2,355-	<b>\$2,435</b>
Change of use and/or minor development (Type I)	1.0339	\$180-	<b>\$186</b>
New parking areas or existing parking areas expansion (Type I-L)	1.0339	\$1,333-	<b>\$1,378</b>
<b>Special Requests –Temporary Uses (Type I)</b>	1.0339	\$180-	<b>\$186</b>
<b>Tree Felling – 5 or more</b>			
Concurrent with a development proposal (Type I-L)	1.0339	\$544-	<b>\$562</b>
Not concurrent with a development proposal (Type I-L)	1.0339	\$1,449-	<b>\$1,498</b>
<b>Urban Growth Boundary Amendment</b>	1.0339	\$8,518-	<b>\$8,807</b>
<b>Vacation (Type IV)</b>			
Public Street or Alley	1.0339	\$2,900-	<b>\$2,998</b>
Public Easements	1.0339	\$2,538-	<b>\$2,624</b>
<b>Variance, Minor (Type I-L)</b>	1.0339	\$90-	<b>\$93</b>
<b>Variance, Major (Type II)</b>			
First, or individual variance to a code section (Type II)	1.0339	\$1,087-	<b>\$1,124</b>
Each additional concurrent variance to a code section	1.0339	\$726-	<b>\$751</b>
<b>Willamette Greenway (Type II)</b>	1.0339	\$1,631-	<b>\$1,686</b>
<b>Zoning Map Amendment (Type IV)</b>	1.0339	\$4,532-	<b>\$4,686</b>
<b>Additional Fees</b>			
Additional fee if Traffic Report required	1.0339	\$905-	<b>\$936</b>
Additional fee if Design Standards apply	1.0339	\$397-	<b>\$410</b>
Additional fee if Mitigation is required	1.0339	\$198-	<b>\$205</b>
Additional fee if Hillside Development	1.0339	\$1,268-	<b>\$1,311</b>
<b>Building Permit Land Use Inspection</b>			<b>\$50 per inspection</b>
<b>Code Compliance Investigation Fee</b>			<b>\$100/hr (\$225 minimum)</b>

REFUND POLICY: In cases of withdrawal of an application, refund of fees may be applicable, less costs incurred, as determined by the Director. Generally, refunds of 80% will be made for a withdrawn application if made in writing prior to the City sending out the Notice of Filing or Notice of Public Hearing and preparation of the staff report has not begun. If the notice has been sent but the staff report is not being prepared, then 50% of the application fee will be refunded. Exception: Refund policy of an appeal of an expedited land division shall follow ORS 197.375 regulations. **Any refunds granted under this policy shall be subject to a \$50 refund administrative charge in addition to the percentages retained.**

<b>Notes:</b>			
*** No Final Plat review fee for "replats" to move or remove existing subdivision or partition property lines			
(a) No fee for land use applications initiated by City of Albany General Fund departments.			
(b) Per ORS 197.375(6)			
(c) 0.15 percent of the development's construction value over \$150,000 (construction value excludes the cost of the land)			
(d) Unless determined otherwise by the CD Director, the fee to modify or revise an approved project shall be the same as a new application.			
(e) Fee to be paid by the project applicant, not the person requesting the hearing; initial hearing fee set by ORS 227.175(10)(b);			
(f) Fee is in addition to the relevant land use application; plus pass-through cost for third-party review.			
(g) Plus pass-through cost for third-party review.			
(h) <b>25% of building plan review fee is applied to building permit when the project is within a flood hazard zone (\$50 minimum).</b>			
(i) <b>25% of building plan review fee (\$50 minimum)</b>			
(j) <b>10% of building permit fee is applied to building permit when the project is within a flood hazard zone (\$50 minimum)</b>			





# MEMO

TO: Albany City Council

VIA: Peter Troedsson, City Manager *PT*  
 Matthew Ruetters, Community Development Director *MR*

FROM: Johnathan Balkema, Building Official Manager *JB*

DATE: May 31, 2024, for the June 12, 2024, City Council Meeting

**SUBJECT:** Discussion on Proposed Building and Electrical Program Fee Updates  
 Relates to Strategic Plan theme | Relates to: Effective Government

### Action Requested:

Staff recommends the City Council adopt the attached resolution (Attachment 1) implementing the Building Division fee adjustments described herein. Attachment 2 is included detailing the individual changes, as provided in the required noticing to the state of Oregon’s Department of Consumer & Business Services’ Building Code’s Division (BCD) on May 13, 2024. Prior to acting on the resolution, staff recommends the council hold a public hearing to receive public input and deliberate.

### Discussion:

The City of Albany’s Building Division operates the building permit and inspection program within the jurisdictional boundaries of the City of Albany under a delegation of authority from BCD. As part of our delegation of authority, periodically we need to revisit and revise the fees charged for building, plumbing, electrical, and mechanical fees charged to wholly cover the costs of operating the program. This program utilizes a dedicated fund, with required operating reserves, to fund the program. Outside of limited funding provided by the Planning Division for shared counter staff, the Building Division receives no general fund monies for the operation of the delegated program. The most recent fee adjustment occurred on July 1, 2023, for the building program and the electrical program.

Staff have reviewed the operational and funding needs of the program and have highlighted the following discussion points:

- **Operating Reserve-** The Building Division generally receives funding from a project twice within the permitting stage. The first is during the plan review stage to cover the initial intake and plan review services. The second occurs at the issuance of a permit to cover the required inspections for the project. A project’s duration can vary greatly but can take multiple years to complete for commercial projects. While an operating reserve may sound like a savings account, the reality is those monies are earmarked to guarantee we can provide the services the customer paid for up to three years prior. Based on BCD guidance, a jurisdiction should target 18-months of reserve to weather an economic downturn. Without this and potential future adjustments, it is plausible that the building inspection and electrical program reserves could fall to a 12-month reserve by the end of FY 2027. This is based on reduced revenue this fiscal year, known personal costs of the ratified union contract, and rising costs of materials and supplies, based on the current 3.5 percent CPI-W.
- **Personnel Costs-** Providing permitting and inspection services for the program requires individuals certified in their specialty and when possible are cross trained and certified in additional areas to reduce the number of staff required on a specific project. While easier on residential homes, apartments and commercial structures generally require three different inspectors, reducing our potential to reduce costs. Because of the unique and specialized certification requirements, Building Division programs are inherently personnel cost heavy. With the ratified union contract, we have a better projection of potential



staff costs over the next five years. We anticipate that staff costs will increase approximately 10 percent between FY 23/24 and FY 26/27.

- **Project Pipeline-** We continue to see less projects than anticipated partially due to continued rising material costs, limited supply of materials, and interest rates. All these factors have led to projects not materializing, decreasing in scale, or delaying implementation. When smaller or fewer projects occur, revenue falls below projections requiring the division to utilize the operating reserves previously discussed.

### **Findings**

Utilizing the aforementioned factors, operational needs, and revenue projections, staff are proposing changes to the adopted fees as highlighted below and fully detailed in Attachment 2:

- **Building Fee Increases-** Based on our review of personnel costs, the current base and hourly fees continue to not fully recapture staff costs. As previously discussed, those base staff costs are around \$95.00. To lessen the impact on customers, we are proposing an increase in those hourly and base fees from \$85.00 to \$89.00 in this proposal. This proposed base and hourly fee increase and the other proposed within the remaining fees, target a 5 percent plus/minus increase across the board. This increase is not intended to add additional reserves, but rather reduce the impacts of inflationary pressures facing the program.
- **Electrical Fee Increases-** Like with the building fee increases discussed above, the proposed fee increase would see the base and hourly fees move to \$89.00 and a target of 5 percent plus/minus across the remaining fees.

It is important to note there are a few administrative fees that we elected not to apply the increase to, as we felt they were adequately adjusted in July of 2023.

### **Budget Impact:**

The proposed fee changes will assist in maintaining an operational reserve in line with BCD guidance.

JB:km

Attachments: (2)





RESOLUTION NO. \_\_\_\_\_

A RESOLUTION SETTING BUILDING DIVISION FEES AND REPEALING RESOLUTION NO. 7224 (A RESOLUTION AMENDING THE FEE SCHEDULE FOR CERTAIN BUILDING DIVISION FEES AND REPEALING RESOLUTION NO. 5891); AND ALSO REPEALING RESOLUTIONS NO. 6849 AND 6478

WHEREAS, building fees were last updated on June 14, 2023, by Resolution No. 7224; and

WHEREAS, the Albany Building Division has performed a program analysis and determined areas where fees should be adjusted to meet the cost recovery criteria of Section 18.12.010(2) of the Albany Municipal Code; and

WHEREAS, Resolutions No. 6849 and 6478 setting building division fees were never officially repealed; and

WHEREAS, the Albany City Council reviewed the proposed building fees shown in attached "Exhibit A" and held a public hearing on June 12, 2024.

NOW, THEREFORE, BE IT RESOLVED by the Albany City Council that Resolutions No. 7224, 6849, and 6478 are hereby repealed; and

BE IT FURTHER RESOLVED that the building division permit fees shown in the attached "Exhibit A" are adopted by the City of Albany; and

BE IT FURTHER RESOLVED that the effective date of these fees shall be July 1, 2024.

DATED THIS 12TH DAY OF JUNE 2024.

\_\_\_\_\_  
Mayor

ATTEST:

\_\_\_\_\_  
City Clerk

## CITY OF ALBANY BUILDING PERMIT FEES\*

### 1. BUILDING PERMITS:

- One- & two-dwelling structures are residential structures and their accessory structures, which are regulated by the **Oregon Residential Specialty Code (ORSC)**.
- Multi-dwelling structures include all residential structures not regulated by the ORSC and that are regulated by the **Oregon Structural Specialty Code (OSSC)**.
- Commercial includes all other structures regulated by the **Oregon Structural Specialty Code (OSSC)**.

### **One- and Two-dwelling, Multi-dwelling, and Commercial Building Permits**

Total Valuation <sup>1</sup>	
\$0 to \$25,000	\$89.00 for the first \$2,000 plus \$10.05 for each additional \$1,000 or fraction
\$25,001 to \$50,000	\$320.00 for the first \$25,000 plus \$8.13 for each additional \$1,000 or fraction
\$50,001 to \$100,000	\$515.00 for the first \$50,000 plus \$6.13 for each additional \$1,000 or fraction
\$100,001 and up	\$815.00 for the first \$100,000 plus \$4.45 for each additional \$1,000 or fraction

<sup>1</sup> Valuation is based on the methodology specified in OAR 918-050-0100. See the ICC Valuation Table on Page 2.

### **Building Permit Plan Review<sup>1</sup>**

Building plan review fee <sup>1</sup>	50% of building permit fee (\$89 minimum)
FLS review fee <sup>2</sup>	50% of the building permit fee(\$89 minimum)
One & Two-Dwelling Master Plan Review Discount <sup>6</sup>	50% discount on subsequent building plan review fee
Deferred submittal <sup>3</sup> (per deferred item)	\$250.00
Phased project application fee <sup>3,4</sup>	\$250.00
Phased project review fee <sup>3,4,5</sup>	10% of building permit fee (\$1,500 max)
Additional plan review for plan review responses <sup>7</sup>	\$89.00/hour (2 hour min.)
Additional plan review for revisions to approved plans	\$89.00/hour (1 hour min.)
Alternate materials and methods review fee <sup>3</sup>	\$89.00/hour (2 hour min.)
Third-party plan review fee <sup>3</sup>	\$125.00/hour (2 hour min.)
Additional consultation/research/administrative services <sup>3</sup>	\$89.00/hour (2 hour min.)

<sup>1</sup>Plan review is required on all building permits unless waived by the Building Official (AMC 18.06.030)

<sup>2</sup>FLS review fee is required on all projects specified under ORS 479.155(2)

<sup>3</sup>This fee is in addition to applicable plan review and permit fees.

<sup>4</sup>Phased projects are subject to the approval of the Building Official.

<sup>5</sup>Phased project review fee is applied to each phase of the project.

<sup>6</sup> The initial Master Plan Review must be requested at the time of application for the initial plan review

<sup>7</sup> Fee applies to projects exceeding two plan review letters, unless waived by the Building Official

\* The fees list under the Building Division section are only the fees adopted pursuant to the applicable Oregon Administrative Rule. Additional fees from other departments may be required for your project. Please see the adopted fees for the appropriate department.

**ICC CONSTRUCTION VALUATION <sup>1</sup>****Valuation is the actual cost to build. <sup>2</sup>****However, valuation shall be no less than those contained in this table.****Square Foot Construction Costs <sup>a, b, c, d</sup>**

<b>Group (International Building Code)</b>	<b>IA</b>	<b>IB</b>	<b>IIA</b>	<b>IIB</b>	<b>IIIA</b>	<b>IIIB</b>	<b>IV</b>	<b>VA</b>	<b>VB</b>
A-1 Assembly, theaters, with stage	330.56	318.80	309.39	297.20	277.71	269.67	287.04	258.79	248.89
A-1 Assembly, theaters, without stage	303.49	291.73	282.32	270.13	250.88	242.84	259.97	231.96	222.06
A-2 Assembly, nightclubs	272.51	264.43	256.91	248.19	232.76	226.12	239.28	211.57	204.72
A-2 Assembly, restaurants, bars, banquet halls	271.51	263.43	254.91	247.19	230.76	225.12	238.28	209.57	203.72
A-3 Assembly, churches	308.01	296.25	286.84	274.65	255.52	247.48	264.49	236.60	226.71
A-3 Assembly, galleries, community halls, libraries, museums	258.66	246.90	236.50	225.30	205.06	198.01	115.15	186.13	177.24
A-4 Assembly, arenas	311.49	307.71	280.85	267.00	244.88	241.84	250.00	224.96	211.06
B Business	289.91	279.23	269.21	257.82	236.42	227.07	247.91	210.39	200.78
Carport, covered porch, patio, or deck	57.05	53.69	49.95	47.80	42.57	39.77	45.50	33.70	32.10
E Educational	276.33	266.73	258.30	247.60	231.08	219.28	239.09	202.46	195.97
F-1 Factory and industrial, moderate hazard	160.20	152.78	143.34	138.64	123.55	117.41	132.48	102.44	95.93
F-2 Factory and industrial, low hazard	159.20	151.78	143.34	137.64	123.55	116.41	131.48	102.44	94.93
H-1 High hazard, explosives	149.46	142.04	133.60	127.90	114.12	106.97	121.74	93.00	N.P.
H234 High hazard	149.46	142.04	133.60	127.90	114.12	106.97	121.74	93.00	85.50
H-5 HPM	289.51	279.23	269.21	257.82	235.42	227.07	247.91	210.39	200.78
I-1 Institutional, supervised environment	262.22	252.95	244.31	235.67	215.42	209.47	235.71	193.82	187.73
I-2 Institutional, hospitals	455.16	444.88	434.86	423.47	399.17	N.P.	413.57	374.14	N.P.
I-2 Institutional, nursing homes	315.97	303.75	293.73	282.34	261.43	N.P.	272.44	236.40	N.P.
I-3 Institutional, restrained	338.01	327.73	317.71	306.32	285.40	276.05	296.41	260.38	248.77
I-4 Institutional, day care facilities	262.22	252.95	244.31	235.67	215.42	209.47	235.71	193.82	187.73
M Mercantile	203.29	195.21	186.69	178.98	163.28	157.64	170.06	142.09	136.24
R-1 Residential, hotels	264.67	255.41	246.77	238.13	218.35	212.40	238.17	196.75	190.67
R-2 Residential, multiple family	221.32	212.06	203.42	194.78	175.96	170.01	194.82	154.36	148.28
R-3 Residential, one- and two-family	209.61	203.74	198.94	195.12	188.41	181.45	191.77	175.86	165.67
R-4 Residential, care/assisted living facilities	262.22	252.95	244.31	235.67	215.42	209.47	235.71	193.82	187.73
S-1 Storage, moderate hazard	148.46	141.04	131.60	126.90	112.12	105.97	120.74	91.00	84.50
S-2 Storage, low hazard	147.46	140.04	131.60	125.90	112.12	104.97	119.74	91.00	83.50
U Utility, miscellaneous	114.09	107.37	99.89	95.60	85.13	79.54	90.99	67.39	64.19

- a. Private garages use utility, miscellaneous  
b. Unfinished basements (Group R-3) = \$31.50 per sq. ft.  
c. For shell only buildings deduct 20 percent  
d. N.P. = not permitted

**Example:**

4,000 sq. ft. Office Building (Business, Type IIB)  
4,000 x \$233.85 = \$935,400

<sup>1</sup> Valuation is determined by the Building Official

<sup>2</sup> One- and two-family new construction and additions shall be based on the ICC Table (OAR 918-050-0100 (1)(c))

**2. ELECTRICAL PERMITS:****RESIDENTIAL PER UNIT:** (Square footage includes attached garages and/or storage spaces)

1000 sq. ft. or less .....	\$158.00
Each additional 500 sq. ft. or portion.....	\$ 37.00
Limited energy .....	\$ 89.00

In a multifamily structure, OAR 918-309-0030 (5)(b) requires the electrical permit fee to be calculated by taking the square footage of the largest unit in the building and computing the fee. A fee of one-half of the first unit fee is applied to all additional units in the building regardless of size. In a multifamily structure, OAR 918-309-0030 (3)(b) requires one limited energy permit per building.

Residential remodels, additions, alterations or repairs shall use the lower of the square footage of the area being remodeled/added or the calculated branch circuit fee.

**SERVICES OR FEEDERS:** (*Installation, Alterations or Relocation – no circuits included*)

200 amps or less.....	\$ 89.00
201 to 400 amps.....	\$ 110.00
401 to 600 amps.....	\$189.00
601 to 1000 amps.....	\$246.00
1000+ amps or volts.....	\$475.00
Reconnect only .....	\$ 89.00
Manufactured home/modular service/feeder .....	\$ 89.00

**TEMPORARY SERVICES OR FEEDERS:** (*Installation, Alterations, or Relocation*)

200 amps or less.....	\$ 89.00
201 to 400 amps.....	\$ 110.00
401 to 600 amps.....	\$189.00
601 to 1000 amps.....	\$246.00
1000+ amps or volts.....	\$475.00

**BRANCH CIRCUITS:** (*New, alteration, or extension per panel*)

Branch circuits with purchase of service or feeder fee (each) .....	\$ 6.80
Branch circuit without purchase of service or feeder fee .....	\$ 89.00
Each additional .....	\$ 6.80

**MISCELLANEOUS:** (*Service or feeder NOT included*)

Renewable electrical energy systems.....	\$ 89.00
Pump or irrigation circle .....	\$ 89.00
Sign or outline lighting .....	\$ 89.00
Signal circuits or limited energy panel, alteration/extensions .....	\$ 89.00
Master Label Permit Annual set-up fee .....	\$150.00
Each Master Label inspection .....	\$89.00/hour (1 hour min.)
Minor Label with corrections.....	\$89.00/hour (1 hour min.)

**ADDITIONAL INSPECTION FEES OVER THE ALLOWABLE IN ANY OF THE ABOVE:**

Per inspection or re-inspection when added to an existing permit.....	\$ 89.00
Miscellaneous hourly fee for inspections.....	\$89.00/hour (1 hour min.)

**PLAN REVIEW FEE:**

50% of electrical permit, if required

**Plus 12% state surcharge**

**3. FIRE ALARM PERMITS:** *(Electrical permit required, see Section 2)*

Fire alarm control panel .....\$ 89.00

**SIGNAL INITIATING AND NOTIFICATION DEVICES:**

Initiating and notification devices: detectors, pull stations, horns, strobes, annunciators water flow, tamper switches

1-10 .....\$ 89.00

11-20 .....\$136.00

Each additional 30 (or fraction thereof) .....\$ 47.00

PLAN REVIEW FEE 50% of fire alarm permit, \$50.00 minimum

**4. FIRE SPRINKLER PERMITS:**

**One- & Two-Family Fire Suppression Systems (NFPA 13D)<sup>1</sup>**

Square Footage	Fee <sup>2</sup>
0 to 2,000 sq. ft.	\$235.00
2,001 to 3,600 sq. ft.	\$260.00
3,601 to 7,200 sq. ft.	\$285.00
7,201 sq. ft. +	\$315.00

<sup>1</sup>Separate plumbing permit required for integrated systems and/or the double detector check valve

<sup>2</sup>Includes plan review

**Commercial & Multifamily Fire Suppression Systems (NFPA 13R & NFPA 13)**

Add/replace valves, attachments, or devices..... \$ 89.00 Min

Fire pump installation or replacement .....\$184.00 each

Hood suppression systems (per hood) .....\$137.00 each

Fire Service Line (including each vault, PIV, and fire line).....\$210.00 each

New, lower/raise, and relocate fire sprinkler heads

1 to 25.....\$ 89.00

26 to 50.....\$ 131.00

51 to 100.....\$ 173.00

101 to 200.....\$ 220.00

201 to 300.....\$ 268.00

301 to 400.....\$ 315.00

401 to 500.....\$362.00

Each 100 heads or fraction thereof over 500.....\$ 47.00

Each riser (Included hydrostatic and flush test) .....\$ 158.00

Storage tank (in addition to separate building permit) .....\$ 220.00

Standpipe or other testing ..... \$89.00 per staff/hour (2-Hour min.)

**PLAN REVIEW FEE:**

50% of fire sprinkler permit (\$50.00 minimum).

Revisions, including field review inspection of as-builts .....\$89.00/hour (\$50.00min)

Additional inspections/plan review as required by Building Official ..... \$89.00/hour

**5. MANUFACTURED HOME PERMITS:**

Manufactured home setup ..... \$ 405.00

plus 12% state surcharge .....\$ 48.60

State fee .....\$ 30.00

Manufactured home setup fee includes the electrical feeder, plumbing connections, and all cross-over connections.

Accessory structures, utility connections beyond 30 lineal feet and/or new or additional electrical services or plumbing require additional permits.

**Plus 12% state surcharge**

**6. MECHANICAL PERMITS:**

**1 & 2 Family Dwelling / Manufactured Dwellings:  
New, Additions, Alterations, Repairs, & Accessory Structures**

Minimum permit fee.....	\$89.00
Gas System (New or Alterations) .....	\$ 32.00 each
Appliances (Furnace, Heat Pumps, Air conditioner and Fireplaces) .....	\$32.00 each
Exhaust Fans and Range Hoods.....	\$16.00 each
HVAC Ductwork System .....	\$32.00 each
Miscellaneous systems (ex: radon systems, LP systems,).....	\$32.00 each

**Commercial & Multi-dwelling: New, Alterations, Additions, Repairs, & Accessory Structures**

The valuation used to determine the commercial mechanical permit fee shall include the value (rounded up to the nearest dollar) of all mechanical materials, equipment, labor, overhead and profit.

Total Valuation	Fee
\$0 to \$25,000	\$89.00 for the first \$2,000 plus \$11.28 for each additional \$1,000 or fraction
\$25,001 to \$50,000	\$347.00 for the first \$25,000 plus \$9.17 for each additional \$1,000 or fraction
\$50,001 to \$100,000	\$567.00 for the first \$50,000 plus \$6.92 for each additional \$1,000 or fraction
\$100,001 and up	\$906.00 for the first \$100,000 plus \$5.04 for each additional \$1,000 or fraction

Mechanical plan review – .....50% of the permit fee

**7. MISCELLANEOUS PERMITS/FEEES:**

- o Moving a building ..... \$250.00
- o Demolition (plumbing permit may be required) ..... \$ 125.00
- o Change of occupancy ..... \$200.00
  - plus research fee as needed ..... \$89.00/hour
- o Inspections for which no fee is specifically indicated ..... \$89.00/hour (1 hour min.)
- o Compliance inspections ..... \$89.00/hour (1 hour min.)
- o Re-inspections ..... \$89.00/hour (1 hour min.)
- o Work without a Permit ..... Actual cost of investigation (\$236 minimum)
- o Temporary Certificate of Occupancy: (Each 30 days)
  - Application Processing Fee ..... \$200.00
  - Commercial (Per tenant suite) ..... \$300.00
  - Residential Structures (Per dwelling unit) ..... \$ 100.00
- o Expedited Services: (Applies to projects not requiring review from other departments)
  - Plan review<sup>1, 2</sup> ..... \$125.00 hour/ (2 hour min.)
  - After hours inspections<sup>2</sup> ..... \$125.00 hour/ (2 hour min.)
  - Minor on-site plan review<sup>1, 2</sup> ..... \$89.00 hour/ (2 hour min.)
  - <sup>1</sup>Request shall be made at time of permit application
  - <sup>2</sup>Fees are in addition to regular permit and review fees
- o Refund Administrative Charge..... \$50.00
- o Expired permit reinstatement .....50% of current permit fee

**Plus 12% state surcharge**

**8. PARKING LOT PERMITS: (Standalone or part of the structural permit)**

**Parking Lot**

Accessible Spaces	Fee
1 - 3 Spaces	\$89.00
4 – 6 Spaces	\$130.00
7 + Spaces	\$185.00

Parking lot plan review ..... 50% of permit fee  
 Additional consultation and/or inspections as needed ..... \$89.00/hour (1 hour min.)

**9. PLUMBING PERMITS:**

**New 1 & 2 Dwelling Structures**

Fee includes the first 100 feet of water and sewer service, hose bibbs, icemakers, backflow device, underfloor low-point drains, and rain drain packages that include the piping, gutters, downspouts, and perimeter system.

One bathroom<sup>1</sup> & kitchen.....\$368.00  
 Two bathrooms<sup>1</sup> & kitchen.....\$446.00  
 Three bathrooms<sup>1</sup> & kitchen.....\$525.00  
 Each additional bath<sup>1</sup>/kitchen.....\$ 79.00

<sup>1</sup>A half-bath is equivalent to a single bathroom

**Commercial, Multi-dwelling, Manufactured Dwellings, 1 & 2 Dwelling Structures  
 New<sup>1</sup>, Additions, Alterations, Repairs, & Accessory Structures**

<sup>1</sup>Excludes 1 & 2 Dwelling Structures, see fee schedule above.

Minimum permit fee ..... \$89.00  
 Each plumbing fixture or items (per fixture or item).....\$22.00

Includes: Absorption valve, clothes washer, dishwasher, drinking fountain, ejectors/sump, expansion tank, floor drain/sink/tub, garbage disposal, hose bibb, icemaker, trap primer, sewer cap, sink/basin/lavatory, tub/shower/shower pan, urinal, water closet, water heater, tankless water heater, backflow preventer, backwater valve, other fixtures or items not named above.

Other Plumbing Fees:

Potable Water Distribution or Sanitary Waste System Repipe (Each System) ..... \$ 89.00

Sewer:

First 100 feet ..... \$89.00  
 For each additional 100 feet or portion ..... \$ 47.00

Water service:

First 100 feet ..... \$89.00  
 For each additional 100 feet or portion ..... \$ 47.00

Storm and rain drain:

First 100 feet ..... \$89.00  
 For each additional 100 feet or portion ..... \$ 47.00

Manufactured home space (if not covered by siting fee) .....\$89.00

Plumbing plan review – When required or requested ..... 50% of the permit fee

Minor Label with Corrections... ..... \$89.00/hour (1 hour min.)

**Plus 12% state surcharge**

## CITY OF ALBANY BUILDING PERMIT FEES\*

### 1. BUILDING PERMITS:

- One- & two-dwelling structures are residential structures and their accessory structures, which are regulated by the **Oregon Residential Specialty Code (ORSC)**.
- Multi-dwelling structures include all residential structures not regulated by the ORSC and that are regulated by the **Oregon Structural Specialty Code (OSSC)**.
- Commercial includes all other structures regulated by the **Oregon Structural Specialty Code (OSSC)**.

#### One- and Two-dwelling, Multi-dwelling, and Commercial Building Permits

Total Valuation <sup>1</sup>	
\$0 to \$25,000	\$ <del>895</del> .00 for the first \$2,000 plus \$ <del>9.90</del> <u>10.05</u> for each additional \$1,000 or fraction
\$25,001 to \$50,000	\$ <del>3053</del> <u>320</u> .00 for the first \$25,000 plus \$ <del>7.408</del> <u>8.13</u> for each additional \$1,000 or fraction
\$50,001 to \$100,000	\$ <del>4905</del> <u>515</u> .00 for the first \$50,000 plus \$ <del>5.706</del> <u>6.13</u> for each additional \$1,000 or fraction
\$100,001 and up	\$ <del>7758</del> <u>815</u> .00 for the first \$100,000 plus \$4. <del>25</del> <u>45</u> for each additional \$1,000 or fraction

<sup>1</sup> Valuation is based on the methodology specified in OAR 918-050-0100. See the ICC Valuation Table on Page 2.

#### Building Permit Plan Review<sup>1</sup>

Building plan review fee <sup>1</sup>	50% of building permit fee (\$ <del>85</del> <u>89</u> minimum)
FLS review fee <sup>2</sup>	50% of the building permit fee(\$ <del>85</del> <u>89</u> minimum)
One & Two-Dwelling Master Plan Review Discount <sup>6</sup>	50% discount on subsequent building plan review fee
Deferred submittal <sup>3</sup> (per deferred item)	\$250.00
Phased project application fee <sup>3,4</sup>	\$250.00
Phased project review fee <sup>3,4,5</sup>	10% of building permit fee (\$1,500 max)
Additional plan review for plan review responses <sup>7</sup>	\$ <del>8589</del> .00/hour (2 hour min.)
Additional plan review for revisions to approved plans	\$ <del>8589</del> .00/hour (1 hour min.)
Alternate materials and methods review fee <sup>3</sup>	\$ <del>8589</del> .00/hour (2 hour min.)
Third-party plan review fee <sup>3</sup>	\$125.00/hour (2 hour min.)
Additional consultation/research/administrative services <sup>3</sup>	\$ <del>8589</del> .00/hour (2 hour min.)

<sup>1</sup>Plan review is required on all building permits unless waived by the Building Official (AMC 18.06.030)

<sup>2</sup>FLS review fee is required on all projects specified under ORS 479.155(2)

<sup>3</sup>This fee is in addition to applicable plan review and permit fees.

<sup>4</sup>Phased projects are subject to the approval of the Building Official.

<sup>5</sup>Phased project review fee is applied to each phase of the project.

<sup>6</sup> The initial Master Plan Review must be requested at the time of application for the initial plan review

<sup>7</sup> Fee applies to projects exceeding two plan review letters, unless waived by the Building Official

\* The fees list under the Building Division section are only the fees adopted pursuant to the applicable Oregon Administrative Rule. Additional fees from other departments may be required for your project. Please see the adopted fees for the appropriate department.



# ICC CONSTRUCTION VALUATION <sup>1</sup>

Valuation is the actual cost to build. <sup>2</sup>

However, valuation shall be no less than those contained in this table.

Square Foot Construction Costs <sup>a, b, c, d</sup>									
Group (International Building Code)	IA	IB	IIA	IIB	IIIA	IIIB	IV	VA	VB
A-1 Assembly, theaters, with stage	330.56	318.80	309.39	297.20	277.71	269.67	287.04	258.79	248.89
A-1 Assembly, theaters, without stage	303.49	291.73	282.32	270.13	250.88	242.84	259.97	231.96	222.06
A-2 Assembly, nightclubs	272.51	264.43	256.91	248.19	232.76	226.12	239.28	211.57	204.72
A-2 Assembly, restaurants, bars, banquet halls	271.51	263.43	254.91	247.19	230.76	225.12	238.28	209.57	203.72
A-3 Assembly, churches	308.01	296.25	286.84	274.65	255.52	247.48	264.49	236.60	226.71
A-3 Assembly, general, community halls, libraries, museums	258.66	246.90	236.50	225.30	205.06	198.01	215.15	186.13	177.24
A-4 Assembly, arenas	302.49	290.73	280.32	269.13	248.88	241.84	258.97	229.96	221.06
B Business	289.51	279.23	269.21	257.82	235.42	227.07	247.91	210.39	200.78
Carport, covered porch, patio, or deck	57.05	53.69	49.95	47.80	42.57	39.77	45.50	33.70	32.10
E Educational	276.33	266.73	258.30	247.60	231.08	219.28	239.09	202.46	195.97
F-1 Factory and industrial, moderate hazard	160.20	152.78	143.34	138.64	123.55	117.41	132.48	102.44	95.93
F-2 Factory and industrial, low hazard	159.20	151.78	143.34	137.64	123.55	116.41	131.48	102.44	94.93
F-3 High hazard, explosives	149.46	142.04	133.60	127.90	114.12	106.97	121.74	93.00	N.P.
H-1 High hazard	149.46	142.04	133.60	127.90	114.12	106.97	121.74	93.00	N.P.
H-2 High hazard	149.46	142.04	133.60	127.90	114.12	106.97	121.74	93.00	N.P.
I-1 Institutional, supervised	232.48	225.55	214.31	203.60	185.42	177.44	193.47	159.78	150.78
I-2 Institutional, nursing homes	315.97	303.75	293.73	282.34	261.43	N.P.	272.44	236.40	N.P.
I-3 Institutional, restrained	338.01	327.73	317.71	306.32	285.40	276.05	296.41	260.38	248.77
I-4 Institutional, day care facilities	262.22	252.95	244.31	235.67	215.42	209.47	235.71	193.82	187.73
M Mercantile	203.29	195.21	186.69	178.98	163.28	157.64	170.06	142.09	136.24
R-1 Residential, hotels	264.67	255.41	246.77	238.13	218.35	212.40	238.17	196.75	190.67
R-2 Residential, multiple family	221.32	212.06	203.42	194.78	175.96	170.01	194.82	154.36	148.28
R-3 Residential, one- and two-family	209.61	203.74	198.94	195.12	188.41	181.45	191.77	175.86	165.67
R-4 Residential, care/assisted living facilities	262.22	252.95	244.31	235.67	215.42	209.47	235.71	193.82	187.73
S-1 Storage, moderate hazard	148.46	141.04	131.60	126.90	112.12	105.97	120.74	91.00	84.50
S-2 Storage, low hazard	147.46	140.04	131.60	125.90	112.12	104.97	119.74	91.00	83.50
U Utility, miscellaneous	114.09	107.37	99.89	95.60	85.13	79.54	90.99	67.39	64.19

This valuation table is not adopted as part of this resolution. This table is updated as required in OAR 918-50-0100 (1)(c) on April 1 of each year.

- a. Private garages use utility, miscellaneous  
b. Unfinished basements (Group R-3) = \$31.50 per sq. ft.  
c. For shell only buildings deduct 20 percent  
d. N.P. = not permitted

**Example:**

4,000 sq. ft. Office Building (Business, Type IIB)  
4,000 x \$233.85 = \$935,400

<sup>1</sup> Valuation is determined by the Building Official

<sup>2</sup> One- and two-family new construction and additions shall be based on the ICC Table (OAR 918-050-0100 (1)(c))

**2. ELECTRICAL PERMITS:****RESIDENTIAL PER UNIT:** (Square footage includes attached garages and/or storage spaces)

1000 sq. ft. or less .....	\$1580.00
Each additional 500 sq. ft. or portion .....	\$ 3537.00
Limited energy .....	\$ 8589.00

In a multifamily structure, OAR 918-309-0030 (5)(b) requires the electrical permit fee to be calculated by taking the square footage of the largest unit in the building and computing the fee. A fee of one-half of the first unit fee is applied to all additional units in the building regardless of size. In a multifamily structure, OAR 918-309-0030 (3)(b) requires one limited energy permit per building.

Residential remodels, additions, alterations or repairs shall use the lower of the square footage of the area being remodeled/added or the calculated branch circuit fee.

**SERVICES OR FEEDERS:** (Installation, Alterations or Relocation – no circuits included)

200 amps or less .....	\$ 9089.00
201 to 400 amps .....	\$ 405110.00
401 to 600 amps .....	\$180189.00
601 to 1000 amps .....	\$235246.00
1000+ amps or volts .....	\$475.00
Reconnect only .....	\$ 8589.00
Manufactured home/modular service/feeder .....	\$ 8589.00

**TEMPORARY SERVICES OR FEEDERS:** (Installation, Alterations, or Relocation)

200 amps or less .....	\$ 8589.00
201 to 400 amps .....	\$ 405110.00
401 to 600 amps .....	\$180189.00
601 to 1000 amps .....	\$235246.00
1000+ amps or volts .....	\$475.00

**BRANCH CIRCUITS:** (New, alteration, or extension per panel)

Branch circuits with purchase of service or feeder fee (each) .....	\$ 6,506.80
Branch circuit without purchase of service or feeder fee .....	\$ 8589.00
Each additional .....	\$ 6,506.80

**MISCELLANEOUS:** (Service or feeder NOT included)

Renewable electrical energy systems .....	\$ 8589.00
Pump or irrigation circle .....	\$ 8589.00
Sign or outline lighting .....	\$ 8589.00
Signal circuits or limited energy panel, alteration/extensions .....	\$ 8589.00
Master Label Permit Annual set-up fee .....	\$150.00
Each Master Label inspection .....	\$8589.00/hour (1 hour min.)
Minor Label with corrections .....	\$8589.00/hour (1 hour min.)

**ADDITIONAL INSPECTION FEES OVER THE ALLOWABLE IN ANY OF THE ABOVE:**

Per inspection or re-inspection when added to an existing permit .....	\$ 8589.00
Miscellaneous hourly fee for inspections .....	\$8589.00/hour (1 hour min.)

**PLAN REVIEW FEE:**

**Plus 12% state surcharge**

50% of electrical permit, if required

**3. FIRE ALARM PERMITS:** *(Electrical permit required, see Section 2)*

Fire alarm control panel ..... \$ 8589.00

**SIGNAL INITIATING AND NOTIFICATION DEVICES:**

Initiating and notification devices: detectors, pull stations, horns, strobes, annunciators water flow, tamper switches

1-10 ..... \$ 8589.00

11-20 ..... \$ 130136.00

Each additional 30 (or fraction thereof) ..... \$ 4547.00

PLAN REVIEW FEE ..... 50% of fire alarm permit, \$50.00 minimum

**4. FIRE SPRINKLER PERMITS:**

**One- & Two-Family Fire Suppression Systems (NFPA 13D)<sup>1</sup>**

Square Footage	Fee <sup>2</sup>
0 to 2,000 sq. ft.	\$ <u>225235.00</u>
2,001 to 3,600 sq. ft.	\$ <u>250260.00</u>
3,601 to 7,200 sq. ft.	\$ <u>275285.00</u>
7,201 sq. ft. +	\$ <u>300315.00</u>

<sup>1</sup>Separate plumbing permit required for integrated systems and/or the double detector check valve

<sup>2</sup>Includes plan review

**Commercial & Multifamily Fire Suppression Systems (NFPA 13R & NFPA 13)**

Add/replace valves, attachments, or devices..... \$ 8589.00 Min

Fire pump installation or replacement .....\$175184.00 each

Hood suppression systems (per hood) .....\$130137.00 each

Fire Service Line (including each vault, PIV, and fire line).....\$200210.00 each

New, lower/raise, and relocate fire sprinkler heads

1 to 25 ..... \$ 8589.00

26 to 50..... \$ 425131.00

51 to 100..... \$ 465173.00

101 to 200..... \$ 240220.00

201 to 300..... \$ 255268.00

301 to 400..... \$ 300315.00

401 to 500.....\$345362.00

Each 100 heads or fraction thereof over 500..... \$ 4547.00

Each riser (Included hydrostatic and flush test) ..... \$ 450158.00

Storage tank (in addition to separate building permit) ..... \$ 240220.00

Standpipe or other testing ..... \$8589.00 per staff/hour (2-Hour min.)

**PLAN REVIEW FEE:**

50% of fire sprinkler permit (\$50.00 minimum).

Revisions, including field review inspection of as-builts .....\$8589.00/hour (\$50.00min)

Additional inspections/plan review as required by Building Official ..... \$8589.00/hour

**5. MANUFACTURED HOME PERMITS:**

Manufactured home setup ..... \$ 385405.00

**plus** 12% state surcharge..... \$ 462048.60

State fee ..... \$ 30.00

Manufactured home setup fee includes the electrical feeder, plumbing connections, and all cross-over connections.

Accessory structures, utility connections beyond 30 lineal feet and/or new or additional electrical services or plumbing require additional permits.

**6. MECHANICAL PERMITS:**

**1 & 2 Family Dwelling / Manufactured Dwellings:  
New, Additions, Alterations, Repairs, & Accessory Structures**

Minimum permit fee.....	\$8589.00
Gas System (New or Alterations) .....	\$ <del>30.00</del> 32.00 each
Appliances (Furnace, Heat Pumps, Air conditioner and Fireplaces) .....	\$30.00 <del>32.00</del> each
Exhaust Fans and Range Hoods.....	\$15.00 <del>16.00</del> each
HVAC Ductwork System .....	\$30.00 <del>32.00</del> each
Miscellaneous systems (ex: radon systems, LP systems,).....	\$30.00 <del>32.00</del> each

**Commercial & Multi-dwelling: New, Alterations, Additions, Repairs, & Accessory Structures**

The valuation used to determine the commercial mechanical permit fee shall include the value (rounded up to the nearest dollar) of all mechanical materials, equipment, labor, overhead and profit.

Total Valuation	Fee
\$0 to \$25,000	\$8589.00 for the first \$2,000 plus \$11.40 <del>28</del> for each additional \$1,000 or fraction
\$25,001 to \$50,000	\$330 <del>347</del> .00 for the first \$25,000 plus \$8.25 <del>9.17</del> for each additional \$1,000 or fraction
\$50,001 to \$100,000	\$540 <del>567</del> .00 for the first \$50,000 plus \$6.45 <del>92</del> for each additional \$1,000 or fraction
\$100,001 and up	\$863 <del>906</del> .00 for the first \$100,000 plus \$4.80 <del>5.04</del> for each additional \$1,000 or fraction

Mechanical plan review – .....50% of the permit fee

**7. MISCELLANEOUS PERMITS/FEES:**

- o Moving a building ..... \$250.00
- o Demolition (plumbing permit may be required) ..... \$ 125.00
- o Change of occupancy ..... \$200.00
- o **plus** research fee as needed ..... \$8589.00/hour
- o Inspections for which no fee is specifically indicated ..... \$8589.00/hour (1 hour min.)
- o Compliance inspections ..... \$8589.00/hour (1 hour min.)
- o Re-inspections ..... \$8589.00/hour (1 hour min.)
- o Work without a Permit ..... Actual cost of investigation (~~225-236~~ minimum)
- o Temporary Certificate of Occupancy: (Each 30 days)
  - o Application Processing Fee ..... \$200.00
  - o Commercial (Per tenant suite) ..... \$300.00
  - o Residential Structures (Per dwelling unit) ..... \$ 100.00
- o Expedited Services: (*Applies to projects not requiring review from other departments*)
  - o Plan review<sup>1,2</sup> ..... \$125.00 hour/ (2 hour min.)
  - o After hours inspections<sup>2</sup> ..... \$125.00 hour/ (2 hour min.)
  - o Minor on-site plan review<sup>1,2</sup> ..... \$8589.00 hour/ (2 hour min.)
- o <sup>1</sup>Request shall be made at time of permit application
- o <sup>2</sup>Fees are in addition to regular permit and review fees
- o Refund Administrative Charge..... \$50.00
- o Expired permit reinstatement ..... 50% of current permit fee

**Plus 12% state surcharge**

**8. PARKING LOT PERMITS: (Standalone or part of the structural permit)**

**Parking Lot**

Accessible Spaces	Fee
1 - 3 Spaces	\$ <del>8589</del> .00
4 – 6 Spaces	\$ <del>125130</del> .00
7 + Spaces	\$ <del>175185</del> .00

Parking lot plan review ..... 50% of permit fee

Additional consultation and/or inspections as needed ..... \$~~8589~~.00/hour (1 hour min.)

**9. PLUMBING PERMITS:**

**New 1 & 2 Dwelling Structures**

Fee includes the first 100 feet of water and sewer service, hose bibbs, icemakers, backflow device, underfloor low-point drains, and rain drain packages that include the piping, gutters, downspouts, and perimeter system.

One bathroom <sup>1</sup> & kitchen.....	\$ <del>350368</del> .00
Two bathrooms <sup>1</sup> & kitchen.....	\$ <del>425446</del> .00
Three bathrooms <sup>1</sup> & kitchen.....	\$ <del>500525</del> .00
Each additional bath <sup>1</sup> /kitchen.....	\$ <del>7579</del> .00

<sup>1</sup>A half-bath is equivalent to a single bathroom

**Commercial, Multi-dwelling, Manufactured Dwellings, 1 & 2 Dwelling Structures  
New<sup>1</sup>, Additions, Alterations, Repairs, & Accessory Structures**

<sup>1</sup>Excludes 1 & 2 Dwelling Structures, see fee schedule above.

Minimum permit fee .....	\$ <del>8589</del> .00
Each plumbing fixture or items (per fixture or item).....	\$ <del>2422</del> .00

Includes: Absorption valve, clothes washer, dishwasher, drinking fountain, ejectors/sump, expansion tank, floor drain/sink/tub, garbage disposal, hose bibb, icemaker, trap primer, sewer cap, sink/basin/lavatory, tub/shower/shower pan, urinal, water closet, water heater, tankless water heater, backflow preventer, backwater valve, other fixtures or items not named above.

**Other Plumbing Fees:**

Potable Water Distribution or Sanitary Waste System Repipe (Each System) ..... \$ ~~8589~~.00

**Sewer:**

First 100 feet ..... \$~~8589~~.00

For each additional 100 feet or portion ..... \$ ~~4547~~.00

**Water service:**

First 100 feet ..... \$~~8589~~.00

For each additional 100 feet or portion ..... \$ ~~4547~~.00

**Storm and rain drain:**

First 100 feet ..... \$~~8589~~.00

For each additional 100 feet or portion ..... \$ ~~4547~~.00

Manufactured home space (if not covered by siting fee) ..... \$~~8589~~.00

Plumbing plan review – When required or requested ..... 50% of the permit fee

**Plus 12% state surcharge**

Minor Label with Corrections... \$8589.00/hour (1 hour min.)

**Medical Gas Installation**

Fees based on valuation of installation costs and system equipment, including but not limited to, inlets, outlets, fixtures, and appliances (rounded up to the nearest dollar).

Total Valuation	Fee
\$0 to \$5,000	\$8589.00
\$5,001 to \$10,000	\$8589.00 plus \$1,501.68 for each additional \$100 or fraction thereof over \$5,000
\$10,001 to \$100,000	\$165173.00 plus \$1,851.93 for each additional \$1,000 or fraction thereof over \$10,000
\$100,001 and more	\$330347.00 plus \$1,001.05 for each additional \$1,000 or fraction thereof over 100,000

Minimum permit fee ..... \$85.00

Plumbing plan review<sup>1</sup> ..... 50 % of the permit fee

<sup>1</sup>Plan review is required on all Medical Gas installations

**10. Reroof Permit:**

Commercial and multifamily (where no structural work occurs) ..... \$225236.00

Plan review fee ..... 50% of Permit Fee

**11. SIGN PERMITS:**

Freestanding, projecting, and monument signs (per sign) ..... \$ 4042.00

All other signs (per sign) ..... \$ 4042.00

Minimum ..... \$8589.00

Plan Review ..... 50% of Permit Fee (\$50.00 Min)

Temporary signs include a base fee of \$50.00 plus \$10.00 per sign

**12. SOLAR SYSTEM PERMITS:**

PRESCRIPTIVE PATH SYSTEMS: ..... \$250263.00

Qualifying roof installations on conventional light-frame construction. Includes plan review

Additional inspections ..... \$8589.00/hour (1 hour min.)

ENGINEERED SYSTEMS ..... Fair Market Value of work performed (\$250263.00 Min)

Indicate value of structural elements for the solar panels, including racking, mounting elements, rails, and the cost of labor to install. See Building Permit fees.

**Medical Gas Installation**

Fees based on valuation of installation costs and system equipment, including but not limited to, inlets, outlets, fixtures, and appliances (rounded up to the nearest dollar).

Total Valuation	Fee
\$0 to \$5,000	\$89.00
\$5,001 to \$10,000	\$89.00 plus \$1.68 for each additional \$100 or fraction thereof over \$5,000
\$10,001 to \$100,000	\$173.00 plus \$1.93 for each additional \$1,000 or fraction thereof over \$10,000
\$100,001 and more	\$347.00 plus \$1.05 for each additional \$1,000 or fraction thereof over 100,000

Plumbing plan review<sup>1</sup>..... 50 % of the permit fee  
<sup>1</sup>Plan review is required on all Medical Gas installations

**10. Reroof Permit:**

Commercial and multifamily (where no structural work occurs) ..... \$236.00  
 Plan review fee ..... 50% of Permit Fee

**11. SIGN PERMITS:**

Freestanding, projecting, and monument signs (per sign) ..... \$ 42.00  
 All other signs (per sign)..... \$ 42.00  
 Minimum..... \$89.00  
 Plan Review ..... 50% of Permit Fee (\$50.00 Min)

Temporary signs include a base fee of \$50.00 plus \$10.00 per sign

**12. SOLAR SYSTEM PERMITS:**

PRESCRIPTIVE PATH SYSTEMS: ..... \$263.00  
 Qualifying roof installations on conventional light-frame construction. Includes plan review  
 Additional inspections ..... \$89.00/hour (1 hour min.)

ENGINEERED SYSTEMS ..... Fair Market Value of work performed (\$263.00 Min)  
 Indicate value of structural elements for the solar panels, including racking, mounting elements, rails, and the cost of labor to install. See Building Permit fees.



# MEMO

TO: Albany City Council

VIA: Peter Troedsson, City Manager *PT*  
Matthew Ruettggers, Community Development Director *MR*

FROM: Anne Catlin, Comprehensive Planning Manager *ac*  
Liz Olmstead, Project Planner

DATE: May 31, 2024, for the June 12, 2024, City Council Meeting

**SUBJECT:** Public Hearing Regarding Albany Development Code (ADC) Amendments (Planning File No. DC-03-24)

Relates to Strategic Plan theme: Effective Government

## Action Requested:

Staff recommends that the City Council hold a public hearing, deliberate, and make a decision regarding the proposed legislative text amendments to the ADC as presented in the attached ordinance exhibits. If the council elects to approve the amendments, staff also recommends council adopt the ordinance as presented or modified.

## Discussion:

On June 12, 2024, the city council will hold a public hearing regarding minor and clarifying code amendments proposed to the ADC as described in detail in the attached ordinance exhibits. The proposed amendments are provided in ordinance Exhibit A and the May 31, 2024, staff report findings and conclusions are found in ordinance Exhibit B.

The proposed amendments will:

- Align ADC standards with updates to state law and building code standards (single room occupancy developments, affordable housing, emergency shelter siting, and egress paths, allow a mix of solar panels and tree canopy for new surface parking areas over 0.25 acres, and reduced bicycle parking for apartment units).
- Update language, code references, clarifying, and combining sections for consistency with the rest of the code, and plain language revisions.
- Update application submittal requirements.
- Clarify how townhouse density is calculated.
- Update Community Services use category to clarify the types of organizations and facilities considered a Community Service.
- Minor updates to maximum parking standards and bicycle parking standards.
- Add a requirement to cover refuse areas to prevent contaminated water from entering the storm system as required by the Oregon Department of Environmental Quality to comply with the MS4 (Municipal Separate Storm Sewer Permit) program.



- Update the tree felling definition in Article 9 to be consistent with recent changes to the Albany Municipal Code, and
- Clarify, revise, and add definitions to provide consistent terminology throughout the code.

The staff-initiated amendments have been processed through the Type IV legislative land use review process in accordance with the ADC. This process is required for legislative changes to the ADC that affect many people, properties, or situations and includes review and a recommendation by the planning commission prior to a final local decision made by the city council.

On May 13, 2024, the planning commission held a duly advertised public hearing. One member of the public testified, requesting the hearing be continued, stating there was not enough time to review the proposed amendments. A continuance was not granted by the planning commission because there is time to review and provide comments at the city council public hearing. The planning commission unanimously recommended that the city council approve the proposed amendments.

### **Options for the City Council:**

City council has three options with respect to the proposed development code amendments:

Option 1: Approve the proposed ADC amendments as presented in the ordinance; or

Option 2: Approve the proposed ADC amendments in the ordinance as modified; or

Option 3: Deny the proposed text amendments as presented in the ordinance.

Based on the analysis provided in the staff report's findings and conclusions in ordinance Exhibit B, staff recommend the city council approve the proposed amendments to the ADC as presented in Ordinance Exhibit A. If the city council accepts this recommendation, the following motion is suggested following a first and second reading of the ordinance in title only.

### **Motion to Adopt**

I MOVE that the city council ADOPT the ordinance to amend the Albany Development Code as detailed in ordinance Exhibit A, and further described in the findings and conclusions from the staff report provided in ordinance Exhibit B for planning file DC-03-24. This motion is based on the findings and conclusions in the staff report, dated May 31, 2024, and findings in support of the decision made by the city council during deliberations on this matter.

### **Budget Impact:**

None.

LO:km

Attachment (1): Ordinance



ORDINANCE NO. \_\_\_\_\_

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

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

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

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

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

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

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

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

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

Passed by the Council: \_\_\_\_\_

Approved by the Mayor: \_\_\_\_\_

Effective Date: \_\_\_\_\_

\_\_\_\_\_  
Mayor

ATTEST:

\_\_\_\_\_  
City Clerk

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

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

## ARTICLE 1<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.

#### Staff Comments:

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

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

### LAND USE REVIEW PROCEDURES GENERALLY

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

- (1) Type I Procedure (Ministerial Staff Review). A Type I procedure is used in applying City land use standards and criteria that do not require the use of discretion, interpretation, or the exercise of policy or legal judgment (i.e., clear and objective standards). Type I decisions are made by the Director without public notice and without a public hearing. Appeals of Type I decisions are to Circuit Court under writ of review.
- (2) Type I-L Procedure (Staff Review with Notice). A Type I-L procedure is used for some tentative plats and when applying discretionary land use standards that regulate the physical characteristics of a use which is permitted outright. Type I-L decisions are made by the Director and require public notice and an opportunity

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

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

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

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

Application / Action	Procedure Type	Decision Body	Pre-App Conference Required	Neighborhood Mtg Req.	Applicable Section
<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

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

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Application / Action	Procedure Type	Decision Body	Pre-App Conference Required	Neighborhood Mtg Req.	Applicable Section
• Major Variance	II	CDD	Yes	No	2.670
• Minor Variance	I-L	CDD	Yes*	No	2.670, 2.694
<b>Zoning Map Amendments</b>					
• Quasi-judicial zoning map amendments	IV-Q	PC or CC	Yes	No	2.720
• Legislative zoning map amendments	IV-L	CC	Yes*	No	2.720
<b>OTHER APPLICATION TYPES</b>					
<b>Floodplain</b>					
• Floodplain Appeals	II	See 6.091	Yes*	No	6.091
• Floodplain Development Permit	I, I-L, II, III	See 6.093	Yes*	See 1.140	6.093
• Floodplain Variance	II	CDD	Yes*	No	6.092
<b>Hillside Development</b>					
• Hillside review for development that only requires a building permit	I	CDD	No	No	6.190
• Hillside review for all other	I, I-L, II, III	See 6.190	No	See 1.140	6.190
<b>Historic Resources**</b>					
• 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

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Application / Action	Procedure Type	Decision Body	Pre-App Conference Required	Neighborhood Mtg Req.	Applicable Section
Special Use Permit	I	CDD	No	No	10.440 and 10.470
<b>Tree Removal</b>					
<ul style="list-style-type: none"> <li>Site Plan Review for tree removal (5 or more trees 8” in diameter on contiguously owned property 20,000 sf or greater)</li> </ul>	I-L	CDD	Yes*	No	9.204 and 9.205
<ul style="list-style-type: none"> <li><u>Site Plan Review for tree removal associated with development of housing</u></li> </ul>	<u>I</u>	<u>CDD</u>	<u>No</u>	<u>No</u>	<u>9.206</u>
<b>Willamette River Greenway</b>					
<ul style="list-style-type: none"> <li>Greenway development review</li> </ul>	II	CDD	Yes	No	6.520
<b>LEGEND:</b> City Council ( <b>CC</b> ), Director ( <b>CDD</b> ), Hearings Board ( <b>HB</b> ), Landmarks Commission ( <b>LC</b> ), Planning Commission ( <b>PC</b> ). * Unless waived by the Community Development Director. ** Additional application review procedures applicable to Historic Resources are found in Article 7. In cases of conflict with the procedures in Article 1, the procedures in Article 7 shall prevail. *** Application review procedures for Expedited and Middle Housing Land Divisions are found in Article 11 Sections 11.600 through 11.630.					

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

**Staff Comments for 1.105 Activities Exempt from Land Use Review:**

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

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

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

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

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



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- (2) New ~~detached~~ single dwelling units, two primary units, accessory dwelling units, and duplexes or middle housing dwelling units, and additions to existing single dwelling units or ~~duplexes~~middle housing dwelling units, except where specifically identified as requiring land use review conditional use or site plan approval in Articles 3, 4 and 5.  
[Ord. 5968, 1/14/22]
- (3) Activities and development that are not identified as requiring a land use review as specified elsewhere in the Albany Development Code~~Residential accessory buildings up to 750 square feet and walls not greater than 12 feet tall or that meet the standards in Section 3.080(9).~~
- ~~(4) Non-residential accessory buildings of any size in the NC, CC, RC, IP, LI, HI and PB zones and non-residential accessory buildings up to 750 square feet in the CB, HD, ES, LE, MS, MUC, MUR, OP and WF zoning districts.~~
- ~~(4) Expedited land divisions and middle housing land divisions are not a land use action per Oregon law; however, an application is required. See application review procedures in Article 11, Sections 11.600 through 11.630.~~ [Ord. 5968, 1/14/22; Ord 6004, 12/28/22]
- (5) Routine property maintenance.
- ~~(6) New parking areas or expansions to existing parking areas that are less than 1,000 square feet in area and do not modify site circulation or access, do not require Site Plan Review as stated in Section 2.430.~~  
[Ord. 6018, 6/30/23; Ord. 6024, 12/29/23]
- ~~(7)~~(6) Restriping an existing parking lot in compliance with parking stall dimensions provided in Section Table 9.120-1 with no additional parking spaces and that does not include other site or circulation modifications that require Site Plan Review approval per Section 2.430. ~~modify site circulation or access.~~[Ord. 6024, 12/29/23]
- ~~(8)~~(7) A change internal to a building or ~~other~~ structure ~~or when the use is permitted through a land use review Site Plan Review use and does not include other site or circulation modifications that require Site Plan Review approval per Section 2.430,~~ and/or additions to an existing building that are less than 2,000 square feet or less than 50 percent of existing building area, whichever is less, and that do not:  
~~(a) Provide three or more parking spaces or additional loading areas; or~~  
~~(b) Modify site circulation or access.~~  
[Ord. 6018, 6/30/23, Ord. 6024, 12/29/23]
- ~~(9)~~(8) An emergency measure necessary for the safety or protection of property when authorized by the City Manager with written notice to the City Council.
- ~~(10)~~ Any temporary use of land of up to a 30-day duration (such as a promotional event, festival, carnival, or outdoor sale) that conforms with all other requirements of this Code and other applicable City regulations, public health, and safety requirements, some of which may further limit such uses in terms of location, scope, and duration.
- ~~(11)~~(10) The establishment, construction, alteration, or maintenance of a public facility authorized by the Director of Public Works, including streets, highways, traffic control devices, drainage ways, sanitary and storm sewers, pump stations, water lines, electrical power or gas distribution lines, or telephone or television cable systems. This includes construction of staging areas of less than six months' duration but does not include major substations, treatment facilities, storage tanks, reservoirs, and towers.
- ~~(12)~~ Excavation and fill for foundations and all other excavation or filling of land involving 50 cubic yards or less that does not adversely affect drainage patterns and is not located in the special flood hazard area.
- ~~(13)~~ In middle housing zoning districts, new middle housing, including middle housing created through internal conversation of, or addition to, existing dwellings, and additions to existing middle housing.  
[Ord. 5968, 1/14/22]
- ~~(14) Expedited land divisions and middle housing land divisions (see application review procedures in Article 11, Sections 11.600 through 11.630).~~ [Ord. 5968, 1/14/22; Ord 6004, 12/28/22]



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

**Staff Comments:**

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

1.160 Application Submittal.

- (1) Submittal Requirements. Type I – IV-Q land use applications must be submitted on forms provided by the City. A land use application may not be accepted in partial submittals. All information supplied on the application form and accompanying the application must be complete and correct as to the applicable facts. Unless otherwise specified, all of the following must be submitted to initiate completeness review under ADC 1.170:
  - (a) Explanation of intent, nature, and proposed use(s) of the development, pertinent background information, and other information that may have a bearing in determining the action to be taken, including detailed findings when required by the provisions of this Code.
  - (b) Signed statement that the property affected by the application is in the exclusive ownership or control of the applicant, or that the applicant has the consent of all partners in ownership of the affected property.
  - (c) Property description and assessor map parcel number(s).
  - (d) Additional information required by other sections of this Code because of the type of proposal or the area involved.
  - (e) ~~Duplicates of the above information as required by the Director.~~
  - (f) Application fees.
  - (g) A report documenting the results of any mandatory neighborhood meeting prepared in accordance with ADC 1.140(5).
- (2) Application Intake. Each application, when received, will be date-stamped with the date the application was received by the City, and designated with a receipt number and a notation of the staff person who received the application.
- (3) Administrative Standards for Applications. The Director is authorized to establish administrative standards for application forms and submittals, including but not limited to plan details, information detail and specificity, number of copies, scale, and the form of submittal.

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

**Staff Comments:**

- 1.740 Code Enforcement. Correcting incorrect code references.

## ENFORCEMENT

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

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- (1) The purpose and extent of the proposed inspection;
- (2) The ordinance or ordinances that form the basis for the inspection; and
- (3) Whether it is a routine or periodic inspection, an inspection initiated by complaint, other specific or general information, or an observation concerning the property or premises or the area in which it is situated.

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

- 1.730 Abatement. The location, erection, construction, maintenance, repair, alteration or use of a building or other structure in violation of this ordinance shall be deemed a nuisance and may be abated as such.
- 1.740 Code Enforcement. The Director or designee may enforce the provisions of this ordinance using the remedies provided in Sections 1.~~76~~10 through 1.~~76~~90 herein and elsewhere within the Albany Municipal Code. The enactment of this ordinance shall not invalidate any prior, existing, or future prosecutions for violation of the Development Code regulations committed under a previous ordinance.
- 1.750 Legal Proceedings by City Attorney. In addition to the remedies prescribed herein, the City Attorney, upon request from the City Council or Director, shall cause to be instituted any civil action, suit, or other legal means considered appropriate to remedy violations of this ordinance.
- 1.760 Suits in Equity to Enjoin Violations. If any existing or proposed structure or use violates this ordinance, the City Attorney or any affected person may sue to enjoin the violation.
- 1.770 Enforcement by Chief of Police. The Chief of Police or his or her designee(s) shall have the power to help enforce the provisions of this ordinance.
- 1.780 Penalty. In addition to the remedies set forth above, the general penalties and procedures set forth in Chapter 1.04 of the Albany Municipal Code apply to any and all violations of this Development Code. The City may elect to pursue such procedure instead of or in addition to any remedy set forth above.
- 1.790 Violation of a Land Use Approval. Violation of any condition or requirement of any land use approval constitutes a civil infraction when that violation does not, in and of itself, constitute a separate violation of the Albany Municipal Code.

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

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## ARTICLE 2 REVIEW CRITERIA

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

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

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

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

### Staff Comments Nonconforming Situations:

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

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

## NONCONFORMING SITUATIONS

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

2.310 Nonconforming Situations, Generally.

- (1) Applicable Provisions. In addition to the general requirements in this section, properties are subject to the standards and procedures for the type (or types) of nonconforming situations applicable to the property.
  - (a) Non-conforming lots are subject to Section 2.320.
  - (b) Non-conforming developments are subject to Section 2.330.
  - (c) Non-conforming uses are subject to Sections 2.340 through 2.350.
- (2) Nonconforming Situations Must be Lawfully Established. Uses or developments that were not lawfully established do not have a legal right to continue as nonconforming situations as defined by this Code and must be removed.

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- (3) Documentation that a Nonconforming Situation was Lawfully Established. The property owner or applicant must document that a nonconforming situation was legally established on its present site. Evidence that the situation was allowed depends on the type of nonconforming situation. For nonconforming lots, the property owner or applicant must document when the lot was lawfully created by providing land division records meeting the requirements of the State of Oregon. For development or uses, the property owner or applicant must provide building, land use, or development permits. For development or uses which did not require a permit when lawfully established, the property owner or applicant must provide other evidence which clearly shows the date the development or use was established such as dated aerial photographs. In addition, for nonconforming uses, the property owner or applicant must document that the use has been maintained over time. Evidence that a use was maintained over time might consist of building permits, utility hookups, tax records, business licenses, lease agreements, business receipts, or telephone directory listings.
- (4) Dangerous Buildings or Intentional Destruction. Except as provided in Subsection 2.330(2), any nonconforming use or development dependent upon a building or structure that has been declared a “dangerous building” and ordered demolished pursuant to the Albany Dangerous Building Code (AMC Title 18) will be considered terminated upon that declaration and order. Nonconforming uses or nonconforming developments that have been intentionally destroyed by the owner shall lose their legal nonconforming status.
- (5) Allowances That Apply to All Nonconforming Situations. The following allowances apply to all nonconforming situations.
  - (a) Their status is not affected by changes in ownership.
  - (b) Legal nonconforming uses may continue to operate.
  - (c) They may be changed to conforming situations by right or with an applicable land use approval. Once a conforming situation occupies a site, the nonconforming rights are lost, and a nonconforming situation may not be re-established.
  - (d) Normal maintenance and repair are allowed.
  - (e) Changes that conform to the base zone development standards of the site may be made.
  - (f) Except as specified herein, a nonconforming situation shall maintain compliance with any conditions of approval.

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

2.330 Nonconforming Development.

- (1) Nonconforming Development, Generally. Nonconforming developments may continue unless specifically limited by other regulations in this Code. A nonconforming development or portion thereof may be enlarged or altered in a way that satisfies the current requirements of this Code or moves in the direction of conformity. A nonconforming development shall not be enlarged or altered in a way that increases its nonconformity.
- (2) Damage or Destruction of a Nonconforming Development. When a nonconforming development is damaged or destroyed by fire or other causes beyond the control of the owner, it may be replaced in-kind within the footprint of the destroyed improvement within three years in a residential zone or five years in any other zone, provided doing so is not otherwise precluded by the regulations of the Albany Municipal Code. The replacement improvements shall not increase the degree of nonconformity beyond that of the previously existing improvements.
- (3) Nonconforming Residential Densities. Existing dwelling units may continue, may be removed or enlarged, and amenities may be added to the site provided the building and development site do not move further out of conformance with the applicable standards.

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- (4) Roadway Access. The owner of a nonconforming driveway approach or access to a public street or highway, upon receiving land use or development approval, may be required as a condition of approval to bring the nonconforming access into conformance with the standards of the applicable roadway authority.
- (5) Required Improvements. When a proposed project includes alterations that are over the threshold in Subsection (a), the project shall provide the required improvements listed in Subsection (b) for the area specified in Subsection (c).
  - (a) Threshold. The project requires a Type I-L, Type II, or Type III land use approval as specified in Article 1 of this Code and cumulative value of one or more building improvements or expansions, and/or site improvements exceeds \$150,000, excluding the costs associated with the following alterations and improvements intended to bring the site or building into compliance with applicable regulations:
    - i. Alterations required by fire/life safety standards;
    - ii. Alterations required to remove existing architectural barriers, as required by the Americans with Disabilities Act;
    - iii. Seismic improvements;
    - iv. Improvements to on-site stormwater management facilities in conformance with code standards;
    - v. Energy efficiency or renewable energy improvements; and
    - ~~vi. Required landscaping; and~~
    - ~~vii.~~vi. Removal or remediation of hazardous substances conducted under ORS 465.200-545 and 900.

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

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

Category 1

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

[Ord. 6018, 6/30/23]

Category 2

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

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physical room, and a Minor Variance is approved;

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

(c) Area of required improvements.

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

2.340 Nonconforming Uses.

- (1) Continued Operation. Nonconforming uses may continue to operate on a site. Except as provided in Subsection (2), changes in operations, such as changes in ownership, hours of operation and the addition or subtraction of accessory uses, are allowed.
- (2) Hours of Operation in Residential Zones. Nonconforming uses in residential zones may not extend their hours of operation into the period of 10 p.m. to 7 a.m.
- (3) Discontinuation or Abandonment of Nonconforming Use. A nonconforming use that is discontinued for a period of more than three years in a residential zone (listed in Article 3) or five years in any other zone shall be deemed abandoned and shall no longer be allowed as a legal nonconforming use. For purposes of calculating the time period, a use is discontinued on a site when:
  - (a) The use no longer physically occupies the site;
  - (b) For nonresidential uses, the use ceases operation. For example, the site is no longer actively in use for the sale of merchandise, the manufacture or warehousing of products, or the provision of services; as evidenced by the removal of signs, goods, stock, or office equipment, or the disconnection of telephone or utility service or similar indications;
  - (c) Any lease or contract under which the nonconforming use has occupied the site is terminated;
  - (d) A request for final reading of water and power meters is made to the applicable utility or the utility bill account indicates inactivity;
  - (e) The use ceases operation as a result of damage or destruction by fire or other causes; and/or
  - (f) An event occurs similar to those listed in Subsections (a) – (e), above, as determined by the Director.
- (4) Application of Code Criteria and Standards to Nonconforming Use. Once the City deems a nonconforming use abandoned pursuant to Subsection (3), any subsequent use of the subject lot shall conform to the current standards and criteria of this Code applicable to the use. After the City has deemed a nonconforming use abandoned, the use shall not be allowed to resume, in whole or in part, under the same or different ownership or management; any such activity is a violation of this Code and subject to enforcement proceedings.

**Staff Comments:**

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

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

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



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- (a) Changes of use within the same use category. Changing to a different use within the same use category, such as a change from one type of Manufacturing and Production use to another type of Manufacturing and Production use, is permitted if all of the following criteria are met:
  - i. The nonconforming use was not created lawfully;
  - ~~ii.~~ ii. ~~The new use requires no more than two new parking spaces;~~
  - ~~iii.~~ ii. The new use does not result in new construction or expansions in floor area to provide space for nonconforming uses or an expansion to outside storage areas;
  - ~~iv.~~ iii. If hours of operation or staffing levels were specified in an earlier land use approval, the new use does not propose increases in hours of operation or staffing levels; and
  - ~~v.~~ iv. The new use is not within or abutting a residential zoning district.
- (2) Type II Land Use Review. The following changes to nonconforming uses will be processed through a Type II procedure as established in Section 1.230 and subject to the applicable review criteria in Section 2.350.
  - (a) A change to another use in the same use category that:
    - ~~i.~~ i. ~~Requires three or more new parking spaces;~~
    - ii. Is within or abutting a residential zoning district;
    - iii. Proposes to increase ~~in~~ the hours of operation or staffing levels above levels that were specified in earlier land use approvals (if applicable); or
    - iv. Includes expansions to outside storage areas or new construction or expansions in floor area to provide space for nonconforming uses.
  - (b) Within an industrial zoning district, a change from a legal nonconforming use to a commercial use that is not otherwise permitted in the base zone.
- (3) A change to another nonconforming use in a different use category, such as changing from a Manufacturing and Production use to a Contractor and Industrial Service use, is prohibited except as specified in subsection (2)(b), above.

**Staff Comments related to Site Plan Review:**

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

**SITE PLAN REVIEW**

- 2.400 Purpose. Site Plan Review is intended to promote functional, safe, and attractive developments that maximize compatibility with surrounding developments and uses and with the natural environment. It mitigates potential land use conflicts through specific conditions attached by the review body. The review focuses on the layout of a proposed development, including building placement, setbacks, parking areas, external storage areas, open areas, and landscaping. [Ord. 5445, 4/12/00; Ord. 5767, 12/7/11]
- 2.410 *Section removed by Ordinance 5767 adopted December 7, 2011.*
- 2.415 Procedure. An application for Site Plan Review shall be reviewed through either a Type I or Type I-L procedure, as indicated below.
  - (1) Single dwelling unit detached, two primary detached units, and middle housing development: Type I procedure.
  - (2) Multiple-dwelling unit development, units above or attached to a business, and manufactured home parks: Type I-L procedure.

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

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

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

[Ord. 5445, 4/12/00]

2.430 Applicability. In general, Type 1 or Type I-L Site Plan Review is intended for all new development within the city that specifically requires Site Plan Review as listed in Articles 3, 4 and 5. It applies to new construction, additions or expansions, site modifications, and changes in land use categories. Sites that contain a legal nonconforming use situations will be processed in accordance with Section 2.300 through 2.340~~350~~.

- (1) Any activity or development that requires Site Plan Review as indicated in Table 1.100-1, Procedure by Application Type in Article 1, and the Schedules of Permitted Uses and Special Conditions in Articles 3, 4 and 5, unless specifically exempt in Section 1.105.
- ~~(2) A change of use or reuse of a building or site when the use is allowed through Site Plan Review, and provides three or more new parking spaces, additional loading areas, or that modifies site circulation or access.~~
- ~~(3)(2) Expansions to existing development including nNew structures and Building additions, whether attached or detached, totaling more greater than 2,000 square feet or greater more than 50 percent of existing building area, whichever is less, or any expansion that provides three or more new parking spaces, additional loading areas, or modifies site circulation or access.~~
- ~~(3) New parking or loading areas or expansions to existing parking or loading areas or site modifications (excluding buildings) greater than 1,000 square feet or that provide more than two new parking spaces (contiguous) or m~~
- (4) Modifications that change site circulation or access as identified below and similar actions.
  - (a) Creation, modification, and/or removal of a driveway or pedestrian connection to the street system.
  - (b) Modification of allowable movements at a driveway connection to the street system.
  - (c) Creation, extension, closure, and/or alteration of the direction of a travel aisle or walkway.
- (5) Conversion of existing off-street parking areas to uses other than bicycle parking or transit-oriented facilities.
- ~~(6) Temporary placement of a manufactured home or modular building for: (a) night watchman; (b) business office space during construction or remodeling; (c) building space for education, non-profit, and government agencies. (See Sections 10.470-10.490.)~~
- ~~(6)(7) Tree Felling as specified in 9.205 and 9.206.~~

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

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

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

- (1) The application is complete in accordance with the applicable requirements.
- (2) The application complies with all applicable provisions of the underlying zoning district including, but not limited to, setbacks, lot dimensions, density, lot coverage, building height, and other applicable standards.
- (3) Activities and developments within special purpose districts comply with the regulations described in Articles 4 (Airport Approach), 6 (Natural Resources), and 7 (Historic), as applicable.
- (4) The application complies with all applicable Design Standards of Article 8.



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- (5) The application complies with all applicable Design Standards of Article 10.
- (6) The application complies with all applicable On-Site Development and Environmental Standards of Article 9.
- (7) The Public Works Director has determined that public facilities and utilities are available to serve the proposed development in accordance with Article 12 or will be made available at the time of development.
- (8) The Public Works Director has determined that transportation improvements are available to serve the proposed development in accordance with Article 12 or will be available at the time of development.
- (9) The proposed post-construction stormwater quality facilities (private and/or public) can accommodate the proposed development, consistent with Title 12 of the Albany Municipal Code.
- (10) The proposal meets all existing conditions of approval for the site or use, as required by prior land use decision(s), as applicable.
- (11) Sites that have lost their nonconforming status must be brought into compliance and may be brought into compliance incrementally in accordance with Section 2.330.  
[Ord. 5947, 1/1/21; Ord. 5966, 11/12/21]

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

- (1) The transportation system can safely and adequately accommodate the proposed development.
- (2) Parking areas and entrance-exit points are designed to facilitate traffic and pedestrian safety and avoid congestion.
- (3) The design and operating characteristics of the proposed development are reasonably compatible with surrounding development and land uses, and any negative impacts have been sufficiently minimized.  
[Ord. 5947, 1/1/21]

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

2.465 Approved Plans are Final. Projects shall be completed according to the approved site plan and landscape plan. Modifications to approved plans are subject to the standards in Section 1.330.  
[Ord. 5720, 08/12/09; Ord. 5947, 1/1/21]

**Staff Comments related to 2.490 Application Contents:**

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

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

- (1) A completed application form. The application shall be signed by the subject property's owner(s) and/or the owner's legal representative(s). If a legal representative is used as a signatory, written proof of ability to be a signatory shall be furnished to the City. The owner's name(s) and address, and the applicant's name, address, and signature shall also be provided.  
[Ord. 5886, 1/6/17]
- (2) A written narrative describing the proposed development and explanation of how the development satisfies applicable Albany Development Code standards and review criteria, including information

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- required by Article 6 – Natural Resource Districts. [Ord. 5767, 12/7/11; Ord. 5886 1/7/17]
- (3) One set of conceptual drawings, including floor plans, lighting details, and building elevations and materials. When solar panels are proposed to comply with the large parking area standards in Section 9.130, provide solar panel specifications including kilowatt production and proposed location. [Ord. 6018, 6/30/23]
- ~~(4)~~ A ~~conceptual~~ landscape plan showing the type and location of proposed landscaping and screening, including parking lot landscaping and when applicable, the tree canopy calculations, and any vegetated post-construction stormwater quality facilities. [Ord. 5842, 1/1/15; Ord. 6018, 6/30/23]
- (4)(5) A storm drainage report when 5,000 square feet of new or replaced impervious surface is added for all phases of development. The storm drainage report must include infiltration feasibility as outlined in the Engineering Standards.
- ~~(5)(6)~~ A site plan showing the following applicable information:
- (a) Assessor’s map and tax lot number and lot and block description or other legal description.
  - (b) Lot dimensions and total lot area.
  - (c) North arrow.
  - (d) Location of all existing and proposed structures, including minimum distances from all structures to property lines.
  - (e) Percentage of the lot covered by all existing and proposed structures and paved areas. Clearly identify the boundaries and total square footage of all new and/or replaced impervious surfaces. [Ord. 5842, 1/1/15]
  - (f) Adjacent zoning designations and land uses including approximate location of buildings, accesses, streets, sidewalks, curbs, easements, and utilities.
  - (g) Locations and dimensions of rights-of-way of all abutting streets (whether public or private) and existing and proposed driveways.
  - (h) Size and location of all utilities.
  - (i) Locations, dimensions, and nature of any existing and proposed easements.
  - (j) Location of any non-access strips.
  - (k) Natural drainage patterns, flow arrows showing existing and proposed drainage patterns, and existing and proposed finished grade contours at 1-foot intervals, or at a larger interval if approved by the City Engineer.
  - (l) Clearly identify any existing and proposed swales, ditches, or other drainage ways.
  - (m) Location, size, type and capacity of the existing and proposed drainage system including pipe size, slope, and detention facilities. Show existing and proposed finished grade elevations at collection points and property lines. Include the location, size, and capacity of the downstream drainage system that would serve the proposed development. Also provide any supporting calculations. [Ord. 5842, 1/1/15]
  - (n) Location, size, type and capacity of all existing and proposed post-construction stormwater quality facilities. Clearly identify all impervious surfaces and contributing areas draining to each facility. [Ord. 5842, 1/1/15]
  - (o) Typical cross sections at adjacent property boundaries showing pre-and post-development conditions and clearly identify any changes in elevation at the property line not captured in the typical section.
  - (p) Location and species of trees larger than 25 inches in circumference (approximately 8 inches in diameter) measured at 4-1/2 feet above mean ground level from the base of the trunk. To obtain the circumference of a tree with multiple trunks, add the individual trunks circumferences, which are greater than 6 inches in circumference. Identify any trees proposed for protection and the method of protection. [Ord. 5842, 1/1/15]
  - (q) Location and dimensions of delivery and loading areas.

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- (r) Location and dimensions of parking and circulation areas.
- (s) Location and dimensions of trash disposal areas.
- (t) Location of proposed signs. [Ord. 5338, 1/28/98; Ord. 5445, 4/12/00]
- (u) Location and type of proposed pedestrian amenities and common areas (when applicable).
- (v) Location of airport height restrictions.
- (w) Location of floodplains.
- (x) Location of hillsides with slopes greater than 12 percent.
- (y) Location of wetlands.
- (z) Location of riparian corridors.
- (aa) Location of Willamette Greenway.
- (bb) Location of historic districts, structures, and sites on the City’s adopted Local Historic Inventory, including individually designated National Register Historic Landmarks and archaeological sites. [Ord. 5720, 8/12/19]

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

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

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## ARTICLE 3 RESIDENTIAL ZONING DISTRICTS

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

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

- Zoning Districts
- Schedule of Permitted Use
- Development Standards

### ZONING DISTRICTS

- 3.020 Establishment of Residential Zoning Districts. In order to regulate and segregate the uses of lands and buildings and to regulate the density of development, the following residential zoning districts are established:
- (1) RR—RESIDENTIAL RESERVE DISTRICT. The RR District is intended to recognize areas which, because of topography, level of services, or other natural or development factors are best served by a large lot designation. This district may be applied on an interim basis until urban services become available. The minimum lot size is five acres.
  - (2) RS-10—RESIDENTIAL SINGLE-DWELLING UNIT DISTRICT. The RS-10 District is intended primarily for a lower density residential environment. The average minimum detached single-dwelling unit lot size is 10,000 square feet. [Ord. 6004, 12/28/22]
  - (3) RS-6.5—RESIDENTIAL SINGLE-DWELLING UNIT DISTRICT. The RS-6.5 District is intended primarily for low-density urban residential development. The average minimum detached single-dwelling unit lot size is 6,500 square feet. [Ord. 6004/12/28/22]
  - (4) RS-5—RESIDENTIAL SINGLE-DWELLING UNIT DISTRICT. The RS-5 District is intended primarily for low- to moderate-density residential development. The average minimum detached single-dwelling unit lot size is 5,000 square feet. [Ord. 5673, 6/27/07; Ord. 6004, 12/28/22]
  - (5) RM—RESIDENTIAL MEDIUM DENSITY DISTRICT. The RM District is primarily intended for medium-density residential urban development. New RM districts should be located on a collector or arterial street or in Village Centers. Multiple dwelling and townhouse development may not exceed 25 units per gross acre. [Ord. 5673, 6/27/07; Ord. 6004, 12/28/22; Ord.6024, 12/29/23]
  - (6) RMA—RESIDENTIAL MEDIUM DENSITY ATTACHED DISTRICT. The RMA District is intended primarily for medium- to high-density urban residential development. Most units, whether single- or multiple dwelling or middle housing, will be attached. New RMA districts should be located on a collector or arterial street or in Village Centers. Development may not exceed 35 units per gross acre. [Ord. 5673, 6/27/07; Ord. 6004, 12/28/22, Ord. 6024, 12/29/23]
  - (7) HDR—HIGH DENSITY RESIDENTIAL DISTRICT. The HDR District is intended primarily for high-density urban residential development. This district supports the highest residential density in the city, as development in the HDR district must achieve a density of at least 25 units per gross acre and may not exceed 50 units per gross acre. The HDR district allows a variety of housing types along with other compatible uses. [Ord. 6010, 7/1/23]
  - (8) HM—HACKLEMAN-MONTEITH DISTRICT. The HM district is intended primarily to preserve the existing residential character of the Hackleman and Monteith National Register Historic Districts. Conversion of single-dwelling unit residential structures to non-residential

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

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

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

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

The abbreviations used in the schedule have the following meanings:

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

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

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

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

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

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

Uses Allowed in Residential Zoning Districts									
USE CATEGORIES (See Article 22 for use descriptions.)	Spec. Cond.	RR	RS-10	RS-6.5	HM	RS-5	RM	RMA	HDR
<b>RESIDENTIAL: Dwellings</b>									
Single-Dwelling Unit <del>detached</del>	<u>1, 22, 23</u>	Y	Y	Y	Y	Y	Y	N	N
Primary Residence with one accessory dwelling unit	4	Y	Y	Y	Y	Y	Y	Y	N
<del>2 detached</del> <u>Two Primary dwelling</u> Units	2	N	PD/CD	PD/CD	S	PD/CD	Y	Y	N
Duplex, <u>Triplex, and Fourplex</u>	<u>3, 22, 23</u>	Y	Y	Y	Y	Y	Y	Y	Y
Townhouse	<u>22, 23</u>	Y	Y	Y	Y	Y	Y	Y	Y
<del>Triplex or Fourplex</del>	<del>3</del>	<del>Y</del>	<del>Y</del>	<del>Y</del>	<del>Y</del>	<del>Y</del>	<del>Y</del>	<del>Y</del>	<del>Y</del>
Cottage Cluster	3	Y	Y	Y	Y	Y	Y	<del>Y</del>	Y
<u>Single Room Occupancy Development</u>	<u>20, 22, 23</u>	<u>Y</u>	<u>Y</u>	<u>Y</u>	<u>Y</u>	<u>Y</u>	<u>Y</u>	<u>Y</u>	<u>Y</u>
Multiple-Dwelling Units	<u>3, 22, 23</u>	N	N	N	N	N	S	S	S
<b>RESIDENTIAL: Care or Treatment</b>									
Assisted Living		CU	CU	CU	CU	CU	CU	CU	CU
Child or Adult Care Home	6	Y	Y	Y	Y	Y	Y	Y	Y
Daycare Facility		CU	CU	CU	CU	CU	CU	S	S
Residential Care or Treatment Facility (6 or more residents)		CU	CU	CU	CU	CU	CU	S	S
Residential or Group Care Home (5 or fewer residents)		Y	Y	Y	Y	Y	Y	Y	Y
<b>RESIDENTIAL: Miscellaneous Uses Categories</b>									
Manufactured Home Parks <del>(see Article 10)</del>	<u>10, 22</u>	N	N	S	N	S	S	S	S
Accessory Buildings, <del>Garages or Carports</del>	9	Y/S	Y/S	Y/S	Y/S	Y/S	Y/S	Y/S	Y/S
Bed & Breakfast	7	CUH	CUH	CUH	CUH	CUH	CUH	S	S
Home Businesses <del>(See 3.090-3.160 to determine if CU)</del>	<u>21</u>	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	<u>17, 22, 23</u>	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	<u>24</u>	CU	CU	CU	CU	CU	CU	CU	CU
Educational Institutions	13	CU	CU	CU	CU	CU	CU	CU	CU
Hospitals		N	N	N	N	N	CU	CU	CU
Jails & Detention Facilities		N	N	N	N	N	N	N	N
Parks, Open Areas, and Cemeteries	14	S/CU	S/CU	S/CU	CU	S/CU	S/CU	S/CU	S/CU
Religious Institutions	13	CU	CU	CU	CU	CU	CU	CU	CU
<b>COMMERCIAL – Limited Use Types</b>									
Entertainment and Recreation:									
Indoor	18	CU	CU	CU	CU	CU	CU	CU	CU
Outdoor		CU	CU	CU	N	CU	CU	CU	CU
Offices	17, 19	PD/CD	PD/CD	PD/CD	PD/CD	PD/CD	PD/CD	PD/CD	S
Recreational Vehicle Parks (See Article 10)	5, 10	N	N	N	N	N	CU	CU	CU
Restaurants, no drive-thru	17, 19	PD/CD	PD/CD	PD/C D	PD/CD	PD/CD	PD/CD	PD/C D	S
Retail Sales and Service	17, 19	PD/CD	PD/CD	PD/CD	PD/CD	PD/CD	PD/CD	PD/CD	S
Self-Serve Storage	15	N	N	N	N	N	S	N	N
<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		Y	Y	Y	Y	Y	Y	Y	Y



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

Y = Yes, allowed, no Site Plan review required  
 CD = Cluster Development, see Art. 11  
 CU = Conditional Use approval required, Type III procedure  
 CUII = Conditional Use approval required, Type II procedure

N = No, not allowed  
 PD = Planned Unit Development, see Art. 11  
 S = Site Plan Review required

**Staff Comments for Special Conditions in 3.080:**

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

**SPECIAL CONDITIONS**

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

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

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

- (h) The sales office permit may be renewed once up to a year.
- (2) When more than one single-dwelling unit detached residence is located on a property of record in a residential zoning district and the buildings were legally constructed, the property may be divided in conformance with Article 11, even if the resulting lots do not meet the required minimum lot area and dimensional standards for the zoning district, if required setbacks and lot coverage can be met.  
[Ord. 5338, 1/28/98; Ord. 5673, 6/27/07; Ord. 6004, 12/28/22]
- (3) Duplexes, triplexes, fourplexes, cottage clusters, and multi-dwelling unit development may be divided so that each unit can be individually owned by doing a land division in conformance with Article 11. The total land area provided for the development as a whole must conform with the requirements of Article 3, Table 3.190-1, however, the amount of land on which each unit is located does not need to be split equally between the individual units - one may be larger and one smaller.  
[Ord. 5673, 6/27/07; Ord. 5947, 1/1/21; Ord. 5968, 1/14/22; Ord. 6004, 12/28/22]
- (4) Where ~~detached~~ single-dwelling units ~~residences~~ are permitted outright, one accessory dwelling unit (ADU) may be allowed on each lot that has a single legally established ~~detached~~ single-dwelling unit residence, called the “primary residence”. The ADU shall comply with the following standards:  
[Ord. 5968, 1/14/22; Ord. 6004, 12/28/22]
- Accessory dwelling units shall be incidental in size to the primary residence and meet the following standards:
- (a) The size of an ADU does not exceed 50 percent of the gross floor area of the primary residence (excluding garages or carports) or 900 square feet, whichever is less. (Note: ADUs greater than 900 square feet that were legally constructed before July 1, 2007, may remain.) [Ord. 5949, 1/1/21]
- (b) All required building permits have been obtained. If the primary residence is on the Local Historic Inventory, historic review may be required.
- (c) The lot was legally established. [Ord. 5338, 1/28/98; Ord. 5673, 6/27/07; Ord. 5966 11/12/21]
- (d) Detached ADUs must also meet the following development standards:  
Front Setback: Greater than or equal to the location of the front wall of the primary residence; and  
Interior Setback: 5 feet for one-story; 8 feet for two-story; and  
Maximum Height: 24 feet to the ridge of the roof. [Ord. 5673, 6/27/07; Ord. 5949, 1/1/21]
- (5) In the RM, RMA, and HDR Districts, the following criteria must be met in addition to the Conditional Use criteria for permitting RV overnight parks: [Ord. 6010, 7/1/23]
- (a) The entire site must be located within 750 feet of the Interstate 5 right-of-way.
- (b) The RV park access is limited to the Interstate 5 frontage road or streets servicing primarily industrial or commercial development.
- (6) “Child Care Homes” that include the day or nighttime care of no more than sixteen children, including the children of the provider or the care and treatment of adults for less than 24-hours are considered a residential use of the property and are allowed outright in zones that allow residential dwellings per the Oregon Revised Statutes (ORS). See ADC Section 22.200.  
[Ord. 5673, 6/27/07; Ord. 5968, 1/14/22; Ord. 6004, 12/28/22]
- (7) Bed and Breakfast facilities shall:
- (a) Be owner occupied.
- (b) Be limited to a maximum of four guest bedrooms.
- (c) Except for driveway spaces, not contain guest parking facilities in the front setback area or within 10 feet of any interior residential lot line. [Ord. 5742, 7/14/10]
- (8) Temporary residences in conjunction with construction, emergency repair, or a night watchman are permitted with a Special Use Permit subject to the standards in Sections 10.440 through 10.510 ~~but are limited to one year in duration.~~ [Ord. 5673, 6/27/07]



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

- (9) The definitions of “Accessory Building” and “Accessory Use” in Article 22 shall apply. The Director shall have authority to initially interpret application of these terms to any proposed activity or structure. See also Table 3.230-1 for Accessory Structure Standards.
- Accessory buildings in residential districts ~~that are more than~~ 750 square feet ~~or larger~~ and/or ~~with~~ have walls taller than 12 feet that meet the following standards ~~are not subject to Site Plan Review. They will be processed as Type I staff decision. Residential Accessory buildings not meeting the standards in this section require Site Plan Review.~~
- Applicants must submit a completed Residential Accessory Structure Checklist with information ~~must be submitted~~ that shows the standards below will be ~~are met~~. ~~The information shall be submitted at the time when~~ the applicant applies for building permits. ~~The determination of whether the standards are met will be made by the~~ Community Development Director or his/her designee will determine whether the standards are met. [Ord. 5767, 12/7/11; Ord. 5947, 1/1/21; Ord. 6024, 12/29/23]
- (a) The proposed building ~~does not exceed the height~~ is not taller than ~~of~~ the tallest building on any adjacent property. For this section, building height means the height of the building at its highest point, usually the ridge of the roof, but excluding chimneys and other protrusions from the roof.
- (b) The ~~square footage of the proposed building’s footprint of the proposed building does not exceed~~ is not more than the ~~square footagesize of the building~~ footprint of the ~~foundation of the~~ largest building on adjacent property.
- (c) The ~~amount of land that will be covered by buildings if the proposed building is constructed~~ does maximum lot coverage by zone provided in Table 3.190-1 is not exceed ~~ed the applicable lot coverage restrictions of the Development Code.~~
- (d) The proposed building meets or exceeds the applicable setback requirements for the primary residence as listed in Table 3.230-1. [Ord. 5947, 1/1/21]
- (e) The materials used on the proposed building ~~(e.g., siding and roofing), and the color of those materials,~~ shall be similar to those used on the primary residential structure (e.g., cement board lap siding is similar to wood lap siding).
- (f) If the proposed building is located in any of the special purpose districts listed in Articles 6 and 7 of the Development Code, the building must also be reviewed for conformance with the requirements of the applicable district and may require a land use review application.
- ~~Accessory buildings not meeting the standards in this section require Site Plan Review.~~
- ~~An accessory garage or other non-residential building may not be located on a vacant developable residentially zoned property unless the following conditions are met on a property without a residence cannot be the primary use of a residentially zoned property except as described below.~~ The purposes of this limitation are to preserve the opportunity for residential land to be used for housing, and to avoid a non-residential building on residential property for use as commercial storage. Non-residential structures on residentially zoned land will be allowed when the following conditions are met:
- (g) The structure will not preclude the use of the property for housing or other uses allowed in the zone; and
- (h) ~~The structure must meet the requirements of Section 3.080(9) or be approved through the Site Plan Review process;~~
- (i) The structure is not used for a commercial purpose; ~~and~~ [Ord. 5968, 1/14/22]
- (j) Exception in the RR zone: Buildings used for farm or agricultural product or equipment storage are permitted ~~in the RR zone.~~ [Ord. 5281, 3/26/97; Ord. 5673, 6/27/07; Ord. 5947, 1/21/20]
- (10) Manufactured home and RV park standards are located in Article 10. Manufactured home parks, RV parks and manufactured homes on individual lots are not allowed within the National Register Historic Districts or on land within 100 feet of a historic district, or on land adjacent to a property on the Local Historic Inventory. [Ord. 5673, 6/27/07]

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

- (11) Kennels in residential districts shall be restricted to properties containing a minimum of two acres. This restriction does not apply to indoor veterinary hospital kennels. [Ord. 5673, 6/27/07]
- (12) Antennas and satellite dishes are subject to the following standards:
- (a) Antenna or antenna supports may not be located within any front setback area or within any required landscape buffer yard. [Ord. 5742, 7/14/10]
  - (b) Antennas shall not extend higher than fifteen feet above the peak of the roof.
  - (c) Dish antennas exceeding 12 feet in diameter are not permitted.
  - (d) Dish antennas exceeding 36 inches in diameter may not be roof mounted.
  - (e) Dish antennas shall not exceed 15 feet in height from surrounding grade to the highest point of the structure or dish.
  - (f) Dish antennas located within ten feet of a residential lot line or located so as to be visible from a public street shall be screened up to a height of six feet with a solid screen fence, wall, hedge, or other landscaping.
  - (g) Antenna used to display sign messages shall conform to all district sign regulations in addition to the above.
  - (h) Antenna not in conformance with the above may be considered by Conditional Use review, Type II process. [Ord. 5886, 1/6/17]
- (13) Original Conditional Use approval for education and religious institutions includes the following secondary uses: educational activities; sports and other recreational activities; religious activities; political activities; meals programs; before and after school or full-time childcare activities; fundraising activities; and cultural programs. Such uses will not be required to go through the land use process if all of the activities which constitute the use (excluding parking and travel to and from the site) take place on the site and there is no external noise audible or light visible between 10:30 p.m. and 7:00 a.m.
- Expansion of an education or religious institution includes the addition of building area, increase in parking lot coverage, or expansion of athletic facilities. Any expansion must be reviewed through the Conditional Use Type II process (CUII). [Ord. 5673, 6/27/07]
- (14) Public park development activity subject to Conditional Use review includes major development; expansions of activities and development within parks which currently generate substantial traffic; or construction of major structures such as swimming pools, lighted ball fields, and community centers. Conditional Use review is not required, however, for construction of play equipment, tennis courts, bike paths, picnic shelters, restrooms, landscaping, and similar activities within existing improved parks. [Ord. 5947, 1/1/21]
- (15) Self-Serve Storage is subject to the following standards:
- (a) Freestanding facilities shall be limited to sites of one to three acres in size and maximum building coverage shall be limited to 50 percent of the parcel.
  - (b) Building setbacks shall be as follows: front - 25 feet, interior - 20 feet. No fencing is permitted in front setbacks and a minimum ten-foot landscape buffer yard is required adjacent to all residential zones. No barbed wire fencing is permitted in residential districts. [Ord. 5742, 7/14/10]
  - (c) The minimum driveway width between buildings shall be 20 feet for one-way drives and 24 feet for two-way drives.
  - (d) The maximum storage unit size shall be 500 square feet.
  - (e) All outdoor lighting shall be shielded to prevent reflection on adjacent properties.
  - (f) Repair of autos, boats, motors and furniture, and the storage of flammable materials shall be prohibited on the premises and rental contracts shall so specify.
  - (g) Outside storage of vehicles and materials is prohibited within this use category and no other business activity other than the rental of storage units shall be conducted on the premises. [Ord. 5673, 6/27/07]

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

[Ord. 5886, 1/6/17]

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

- (a) The base of the antenna and any structures associated with the antenna shall be set back from the property lines of the property on which they are sited a distance of not less than 30 feet.
- (b) The land on which the facility is sited shall be screened from adjacent land along its full perimeter, by providing screening, as defined in ADC Section 9.250.

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

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

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

[Ord. 5673, 6/27/07]

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

[Ord. 6010, 7/1/23]

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

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

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

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

- i. A local, state, or special government body, as defined in ORS Chapter 174; or
- ii. A nonprofit corporation that is organized as a religious corporation or is organized as a public benefit corporation whose primary purpose is the development of affordable housing; or
- iii. A housing authority as defined in ORS 456.005; or
- iv. A manufactured dwelling park nonprofit cooperative, as defined in ORS 62.803.

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

- i. Each unit on the property is made available to own or rent to households with incomes of 80 percent or less of the area median income (AMI); or
- ii. All units on the property are made available to rent or own to households with incomes with a collective average of 60 percent or less of the AMI; or
- iii. A manufactured dwelling park that serves only households with incomes of 120 percent or less of the AMI.

- (c) Does not apply on lands where:

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- i. The development cannot be adequately served by water, sewer, storm water drainage or streets; or
  - ii. The property contains a slope of 25 percent or greater; or
  - iii. The property is within a 100-year floodplain; or
  - iv. The development of the property is constrained by land use regulations based on statewide land use planning goals relating to: natural disasters and hazards; or natural resources, including air, water, land, or natural areas, but not including open spaces or historic resources.
- (f) Height Bonus. An affordable housing development proposal that meets the standards in this special condition and is located outside of a National Register historic district, will be granted the following height bonuses as applicable.

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

- (23) The conversion of a building or a portion of a building from commercial to residential use will be permitted through Site Plan Review.
- (24) Applications for emergency shelters sited under ORS 197.782 and ORS 197.783 are not a land use decision.

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

### DEVELOPMENT STANDARDS

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

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

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

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

TABLE 3.190-1

RESIDENTIAL DISTRICT DEVELOPMENT STANDARDS								
STANDARD	RR	RS-10	RS-6.5	HM	RS-5	RM	RMA	HDR
<b>Minimum Property Size or Land Requirements by Unit Type (1)(18)</b>								
Single dwelling unit <del>detached</del> (SDU) <u>and Duplex (1)</u>	5 acres (15)	10,000 sf	6,500 sf	5,000 sf	5,000 sf	3,500 sf	<del>SDU=</del> N/A <del>Duplex=</del> <del>3,500 sf</del>	<del>SDU=</del> N/A <del>Duplex=</del> <del>None</del>
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 <del>detached</del> units on one property (1)	N/A	N/A	N/A	7,000 sf	N/A	3,500 sf	3,500 sf	N/A
<u>Duplex (1)</u>	<u>5 acres (15)</u>	<u>10,000 sf</u>	<u>6,500 sf</u>	<u>5,000 sf</u>	<u>5,000 sf</u>	<u>3,500 sf</u>	<u>3,500 sf</u>	<u>None</u>

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

N/A means not applicable.

- (1) Section 3.220 bonus provisions may reduce minimum lot size and area requirements of units.
- (2) All yards adjacent to streets.
- (3) All yards adjacent to streets plus required open space.
- (4) Additional setbacks may be required, see Sections 3.230-3.330 and the buffer matrix at 9.210; exceptions to Setbacks for Accessibility Retrofits are in Section 3.263; Zero-Lot Line standards are in Sections 3.265 and 3.270; Setbacks for cottage clusters are in Section 3.192.
- (5) Except for single-dwelling units, SRO developments with up to 6 units, homes or middle housing, which ~~must~~ have a minimum setback of 3 feet for one-story dwellings and 5 feet for two-story dwellings.

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

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



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- (6) More than 3 stories = 10 feet plus 3 feet for each story over 3 per unit requirements. Multiple-dwelling unit developments must also meet the setbacks in Section 8.270(3). [Ord. 5974, 1/1/21; Ord. 6004, 12/28/22]
- (7) Garage front setback for non-vehicle-entrance = 15 feet, except in RR and RS-10 zoning districts where the setback shall be 20 feet.
- (8) See exceptions to height restrictions, Section 3.340. Maximum height for cottage clusters is in Section 3.192. [Ord. 5968, 1/14/22]
- (9) Lot coverage for single-dwelling units ~~detached~~ and middle housing development shall only include the area of the lot covered by buildings or structures. Lot coverage for townhouses is calculated based on the overall townhouse project, rather than each townhouse lot. Cottage clusters are exempt from maximum lot coverage standards. [Ord. 5968, 1/14/22; Ord. 6004, 12/28/22]
- (10) See Table 3.230-1 for garages with alley access. [Ord. 5947, 1/1/21]
- (11) Maximum lot coverage for parcels 20,000 square feet or less is 50%. The configuration of any development on a lot 20,000 square feet in size, or less, in an RR zoning district that covers more than 20 percent of the parcel on which it is proposed, should be located such that it does not preclude a later division of the parcel.
- (12) The minimum separation between multi-dwelling unit buildings on a single parcel shall be 10 feet for single-story buildings and 20 feet for two-story or taller buildings. Minimum building separation for cottage clusters is in Section 3.192. [Ord. 5968, 1/14/22; Ord. 6004, 12/28/22]
- (13) Ten or more units require open space. See Section 8.220.
- (14) See Section 8.240 for standards.
- (15) A property line adjustment between two existing RR properties may be allowed as long as no new lots are created and the resulting properties are at least 20,000 square feet and approval of a septic system has been obtained by Benton County.
- (16) Triplexes, fourplexes, townhouses, and cottage clusters are not permitted on lots that are nonconforming with respect to the minimum lot size applicable to that housing type within the zoning district (see ADC 2.320). [Ord. 5968, 1/14/22]
- (17) In RMA, a fourplex with one or more studio or 1-bedroom units shall meet the minimum lot size standards for multi-dwelling unit development, except in no case shall the minimum lot size required for a fourplex exceed 7,000 square feet. [Ord. 5968, 1/14/22; Ord. 6004, 12/28/22]
- (18) If a duplex, triplex, fourplex, or cottage cluster has been divided by a middle housing land division, the development standards that are applicable to the lot shall apply to the middle housing parent lot, not to the middle housing child lots. [Ord. 5968, 1/14/22]
- (19) The minimum property size for townhouses specified in Table 3.190-1 is the minimum allowable size for an individual townhouse lot; the number of units permitted on a given site (i.e., the maximum density) is established in accordance with subsection 3.191(1). [Ord. 5968, 1/14/22]
- (20) Lot sizes in the HDR zone are controlled by the allowed density range of 25 units to 50 units per gross acre. Maximum density for the RR, RS-10, RS-6.5, HM, and RS-5 District is controlled by minimum lot size requirements for each zone. Except for townhouses, middle housing development is not subject to maximum density requirements in the RM District. [Ord. 6010, 7/1/23]

**Staff Comments:**

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

- 3.191 Development Standards for Townhouses. Townhouses shall meet the standards in subsections (1) and (2) below. Townhouses shall also meet the applicable design standards in ADC Sections 8.110 through 8.170.
  - (1) Maximum Density.
    - (a) In the RR, RS-10, RS-6.5, RS-5, and HM districts, the maximum permitted density for a townhouse project shall be based on the total area of the townhouse project development site (including all townhouse lots and other tracts). For the purposes of calculating density, the gross net area required for each townhouse unit shall be as follows:
      - RR: 1.25 acres per townhouse unit
      - RS-10: 2,500 square feet per townhouse unit

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- RS-6.5, RS-5, HM: 1,700 square feet per townhouse unit
- (b) In the RM, RMA, and HDR districts, the maximum permitted density for a townhouse project is based on the number of units permitted per gross acre, as follows:
  - RM: 25 units per gross acre
  - RMA: 35 units per gross acre
  - HDR: 50 units per gross acre [Ord. 6010, 7/1/23]
- (2) Number of Attached Dwelling Units.
  - (a) Minimum. A townhouse project must contain at least two attached units.
  - (b) Maximum. The maximum number of townhouse units that may be attached together to form a group is specified below.
    - RR, RS-10, RS-6.5, and HM districts: maximum of 4 attached units per group
    - RS-5 district: maximum of 6 attached units per group
    - RM and RMA districts: maximum of 10 attached units per group
    - HDR district: no maximum [Ord. 5968, 1/14/22; Ord. 6010, 7/1/23]

**Staff Comments:**

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

- 3.192 Development Standards for Cottage Clusters. Cottage clusters shall meet the standards in subsections (1) through (5) below. Cottage clusters shall also meet all of the design standards in ADC Section 8.175.
- (1) Definition. A cottage cluster is a grouping of detached dwelling units (cottages) that includes a common courtyard. All cottages within a single cottage cluster must share a common courtyard. A cottage cluster project may include more than one cluster and more than one common courtyard.
  - (2) Minimum Density. The minimum density for a cottage cluster project is 4 units per gross acre.
  - (3) Setbacks.
    - (a) Front Setback. The minimum front setback to cottages and all other structures is 10 feet.
    - (b) Building Separation. Cottages shall be separated by a minimum distance of six (6) feet. The minimum distance between all other structures, including accessory structures, shall be in accordance with building code requirements.
    - (c) All other setbacks, including to garage or carport entrances, are provided in Tables 3.190-1 and 3.320-1.
  - (4) Building Height. The maximum building height for all structures is 25 feet.
  - (5) Maximum Footprint. The maximum footprint of 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]

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

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**Staff Comments:**

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

**OUTSIDE STORAGE**

- 3.380 General. In any district, outside storage or display of materials, junk, parts, or merchandise shall not be permitted in required front setbacks or buffer areas.
- 3.390 Screening of Refuse Containers. The following standards apply to all residential development, except for refuse containers or disposal areas serving four or fewer dwellings. Any refuse container or refuse disposal area which would otherwise be visible from a public street, customer or resident parking area, any public facility, or any residential area, shall be screened from view by placement of a sight-obscuring fence, wall or hedge at least 6 feet in height. All refuse materials shall be contained within the screened area and the disposal area must be covered. The cover must be at least 8 feet in height. No refuse container or refuse disposal area shall be placed within 15 feet of a dwelling window.

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



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## ARTICLE 4 COMMERCIAL AND INDUSTRIAL ZONING DISTRICTS

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

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

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

### ZONING DISTRICTS

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

- (1) OP – OFFICE PROFESSIONAL DISTRICT. The OP district is intended to provide a vertical or horizontal mix of professional offices, personal services, live-work, residential and limited related commercial uses in close proximity to residential and commercial districts. The limited uses allowed in this district are selected for their compatibility with residential uses and the desired character of the neighborhood. OP is typically appropriate along arterial or collector streets as a transitional or buffer zone between residential and more intense commercial or industrial districts.
- (2) NC – NEIGHBORHOOD COMMERCIAL DISTRICT. The NC district is intended primarily for small areas of retail establishments serving nearby residents' frequent needs in convenient locations. The NC District is typically appropriate for small clusters or service centers located at intersections within residential neighborhoods. Businesses should fit into the residential pattern of development and not create land use, architectural or traffic conflicts. Generally, uses located within NC Districts should have as their primary market area the population within a one-half mile radius.
- (3) CC – COMMUNITY COMMERCIAL DISTRICT. The CC district recognizes the diversity of small to medium-scale businesses, services and sites mostly located on arterial streets and highways. Design guidelines, building location and front-yard landscaping will provide a coordinated and enhanced community image along these major transportation corridors as they develop or redevelop. Sound and visual buffers should be used to mitigate impacts on nearby residential areas.
- (4) RC – REGIONAL COMMERCIAL DISTRICT. The RC district is intended primarily for developments that serve the wider Albany region. RC allows a wide range of retail sales and service uses and is typically appropriate for developments that require large sites near Interstate 5. Design guidelines, building location and front-yard landscaping will provide an enhanced community image along major transportation corridors. These uses often have significant impacts on the transportation system. Sound and visual buffers may be required to protect nearby residential areas. RC districts may not be appropriate in all locations.
- (5) TD – TRANSIT DISTRICT. The TD district is intended primarily for regional transit facilities and related uses. This district is suitable as a major office employment center because of easy access to mass transit. Mixed-use development including a multi-modal transportation facility, a park-and-ride facility, and office

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space should be developed within this district.

- (6) EMP – EMPLOYMENT DISTRICT. The EMP district is intended primarily for a range of office uses, limited manufacturing, and high-tech/research activities and uses. Uses in this district complement or support more intensive industrial activities and uses while also providing a transition between industrial areas and general commercial or residential areas. The limited industrial and manufacturing activity allowed in the EMP district is intended to minimize hazardous impacts from heavier industrial uses while also providing a buffer between other industrial areas and nearby residential or commercial uses. [Ord. 6010, 7/1/23]
- (7) IP – INDUSTRIAL PARK DISTRICT. The IP district is intended primarily for light manufacturing, high-tech, research and development, institutions and offices in a quality environment. Uses are characterized by attractive building architecture and landscaped yards and streetscapes, and the absence of objectionable external effects. The district is designed for industrial and business parks containing offices together with clean, non-polluting industries. IP is located along or near highly visible corridors to provide a positive image and a transition to residential or natural areas from heavier industrial uses.
- (8) LI – LIGHT INDUSTRIAL DISTRICT. The LI district is intended primarily for a wide range of manufacturing, warehousing, processing, assembling, wholesaling, specialty contractors and related establishments. Uses will have limited impacts on surrounding properties. This district is particularly suited to areas having good access to highways and perhaps to rail. LI may serve as a buffer around the HI district and may be compatible with nearby residential zones or uses.
- (9) HI – HEAVY INDUSTRIAL DISTRICT. The HI district is intended primarily for industrial uses and support activities that are potentially incompatible with most other uses and which are characterized by large amounts of traffic, extensive shipping of goods, outside storage or stockpiling of raw materials, by-products, or finished goods, and a controlled but higher level of noise and/or pollution. This district is located away from residential areas and has easy access to highways and perhaps to rail. [Ord. 5555, 2/7/03]

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

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

- Y Yes; use allowed without review procedures but may be subject to special conditions.
- S Use permitted that requires a site plan approval prior to the development or occupancy of the site or building.
- CU Use considered conditionally through the Type III procedure under the provisions of Sections 2.230-2.260.
- CUII Uses considered conditionally through the Type II procedure under the provisions of Sections 2.230-2.260. [Ord. 5742, 7/14/10]
- PD Use permitted only through Planned Development approval.
- N No; use not allowed in the zoning district indicated.
- X/X Some zones have two abbreviations for a use category (ex. Y/CU). Refer to the special condition to determine what review process is required based on the details of the use.

A number opposite a use in the “special conditions” column indicates that special provisions apply to the use in all zones. A number in a cell particular to a use and zone(s) indicates that special provisions apply to the use category for that zone(s). The conditions are found following the schedule, in Section 4.060.

[Ord. 5555, 2/7/03]

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

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

**TABLE 4.050-1  
SCHEDULE OF PERMITTED USES**

Commercial, Office and Industrial Zoning Districts										
Use Categories (See Article 22 for use category descriptions.)	Spec. Cond.	OP	NC	CC	RC	TD	EMP	IP	LI	HI
<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		S	S	S	S	S	S	CUII-8	N	N
Offices, Industrial		S	N	S	N	N	S	S-8	S-9	S
Parking		N	N	S	S	S	S	S	S	S
Recreational Vehicle Park		N	N	CU	N	S	N	N	S	N
Restaurants, no drive-thru w/ drive-thru or mostly delivery	25	CUII N	S CU-10	S S	S S	S N	S CU	S CU	N N	N N
Retail Sales and Service		S-11	S-11	S	S	S	S-11	S-11	S/CU/N-11	N
Self-Serve Storage	12	N	N	S	S	N	N	CU	S	S-13
Taverns, Bars, Brewpubs, Nightclubs	25	CUII	CUII	S	S	S	CU	CUII	CUII	CUII
Vehicle Repair		N	N	S	S	N	N	N	S	N
Vehicle Service, Quick gas/oil/wash		N	N	S	S	N	N	CU	N-14	N
<b>INSTITUTIONAL USE CATEGORIES</b>										

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

Y = Yes, allowed, no Site Plan Review required  
 CU = Conditional Use review, Type III procedure  
 CUII = Conditional Use review, Type II procedure

N = No, not allowed  
 S = Site Plan Review required

**SPECIAL CONDITIONS**

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

- (1) Contractors and Industrial Services in the CC, TD, IP, EMP, and LI zones.
  - (a) Limited Uses. Salvage or wrecking operations are prohibited in the CC, TD, IP, EMP, and LI zones. See Section 4.290 for outside storage standards.
  - (b) Prohibited Uses in EMP. The following Contractors and Industrial Services uses are prohibited in the EMP zone: salvage or wrecking of heavy machinery, metal, and building materials; towing and vehicle storage; overnight or long-term equipment storage; heavy truck servicing and repair; tire retreading or recapping; and solid fuel yards. [Ord. 6010, 7/1/23]
- (2) Manufacturing and Production. The environmental performance standards of Article 9 may limit the

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

- (3) Manufacturing in the CC zone. Manufacturing uses in CC must have a retail storefront and sell their products to the public on site.
- (4) Waste and Recycling Related Uses in the CC, LI, and HI zones.
  - (a) Limited uses in CC. Only processing and sorting operations conducted within enclosed structures less than 5,000 sq. ft. in total area are considered with a Conditional Use review.
  - (b) Limited uses in LI. Processing and sorting operations conducted within enclosed structures less than 5,000 sq. ft. in total area are allowed with Site Plan Review. Salvage yards, junkyards, and refuse transfer stations are not permitted. All other material and recycling operations are considered through a Conditional Use review.
  - (c) Limited uses in HI. Processing and sorting operations conducted within enclosed structures less than 5,000 sq. ft. in total area and all other material and recycling operations, excluding salvage yards and junkyards, are allowed with Site Plan Review. Salvage yards, junkyards, sanitary landfills, and refuse transfer stations require a Conditional Use review. [Ord. 5947, 1/1/21]
- (5) Wholesale Sales in the IP and EMP zone. This use is allowed in IP and EMP only if all operations and storage are conducted entirely within enclosed buildings. [Ord. 6010, 7/1/23]
- (6) Adult Entertainment. Where allowed, Adult Entertainment uses shall meet the following standards:
  - (d) An adult entertainment use shall not be established or expanded within 300 feet of the district boundary line of any residential zoning district.
  - (e) An adult entertainment use shall not be established or expanded within 300 feet of any other adult entertainment use.
  - (f) An adult entertainment use shall not be established or expanded within 300 feet of the property line of a church, school, or public park.
  - (g) Exceptions to the above may be considered by the Major Variance procedures. [Ord. 5947, 1/1/21]
- (7) Indoor Entertainment and Recreation in the CC, RC, IP, EMP, LI and HI zones.
  - (a) Limited uses in CC. Indoor firing ranges or gun clubs, coliseums, and stadiums are not permitted.
  - (b) Limited uses in RC. Indoor firing ranges or gun clubs are not permitted.
  - (c) Limited uses in IP and EMP. Exercise and health clubs or gyms are permitted through Site Plan Review. Convention centers, coliseums and stadiums are considered through a Conditional Use Type III review. All other indoor entertainment uses are not permitted. [Ord. 6010, 7/1/23]
  - (d) Limited uses in LI. Indoor firing ranges or gun clubs, pool halls, paint gun facilities, cheerleading, tumbling, gymnastics, fairgrounds, coliseums and stadiums are considered through a Conditional Use Type II review. Exercise and health clubs or gyms are considered through a Conditional Use Type III review and must meet the additional criteria in Special Condition (11)(b). All other indoor entertainment uses are not permitted. [Ord. 5742, 7/14/10; Ord. 5832, 4/9/14]
  - (e) Limited uses in HI. Indoor firing ranges or gun clubs, pool halls, paint gun facilities, motor racetrack, coliseums and stadiums are considered through a Conditional Use review. All other indoor entertainment uses are not permitted. [Ord. 5947, 1/1/21]
- (8) Offices in the IP zone. Traditional Offices intended to serve customers on site are considered through the Conditional Use Type II review. Industrial Offices are permitted through Site Plan Review. See Article 22 for Office examples. [Ord. 5832, 4/9/14]
- (9) Offices in the LI zone. Traditional Offices intended to serve customers on site are not allowed. Industrial Offices are permitted through Site Plan Review. See Article 22 for Office examples. [Ord. 5832, 4/9/14]
- (10) Restaurants in the NC zone. Drive-through restaurants are allowed in NC provided there are no more



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

- (11) Retail Sales and Services in the OP, NC, EMP, IP and LI zones.
- (a) Limited uses in OP, NC, EMP, and IP. The only retail uses allowed are convenience-oriented retail and personal services-oriented retail intended to serve nearby residences and employees. Businesses are limited to a 5,000-square-foot maximum business footprint, except for businesses located within buildings in the OP and NC zones constructed prior to February 7, 2003, there is no business footprint limit. See Article 22 for examples of convenience-oriented and personal service-oriented businesses. Vehicle repair-oriented services, motor vehicle sales, large equipment sales, and bulk sales are prohibited. [Ord. 5923, 2/8/19; Ord. 6010, 7/1/23]
- (b) Retail Sales and Service Uses in Existing Buildings in the LI zone. To encourage the reuse of buildings constructed prior to April 9, 2014, in the LI zone, Repair-Oriented Retail Sales and Service uses as described in Section 22.140 will be permitted through Site Plan Review. Personal Service-Oriented uses and Sales and Service-Oriented Retail Sales uses as described in Section 22.140 may be permitted through a Conditional Use review. Retail Sales and Service uses permitted in accordance with this subsection are subject to the following additional review criteria:
- i. The street system has adequate capacity to accommodate the use through the horizon year of the current Transportation Systems Plan; and
  - ii. The development will not alter the existing building or site in a way that would discourage or preclude its later conversion back to an industrial use; and
  - iii. The new commercial user shall acknowledge that industrial uses have a right to operate free from the new use complaining about externalities typical of industrial uses. [Ord. 5832, 4/9/14; Ord. 6018, 6/30/23]
- (12) Self-Serve Storage. These facilities are subject to the following standards:
- (a) The minimum driveway width between buildings is 20 feet for one-way drives and 24 feet for two-way drives.
  - (b) The maximum storage unit size is 1,000 square feet.
  - (c) All outdoor lighting shall be shielded to prevent glare and reflection on adjacent properties.
  - (d) Repair of autos, boats, motors, and furniture and the storage of flammable materials are prohibited on the premises, and rental contracts shall so specify.
- (13) Self-Serve Storage in the HI zone. Self-Serve storage units are allowed in HI only on sites less than 3 acres.
- (14) Truck Stops/Fuel Sales in the LI zone. This use is classified as Contractors and Industrial Services, rather than Vehicle Service, Quick.
- (15) Community Service Uses. Community Service uses that may have significant off-site impacts like noise, such as public swimming pools, public safety facilities, and homeless shelters, may be considered through the Conditional Use process. Applications for emergency shelters sited under ORS 197.782 and ORS 197.783 are not a land use decision. [Ord. 5947, 1/1/21]
- (15) Non-Residential Accessory Buildings over 750 square feet in the OP zone and over 2,000 square feet in all other zones except HI require Site Plan Review. [Ord. 5742, 7/14/10]
- (16) Single-Dwelling Units, ~~Detached~~ and Middle Housing, ~~Units~~.
- (a) In the OP zone, single-dwelling units ~~detached residences~~ are allowed outright. Middle housing ~~residences~~ requires a Conditional Use review. One accessory dwelling unit (ADU) may be allowed per legally established single-dwelling unit ~~detached residence~~, called the “primary residence”. The ADU shall comply with the standards for ADUs in ADC 5.070 (15). [Ord. 5968, 1/14/22]

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- (b) In the NC zone, single-dwelling ~~units detached residences~~, individual SRO dwellings, duplexes, and townhouses require Site Plan Review. All other middle housing is prohibited. One accessory dwelling unit (ADU) may be allowed per legally established single-dwelling detached residence, called the “primary residence”. The ADU shall comply with the standards for ADUs in ADC 5.070(15). [Ord. 5742, 7/14/10; Ord. 5947, 1/1/21; Ord. 5949, 1/1/21; Ord. 5968, 1/14/22]
- (17) ~~Existing Single-Dwelling Units Detached Homes and Townhouses~~. See Section 4.075. New single-dwelling ~~units detached homes~~ and townhouses are not permitted unless allowed in the zoning district. [Ord. 5968, 1/14/22]
- (18) Residential Accessory Buildings, ~~except excluding~~ Accessory Dwelling Units, are permitted outright with residential uses if they meet the following conditions:
- (a) Detached accessory buildings, garages and carports are less than 750 square feet and have walls equal to or less than ~~11~~12 feet tall.
- (b) All other residential accessory buildings, ~~garages or carports~~ require a Site Plan Review. [Ord. 5767, 12/7/11; Ord. 5947, 1/1/21; Ord. 5949, 1/1/21]
- (19) Single-Dwelling Detached and Middle Housing Units.
- (c) In the OP zone, single-dwelling unit detached residences are allowed outright. Middle housing residences require a Conditional Use review. One accessory dwelling unit (ADU) may be allowed per legally established single-dwelling unit detached residence, called the “primary residence”. The ADU shall comply with the standards for ADUs in ADC 5.070 (15). [Ord. 5968, 1/14/22]
- (d) In the NC zone, single-dwelling detached residences, duplexes, and townhouses require Site Plan Review. All other middle housing is prohibited. One accessory dwelling unit (ADU) may be allowed per legally established single-dwelling detached residence, called the “primary residence”. The ADU shall comply with the standards for ADUs in ADC 5.070(15). [Ord. 5742, 7/14/10; Ord. 5947, 1/1/21; Ord. 5949, 1/1/21; Ord. 5968, 1/14/22]
- (20) ~~Existing Single-Dwelling Detached Homes and Townhouses~~. See Section 4.075. New single-dwelling detached homes and townhouses are not permitted unless allowed in the zoning district. [Ord. 5968, 1/14/22]
- (21) Residential Accessory Buildings, except Accessory Dwelling Units, are permitted outright with residential uses if they meet the following conditions:
- (e) Detached accessory buildings, garages and carports are less than 750 square feet and have walls equal to or less than 11 feet tall.
- (f) All other residential accessory buildings, garages or carports require a Site Plan Review. [Ord. 5767, 12/7/11; Ord. 5947, 1/1/21; Ord. 5949, 1/1/21]
- (22) Agriculture. All agricultural uses established before January 8, 2003, are allowed to remain. New agriculture uses are limited to the raising of crops and plants on vacant land. The raising of livestock as a new use is not permitted. Regulations governing the keeping of animals/livestock are found in the Albany Municipal Code Title 6. [Ord. 5742, 7/14/10]
- (23) Communication Facility Placement Standards. Where allowed, Communication Towers and Poles over 50 feet in height when measured from the ground or over 15 feet above a rooftop are not permitted in front yard setbacks and must meet the standards in Section 8.500. [Ord. 5886, 1/6/17]
- Placement of antennas, satellite dish antennas, and monopoles less than 50 feet tall when measured from the ground; or when located on a rooftop, within 15 feet of a rooftop, is permitted outright in all districts subject to the following standards:
- (g) Antennas or antenna supports. Satellite dishes and monopoles shall not be located within any front yard setback area or within any required landscape buffer yard. [Ord. 5886, 1/6/17]
- (h) Dish antennas larger than three feet in diameter and located within ten feet of a residential lot line or visible from a public street shall be screened with a six-foot solid screen fence, wall, hedge, or other landscaping.

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- (i) Antennas used to display sign messages shall conform to all district sign regulations in addition to the above.
  - (j) Antennas satellite dishes, monopoles and other communication structures less than 50 feet in height when measured from the ground or over 15 feet above a rooftop, and not in conformance with the above may be considered by Conditional Use review, Type II process.  
[Ord. 5886, 1/6/17; Ord. 5947, 1/1/21]
  - (k) See Section 8.500 for additional design standards for all telecommunications facilities.  
[Ord. 5445, 4/12/00]
- (24) Kennels adjacent to residential districts are restricted to sites containing a minimum of two acres. This restriction does not apply to care and boarding provided indoors by veterinary hospitals.  
[Ord. 5555, 2/7/03; Ord. 5742, 7/14/10]
- (25) Hours of Operation. Hours of operation for establishments or outdoor seating areas within 300 feet of a residence may be restricted through conditions of approval to be compatible with neighbors.  
[Ord. 5728, 1/27/10]
- (26) Manufacturing Production and Small-Scale Manufacturing in the EMP zone.
- (a) Uses that require state or federal air quality discharge permits are prohibited.  
[Ord. 6010, 7/1/23]
- (27) One SRO development with no less than four and no more than six SRO units is permitted outright per property zoned to allow for single dwelling units. SRO development is also permitted through Site Plan Review as a multiple dwelling unit development, but each individual SRO unit is considered 0.5 dwelling units when calculating density. Accessory Dwelling Units are not permitted with SRO developments.
- (28) Housing. Affordable housing and conversion of buildings or portion of buildings in commercial use to housing will be permitted through Site Plan Review when the following standards are met.
- (a) Affordable housing as defined in (b) is permitted on property zoned for commercial uses, religious assembly, or public lands OR is owned by one of the following:
    - v. A local, state, or special government body, as defined in ORS Chapter 174; or
    - vi. A nonprofit corporation that is organized as a religious corporation or is organized as a public benefit corporation whose primary purpose is the development of affordable housing; or
    - vii. A housing authority as defined in ORS 456.005; or
    - viii. A manufactured dwelling park nonprofit cooperative, as defined in ORS 62.803.
  - (b) As used in this section, “affordable housing” means residential dwellings that are subject to an affordable housing covenant as provided in ORS 456.270 to 456.295 for a duration of no less than 30 years and meet either i, ii, or iii below.
    - i. Each unit on the property is made available to own or rent to households with incomes of 80 percent or less of the area median income (AMI); or
    - ii. All units on the property are made available to rent or own to households with incomes with a collective average of 60 percent or less of the AMI; or
    - iii. A manufactured dwelling park that serves only households with incomes of 120 percent or less of the AMI.
  - (c) A building or portion of a building in commercial use may be converted to a residential use.
  - (d) The residential uses described in (a) through (c) above are permitted on property zoned EMP, IP or LI only if the property is:
    - i. Publicly owned; and
    - ii. Adjacent to lands zoned for residential uses or schools.
  - (e) The above provisions do not apply on lands zoned HI or where:
    - i. The development cannot be adequately served by water, sewer, storm water drainage or streets; or
    - ii. The property contains a slope of 25 percent or greater; or
    - iii. The property is within a 100-year floodplain; or



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- iv. The development of the property is constrained by land use regulations based on statewide land use planning goals relating to: natural disasters and hazards; or natural resources, including air, water, land, or natural areas, but not including open spaces or historic resources.
- (f) Height Bonus. An affordable housing development proposal that meets the standards in this special condition and is located outside of a National Register historic district, will be granted the following height bonuses as applicable.

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

- (29) Commercial Land for Affordable Housing. Per ORS 197A.460, affordable housing development subject to an affordable housing covenant as provided in ORS 456.270 to 456.295 is permitted through Site Plan Review in the OP, NC, CC and RC zones when the following standards are met.
  - (a) Each unit is affordable to a household with income less than or equal to 60 percent of the area median income (AMI) as defined in ORS 456.270; or
  - (b) Mixed use structures with ground floor commercial units. all residential units are made affordable to moderate income households with incomes between 80 and 120 percent of the AMI, as defined in ORS 456.270.
  - (c) Affordable housing per this section is only permitted on land that has been in the city’s Urban Growth Boundary for at least 15 years and does not apply on vacant land or on lands where the city determines:
    - i. The development cannot be adequately served by water, sewer, storm water drainage or streets;
    - ii. The property contains a slope of 25 percent or greater;
    - iii. The property is within a 100-year floodplain; or
    - iv. The development of the property is constrained by land use regulations based on statewide land use planning goals relating to: Natural disasters and hazards; or Natural resources, including air, water, land or natural areas, but not including open spaces.

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

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## ARTICLE 5 MIXED USE ZONING DISTRICTS

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

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

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

[Ord. 5894, 10/14/17]

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

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

- Zoning Districts
- Schedule of Permitted Uses
- Development Standards

[Ord. 5673, 6/27/07]

### ZONING DISTRICTS

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

- (1) HD – HISTORIC DOWNTOWN DISTRICT. The HD district is intended for a dense mixture of uses with an emphasis on entertainment, theaters, restaurants, nightlife and specialty shops. High-density residential infill on upper floors is encouraged, as is the continued presence of the government center and supporting uses. [Ord. 5894, 10/14/17]
- (2) DMU – DOWNTOWN MIXED USE DISTRICT. The DMU district is intended for a mix of retail, services, institutions, offices, and housing that supports businesses in and around the Historic Downtown District. Mixed uses are encouraged both horizontally and vertically. High-density residential infill and office employment are both encouraged. [Ord. 5894, 10/14/17]
- (3) CB – DOWNTOWN CENTRAL BUSINESS DISTRICT. The CB district is intended for a broad mix of residential and non-residential uses. Mixed uses are encouraged both horizontally and vertically. High-density residential infill is encouraged to support nearby businesses. [Ord. 5894, 10/14/17]
- (4) MUR – MIXED USE RESIDENTIAL DISTRICT. The MUR district is intended primarily to create a residential district that allows a mixture of neighborhood commercial uses that meet the daily needs of area residents. [Ord. 5673, 6/27/07]

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- (5) WF – WATERFRONT DISTRICT. The WF district is intended to transition Albany’s Willamette River waterfront into a vibrant center characterized by a variety of housing choices and a mixture of housing, office, and retail uses. Infill and redevelopment are encouraged, as well as adaptive reuse of existing buildings until the area is redeveloped. Development and design standards will result in great neighborhoods, a pedestrian-friendly environment, and an enhanced community image. [Ord. 5635, 1/11/06; Ord. 5832, 4/9/14]
- (6) LE – LYON-ELLSWORTH DISTRICT. The LE district is intended primarily as a location for development that serves the Historic Downtown district and Downtown Central Business district. This district is the most desirable location in the Central Albany area for parking structures with ground-floor commercial uses.
- (7) MS – MAIN STREET DISTRICT. The MS district is intended primarily as an employment center with supporting commercial and retail services for residents and employees in the area. Infill and redevelopment are encouraged provided there is no adverse impact to surrounding residences. [Ord. 5832, 4/9/14]
- (8) ES – ELM STREET DISTRICT. The ES district is intended primarily to provide enough land for Albany General Hospital and associated medical uses while maintaining compatibility with adjacent residences in scale and design. Light commercial and personal services are encouraged to serve the nearby residents. Removal of existing residences and landscapes is discouraged. New parking facilities should be underground or completely screened. Only the amount of parking that is necessary should be provided for uses in this district, to minimize the amount of land consumed by parking. [Ord. 6018, 6/30/23]
- (9) PB – PACIFIC BOULEVARD DISTRICT. The PB district is intended as an auto-oriented commercial area along Pacific Boulevard in the Central Albany area. Design guidelines and front-yard landscaping will provide a coordinated look and enhance the community image along this major corridor as it develops or redevelops. Commercial infill and redevelopment are encouraged. Sound and visual buffers should be used to protect nearby residential areas. [Ord. 5832, 4/9/14]
- (10) MUC – MIXED USE COMMERCIAL DISTRICT. The MUC zoning district is intended primarily to provide a mix of convenience commercial, personal services, offices and medium density residential uses. The district would typically be anchored by a grocery store and may include a mix of smaller retailers, offices, live-work units, and residences. The MUC district is easily accessible to nearby residences, and commercial uses are compatible in scale and design with adjacent neighborhoods. Uses in the MUC zone will serve area residents and should not draw from the region. [Ord. 5556, 2/21/03; Ord. 5577, 7/28/04; Ord. 5555, 2/7/03]

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

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

- Y Yes; use allowed without review procedures but may be subject to special conditions.
- S Use permitted that requires a site plan approval prior to the development or occupancy of the site or building.
- CU Use considered conditionally under the provisions of Sections 2.230-2.260 through the Type III procedure.
- CUII Uses considered conditionally through the Type II procedure under the provisions of Sections 2.230-2.260. [Ord. 5742, 7/14/10]
- PD Use permitted only through Planned Development approval.
- N No; use not allowed in the zoning district indicated.
- X/X Some zones have two abbreviations for a use category (ex. Y/CU). Refer to the special condition to determine what review process is required based on the details of the use.

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

- Staff Comments, Schedule of Permitted Uses (Table 5.060-1) Special Conditions:**
- (11) Community Services: Adding examples of significant off-site impacts and a reference to emergency shelter siting standards in ORS.
  - (15) and former (16) related to Single-Dwelling Units, Townhouses, and Duplexes are being combined. Then the standards for accessory dwelling units (ADUs) are being put in their own Special Condition.
  - (27) SRO Development: House Bill 3395 requires cities to allow SRO development where single and multiple dwelling unit development is permitted.
  - (28) Affordable housing: House Bill 2984 and Senate Bill 8 require the city to allow affordable housing on land zoned for commercial use or religious assembly use or public lands without requiring a zone change or conditional use permit when housing is made available to own or rent to households at or below 80% of the area median income (AMI), and whose affordability is enforceable for a duration of no less than 30 years. House Bill 2984 also requires cities to allow the conversion of commercial uses to residential uses without a zone change or conditional use permit.
  - (29) Affordable and moderate-income housing: House Bill 3395 requires cities to allow affordable and moderate-income housing and mixed-use structures with affordable housing on lands zoned to allow commercial uses. This provision does not apply to vacant lands or land added to the UGB within the last 15 years.

**Table 5.060-1  
SCHEDULE OF PERMITTED USES**

Mixed Use Zoning Districts											
Use Categories (See Article 22 for category descriptions.)	Spec. Cond.	MUC	WF	HD	DMU	CB	LE	PB	MS	ES	MUR
<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

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

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

Y = Yes, allowed, no Site Plan review required

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

**Staff Comments, Special Conditions:**

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

**SPECIAL CONDITIONS**

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

- (1) Contractors and Industrial Service Uses in CB, LE and PB zones.
  - (a) Limited Uses in CB, LE and PB zones. Salvage or wrecking operations are prohibited. See Section 5.360 for outside storage standards by zone. [Ord. 5894, 10/14/17]
- (2) Manufacturing and Production. The environmental performance standards of Article 9 may further limit the placement of certain uses in some districts. Developments on sites located within 300 feet of residentially zoned land may require a Conditional Use approval. [Ord. 5894, 10/14/17]
- (3) Manufacturing and Production in the CB and HD zones.
  - (a) Limited uses in the CB zone. The following manufacturing and production uses are prohibited in the CB zone: slaughterhouses, meat packing, and concrete and asphalt production.
  - (b) Limited uses in the HD zone. Expansion of existing Small-Scale Manufacturing uses into more than 10,000 square feet of floor area is allowed with a Conditional Use approval, subject to the following limitations. All other manufacturing and production uses are prohibited.
    - i. Retail must be included as an accessory use.
    - ii. The Small-Scale Manufacturing Use must have occupied the space for at least 12 months prior to applying to expand.
    - iii. The use shall occupy no more than 30,000 square feet of floor area on the first story.
- (4) Adult Entertainment.
  - (a) An adult entertainment use or store may not be established or expanded within 300 feet of the district boundary line of any residential zoning district.
  - (c) An adult entertainment use may not be established or expanded within 300 feet of any other adult entertainment use.
  - (d) An adult entertainment use may not be established or expanded within 300 feet of the property line of a church, school, or public park.
  - (e) Exceptions to the above may be considered by the Major Variance procedures. [Ord. 5947, 1/1/21]
- (5) Indoor Entertainment and Recreation in the WF, PB, MS, ES and MUC zones.
  - (a) Limited Uses in PB and MUC. The following indoor entertainment and recreation uses are prohibited in PB and MUC: movie theaters, indoor firing ranges, paint gun, coliseums, stadiums, and similar facilities. [Ord. 5894, 10/14/17]



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- (b) Limited Uses in MS and ES. Only the following indoor entertainment and recreation uses are allowed in MS and ES: athletic or exercise facilities, bowling alleys, skating rinks, pool halls, games, amusements, arcades and uses with similar impacts. All other indoor entertainment and recreation uses are prohibited.
- (c) Limited Uses in WF. The following indoor entertainment and recreation uses are prohibited in WF, except as specified for Special Status sites pursuant to ADC Section 5.085: indoor firing ranges, coliseums, stadiums and similar facilities. [Ord. 5894, 10/14/17]
- (6) Outdoor Entertainment and Recreation in the CB zone.
  - (a) Conditional Uses in CB and WF. The following Outdoor Entertainment and Recreation uses are allowed with a Conditional Use approval: tennis courts, miniature golf, skateboard parks and similar uses. All other uses in the Outdoor Entertainment and Recreation use category are prohibited. [Ord. 5894, 10/14/17]
- (7) Parking Facility in the ES zone.
  - (a) Limited Uses. Parking that is provided for a primary use on the same or adjacent property is allowed. Fee parking for people not connected to the primary use is limited to parking structures. [Ord. 5635, 1/11/06; Ord. 5894, 10/14/17; Ord. 6018, 6/30/23]
- (8) Retail Sales and Service in the MS, ES, HD, WF, DMU, MUC and MUR zones.
  - (a) Limited Uses in MS, ES, and MUR. The following retail uses are permitted: convenience and personal service-oriented commercial intended to serve nearby residents and employees; specialty retail stores and studios; small appliance rental and repair, shoe repair, and tailoring. All other retail uses are prohibited. See Article 22 for descriptions of convenience-oriented and personal service-oriented commercial uses.
  - (b) Limited Uses in MUC. The following retail uses are prohibited: sale, leasing, and rental of vehicles and trucks; hotels and motels. [Ord. 5556, 2/21/03]
  - (c) Limited Uses in HD, WF, and DMU zones. The following retail uses are prohibited, except as specified for Special Status sites pursuant to ADC Section 5.085: sale, leasing, and rental of vehicles and trucks. [Ord. 5894, 10/14/17]
- (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 be shielded to prevent glare and reflection on adjacent properties.
  - (d) Repair of autos, boats, motors and furniture and storage of flammable materials are prohibited on the premises, and rental contracts shall so specify.
- (10) Basic Utilities. In all mixed-use village center zones, new regional/community utilities including treatment plants, major power generation and storage facilities, major overhead power lines requiring tower support structures, and utilities with potential visual or off-site impacts are prohibited. All other Basic Utilities are considered through the Conditional Use review.
- (11) Community Service Uses. Community Service uses that may have significant off-site impacts like noise or traffic, such as public swimming pools, public safety facilities, and homeless shelters may be considered through the Conditional Use process. Applications for emergency shelters sited under ORS 197.782 and ORS 197.783 are not a land use decision.
- (12) Conditional Use Approval for Religious and Educational Institutions includes the following secondary uses: educational activities; sports and other recreational activities; religious activities; political activities; meals programs; before- and after-school childcare activities; fundraising activities; and cultural programs. Such uses will not be required to go through the land use process if all of the activities that constitute the use (excluding parking and travel to and from the site) take place on the site and no external

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

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

An educational institution having a capacity greater than 25 students shall have a driveway designed for the continuous forward flow of passenger vehicles for the purpose of loading and unloading children.

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

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

[Ord. 5947, 1/1/21]

- (14) Residential Care or Treatment Facility. A residential care facility (six or more residents) requires a Site Plan Review. A “residential home” (as defined in ORS Chapter 443) or group home that includes five or fewer residents is permitted outright in any zone that allows single-dwelling unit residences.

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

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

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

- (b) In CB, ES, HD, DMU, and LE: Buildings originally built as a single dwelling unit, house, or church may be converted to a single-dwelling unit residential use without requiring a land use application. In HD all other single-dwelling units and middle housing are prohibited.

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

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

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

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

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

- (a) The size of an ADU may not exceed 50 percent of the gross floor area of the primary residence (excluding garages or carports) or 900 square feet, whichever is less.
- (b) The lot was legally established. [Ord. 5966, 11/12/21]
- (c) The front door of an ADU may not be located on the same façade as the front door of the primary residence unless the door already exists or the wall that contains the ADU front door is set back at least five feet from the front facade of the primary residence.
- (d) Exterior additions must substantially match the existing materials, colors, and finish of the primary structure.
- (e) All required building permits must be obtained. If the primary residence is on the Local Historic Inventory, historic review may be required.
- (f) The front setback shall be greater than or equal to the location of the front wall of the primary residence. [Ord. 5673, 6/27/07; Ord. 5949, 1/1/21]

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

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



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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(a) Detached accessory buildings, garages, and carports are less than 750 square feet and have walls equal to or less than ~~4-12~~ 12 feet tall. [Ord. 5767, 12/7/11]

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

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

(c) Accessory buildings over 100 square feet proposed on property in a ~~the~~ National Register of Historic Districts 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 ~~4516~~ 4516. [Ord. 5673, 6/27/07; Ord. 5949, 1/1/21]

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

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- (20) Communication Facility Placement Standards. The placement of antennas, satellite dishes and monopoles less than 50 feet in height when measured from the ground or within 15 feet of a rooftop is permitted outright in all districts subject to the following standards and those found in Section 8.500:
- (a) No antennas, antenna supports, satellite dishes or monopoles shall be located within any front yard setback area or within any required landscape buffer yard.
  - (b) Dish antennas larger than three feet in diameter and located within 10 feet of a residential lot line or visible from a public street, shall be screened with a six-foot solid screen fence, wall, hedge, or other landscaping.
  - (c) Antennas used to display sign messages shall conform to all district sign regulations in addition to the above.
  - (d) Antennas, satellite dishes, monopoles, and other communication structures less than 50 feet in height, when measured from the ground or over 15 feet above a rooftop, and not in conformance with the above, may be considered through a Conditional Use review, Type II process.  
[Ord. 5445, 4/12/00, Ord. 5886, 1/6/17]
- (21) Communication towers and poles at least 50 feet in height when measured from the ground or over 15 feet above a rooftop, may be considered through a Conditional Use review, Type II process. No communication structure is allowed in any front setback. Article 8 for telecommunication facility design standards also apply.  
[Ord. 5742, 7/14/10; Ord. 5886, 1/6/17]
- (22) Kennels. Kennels do not include indoor veterinary hospital kennels. [Ord. 5555, 2/7/03]
- (23) Hours of Operation. Hours of operation for establishments or outdoor seating areas within 300 feet of a residence may be restricted through conditions of approval to be compatible with neighbors.  
[Ord. 5728, 1/27/10]
- (24) Additional uses for Special Status List sites in the WF zone. Limited additional uses may be considered through the Conditional Use process for Special Status List sites, pursuant to ADC Section 5.085.
- (25) Developments on sites located within 300 feet of residentially zoned land require a Type II Conditional Use approval.
- (26) Non-residential uses in MUR. In MUR districts located east of Interstate 5, new development of uses in nonresidential Use Categories is only permitted in conjunction with a primary use from the Residential Use Categories. The new nonresidential use must be in the same building or on the same property as the primary Residential Use.  
[Ord. 2010, 7/1/23]
- (27) One SRO development with no less than four and no more than six individual SRO units is permitted outright per property zoned to allow for single dwelling units. SRO development is also permitted through Site Plan Review as a multiple dwelling unit development, but each individual SRO unit is considered 0.5 dwelling units when calculating density. Accessory Dwelling Units are not permitted with SRO developments.
- (28) Housing. Affordable housing and conversion of buildings or portion of buildings in commercial use to housing will be permitted through Site Plan Review when the following standards are met.
- (a) Affordable housing as defined in (b) is permitted on property zoned for commercial uses, religious assembly, or public lands OR is owned by one of the following:
    - ix. A local, state, or special government body, as defined in ORS Chapter 174; or
    - x. A nonprofit corporation that is organized as a religious corporation or is organized as a public benefit corporation whose primary purpose is the development of affordable housing; or
    - xi. A housing authority as defined in ORS 456.005; or
    - xii. A manufactured dwelling park nonprofit cooperative, as defined in ORS 62.803.
  - (b) As used in this section, "affordable housing" means residential dwellings that are subject to an affordable housing covenant as provided in ORS 456.270 to 456.295 for a duration of no less than 30 years and meet either i, ii, or iii below.
    - iv. Each unit on the property is made available to own or rent to households with incomes of 80

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- percent or less of the area median income (AMI); or
- v. All units on the property are made available to rent or own to households with incomes with a collective average of 60 percent or less of the AMI; or
- vi. A manufactured dwelling park that serves only households with incomes of 120 percent or less of the AMI.
- (c) A building or portion of a building in commercial use may be converted to residential use.
- (d) Does not apply on lands where:
  - i. The development cannot be adequately served by water, sewer, storm water drainage or streets; or
  - ii. The property contains a slope of 25 percent or greater; or
  - iii. The property is within a 100-year floodplain; or
  - iv. The development of the property is constrained by land use regulations based on statewide land use planning goals relating to: natural disasters and hazards; or natural resources, including air, water, land, or natural areas, but not including open spaces or historic resources.
- (g) Height Bonus. An affordable housing development proposal that meets the standards in this special condition and is located outside of a National Register historic district, will be granted the following height bonuses as applicable.

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

- (29) Commercial Land for Affordable Housing. Per ORS 197A.460, affordable housing development subject to an affordable housing covenant as provided in ORS 456.270 to 456.295 is permitted through Site Plan Review when the following standards are met.
  - (a) Each unit is affordable to a household with income less than or equal to 60 percent of the area median income (AMI) as defined in ORS 456.270; or
  - (b) Mixed use structures with ground floor commercial units. all residential units are made affordable to moderate income households with incomes between 80 and 120 percent of the AMI, as defined in ORS 456.270.
  - (c) Affordable housing per this section is only permitted on land that has been in the city’s Urban Growth Boundary for at least 15 years and does not apply on vacant land or on lands where the city determines:
    - i. The development cannot be adequately served by water, sewer, storm water drainage or streets;
    - ii. The property contains a slope of 25 percent or greater;
    - iii. The property is within a 100-year floodplain; or
    - iv. The development of the property is constrained by land use regulations based on statewide land use planning goals relating to: Natural disasters and hazards; or Natural resources, including air, water, land or natural areas, but not including open spaces.

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

**Staff Comments for Table 5.100-1:**

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

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

**TABLE 5.100-1  
ACCESSORY STRUCTURE STANDARDS**

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

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

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

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## ARTICLE 8 DESIGN STANDARDS

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

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

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

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

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

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

### Staff Comments:

[8.125 Egress Paths.](#) Adding a requirement for egress paths as required by the Oregon Building Code.

### SINGLE DWELLING UNIT HOMES AND MIDDLE HOUSING

8.110 Applicability.

- (1) The standards of ADC Sections 8.110 through 8.170 apply to all new single-dwelling detached units, manufactured homes, duplexes, two detached primary units, townhouses, triplexes, and fourplexes in all zones that allow these housing types, except as otherwise noted.  
[Ord. 5894, 10/14/17; Ord. 5947, 1/1/21; Ord. 5968, 1/14/22; Ord. 6004, 12/28/22]
- (2) In addition, except as otherwise noted, the standards of ADC Sections 8.110 through 8.160 apply to multiple-dwelling units with individual driveways permitted pursuant to ADC 12.100(2) that are located in the WF, CB, or DMU zone, or in the HD zone in a building where ground-floor residential use is permitted pursuant to ADC 5.070(17). [Ord. 5894, 10/14/17; Ord. 5947, 1/1/21; Ord. 6004, 12/28/22]
- (3) These standards do not apply to detached accessory dwelling units, existing structures, new additions to existing structures, or to homes in manufactured home parks.  
[Ord. 5894, 10/14/17; Ord. 5949, 1/1/21; Ord. 5968, 1/14/22]
- (4) Development on flag lots or on lots that slope up or down from the street with an average slope of 20 percent or more is exempt from these standards in Section 8.130 through 8.160.  
[Ord. 5445, 4/12/00; Ord. 5894, 10/14/17; Ord. 5968, 1/14/22]
- (5) New cottage cluster development shall meet the standards in Sections 8.175 in all zoning districts where permitted.  
[Ord. 5968, 1/14/22]
- (6) If a duplex, triplex, fourplex, or cottage cluster has been divided by a middle housing land division, the design standards in ADC 8.130 through 8.175 that are applicable to the lot or applicable on a per-lot basis shall apply to the middle housing parent lot, not to the middle housing child lots.

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[Ord. 5968, 1/14/22]

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

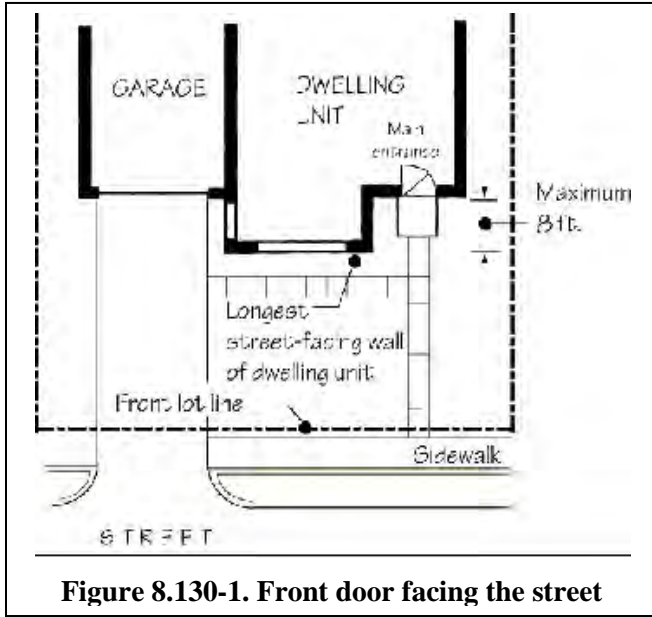
8.125 Egress Paths. Where the Building Official determines that the Oregon Building Code requires ingress or egress from a structure to the public way, and the ingress or egress will utilize part of an adjacent property, an access easement meeting the applicable Oregon Building Code requirements must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

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

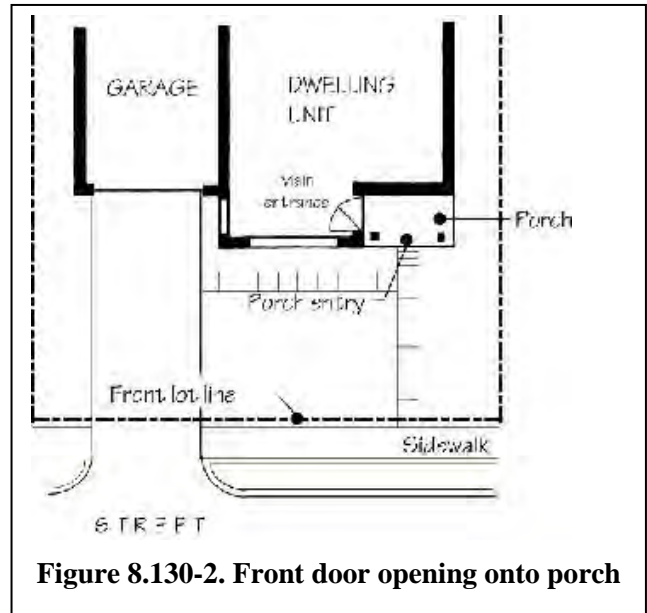
- (1) On each lot, at least one main entrance shall be within eight feet of the longest street-facing wall of the dwelling unit (excluding the garage); and either: [Ord. 5894, 10/14/17; Ord. 5968, 1/14/22]
    - (a) Face the street (see Figure 8.130-1);
    - (b) Be at an angle of up to 45 degrees from the street; or
    - (c) Open onto a porch (see Figure 8.130-2). The porch must:
      - i. Be at least 25 square feet in area;
      - ii. Have at least one entrance facing the street; and
      - iii. Have a roof that is:
        - No more than 12 feet above the floor of the porch; and
        - At least 30 percent solid. This standard may be met by covering 30 percent of the porch area with a solid roof, or by covering the entire area with a trellis or other open material if no more than 70 percent of the area of the material is open.
- [Ord. 5445, 4/12/00; Ord. 5947, 1/1/21]
- (2) On sites with frontage on both a private street and a public street, the standards apply to the site frontage on the public street. On all other sites with more than one street frontage, the applicant may decide on which frontage to meet the standards, except as provided in subsection (3). [Ord. 5947, 1/1/21; Ord. 5968, 1/14/22]
  - (3) For a corner lot, any street-facing façade with a main entrance must meet the standards in subsection (1). [Ord. 5968, 1/14/22]



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**Figure 8.130-1. Front door facing the street**



**Figure 8.130-2. Front door opening onto porch**

[Ord. 5947, 1/1/21]

(4)  
(5)

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

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

**Staff Comments:**

- [Table 8.220-1 Recreation and Open Space Requirements by Zoning District. Clarifying the types of development requiring Children’s Play Areas.](#)

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

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

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

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

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

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

- (1) Common Open Space in the CB, HD, DMU, WF, LE and MUR Zoning Districts. When required by Table 8.220-1, common open space shall provide a minimum of one indoor or outdoor common area amenity with no dimension less than 15 feet. Common area amenities must include fixed or movable seating. [Ord. 5947, 1/1/21]
- (2) Common Open Space in All Other Zoning Districts. When required by Table 8.220-1, in all zoning districts except the CB, HD, DMU, WF, LE, and MUR Zoning Districts, the following standards apply.
  - (a) Required common open space areas shall have no horizontal dimension less than 20 feet and shall be entirely improved with one or more of the following amenities:
    - i. Inground permanent swimming pools with a minimum area of 400 square feet, or inground spas or hot tubs. Patios and decks within 50 feet of the swimming pool, spa, or hot tub may be included. These amenities may not account for more than 60 percent of the required common open spaces.
    - ii. Regulation sized and equipped sports courts for tennis, handball, volleyball, and/or basketball. These amenities may not account for more than 50 percent of the required common open space.
    - iii. Gardens for use by residents to grow food. Gardens must have irrigation available for use by the residents. This amenity may not account for more than 50 percent of the required common open space.
    - iv. Lawn, ornamental gardens, and landscaped areas including trees and shrubs. Areas may include picnic tables, benches, and drinking fountains. This amenity may not account for more than 70 percent of the required common open space. If this amenity accounts for more than 50 percent of the required common open space, at least one bench or picnic table must be provided. Pathways, decks, or other hard surface areas or covered areas may be included but may not exceed 30 percent of the landscaped area.
    - v. Rooftop terrace accessible to residents. Terrace must include barbeques, tables, and seating that are available for use by residents.
    - vi. Areas within Significant Natural Resource overlay districts, per ADC 6.260, or stands of mature trees greater than or equal to six inches diameter at breast height that form a contiguous tree canopy (including areas within 10 feet of the drip line). These amenities may not account for more than 50 percent of the required common open space. Areas used for cluster development density transfers are not eligible for meeting common open space requirements.
    - vii. Indoor community room. This amenity may not account for more than 50 percent of the required common open space requirements.
    - viii. Approved vegetated post-construction stormwater quality facilities. This amenity may not account for more than 20 percent of the required common open space.
    - ix. Children’s Play Areas. Each children’s play area must include a play structure at least 100 square feet in area, and at least three (3) of the following: a swing structure with at least two (2) swings, a slide, a permanent sand box, permanent wading pool, or other children’s play



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

- (b) Limitations to Common Open Space Areas.
- i. Streets and parking areas, including areas required to satisfy parking lot landscape standards, shall not be applied toward the minimum usable open space requirement.
  - ii. Required setback areas may be applied toward the minimum usable open space requirement, except that sport courts, swimming pools and spas, and children's play areas shall not be allowed in any required setbacks.
  - iii. No more than 20 percent of the common open space requirement shall be on land with slopes greater than 20 percent.
- (c) Common Open Space Area Credit.
- i. A credit, not to exceed 25 percent of the required common open space area, shall be granted if there is direct access by a pedestrian path, not exceeding ¼ mile, from the proposed multiple-dwelling unit development to an improved public park and recreation area or public-school playground.
  - ii. A credit toward the minimum common open space area required by Table 8.220-1 shall be granted to development projects providing high value outdoor recreation amenities. Provision of high value amenities is determined by the dollar amount spent on the amenities as a proportion of the overall project cost (including all construction costs except land cost). The credit is calculated as follows: if one percent (1%) of the overall project development cost is spent on outdoor recreation facilities, the minimum amount of required common open space shall be reduced by 10 percent. Further reductions in the minimum required common open space area shall be proportional to spending. For example, if 1.5 percent of a project's cost is spent on outdoor recreation facilities, the minimum required common open space area shall be reduced by 15 percent. The total reduction shall not exceed 20 percent of the minimum required open space area. It is the responsibility of the applicant to document the overall project cost and the cost of the recreation amenities by providing cost estimates at the time of land use application. [Ord. 5947, 1/1/21; Ord. 6004, 12/28/22]
- (3) Private Open Space. When required by Table 8.220-1, private open space shall be provided that meets the standards of this section. Development in the CB, HD, DMU, WF, LE, and MUR Zoning Districts and assisted-living and nursing home developments in all zoning districts are exempt from these requirements.
- (a) For dwelling units providing required private open space, each dwelling unit located at finished grade, or within five feet of finished grade, shall have at least 80 square feet of private open space. All other dwelling units providing required private open space shall each have at least 72 square feet of private open space.
  - (b) No dimension of the required private open space shall be less than six feet.
  - (c) All required private open space shall be directly accessible from the dwelling unit through a doorway.
  - (d) Except for front porches, required private open space shall be physically and/or visually separated from common open space.
  - (e) Except for front porches, required private open space for at-grade dwellings shall be screened from view from public streets.
  - (f) Private open space that is provided at-grade may be within interior courtyards created within a single building or cluster of buildings.
  - (g) Private open space that is above grade may be provided individually, as with a balcony, or collectively by combining into a larger area that serves multiple units. [Ord. 5947, 1/1/21]
- (c) (4) Open Space Designated on Site Plan. Areas provided to satisfy the minimum open space

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

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

## ARTICLE 9 ON-SITE DEVELOPMENT AND ENVIRONMENTAL STANDARDS

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

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

**Staff Comments for Parking Plan elements in 9.020:**

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

### OFF-STREET PARKING AND LOADING

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

- (1) Calculating Floor Area for Maximum Parking. The area measured is the combined floor area of each level of a building exclusive of vent shafts, courtyards, stairwells, elevator shafts, restrooms, storage rooms and rooms designed and used for the purpose of storage and operation of maintenance equipment and covered or enclosed parking areas. [Ord. 6018, 6/30/23]
- (2) Employees. The number of employees shall include those working on the premises, plus proprietors, during the largest shift at peak season.
- (3) Fractional Space Requirements shall be counted to the nearest whole space; half spaces will be rounded up.
- (4) Unspecified Uses and Alternative Standards. When a use is not specifically listed in Table 9.020-1: Parking Requirements, the Director will determine if the use is similar to a listed use in terms of provided parking. When a use is not similar to a use listed in Table 9.020-1 or the applicant has documentation that demonstrates a different parking demand, the Director may approve alternative parking standards. Acceptable documentation may include parking standards from other cities of similar size, company data on parking demand, parking demand studies, or the ITE Parking Generation Manual. [Ord. 5832, 4/9/14; Ord. 5947, 1/01/21; Ord. 6018, 6/30/23]
- ~~(5) Off street parking for one use shall not be considered as providing parking facilities for any other use except through the provisions of Section 9.080, Joint Use of Parking Facilities.~~
- ~~(6)~~(5) Downtown Assessment District. Parking spaces are not required for uses located within the Downtown Off-Street Assessment District as established by separate ordinance. (A map of the district is located at the end of this Article as Figure 9.020-1.) However, improvement of parking areas within this District must comply with the standards of this Article. [Ord. 5947, 1/01/21]

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- ~~(7)~~(6) Site Plan Review may be required for new parking areas or expansions to existing parking areas unless specified in Section 2.430.
- ~~(8)~~(7) Temporary uses of less than 120 days, as defined in AMC Chapter 5.10 Transient and Itinerant Merchants and Vendors, are not required to meet the standards in this section. [Ord. 5832, 4/9/14]
- ~~(9)~~(8) Maximum Parking. Parking provided with new development in the HD – Historic Downtown, DMU – Downtown Mixed Use, CB – Central Business, LE – Lyon Ellsworth, WF – Waterfront, and the ES – Elm Street zones must not exceed the maximum parking standards provided in Table 9.020-1. Parking provided in all other zoning districts must not exceed 30 percent above the maximum parking limits in Table 9.020-1. [Ord. 6018, 6/30/23]
  - (a) Shared Parking. In the case of mixed-use and multi-tenant developments, the total maximum parking requirements for off-street parking are the sum of the requirements for the various uses for which parking is provided. [Ord. 6018, 6/30/23]
  - (b) Exemptions to Maximum Parking Allowance. The following types of parking do not count toward the maximum amount of parking allowed on a site. This exemption applies only to the quantity requirements in Table 9.020-1 and not to other requirements of this Article. The City may impose conditions to ensure that parking spaces associated with these parking types are appropriately identified and used for their intended purpose.
    - i. Non-surface parking, such as tuck-under parking, underground and subsurface parking, and parking structures may be exempted from the calculations in this section.
    - ii. Parking for a transit facility or park and ride facility.
    - iii. Storage or display areas for vehicle sales.
    - iv. Employee carpool parking when spaces are dedicated or reserved for that use.
    - v. Fleet and company vehicle parking.
    - vi. Single-dwelling and middle housing dwelling units. [Ord. 6018, 6/30/23]

**Staff Comments for Table 9.020-1 Maximum Parking Standards:**

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

**TABLE 9.020-1  
MAXIMUM PARKING STANDARDS**

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

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

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USE	MAXIMUM PERMITTED
<b>INSTITUTIONAL, PUBLIC and SEMI-PUBLIC</b>	
Daycare <u>Facilities</u> , <del>Nursery Schools, Kindergarten and Daycare Homes or Facilities</del>	1 per employee plus 1 per 10 persons being cared for
Education: Elementary, junior high and other children’s day school	1 per classroom plus 1 per 2 employees
Education: high schools, colleges, universities, and trade or business schools	Subject to land use review
Hospitals	1 per 2 beds plus 1 per staff doctor plus 1 per 2 full-time employees
Jails and Detention Facilities	1 per 5 beds
Libraries, reading rooms, museums, and art galleries	1 per 2 employees plus 1 per 500 square feet
Parks, open areas, and cemeteries	Subject to land use review
Religious assembly	1 per 6 seats or 12 feet of bench length
<b>RESIDENTIAL</b>	
Assisted Living, Residential Care facilities, Nursing or Convalescent homes	1 per 3 beds at capacity
Multi-Dwelling Unit: Studio and 1-bedroom units	1 space per unit, plus 1 visitor space every 4 units
Multi-Dwelling Unit: 2-bedroom units	1.5 spaces per unit, plus 1 visitor space every 4 units
Multi-Dwelling Unit: 3 or more bedroom units	2 spaces per unit, plus 1 visitor space every 4 units
<del>Multi-Dwelling Unit: Quad and quint units (SRO Units)</del>	<del>0.75 space per unit</del>
Senior housing	1 space per 2 units
Student housing	1 per 2 students at capacity
Boarding and rooming houses	1 space per 2 occupants at capacity
<del>Group or residential care homes</del>	<del>1 space per employee plus 1 space per 5 beds</del>

**Staff Comments Table 9.030-1, Bicycle Parking Standards:**

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

- 9.030 Bicycle Parking. Bicycle parking must be provided in the amounts specified in Table 9.030-1 for all new development and changes of use.
- (1) Exemptions. The Community Development Director may allow exemptions to or reductions in required bicycle spaces in connection with temporary uses or uses that are not likely to need bicycle parking, and parking for uses in existing buildings within the HD, CB, LE, DMU, and WF zoning districts.
  - (2) Mixed Uses and Multi-Tenant Developments. When two or more uses occupy a single structure or lot, the total required bicycle parking is the sum of the requirements of individual uses.
  - (3) Climate Friendly Area Requirements. Bicycle parking and ancillary facilities for shared bicycle parking and

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

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

**TABLE 9.030-1  
BICYCLE PARKING STANDARDS**

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



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

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

**Staff Comments:**

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

9.035 Carpool/Vanpool Spaces.

- (1) When parking is provided, at least one standard-sized parking space shall be reserved for carpool/vanpool parking, or ten percent of employee-use parking spaces provided, whichever is greater.
- (2) Preferential carpool/vanpool parking spaces must be closer to the employee entrance of the building than other parking spaces, except for ADA accessible parking spaces.
- (3) Required carpool/vanpool spaces must be clearly marked “Reserved – Carpool/Vanpool Only.”  
[Ord. 6018, 6/30/23]
- (4) Residential development is not required to provide carpool/vanpool spaces.

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

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



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Section 9.130.

[Ord. 6018, 6/30/23]

- (1) General. All parking spaces must be improved in accordance with these standards and available for use at the time of project completion.
- (2) Other Requirements. All parking areas shall conform to the setback, clear vision, landscaping, and buffering/screening provisions of this Code.
- (3) Surfacing. All ~~required-provided~~ parking, including travel aisles and access, shall have a durable, dust-free surface of asphalt, cement concrete, or other materials approved by the Director. Parking lot surfacing shall not encroach upon the public right-of-way except when it abuts a concrete public sidewalk or has been otherwise approved by the Director of Public Works. Pervious pavements, such as pervious asphalt or pervious concrete, may be allowed by the Director of Public Works.  
[Ord. 5832, 4/9/14; Ord. 5842, 1/01/15]
- (4) Drainage. All parking lots must provide a drainage system to dispose of the runoff generated by the impervious surface. Post-construction stormwater quality facilities are required per Title 12 of the Albany Municipal Code when applicable. Provisions shall be made for the on-site collection of drainage water to eliminate sheet flow of such water onto sidewalks, public rights-of-way, and abutting private property. All drainage systems must be approved by the Director of Public Works.  
[Ord. 5842, 1/01/15]
- (5) Perimeter Curb. Perimeter curbing is required for protection of landscaped areas and pedestrian walkways, and to prevent runoff onto adjacent properties. All parking areas over 1,000 square feet (contiguous) for residential dwellings, parking areas of any size for all other uses, or approved overflow parking areas shall provide a curb at least 6 inches high along the perimeter of all parking areas. Exceptions may be allowed for connections to approved vegetated post-construction stormwater quality facilities.  
[Ord. 5832, 4/9/14; Ord. 5842, 1/01/15; Ord. 5968, 1/14/22]
- (6) Wheel Bumper. In parking areas over 1,000 square feet (contiguous) for residential dwellings, or parking areas of any size for all other uses, all parking stalls fronting a sidewalk, alleyway, street or property line shall provide a secured wheel bumper at least six inches high and at least six feet long, set back from the front of the stall at least 2-1/2 feet, but no more than three feet. If the sidewalk is widened to seven feet six inches to allow for vehicle encroachment, no wheel bumpers are required.  
[Ord. 5968, 1/14/22]
- (7) Turnaround. For parking areas that meet one of the thresholds in subsections (a) or (b), parking spaces must be located and served by an aisle or turnaround so that their use will require no backing movements or other maneuvering in a street right-of-way other than an alley.
  - (a) Residential dwellings: Parking areas over 1,000 square feet (contiguous). Driveways that could provide additional tandem parking spaces are not included in this calculation.
  - (b) All other development: Two or more parking spaces.  
[Ord. 5968, 1/14/22]
- (8) Striping. Lots containing more than two parking spaces must have all ~~required~~-spaces permanently and clearly striped. Stripes must be at least four inches wide. When motorcycle parking, compact, or handicapped parking spaces are provided, they shall be designated within the stall.
- (9) Connecting to Adjacent Parking Areas. Where an existing or proposed parking area is adjacent to a developed or undeveloped site within the same zoning district, any modifications to the parking areas must be designed to connect to the existing or future adjacent parking area. This requirement may be waived by the Director when it is deemed impractical or inappropriate due to the nature of the adjoining uses.  
[Ord. 5832, 4/9/14]
- (10) Parking Lot Landscaping. Parking lots over 1,000 square feet (contiguous) shall be landscaped according to the standards in Section 9.150.  
[Ord. 5968, 1/14/22]
- (11) Compact Car Parking. No more than 40 percent of parking spaces provided may be designated for compact cars. Compact spaces must be signed and/or the space painted with the words "Compact Car Only."
- (12) Accessible Parking. All parking areas must provide accessible parking spaces in conformance with the

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

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

[Ord. 5947, 1/01/21, Ord. 6018, 6/30/23]

**Figure 9.100-1: Examples of Shielded Light Fixtures**



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

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

**Staff Comments:**

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

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

- (1) When new development, including expansions to existing structures, results in the conversion or elimination of existing off-street surface parking and loading areas, including travel aisles, for a use other than bicycle-oriented and transit-oriented facilities (bicycle parking, bus stops and pullouts, bus shelters, park and ride stations, and similar facilities), all existing parking areas that are physically impacted by the development must be improved to the standards in Article 9. For this section, physically impacted shall include the removal of surfacing, surface striping, or landscaping in association with the new development. Re-striping of existing parking with no change to layout and internal remodels or changes of use to an existing approved development that do not extend a structure or associated facility into the existing parking area are exempt from this standard.
- (2) Conversion or elimination of off-street parking and loading areas, including travel aisles, to uses other than bicycle- and transit-oriented facilities is subject to Site Plan review in accordance with ADC 2.430(4).
- (3) Conversion of off-street parking and loading areas to other uses ~~Developments~~ on nonconforming sites are subject to incremental improvements in accordance with ADC 2.330.
- (4) Access for emergency vehicles must be retained, and adequate parking for truck loading should be considered. [Ord. 6018, 6/30/23]

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

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

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These standards are also intended to help ensure pedestrian safety and comfort within large parking lots.

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

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

[Ord. 6018, 7/1/23; Ord. 6024, 12/29/23]

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

- (a) Solar Panels. Installation of solar panels with a generation capacity of at least 0.5 kilowatt per new parking space on the property. Panels may be located anywhere on the property.
- (b) Public Buildings. Construction, reconstruction, or major renovation of a public building, as defined by ORS 270c.527 that complies with Oregon Administrative Rule 330-135-0010.
- (c) Tree Canopy. Trees shall be planted and maintained throughout new or improved parking areas to ensure that at least 40 percent of all parking surface areas will be covered within fifteen years after planting (or 20 years old). Tree canopy shall be calculated from a plan view of the tree planting plan and expected crown diameter at fifteen years from planting or 20 years old. Existing mature trees that are preserved may be included in the canopy calculation using the current canopy size. Area under the canopy that is either paved surface or parking lot landscaping (interior or perimeter) shall be subject to canopy calculations unless specifically exempt per below. Canopy that covers structures may not be included in the calculation, however canopy that covers unenclosed carports over parking spaces may be included. The full canopy area based on the 20-year crown diameter may be counted for tree coverage where there is an overlap of 5 feet or less (measurement to be the length of a line segment within the overlap area of a line between tree trunk/canopy centers).

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

- i. Truck loading area in front of overhead doors.
- ii. Truck maneuvering, storage, and parking areas unconnected to and exclusive of any vehicle parking.
- iii. Tree canopy or solar panel requirements may be reduced by 50 percent for surface lots provided at automobile dealerships for display/sales/service/vehicle storage areas and provided employee and visitor parking.

- (d) Combination. A combination of options (a) or (c) in this section.

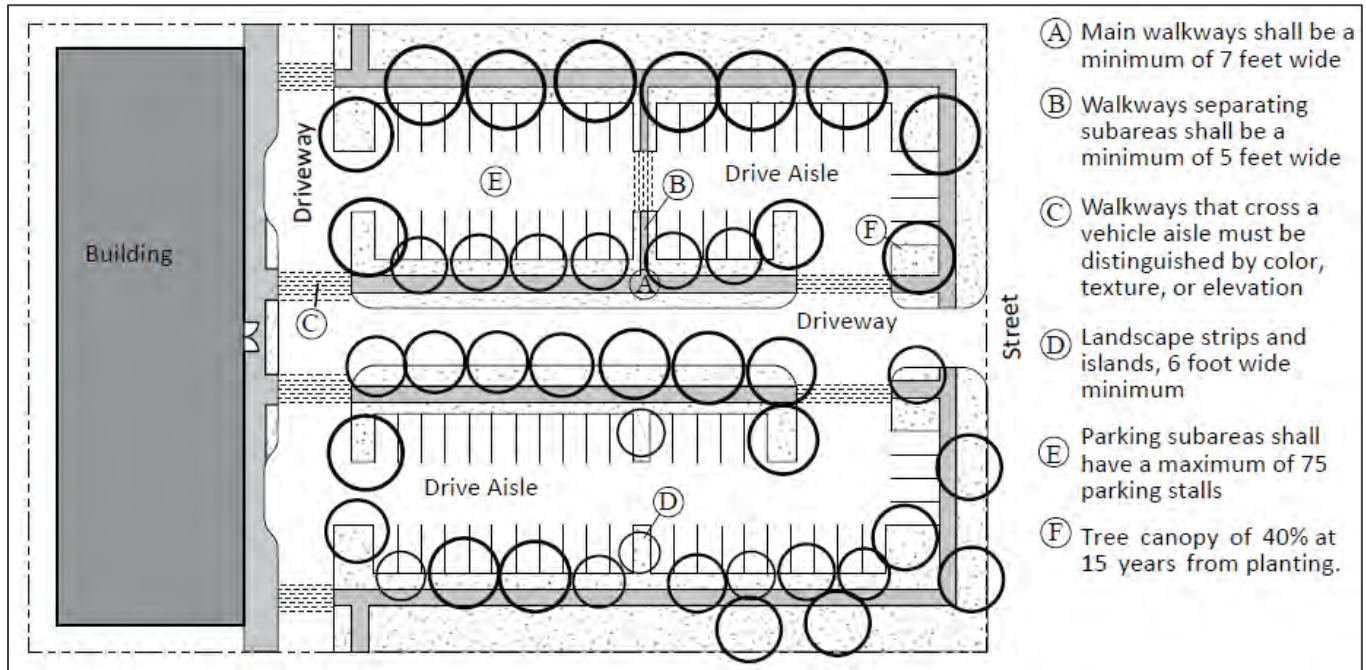
[Ord. 6018, 6/30/23; Ord. 6024, 12/29/23]

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

[Ord. 6018, 6/30/23]

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**FIGURE 9.130-1. Sample Layout for Large Parking Area**



[Ord. 6018, 6/30/23]

- (4) Development of a tree canopy plan under this section shall be done in coordination with the local electric utility and other utility providers, including pre-design, design, building and maintenance phases and meet the following standards.
  - (a) The tree spacing and species planted must be designed to achieve the minimum tree canopy of 40 percent using the expected diameter of the tree crown at 15 years from planting (or 20 years old).  
Trees must be planted and maintained to maximize their root health and chances for survival, including having ample high-quality soil, space for root growth, and reliable irrigation according to the needs of the species.
  - (b) Trees should be planted in continuous trenches with a minimum soil depth of 3 feet and width of 5 feet where possible.
  - (c) The minimum standards for planting and tree care shall be no lower than 2021 American National Standards Institute (ANSI) A300 standards.
  - (d) The property owner is responsible for maintaining all required vegetation. Compliance with these standards will be enforced through the City’s code enforcement process.

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

- (5) Walkways. For the safety of pedestrians, parking lots shall be designed to separate pedestrians from vehicles and include protected pedestrian walkways from parking areas to building entrances. Walkways shall be protected by landscaping, curbs, or parking bumpers. Walkways may cross a vehicle aisle if distinguished by a color, texture, or elevation different from the parking and driving areas. Walkways shall not share a vehicle aisle.

[Ord. 5886, 1/6/17]

- (6) Parking Lots with More Than 75 Spaces. Parking lots with 75 or more spaces must comply with the following additional standards to ensure pedestrian safety and to improve vehicle circulation and reduce visual impacts of large expanses of pavement.

- (a) When pedestrian walkways connecting a main building entrance to the street are required pursuant to ADC 8.370(2)(b) and must cross a large surface parking area with more than 75 spaces, standards (a) and (b) below shall apply.
  - i. The walkway shall be at least seven feet wide and must meet standards for an accessible path of travel in accordance with the Americans with Disabilities Act (ADA).



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- ii. The walkway shall incorporate a mix of landscaping, benches, and drop-off bays for at least 50 percent of the length of the walkway. [Ord. 5947, 1/1/21]
- (b) Parking Subareas. To reduce the visual impact of large expanses of paving, to direct vehicular traffic through the parking lot, and to provide a location for pedestrian walkways, parking areas shall be divided into subareas of no more than 75 parking spaces each. Parking subareas shall be separated from each other with physical breaks by providing one or more of the following: building pads, landscape strips, landscaped pedestrian walkways, interior streets or driveways as defined in 9.120(2). Landscape strips or landscaped pedestrian walkways used for subarea separation shall meet the following standards.
  - i. Landscape strips shall have a minimum width of six feet that is unobstructed by obstacles that would impede landscape viability, including overhanging cars.
  - ii. Landscaped pedestrian walkways shall have a minimum unobstructed walkway width of five feet. Landscaping may be on one or both sides of a pedestrian walkway, with a minimum landscape strip width of six feet when provided. [Ord. 5886, 1/6/17; Ord. 5947, 1/1/21; Ord. 6018, 6/30/23]

**\*\*\*No changes are proposed to Sections 9.133 -9.202, so they are not provided.\*\*\***

**Staff Comments:**

9.205(2) Definition – Fell. Update the definition to include removal of 40 percent of the crown, trunk, or root system of a tree or to damage to a tree to cause the tree to decline or die to be consistent with the Albany Municipal Code.

9.203 Definitions. For the purposes of the following sections, these definitions apply:

- (1) Critical Root Zone: The area around a tree where roots are critical to a tree’s survival. For the purposes of this section, the critical root zone is estimated and expressed as a circle around the center of a tree’s trunk, where the radius is calculated by adding one foot for every one inch of trunk diameter plus the tree trunk’s radius, and where all tree measurements are consistent with those for establishing Tree Circumference. For example, a tree with a Tree Circumference of 6.5 feet would have a trunk radius of 1.0 feet and diameter of 25 inches. The critical root zone would be a circle with a radius of 26 feet (1ft + (25 in \* 1ft/in)) from the center of the tree’s trunk and have a total diameter of 52 feet. [Ord. 5947, 1/1/21]
- (2) Fell: ~~To remove or sever a tree or the intentional use of any procedure the natural result of which is to cause the death or substantial destruction of the tree. Fell does not in any context include normal pruning of trees. To cut down a tree or remove 40 percent or more of the crown, trunk, or root system of a tree; or to damage a tree so as to cause the tree to decline or die. The term "removal" includes, but is not limited to, topping, damage inflicted upon a root system by application of toxic substances, operation of equipment and vehicles, storage of materials, change of natural grade due to unapproved excavation or filling, or unapproved alteration of natural physical conditions. Fell does not in any context include normal trimming or pruning of trees.~~ [Ord. 5947, 1/1/21]
- (3) Tree: A living, standing, woody plant. [Ord. 5764, 12/1/11; Ord. 5947, 1/1/21]
- (4) Tree Circumference: The circumference of a tree is measured at 4-1/2 feet above mean ground level from the base of the trunk. To obtain the circumference of a tree with multiple trunks, add the individual trunk circumferences, which are greater than 6 inches in circumference. [Ord. 5445, 4/12/00; Ord. 5947, 1/1/21]

**\*\*\*No changes are proposed to Sections 9.204 -9.250, so they are not provided.\*\*\***

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**Staff Comments:**

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

9.255 Screening of Refuse Containers. The following standards apply to all developments except for refuse containers or disposal areas serving four or fewer dwellings. Any refuse container or disposal area that would otherwise be visible from a public street, customer or resident parking area, any public facility, or any residential area, must be screened from view by placement of a sight-obscuring fence, wall, or hedge at least 6 feet tall. Refuse disposal areas may not be located in required setback areas or buffer yards and must be contained within the screened area. All refuse materials shall be contained within the screened areas and the disposal area must be covered. The cover must be at least 8 feet in height. No refuse container shall be placed within 15 feet of a dwelling window. [Ord. 6018, 6/30/23]

*\*\*\*No changes are proposed to the rest of Article 9, so sections are not provided.\*\*\**

## ARTICLE 10 MANUFACTURED HOME DEVELOPMENT STANDARDS

10.000 Overview. This article contains the standards of development for manufactured housing placed on individual lots and in manufactured home parks within the City. Manufactured and prefabricated dwellings provide a wide choice of housing types suitable for a variety of households, lifestyles and income levels. The standards contained in this article are intended to provide a suitable living environment for residents of manufactured homes and establish development standards that will increase compatibility with adjacent land uses. The following is a list of the main headings in this article. [Ord. 6008, 1/27/23]

- General Provisions
- Placement on Individual Lots
- Manufactured Home Parks
- Temporary Placements
- Recreational Vehicle Parks

*\*\*\*No changes are proposed to Sections 10.100 -10.290, so they are not provided.\*\*\**

**Staff Comments:**

- 10:300: Remove the requirement for ten copies of the plot plan.
- 10.440: RVs were recently added as a form of temporary dwelling unit. Staff recommends clarifying that the temporary dwelling special use permit is also applicable to temporary on-site residences.

### APPLICATION REQUIREMENTS

10.300 Plot Plans Required. The application for a new or expansion of an existing manufactured home park shall be accompanied by ~~ten copies of~~ the plot plan of the proposed park. The plot plan must show the general layout of the entire manufactured home park and must be drawn to a scale not smaller than 1" = 40'. In addition to the application requirements for Site Plan Review, the plan must include the following information:

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[Ord. 5968, 1/14/22]

- (1) The location of adjacent streets and all private right-of-way existing and proposed within 300 feet of the development site.
- (2) A legal survey.
- (3) The boundaries and dimensions of the manufactured home park.
- (4) The size (in square feet), location, dimensions and number of each manufactured home space.
- (5) The name and address of manufactured home park.
- (6) The scale and north point of the plan.
- (7) The location and dimensions of each existing or proposed structure, together with the usage and approximate location of all entrances, height, and gross floor area.
- (8) The location and width of access ways and walkways.
- (9) The extent, location, arrangement, and proposed improvements of all off-street parking and loading facilities, open space, landscaping, fences and walls, and garbage receptacles.
- (10) Architectural drawings and sketches demonstrating the planning and character of the proposed development.
- (11) The total number of manufactured home spaces. [Ord. 5968, 1/14/22]
- (12) The location of each lighting fixture for lighting manufactured home spaces and grounds.
- (13) The location of recreation areas, buildings, and area of recreation space in square feet.
- (14) The point where the manufactured home park water and sewer system connects with the public system.
- (15) The location of available fire and irrigation hydrants.
- (16) A manufactured home shall be drawn on each space to demonstrate how each of the space standards will be met. Dimensions shall be shown for the size of the manufactured home and to demonstrate compliance with the orientation standards.
- (17) The location and species of trees that are at least 25 inches in circumference (approximately eight inches in diameter).

**TEMPORARY PLACEMENTS**

10.440 General. A special use permit may be issued to an applicant for a temporary dwelling for ~~showing an undue a temporary hardship, or temporary on-site residence~~. The special use permit shall not exceed the length specified by the permit type. The temporary dwelling shall be a manufactured home or Recreational Vehicle and placed on the owner or caretaker's property in accordance with the provisions that follow.

**\*\*\*No changes are proposed to the rest of Article 10, so sections are not provided.\*\*\***

**ARTICLE 11  
LAND DIVISIONS AND PLANNED DEVELOPMENTS**

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

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

- General Provisions



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

- Lot and Block Arrangement
- Property Line Adjustments
- Subdivisions and Partitions
- Planned Developments
- Condominiums
- Cluster Development
- Expedited and Middle Housing Land Divisions

[Ord. 5668, 4/11/07; Ord. 5968, 1/14/22]

11.010 Relationship to State Law. Oregon Revised Statutes (ORS) Chapter 92 governs all land divisions. This chapter permits the City to develop its own procedures and review criteria. Because the state law particularly limits the City’s discretion in these matters, users of this Code are encouraged to review ORS Chapter 92 at the same time. Because of the many state requirements in this area, this article cannot be relied upon to provide all of the regulations that are applicable to land divisions. At the time of adoption of this article in 1992, the following provisions of state law were identified as particularly applicable:

- ORS 92.025 - Prohibition of sales of lots or certain interests prior to recordation of plat.
- ORS 92.050 - Requirements of survey and plat of subdivisions and partitions.
- ORS 92.060 - Monument requirements for subdivisions, partitions and property line adjustments.
- ORS 92.090 - Requisites for approval of tentative subdivision or partition plat.
- ORS 92.120(5) - Disclosure of water rights information when dividing land.
- ORS 92.180 - Authority to review replats.
- ORS 92.205 - Policy on undeveloped subdivisions.

The foregoing is not intended to be an exclusive list of all of the provisions of state law, which must be considered by an applicant or staff in reviewing land division applications. By the same token, the provisions of state law, which are listed above, are not mandatory provisions of this Code. Rather they are merely intended to warn the reader of the need for careful contemporaneous review of state law.

11.020 Relationship to Public Improvements Article. All proposed developments governed by this article must meet the applicable design, and construction standards 1of Article 12 - Public Improvements.

**Staff Comments:**

- 11.030 Building Code Egress Requirements: Adding a requirement for egress paths as required by the Oregon Building Code.

11.030 Relationship to Other Local Regulations. All proposed development governed by this article must meet the underlying zoning district standards, applicable lot and block standards under this Section, the applicable on-site improvements of Article 9 (e.g., off-street parking, landscaping, buffering and screening), the applicable Natural Resource District Requirements of Article 6 (e.g., open space, floodplain, hillside development, significant wetlands, habitat assessment, riparian corridor, and Willamette River Greenway), and the post-construction stormwater quality requirements in Title 12 of the Albany Municipal Code. Where the Building Official determines that the Oregon Building Code requires ingress or egress from a structure to the public way and that such ingress or egress will utilize part of an adjacent property; an access easement meeting the applicable Oregon Building Code requirements shall be recorded with the county recorders prior to submitting for application for building permits.

[Ord. 5764, 12/1/11; Ord. 5842, 1/1/15, Ord. 5886, 1/6/17]

**\*\*\*No changes are proposed to Sections 11.140 -11.080, so they are not provided.\*\*\***

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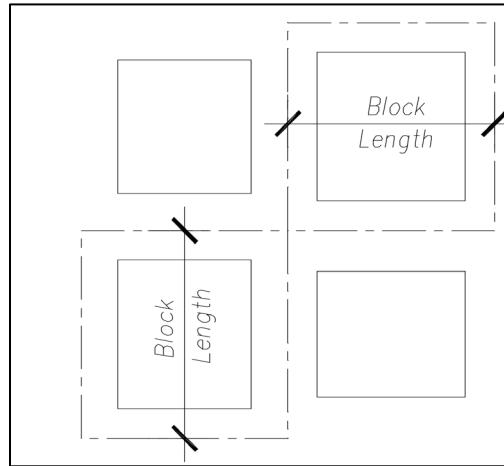
### Staff Comments for Section 11.090 Lot and Block Arrangements:

- (5) Average block length: The current language on how to calculate average block lengths for residential subdivisions is confusing. Staff proposes to add a maximum block length for now to help. Note, the city will be modifying block length standards citywide to comply with Climate Friendly and Equitable Communities block length standards in the future.
- (9) Curb Radius. Revising to align the ADC with the Engineering Standards regarding the required curb radius at street intersections.

- 11.090 Lot and Block Arrangements. In any land division for single-dwelling unit residential or middle housing development, lots and blocks shall conform to the following standards in this Article and other applicable provisions of this Code: [Ord. 5968, 1/14/22; Ord. 6004, 12/28/22]
- (1) Lot arrangement must be such that there will be no foreseeable difficulties, for reason of topography or other condition, in securing building permits to build on all lots in compliance with the requirements of this Code ~~with the exception of except for~~ lots designated Open Space.
  - (2) Lot dimensions must comply with the minimum standards of this Code. When lots are more than double the minimum area designated by the zoning district, those lots must be arranged so as to allow further subdivision and the opening of future streets where it would be necessary to serve potential lots. An urban conversion plan ~~may be is~~ required in conjunction with submittal of tentative subdivision or partition plat.
  - (3) Double frontage lots shall be avoided except when necessary to provide separation of residential developments from streets of collector and arterial street status or to overcome specific disadvantages of topography and/or orientation. When driveway access from arterials is necessary for several adjoining lots, those lots must be served by a combined access driveway ~~in order~~ to limit possible traffic hazards on such streets. The driveway shall be designed and arranged ~~so as~~ to avoid requiring vehicles to back into traffic on arterials. An access control strip shall be placed along all lots abutting arterial streets requiring access onto the lesser class streets s where possible. [Ord. 5968, 1/14/22]
  - (4) Side ~~property lines yards of a lot~~ shall run at right angles to the street the property faces through the front setback line or 10 feet, whichever is greater, except that on a curved street frontage the side property line shall be radial to the curve through the front setback line or 10 feet, whichever is greater.
  - (5) The average block length shall not exceed 600 feet and no individual block length shall exceed 800 feet. Block length is defined as the distance along a street between the centerline of two intersecting through streets (Figure 11.090-1). The City may grant an exception to the average and maximum block length standards s based on one or more of the conditions in subsections (a) through (c) below. [Ord. 5947, 1/1/21; Ord. 5968, 1/14/22]
    - (a) Physical conditions preclude an average block length of 600 feet or less or a maximum block length greater than 800 feet. Such conditions may include steep slopes or the existence of physical features, including, but not limited to: wetlands, riparian corridors, mature tree groves, or a resource under protection by State or Federal law.
    - (b) Existing transportation or utility facilities, buildings, or other existing development on adjacent lands, including previously subdivided but vacant lots or parcels, physically preclude an average block length of 600 feet or less or a maximum block length greater than 800 feet, considering the potential for redevelopment.
    - (c) An existing public street or streets terminating at the boundary of the development site have a block length exceeding 600 feet or are situated such that the extension of the street(s) into the development site would create a block length exceeding ~~6~~800 feet. In such cases, the average block length shall be as close to 600 feet as practicable. [Ord. 5968, 1/14/22]

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**FIGURE 11.090-1. Block Length**



[Ord. 5947, 1/1/21]

- (6) Off-street pedestrian pathways shall be connected to the street network and used to provide pedestrian and bicycle access in situations where a public street connection is not feasible.
- (7) With the minimum of townhouse development, the minimum frontage of a lot on a cul-de-sac shall be 22 feet as measured perpendicular to the radius. [Ord. 5886, 1/6/17; Ord. 5968, 1/14/22]
- (8) Flag lots are allowed only when the City Engineer has determined that the dedication and improvement of a public street is not feasible or not practical. The minimum width for a flag is 22 feet, except when access is shared by an access and maintenance agreement in which case each lot shall have a minimum width of 12 feet and a combined minimum of 24 feet. [Ord. 5886, 1/6/17; Ord. 5968, 1/14/22]
- (9) At all street intersections, an arc along the property lines shall be established so that construction of the street at maximum allowable width, centered in the right-of-way, shall require not less than a twenty-foot radius of the curb line radius of the curb line not less than the table below:-

<u>Intersection</u>	<u>Curb Radius</u>
<u>Residential - Residential</u>	<u>15 feet</u>
<u>Residential – Collector or Arterial</u>	<u>20 feet</u>
<u>Collector – Collector or Arterial</u>	<u>30 feet</u>
<u>Arterial - Arterial</u>	<u>30 feet</u>

[Ord. 5445, 4/12/00; Ord. 5912, 7/11/18]

**\*\*\*No changes are proposed to Sections 11.100-11.140, so they are not provided.\*\*\***

**SUBDIVISIONS AND PARTITIONS**

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

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- 11.170 Procedure.
- (1) Except as provided in subsection (2), a tentative subdivision or partition plat is reviewed through the Type I-L procedure. [Ord. 5968, 1/14/22]
  - (2) A tentative subdivision plat that is reviewed concurrently with a Planned Development or a Cluster Development is subject to the Type III procedure. [Ord. 5968, 1/14/22]
  - (3) A final subdivision or partition plat is reviewed through the Type I procedure. [Ord. 5562, 10/10/03]
- 11.180 Tentative Plat Review Criteria. Approval of a tentative subdivision or partition plat, including for Planned Development, will be granted if the review body finds that the applicant has met all of the following criteria which apply to the development: [Ord. 5968, 1/14/22]
- (1) The proposal meets the development standards of the underlying zoning district, and applicable lot and block standards of this Article. [Ord. 5886, 1/6/17; Ord. 5968, 1/14/22]
  - (2) Development of any remainder of property under the same ownership can be accomplished in accordance with this Code.
  - (3) Adjoining land can be developed or is provided access that will allow its development in accordance with this Code.
  - (4) The Public Works Director has determined that transportation improvements are available to serve the proposed subdivision or partition in accordance with Article 12 or will be made available at the time of development. [Ord. 5968, 1/14/22]
  - (5) The Public Works Director has determined that public facilities and utilities are available to serve the proposed subdivision or partition in accordance with Article 12 or will be made available at the time of development. [Ord. 5968, 1/14/22]
  - (6) Activities and developments within special purpose districts must comply with the regulations described in Articles 4 (Airport Approach), 6 (Natural Resources), and 7 (Historic), as applicable. [Ord. 5764, 12/1/11]
- 11.190 Tentative Plat Conditions of Approval. The City may attach conditions of approval of a tentative subdivision or partition plat to ensure that the proposal will conform to the applicable review criteria.
- 11.200 Appeal of a Tentative Plat Decision. A decision to approve, approve with conditions, or deny a tentative subdivision or partition plat is a limited land use decision that may be appealed in accordance with the appeal procedures in Article 1. [Ord. 5947, 1/1/21]

**Staff Comments:**

- 11.210(8 & 9): Separating submittal requirements for right-of-way related items and utility related items. In addition, adding a requirement for a storm drainage report when more than 5,000 square feet of impervious surface will be added during development.

- 11.210 Tentative Plat Submittal. All applications for tentative partition or subdivision approval must include a complete application form and copies of a plat showing the following details. The tentative plat need not be a finished drawing, but it should show all pertinent information to scale.
- (1) When the land to be subdivided contains only part of the tract owned or controlled by the subdivider, a sketch is required of a tentative layout for streets and utilities in the undivided portion indicating connections to existing or future improvements.
  - (2) If the tentative plat does not show the following information, a vicinity map at a scale of 400 feet to the inch shall be prepared showing:
    - (a) All existing subdivisions, streets and tract lines of acreage land parcels immediately adjoining the proposed subdivision and between it and the nearest existing arterial streets.
    - (b) Name of the record owners of all contiguous land parcels.

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- (c) How streets and alleys in the proposed subdivision may connect with existing or proposed streets and alleys in neighboring subdivisions or undeveloped property to produce the most advantageous development of the entire neighborhood area.
- (3) The tentative plat shall be drawn to a standard engineer's scale where 1-inch equals 20 - 60 feet; or for areas over 100 acres, 1 inch equals 200 feet (1" = 200').
- (4) The name, if any, of the land division; this name must not duplicate or resemble the name of another subdivision in the same county or in the same area within six miles of Albany and must be approved by the Director and the County Surveyor.
- (5) Date, north point, and scale of drawing.
- (6) Location of the land division by section, township and range, and a legal description sufficient to define the location and boundaries of the proposed tract or the tract designation or other description according to the real estate records of the County Assessor.
- (7) Names and addresses of the property owner(s), subdivider, surveyor, and engineer, if applicable.
- (8) The location, widths and names of all existing or platted streets or other public ways within or directly adjacent to the tract; and other important features, such as railroad rights-of-ways, and City boundary lines.
- ~~(8)~~(9) The location on the site and in the adjoining streets or property of existing and proposed sanitary sewers, storm drain facilities, ~~(including post construction stormwater quality facilities, detention facilities and supporting calculations)~~, and water mains and services, culverts, ditches and drainpipes, all other utilities such as electric, gas and telephone conduits with invert elevations of sanitary and storm sewers at points of proposed connections. A storm drainage report is required when 5,000 square feet of new or replaced impervious surface is added for all phases of development. The storm drainage report must include infiltration feasibility as outlined in the Engineering Standards.  
[Ord. 5720, 8/12/09; Ord. 5842, 1/1/15]
- ~~(9)~~(10) Contour lines showing proposed excavations, fills and grading and having the following minimum intervals:
- One-foot contour intervals for ground slopes less than 5 percent.
  - Two-foot contour intervals for ground slopes between 5 and 10 percent.
  - Five-foot contour intervals for ground slopes exceeding 10 percent.
- The elevations of all control points which are used to determine the contours. Contours shall be related to City of Albany datum. [Ord. 5842, 1/1/15]
- ~~(10)~~(11) Approximate location of areas subject to storm water inundation or overflow with approximate high-water elevation.
- ~~(11)~~(12) Location, width, direction and flow of all water courses.
- ~~(12)~~(13) Location of properties within the 100-year floodplain and other areas subject to flooding or ponding (see the Floodplain standards in Article 6).
- ~~(13)~~(14) Location of the following significant natural resources:
- (a) Significant wetlands identified on the City's Local Wetlands Inventory;
  - (b) Significant riparian areas on the City's Riparian Corridor Inventory;
  - (c) Significant wildlife habitat, if known;
  - (d) Existing channels or drainage ways as shown in the most current version of the City of Albany Stormwater Master Plan; and
  - (e) Slopes greater than 12 percent. [Ord. 5764, 12/1/11; Ord. 5842, 1/1/15]
- ~~(14)~~(15) Location of the following natural features

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- (a) Non-significant wetlands identified on the City's Local Wetlands Inventory, and other wetlands;
- (b) Trees over 25 inches in circumference (approximately 8 inches in diameter) measured 4½ feet above the mean ground level from the base of the trunk. (To obtain the circumference of a tree with multiple trunks, add the individual trunk circumferences, which are greater than 6 inches in circumference);
- (c) Springs; and
- (d) Trees proposed for protection and method of protection.

[Ord. 5764, 12/1/11; Ord. 5842, 1/1/15]

~~(15)~~(16) Existing uses of the property and adjacent property within 100 feet, including the location of all existing structures and other impervious surfaces to remain on the property. [Ord. 5842, 1/1/15]

~~(16)~~(17) Zoning of and adjacent to the tract.

~~(17)~~(18) Any proposed streets: location, widths, names, approximate radii or curves. The relationship of all streets to any projected streets as shown on any development plan approved by the City.

~~(18)~~(19) Existing and proposed easements on the site and any existing easements on adjoining properties, showing the width and purpose of all easements.

~~(19)~~(20) Approximate dimensions of all lots, minimum lot size, proposed lot numbers, and block numbers [see Section 11.230 (11)].

~~(20)~~(21) Sites, if any, allocated for multiple-dwelling units, shopping centers, churches, industry, parks, schools, playgrounds, or public or semi-public buildings. [Ord. 6004, 12/28/22]

~~(21)~~(22) The following additional information must be submitted with the tentative plat:

- (b) Total acreage in the subdivision and the ~~percent~~percentage of land dedicated to the public, not including easements.
- (d) All public improvements proposed to be installed and the approximate time of installation including the method of financing.
- (e) Special improvements to be made by the developer and the approximate time such improvements are to be completed (examples include entrance signs or walks, berms, bus stands, etc.). Sufficient detail regarding proposed improvements shall be submitted so that they may be checked for compliance with the objectives of these regulations, State laws and other applicable City ordinances. If, however, the nature of the improvement is such that it is impractical to prepare all necessary details prior to approval of the tentative plat, the additional details shall be submitted at least 30 days prior to approval of the final plat.
- (f) An urban conversion plan for large acreage subdivisions.

[Ord. 5562, 10/10/03; Ord. 6024, 12/29/23]

**\*\*\*No changes are proposed to Sections 11.190 -11.230, so they are not provided.\*\*\***

## PLANNED DEVELOPMENTS

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

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

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



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- (2) Facilitate the efficient use of land and resources in regard to land uses, buildings, circulation systems, natural features, energy conservations, open space and utilities. [Ord. 5832, 4/9/14]
- 11.260 Procedure. A planned development is processed in two steps. The first step is review of the planned development project design and land uses by the Planning Commission under the Type III procedure. The final approval is reviewed by the Director through the Type I procedure. [Ord. 5832, 4/9/14]
- 11.270 Permitted Buildings and Uses. The following buildings and uses are permitted individually or in combination in a planned development:
- (1) Residential areas:
- (c) Accessory buildings and uses (permitted in combination with principal uses only);
- (d) Dwellings, multiple-dwelling units; [Ord. 6004, 12/28/22]
- (e) Dwellings, single-dwelling unit; [Ord. 6004, 12/28/22]
- (f) Middle housing; [Ord. 5968, 1/14/22]
- (g) Open space;
- (h) Parks, playgrounds, golf courses, driving ranges, community centers, or recreation facilities supported by the planned development; and
- (i) Commercial services ~~that~~ primarily serve the Residential Planned Development.
- (2) Industrial areas:
- (a) Any use allowed outright through Site Plan Review, or by Conditional Use approval in the underlying zone is permitted. Uses specified as Conditional Uses in the underlying zone are limited to 25 percent of the site except that additional amounts may be approved through the Conditional Use process. [Ord. 5947, 1/1/21]
- (j) Up to 25 percent of the total site area may be occupied by retail and service establishments not otherwise permitted within industrial districts provided that at least an equal area of the development has been previously or simultaneously developed for other permitted uses.
- (k) Up to 25 percent of the total site area may be occupied by office uses not pertinent to industrial uses within the development or otherwise permitted within the underlying zoning district.
- (l) Office uses, services, and other accessory uses totally supported by other permitted uses are allowed in addition to the percentage amounts specified above.
- 11.280 Standards That May Be Modified. The following standards may be modified in order to create developments that are superior to those that could be developed through the conventional development and design standards: [Ord. 5968, 1/14/22]
- (1) Development Standards. Except as noted in Table 11.330-1, minimum lot area, width and frontage, height and yard requirements (and for manufactured home parks, the manufactured home park standards in Article 10) will not be used to dictate the development but will act as general guidelines that may be adjusted to provide for a higher quality development. [Ord. 5968, 1/14/22]
- (2) Design Standards. Except as noted herein, design standards in Article 8 may be modified through a planned development if the Adjustment criteria in ADC 2.080 are met. Design standards identified in ADC 8.000 as not being eligible for Adjustments are also not eligible for modification through a Planned Development. [Ord. 5968, 1/14/22]
- (3) Streets. Private streets may be constructed in a planned development. These streets may be narrower than usual where on-street parking is prohibited and where access is limited to pre-approved locations. Any private street in an industrial planned development must be constructed to public standards. All lots must be provided with direct access to a public or private street.
- (4) Cottage Clusters. A cottage cluster project may be developed as a planned development (with a concurrent standard land division application) in order to provide the developer with flexibility in the number and configuration of units and lots. This is an alternative to the middle housing land division process under ADC 11.600-11.630. Cottage clusters that are divided as provided herein shall continue to



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be classified as Middle Housing.

[Ord. 5968, 1/14/22; Ord 6018, 6/30/23]

11.290 Professional Design Team Required. An applicant for a planned development approval must certify in writing that a member of each of the following professions will be used in the planning and design process for the proposed development:

- (1) A licensed architect or professional designer;
- (2) A certified nurseryman, landscape architect, or landscape designer approved by the Director; and
- (3) A registered engineer or land surveyor.

#### Staff Comments:

- 11.300 Application Contents: Clarifying when a storm drainage report is required with land division applications.

11.300 Application Contents. A planned development proposal is reviewed in two stages. The following information is required to be submitted with each stage: [Ord. 5832, 4/9/14]

- (1) Preliminary planned development submittal requirements:
  - (a) Planned Development Program. A written statement outlining the following details: planning objectives to be achieved through the planned development; dwelling types and density; non-residential uses; lot layout; public and private access; parking; height of structures; lighting; landscaped areas and provisions for continued maintenance; water supply; sewage disposal; drainage; and areas devoted to various uses. This statement should include a description of the character of the proposed development and adjacent areas, discussion of how the proposed development will relate to the natural environment and significant natural resources of the site and adjacent areas.
  - (b) The location of existing and planned water, sewerage, and drainage facilities, including line sizes and how they will tie into existing facilities. A storm drainage report is required when 5,000 square feet of new or replaced impervious surface is added for all phases of development. The storm drainage report must include infiltration feasibility as outlined in the Engineering Standards.
  - (c) The location of all existing and planned sidewalks, pedestrian paths, bike paths and where they will connect with existing facilities.
  - (d) The location and utilization of land uses and structures including public and/or private parks, open space or common areas.
  - (e) A tabulation of land area to be devoted to each use, and a calculation of the average residential density per acre, if applicable.
  - (f) A boundary survey or a certified boundary description by a licensed surveyor.
  - (g) Data, drawings, and/or elevations clearly establishing the scale, character and relationship of buildings, streets, and open space.
  - (h) Detailed building and landscaping plans and elevations.
  - (i) A transportation impact analysis, where required by the City Engineering Division of the Public Works Department.
  - (j) A development schedule for commencement and of construction, or a phasing schedule if phased development is proposed.
  - (k) If the development will be divided into different ownerships, any additional information generally required for a land division tentative plat approval and not required above.
  - (l) Other applicable Site Plan Review information in Section 2.490(5).

[Ord. 5832, 4/09/14; Ord. 5842, 1/1/15; Ord. 5947, 1/1/21]

*Interim submittal requirement repealed per Ord. 5832, 4/9/14.*

- (2) Final submittal requirements in addition to the information on the approved preliminary plan:
  - (a) The character and location of signs.

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- (b) Plans for street improvements and grading or earth-moving plans.
- (c) Any additional requirements of final land division submittal, if the land is to be divided. [Ord. 5832, 4/9/14]

- 11.310 Preliminary Plan Submittal Review Criteria. A planned development request will be granted interim approval by the review body if the development meets the Site Plan Review criteria of Section 2.450, Section 2.455 (if applicable), and all of the applicable criteria in (1) through (7). [Ord. 5947, 1/1/21; Ord. 5968, 1/14/22]
- (1) The increased flexibility in Code standards and permitted uses will result in an improved development for the City, the surrounding area, and users of the development as compared to strict compliance with Code provisions.
  - (2) The project design results in a more efficient provision of open space or utilization of the natural features of the site.
  - (3) The project design results in a more efficient utilization of materials and public resources including streets, utilities, and energy supplies.
  - (4) Provisions will be established to ensure the continued maintenance of any common areas.
  - (5) More usable and suitable recreational facilities and other common areas are provided than would normally be provided under conventional development standards.
  - (6) The planned development satisfies the development standards in Section 11.330.
  - (7) Proposals for land divisions satisfy the standards in Sections 11.090 and 11.180, except as modified by the proposed planned development. [Ord. 5832, 4/9/14; Ord. 5968, 1/14/22]
- 11.320 Conditions of Approval. The City may attach conditions of approval of a planned development to ensure that the proposal will conform to the applicable review criteria.

***\*\*\* No changes are proposed to Sections 11.330-11.600, so they are not provided.\*\*\****

**Staff Comments:**

- 11.610(1)(a), Middle Housing Land Division: Clarifying that building permits are only required with middle housing land division applications on already developed parent lots.

- 11.610 Middle Housing Land Division. A middle housing land division is a partition or subdivision of a lot or parcel within a middle housing zoning district on which a middle housing project has been developed or approved for development under the provisions of this Code and ORS 197.758. Middle housing land divisions are regulated by this Code and ORS Chapter 92.
- (1) Review Criteria. Approval of a tentative plat for a middle housing land division will be granted if the Director finds that the applicant has met all of the following criteria:
    - (a) The middle housing development complies with the Oregon residential specialty code and the applicable ADC middle housing regulations, including but not limited to, the provisions in the base zone and in Sections 8.110-8.175. ~~To demonstrate compliance with this criterion, the applicant shall submit approved building permits demonstrating that existing or proposed structures comply with the Oregon Residential Specialty Code and ADC middle housing regulations~~ when the parent parcel contains one or more structures that a proposed property line intersects or bisects the building, or the parent parcel contains one or more structures that the roof overhang or exterior walls will be located within 3 feet of the proposed property lines.
    - (b) Separate utility service connections for public water, sewer, and stormwater will be provided for each dwelling unit.
    - (c) Easements will be provided as necessary for each dwelling unit on the site for:
      - i. Locating, accessing, replacing, and servicing all utilities;
      - i. Pedestrian access from each dwelling unit to a private or public road;
      - iii. Any common use areas or shared building elements;
      - iv. Any dedicated driveways or parking; and
      - v. Any dedicated common area.

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- (d) Exactly one dwelling unit will be located on each resulting lot (referred to as middle housing child lots), except for lots or tracts used as common areas, on which no dwelling units will be permitted.
  - (e) Buildings or structures on a resulting child lot will comply with applicable building codes provisions relating to new property lines.
  - (f) Notwithstanding the creation of new child lots, structures or buildings located on the newly created lots will comply with the Oregon Residential Specialty Code.
  - (g) Where a resulting child lot abuts a street that does not meet City standards, street frontage improvements will be constructed and, if necessary, additional right-of-way will be dedicated, pursuant to ADC 12.140 and 12.200.
- (2) Tentative Plat Submittal. In addition to the items listed in ADC 11.210, an application for a middle housing land division shall include the following:
- (a) A description of the manner in which the proposed division complies with each of the provisions of subsection (1) of this section, including copies of approved building permits and other evidence necessary to demonstrate:
    - i. How buildings or structures on a resulting child lot will comply with applicable building codes provisions related to new property lines; and
    - ii. Notwithstanding the creation of new lots, how structures or buildings located on the newly created child lots will comply with the Oregon Residential Specialty Code.
  - (b) In addition to the items listed in ADC 11.210(1) – (20), copies of a plat showing the following details:
    - i. Separate utility connections for each dwelling unit, demonstrating compliance with approval criterion 11.610(1)(b).
    - ii. Existing or proposed easements necessary for each dwelling unit on the plan, demonstrating compliance with the criterion 11.610(1)(c).
  - (c) Copies of all required easements in a form approved by the City Attorney.
- (3) Tentative Plat Conditions of Approval.
- (a) The City may attach conditions of approval of a tentative plat for a middle housing land division to:
    - i. Prohibit further division of the resulting child lots.
    - ii. Require that a notation appear on the final plat indicating:
      - The approval was given under ORS Chapter 92.
      - The type of middle housing approved on the subject site and noting that this middle housing type shall not altered by the middle housing land division.
      - Accessory dwelling units are not permitted on child lots resulting from a middle housing land division.
    - iii. Ensure that improvements associated with review criteria in ADC 11.610 are provided.
  - (b) In accordance with ORS Chapter 92, the City shall not attach conditions of approval requiring that a child lot require driveways, vehicle access, parking, or minimum or maximum street frontage.
  - (c) The tentative approval of a middle housing land division is void if and only if a final middle housing land division plat is not approved within three years of the tentative approval.

[Ord. 5968, 1/14/22]

11.620 Tentative Plat Procedures for Expedited and Middle Housing Land Division. Unless the applicant requests to use the procedure set forth in ADC 11.170, the City shall use the following procedure for an expedited land division, as described in ORS 197.360, or a middle housing land division. An expedited or middle housing land division is not a land use decision or a limited land use decision under ORS 197.015 or a permit under ORS 215.402 or 227.160.

- (1) Completeness Review.

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- (a) If the application for an expedited or middle housing land division is incomplete, the City shall notify the applicant of exactly what information is missing within 21 days of receipt of the application and allow the applicant to submit the missing information. For purposes of computation of time, the application shall be deemed complete on the date the applicant submits the requested information or refuses in writing to submit it.
  - (b) If the application was complete when first submitted or the applicant submits the requested additional information within 180 days of the date the application was first submitted, approval or denial of the application shall be based upon the standards and criteria that were applicable at the time the application was first submitted.
- (2) Notice of Application.
- (a) On receipt of a complete application, written notice shall be provided to owners of property within 100 feet of the entire contiguous site for which the application is made and to any City Council-recognized neighborhood association(s) whose boundaries include the site. Notice shall also be provided to any agency responsible for providing public services or facilities to the subject site. The notification list shall be compiled from the most recent property tax assessment roll. For purposes of appeal to the referee under ORS 197.375, this requirement shall be deemed met when the City can provide an affidavit or other certification that such notice was given.
  - (b) The notice shall include the following information:
    - i. The deadline for submitting written comments;
    - ii. A statement that issues that may provide the basis for an appeal to the referee must be raised in writing prior to the expiration of the comment period; and
    - iii. A statement that issues must be raised with sufficient specificity to enable the City to respond to the issue.
    - iv. The applicable criteria for the decision.
    - v. The place, date, and time that comments are due.
    - vi. A time and place where copies of all evidence submitted by the applicant will be available for review.
    - vii. The street address or other easily understood geographical reference to the subject property.
    - viii. The name and telephone number of a City contact person.
    - ix. A brief summary of the local decision-making process for the land division decision being made.
- (3) There shall be a 14-day period to allow for submission of written comments prior to the Director's decision.
- (4) There shall be no public hearing on the application.
- (5) The Director shall make a decision to approve or deny the application within 63 days of receiving a completed application.
- (6) The Director's decision shall be based on applicable elements of the Albany Development Code and Comprehensive Plan. An approval may include conditions to ensure that the application meets the applicable land use regulations.
- (7) Notice of the decision shall be provided to the applicant and to those who received notice under subsection (2) within 63 days of the date of a completed application. The notice of decision shall include:
- (a) A summary statement explaining the determination; and
  - (b) An explanation of appeal rights under ORS 197.375.
- (8) Failure to approve or deny application within specified time.
- (a) Except as provided in subsection (b), if the City does not make a decision on an expedited or middle housing land division within 63 days after the application is deemed complete, the applicant may apply in the circuit court for the county in which the application was filed for a writ of mandamus to compel the City to issue the approval. The writ shall be issued unless the City shows that the approval would violate a substantive provision of the applicable land use regulations or the

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requirements of ORS 197.360. A decision of the circuit court under this section may be appealed only to the Court of Appeals.

- (b) After seven days' notice to the applicant, the City Council may, at a regularly scheduled public meeting, take action to extend the 63-day time period to a date certain for one or more applications for an expedited or middle housing land division prior to the expiration of the 63-day period, based on a determination that an unexpected or extraordinary increase in applications makes action within 63 days impracticable. In no case shall an extension be to a date more than 120 days after the application was deemed complete. Upon approval of an extension, the provisions of ORS 197.360 to 197.380, including the mandamus remedy provided by subsection (a), shall remain applicable to the expedited or middle housing land division, except that the extended period shall be substituted for the 63-day period wherever applicable.
- (9) The applicant, or any person or organization that files written comments in the comment period established under subsection (3), may appeal the Director's decision within 14 days of the mailing of the decision notice and the appeal shall be based solely on allegations as listed in ORS 197.375(1)(c)(A) through (1)(c)(D) and shall be accompanied by a \$300 deposit for costs which is refundable if the appellant prevails.
- (10) The Director shall appoint a referee to decide the appeal decision and the appointed referee shall comply with ORS 197.375(3) through (6) when issuing a decision. The referee may not be a City employee or official. [Ord. 5968, 1/14/22]

11.630 Final Plat Requirements for Expedited and Middle Housing Land Division

- (1) Expedited Land Division - Final Plan Review Criteria. Approval of a final plat for an expedited land division shall be consistent with the review criteria for subdivisions and partitions (ADC 11.220).
- (2) Middle Housing Land Division - Final Plan Review Criteria. Approval of a final plat for a middle housing land division will be granted if the review body finds that the applicant has met the following criteria:
  - (a) The final plat is in substantial conformance with the tentative plat.
  - (b) Conditions of approval attached to the tentative plat have been satisfied.
  - (c) All proposed improvements required to satisfy applicable standards of the ADC have been constructed.
- (3) Final Plat Submittal. An application for an expedited or middle housing land division final plat shall include the items listed in ADC 11.230. [Ord. 5968, 1/14/22]

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## ARTICLE 22

### USE CATEGORIES AND DEFINITIONS

The following is a list of content in this article.

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

### USE CATEGORIES

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

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

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

#### INDUSTRIAL USE CATEGORIES

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

#### COMMERCIAL USE CATEGORIES

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

#### INSTITUTIONAL USE CATEGORIES

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

#### RESIDENTIAL USE CATEGORIES



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

- 22.260 Residential Care or Treatment Facility
- 22.270 Assisted Living Facility
- 22.280 Single-Dwelling Units ~~Detached~~ and Two ~~Detached-Primary~~ Units
- 22.285 Middle Housing
- 22.300 Multiple Dwelling Unit Development: Five or More Units
- 22.310 Unit(s) Above or Attached to a Business
- 22.320 Residential Accessory Buildings

#### OTHER USE CATEGORIES

- 22.325 Accessory Buildings, Non-Residential
- 22.330 Agriculture
- 22.340 Communication Facility
- 22.350 Kennels
- 22.360 Passenger Terminals
- 22.370 Rail and Utility Corridors

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

#### 22.020 Description of Use Categories.

- (8) Considerations. Uses are assigned to the category whose description most closely describes the nature of the primary use. Each use category is described and defined. Developments may have more than one primary use. Developments may also have one or more accessory uses. The following are considered in determining what category the use is in, and whether the activities constitute primary uses or accessory uses:
- The description of the activity(ies) in relationship to the characteristics of each use category;
  - The relative amount of site or floor space and equipment devoted to the activity;
  - Relative amounts of sales from each activity;
  - The customer type for each activity;
  - The relative number of employees in each activity;
  - Hours of operation;
  - Building and site arrangement;
  - Vehicles used with the activity;
  - The relative number of vehicle trips generated by the activity;
  - Signs;
  - How the use advertises itself; and
  - Whether the activity would be likely to be found independent of other activities on the site.
- (1) Developments with multiple primary uses. When all of the primary uses of a development fall into one use category, the development is assigned to that use category. For example, a development that contains a retail bakery and a café would be classified in the Retail Sales and Service category because all of the primary uses are in that category. When the primary uses of a development fall into different use categories, each primary use is classified in the applicable category and is subject to the regulations for that category.
- (2) Accessory Uses. Accessory uses are incidental to the primary use category and may contribute to the comfort, convenience, or necessity of the principal use. Examples of accessory uses include but are not limited to storage, employee and customer parking, and employee facilities. These uses are allowed by right in conjunction with the use unless stated otherwise in the regulations. Unless otherwise stated, they are subject to the same regulations as the primary use. [Ord. 5742, 7/14/10]

*Lists of accessory uses were deleted from the use categories in Sections 22.030 to 22.370 by Ord. 5742, adopted 7/14/10].*



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- (3) Use Examples. The “Use Examples” subsection of each use category provides a list of examples of uses that are included in the category. The names of uses on the lists are generic. They are based on the common meaning of the terms and not on what a specific use may call itself. For example, a use whose business name is “Wholesale Liquidation” but that sells mostly to consumers would be included in the Retail Sales and Service category rather than the Wholesale Sales category. This is because the actual activity on the site matches the description of the Retail Sales and Service category.

*\*\*\* No changes are proposed to Sections 22.040-22.180, so they are not provided. \*\*\**

**Staff Comments:**

- 22.190, Community Services use category changes: Staff proposes to clarify the types of organizations and facilities considered a Community Service by removing the types of organizations or facilities that function as office uses and do not produce substantial off-site impacts.
- 22.280, 22.300, & 310: Changing to consistent terminology throughout code when referring to the different types of residential dwelling units.
- 22.320 Residential Accessory Buildings. Removing the development standards from the use category and referencing the articles where the development standards are contained.

*\*\*\*Only Use Categories where changes are proposed are provided.\*\*\**

22.190 Community Services.

Community Services are operated by the government, a ~~public~~, nonprofit, or charitable organization ~~that to~~ provides a local service to people of the community. Generally, ~~they provide~~ the services on the site or have ~~and employees~~ are at the site provided on a regular on-going basis at the site. ~~The service is ongoing, not just for special events. Community centers or facilities that have membership provisions are open to the general public to join at any time (for instance, any senior citizen could join a senior center).~~ The use may provide emergency shelter or short-term housing where tenancy may be arranged for periods of less than one month when operated by a public or non-profit agency. ~~The use may also provide special counseling, education, or training of a public, nonprofit or charitable nature.~~ [Ord. 5742, 7/14/10]

- (1) Use Examples. Types of uses include, but are not limited to: libraries, museums, senior centers, community centers, publicly owned swimming pools and athletic courts or facilities, youth club facilities, ~~hospices~~, public safety facilities including fire and police stations, ~~ambulance stations, drug and alcohol centers, social service facilities~~, emergency shelters or short-term housing when operated by a public or non-profit agency, ~~vocational training for the physically or mentally disabled~~, soup kitchens, and ~~surplus~~ food distribution centers.
- (2) Exceptions.
- (a) Private lodges, clubs, and private or commercial athletic or health clubs or centers are classified as Indoor Entertainment and Recreation. [Ord. 5742, 7/14/10]
- (b) Parks and cemeteries are classified as Parks, Open Areas, and Cemeteries.
- (c) Uses where tenancy is arranged on a month-to-month basis (except at hotels/motels) or for a longer period are residential and are classified under Residential use categories.
- (d) Applications for emergency shelters sited under ORS 197.782 and ORS 197.783 are not a land use decision.
- (e)(e) Public services provided to customers in an office building are classified as Offices.

22.280 Single-Dwelling Detached-Unit and Two Detached-Primary Units.

- (1) Single-dwelling ~~detached~~ units are one ~~detached~~ dwelling unit on one lot, with or without an accessory dwelling unit. Two ~~detached-primary dwellings units~~ are two primary detached dwelling units on one lot. [Ord. 5742, 7/14/10; Ord. 5968, 1/14/22; Ord. 6004, 12/28/22]

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- (2) Use Examples. Single detached units, single dwelling unit with one accessory dwelling unit, two detached primary dwelling units, one Single Room Occupancy (SRO) development with a minimum of four and no more than six SRO units, manufactured homes, prefabricated dwellings, and child and adult care or treatment homes for five or fewer individuals.  
[Ord. 5968, 1/14/22; Ord. 6004, 12/28/22; Ord. 6008, 1/27/23]
- (3) Exceptions.
- (a) In certain situations, lodging where tenancy may be arranged for periods less than one month, such as short-term housing or homeless shelter, may be classified as Community Service uses.
- (b) Dwellings and SRO developments where care or treatment is provided and that typically provide common dining are classified as a Group or Residential Care Home or Residential Care or Treatment Facility.
- (c) Attached primary dwelling units are classified as Middle Housing (either a duplex, triplex, fourplex, or townhouse) or Multiple Dwelling Unit Development.
- ~~(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. 5894, 10/14/17]

22.300 Multiple Dwelling Unit Development Housing: Five or More Units.

- (1) A Multiple Dwelling Unit development ~~is~~contains five or more dwelling units on one property or development site, attached or detached, including a building or collection of buildings, and excluding Middle Housing. Residential developments of three to four units are also classified as Multiple Dwelling Unit Housing if the development cannot otherwise be classified as Middle Housing.  
[Ord. 5742, 7/14/10; Ord. 5801, 2/13/13; Ord. 5968, 1/14/22; Ord. 6004, 12/28/22]
- (2) Use Examples. Five or more detached dwelling units on one property ~~(excluding cottage clusters)~~, single-room occupancy (SRO) development, a building containing five or more dwelling units in any vertical or horizontal arrangement often called an apartment building, condominiums, and any other similar configuration of five or more units on one property or development site.  
[Ord. 5801, 2/13/13; Ord. 5968, 1/14/22]
- (4) Accessory Uses. Accessory uses commonly found are recreational activities, raising of pets, hobbies, and parking of the occupants' vehicles. Home occupations and bed and breakfast facilities are accessory uses that are subject to additional regulations. [Ord. 5968, 1/14/22]
- (5) Exceptions.
- (a) Lodging in a dwelling unit or Single Room Occupancy (SRO) ~~unit-development~~ where less than two-thirds of the units are rented on a monthly basis is considered a hotel or motel use and is classified in the Retail Sales and Service category.
- (b) ~~Single-room occupancy SRO-Developments~~ where care is provided regularly on-site are classified as a Group or Residential Care Home or Residential Care or Treatment Facility. [Ord. 5801, 2/13/13]
- (c) Dwelling units located above, behind, or contiguous to a business or office on the ground floor(s) are classified as Units Above or Attached to a Business. [Ord. 5894, 10/14/17]
- (d) Cottage clusters are a type of Middle Housing and are not considered Multiple Dwelling Unit development. [Ord. 5968, 1/14/22; Ord. 6004, 12/28/22]

22.310 Unit(s) Above or Attached to a Business.

- (1) One or more residential dwelling units located above, behind or contiguous to a business or office on the ground floor(s), where the business has street frontage. [Ord. 5742, 7/14/10]
- (2) Use Examples. Apartments, condominiums, retirement center apartments, and other structures with self-contained dwelling units located above a business.
- (3) Exceptions.

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- (a) Lodging in a dwelling unit or Single Room Occupancy (SRO) unit where less than two-thirds of the units are rented on a monthly basis is considered a hotel or motel use and is classified in the Retail Sales and Service category.
- (b) SRO developments or other dwellings where care or treatment is provided and that typically ~~that contain programs that include~~ provide common dining are classified as a Group or Residential Care Home or Residential Care or Treatment Facility.
- (c) Live/work dwelling units in which the dwelling unit and the business are internally connected without passing through a common area are considered to have multiple primary uses, with the residential and non-residential uses each subject to the regulations for their respective use categories. [Ord. 5894, 10/14/17]

22.320 Residential Accessory Buildings.

- (1) A detached building that is subordinate to and consistent with the principal use of the property and located on the same property as the principal dwelling. Residential accessory buildings are permitted in residential and mixed-use zones if when they meet the ~~following~~ standards in Articles 3, 4, and 5:
    - ~~(a) Detached residential accessory buildings (other than Accessory Dwelling Units, which are addressed below), garages, and carports are allowed outright if they are less than 750 square feet and have walls equal to or less than eleven feet in height. Larger buildings may be permitted through Site Plan Review, refer to the following standards:~~
      - ~~• In residential zoning districts in Article 3, refer to Section 3.080(9).~~
      - ~~• In commercial or industrial zones in Article 4, refer to Section 4.060(21).~~
      - ~~• In mixed use zones in Article 5, refer to Section 5.070(18).~~
- ~~Accessory Dwelling Units have special conditions in Articles 3 and 5, Sections 3.080(4) and 5.070(165) respectively. [Ord. 5742, 7/14/10; Ord. 5947, 1/01/21; Ord. 5949, 1/01/21]~~

**Staff Comments for Definitions:**

- Adding the following definitions that were not previously in the code.
- Revising the following definitions:
  - Alley – Removing “secondary” from definition to be consistent with language in Article 8.
  - Adding how density is calculated when the resultant number is a fraction.
  - Garage, Private Parking and Public Parking – Removing “required by this Article”.
  - Main Entrance – clarify for main entrance of a building.
  - Revising Single Room Occupancy (SRO) definition to align with the ORS definition and adding a definition of SRO unit.
  - Setbacks – Clarifying where to measure a setback on a building or structure and adding definitions for different types of setbacks.

**DEFINITIONS**

22.400 Definitions. As used in this Code, the following words and phrases shall have the following meanings:

Accessory Building: A detached building or set of buildings that is subordinate in ~~size and~~ purpose to the principal structure on the same property or development site under the same ownership. The use of the accessory building serves an incidental purpose to the permitted principal use in the main building(s).

Affordable Housing: Housing for which ownership costs (mortgage loan principal, interest, property taxes, and insurance) or rental costs (unit rent and utilities) require no more than 30 percent of the gross monthly income of a household that has income at or below 120 percent of the Albany area median income (AMI) and is subject to an affordable housing covenant as provided in ORS 456.270 to 456.295.

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Area Median Income or AMI: the median income for the Albany Metropolitan Statistical Area as determined by the Housing and Community Services Department and adjusted for household size based on information from the United States Department of Housing and Urban Development (HUD).

Alley: A public way not over 30 feet wide that provides a ~~secondary~~ means of access to private property. An alley is not considered a “street” as used in this Code. [Ord. 5742, 7/14/10]

Attached Structure: A structure that is attached to another structure by a common wall, by a roof, or by structural connections that allow pedestrian access to both structures. A garage may be attached to another structure by sharing a wall or by a covered breezeway. Structures connected by an uncovered, “I” beam or similar connections are not considered attached. [Ord. 5742, 7/14/10]

Density, Gross: The number of living units or jobs per gross acre of land (for example, units/acre or jobs/acre). Any computation that yields a fraction of less than 0.5 shall be rounded down to the nearest whole number and any computation that yields a fraction of greater than 0.5 or greater shall be rounded up to the nearest whole number. [Ord. 5742, 7/14/10]

Density, Net: The average number of dwelling units per net acre of land, which is calculated by taking the total gross acreage and subtracting the area in the right-of-way for streets and roads and any undevelopable areas such as water bodies and open space. Any computation that yields a fraction of less than 0.5 shall be rounded down to the nearest whole number and any computation that yields a fraction of greater than 0.5 or greater shall be rounded up to the nearest whole number. [Ord. 5742, 7/14/10]

Endangered Species: Any species that is in danger of extinction throughout all or a significant portion of its range.

Endangered Species Act (ESA): Federal regulatory program to protect fish, wildlife, and plants from extinction. It provides a means whereby the ecosystems upon which threatened and endangered species depend may be conserved to ensure the continued survival of the species.

Garage, Private Parking: A structure having one or more levels used for parking vehicles for the tenants, employees, or owners of the property for which the parking spaces contained in or on said garage ~~are required by this Article~~ and are not open for use by the general public.

Garage, Public Parking: A publicly or privately owned structure having one or more levels, used for parking vehicles and open for use by the general public, either free or for remuneration. Public parking garages may include parking spaces for customers, patrons, or clients ~~that are required by this Article~~ provided said parking spaces are clearly identified as free parking space(s) for the building or use.

Main Entrance: The entrance to a building that most pedestrians or customers are expected to use, ~~typically the door faces the street or is visible from the street or right-of-way~~. Generally, each building has one main entrance. [Ord. 5742; 7/14/10]

Public Body: As used in this code and in Oregon Revised Statutes ORS 174.109, means state government bodies, local government bodies and special government bodies.

Setback: The minimum horizontal distance required between a structure or parking area and an abutting property line. Some zones have a maximum setback where a building may be located no farther from a property line. [Ord. 5742, 7/14/10]

Setback, Front: The minimum horizontal distance required from the front lot line to the nearest foundation wall of a building or structure, fence, or other element as defined by this Code.

Setback, Interior: The minimum horizontal distance from an interior lot line to the nearest foundation wall of a building or structure, fence, or other element as defined by this Code.

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Setback Line: The innermost line of any required yard area on a lot that is parallel to the corresponding property line. [Ord. 5742, 7/14/10]

Setback, Minimum: The minimum allowable horizontal distance from a property line (unless otherwise noted) to the nearest foundation wall of a building or structure, fence, or other element as defined by this Code.

Setback, Maximum: The maximum allowable horizontal distance from a property line (unless otherwise noted) to the nearest foundation wall of a building or structure.

Single-Room Occupancy (SRO) Development Dwellings: A building, ~~that has separate sleeping and living quarters for~~ with no less than four or more individuals attached but separate single room occupancy units that provides and a common shared kitchen facility or food preparation facility(ies). Sanitary facilities (bathrooms) may be shared or may be provided within or between SRO units. For purposes of this Code, density shall be calculated as one ~~unit dwelling~~ for every 2 rooms-SRO units or fraction thereof, except that one SRO development with a minimum of four and no more than six units sited on a property zoned to allow single dwelling units is considered one dwelling unit. See definition for Single Room Occupancy Unit. [Ord. 5801, 2/13/13]

Single Room Occupancy (SRO) Unit. Area within an SRO Development that is independently rented and lockable and provides living and sleeping space for the exclusive use of the unit occupant(s). The living and sleeping space may or may not include sanitary facilities. See definitions for SRO Development.

Wetland Delineation: Process of determining the boundary between a Wetland and an uplands. Delineations must be carried out following the guidelines of the U.S. Army Corps of Engineers and the Oregon Department of State Lands. A Wetland Delineation locates the boundary between the Wetland and upland, based on the field indicators of vegetation, soils, and hydrology.

Wetlands, Local Wetlands Inventory (LWI): An inventory of all Wetlands greater than 0.5 acre within a jurisdiction using the standards and procedures of OAR 141-86-110 through 141-86-240, as amended over time. Local Wetlands Inventory information and mapping are intended for planning purposes only. Mapped Wetland boundaries are accurate to within 25 feet. However, there may be unmapped Wetlands that are subject to state and federal regulation. In all cases, actual field conditions determine specific Wetland boundaries.

Yard: Any open space that is required, created, or is maintained on a lot and is not obstructed from the ground up by any structure or building except as otherwise provided in this Code.

Yard, Front: The area between the front property line and the nearest point of any building on that same parcel. Corner properties have two front yards.

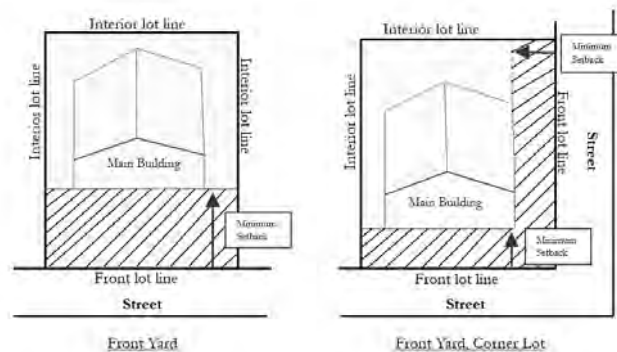


Figure 22.400-3. Front Yard

Yard, Interior: Any yard extending across the full width or depth of a lot, required or otherwise, that is not a front yard and that is adjacent to an interior lot line.





COMMUNITY DEVELOPMENT

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

# Staff Report Findings & Conclusions

## Albany Development Code Text Amendments: Minor Clarifying Code Amendments

Planning Files: DC-03-24

May 31, 2024

HEARING BODIES:	Planning Commission	City Council
HEARING DATES:	Monday, May 13, 2024	Wednesday, June 12, 2024
HEARING TIMES:	5:15 p.m.	6:00 p.m.
HEARING LOCATION:	Council Chambers, Albany City Hall, 333 Broadalbin Street SW	
VIRTUAL OPTIONS:	Instructions to attend the hearings and provide comments will be provided on the applicable agenda.	
STAFF REPORT PREPARED BY:	Liz Olmstead, Planner II	

### Application Information

**Proposal:** The proposed legislative amendments would amend the Albany Development Code and provide clearer and more direct language and standards, make minor corrections, and revise sections to comply with state laws and align with the building code.

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

**Location:** Legislative amendments; not site specific

### Overview

The City has implemented a process to periodically evaluate and adopt changes to the ADC – to include clarifying amendments and policy amendments. This package of amendments includes minor clarifications, corrections, and revisions to sections to comply with state law.

### Summary of Proposed Changes

The City of Albany is proposing to add clarifying language where needed, standardize language and formatting throughout the code, correct items that were missed in previous code amendments, and make minor revisions to align the ADC with state law and the building code.

The specific proposed amendments are attached as Exhibit A and areas of amendments are listed below. In the exhibits, proposed new text is shown in red underline print and proposed deleted text is ~~in black strike-out font~~.

*Commentary boxes in the attached exhibits provide context for the proposed amendments. Should the proposed amendments be approved, the text boxes with the explanations will be removed and the approved amendments made part of the ADC.*



### Ordinance Exhibit A: Albany Development Code

- Article 1, Administration
- Article 2, Review Criteria
- Article 3, Residential Zoning Districts
- Article 4, Commercial and Industrial Zoning Districts
- Article 5, Mixed Use Zoning Districts
- Article 8, Design Standards
- Article 9, On-Site Development and Environmental Standards
- Article 10, Manufactured Home Development Standards
- Article 11, Land Divisions and Planned Developments
- Article 22, Use Categories and Definitions

### Notice Information

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

- Notice was provided to the Oregon Department of Land Conservation and Development (DLCD) on April 5, 2024, at least 35 days before the first evidentiary hearing, in accordance with Oregon Administrative Rule (OAR) 660-018-0020 and the ADC.
- Notice of the proposed amendments was mailed on April 29, 2023, to Linn County and Benton County.
- Notice of the public hearings was published in the *Albany Democrat-Herald* on April 27, 2024, two weeks before the first public hearing on May 13, 2023.

As of the date of this report, the Community Development Department has not received any written testimony.

### Analysis of Development Code Criteria

The ADC includes the following review criteria in Section 2.290, which must be met for these legislative amendments to be approved. Code criteria are written in ***bold italics*** and are followed by findings and conclusions.

### Development Code Amendments Review Criteria (ADC 2.290)

***Criterion 1: The proposed amendments better achieve the goals and policies of the Comprehensive Plan than the existing language.***

### Findings of Fact

1.1 The applicable Albany Comprehensive Plan and Statewide Planning goals and policies are provided below in **bold** print and are followed by findings of fact and conclusions.

**Goal 1, Citizen Involvement: To develop a citizen involvement program that ensures the opportunity for citizens to be involved in all phases of the planning process.**

**Goal: Ensure that local citizens and other affected groups, neighborhoods, agencies, and jurisdictions are involved in every phase of the planning process.**

#### Applicable Policies:

2. **When making land use and other planning decisions:**
  - a. **Actively seek input from all points of view from citizens and agencies and assure that interested parties from all areas of the Urban Growth Boundary have the opportunity to participate.**
  - b. **Utilize all criteria relevant to the issue.**



- c. **Ensure the long-range interests of the general public are considered.**
  - d. **Give particular attention to input provided by the public.**
  - e. **Where opposing viewpoints are expressed, attempt to reach consensus where possible.**
- 4. Ensure information is made available to the public concerning development regulations, land use, and other planning matters including ways they can effectively participate in the planning process.**
- 1.2 Public notice and hearings were held in accordance with Oregon Administrative Rules (OAR) and ADC 1.260. Public involvement for the amendments in planning file DC-03-23, included public notice as required in the OAR and in ADC Section 1.260. Specifically, notice was sent to the Department of Land Conservation and Development on April 5, 2024; notice of public hearings was mailed April 29, 2024, to Benton County and Linn County, and notice was published in the Albany Democrat Herald on April 27, 2023. Two public hearings are scheduled – May 13, 2024 (planning commission), and June 12, 2024 (city council).
- 1.3 Information was made available to the public regarding the proposed development code amendments to enable public participation in the planning process by posting the staff report on the City’s website on May 6, 2024, at least seven days before the first public hearing.

**Statewide Planning Goal 2, Land Use Planning: To establish a land use planning process and policy framework as a basis for all decisions and actions related to the use of land and to assure an adequate factual bases for such decisions.**

**Goal: Undertake Periodic Review and Update of the Albany Comprehensive Plan to ensure the Plan:**

- 1. **Remains current and responsive to community needs.**
  - 2. **Retains long-range reliability.**
  - 3. **Incorporates the most recent and reliable information.**
  - 4. **Remains consistent with state laws and administrative rules.**
- 1.4 The Albany Development Code serves as the principal vehicle for implementing the Comprehensive Plan.
- 1.5 Amendments are proposed to the Albany Development Code (ADC) to provide clearer and more direct language and standards, make minor corrections, and revise sections to comply with state laws and align with the building code.
- 1.6 The proposed amendments will ensure the ADC remains current and responsive to community needs, includes reliable information that is easy to understand and is consistent with state laws and rules.

**Goal 10, Housing: To provide for the housing needs of citizens of the state.**

**Goal: Provide a variety of development and program opportunities that meet the housing needs of all Albany’s citizens.**

**Applicable Policy #2: Provide a variety of choices regarding type, location, density, and cost of housing units corresponding to the needs and means of city residents.**

- 1.7 The proposed amendments clarify sections of the code related to housing and create additional housing choices such as Single Room Occupancy units and conversion of commercial or religious assembly use to affordable housing and the use of commercial land for affordable housing.
- 1.8 According to the 2020 Housing and Residential Needs Analysis, Albany is projected to need between 6,700 and 9,300 housing units between 2020 and 2040. Of these, Albany is projected to need between 3,000 and 4,300 units that are affordable to residents earning less than 80 percent of median income.
- 1.9 The proposed amendments will increase housing choices and opportunities for affordable housing by allowing conversion of some non-residential properties to long-term affordable housing.
- 1.10 The proposed amendments support the City’s housing goals to provide a variety of development and program opportunities that meet the housing needs of all Albany’s citizens and create a city of diverse neighborhoods where residents can find and afford the values they seek.

## Conclusions: Development Code Amendments Criterion 1

- 1.1 The proposed ADC amendments are consistent with the applicable Albany Comprehensive Plan goals and policies related to public involvement, land use planning, and housing.
- 1.2 This review criterion is met.

***Criterion 2: The proposed amendments are consistent with Development Code policies on purpose and with the purpose statements for the base zone, special purpose districts, or development regulation where the amendment is proposed.***

## Findings of Fact

- 2.1 ADC 2.290(2) requires ADC amendments to be consistent with ADC policies and purpose statements for the affected base zones or development regulations where the amendments are proposed. Below are purpose statements from Article 1 – Administration and Procedures, Article 3 – Residential Zoning Districts, Article 4 – Commercial and Industrial Zoning Districts, Article 5 – Mixed Use Zoning Districts, Article 8 – Design Standards, Article 9 – On-Site Development and Environmental Standards, Article 10 – Manufactured Home Development Standards, Article 11 – Land Divisions and Planned Developments, and Article 22 – Use Categories and Definitions.

### **Article 1 Administration and Procedures:**

**ADC Purpose 1: Serve as the principal vehicle for implementation of the City’s Comprehensive Plan in a manner that protects the health, safety, and welfare of the citizens of Albany.**

**ADC Purpose 2: Satisfy relevant requirements of federal law, state law, statewide goals, and administrative rules.**

- 2.2 Amendments to the ADC are needed to help implement the Albany Comprehensive Plan.
- 2.3 Proposed amendments include:
  - Revising of the Procedure by Application Type table to include Tree Removal associated with the development of housing, which were not originally included in the table.
  - Clarifying when activities are exempt from land use review, removing specific situations that do not require site plan review, and adding a reference to activities and developments that do not require land use review in other areas of the code.
  - Updating application submittal requirements to better align with the digital submittal process.

**Article 2 Review Criteria. Site Plan Review is intended to promote functional, safe, and attractive developments that maximize compatibility with surrounding developments and uses and with the natural environment. It mitigates potential land use conflicts through specific conditions attached by the review body. The review focuses on the layout of a proposed development, including building placement, setbacks, parking areas, external storage areas, open areas, and landscaping.**

- 2.4 The proposed amendments include:
  - Clarifying when Site Plan Review is required and ensuring consistency with activities that are exempt from land use review Section 1.105. Clarifying what constitutes changes to site circulation and access, that would require Site Plan Review.
  - Ensuring consistency with Table 1.100-1 – Land Use Procedures by Application Type. Updating application requirements to require submittal of a storm drainage report when 5,000 square feet of impervious surfaces are impacted and a full landscape plan for review during the land use process to ensure compliance with city standards and so that the building permit process is not delayed.

**Article 3 Residential Zoning Districts.** The residential zones are intended to preserve land for housing. This Code preserves the character of neighborhoods by providing seven zones with different density standards. The site development standards allow for flexibility of development while maintaining compatibility within the City's various neighborhoods. These regulations provide certainty to property owners, developers, and neighbors by stating the allowed uses and development standards for the base zones. Sites within overlay districts are also subject to the regulations in Articles 6 and 7.

2.5 The proposed amendments include:

- Adding development types required by State Law to include Single Room Occupancy developments, affordable housing and noting that Emergency Shelters sited under ORS 197.782 and 783 are not a land use decision.
- Updating language and code references for consistency for the rest of the code.
- Removing the requirement that the color of residential accessory buildings be similar to the primary residence.
- Adding clarifying and consistent language to Table 3.190 Residential District Development Standards and adding Single Room Occupancy Dwellings to the table.
- Clarifying how townhouse development density is calculated.
- Clarifying that up to 200 square feet of attached garages in cottage clusters is exempt from the maximum cottage building footprint.
- Adding requirement to cover refuse containers to prevent contaminated water from entering the storm system.

**Article 4 Commercial and Industrial Zoning Districts.** The zones created in this article are intended to provide land for commercial, office and industrial uses. The differences among the zones, in the permitted uses and development standards, reflect the existing and potential intensities of commercial and industrial development. The site development standards allow for flexibility of development while minimizing impacts on surrounding uses. The regulations in this article promote uses and development that will enhance the economic viability of specific commercial and industrial areas and the city as a whole.

2.6 The proposed amendments include:

- Updating Table 4.050-1 Community Services Uses for consistency with the revised Article 22 use description.
- Updating standards to comply with new State Laws to allow Single Room Occupancy developments and affordable housing in more non-residential zones.

**Article 5 Mixed Use Zoning Districts.** The mixed-use zoning districts are the center of neighborhood and commercial activity, providing a horizontal or vertical mix of retail and residential uses to serve nearby neighborhoods. Other uses may include offices, and community and personal services. Centers are easily accessible to nearby residences, are pedestrian-friendly, and relate to adjacent land uses. Commercial uses must fit the scale of adjacent neighborhoods and the desired character envisioned for each Village Center or mixed-use area.

2.7 The proposed amendments include:

- Updating Table 5.060-1 Community Services uses to align the land use review process with the revised Article 22 use description, and adding examples of significant off-site impacts, and emergency shelter siting provisions under special conditions.
- Updating standards to comply with new State Laws to allow Single Room Occupancy developments and affordable housing in more non-residential zones.
- Combining sections for clarity and updating language for consistency for the rest of the code.
- Correcting sections of the article where terms were not updated in previous ADC Amendments.

**Article 8 Design Standards. Commercial and Institutional Design.** These sections are intended to set threshold standards for quality design in commercial and institutional development, and in the non-residential components of mixed-use development. Good design results in buildings that are visually compatible with one another and adjacent neighborhoods and contribute to an attractive, active, and safe built environment that facilitates easy pedestrian movement and a rich mixture of land uses.

2.8 The proposed amendments include:

- Adding a requirement for egress paths when required by the Oregon Building Code.

**Article 9 On-Site Development and Environmental Standards.** These standards are intended to foster high-quality development throughout the City and to minimize adverse effects on surrounding property owners or the general public. These standards are intended to create an urban environment that is safe, provides connectivity, furthers energy conservation, and enhances the environment for walking, cycling, and mass transit use.

2.9 The proposed amendments to on-site development standards include:

- Updating outdated terms and correcting sections of the article where terms were not updated in previous ADC amendments.
- Updating maximum parking standards in Table 9.020-1: removing company vehicles from the maximum permitted parking spaces because fleet and company vehicle parking is exempt from the maximum parking allowance in ADC 9.020(8)(b)(v); removing Group or Residential Care Homes since this use is considered a single dwelling units, which is exempt from maximum parking standards; and replacing Multi-Dwelling Unit: Quad and Quints with SRO Units.
- Table 9.030-1 Bicycle Parking Standards: adding standards for uses that were inadvertently missed with the original set of amendments; reducing the number of required bicycle parking spaces for multiple dwelling units from 1 space to 0.5 spaces per unit to comply with state law; adding SRO units; and revising the number of bicycle parking spaces for senior apartments to be based on units instead of beds.
- Clarifying when carpool/vanpool spaces are required for development.
- Incorporating loading areas into the Conversion of Off-Street Parking to other uses section.
- Adding a provision to allow a mix of solar panels and tree canopy for new surface parking areas over 0.25 acres to comply with revisions to state law.
- Adding a requirement to cover refuse areas to prevent contaminated water from entering the storm system.

**Article 10 Manufactured Home Development Standards.** Manufactured and prefabricated dwellings provide a wide choice of housing types suitable for a variety of households, lifestyles, and income levels. The standards contained in this article are intended to provide a suitable living environment for residents of manufactured homes and establish development standards that will increase compatibility with adjacent land uses.

2.10 The proposed amendments include:

- Removing the requirement to submit ten copies of a plot plan at time of application.
- Clarifying that temporary dwelling special use permits is also applicable to temporary on-site residences.

**Article 11 Land Divisions and Planned Developments.** This article describes the process of converting raw land into building sites. The primary goals of this design review are to better ensure that natural features have been taken into account; that roads and utilities are properly designed and installed, and that adequate open space has been provided.

2.11 The proposed amendments include:

- Adding a requirement for egress paths as required by the Oregon Building Code.
- Revising sections to include plain language.
- Adding a maximum block length standard in addition to the average block length.
- Revising section to add curb radius dimensions at street intersections.
- Separating submittal requirements for right-of-way related items and utility related items.

- Clarifying when a storm drainage report is required with land divisions.
- Codifying the Director's interpretation regarding when building permits are required with a Middle Housing Land Division application.

## Article 22 Use Categories and Definitions

2.12 The proposed amendments include:

- Clarifying the types of facilities and organizations included in the Community Services use category and referencing state emergency shelter siting standards.
- Revising language to provide consistent terminology through the code when referring to different types of housing types.
- Adding a definition of alley to promote pedestrian friendly and walkable neighborhoods.
- Adding affordable housing definitions.
- Adding definitions of Endangered Species and Endangered Species Act.
- Adding definition of Public Body to reference the ORS.
- Adding definitions of different setback types.
- Revising the definition of Single Room Occupancy (SRO) to align with the ORS definition and adding a definition of SRO unit.
- Adding definition of Public Body to reference the ORS.
- Adding definitions of different setback types.
- Adding wetland definitions.
- Clarifying definitions of front and interior yard.

## Conclusions: Development Code Amendment Criterion 2

2-1 The proposed Development Code amendments are consistent with applicable purpose statements or development regulations where amendments are proposed in Articles 1, 2, 3, 4, 5, 8, 9, 10, 11 and 22.

2-2 Based on the above analysis, this criterion is satisfied.

## Overall Conclusions

Based on the analysis in this report, the proposed Development Code amendments meet the applicable review criteria as outlined in this report.

The Planning Commission has two options with respect to the proposed Development Code amendments:

Option 1: Recommend that the City Council approve the amendment requests as presented; or

Option 2: Recommend the City Council approve the proposed amendments as modified by the Planning Commission.

## Staff Recommendation

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

**I move that the Planning Commission recommend that the City Council approve the proposed Development Code amendments detailed in planning file DC-03-24.**

**This motion is based on the findings and conclusions in the May 6, 2024, staff report, and the findings in support of the application made by the Planning Commission during deliberations on this matter.**

## Attachment

Exhibit A: Albany Development Code Amendments

## Acronyms

ADC	Albany Development Code
AMC	Albany Municipal Code
DC	Development Code Text Amendment File Designation
DLCD	Oregon Department of Land Conservation and Development
LUBA	Oregon Land Use Board of Appeals
OAR	Oregon Administrative Rule
ORS	Oregon Revised Statutes





# MEMO

TO: Albany City Council

VIA: Peter Troedsson, City Manager *PT 6/6*  
Matthew Ruettgers, Community Development Director *MR*

FROM: David Martineau, Current Planning Manager *DM*  
Jennifer Cepello, Project Planner *JC*

DATE: May 31, 2024, for the June 12, 2024, City Council Meeting

**SUBJECT:** Public Hearing Regarding Albany Development Code (ADC) Amendments (Planning File No. DC-02-24)

Relates to Strategic Plan theme: Effective Government

## Action Requested:

Staff recommend that the City Council hold a public hearing, deliberate, and make a decision regarding the proposed legislative text amendments to the ADC as presented in the staff report, dated May 6, 2024. If council elects to approve the amendments, staff also recommends the council adopt the attached ordinance (Attachment 1), which amends sections of the ADC related to the City's floodplain ordinance, to align to Oregon's Floodplain Model Ordinance. Amendments also update erosion and drainage requirements to align with the Albany Municipal Code and provide clarifying language for structures located in the floodway.

## Discussion:

On June 12, 2024, the city council will hold a public hearing on the proposed text amendment package. As described in detail in the staff report, which is provided as Exhibit B in the attached Ordinance, the following amendments are proposed:

- To align the City's Floodplain Ordinance with the Oregon Floodplain Model Ordinance.
- Update language pertaining to drainage and erosion to align with the updated Albany Municipal Code.
- Updates to fences located within the floodway.

The proposed amendments represent a package of compliance and general housekeeping items. The ADC is currently not consistent with state minimum for floodplain requirements.

The applications have been processed through the Type IV application review process in accordance with ADC 1.590. This process is required for legislative changes to the ADC that affect a large number of persons, properties, or situations and includes review and a recommendation by the planning commission prior to a final local decision made by the city council.

On May 13, 2024, the planning commission held a duly advertised public hearing and unanimously recommended that the city council approve the proposed amendments.



**Options for the City Council:**

City council has three options with respect to the proposed comprehensive plan and development code amendments:

- Option 1: Approve the proposed text amendments; or
- Option 2: Approve the proposed text amendments with modifications; or
- Option 3: Deny the proposed text amendments.

Based on the analysis provided in the report, staff recommend the city council approve the proposed amendments to the Albany Development Code. If city council accepts this recommendation the following motion is suggested:

**Motion to Adopt**

I MOVE that the city council ADOPT the ordinance to amend the Albany Development Code as identified in the staff report, dated May 6, 2024, and referenced under planning file DC-02-24. This motion is based on the findings and conclusions in the staff report, dated May 6, 2024, to the planning commission and city council, and findings in support of the decision made by city council during deliberations on this matter.

**Budget Impact:**

None

JC:km

Attachment (1): Ordinance



ORDINANCE NO. \_\_\_\_\_

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

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

WHEREAS, a notice of the proposed amendments and planning commission and city council public hearings was sent to the Oregon Department of Land Conservation and Development on February 19, 2024, published in the Albany Democrat-Herald on April 27, 2024, and mailed to Benton County and Linn County on April 29, 2024; and

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

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

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

Section 1: The Albany Development Code text is hereby amended as shown in attached Exhibit A for the following article: Article 6 Natural Resource Districts. (Planning file DC-02-24).

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

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

Passed by the Council: \_\_\_\_\_

Approved by the Mayor: \_\_\_\_\_

Effective Date: \_\_\_\_\_

\_\_\_\_\_  
Mayor

ATTEST:

\_\_\_\_\_  
City Clerk

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

## ARTICLE 6 NATURAL RESOURCE DISTRICTS

6.010 Overview. The natural resource districts are intended to protect valuable natural resources within the City of Albany while allowing reasonable economic use of property.

The Open Space zoning district is a base zone that specifies allowed land uses adjacent to some water resources in Albany.

The Natural Resource overlay districts address development activities within specific natural resource areas and are applied over a base zone. The overlay district requirements are in addition to the requirements of the base zone and other City of Albany ordinances.

The following zoning and overlay districts are included in this article:

- Open Space Zoning District (OS)
- Floodplain Overlay District (/FP)
- Hillside Development Overlay District (/HD)
- Significant Natural Resource Overlay Districts
  - Riparian Corridor Overlay (/RC)
  - Significant Wetland Overlay (/SW)
  - Habitat Assessment Overlay (/HA)
- Willamette River Greenway Overlay District (/WG)

[Ord. 5562, 10/10/03; Ord. 5668, 4/11/07; Ord. 5764, 12/1/11]

**Unless otherwise indicated, all amendments are to align the Floodplain Ordinance with the Oregon Model Floodplain Ordinance.**

### FLOODPLAIN

6.070 Statutory Authority. The State of Oregon has in ORS 197.175 delegated the responsibility to local governmental units to adopt floodplain management regulations designed to promote the public health, safety, and general welfare of its citizenry. Therefore, the City of Albany does recognize:

- (a) The flood hazard areas of Albany are subject to periodic inundation which may result in loss of life and property, health and safety hazards, disruption of commerce and governmental services, extraordinary public expenditures for flood protection and relief, and impairment of the tax base, all of which adversely affect the public health, safety, and general welfare.
- (b) These flood losses may be caused by the cumulative effect of obstructions in special flood hazard areas which increase flood heights and velocities, and when inadequately anchored, cause damage in other areas. Uses that are inadequately floodproofed, elevated, or otherwise protected from flood damage also contribute to flood loss.

~~6.070~~ 6.072 Purpose. The Floodplain overlay district (/FP) standards are intended to manage development in the floodplain in a way that promotes public health, safety, and general welfare, and to minimize public and private losses due to flooding in the flood hazard areas by provisions designed to: ~~public and environmental health and safety and minimizes the economic loss and social disruption caused by impending flood events.~~

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

- (a) Protect human life and health;
- (b) Minimize expenditure of public money for costly flood control projects;
- (c) Minimize the need for rescue and relief efforts associated with flooding and generally undertaken at the expense of the general public;
- (d) Minimize prolonged business interruptions;
- (e) Minimize damage to public facilities and utilities such as water and gas mains; electric, telephone and sewer lines; and streets and bridges located in special flood hazard areas;
- (f) Help maintain a stable tax base by providing for the sound use and development of flood hazard areas so as to minimize blight areas caused by flooding;
- (g) Notify potential buyers that the property is in a special flood hazard area;
- (h) Notify those who occupy special flood hazard areas that they assume responsibility for their actions; and
- (i) Participate in, and maintain eligibility for, flood insurance and disaster relief.

[Ord. 5746, 9/29/10]

6.074 Methods of Reducing Flood Losses. In order to accomplish its purposes, these regulations include methods and provisions for:

- (a) Restricting or prohibiting development which is dangerous to health, safety, and property due to water or erosion hazards, or which result in increased damage due to erosion, flood heights or velocities;
- (b) Requiring that development vulnerable to floods, including facilities which serve such uses, be protected against flood damage at the time of initial construction;
- (c) Regulating the alteration of natural floodplains, stream channels, and natural protective barriers, which help accommodate or channel flood waters;
- (d) Controlling filling, grading, dredging, and other development which may increase flood damage;
- (e) Preventing or regulating the construction of flood barriers which will unnaturally divert flood waters or may increase flood hazards in other areas.

6.075 Definitions. As used in this Article the following words and phrases have the following meanings:

[Ord. 5746, 9/29/10]

Appeal: A request for a review of the interpretation of any provision of this ordinance or a request for a variance.

Area of Shallow Flooding: A designated Zone AO, AH, AR/AO or AR/AH on a community's Flood Insurance Rate Map (FIRM) with a one percent or greater annual chance of flooding to an average depth of one to three feet where a clearly defined channel does not exist, where the path of flooding is unpredictable, and where velocity flow may be evident. Such flooding is characterized by ponding or sheet flow.

Area of Special Flood Hazard: The land in the floodplain within a community subject to a one percent or greater chance of flooding in any given year. It is shown on the Flood Insurance Rate Map (FIRM) as Zone A, AO, AH, A1-30, AE, A99, AR. "Special flood hazard area" is synonymous in meaning and definition with the phrase "area of special flood hazard."

Base Flood or 100-year Flood: The flood having a one percent chance of occurring in any given year. Also see "Flood Fringe"

Base Flood Elevation (BFE): The elevation to which floodwater is anticipated to rise during the base flood. The BFE is the elevation, expressed in feet above sea level, that the base flood is expected to reach.

Basement: Any area of the building having its floor subgrade (below ground level) on all sides. The portion of a structure with its floor sub-grade (below ground level) on all sides.

Below-Grade Crawl Space: An enclosed area below the based flood elevation in which: (a) the interior grade is not more than two feet below the lowest adjacent exterior grade and; (b) the height, measured from the interior

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

grade of the crawl space to the top of the crawl space foundation, does not exceed four feet at any point.

Continuous Storage Operations: Operations that continuously store equipment or materials, including, but not limited to lumber yards, automobile junkyards, logging or sawmill operations, storage yards for heavy equipment, automobile dealership lots, and other storage operations with similar impacts. These operations are included in the definition of floodplain development.

Critical Facility: A facility that needs to be operable during a flood, or for which even a slight chance of flooding might pose unacceptable risk to health and safety. Critical facilities include, but are not limited to schools, nursing homes, hospitals, police, fire and other emergency responders, and installations that produce, use or store hazardous materials.

Datum: ~~Until recently~~ Previously the FIRMs have referenced the National Geodetic Vertical Datum of 1929 (NGVD 29). A newer more accurate vertical datum, the North American Vertical Datum of 1988 (NAVD 88), will be used for all FIRM updates. The 2010 Albany FIRMs reference the NAVD 88 datum.

NAVD 88 will be used for floodplain management purposes in the City of Albany. The conversion factor from NGVD 29 to NAVD 88 for all flooding sources in Albany is +3.38 feet. This represents an average conversion offset. This simplified uniform conversion procedure can be used for entire counties when the maximum error is not more than 0.25 feet (3 inches) for that county, which is the case for the City of Albany.

Federal Emergency Management Agency (FEMA): The federal agency charged with implementing the National Flood Insurance Program. FEMA provides floodplain maps to the City of Albany.

Flood: A general and temporary condition of partial or complete inundation of normally dry land areas from:

- (a) the overflow of inland or tidal waters; and/or
- (b) the unusual and rapid accumulation of runoff of surface waters from any source;
- (c) Mudslides (i.e., mudflows) which are proximately caused by flooding as defined in paragraph (b) of this definition and are akin to a river of liquid and flowing mud on the surfaces of normally dry land areas, as when earth is carried by a current of water and deposited along the path of the current; and/or

The collapse or subsidence of land along the shore of a lake or other body of water as a result of erosion or undermining caused by waters or currents of water exceeding anticipated cyclical levels or suddenly caused by unusually high water level in natural body of water, accompanied by a severe storm, or by an unanticipated force of nature, such as flash flood or an abnormal tidal surge, or by some similarly unusual and unforeseeable event which results in flooding as defined in paragraph (a) of this definition.

Flood Elevation Study: See "Flood Insurance Study"

Flood Fringe: Those areas on either side of the floodway within the Special Flood Hazard Area (100-year floodplain). This area is subject to inundation by the base flood but conveys little or no velocity flows. Zone designations on Flood Insurance Rate Maps for Albany include A and AE. Note Floodplain Relationships diagram (Figure 6.075-1). [Ord. 5947, 1/01/21]

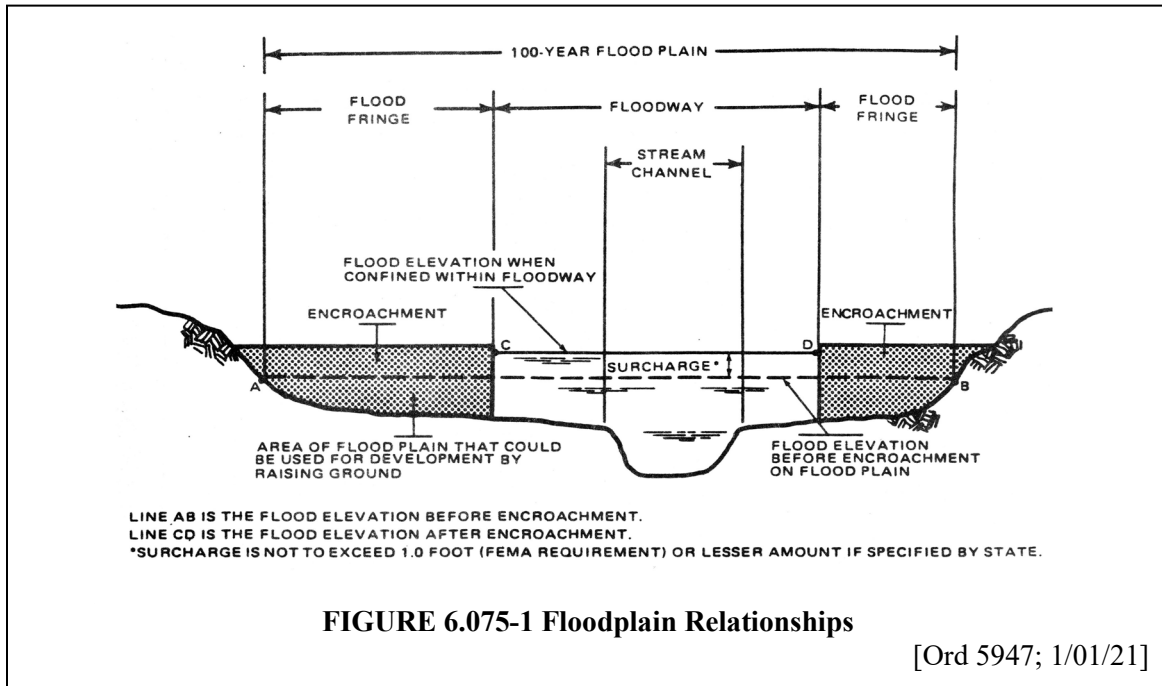
Flood Insurance Rate Map (FIRM): The official map of a community, on which the Federal Insurance Administrator has delineated both the special hazard areas and the risk premium zones applicable to the community. A FIRM that has been made available digitally is called a Digital Flood Insurance Rate Map (DFIRM). ~~The official map on which FEMA has delineated the Base Flood Elevations, regulatory floodways, and Special Flood Hazard Areas.~~

Flood Insurance Study (FIS): An examination, evaluation, and determination of flood hazards and, if appropriate, corresponding water surface elevations, and/or an examination, evaluation, and determination of mudslide (i.e., mudflow) and/or flood-related erosion hazards. ~~The official report by the Federal Insurance Administration evaluating flood hazards and containing flood profiles, floodway boundaries and water surface elevations of the base flood.~~

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Floodplain: The combined area of the floodway and the flood fringe. Also known as the 100-year floodplain, and the Special Flood Hazard Area. Note Floodplain Relationships diagram in Figure 6.075-1.

[Ord. 5947, 1/01/21]



[Ord 5947; 1/01/21]

Floodplain Development: Any man-made change to real property, including but not limited to, construction or placement of buildings or other structures, fencing, mining, dredging, filling, grading, paving, excavating, land clearing, drilling, or Continuous Storage Operations in the Special Flood Hazard Area (100-year floodplain).

Floodproofing: Any combination of structural or nonstructural additions provisions, changes or adjustments to structures, land or waterway for the reduction or elimination of flood damage to real estate or improved real property, water and sanitary facilities, structures, and their contents during a 100-year flood to structures which reduce or eliminate risk of flood damage to real estate or improved real property, water and sanitary facilities, structures, and their contents.

Floodway: The channel of a river or other watercourse and the adjacent land areas that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation more than a designated height. Also referred to as "Regulatory Floodway". The regulatory floodway is the stream channel plus that portion of the overbanks that must be kept free from encroachment in order to discharge the 1-percent annual-chance flood without increasing flood levels by more than 1.0 foot. Note Floodplain Relationships diagram in Figure 6.075-1.

[Ord. 5947, 1/01/21]

Functionally Dependent Use: A use which cannot perform its intended purpose unless it is located or carried out in close proximity to water. The term includes only docking facilities, port facilities that are necessary for the loading and unloading of cargo or passengers, and ship building and ship repair facilities, and does not include long term storage or related manufacturing facilities.

Hazardous Material: The Oregon Department of Environmental Quality defines hazardous materials to include any of the following:

- (a) Hazardous waste as defined in ORS 466.005;

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- (b) Radioactive waste as defined in ORS 469.300, radioactive material identified by the Energy Facility Siting Council under 469.605 and radioactive substances as defined in 453.005;
- (c) Communicable disease agents as regulated by the Health Division under ORS Chapter 431 and 433.010 to 433.045 and 433.106 to 433.990;
- (d) Hazardous substances designated by the United States Environmental Protection Agency under section 311 of the Federal Water Pollution Control Act, P.L. 92-500, as amended;
- (e) Substances listed by the United States Environmental Protection Agency in 40 Code of Federal Regulations Part 302 -- Table 302.4 (List of Hazardous Substances and Reportable Quantities) and amendments;
- (f) Material regulated as a Chemical Agent under ORS 465.550;
- (g) Material used as a weapon of mass destruction, or biological weapon;
- (h) Pesticide residue;
- (i) Dry cleaning solvent as defined by ORS 465.200(9).

Highest Adjacent Grade: The highest natural elevation of the ground surface prior to construction next to the proposed walls of a structure.

Historic Structure: Any structure that is:

- a) Listed individually in the National Register of Historic Places (a listing maintained by the Department of Interior) or preliminarily determined by the Secretary of the Interior as meeting the requirements for individual listing on the National Register;
- b) Certified or preliminarily determined by the Secretary of the Interior as contributing to the historical significance of a registered historic district or a district preliminarily determined by the Secretary to qualify as a registered historic district;
- c) Individually listed on a state inventory of historic places in states with historic preservation programs which have been approved by the Secretary of Interior; or
- d) Individually listed on a local inventory of historic places in communities with historic preservation programs that have been certified either:
  - i. By an approved state program as determined by the Secretary of the Interior or
  - ii. Directly by the Secretary of the Interior in states without approved programs.

Letter of Map Change (LOMC) means an official FEMA determination, by letter, to amend or revise effective Flood Insurance Rate Maps and Flood Insurance Studies. LOMCs are issued in the following categories:

- a) Letter of Map Amendment (LOMA): A revision based on technical data showing that a property was incorrectly included in a designated special flood hazard area. A LOMA amends the current effective Flood Insurance Rate Map and establishes that a specific ~~property~~ structure or area is not located in a special flood hazard area;
- b) Letter of Map Revision (LOMR): A revision based on technical data ~~showing that~~, usually due to manmade changes, shows changes to flood zones, flood elevations, floodplain and floodway delineations, and planimetric (horizontal) features. One common type of LOMR, a LOMR-F, is a determination that a structure or parcel has been elevated by fill above the Base Flood Elevation and is excluded from the special flood hazard area; and
- c) Conditional Letter of Map Revision (CLOMR): A formal review and comment by FEMA as to whether a proposed project complies with the minimum National Flood Insurance Program floodplain management criteria. A CLOMR does NOT amend or revise effective Flood Insurance Rate Maps, Flood Boundary and Floodway Maps, or Flood Insurance Studies.



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Lowest Floor: The lowest floor of the lowest enclosed area (including basement). An unfinished or flood-resistant enclosure, usable solely for parking vehicles, building access or storage, in any area other than a basement area, is not considered a building's lowest floor, provided that the enclosure is not built so as to render the structure in violation of the applicable design requirements of this Article found in Section 6.118(1).

Manufactured Dwelling: A structure, transportable in one or more sections, which is built on a permanent chassis and is designed for use with or without a permanent foundation when attached to the required utilities. The term "manufactured dwelling" does not include a "recreational vehicle" and is synonymous with "manufactured home".

Manufactured Dwelling Park or Subdivision: A parcel (or contiguous) parcels of land divided into two or more manufactured dwelling lots for rent or sale.

Mean Sea Level: For purposes of the National Flood Insurance Program, the National Geodetic Vertical Datum (NGVD) of 1929, 1988, or other datum, to which Base Flood Elevations shown on a community's Flood Insurance Rate Map are referenced.

National Flood Insurance Program (NFIP): FEMA's National Flood Insurance Program (~~NFIP~~) has three basic components: —flood hazard mapping, flood insurance, and floodplain regulations. The combination of the three ~~all~~ work together to reduce flood damages. The NFIP is founded on a mutual agreement between the federal government and each participating community. Local, state and federal governments and private insurance companies must share roles and responsibilities to meet the goals and objectives of the NFIP. The City of Albany joined the NFIP in 1985. The community's role is of paramount importance. Residents and property owners can get federally-backed flood insurance only if the community carries out its responsibilities. The community enacts and implements the floodplain regulations required for participation in NFIP. The community's regulations must meet the regulations set by its state, as well as the NFIP criteria.

New Construction: For floodplain management purposes, "new construction" means structures for which the "start of construction" commenced on or after the effective date of a floodplain management regulation adopted by the City of Albany and includes any subsequent improvements to such structures.

Nonresidential: For the purposes of development in the floodplain, FEMA defines nonresidential construction to include structures not used for human habitation. This includes parking, limited storage, and building access ~~associated with residential uses~~, as well as commercial, industrial, and institutional uses. This differs from the definition of nonresidential in other Articles and Sections of this Code, and from the definition in the locally adopted State Building Codes.

Oregon Drainage Law: Oregon, through court decisions, has adopted a civil law doctrine of drainage. Generally, under this doctrine, adjoining landowners are entitled to have the normal course of natural drainage maintained. The lower landowner must accept water that naturally comes to his land from above, but he is entitled not to have the normal drainage changed or substantially increased. The lower landowner may not obstruct the runoff from the upper land, if the upper landowner is properly discharging the water. The drainage law has developed without legislative action; therefore, there are no Oregon Revised Statutes, rules, or other laws to cite. Note that this definition is intended to provide general information and should not be used as the basis for legal advice or legal decisions.

Permanent Foundation: A natural or manufactured support system to which a structure is anchored or attached. A permanent foundation is capable of resisting flood forces and may include posts, piles, poured concrete or reinforced block walls, properly compacted fill, or other systems of comparable flood resistivity and strength.

Recreational Vehicle: A vehicle that is:

- (a) Built on a single chassis;
- (b) 400 square feet or less when measured at the largest horizontal projection;
- (c) Designed to be self-propelled or permanently towed by a light duty truck, and;
- (d) Designed primarily not for use as a permanent dwelling but as temporary living quarters for recreational, camping, travel, or seasonal use.

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Residential: For the purposes of development in the floodplain, FEMA defines residential construction to include the entire habitable structure, including bathroom, laundry rooms, hobby rooms, workshops, etc. Residential accessory structures are considered residential construction. This differs from the definition of residential in other Articles and Sections of this Code, and from the definition of residential and habitable in the locally adopted State Building Codes.

Special Flood Hazard Area: See “Area of Special Flood Hazard” for this definition. ~~Areas subject to inundation during the occurrence of the 1 percent annual flood. These areas include both the flood fringe and the floodway and are collectively commonly referred to as the “100-year floodplain.”~~

Start of Construction: Includes substantial improvement and means the date the building permit was issued, provided the actual start of construction, repair, reconstruction, rehabilitation, addition, placement, or improvement was within 180 days of the permit date. The actual start means either the first placement of permanent construction of a structure on a site, such as the pouring of slab or footings, the installation of piles, the construction of columns, or any work beyond the stage of excavation; or the placement of a manufactured dwelling home on a foundation. Permanent construction does not include land preparation, such as clearing, grading, and filling; nor does it include the installation of streets and/or walkways; nor does it include excavation for a basement, footings, piers, or foundations or the erection of temporary forms; nor does it include the installation on the property of accessory buildings, such as garages or sheds not occupied as dwelling units or not part of the main structure. For a substantial improvement, the actual start of construction means the first alteration of any wall, ceiling, floor, or other structural part of a building, whether or not the alteration affects the external dimensions of a building.

Structure: For floodplain management purposes, a walled and roofed building, including a gas or liquid storage tank, that is principally above ground, as well as a manufactured dwelling.

Substantial Damage: Damage of any origin sustained by a structure whereby the cost of restoring the structure to its before damaged condition would equal or exceed 49 percent of the market value of the structure before the damage occurred.

Substantial Improvement: For the purposes of this section any and all repairs, reconstruction, additions or improvements of a structure occurring within the ten years prior to the date of the application for the current improvement, the cost of which, when cumulatively added to the costs of prior improvements, equals or exceeds 49 percent of the market value of the structure before the start of construction of the improvement. Cumulative value will be computed by adding the valuations of all improvements within the ten-year period as calculated on the associated building permit plus the valuations that would have applied for improvements requiring permits but for which no permit was actually issued. This cumulative value shall be used in comparing the value of improvements against the current market value of the structure before the start of construction of the new improvement. The market value determination shall be based upon the county assessor's most recent computation of real market value at the time of the current application. This term includes structures that have incurred “substantial damage,” regardless of the actual repair work performed.

The term does not, however, include either:

- (a) Any project for improvement of a structure to correct existing violations of state or local health, sanitary, or safety code specifications that have been identified by the local code enforcement official and are the minimum necessary to assure safe living conditions; or
- (b) Any restoration or rehabilitation of a structure on the City’s Local Historic Inventory or the National Register of Historic Places (additions and new construction are not exempt) and will not preclude the structure’s continued designation as a ‘historic structure’.

[Ord. 5875, 10/28/16]

- ~~(c) Maintenance, replacement, or repair of prior lawfully constructed improvements.~~

Variance: A grant of relief by the City from the terms of a floodplain management regulation.

Violation: The failure of a structure or other development to be fully compliant with the community’s floodplain management regulations. A structure or other development without the elevation certificate, other

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certifications, or other evidence of compliance required in this ordinance is presumed to be in violation until such time as that documentation is provided.

Watercourse: Any natural or artificial stream, river, creek, ditch, channel, canal, conduit, culvert, drain, waterway, gully, ravine or wash in which water flows in a definite direction or course, either continuously or intermittently, and has a definite channel, bed and banks; including any adjacent area subject to inundation by reason of overflow or flood water. This also includes any topographic feature not meeting the above definition that is identified in the City's Stormwater Master Plan as needing preservation.

## GENERAL PROVISIONS

6.080 Lands to Which These Regulations Apply. These regulations apply to all special flood hazard areas in the City of Albany that are subject to inundation from a 100-year flood. These areas have been identified by the Federal Emergency Management Agency (FEMA) in the Flood Insurance Study (FIS) for Linn County, Oregon and Incorporated Areas effective date September 29, 2010 and as revised effective date December 8, 2016 and associated Flood Insurance Rate Maps (FIRMs) with Community Number 410137. ~~These areas are depicted on the FIRMs by the letters A and AE.~~ The Flood Insurance Study and FIRMs are on file at the City of Albany, Community Development Department at 333 Broadalbin Street SW.

[Ord. 5875, 10/28/16]

In addition, the City Council may adopt by resolution more current floodplain studies or boundary information. If the new information conflicts with the current effective Flood Insurance Study of Flood Insurance Rate Maps, the more restrictive information will apply.

[Ord. 5773, 02/08/12]

Precise Special Flood Hazard Area (100-year floodplain) boundaries may be difficult to determine from the maps referred to above due to their large scale and lack of site-specific ~~site specific~~ studies. In such instances, the Floodplain Administrator may apply FEMA base flood elevations to topographic maps or site surveys in order to determine actual boundaries. In the absence of FEMA base flood elevations, the Floodplain Administrator shall reasonably use other sources of floodplain and floodway data to determine base flood elevations and boundaries. However, when elevation data is not available through FEMA or another authoritative source and the development consists of 4 or more lots, 4 or more structures, or 4 or more acres, the applicant shall generate and have certified by a registered engineer the base flood elevation.

[Ord. 5146, 9/14/94; Ord. 5410, 7/28/99; Ord. 5746, 9/29/10]

6.081 Warning and Disclaimer of Liability. The degree of flood protection required by this article is considered reasonable for regulatory purposes and is based on scientific and engineering considerations. Larger floods can and will occur on rare occasions. Flood heights may be increased as a result of failure of manmade structures and/or natural causes. This article does not imply that the land outside the Special Flood Hazard Areas or uses permitted within such areas will be free from flooding or flood damages. This article does not create any duty or liability on the part of the City of Albany or any officer or employee thereof for any flood damages that result from reliance on this article or any administrative decision lawfully made thereunder.

[Ord. 5746, 9/29/10]

6.083 Coordination with State of Oregon Specialty Codes: Pursuant to the requirement established in ORS 455 that the City of Albany administers and enforces the State of Oregon Specialty Codes, the City of Albany does hereby acknowledge that the Oregon Specialty Codes contain certain provisions that apply to the design and construction of buildings and structures located in special flood hazard areas. Therefore, this ordinance is intended to be administered and enforced in conjunction with the Oregon Specialty Codes.

6.084 Compliance: All development within special flood hazard areas is subject to the terms of this Code and is required to comply with its provisions and all other applicable regulations.

6.085 Penalties for Noncompliance: No structure or land shall hereafter be constructed, located, extended,

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converted, or altered without full compliance with the terms of this ordinance and other applicable regulations. Violations of the provisions of this ordinance by failure to comply with any of its requirements (including violations of conditions and safeguards established in connection with conditions) shall constitute a civil infraction. Nothing contained herein shall prevent the City from taking such other lawful action as is necessary to prevent or remedy any violation.

~~6.082~~ 6.086 Abrogation and Greater Restrictions. This ordinance is not intended to repeal, abrogate, or impair any existing easements, covenants, or deed restrictions. However, where this ordinance and another ordinance, Building Codes, easement, covenant, or deed restriction conflict or overlap, whichever imposes the more stringent restrictions shall prevail. [Ord. 5746, 9/29/10]

6.087 Severability: This ordinance and the various parts thereof are hereby declared to be severable. If any section clause, sentence, or phrase of the Ordinance is held to be invalid or unconstitutional by any court of competent jurisdiction, then said holding shall in no way effect the validity of the remaining portions of this Ordinance.

6.088 Interpretation: In the interpretation and application of this ordinance, all provisions shall be:

(a) Considered as minimum requirements;

(b) Liberally construed in favor of the governing body; and

(c) Deemed neither to limit nor repeal any other powers granted under the state statutes.

## ADMINISTRATION

6.089 Floodplain Administrator. The Community Development Director and their designee are ~~is~~ appointed to administer, implement, and enforce this Article in accordance with its provisions. The Floodplain Administrator may delegate authority to implement these provisions. Duties of the local floodplain administrator shall include but are not limited to Sections 6.090 through 6.099.

6.090 Permit Review. Review all development permit applications to determine that: [Ord. 5746, 9/29/10]

- a) The permit requirements of this ordinance have been satisfied;
- b) All other required local, state, ~~and~~ And federal permits have been obtained and approved.
- c) Review all development permits to determine if the proposed development is located in a floodway. If located in the floodway assure that the floodway provisions of Section 6.100 are met; and
- d) Review all development permits to determine if the proposed development is located in an area where Base Flood Elevation (BFE) data is available either through the Flood Insurance Study (FIS) or from another authoritative source. If BFE data is not available, then ensure compliance with the provisions of Section 6.107; and ~~whether proposed new development will be located in Areas of Special Flood Hazard.~~
- e) Provide the building official the Base Flood Elevation (BFE) with the additional one-foot freeboard applicable to any building requiring a development permit.
- e) Review applications for modifications of any existing development in Areas of Special Flood Hazard for compliance with the requirements of this Article.
- f) Interpret flood hazard area boundaries, provide available flood hazard information, and provide Base Flood Elevations, where they exist.
- g) Review proposed development to assure that necessary permits have been received from governmental agencies from which approval is required by federal or state law, including but not limited to section 404 of the Federal Water Pollution Control Act Amendments of 1972, 33 U.S.C. 1334; the Endangered Species Act of 1973, 16 U.S.C. 1531-1544; and State of Oregon Removal-Fill permits. Copies of such permits shall be maintained on file.

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- h) Review all development permit applications to determine if the proposed development is located in the floodway, and if so, ensure that the standards in Sections 6.100 through ~~6.110~~ 6.113 are met.
- i) When Base Flood Elevation data or floodway data are not available, then the Floodplain Administrator shall obtain, review and reasonably utilize any Base Flood Elevation and floodway data available from a federal, state or other authoritative source in order to administer the provisions of this Article.
- j) When Base Flood Elevations or other engineering data are not available from an authoritative source, the Floodplain Administrator shall take into account the flood hazards, to the extent they are known, to determine whether a proposed building site or subdivision will be reasonably safe from flooding.
- k) Where interpretation is needed of the exact location of the Special Flood Hazard Boundary, including regulatory floodway, the Floodplain Administrator shall make the interpretation. Any person contesting the location of the boundary shall be given a reasonable opportunity to appeal the interpretation as provided in Section 6.095 ~~6.094~~.
- l) Issue floodplain development permits when the provisions of this Article have been met, or disapprove the same in the event of noncompliance.
- ~~m) Obtain, verify and record the actual elevation in relation to the vertical datum used on the effective FIRM, or highest adjacent grade where no BFE is available, of the lowest floor level, including basement, of all new construction or substantially improved buildings and structures.~~
- ~~n) Obtain, verify and record the actual elevation, in relation to the vertical datum used on the effective FIRM, or highest adjacent grade where no BFE is available, to which any new or substantially improved buildings or structures have been flood proofed. When flood proofing is utilized for a structure, the Floodplain Administrator shall obtain certification of design criteria from a registered professional engineer or architect.~~
- o) Ensure that all records pertaining to the provisions of this Article are permanently maintained in the Community Development Department and shall be open for public inspection.
- p) Make inspections in Areas of Special Flood Hazard to determine whether development has been undertaken without issuance of a floodplain development permit, ensure that development is undertaken in accordance with the floodplain development permit and this Article, and verify that existing buildings and structures maintain compliance with this Article.
- q) Coordinate with the Building Official to inspect areas where buildings and structures in flood hazard areas have been damaged, regardless of the cause of damage, and notify owners that permits may be required prior to repair, rehabilitation, demolition, relocation, or reconstruction of the building or structure.
- r) Review all development permit applications to determine if the proposed development qualifies as a substantial improvement as defined in ~~Make Substantial Improvement or Substantial Damage determinations based on the definitions described~~ in Section 6.075.

6.091 Information to be obtained and maintained. The following information shall be obtained and maintained and shall be made available for public inspection as needed:

- (a) Obtain, record, and maintain the actual elevation (in relation to mean sea level) of the lowest floor (including basements) and all attendant utilities of all new or substantially improved structures where Base Flood Elevation (BFE) data is provided through the Flood Insurance Study (FIS), Flood Insurance Rate Map (FIRM), or obtained in accordance with Section 6.107.
- (b) Obtain and record the elevation (in relation to mean sea level) of the natural grade of the building site for a structure prior to the start of construction and the placement of any fill and ensure that the requirements of Sections 6.100 and 6.091 are adhered to.
- (c) Upon placement of the lowest floor of a structure (including basement) but prior to further vertical construction, obtain documentation, prepared, and sealed by a professional licensed surveyor or engineer,



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certifying the elevation (in relation to mean sea level) of the lowest floor (including basement).

- (d) Where base flood elevation data are utilized, obtain as-built certification of the elevation (in relation to mean sea level) of the lowest floor (including basement) prepared and sealed by a professional licensed surveyor or engineer, prior to the final inspection;
- (e) Maintain all Elevation Certificates (EC) submitted to the community;
- (f) Obtain, record, and maintain the elevation (in relation to mean sea level) to which the structure and all attending utilities were floodproofed for all new or substantially improved floodproofed structures were allowed under this ordinance and where Base Flood Elevation (BFE) data is provided through the FIS, FIRM, or obtain in accordance with Section 6.107;
- (g) Maintain all floodproofing certificates required under this ordinance;
- (h) Record and maintain all variance actions, including justification for their issuance;
- (i) Obtain and maintain all hydrologic and hydraulic analyses performed as required under Section 6.100
- (j) Record and maintain all Substantial Improvement and Substantial Damage calculations and determinations as required under Section 6.095;
- (k) Maintain for public inspection all records pertaining to the provisions of this ordinance.

#### 6.092 Requirement to Notify Other Entities and Submit New Technical Data.

- (1) Community Boundary Alterations: The Floodplain Administrator shall notify the Federal Insurance Administrator in writing whenever the boundaries of the community have been modified by annexation, or the community has otherwise assumed authority or no longer has authority to adopt and enforce floodplain management regulations for a particular area, to ensure that all Flood Hazard Boundary Maps (FHBM) and Flood Insurance Rate Maps (FIRM) accurately represent the community's boundaries. Include within such notification a copy of a map of the community suitable for reproduction, clearly delineating the new corporate limits or new area for which the community has assumed or relinquished floodplain management regulatory authority.
- (2) Watercourse Alterations: Notify adjacent communities, the Department of Land Conservation and Development, and other appropriate state and federal agencies, prior to any alteration or relocation of a watercourse, and submit evidence of such notification to the Federal Insurance Administration. This notification shall be provided by the applicant to the Federal Insurance Administration as a Letter of Map Revision (LOMR) along with either:
  - (a) A proposed maintenance plan to assure the flood carrying capacity within the altered or relocated portion of the watercourse is maintained; or
  - (b) Certification by a registered professional engineer that the project has been designed to retain its flood carrying capacity without periodic maintenance.

The applicant shall be required to submit a Conditional Letter of Map Revision (CLOMR) when required under Section 6.093. Ensure compliance with all applicable requirements in Sections 6.093 and 6.101.

6.093 Requirement to Submit New Technical Data: A community's base flood elevations may increase or decrease resulting from physical changes affecting flooding conditions. As soon as practicable, but not later than six months after the date such information becomes available, a community shall notify the Federal Insurance Administrator of the changes by submitting technical or scientific data in accordance with Title 44 of the Code of Federal Regulations (CFR), Section 65.3. The community may require the applicant to submit such data and review fees required for compliance with this section through the applicable FEMA Letter of Map Change (LOMC) process.

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- (1) It is the responsibility of the applicant to have technical data prepared in a format required for a CLOMR or LOMR and to submit such data to FEMA on the appropriate application forms. Submittal and processing fees for these map revisions shall be the responsibility of the applicant.
- (2) Applicants shall be responsible for all costs associated with obtaining a CLOMR or LOMR from FEMA.
- (3) The City of Albany shall be under no obligation to sign the Community Acknowledgement Form, which is part of the CLOMR/LOMR application, without evaluation and concurrence with the information presented.
- (4) Within six months of project completion, an applicant who obtains an approved CLOMR from FEMA or whose development modifies floodplain boundaries or Base Flood Elevations shall obtain from FEMA a LOMR reflecting the as-built changes to the FIRM.

The Floodplain Administrator shall require a Conditional Letter of Map Revision prior to the issuance of a floodplain development permit for:

- (a) Proposed floodway encroachments that increase the base flood elevation; and
- (b) Proposed development which increases the base flood elevation by more than one foot in areas where FEMA has provided base flood elevations but no floodway.

An applicant shall notify FEMA within six months of project completion when an applicant has obtained a Conditional Letter of Map Revision (CLOMR) from FEMA. This notification to FEMA shall be provided as a Letter of Map Revision (LOMR).

#### 6.094 Substantial Improvement and Substantial Damage Assessments and Determinations.

- (a) Conduct Substantial Improvement (SI) (as defined in Section 6.075) reviews for all structural development proposal applications and maintain a record of SI calculations within permit files in accordance with Section 6.092.
- (b) Conduct Substantial Damage (SD) (as defined in Section 6.075) assessments when structures are damaged due to a natural hazard event or other causes.
- (c) Make SD determinations whenever structures within the special flood hazard area (as established in Section 6.080) are damaged to the extent that the cost of restoring the structure to its before damaged condition would equal or exceed 49 percent of the market value of the structure before the damage occurred.

~~6.094~~ 6.095 Appeals. Appeals to the interpretations of the Floodplain Administrator shall be reviewed by the Hearings Board as a Type II procedure in accordance with Sections 1.040 and 1.410 of this Code. Appeals to the land use decisions (Types I-L, II, and III) resulting from the Floodplain Development Permit applications shall be reviewed in accordance with Section 1.410 of this Code.

[Ord. 5746, 9/29/10; Ord. 5947, 01/01/21]

~~6.092~~ 6.096 Variances. Variances from the terms of this section shall be granted only, when because of special circumstances applicable to the property, including size, shape, topography, location or surroundings, the strict application of this section deprives such property of privileges enjoyed by other property in the vicinity and under identical zoning classifications. Variances as interpreted in the National Flood Insurance Program are based on the physical characteristics of the land and are not dependent upon the occupants, type, or use of a structure. They primarily address small lots in densely populated residential neighborhoods. As such, variances from the flood elevations should be quite rare.

[Ord. 5746, 9/29/10]

The issuance of a variance is for floodplain management purposes only. Flood insurance premium rates are determined by federal statute according to actuarial risk and will not be modified by the granting of a variance.

No variance will be given to the standards for development in a floodway.

Variances from the floodplain management regulations of this section shall be reviewed using the Major



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Variance procedure (see Article 2) and shall be approved if the review body finds that all of the following criteria have been met: [Ord. 5746, 9/29/10; Ord. 5947, 1/01/21]

- (1) The applicant can show good and sufficient cause; and
- (2) Failure to grant the variance would result in exceptional hardship to the applicant; and
- (3) Issuing the variance will not result in increased flood heights, additional threats to public safety, extraordinary public expense, create nuisances, cause fraud on or victimization of the public, or conflict with existing local laws or ordinances; and
- (4) The variance is the minimum necessary, considering the flood hazard, to afford relief.
- (5) Variances from the required lowest floor elevation for new construction and substantial improvements may be granted if the review body finds that the request meets criteria (1)-(4) and the parcel is one-half acre or less in size contiguous to and surrounded by lots with existing structures constructed below the base flood level. As the lot size increases the technical justification required for issuing the variance increases.
- (6) Variances may be granted for a functionally dependent use ~~water dependent use~~ provided that the structure or other development meets criteria (1)-(4) and is protected by methods that minimize flood damages during the base flood and create no additional threats to public safety.
- (7) Variances may be granted for the reconstruction, rehabilitation, or restoration of structures listed on Albany’s Local Historic Inventory or the National Register of Historic Places, without regard to the procedures set forth in this section. [Ord. 5875, 10/28/16]
- ~~(8) Variances may be granted for nonresidential buildings in very limited circumstances to allow a lesser degree of floodproofing than watertight or dry floodproofing, where it can be determined that such action will have low damage potential, complies with all other variance criteria and otherwise complies with Building Codes.~~

Upon issuing the variance, the Floodplain Administrator will notify the applicant in writing that the issuance of a variance to construct a structure below the base flood level will result in increased premium rates for flood insurance, and that such construction below the base flood level increases risks to life and property. Such notification and a record of all variance actions, including justification for their issuance shall be maintained in accordance with Section 6.092.

[Ord. 5746, 9/29/10]

~~6.093~~ 6.097 Floodplain Development Permit Required. A Floodplain Development Permit is required prior to initiating floodplain development activities, as defined in Section 6.075, in the Special Flood Hazard Area. This Article cannot anticipate all development activities that may be located within the Special Flood Hazard Area. The floodplain development permit shall expire 180 days after issuance unless the permitted activity has been substantially begun and thereafter pursued to completion.

[Ord. 5746, 9/29/10]

All development activities ~~that~~ require a Floodplain Development Permit and shall be processed in accordance with ADC Section 1.100, Land Use Application Procedures. When ambiguity exists concerning the appropriate classification of a particular activity, the use may be reviewed as a conditional use when the Floodplain Administrator determines that the proposed activity is consistent with other activities allowable within the subject district due to similar characteristics and impacts. When a development proposal involves a combination of activities, the more restrictive provisions of this Code shall apply.

[Ord. 5746, 9/29/10; Ord. 5947, 1/01/21]

A. The following activities will be processed through a Type I procedure as established in ADC Section 1.210: [Ord. 5947, 1/01/21]

- (1) The construction or placement of any structure 200 square feet or more.
- (2) Any substantial improvement to an existing structure as defined in this code.

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- (3) Placement of a recreational vehicle more than 180 consecutive days, as described in 6.124(2)-(3).
- (4) Solid fences and walls that require a permit as listed in Section 6.125.
- (5) Any site improvement for development in the floodplain pursuant to Section 6.110 ~~that is not exempt under Section 6.094 and~~ that does not already require a permit elsewhere in this Section of the Code. [Ord. 5875, 10/28/16]

B. The following activities will be processed through a Type I-L procedure as established in ADC 1.220: [Ord. 5947, 1/01/21]

- (1) Any development in the floodway allowed by Sections 6.100-6.101.
- (2) Grading, excavation, fill, and paving pursuant to Section 6.111 that cumulatively impacts more than 50 cubic yards of the native elevation and contours of the site or that otherwise requires a permit per this Article, and any associated retaining walls.
- (3) Mining and drilling operations that result in sledge, slag, or other materials remaining in the Special Flood Hazard Area will be considered fill for the purposes of this Article and will be reviewed through the applicable criteria in Section 6.111.
- (4) Additions or expansions of Continuous Storage Operations pursuant to Section 6.112.
- (5) New Continuous Storage Operations pursuant to Section 6.112.
- (6) Land Divisions of 19 lots or less pursuant to Section 6.110. [Ord. 5767, 12/7/11; Ord. 5875, 10/28/16]

C. The following activities will be processed through a Type II procedure as established in ADC 1.230: [Ord. 5947, 1/01/21]

- (1) Any alteration of a watercourse, pursuant to 6.101 and the applicable criteria in Section 6.111.

D. The following will be processed through a Type III procedure as established in ADC 1.240: [Ord. 5947, 1/01/21]

- (1) Land Divisions of 20 or more lots, Cluster Developments and Planned Developments pursuant to Section 6.110. [Ord. 5875, 10/28/16]
- (2) Manufactured home parks pursuant to Section 6.110 will be reviewed through the Manufactured Home Park application process.

~~6.094~~ 6.098 Floodplain Development Permit Exemptions. The following development activities in the flood fringe require application for a Floodplain Development Permit but may be deemed exempt from floodplain development regulations upon submission of the application form and appropriate supporting documentation. These exemptions do not apply to development in the floodway. ~~do not require a Floodplain Development Permit. These exemptions do not apply to development in the floodway.~~ (Note: Federal and State laws and regulations, including Oregon Drainage Law, may still apply to exempted development activities.) [Ord. 5746, 9/29/10]

- ~~(1) Structures less than 200 square feet that meet the provisions of 6.122.~~
- (2) Grading, excavation, fill or paving less than 50 cubic yards (cumulative).
- (3) Retaining walls not associated with a grading, fill, excavation, and paving review.
- (4) Open barbless wire, pipe, rail, chain link, or wood fences that meet the design guidelines in Section 6.125 of this Article.
- (5) Agricultural activities, not including structures.
- (6) Short-term storage of equipment or materials that in time of flooding could either be removed from the area, or would not cause harm to property, humans, animals or the environment by becoming buoyant or hazardous.

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- (7) Signs, markers, aids, etc., placed by a public agency to serve the public.
- ~~(8) Minor repairs or improvements to existing structures provided that the alterations do not increase the size or intensity of use, and do not constitute repair of substantial damage, or substantial improvement as defined in this Article.~~
- (9) Customary dredging to maintain existing channel capacity consistent with State or Federal laws and permits.
- (10) Replacement of utility facilities that are necessary to serve established and permitted uses, and that are of equal or lesser size and impact.
- (11) Subsurface public utility projects that will not ultimately result in modification to existing topography.
- (12) Transportation facility rehabilitation and maintenance projects that will not result in modifications to existing topography.

~~6.095~~ 6.099 General Information Requirements. Application for a development permit shall be made on forms furnished by the Floodplain Administrator and shall include, but not be limited to, plans in duplicate drawn to scale showing the nature, location, dimensions, and elevations of the area in question, existing or proposed structures, fill, storage of materials, drainage facilities, and the location of the foregoing. Specifically, the following information is required: In addition to the information required in other sections of this code, the application for any development proposed in the Special Flood Hazard Area (100-year floodplain) must include the following information:

- (1) Elevations of the original contours.
- (2) Final elevations of proposed fills and excavations.
- (3) Base flood (100-year flood) elevations of the site based on North American Vertical Datum (NAVD) 1988.
- (4) Location of any designated floodway and base flood boundary. If no floodway is designated, estimate the location of the floodway boundary per Section 6.100
- (5) Location of any designated wetlands and/or wildlife habitat (if applicable).
- (6) In riverine flood zones, the proposed elevation (in relation to mean sea level), of the lowest floor (including basement) and all attending utilities of all new and substantially improved structures; in accordance with the requirements of Section 6.091. ~~Proposed elevation in relation to mean sea level of the lowest floor (including basement) of all structures (if applicable).~~
- (7) Description of the extent to which a watercourse will be altered or relocated as a result of proposed development (if applicable).
- (8) If floodproofing is required, the proposed description and elevation of floodproofing.
- (9) Elevation certificate. The base flood elevation shall be determined based on the applicable flood insurance study and flood profile. A copy of the flood profile with the base flood elevation identified on the flood profile shall be included with the elevation certificate as evidence for determining the base flood elevation. [Ord. 5875, 10/28/16]
- (10) Certification by a registered professional engineer or architect licensed in the State of Oregon that the floodproofing methods proposed for any non-residential structure meet the floodproofing criteria for non-residential structures in Section 6.118(2).
- (11) Base Flood Elevation data for subdivision proposals or other development when required per Section 6.091 and 6.110.
- (12) Substantial improvement calculation for any improvement, addition, reconstruction, renovation or rehabilitation of an existing structure.
- (13) The amount and location of any fill or excavation activities proposed.

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6.096 ~~Flood Insurance Rate Map (FIRM) Revisions. Requirements to Submit New Technical Data:~~ [Ord. 5746, 9/29/10]

- ~~(c) It is the responsibility of the applicant to have technical data prepared in a format required for a CLOMR or LOMR and to submit such data to FEMA on the appropriate application forms. Submittal and processing fees for these map revisions shall be the responsibility of the applicant.~~
- ~~(d) Applicants shall be responsible for all costs associated with obtaining a CLOMR or LOMR from FEMA.~~
- ~~(e) The City of Albany shall be under no obligation to sign the Community Acknowledgement Form, which is part of the CLOMR/LOMR application, without evaluation and concurrence with the information presented.~~
- ~~(f) Within six months of project completion, an applicant who obtains an approved CLOMR from FEMA or whose development modifies floodplain boundaries or Base Flood Elevations shall obtain from FEMA a LOMR reflecting the as-built changes to the FIRM.~~

**PROVISIONS FOR FLOOD HAZARD REDUCTION**

**Staff Comments:**

**6.100(1) Floodway Restriction**

- Clarification that all structures, as defined in Section 6.075, are prohibited in the floodway.

6.100 Floodway Restrictions. No development is allowed in any floodway except when the review body finds that the development will not result in any increase in flood levels during the occurrence of the 100-year flood. The finding shall be based upon applicant-supplied evidence prepared in accordance with standard engineering methodology approved by FEMA and certified by a registered professional engineer and upon documentation that one of the following criteria has been met: [Ord. 5875, 10/28/16]

- (1) The development does not involve the construction of permanent ~~or habitable~~ structures as defined in Section 6.075. ~~(including fences).~~ [Ord. 5746, 9/29/10]
- (2) The development is a public or private park or recreational use or municipal utility use.
- (3) The development is a water-dependent structure such as a dock, pier, bridge, or floating marina.

For temporary storage of materials or equipment:

- (4) The temporary storage or processing of materials will not become buoyant, flammable, hazardous explosive or otherwise potentially injurious to human, animal or plant life in times of flooding. [Ord. 5746, 9/29/10]
- (5) The temporary storage of material or equipment are not subject to major damage by floods and is firmly anchored to prevent flotation or is readily removable from the area within the time available after flood warning. [Ord. 5746, 9/29/10]

If the requirements above are satisfied, all new construction, substantial improvements, and other development shall comply with all other applicable flood hazard reduction provisions of Section 6.118.

If a floodway boundary is not designated on an official FEMA map available to the City, the floodway boundary can be estimated from available data and new studies. No new construction, substantial improvement, or development (including fill) shall be permitted within Zones A1-30 and AE on the community's Flood Insurance Rate Map (FIRM), unless it is demonstrated that the cumulative effect of the proposed development, when combined with all other existing and anticipated development, will not increase the water surface elevation of the base flood more than one foot at any point within the community. ~~Proposed development along the estimated floodway boundary shall not result in an increase of the base flood level greater than one foot as certified by a registered professional engineer.~~

6.101 Alteration of a Watercourse. A watercourse is considered altered when any changes occur within its banks,

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including installation of new culverts and bridges, or size modifications to existing culverts and bridges.

[Ord. 5746, 9/29/10]

- (1) No development shall diminish the flood-carrying capacity of a watercourse.
- (2) Subject to the foregoing regulation, no person shall alter or relocate a watercourse without necessary approval from the Floodplain Administrator. [Ord. 5746, 9/29/10]
- (3) Prior to approval, the applicant shall provide a 30-day written notice to the City, any adjacent community, the Natural Hazards Program of the Oregon Department of Land Conservation and Development, and the DSL. [Ord. 5746, 9/29/10]
- (4) The applicant shall be responsible for ensuring necessary maintenance of the altered or relocated portion of said watercourse so that the flood carrying capacity is not diminished. [Ord. 5746, 9/29/10]
- (5) All alterations of a watercourse, with the exception of the installation of new culverts, bridges, or size modifications to existing culverts and bridges, must meet the requirements of Section 6.092.

6.107 Use of Other Base Flood Elevation Data. When Base Flood Elevation data has not been provided in accordance with Section 6.080 the local floodplain administrator shall obtain, review, and reasonably utilize any Base Flood Elevation data available from a federal, state, or other source, in order to administer Sections 6.100 through 6.125. All new subdivision proposals and other proposed new developments (including proposals for manufactured dwelling parks and subdivisions) must meet the requirements of Section 6.110.

Base Flood Elevations shall be determined for development proposals that are 4 acres or more in size or are 4 lots or more, or 4 units or more; whichever is lesser in any unnumbered A zone that does not have an established based flood elevation. Development proposals located within a riverine unnumbered A Zone shall be reasonably safe from flooding; the test of reasonableness includes use of historical data, high water marks, FEMA provided Base Level Engineering data, and photographs of past flooding. When no Base Flood Elevation data is available, the elevation requirement for development proposals within a riverine unnumbered A Zone is a minimum of two (2) feet above the highest adjacent grade, to be reasonably safe from flooding. Failure to elevate at least two feet above grade in these zones may result in higher insurance rates.

~~6.109~~ 6.108 Residential Development Standards. Applications proposing new residential dwelling units or the creation of residential lots or parcels on property with Special Flood Hazard Area (100-year floodplain) on it must comply with either the clear and objective standard in subsection (1) or the discretionary standard in subsection (2), below.

- (1) Clear and objective standard. No new dwelling units or new residential lots or parcels are allowed within the floodplain. An application to develop property that has floodplain on it, but where no development is proposed within the boundaries of that floodplain will be processed as otherwise required in this Code. In case of land divisions, “no development” means the floodplain area has been excluded from the land division. This can be done by setting the property aside for some other purpose than later development (for example, as a public drainage right-of-way).
- (2) Alternative review. Residential development is allowed within the floodplain subject to the provisions of this Floodplain overlay district and the standards in Sections 6.100 through 6.125.

[Ord. 5947, 1/01/21]

6.109 Structures located in multiple or partial flood zones. In coordination with the State of Oregon Specialty Codes:

- (1) When a structure is located in multiple flood zones on the community’s Flood Insurance Rate Map (FIRM), the provisions for the more restrictive flood zone shall apply.
- (2) When a structure is partially located in a special flood hazard area, the entire structure shall meet the requirements for new construction and substantial improvements.

6.110 Site Improvement, Land Division and Manufactured Home Park Standards. Site improvements, land divisions, and manufactured home parks in the Special Flood Hazard Area (100-year floodplain) shall be reviewed by the



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Planning Division as a part of the land use review process. An application to develop property that has floodplain on it, but where no development is proposed in that floodplain will be processed as otherwise required in this Code. In the case of a land division, “no actual development” means the floodplain area has been excluded from the land division. This can be done by setting the property aside for some other purpose than later development (for example, as a public drainage right-of-way).

[Ord. 5746, 9/29/10]

All new subdivision proposals, and other proposed new development (including proposals for manufactured dwelling parks and subdivisions), greater than four lots or four acres, whichever is the lesser, shall include Base Flood Elevation data.

In addition to the general review criteria for site improvements, land divisions and manufactured home parks, applications that propose actual development within the Special Flood Hazard Area shall also be subject to the following standards: [Ord. 5338, 1/28/98; Ord. 5746, 9/29/10]

- (1) All proposed new development and land divisions shall be consistent with the need to minimize flood damage and ensure that building sites will be reasonably safe from flooding.
- (2) All new development and land division proposals shall have utilities and facilities such as sewer, gas, electrical, and water systems located and constructed to minimize flood damage.
- (3) On-site waste disposal systems shall be located and constructed to avoid functional impairment, or contamination from them, during flooding.
- (4) All development proposals shall have adequate drainage provided to reduce exposure to flood damage.
- (5) Any lot created for development purposes must have adequate area created outside of the floodway to maintain a buildable site area meeting the minimum requirements of this Article.
- (6) Any new public or private street providing access to a residential development shall have a roadway crown elevation not lower than one foot below the 100-year flood elevation.
- (7) All development proposals shall show the location of the 100-year flood contour line followed by the date the flood elevation was established. When elevation data is not available, either through the Flood Insurance Study or from another authoritative source, and the development is four or more acres or results in four or more lots or structures, the elevation shall be determined and certified by a registered engineer. In addition, a statement located on or attached to the recorded map or plat shall read as follows: “Development of property within the Special Flood Hazard Area as most currently established by the Federal Emergency Management Agency or City of Albany may be restricted and subject to special regulations by the City.” [Ord. 5338, 1/28/98]
- (8) In addition to the general review criteria applicable to manufactured home parks in Article 10, applications that propose actual development within a Special Flood Hazard Area shall include an evacuation plan indicating alternate vehicular access and escape routes.

**Staff Comments:**

**6.111(2) Grading, Fill, Excavation, and Paving.**

- Provided updated language to align with updated stormwater requirements in the Albany Municipal Code.

6.111 Grading, Fill, Excavation, and Paving. A floodplain development permit is required for grading, fill, excavation, and paving in the Special Flood Hazard Area (100-year floodplain), ~~except activities exempted in Section 6.094 of this Article.~~ No grading will be permitted in a floodway, except when the applicant has supplied evidence prepared by a professional engineer that demonstrates the proposal will not result in any increase in flood levels during the occurrence of the 100-year flood. The permit will be approved if the applicant has shown that each of the following criteria that are applicable have been met:

[Ord. 5746, 9/29/10; Ord. 5929, 7/26/19]

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- (1) Provisions have been made to maintain adequate flood-carrying capacity of existing watercourses, including future maintenance of that capacity.
- (2) The proposal will be approved only where adequate provisions for stormwater runoff to prevent and control nonpoint source pollution, land surface erosion, sedimentation, and stream channel erosion have been made that are consistent with the Public Works Engineering standards, or as otherwise approved by the City Engineer.
- (3) No grading, fill, excavation, or paving will be permitted over an existing public storm drain, sanitary sewer, or water line unless it can be demonstrated to the satisfaction of the City Engineer that the proposed grading, fill, excavation, or paving will not be detrimental to the anticipated service life, operation and maintenance of the existing utility.
- (4) ~~In areas where no floodway has been designated on the applicable FIRM, grading will not be permitted unless it is demonstrated by the applicant that the cumulative effect of the proposed grading, fill, excavation, or paving when combined with all other existing and planned development, will not increase the water surface elevation of the base flood more than a maximum of one foot (cumulative) at any point within the community.~~
- (5) The applicant shall notify the City of Albany, any adjacent community, and the Natural Hazards Mitigation Office of the Oregon Department of Land Conservation and Development of any proposed grading, fill, excavation, or paving activity that will result in alteration or relocation of a watercourse (see Section 6.101).
- (6) All drainage facilities shall be designed to carry waters to the nearest practicable watercourse approved by the designee as a safe place to deposit such waters. Erosion of ground in the area of discharge shall be prevented by installation of non-erosive down spouts and diffusers or other devices.
- (7) Building pads shall have a drainage gradient of two percent toward approved drainage facilities, unless waived by the Building Official or designee.

6.112 Continuous Storage Operations. The regulation of storage in the flood fringe focuses on long-term storage activities associated with continuous operations as defined in this Article. [Ord. 5746, 9/29/10]

A continuous storage operation is allowed if it can be shown that:

- (1) The materials or equipment will not be flammable, hazardous, explosive or otherwise potentially injurious to human, animal, or plant life in times of flooding; and
- (2) The materials or equipment are not subject to major damage by flood and are firmly anchored to prevent flotation or are readily removable from the area within the time available after flood warning.

6.113 Critical Facility Standards. Construction of new critical facilities, and additions to critical facilities built after September 29, 2010, shall be, to the maximum extent feasible, located outside the limits of the Special Flood Hazard Area (100-year floodplain). [Ord. 5746, 9/29/10]

Construction of new critical facilities shall be permissible within the Special Flood Hazard Area if no feasible alternative site is available. Critical facilities constructed within the Special Flood Hazard Area shall have the lowest floor elevated three feet above BFE or to the height of the 500-year flood, whichever is higher. Access to and from the critical facility shall also be protected to the height utilized above. Floodproofing and sealing measures must be taken to ensure that hazardous materials will not be displaced by or released into floodwaters. Access routes elevated to or above the level of the base flood elevation shall be provided to all critical facilities to the extent possible. [Ord. 5746, 9/29/10]

6.114 Standards for Shallow Flooding Areas. Shallow flooding areas appear on FIRMs as AO Zones with depth designations or as AH Zones with Base Flood Elevations. For AO Zones the base flood depths range from one (1) to three (3) feet above the ground where a clearly defined channel does not exist, or where the path of flooding is unpredictable and where velocity flow may be evident. Such flooding is usually characterized as sheet flow.



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For both AO and AH Zones, adequate drainage paths are required around structures on slopes to guide floodwaters around and away from proposed structures.

- (1) Standards for AH Zones. Development with AH Zones must comply with the standards found in Sections 6.100 through 6.125
- (2) Standard for AO Zones. The following provisions apply in addition to the requirements in Section 6.100 through 6.125:
  - (a) New construction, conversion to, and substantial improvements of residential structures and manufactured dwellings within AO Zones shall have the lowest floor, including basement, elevated one foot above the highest grade adjacent to the building, at a minimum to or above the depth number specified on the Flood Insure Rate Map (FIRM) (at least two feet if no depth number is specified). For manufactured dwellings the lowest floor is considered to be the bottom of the longitudinal chassis frame beam.
  - (b) New construction, conversion to, and substantial improvements of non-residential structures within AO Zones shall either:
    - (i) Have the lowest floor (including basement) elevated above the highest adjacent grade of the building site, at minimum to or above one foot above the depth number specified on the Flood Insurance Rate Map (FIRM) (at least of two feet if no depth number above the highest adjacent grade if no depth number is specified); or
    - (ii) Together with attendant utility and sanitary facilities, be completely floodproofed to or above one foot above the depth number specified on the FIRM, or a minimum of two feet above the highest adjacent grade if no depth number is specified, so that any space below that level is water tight with walls substantially impermeable to the passage of water and with structural components having the capability of resisting hydrodynamic loads and the effects of buoyancy. If this method is used, compliance shall be certified by a registered professional engineer or architect as stated in Section 6.118(2).
  - (c) Recreational vehicles placed on sites within AO Zones on the community's Flood Insurance Rate Maps (FIRM) shall either:
    - (i) Be on the site for fewer than 180 consecutive days, and
    - (ii) Be fully licensed and ready for highway use, on its wheels or jacking system, is attached to the site only by quick disconnect type utilities and security devices, and has no permanently attached additions; or
    - (iii) Meet the elevation requirements of Section 6.114(2)(a), and the anchoring and other requirements for manufactured dwellings of Section 6.123.
  - (d) In AO Zones, new and substantially improved accessory structures must comply with the standards in Section 6.121.
  - (e) In AO zones, enclosed areas beneath elevated structures must comply with the requirements in Section 6.115.

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6.115 Flood Openings. All new construction and substantial improvements with fully enclosed areas below the lowest floor (excluding basements) are subject to the following requirements. Enclosed areas below the Base Flood Elevation, including crawlspaces shall:

- (1) Be designed to automatically equalize hydrostatic flood forces on walls by allowing for the entry and exit of floodwaters;
- (2) Be used solely for parking, storage, or building access;
- (3) Be certified by a registered professional engineer or architect or meet or exceed all of the following minimum criteria:
  - (a) A minimum of two openings,
  - (b) The total net area of non-engineered openings shall be not less than one (1) square inch for each square foot of enclosed area, where the enclosed area is measured on the exterior of the enclosure walls,
  - (c) The bottom of all openings shall be no higher than one-foot above grade.
  - (d) Openings may be equipped with screens, louvers, valves, or other coverings or devices provided that they shall allow the automatic flow of floodwater into and out of the enclosed areas and shall be accounted for in the determination of the net open area.
  - (e) All additional higher standards for flood openings in the State of Oregon Residential Specialty Codes Section R322.2.2 shall be complied with when applicable.

6.116 Below-Grade Crawlspaces: The building must be designed and adequately anchored to resist flotation, collapse, and lateral movement of the structure resulting from hydrodynamic and hydrostatic loads, including the effects of buoyancy. Hydrostatic loads and the effects of buoyancy can usually be addressed through the required flood openings stated in Section 6.115. Because of hydrodynamic loads, crawlspace construction is not allowed in areas with flood velocities greater than five feet per second unless the design is reviewed and approved by a qualified design professional, such as a registered architect or professional engineer. Other types of foundations are recommended for these areas.

- (1) The crawlspace is an enclosed area below the Base Flood Elevation (BFE) and, as such, must have openings that equalize hydrostatic pressures by allowing the automatic entry and exit of floodwaters. The bottom of each flood vent opening can be no more than one foot above the lowest adjacent exterior grade.
- (2) Portions of the building below the BFE must be constructed with materials resistant to flood damage. This includes not only the foundation walls of the crawlspace used to elevate the building, but also any joists, insulation, or other materials that extend below the BFE. The recommended construction practice is to elevate the bottom of joists and all insulation above the BFE.
- (3) Any building utility systems within the crawlspace must be elevated above to one foot above the BFE or designed so that floodwaters cannot enter or accumulate within the system components during flood conditions. Ductwork, in particular, must either be placed one foot above the BFE or sealed from floodwaters.
- (4) The interior grade of a crawlspace below the BFE must not be more than two feet below the lowest adjacent exterior grade.
- (5) The height of the below-grade crawlspace, measured from the interior grade of the crawlspace to the top of the crawlspace foundation wall must not exceed four feet at any point. The height limitation is the maximum allowed unsupported wall height according to the engineering analyses and building code requirements for flood hazard areas.
- (6) There must be an adequate drainage system that removes floodwaters from the interior area of the crawlspace. The enclosed area should be drained within a reasonable time after a flood event. The type of drainage system will vary because of the site gradient and other drainage characteristics, such as soil types. Possible options include natural drainage through porous, well-drained soils and drainage systems such as perforated pipes, drainage tiles or gravel or crushed stone drainage by gravity or mechanical means.

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(7) The velocity of floodwaters at the site shall not exceed five feet per second for any crawlspace. For velocities in excess of five feet per second, other foundation types are required be used.

~~6.120~~6.117

Building Standards. Applications for building permits within the Special Flood Hazard Area, as established in Section 6.080, shall be reviewed by the Building Official pursuant to locally adopted state building codes. In addition to building code criteria, all development in the Special Flood Hazard Area, ~~except that exempted in Section 6.094,~~ is subject to the following building standards:

[Ord. 5746, 9/29/10]

- (1) Property owners or developers shall file with the City ~~three~~ two elevation certificates in a format that is acceptable to FEMA. These certificates must be approved by the Building Official, prepared by a registered surveyor or professional engineer, architect or surveyor, and maintained for public inspection.
  - (a) A Pre-Construction Elevation Certificate shall be submitted and approved prior to setback and foundation inspection approval.
  - (b) A “Building Under Construction” Elevation Certificate shall be submitted and approved after the foundation is in place, but prior to further vertical construction. This allows the floodplain administrator the chance to review the lowest floor elevation and require any corrections before construction is finished.
  - (c) A Post-Construction Elevation Certificate shall be submitted and approved prior to final inspection approval for all building permits when the Pre-Construction Elevation Certificate shows the building site to be within a Special Flood Hazard Area and lowest adjacent grade to be at or below the base flood elevation (BFE). The Post-Construction certificate must contain: 1) the actual elevation (in relation to mean sea level) of the lowest floor including basement of all new or substantially improved structures; 2) the elevation of any flood proofing; and 3) whether or not the structure contains a basement.
- (2) New construction, conversion to, and substantial improvement of any residential structure shall have the lowest floor (including basement) elevated to or above one foot above the Base Flood Elevation for the 100-year flood as determined by the effective Flood Insurance Study. ~~The lowest floor, including basement, of any proposed structure (including residential and non-residential structures) shall be placed at least one (1) foot above the 100-year flood as determined by the latest Flood Insurance Study.~~
- (3) Enclosed areas below the lowest floor shall comply with the flood opening requirements in Section 6.115.
- (4) When elevation data is not available either through the Flood Insurance Study, FIRM, or from other sources of floodplain and floodway data as described in Section 6.080, applications for building permits shall be reviewed to assure that proposed construction will be reasonably safe from flooding. The test of reasonableness is a local judgment and includes use of historical data, high water marks, photographs of past flooding, etc., when available. When no base flood elevation data is available, the elevation requirement for development proposals within a riverine unnumbered A zone is a minimum of two (2) feet above the highest adjacent grade, to be reasonably safe from flooding.
- (5) All new construction and substantial improvements shall be constructed with materials and utility equipment resistant to flood damage.
- (6) All new construction and substantial improvements shall be constructed using methods and practices that minimize flood damage.
- (7) Electrical, heating, ventilation, plumbing, duct systems, and other ~~and air conditioning~~ equipment and ~~other~~ service facilities shall be ~~designed and/or otherwise~~ designed and/or otherwise elevated to one foot above the base flood elevation or shall be designed and installed to prevent water from entering or accumulating within the components and to resist hydrostatic and hydrodynamic loads and stresses, including the effects of buoyancy, during conditions of flooding. ~~In addition, electrical, heating, ventilation, air-conditioning,~~

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plumbing, duct systems, and other equipment and service facilities shall meet all the requirements of this section if replaced as part of a substantial improvement. or located so as to prevent water from entering or accumulating within the components during a flood.

- (8) All new construction and substantial improvements shall be anchored to prevent flotation, collapse, or lateral movement of the structure resulting from hydrodynamic and hydrostatic loads, including the effects of buoyancy, and shall be installed or constructed using materials, methods, and practices that minimize flood damage.
- (9) All manufactured dwellings shall be anchored per Section 6.123.
- (10) All new and replacement ~~public~~ water supply systems shall be designed to minimize or eliminate infiltration of flood waters into the system.
- (11) All new and replacement ~~public~~ sanitary sewer systems shall be designed to minimize or eliminate infiltration of flood waters into the system and discharges from the system into flood water. On site waste disposal systems shall be located to avoid impairment to them or contamination from them during flooding consistent with Oregon Department of Environmental Quality requirements.
- (12) If floodproofing methods are required as per Section 6.118(2) ~~6.121(2)~~, the property owners or developers shall file with the City a certification by a registered professional engineer or architect that the floodproofing methods meet or exceed FEMA standards. The City will maintain the certification available for public inspection. [Ord. 5146, 9/14/94; Ord. 5281, 3/26/97]
- (13) Underground tanks shall be anchored to prevent flotation, collapse, and lateral movement under conditions of the base flood. Above-ground tanks shall be installed at or above one foot above the base flood elevation or shall be anchored to prevent flotation, collapse, and lateral movement under conditions of the base flood.
- (14) In coordination with the State of Oregon Specialty Codes:
  - i. When a structure is located in multiple flood zones on the community's Flood Insurance Rate Maps (FIRM) the provisions for the more restrictive flood zone shall apply.
  - ii. When a structure is partially located in a special flood hazard area, the entire structure shall meet the requirements for new construction and substantial improvements.

~~6.121~~ 6.118

Flood Hazard Reduction Standards for Structures. All applicable flood hazard reduction measures are required and must be certified as required in Section 6.117(1) and (14) ~~6.120 (1) and (10)~~ above to at least meet the following standards ~~(these standards do not apply to structures exempted in Section 6.122):~~

[Ord. 5746, 9/29/10]

- (1) In all structures that will not be floodproofed, as described in 6.118(2) ~~6.121(2)~~, fully enclosed areas below the lowest floor (crawlspaces, parking areas or building access) and lower than one foot above the 100-year flood level must meet or exceed the following criteria:
  - ~~(a) Provide flood openings per Section 6.115. At least two openings, having a total net area of not less than one square inch for every square foot of enclosed area, subject to flooding, shall be provided.~~
  - ~~(b) The bottom of all openings shall be no higher than one foot above grade.~~
  - ~~(c) Openings may be equipped with screens, louvers, or other coverings or devices, provided that they permit the automatic entry and exit of floodwaters.~~
  - (a) The interior grade below the BFE must not be more than two (2) feet below the lowest adjacent exterior grade.
  - (b) The height of the below-grade area, measured from the interior grade to the top of the foundation wall must not exceed four (4) feet at any point.

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- (c) There must be an adequate drainage system that removes floodwaters from the interior area. The enclosed area should be drained within a reasonable time after a flood event.
  - (d) It will be used solely for parking vehicles, limited storage, or access to the building and will never be used for human habitation.
  - (e) The property owner of the building shall sign and record on the title to the property a non-conversion agreement, guaranteeing not to improve, finish, or otherwise convert the enclosed area below the lowest floor and lower than one-foot above the 100-year flood level and granting the City the right to inspect the enclosed area.
- (2) Nonresidential new construction, conversion to, and substantial improvement of any commercial, industrial, or other non-residential structure ~~construction~~ meeting the certification requirements of Section 6.117 (1) and (14) ~~6.120 (1) and (10)~~ can have the lowest floor and attendant utility and sanitary facilities located lower than one foot above the 100-year flood elevation if all of the following is met:
- (a) The structure is floodproofed so that areas lower than one foot above the 100-year flood level are watertight with walls substantially impermeable to the passage of water.
  - (b) The structure has structural components capable of resisting hydrostatic and hydrodynamic loads and effects of buoyancy.
  - (c) ~~The applicant is notified that flood insurance premiums will be based on rates that are one foot below the floodproofed level.~~ Applicants floodproofing non-residential buildings shall be notified that flood insurance premiums will be based on rates that are one foot below the floodproofed level (e.g. building floodproofed to the base flood level will be rated as one foot below.
  - (d) The applicant files a certification by a registered professional engineer or architect that the design and methods of construction are in accordance with accepted standards of practice for meeting provisions of this subsection based on their development and/or review of the structural design, specifications and plans. The certification shall be provided to the Floodplain Administrator ~~Building Official~~ as set forth in Section 6.117(1) ~~6.120(1)~~. [Ord. 5146, 9/14/94; Ord. 5281, 3/26/97]
  - (e) Non-residential structures that are elevated, not floodproofed, shall comply with the standards for enclosed areas below the lowest floor in Section 6.115.
  - (f) Applicants floodproofing non-residential buildings shall be notified that flood insurance premiums will be based on rates that are one foot below the floodproofed level (e.g. building floodproofed to the base flood level will be rated as one foot below.
  - (g) Applicant supply a Maintenance Plan for the entire structure to include but not limited to: exterior envelope of structure; all penetrations to the exterior of the structure; all shields, gates, barriers, or components designed to provide floodproofing protection to the structure; all seals or gaskets for shields, gates, barriers, or components; and, the location of all shields, gates, barriers, and components as well as all associated hardware, and any materials or specialized tools necessary to seal the structure.
  - (h) Applicant supply an Emergency Action Plan (EAP) for the installation and sealing of the structure prior to a flooding event that clearly identifies what triggers the EAP and who is responsible for enacting the EAP. [Ord. 5875, 10/28/16]

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~~6.122~~6.121 Accessory Buildings. Accessory structures in Special Flood Hazard Areas (100-year floodplain) that represent a minimal investment are exempt from the standards of ~~ADC Section 6.117 and 6.118~~ 6.120 and 6.121. The following standards and all other regulations that apply to development in floodplain areas apply to those buildings. The definition of “minimal investment” for the purposes of this section is a building that costs less than \$10,000 in labor and materials to construct. The value of a proposed building will be the value stated on the application for building permits.

- (1) Accessory structures shall not be used for human habitation, and must only be used for parking, access, and/or storage.
- (2) Accessory structures shall be designed to have low flood damage potential.
- (3) Accessory structures shall be constructed and placed on the building site so as to offer the minimum resistance to the flow of floodwaters.
- (4) Accessory structures shall be firmly anchored to prevent flotation, collapse, and lateral movement of the structure from hydrodynamic and hydrostatic loads, including the effects of buoyancy, during conditions of the base flood that may result in damage to other structures.
- (5) Service facilities such as electrical, mechanical, and other service facilities ~~heating equipment~~ shall be elevated and/or floodproofed to at least one foot above the Base Flood Elevation.
- ~~(6) Accessory structures are limited to one-story structures less than 600 square feet.~~
- ~~(7) The portions of accessory structures located below the Base Flood Elevation must be built using flood resistant materials.~~
- ~~(8) Accessory structures must be designed and constructed to equalize hydrostatic flood forces on exterior walls and comply with the requirements for flood openings in Section 6.115.~~
- ~~(9) Accessory structures shall not be used to store toxic material, oil, or gasoline, or any priority persistent pollutant identified by the Oregon Department of Environmental Quality unless confined in a tank installed in compliance with Section 6.117.~~
- ~~(8) Accessory structures located partially or entirely within the floodway must comply with requirements for development within a floodway found in Section 6.100.~~

[Ord. 5281, 3/26/97]

~~6.122~~ Garages. Attached garages may be constructed with the garage floor slab below the Base Flood Elevation (BFE) in riverine flood zones if the following requirements are met:

- ~~(1) If located within a floodway the proposed garage must comply with the requirements of Section 6.100.~~
- ~~(2) The floor is at or above grade on at least one side;~~
- ~~(3) The garage is used solely for parking, building access, and/or storage~~
- ~~(4) The garage is constructed with flood openings in compliance with Section 6.115 to equalize hydrostatic flood forces on exterior walls by allowing for the automatic entry and exit of floodwaters.~~
- ~~(5) The portions of the garage constructed below the BFE are constructed with materials resistant to flood damage;~~
- ~~(6) The garage is constructed in compliance with the standards of Sections 6.117 and 6.118; and~~
- ~~(7) The garage is constructed with electrical and other service facilities located and installed so as to prevent water from entering or accumulating within the components during conditions of the base flood, or be elevated to at least one foot above the Base Flood Elevation.~~

Detached garages must be constructed in compliance with the standards for accessory structures in Section 6.121 or non-residential structures in Section 6.118(2) depending on the square footage of the garage.

6.123 Manufactured Homes Dwellings. ~~New and replacement manufactured dwellings fall within the scope of the Building Codes. All new manufactured dwellings and replacement manufactured dwellings shall be installed using methods and practices that minimize flood damage and shall be securely anchored to an adequately anchored foundation system to resist flotation, collapse and lateral movement. Methods of anchoring include, but are not limited to, use of over the top or frame ties to ground anchors. This requirement is in addition to applicable state and local anchoring requirements for resisting wind forces.~~ Manufactured dwellings to be placed (new or replacement) or substantially improved that are supported on solid foundation walls shall be constructed with flood openings that comply with Section 6.115.



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The bottom of the longitudinal chassis frame beam shall be at or elevated one foot above the Base Flood Elevation.

Manufactured dwellings to be placed (new or replacement) or substantially improved shall be anchored to prevent flotation, collapse, and lateral movement during the base flood. Anchoring methods may include, but are not limited to, use of over-the-top or frame ties to ground anchors (reference FEMA’s “Manufactured Home Installation in Flood Hazard Areas” guidebook for additional techniques); and

Electrical crossover connections shall be a minimum of one foot above Base Flood Elevation (BFE).

[Ord. 5338, 1/28/98; Ord. 5746, 9/29/10]

6.124 Recreational Vehicles. Recreational vehicles placed on sites within the Special Flood Hazard Area (all A Zones and floodway) ~~flood fringe~~ are required to either:

[Ord. 5746, 9/29/10]

- (1) Be on the site for fewer than 180 consecutive days; or
- (2) Be fully licensed and ready for highway use, on its wheels or jacking system, is attached to the site only by quick disconnect type utilities and security devices, and has no permanently attached additions; or
- (3) Meet the requirements of Section 6.123, including the anchoring and elevation requirements ~~of Section 6.123~~ for manufactured ~~dwellings~~ homes.

6.125 Flood Fringe Fencing and Wall Standards. Certain types of fences and garden walls may be allowed in the flood fringe of the Special Flood Hazard Area (100-year floodplain). All fences and garden walls constructed within the flood fringe must not obstruct the entry and exit of floodwater, through their design and construction. All fences and walls ~~are prohibited~~ in the floodway must comply with the requirements of Section 6.100. [Ord. 5746, 9/29/10]

Table 6.125-1 below is provided to assist in selecting appropriate fencing in the flood fringe. All fences and walls also must meet the standards in other sections of the Code.

[Ord. 5746, 9/29/10; Ord. 5947, 1/01/21]

**TABLE 6.125-1. Fence type selection for flood fringe areas.**

Fence Type	<u>Allowed in</u> Flood Fringe Areas
Open barbless wire; Open pipe or rail; Other wire, pipe or rail (e.g. field fence, chicken wire, etc.); Chain link (1)	<del>No permit required</del> <u>Yes</u>
Wood fences (2)	<del>No permit required</del> <u>Yes</u>
Solid fences and freestanding walls, such as masonry (3)	Permit required, must have openings at and below BFE
Other fences (4)	Permit required, must have openings at and below BFE

[Ord. 5947, 1/01/21]

- (1) Acceptable materials and installation methods that allow for the entry and exit of floodwater.
- (2) Wood fence boards should be spaced to allow for the entry and exit of floodwater.
- (3) Solid fences and freestanding walls must include a flap or opening in the areas at or below the Base Flood Elevation at least once every three fence panels or 24 feet, whichever is less. Fences less than 24 feet in length shall have at least one flap or opening in the areas at or below the Base Flood elevation. The minimum dimensions of the flap or opening shall not be less than 12"x12" or 8"x18". Openings shall not include any screening of any type or size. If flaps are used, they may be secured to allow closure



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during normal use, but must be capable of self-release and opening to full dimensions when under pressure of no greater than 30 pounds per sq. ft. These standards do not apply to retaining walls which shall meet the same standards as other building, paving, and grading activities.

Solid fences and walls constructed within Zone A, where the base flood elevation has not been determined, can use other sources of floodplain and floodway data to determine base flood elevations and boundaries as described in Section 6.080, or the openings can be placed within one foot of the finished grade along the fence alignment.

- (4) Other fence materials and construction that would restrict the flow of floodwaters will require a permit so they can be reviewed and adapted to meet the intent of this section of the Code.



COMMUNITY DEVELOPMENT

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

# Staff Report

## Article 6 Floodplain Development Code Amendments

Planning File: DC-02-24

May 6, 2024

HEARING BODIES:	Planning Commission	City Council
HEARING DATES:	Monday, May 13, 2024	Wednesday, June 12, 2024
HEARING TIMES:	5:15 p.m.	6:00 p.m.
HEARING LOCATION:	Council Chambers, Albany City Hall, 333 Broadalbin Street SW	
VIRTUAL OPTIONS:	Instructions to attend the hearings and provide comments will be provided on the applicable agenda.	
STAFF REPORT PREPARED BY:	Jennifer Cepello, Planner III	

### Application Information

**Proposal:** The proposed legislative amendments would amend Article 6 of the Albany Development Code to become compliant with the State’s minimum regulations.

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

**Location:** Legislative amendments; not site specific

### Overview

The Oregon Model Flood Hazard Ordinance was developed in cooperation with FEMA to help communities achieve compliance with the minimum NFIP and state standards for floodplain management. FEMA approved the model ordinance in August of 2019 with updates approved in October 2020. In 2019 the City of Albany participated in a Community Assistance Visit (CAV) with Oregon Department of Land Conservation and Development’s NFIP coordinator in which it was determined that Albany’s Floodplain Ordinance was no longer compliant with the State’s minimum requirements. The proposed amendments will align the City’s Floodplain ordinance with Oregon’s Model Flood Hazard Ordinance.

### Summary of Proposed Changes

The City of Albany is proposing to amend its floodplain ordinance to comply with FEMA approved Oregon Model Flood Hazard Ordinance.

The specific proposed amendments are attached as Exhibits and areas of amendments are listed below. In the exhibits, proposed new text is shown in red underline print and proposed deleted text is ~~in black strike out font~~.

*Commentary boxes in the attached exhibits provide context for the proposed amendments. Should the proposed amendments be approved, the text boxes with the explanations will be removed and the approved amendments made part of the ADC.*



### Ordinance Exhibit A: Albany Development Code

- Article 6, Natural Resource Districts: Floodplain

### Notice Information

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

- Notice was provided to the Oregon Department of Land Conservation and Development (DLCD) on March 25, 2023, at least 35 days before the first evidentiary hearing, in accordance with Oregon Administrative Rule (OAR) 660-018-0020 and the ADC.
- Notice of the proposed amendments was emailed on April 29, 2024, to Linn County, Benton County, and Cascades West Council of Governments.
- Notice of the public hearings was published in the *Albany Democrat-Herald* on April 27, 2024, two weeks before the first public hearing on May 13, 2024.

As of the date of this report, the Community Development Department has not received any written testimony.

### Analysis of Development Code Criteria

The ADC includes the following review criteria in Section 2.290, which must be met for these legislative amendments to be approved. Code criteria are written in ***bold italics*** and are followed by findings and conclusions.

### Development Code Amendments Review Criteria (ADC 2.290)

***Criterion 1: The proposed amendments better achieve the goals and policies of the Comprehensive Plan than the existing language.***

### Findings of Fact

- 1.1 The applicable Albany Comprehensive Plan and Statewide Planning goals and policies are provided below in **bold** print and are followed by findings of fact and conclusions.

**Goal 1, Citizen Involvement: To develop a citizen involvement program that ensures the opportunity for citizens to be involved in all phases of the planning process.**

**Goal: Ensure that local citizens and other affected groups, neighborhoods, agencies, and jurisdictions are involved in every phase of the planning process.**

#### Applicable Policies:

2. **When making land use and other planning decisions:**
  - a. **Actively seek input from all points of view from citizens and agencies and assure that interested parties from all areas of the Urban Growth Boundary have the opportunity to participate.**
  - b. **Utilize all criteria relevant to the issue.**
  - c. **Ensure the long-range interests of the general public are considered.**
  - d. **Give particular attention to input provided by the public.**
  - e. **Where opposing viewpoints are expressed, attempt to reach consensus where possible.**
4. **Ensure information is made available to the public concerning development regulations, land use, and other planning matters including ways they can effectively participate in the planning process.**

- 1.2 Public notice and hearings were held in accordance with Oregon Administrative Rules (OAR) and ADC 1.260. Public involvement for the amendments in planning file DC-02-24, included public notice as required in the OAR and in ADC Section 1.260. Specifically, notice was sent to the Department of Land Conservation and Development on March 25, 2024; notice of public hearings was mailed April 29, 2024, to Benton County and

Linn County, and notice was published in the Albany Democrat Herald on April 27, 2027. Two public hearings are scheduled – May 13, 2024 (planning commission), and June 12, 2024 (city council).

- 1.3 Information was made available to the public regarding the proposed development code amendments to enable public participation in the planning process by posting the staff report on the City’s website on May 6, 2024, at least seven days before the first public hearing.

**Statewide Planning Goal 2, Land Use Planning: To establish a land use planning process and policy framework as a basis for all decisions and actions related to the use of land and to assure an adequate factual bases for such decisions.**

**Goal 3: Incorporates the most recent and reliable information.**

**Goal 4: Remains consistent with state laws and administrative rules.**

- 1.4 The Albany Development Code serves as the principal vehicle for implementing the Comprehensive Plan.
- 1.5 The Oregon Model Flood Hazard Ordinance was developed in cooperation with FEMA to help communities achieve compliance with the minimum NFIP and state standards for floodplain management. FEMA approved the model ordinance in August of 2019 with additional updates approved in October 2020.
- 1.6 The proposed amendments to Section 6 of Albany Development Code (ADC) will align existing floodplain ordinance with the Oregon Model Flood Hazard Ordinance.
- 1.7 The proposed amendments are based upon the most recent Department of Land Conservation and Development’s Oregon Model Flood Hazard Ordinance and are intended to ensure consistency with state and federal laws.

**Goal 7, Flood Hazards & Hillside: Protect life and property from natural disasters and hazards.**

**Policy 1: Continue to participate in the National Flood Insurance Program and comply with applicable standards.**

**Policy 2: Review any development that could potentially affect the floodway or increase the area subject to Special Flood Hazard Area (100-year floodplain), unless otherwise exempted.**

**Policy 3: Restrict new development (including fencing, grading, fill, excavation, and paving) from locating within floodways that would result in an increase in base-year flood levels. If it can be determined that there will be no increase in base-year flood levels, then the following uses may be considered;**

- a. Public and private parks and recreational uses.
- b. Other uses, which would not involve the construction of permanent or habitable structures.
- c. Water-dependent structures such as docks, piers, bridges, and floating marinas.

**Policy 4: Concurrent with new development, and when appropriate, secure dedications and easements adequate for channel maintenance and conveyance of storm water along natural drainageways and where identified on adopted master plans, secure easements for public open space, and future recreation use along all floodways and natural permanent drainageways.**

**Policy 5: Recognize that development within areas subject to flooding is subject to regulations to protect life and property and that certain types of development may not be allowed.**

**Policy 6: Ensure that development proposals in the flood fringe and adjacent to drainageways are consistent with Federal Emergency Management Agency (FEMA) and other applicable local regulations in order to minimize potential flood damage. Development proposals in areas subject to flooding may be reviewed according to the following criteria:**

- a. Proposed development activities shall not change the flow of surface water during flooding so as to endanger property in the area. Special engineering reports on the changes in water flow and potential damage which may be caused as a result of proposed activities may be required. If necessary, local

drainage shall be improved to control increased runoff that might increase the danger of flooding to other property.

- b. Impacts on significant fish and wildlife habitat have been considered and appropriate protection measures included in project design.
- c. Problems of ponding, poor drainage, high water table, soil instability, or exposure to other flood hazards have been identified and mitigated. Evaluations and mitigating measures shall be based on a base year flood and wet seasons characteristics.
- d. If adjacent to a designated floodway, the development shall be designed to use the natural amenities of the floodway including open space, scenic views, and vegetation in accordance with an approved site plan.

**Policy 9:** Ensure that any filing or construction within the floodplain meets the following criteria:

- a. Require that a floodplain development permit is issued prior to any grading, fill, excavation, or paving activity, unless otherwise exempted, and that all grading, fill, excavation, or paving is engineered and compacted to applicable standards. Grading, fill, excavation, or paving areas for dwellings shall have engineering certification that loading rates are adequate for dwellings.
- b. The lowest finished floor elevation shall be built at least one (1) foot above the base-year flood level. Special engineering reports or structural work may be required.
- c. Require property owners or developers to file an elevation certification approved by the local community permit official, registered professional engineer, architect, or surveyor indicating elevation of the surrounding grade or lowest habitable floor (including basement) of all new residential structures. This information shall be maintained to indicate compliance with Federal Emergency Management Agency (FEMA) regulations.

**Policy 10:** For construction, remodeling, or major repairs to structures (including prefabricated and mobile homes) within the floodplain, review building permits to ensure that:

- a. Building location and grading are designed to protect the structure during the base year flood;
- b. Construction materials and utility equipment are resistant to flood damage.
- c. Construction methods and practices will minimize flood damage.
- d. Where appropriate, structures are designed or modified to prevent flotation, collapse, or lateral movement of the structure.

**Policy 11:** Development approval within the flood fringe shall be reviewed to protect property and public safety and significant natural values.

- 1.8 In 2019 the City of Albany participated in a Community Assistance Visit (CAV) with DLCD to ensure compliance with the State's and the NFIP floodplain requirements. It was through this process that it was found that the ADC was out of compliance with the most recent floodplain requirements.
- 1.9 The proposed amendments will update the existing floodplain regulations in Article 6 to meet the standards set by the State of Oregon and the NFIP, by aligning the ADC with the Oregon Model Floodplain Ordinance.
- 1.10 In general, the proposed amendments to the development code are intended to improve the land use process rather than significantly change the outcomes. The proposed amendments are intended to ensure consistency with state law by providing the most recent and reliable information.

### Conclusions: Development Code Amendments Criterion 1

- 1.1 The proposed ADC amendments are consistent with the applicable Comprehensive Plan goals and policies in the Comprehensive Plan related to citizen involvement, land use planning, flood hazards, and urbanization.

- 1.2 The proposed text amendment will update the ADC's floodplain ordinance to be consistent with Federal Emergency Management Agency's (FEMA) minimum NFIP and State floodplain requirements.
- 1.3 This review criterion is met.

***Criterion 2: The proposed amendments are consistent with Development Code policies on purpose and with the purpose statements for the base zone, special purpose districts, or development regulation where the amendment is proposed.***

## Findings of Fact

- 2.1 ADC amendments must be consistent with the policies and purpose statements for the affected base zones or development regulations where the amendments are proposed.
- 2.2 Section 1.020, the general purpose of the Albany Development Code is to: *set forth and coordinate City regulations governing the development and use of land. The Code is more specifically intended to do the following (applicable listed):*
1. *Serve as the principal vehicle for implementation of the City's Comprehensive Plan in a manner that protects the health, safety, and welfare of the citizens of Albany.*
  2. *Satisfy relevant requirements of federal law, state law, statewide goals, and administrative rules.*
  3. *Facilitate prompt review of development proposals and the application of clear and specific standards.*
  8. *Require that permitted uses and development designs provide reasonable protection from fire, flood, landslide, erosion, or other natural hazards, as well as prevent the spread of blight, and help prevent crime.*
- 2.3 The purpose of the Floodplain overlay district (/FP) standards in the ADC are to *"manage development in the floodplain in a way that promotes public and environmental health and safety and minimize the economic loss and social disruption caused by impending flood events."*
- 2.4 The proposed text amendments will bring the City of Albany's floodplain ordinance into alignment with the Oregon Model Floodplain Ordinance and the NFIP standards and requirements.
- 2.5 The following amendments are proposed for the floodplain ordinance to comply with the Oregon Model Floodplain Ordinance:  
Addition of:
- Statutory Authority
  - Methods of Reducing Flood Losses
  - New definitions
  - Coordination with State of Oregon Specialty Codes
  - Compliance
  - Penalties for Noncompliance
  - Severability
  - Interpretation
  - Variance Procedure
  - Tanks
  - Uses of Other Base Flood Data
  - Structures Located in Multiple or Partial Flood Zones
  - Flood Openings
  - Garages
  - Before Regulatory Floodway
  - Standards for Shallow Flooding Areas
  - Standards for AH Zones

- Standards for AO Zones

Updates of:

- Statement of Purpose
- Basis of Establishing the Special Flood Hazard Areas
- Designation of the Floodplain Administrator
- Duties and Responsibilities of the Floodplain Administrator
- Permit Review
- Information to be Obtained and Maintained
- Community Boundary Alterations
- Watercourse Alterations
- Requirement to Submit New Technical Data
- Substantial Improvement and Substantial Damage Assessments and Determinations
- Floodplain Development Permit Required
- Application for Development Permit
- Anchoring
- Electrical, Mechanical, Plumbing, and Other Equipment
- Land Divisions/Subdivisions
- Residential Construction
- Non-Residential Construction
- Manufactured Dwellings
- Accessory Structures

- 2.4 The proposed amendments are consistent with the FEMA's minimum NFIP and State floodplain requirements.
- 2.5 The proposed amendments comply with state law and are consistent with the Plan. Thus, they are consistent with the provisions of ADC 1.050 – Consistency with Plan and Laws.
- 2.6 Amendments to the ADC are needed to comply with state floodplain regulations and align with the Oregon Model Floodplain Ordinance.

### Conclusions: Development Code Amendment Criterion 2

- 2-1 The proposed Development Code amendments are consistent with applicable purpose statements, special purpose districts, or development regulations where amendments are proposed in Article 6.
- 2-2 Based on the above analysis, this criterion is satisfied.

## Overall Conclusions

Based on the analysis in this report, the proposed Development Code amendments meet the applicable review criteria as outlined in this report.

The Planning Commission has two options with respect to the proposed Development Code amendments:

Option 1: Recommend that the City Council approve the amendment requests as presented; or

Option 2: Recommend the City Council approve the proposed amendments as modified by the Planning Commission.

## Staff Recommendation

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



I move that the Planning Commission recommend that the City Council approve the proposed Albany Development Code amendments detailed in planning file DC-02-24.

This motion is based on the findings and conclusions in the May 6, 2024, staff report, and the findings in support of the application made by the Planning Commission during deliberations on this matter.

## Attachments

Exhibit A: Albany Development Code Amendments

Exhibit B: Oregon Model Floodplain Ordinance

## Acronyms

ADC	Albany Development Code
AMC	Albany Municipal Code
CAV	Community Assistance Visit
DC	Development Code Text Amendment File Designation
DLCD	Oregon Department of Land Conservation and Development
FEMA	Federal Emergency Management Agency
FIS	Flood Insurance Study
/FP	Floodplain Overlay
LUBA	Oregon Land Use Board of Appeals
NFIP	National Flood Insurance Program
OAR	Oregon Administrative Rule
ORS	Oregon Revised Statutes



# MEMO

TO: Albany City Council

VIA: Peter Troedsson, City Manager *ATG 6/6*

FROM: Jeanna Yeager, Finance Director  
Diane Murzynski, Contracts & Procurement Officer

DATE: May 20, 2024, for the June 12, 2024, City Council Meeting

**SUBJECT:** Award of Contract for Unarmed Security Guard Services  
**RELATES TO STRATEGIC PLAN THEME:** An Effective Government; A Safe City

### Action Requested:

Staff requests that council adopt the attached resolution accepting the proposal and awarding a contract to Valley Merchant Police, Albany, OR, to provide unarmed security guard services and patrol services; and authorize the finance director to negotiate and sign a contract with Valley Merchant Police, for five years, with an option to extend the contract for two additional, one-year terms.

### Discussion:

The Unarmed Security Guard Services contract scope of work has been revised from prior years. Beginning July 1, 2024, the services will include on-site guard services at Albany City Hall (daytime, evening and special events); patrol services for the REA Building/Train Station/Transit Center and Transit Operations Facility (TOF); patrol services for public works PW Operations Facilities and Water Reclamation Facility(WRF); and park restroom lockup services and patrol services for the Riverfront Community Center (RCC). The guard service requirements include to monitor, report, and deter incidents at assigned City site locations and facilities, provide security and safety of the buildings, vehicles, equipment, and adjacent areas at the designated departments' site locations; and periodically patrol the designated facilities and identify and report any irregularities.

The current contract for unarmed security guard services is with Valley Merchant Police and will expire June 30, 2024. On March 18, 2024, the City advertised a competitive Request for Proposals (RFP) closing on April 16, 2024, and received four responsive and responsible proposals, and one non-responsive proposal (late). The firms submitting a response were: SafeRock Security Inc., Portland, OR; Providers International, Clackamas, OR; Valley Merchant Police, Albany, OR; Security Services NW Inc., Sequim, WA; and Dark Buffalo Group, Clatskanie, OR.

The City's evaluation committee, comprised of representatives from municipal court, public works operations, and parks and recreation, reviewed and scored proposals based on their management letter and financial strength; experience and qualifications; project understanding and service approach; cost proposal and references. The selection of Valley Merchant Police was based on the best value of service that offered the desired level of quality at a reasonable price. The proposal scores range from 108 to 61. The monthly proposed costs per area of services are the following: city hall daytime guard services, \$7,866; city hall evening guard services, \$1,634; event guard services (vary), \$152; park restroom lockup (seasonal), \$3,000; RCC patrol, \$550; PW Operations and WRF patrol, \$1,850; TOF and REA patrol, \$3,700.

The Evaluation Committee recommends that Council award a contract to Valley Merchant Police, beginning July 1, 2024, for a five-year term, including an option to extend the contract for two additional, one-year terms.

**Budget Impact:**

The annual cost for the unarmed security guard services contract is based on a fixed cost per location of services and is estimated at approximately \$200,000 per year. The monthly charge will vary due to services not provided during the winter, i.e., park restroom lockup. The applicable guard and patrol services will be charged to the department receiving the services.

DM

Attachment (1) Resolution



RESOLUTION NO. \_\_\_\_\_

A RESOLUTION AWARDING A CONTRACT TO VALLEY MERCHANT POLICE, ALBANY, OREGON, FOR UNARMED SECURITY GUARD SERVICES; AND AUTHORIZING THE FINANCE DIRECTOR TO ENTER INTO A CONTRACT WITH VALLEY MERCHANT POLICE FOR UNARMED SECURITY GUARD SERVICES FOR A TERM OF FIVE YEARS

WHEREAS, the City's current contract for unarmed security guard services is with Valley Merchant Police, and will expire June 30, 2024; and

WHEREAS, on March 18, 2024, the City advertised a competitive request for proposals (RFP) for unarmed security guard services, which includes on-site guard services at Albany City Hall (daytime, evening and special events); patrol services for the REA building/train station/transit center and transit operations facility (TOF); patrol services for public works operations facilities and water reclamation facility; and park restroom lockup services; and

WHEREAS, the solicitation closed on April 16, 2024, and the City received four responsive, responsible proposals, and one non-responsive proposal; and

WHEREAS, the City's evaluation committee, comprised of representatives from municipal court, public works operations, and parks and recreation, evaluated and scored each proposal based on experience and qualifications; project understanding and approach; and cost and references; and

WHEREAS, the proposal evaluation results indicate Valley Merchant Police was the strongest submittal for unarmed security guard services and the evaluation committee recommends that Council award a contract for unarmed security guard services to Valley Merchant Police, for five years, commencing July 1, 2024, with an option to extend the contract two additional one-year terms.

NOW, THEREFORE, BE IT RESOLVED that the Albany City Council hereby accepts the proposal and awards a contract to Valley Merchant Police for unarmed security guard services over a five-year term, beginning July 1, 2024, with the option to extend the contract two additional one-year terms; and

BE IT FURTHER RESOLVED that the finance director is hereby authorized to sign a contract for city unarmed security guard services with Valley Merchant Police for an initial term of approximately \$200,000.

DATED AND EFFECTIVE THIS 12TH DAY OF JUNE 2024.

\_\_\_\_\_  
Mayor

ATTEST:

\_\_\_\_\_  
City Clerk



# MEMO

TO: Albany City Council

VIA: Peter Troedsson, City Manager *PT*  
Staci Belcastro, P.E., City Engineer/Assistant Public Works Director *SB*

FROM: Chris Cerklewski, P.E., Civil Engineer III *CLC*

DATE: May 30, 2024, for the June 12, 2024, City Council Meeting

**SUBJECT:** Cooperative Improvement Agreement with Oregon Department of Transportation  
Relates to Strategic Plan theme: A Safe City, An Effective Government

### Action Requested:

Staff recommends that City Council approve, by resolution (Attachment 2), an Oregon Department of Transportation (ODOT) Cooperative Improvement Agreement (Attachment 3) to fund Americans with Disabilities Act (ADA) and street improvements within ODOT right-of-way on North Albany Road where it intersects Highway 20 as part of project ST-24-03, North Albany Road Overlay: Highway 20 to Railroad Tracks.

### Discussion:

The adopted 2024-2028 Capital Improvement Program includes a project to construct a two-inch asphalt overlay on North Albany Road from Highway 20 north approximately 1,800 feet to the railroad tracks. The project is in the current biennial budget, and construction of the improvements is anticipated to take place during the summer of 2025. North Albany Road is under the City's jurisdiction; however, the state right-of-way extends approximately 70 feet north of its intersection with Highway 20. Attachment 1 is a vicinity map that identifies limits of the city and state jurisdiction on North Albany Road.

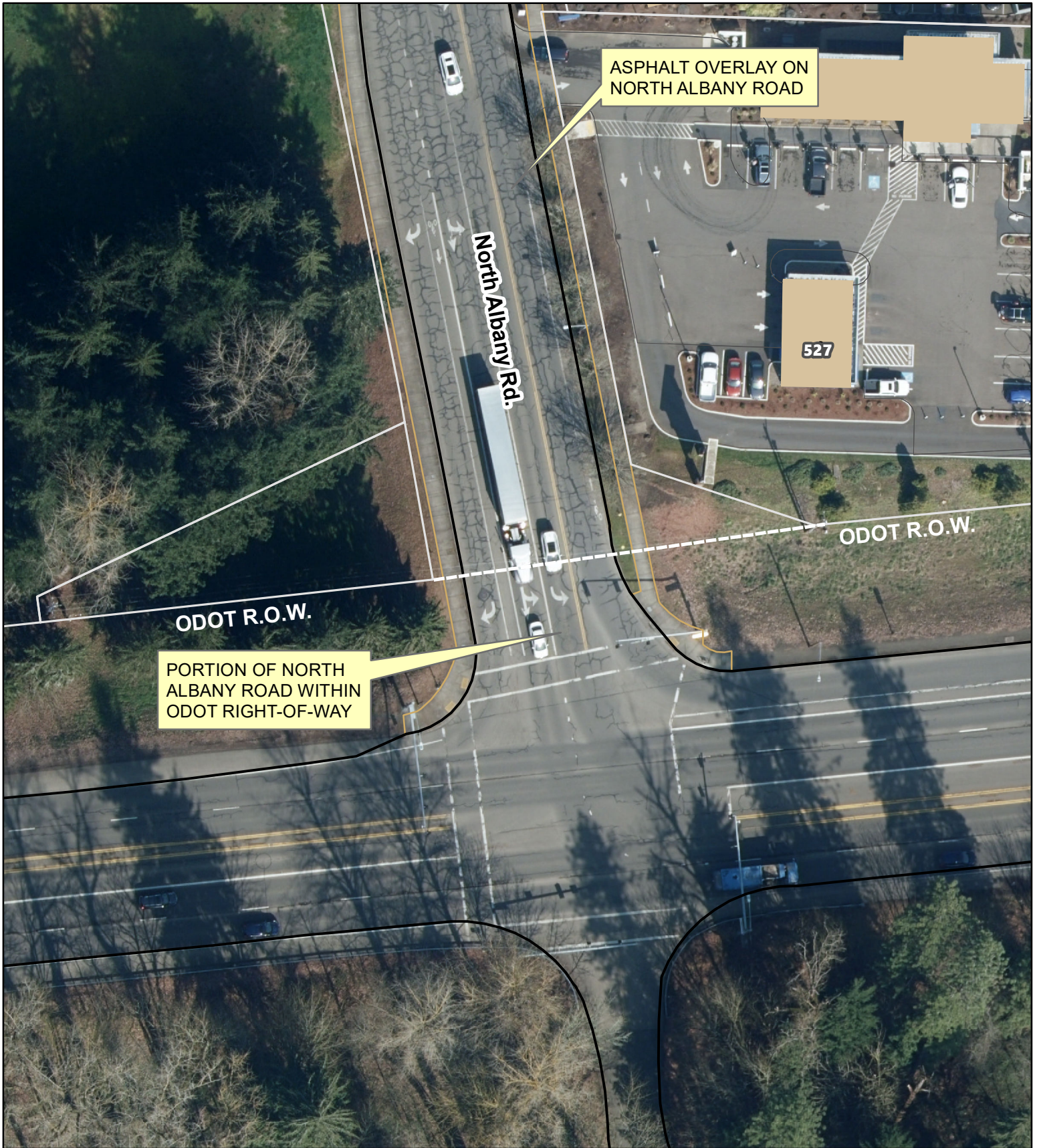
During design, staff identified that curb ramps and traffic signal pedestrian push buttons on the north side of Highway 20, which are within the ODOT right-of-way, did not meet current standards of the ADA. Staff contacted ODOT to see if state funds were available to contribute to these ADA improvements. Per the attached agreement, ODOT is providing funding in the amount of \$100,000 to be used towards the construction of paving, pavement markings, new curb ramps, and traffic signal upgrades within the ODOT right-of-way.

### Budget Impact:

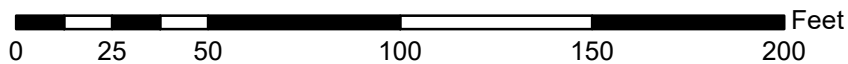
Construction of the paving, pavement markings, curb ramps, and traffic signal upgrades in the ODOT right-of-way will be funded from ODOT. There will be no increase in City costs associated with the project.

SLB:CC:kc  
Attachments (3)  
c: Jeff Babbitt, Public Works Business Manager (via email)





**ATTACHMENT 1  
NORTH ALBANY ROAD AT U.S. HIGHWAY 20  
VICINITY MAP**





RESOLUTION NO. \_\_\_\_\_

A RESOLUTION APPROVING AN INTERGOVERNMENTAL AGREEMENT WITH THE OREGON DEPARTMENT OF TRANSPORTATION

WHEREAS, the adopted 2024-2028 Capital Improvement Program includes a project to construct a 2-inch asphalt overlay on North Albany Road from Highway 20 north approximately 1,800 feet to the railroad tracks; and

WHEREAS, Highway 20 is part of the state highway system under the jurisdiction of the Oregon Department of Transportation (ODOT); and

WHEREAS, a portion of North Albany Road is under the jurisdiction of ODOT; and

WHEREAS, the City of Albany and ODOT support the creation of a safe and efficient pedestrian system; and

WHEREAS, ODOT has offered funding in the amount of \$100,000 to construct paving, pavement markings, curb ramps, and pedestrian signal improvements on that portion of North Albany Road under the state's jurisdiction.

NOW, THEREFORE, BE IT RESOLVED by the Albany City Council that the City of Albany accepts funding in the amount of \$100,000.00 for purposes of constructing paving, pavement markings, curb ramps, and pedestrian signals that comply with the Americans with Disabilities Act; and authorizes the city manager to execute the intergovernmental agreement; and

BE IT FURTHER RESOLVED that the Fiscal Year 2024-2026 street capital and restoration funds are hereby appropriated as follows:

Resources	Debit	Credit
25040250-840118	\$0	\$100,000

DATED THIS 12TH DAY OF JUNE 2024.

\_\_\_\_\_  
Mayor

ATTEST:

\_\_\_\_\_  
City Clerk



**COOPERATIVE IMPROVEMENT AGREEMENT**  
**North Albany Road Paving on US 20**  
**City of Albany**

**THIS AGREEMENT** is made and entered into by and between the STATE OF OREGON, acting by and through its Department of Transportation, hereinafter referred to as "State" or "ODOT," and the CITY OF ALBANY, acting by and through its elected officials, hereinafter referred to as "Agency," both herein referred to individually or collectively as "Party" or "Parties."

**RECITALS**

1. US 20, Albany-Corvallis Highway, is a part of the state highway system under the jurisdiction and control of the Oregon Transportation Commission (OTC) and is routed through the corporate limits of Agency. North Albany Road is a part of the city street system under the jurisdiction and control of the City of Albany.
2. By the authority granted in Oregon Revised Statutes (ORS) [190.110](#), [366.572](#) and [366.576](#), State may enter into cooperative agreements with counties, cities, and units of local governments for the performance of work on certain types of improvement projects with the allocation of costs on terms and conditions mutually agreeable to the contracting parties.
3. State, by ORS [366.220](#), is vested with complete jurisdiction and control over the roadways of other jurisdictions taken for state highway purposes. By the authority granted by ORS 373.020, the jurisdiction extends from curb to curb, or, if there is no regular established curb, then control extends over such portion of the right of way as may be utilized by State for highway purposes. Responsibility for and jurisdiction over all other portions of a city street remains with Agency.
4. By the authority granted in ORS [810.080](#) State has the authority to establish marked pedestrian crosswalks on its highway facilities.
5. By the authority granted in ORS [810.210](#), State is authorized to determine the character or type of traffic control devices to be used, and to place or erect them upon state highways at places where State deems necessary for the safe and expeditious control of traffic. No traffic control devices shall be erected, maintained, or operated upon any state highway by any authority other than State, except with its written approval. Traffic signal work on this Project will conform to the current State standards and specifications.

**NOW THEREFORE**, the premises being in general as stated in the foregoing Recitals, it is agreed by and between the Parties hereto as follows:

## TERMS OF AGREEMENT

1. Under such authority, State and Agency agree that Agency shall design and construct Americans with Disabilities Act of 1990 (ADA) curb ramps at the intersection of US 20 and North Albany Road, hereinafter referred to as "Project". The Project includes curb ramp construction, paving, installation of pavement markings, and pedestrian push button modifications. The location of the Project is approximately as shown on the sketch map attached hereto, marked Exhibit A, and by this reference made a part hereof.
2. The Project will be financed at an estimated cost of \$905,000 in local and State funds. State funds for this Project shall be limited to \$100,000. Agency shall be responsible for any Project costs beyond the estimate, including any non-participating costs. The estimate for the total Project cost is subject to change.
3. This Agreement shall become effective on the date all required signatures are obtained and shall remain in effect for the purpose of ongoing maintenance responsibilities for the useful life of the facilities constructed as part of the Project. The useful life is defined as twenty (20) calendar years. The Project shall be completed no later than June 30, 2025, unless extended by a fully executed amendment.
4. The Parties agree that the Project will be constructed within existing State and Agency right of way.
5. The Parties previously entered into Agreement Number 8949 for the construction of the signal at the Project location. The ongoing maintenance and power responsibilities remain as agreed.

## AGENCY OBLIGATIONS

### 1. Americans with Disabilities Act Compliance:

- a. State Highway: For portions of the Project located on or along the State Highway System or a State-owned facility ("state highway"):
  - i. Agency shall utilize ODOT standards to assess and ensure Project compliance with Section 504 of the Rehabilitation Act of 1973 and the Americans with Disabilities Act of 1990 as amended (together, "ADA"), including ensuring that all sidewalks, curb ramps, and pedestrian-activated signals meet current ODOT Highway Design Manual standards;
  - ii. Agency shall follow ODOT's processes for design, construction, or alteration of sidewalks, curb ramps, and pedestrian-activated signals, including using the ODOT Highway Design Manual, ODOT Design Exception process, ODOT Standard Drawings, ODOT Construction Specifications, providing a temporary pedestrian accessible route plan and current ODOT Curb Ramp Inspection form;

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- iii. At Project completion, Agency shall send a completed ODOT Curb Ramp Inspection Form 734-5020 to the address on the form and to State's Project Manager for each curb ramp constructed or altered as part of the Project. The completed form is the documentation required to show that each curb ramp meets ODOT standards and is ADA compliant. ODOT's fillable Curb Ramp Inspection Form and instructions are available at the following address:

<https://www.oregon.gov/ODOT/Engineering/Pages/Accessibility.aspx>

- iv. Agency shall promptly notify ODOT of Project completion and allow ODOT to inspect Project sidewalks, curb ramps, and pedestrian-activated signals located on or along a state highway prior to acceptance of Project by Agency and prior to release of any Agency contractor.
- v. Agency shall ensure that temporary pedestrian routes are provided through or around any Project work zone. Any such temporary pedestrian route shall include directional and informational signs, comply with ODOT standards, and include accessibility features equal to or better than the features present in the existing pedestrian facility. Agency shall also ensure that advance notice of any temporary pedestrian route is provided in accessible format to the public, people with disabilities, disability organizations, and ODOT at least ten (10) days prior to the start of construction.

- b. Local Roads: For portions of the Project located on Agency roads or facilities that are not on or along a state highway:

- i. Agency shall ensure that the Project, including all sidewalks, curb ramps, and pedestrian-activated signals, is designed, constructed, and maintained in compliance with the ADA.
- ii. Agency may follow its own processes or may use ODOT's processes for design, construction, or alteration of Project sidewalks, curb ramps, and pedestrian-activated signals, including using the ODOT Highway Design Manual, ODOT Design Exception process, ODOT Standard Drawings, ODOT Construction Specifications, providing a temporary pedestrian accessible route plan and current Curb Ramp Inspection form, available at:

<https://www.oregon.gov/ODOT/Engineering/Pages/Accessibility.aspx>

Additional ODOT resources are available at the above-identified link. ODOT has made its forms, processes, and resources available for Agency's use and convenience.

- iii. Agency assumes sole responsibility for ensuring that the Project complies with the ADA, including when Agency uses ODOT forms and processes. Agency acknowledges and agrees that ODOT is under no obligation to review or

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- approve Project plans or inspect the completed Project to confirm ADA compliance.
- iv. Agency shall ensure that temporary pedestrian routes are provided through or around any Project work zone. Any such temporary pedestrian route shall include directional and informational signs and include accessibility features equal to or better than the features present in the existing pedestrian route. Agency shall also ensure that advance notice of any temporary pedestrian route is provided in accessible format to the public, people with disabilities, and disability organizations prior to the start of construction.
2. Agency shall provide to State permanent mylar "as constructed" plans for work on state highways. If Agency redrafts the plans, done in Computer Aided Design and Drafting (CADD) or MicroStation, to get the "as constructed" set, and they follow the most current version of the "Contract Plans Development Guide, Volume 1 Chapter 16" [http://www.oregon.gov/State/HWY/ENGSERVICES/docs/dev\\_guide/vol\\_1/V1-16.pdf](http://www.oregon.gov/State/HWY/ENGSERVICES/docs/dev_guide/vol_1/V1-16.pdf), Agency shall provide to State a Portable Document Format (PDF) file and a paper copy of the plan set.
3. Agency shall keep accurate cost accounting records. Agency shall prepare and submit monthly itemized, progress invoices for construction directly to State's Project Manager for review and approval. Such invoices will be in a form identifying the Project, the Agreement number, the invoice number or the account number, or both, and will itemize all expenses for which reimbursement is claimed. Under no conditions shall State's obligations exceed \$100,000, including all expenses.
4. All employers, including Agency, that employ subject workers who work under this Agreement in the State of Oregon shall comply with ORS [656.017](#) and provide the required Workers' Compensation coverage unless such employers are exempt under ORS [656.126](#). Employer's Liability insurance with coverage limits of not less than \$500,000 must be included. Agency shall ensure that each of its contractors complies with these requirements.
5. Agency shall perform the service under this Agreement as an independent contractor and shall be exclusively responsible for all costs and expenses related to its employment of individuals to perform the work under this Agreement including, but not limited to, retirement contributions, workers' compensation, unemployment taxes, and state and federal income tax withholdings.
6. Agency acknowledges and agrees that State, the Oregon Secretary of State's Office, the federal government, and their duly authorized representatives shall have access to the books, documents, papers, and records of Agency which are directly pertinent to the specific Agreement for the purpose of making audit, examination, excerpts, and transcripts for a period of six (6) years after final payment (or completion of Project, if applicable.) Copies of applicable records shall be made available upon request. Payment for costs of copies is reimbursable by State.

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7. Agency shall comply with all federal, state, and local laws, regulations, executive orders and ordinances applicable to the work under this Agreement, including, without limitation, the provisions of ORS 279C.505, 279C.515, 279C.520, 279C.530, and 279B.270 incorporated herein by reference and made a part hereof. Without limiting the generality of the foregoing, Agency expressly agrees to comply with (i) Title VI of Civil Rights Act of 1964; (ii) Title V and Section 504 of the Rehabilitation Act of 1973; (iii) the Americans with Disabilities Act of 1990 and ORS 659A.142; (iv) all regulations and administrative rules established pursuant to the foregoing laws; and (v) all other applicable requirements of federal and state civil rights and rehabilitation statutes, rules and regulations.
8. Agency shall construct the Project in accordance with the requirements of ORS 276.071 including the public contracting laws within ORS Chapters 279A, 279B, and 279C.
9. If Agency chooses to assign its contracting responsibilities to a consultant or contractor, Agency shall inform the consultant or contractor of the requirements of ORS 276.071, to ensure that the public contracting laws within ORS Chapters 279A, 279B, and 279C are followed.
10. Agency or its contractor shall follow the Oregon Locate Laws (ORS 757 and OAR 952).
11. Agency, if a city, by execution of this Agreement, gives its consent as required by ORS 373.030(2) and ORS 105.760 to any and all changes of grade within Agency limits, and gives its consent as required by ORS 373.050(1) to any and all closures of streets intersecting the highway, if any there be in connection with or arising out of the Project covered by this Agreement.
12. Pursuant to the statutory requirements of ORS 279C.380, Agency shall require their contractor to submit a performance bond to Agency for an amount equal to or greater than the estimated cost of the Project.
13. Agency shall obtain all necessary permits, licenses, and approvals including land use permits, building permits, and engineering design review approval from State. In addition, Agency shall ensure that a utility permit issued by the State District office is in place prior to installation of any utility service line installed within state highway right of way as part of the Project. Agency agrees to comply with all provisions of said permit(s) and reviews and shall require its contractors performing such work to comply with such permit and review provisions.
14. If Agency enters into a contract for performance of work under this Agreement, Agency agrees to comply with the following:
  - a. Contracts:
    - i. All contracts must be in writing, executed by Agency, and must incorporate

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and pass through all of the applicable requirements of this Agreement to the other party or parties to the contract. Use of a contract does not relieve Agency of its responsibilities under this Agreement.

- ii. Agency shall require all of its contractors performing work under this Agreement to name State as a third-party beneficiary of the resulting contract with the contractor.
- iii. Agency shall require its prime construction contractor to submit a performance bond and payment bond to Agency for an amount equal to or greater than the estimated cost of the Project. Agency shall require its prime construction contractor to name State as an additional or “dual” obligee on contractors’ performance bond and payment bond.
- iv. Agency shall provide State with a copy of any signed contract upon request by State. This paragraph shall survive expiration or termination of this Agreement.
- v. Agency must report to State any material breach of a term or condition of a contract within ten (10) days of Agency discovering the breach.

b. Contract Indemnification:

- i. To the fullest extent permitted by law, and except to the extent otherwise void under ORS 30.140, Agency shall require each of its contractors that are not units of local government as defined in ORS 190.003, if any, to indemnify, defend, save, and hold harmless the State of Oregon, the Oregon Transportation Commission, and the Oregon Department of Transportation, and their respective officers, members, employees, and agents from and against all claims, suits, actions, losses, damages, liabilities, costs, and expenses of any nature whatsoever (hereinafter, referred to individually and collectively as “Claims”) to the extent such Claims result from, arise out of, or relate to the activities or omissions of Agency’s contractor, subcontractor(s), or their respective officers, employees, or agents under the resulting contract or otherwise related to the Project.
- ii. Any such indemnification shall also provide that Agency’s contractor shall ensure that neither Agency’s contractor(s) or its subcontractor(s) nor any attorney engaged by any Agency contractor or subcontractor shall defend any claim in the name of the State of Oregon or any agency of the State of Oregon, nor purport to act as legal representative of the State of Oregon or any of its agencies, without the prior written consent of the Oregon Attorney General. The State of Oregon may, at any time at its election assume its own defense and settlement in the event that it determines that any Agency contractor or subcontractor is prohibited from defending the State of Oregon, or that any Agency contractor or subcontractor is not



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adequately defending the State of Oregon's interests, or that an important governmental principle is at issue or that it is in the best interests of the State of Oregon to do so. The State of Oregon reserves all rights to pursue claims it may have against Agency's contractor(s) and subcontractor(s) if the State of Oregon elects to assume its own defense.

c. Contract Insurance:

- i. Agency shall require the other party or parties to each of its contracts, that are not units of local government as defined in ORS 190.003, to meet the minimum insurance requirements provided in Exhibit B, attached hereto and by this reference made a part hereof.
- ii. Agency shall perform a risk assessment for the work to be performed under its contract(s) and determine insurance types and amounts as appropriate based on the risk of the work outlined within each contract, and shall require its contractor(s) to carry such insurance, except that the required insurance types and amounts may not be less than those identified in Exhibit B. Agency may specify insurance requirements for its contractor(s) above the minimum insurance requirements specified in Exhibit B.
- iii. Agency shall obtain proof of the required insurance coverages, as applicable, from any contractor it hires to provide services related to the contract.
- iv. Agency shall require its contractor(s) to require and verify that all subcontractors carry insurance coverage that the contractor(s) deems appropriate based on the risk of the subcontracted work.

- d. Agency shall include provisions in each of its contracts requiring its contractor(s) to comply with the indemnification and insurance requirements in subparagraphs b and c of this AGENCY OBLIGATIONS, Paragraph 14.

15. Agency shall conduct the necessary field surveys, environmental studies, traffic investigations, preliminary engineering, and design work required to produce and provide final plans, specifications, and cost estimates for the highway project; identify and obtain all required permits; perform all construction engineering, including all required materials testing and quality documentation; prepare all bid and contract documents; advertise for construction bid proposals; award all contracts, pay all contractor costs; provide technical inspection (other than inspections provided by State under State Obligations), project management services, and other necessary functions for sole administration of the construction contract entered into for this Project.
16. Agency shall design and construct the Project in conformance with the current edition of the *ODOT Highway Design Manual* and the *Oregon Standard Specifications for Construction* in place at the time the work is conducted. Agency,

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or its contractor, understands the Project shall be designed and constructed to State standards and approved by State prior to advertisement for bid or construction of the Project.

17. Plans are reviewed by State in general only and do not relieve Agency from completing the Project in a manner satisfactory to State. The State Project Manager may require field changes. When revisions are made in the field, Agency is responsible to provide "as constructed" drawings as described in Agency Obligations, Paragraph 2.
18. Agency shall provide on-site retention for storm water runoff that exceeds that of the undeveloped site.
19. All water discharged to a State drainage system must be treated prior to discharge. All requests for connection to a State storm system must meet any requirements of the National Pollutant Discharge Elimination System (NPDES). This may include local jurisdiction approval of on-site water quality treatment facilities and development of an operation and maintenance plan for any on-site water quality treatment facility as determined by the local jurisdiction.
20. A storm drainage study stamped by an Oregon registered professional engineer is required prior to the start of Project work. The study must meet standards of the NPDES when a four inch pipe is inadequate to serve the developed area, development site is one acre or larger, and directly or indirectly affects state facilities, or directed by State.
21. Agency, or its contractor(s), shall protect the Project area in accordance with the *Manual on Uniform Traffic Control Devices* and the *Oregon Temporary Traffic Control Handbook* in place at the time the work is conducted.
22. Agency shall notify the State District office at least five (5) business days prior to performing work within state highway right of way to coordinate the work under this Agreement with other work occurring on the state highway.
23. Agency shall contact State's District 4 Permits Office in writing, seven (7) working days prior to the commencement of maintenance activities that impact travel lanes of US 20. No lane restrictions are permitted unless prior written approval from State's District 4 Manager or designee is provided.
24. Agency shall be responsible and liable for (1) investigating presence/absence of any legally protected or regulated environmental resource(s) in the action area; (2) determining any and all restrictions or requirements that relate to the proposed actions, and complying with such, including but not limited to those related to hazardous material(s), water quality constraints, wetlands, archeological or historic resource(s), state and federal threatened or endangered species, etc., (3) complying with all federal, state, and local laws; and (4) obtaining all required and necessary permits and approvals.

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25. If Agency, or its contractors, impacts a legally protected/regulated resource, Agency shall be responsible for all costs associated with such impact, including, but not limited to all costs of mitigation and rehabilitation, and shall indemnify and hold State harmless for such impacts and be responsible and liable to State for any associated costs for claims that State may have.
26. Agency is responsible for and ensures that all survey monuments recorded with a county and within or adjacent to the highway right of way shall be preserved in accordance with ORS 209.140 and 209.150. Any such monumentation that is damaged or removed during the course of the Project must be replaced in compliance with ORS Chapter 209 stipulations, the State Right of Way Monumentation Policy, and at Agency's own expense.
27. Agency is also responsible, at its own expense, for replacement of any additional State survey marks or other monumentation not recorded with a county that are damaged or removed during the course of the Project. In the event of such replacement, Agency shall contact State's Geometrics Unit for replacement procedures.
28. If additional right of way is acquired for state highway right of way purposes as a result of the Project, then a right of way monumentation survey is required as defined in ORS 209.150 and 209.155. Agency agrees to provide such a survey, at its own expense, following ORS Chapter 209 stipulations, State Right of Way Monumentation Policy, and State's Geometrics Unit review and approval, and to file the legal survey with the appropriate Agency surveyor's office as required.
29. Agency certifies and represents that the individual(s) signing this Agreement has been authorized to enter into and execute this Agreement on behalf of Agency, under the direction or approval of its governing body, commission, board, officers, members, or representatives, and to legally bind Agency.
30. Agency's Project Manager for this Project is Staci Belcastro, City Engineer, City of Albany; 333 Broadalbin Street SW, Albany, Oregon 97321; 541-917-7645; staci.belcastro@cityofalbany.net, or assigned designee upon individual's absence. Agency shall notify the other Party in writing of any contact information changes during the term of this Agreement.

## **STATE OBLIGATIONS**

1. In consideration for the services performed, State agrees to pay Agency, within forty-five (45) days of receipt by State of the Project invoice, a maximum amount of \$100,000. Said maximum amount shall include reimbursement for all eligible expenses. Travel expenses shall not be reimbursed.
2. State certifies, at the time this Agreement is executed, that sufficient funds are available and authorized for expenditure to finance costs of this Agreement within State's current appropriation or limitation of the current biennial budget.

City of Albany/ODOT  
Agreement No. 73000-00027854

3. State grants authority to Agency to enter upon State right of way for the construction of this Project as provided in this Agreement upon State approval of Project plans and coordination with the State District office.
4. State's Project Manager for this Project is Brian Morey; District 4 Manager; 3700 SW Philomath Blvd., Corvallis, Oregon 97333; 541-757-4211; brian.t.morey@odot.oregon.gov, or assigned designee upon individual's absence. State shall notify the other Party in writing of any contact information changes during the term of this Agreement.
5. State's District office contact for this Project is District 4 Manager, 3700 SW Philomath Blvd., Corvallis, Oregon 97333; 541-757-4211.

### **GENERAL PROVISIONS**

1. This Agreement may be terminated by mutual written consent of both Parties.
2. State may terminate this Agreement effective upon delivery of written notice to Agency, or at such later date as may be established by State, under any of the following conditions:
  - a. If Agency fails to provide services called for by this Agreement within the time specified herein or any extension thereof.
  - b. If Agency fails to perform any of the other provisions of this Agreement, or so fails to pursue the work as to endanger performance of this Agreement in accordance with its terms, and after receipt of written notice from State fails to correct such failures within ten (10) days or such longer period as State may authorize.
  - c. If Agency fails to provide payment of its share of the cost of the Project.
  - d. If State fails to receive funding, appropriations, limitations, or other expenditure authority sufficient to allow State, in the exercise of its reasonable administrative discretion, to continue to make payments for performance of this Agreement.
  - e. If federal or state laws, regulations, or guidelines are modified or interpreted in such a way that either the work under this Agreement is prohibited or State is prohibited from paying for such work from the planned funding source.
3. Any termination of this Agreement shall not prejudice any rights or obligations accrued to the Parties prior to termination.
4. The following paragraphs shall survive termination of the Agreement.

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- a. If any third party makes any claim or brings any action, suit, or proceeding alleging a tort as now or hereafter defined in ORS 30.260 ("Third Party Claim") against State or Agency with respect to which the other Party may have liability, the notified Party must promptly notify the other Party in writing of the Third Party Claim and deliver to the other Party a copy of the claim, process, and all legal pleadings with respect to the Third Party Claim. Each Party is entitled to participate in the defense of a Third Party Claim, and to defend a Third Party Claim with counsel of its own choosing. Receipt by a Party of the notice and copies required in this paragraph and meaningful opportunity for the Party to participate in the investigation, defense, and settlement of the Third Party Claim with counsel of its own choosing are conditions precedent to that Party's liability with respect to the Third Party Claim.
- b. Except as otherwise provided in Paragraph 4.d. below, with respect to a Third Party Claim for which State is jointly liable with Agency (or would be if joined in the Third Party Claim), State shall contribute to the amount of expenses (including attorneys' fees), judgments, fines, and amounts paid in settlement actually and reasonably incurred and paid or payable by Agency in such proportion as is appropriate to reflect the relative fault of State on the one hand and of Agency on the other hand in connection with the events which resulted in such expenses, judgments, fines, or settlement amounts, as well as any other relevant equitable considerations. The relative fault of State on the one hand and of Agency on the other hand shall be determined by reference to, among other things, the Parties' relative intent, knowledge, access to information, and opportunity to correct or prevent the circumstances resulting in such expenses, judgments, fines, or settlement amounts. State's contribution amount in any instance is capped to the same extent it would have been capped under Oregon law, including the Oregon Tort Claims Act, ORS 30.260 to 30.300, if State had sole liability in the proceeding.
- c. Except as otherwise provided in Paragraph 4.d. below, with respect to a Third Party Claim for which Agency is jointly liable with State (or would be if joined in the Third Party Claim), Agency shall contribute to the amount of expenses (including attorneys' fees), judgments, fines, and amounts paid in settlement actually and reasonably incurred and paid or payable by State in such proportion as is appropriate to reflect the relative fault of Agency on the one hand and of State on the other hand in connection with the events which resulted in such expenses, judgments, fines, or settlement amounts, as well as any other relevant equitable considerations. The relative fault of Agency on the one hand and of State on the other hand shall be determined by reference to, among other things, the Parties' relative intent, knowledge, access to information, and opportunity to correct or prevent the circumstances resulting in such expenses, judgments, fines, or settlement amounts. Agency's contribution amount in any instance is capped to the same extent it would have been capped under Oregon law, including the Oregon Tort Claims Act, ORS 30.260 to 30.300, if it had sole liability in the proceeding.
- d. Contract-Related Indemnification. Subject to any limitations imposed by State law and the Oregon Constitution, the Parties agree to the following contract-related

City of Albany/ODOT  
Agreement No. 73000-00027854

indemnification for all projects authorized under this Agreement: where Agency contracts for services or performs project management for a project, Agency shall accept all responsibility, defend lawsuits, indemnify, and hold State harmless, for all contract-related claims and suits. This includes but is not limited to all contract claims or suits brought by any contractor, whether arising out of the contractor's work, Agency's supervision of any individual project or contract, or Agency's failure to comply with the terms of this Agreement.

5. The Parties shall attempt in good faith to resolve any dispute arising out of this Agreement. In addition, the Parties may agree to utilize a jointly selected mediator or arbitrator (for non-binding arbitration) to resolve the dispute short of litigation.
6. If Agency fails to maintain facilities in accordance with the terms of this Agreement, State, at its option, may maintain the facility and bill Agency, seek an injunction to enforce the duties and obligations of this Agreement, or take any other action allowed by law.
7. This Agreement may be executed in several counterparts (facsimile or otherwise) all of which when taken together shall constitute one agreement binding on all Parties, notwithstanding that all Parties are not signatories to the same counterpart. Each copy of this Agreement so executed shall constitute an original.
8. This Agreement and attached exhibits constitute the entire agreement between the Parties on the subject matter hereof. There are no understandings, agreements, or representations, oral or written, not specified herein regarding this Agreement. No waiver, consent, modification, or change of terms of this Agreement shall bind either Party unless in writing and signed by both Parties and all necessary approvals have been obtained. Such waiver, consent, modification, or change, if made, shall be effective only in the specific instance and for the specific purpose given. The failure of State to enforce any provision of this Agreement shall not constitute a waiver by State of that or any other provision.
9. Electronic Signatures. The Parties agree that signatures showing on PDF documents, including but not limited to PDF copies of the Agreement and amendments, submitted, or exchanged via email are "Electronic Signatures" under ORS Chapter 84 and bind the signing Party and are intended to be and can be relied upon by the Parties. State reserves the right at any time to require the submission of the hard copy originals of any documents.

**THE PARTIES**, by execution of this Agreement, hereby acknowledge that their signing representatives have read this Agreement, understand it, and agree to be bound by its terms and conditions.

City of Albany/ODOT  
Agreement No. 73000-00027854

**CITY OF ALBANY**, by and through its  
designated officials

By \_\_\_\_\_  
Mayor, City of Albany

Date \_\_\_\_\_

By \_\_\_\_\_

Date \_\_\_\_\_

**LEGAL REVIEW APPROVAL**  
(If required in Agency's process)

By \_\_\_\_\_  
Agency Counsel

Date \_\_\_\_\_

**Agency Contact:**  
Staci Belcastro  
City of Albany City Engineer  
333 Broadalbin Street SW  
Albany, Oregon 97321  
541-917-7645  
staci.belcastro@cityofalbany.net

**State Contact:**  
Brian Morey  
ODOT District 4 Manager  
3700 SW Philomath Blvd.  
Corvallis, Oregon 97333  
541-757-4211  
Brian.t.morey@odot.oregon.gov

**STATE OF OREGON**, by and through  
its Department of Transportation

By \_\_\_\_\_  
Region 2 Manager

Date \_\_\_\_\_

**APPROVAL RECOMMENDED**

By \_\_\_\_\_  
State Traffic and Roadway Engineer

Date \_\_\_\_\_

By \_\_\_\_\_  
District 4 Manager

Date \_\_\_\_\_

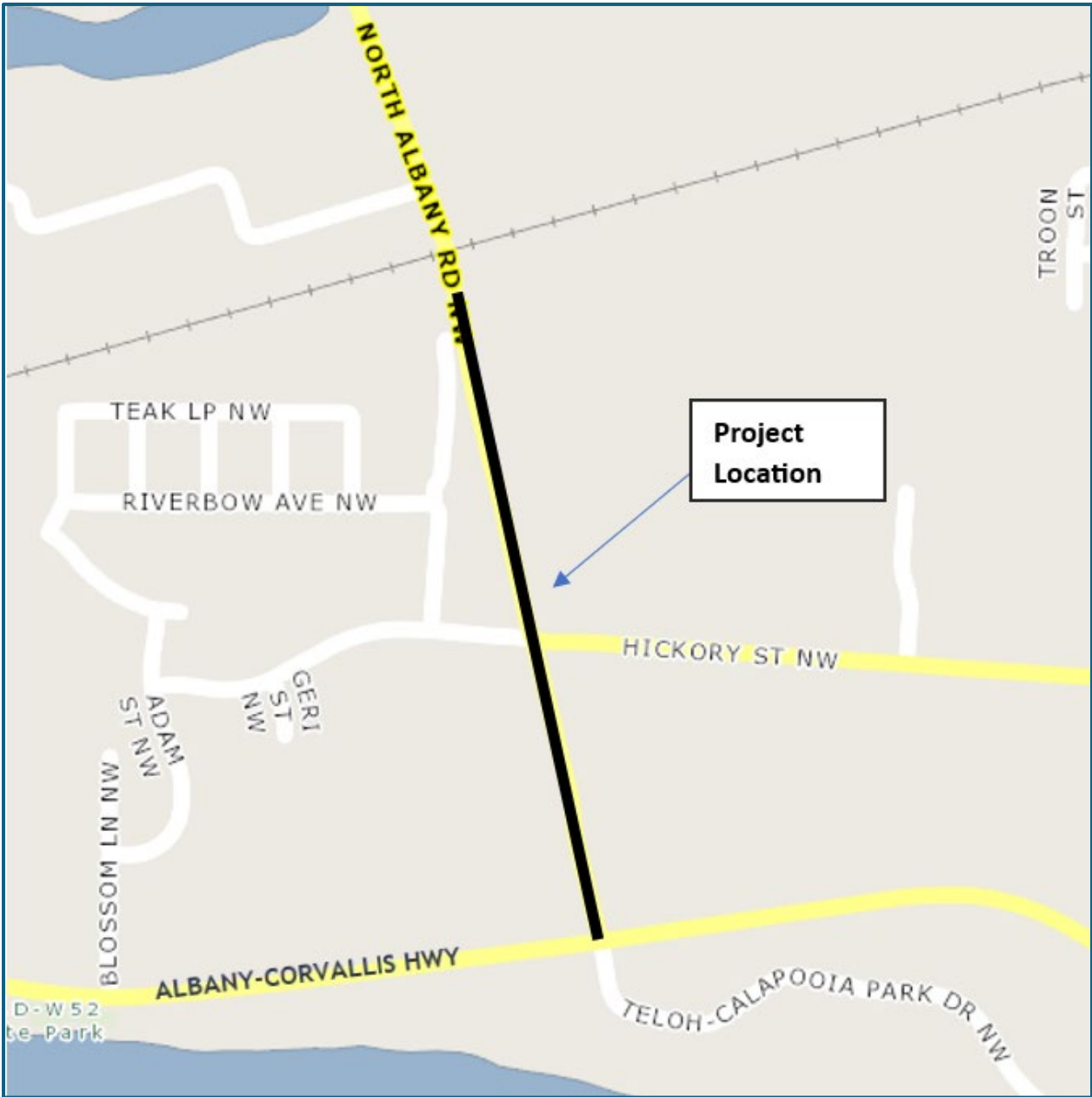
**APPROVED AS TO LEGAL  
SUFFICIENCY**

By NA \_\_\_\_\_  
Assistant Attorney General

Date \_\_\_\_\_



**EXHIBIT A**  
**Project Location Map**



## **EXHIBIT B**

### **Agency's Contractor Insurance Requirements**

#### **1. GENERAL.**

- a. Agency shall require, in its contracts with entities that are not units of local government as defined in ORS 190.003 (if any), that its contractors: i) obtain insurance specified under TYPES AND AMOUNTS and meeting the requirements under ADDITIONAL INSURED, "TAIL" COVERAGE, NOTICE OF CANCELLATION OR CHANGE, and CERTIFICATES OF INSURANCE before performance under the contract commences, and ii) maintain the insurance in full force throughout the duration of the contract. The insurance must be provided by insurance companies or entities that are authorized to transact the business of insurance and issue coverage in the state of Oregon and that are acceptable to State. Agency shall not authorize work to begin under the contract until the insurance is in full force. Thereafter, Agency shall monitor continued compliance with the insurance requirements on an annual or more frequent basis. Agency shall incorporate appropriate provisions in the contract permitting it to enforce compliance with the insurance requirements and shall take all reasonable steps to enforce such compliance. In no event shall Agency permit work under a contract when Agency is aware that the contractor is not in compliance with the insurance requirements. All references to "contractor" in this Exhibit B refer to Agency's contractor as identified in this Paragraph 1.a.
- b. The insurance specified below is a minimum requirement that the Agency shall require its contractor to meet and shall include such requirement in Agency's contract with its contractor. Agency may determine insurance types and amounts in excess of the minimum requirement as deemed appropriate based on the risks of the work outlined within the contract.
- c. Agency shall require each of its contractors to require that all of its subcontractors carry insurance coverage that the contractor deems appropriate based on the risks of the subcontracted work. Contractor shall obtain proof of the required insurance coverages, as applicable, from any subcontractor providing services related to the Contract.

#### **2. TYPES AND AMOUNTS.**

##### **a. WORKERS' COMPENSATION AND EMPLOYER'S LIABILITY.**

All employers, including Agency's contractor, that employ subject workers, as defined in ORS 656.027, shall comply with ORS 656.017 and shall provide Workers' Compensation Insurance coverage for those workers, unless they meet the requirement for an exemption under ORS 656.126(2). The coverage shall include Employer's Liability Insurance with limits not less than \$500,000 each accident. **Contractor shall require compliance with these requirements in each of its subcontractor contracts.**

**b. COMMERCIAL GENERAL LIABILITY.**

Commercial General Liability Insurance shall be issued on an occurrence basis covering bodily injury and property damage and shall include personal and advertising injury liability, products and completed operations, and contractual liability coverage. When work to be performed includes operations or activity within 50 feet of any railroad property, bridge, trestle, track, roadbed, tunnel, underpass or crossing, the Contractor shall provide the Contractual Liability – Railroads CG 24 17 endorsement, or equivalent, on the Commercial General Liability policy. Amounts below are a minimum requirement as determined by State:

Coverage shall be written on an occurrence basis in an amount of not less than  \$1,000,000  \$2,000,000  \$5,000,000 per occurrence.

Annual aggregate limit shall not be less than  \$2,000,000  \$4,000,000  \$10,000,000.

**c. AUTOMOBILE LIABILITY.**

Automobile Liability Insurance covering contractor's business-related automobile use covering all owned, non-owned, or hired vehicles for bodily injury and property damage. Amount below is a minimum requirement as determined by State:

Coverage shall be written with a combined single limit of not less than **\$1,000,000**.

**d. EXCESS/UMBRELLA LIABILITY.**

A combination of primary and Excess/Umbrella Liability Insurance may be used to meet the required limits of insurance. If any Excess/Umbrella Liability policies are in place, they must be on a true "following form" or broader coverage basis, with coverage at least as broad as provided on the underlying insurance.

**e. ADDITIONAL INSURED.**

The liability insurance coverages, except Professional Liability or Workers' Compensation/Employer's Liability, if included, must endorse the "**State of Oregon, the Oregon Transportation Commission and the Department of Transportation, and their respective officers, members, agents and employees**" as an **endorsed** Additional Insured but only with respect to the contractor's activities to be performed under the contract. Coverage shall be primary and non-contributory with any other insurance and self-insurance.

Additional Insured Endorsements on the Commercial General Liability shall be written on ISO Form CG 20 10 07 04, or equivalent, with respect to liability arising out of ongoing operations and ISO Form CG 20 37 07 04, or equivalent, with respect to liability arising out of completed operations.

Additional Insured Endorsements shall be submitted with the certificate(s) of insurance and must be acceptable to the Agency.

**f. "TAIL" COVERAGE.**

If any of the required insurance policies is on a "claims made" basis, such as Professional Liability Insurance or Pollution Liability Insurance, the contractor shall maintain either "tail" coverage or continuous "claims made" liability coverage, provided the effective date of the continuous "claims made" coverage is on or before the effective date of the contract, for a minimum of twenty-four (24) months following the later of: (i) the contractor's completion and Agency's acceptance of all Services required under the contract or, (ii) the expiration of all warranty periods provided under the contract. Notwithstanding the foregoing twenty-four (24) month requirement, if the contractor elects to maintain "tail" coverage and if the maximum time period "tail" coverage reasonably available in the marketplace is less than the twenty-four (24) month period described above, then the contractor may request and State may grant approval of the maximum "tail " coverage period reasonably available in the marketplace. If State approval is granted, the contractor shall maintain "tail" coverage for the maximum time period that "tail" coverage is reasonably available in the marketplace.

**3. NOTICE OF CANCELLATION OR CHANGE.**

The contractor or its insurer must provide thirty (30) days' written notice to Agency before cancellation of, material change to, potential exhaustion of aggregate limits of, or non-renewal of the required insurance coverage(s). **Agency shall immediately notify State of any change in insurance coverage.**

**4. CERTIFICATE(S) OF INSURANCE.**

Agency shall obtain from the contractor and provide to the State a certificate(s) of insurance for all required insurance before the contractor performs under the contract. The certificate(s) or an attached endorsement must endorse: i) "State of Oregon, the Oregon Transportation Commission and the Department of Transportation, and their respective officers, members, agents and employees" as an endorsed Additional Insured in regards to the Commercial General Liability and Automobile Liability policies and ii) that all liability insurance coverages shall be primary and non-contributory with any other insurance and self-insurance, with exception of Professional Liability or Workers' Compensation/Employer's Liability.



# MEMO

TO: Albany City Council

VIA: Peter Troedsson, City Manager

*PT*

FROM: Kinzi McIntosh, Central Services Support Specialist

*KM*

DATE: May 29, 2024, for the June 12, 2024, City Council Meeting

**SUBJECT:** Resignation from Citizen Advisory Groups

Relates to Strategic Plan theme: An Effective Government

### Action Requested:

Council acceptance of the following resignation from the Airport Advisory Commission:

Garry Barnes (position appointed by Councilor Montague; current term ends 12/31/25)

### Discussion:

Garry Barnes has notified the City of his resignation from the Airport Advisory Commission. Councilor Montague's appointment to fill this vacancy will be submitted at a subsequent meeting.

### Budget Impact:

None.

KM

attachment

**From:** [Romeo, Robb](#)  
**To:** [McIntosh, Kinzi](#); [Dodd, Anita](#)  
**Subject:** FW: Thank you  
**Date:** Thursday, May 16, 2024 12:24:30 PM

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FYI, see below.

Robb

---

**From:** Garry Barnes [REDACTED]  
**Sent:** Thursday, May 16, 2024 12:17 PM  
**To:** Romeo, Robb <[Robb.Romeo@albanyoregon.gov](mailto:Robb.Romeo@albanyoregon.gov)>  
**Subject:** Thank you

[**WARNING!** This email came from outside our organization. Do **NOT** click unknown attachments or links in email.]

Hello Rob.

It is with a heavy disappointment I must resign my position on the airport commission. I have some personal and business responsibilities that will not allow me to be in attendance for the next Six month. I have enjoyed my time getting to know you. Thank you.

Garry Barnes

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**MINUTES**

Monday, May 20, 2024  
Work Session  
Council Chambers, City Hall  
**Approved: DRAFT**

Call to Order and Pledge of Allegiance

Mayor Alex Johnson II called the meeting to order at 4:00 p.m.

Roll Call

Councilors present: Mayor Alex Johnson II and Councilors Matilda Novak, Steph Newton, Ray Kopczynski, Jackie Montague, Marilyn Smith, and Ramycia McGhee

Councilors absent: None

Business from the Public

Crime Prevention Through Environmental Design (CPTED) **4:01 p.m.**

Code Compliance Officer Kris Schendel showed slides\* and gave a brief overview of CPTED and its four principles: natural surveillance, natural access control, territorial reinforcement, and maintenance.

Adjustments to System Development Charges and Public Works Fees **4:19 p.m.**

Engineering Manager/Assistant City Engineer Rob Emmons showed slides.\* He said the proposed increases are annual inflationary adjustments. This year, the increase is just over 3%, based on the Engineering News-Record Construction Cost index for Seattle. This year is the fifth step of the phase-in of water and wastewater utility SDCs. Albany's SDC fees rank in the middle for Oregon cities.

The council directed staff to bring the item back for a public hearing June 12, 2024.

Adjustments to Encroachment Permit Fees **4:25 p.m.**

Engineering Manager/Assistant City Engineer Aaron Hiemstra showed slides.\* He said encroachment permit fees haven't been updated since the 1990s, and the public works department has never charged a fee for time spent reviewing building permit applications. Public Works is also proposing a franchise utility review fee.

Councilor Ramycia McGhee asked why the fees have not been updated. Hiemstra said the engineering team has been underfunded and has never been able to work on it.

Councilor Matilda Novak said that utility companies will pass the fees through by adding them to the customer's bill.

Councilor Marilyn Smith asked if the fee is cost recovery for services rendered? Hiemstra said yes. Councilor Jackie Montague said at present public tax dollars are paying for the staff time spent and not reimbursed.

The council directed staff to bring the item back for a public hearing June 12, 2024.

Discussion Regarding Planning Division Fee Adjustments **4:37 p.m.**

Current Planning Manager David Martineau gave the council a handout\* of fee adjustments based on the Consumer Price Index. Planning proposes new fees for land-use inspections related to building permits and for code compliance investigations. Staff also proposes a processing fee for refunds, where there isn't currently a cost-recovery mechanism.

Councilor Ray Kopczynski asked if the refund fee would apply when the refund was due to something wrong in the process. Martineau said no; the fee would be applied if an applicant backed out of the process.

Novak asked about the appeal fee for a Type III application, which is \$1,000. She said it shouldn't be a financial burden to be heard. Smith said processing an appeal involves a lot of work. She thinks it's a reasonable charge. Martineau said an appeal only happens once or maybe twice a year, usually brought by a developer appealing conditions of approval.





The council directed staff to bring the item back for a public hearing June 12, 2024.

Discussion on Proposed Building and Electrical Program Fee Updates

**4:46 p.m.**

Building Official Manager Johnathan Balkema said staff proposes a 5% increase in building and electrical permit fees. The building division is supported by its own fund, and increasing the fees will move it closer to actual cost recovery.

The council directed staff to bring the item back for a public hearing June 12, 2024.

Discussion on Amending Albany Municipal Code 7.98

**4:49 p.m.**

Natural Resources Specialist Jay Sharpe showed slides.\* Parks and Recreation proposes redefining the word "remove" in the Albany Municipal Code, and changing the minimum circumference of trees that can be removed. He showed the council two cross-sections of trees to demonstrate the difference between the current minimum 6.5-foot circumference and the proposed 5.25-foot circumference.

This item will come back to the regular meeting on May 22, 2024, for action.

Business from the Council

**4:56 p.m.**

City Manager Report

**5:07 p.m.**

Next Meeting Dates

Monday, June 10, 2024; 4:00 p.m. work session  
Wednesday, June 12, 2024; 6:00 p.m. meeting

ADJOURNMENT

There being no other business, the meeting was adjourned at 5:08 p.m.

Respectfully submitted,

Reviewed by,

Allison Liesse  
City Clerk

Peter Troedsson  
City Manager

*\*Documents discussed at the meeting that are not in the agenda packet are archived in the record. Documents from staff are posted to the website after the meeting. Documents submitted by the public are available by emailing [cityclerk@albanyoregon.org](mailto:cityclerk@albanyoregon.org).*



**MINUTES**

Wednesday, May 22, 2024

Meeting

Council Chambers, City Hall

Approved: **DRAFT**

Call to Order

**6:00 p.m.**

Mayor Alex Johnson II called the meeting to order at 6:00 p.m.

Roll Call

Councilors present: Mayor Alex Johnson II and Councilors Steph Newton, Matilda Novak, Jackie Montague, Ray Kopczynski, and Marilyn Smith

Councilors absent: Ramycia McGhee (excused)

Special Presentation

- a. Albany Police Department Awards Presentation

**6:00 p.m.**

Police Chief Marcia Harnden and Police Captain Jerry Drum presented the following awards: a Life Saving Award to Officer Trevor Eaton and Officer Justin Felty; a Life Saving Award to Officer John Beckwith; a Life Saving Award to Officer Melissa Unrau; a Life Saving Award to Officer Paul Harris and Officer David St. Pierre; Employee of the Year – Operations Division to Officer Jon Wymore; Employee of the Year – Support Services Division to Detective Gabe Flores; and Supervisor of the Year to Police Services Manager Mike Peaslee.

Public hearings

**6:22 p.m.**

Johnson II read the script outlining the process to participate in the public hearing and opened the public hearing at 6:22 p.m.

Public Works Director Chris Bailey delivered the staff report and presented slides\* about the proposed fee changes. No one submitted written public comments, no one signed up to speak during the public hearing, and no person present wished to speak regarding the public hearing.

Johnson II closed the public hearing at 6:45 p.m.

Responding to questions from Councilor Matilda Novak, Bailey said there is no financial capital in the stormwater fund to proactively address piping needs. Bailey said that when the stormwater fee was initiated, the city council purposefully initiated the fee at a very low level and then ramped it up over five years to meet basic regulatory and operations and maintenance costs. Councilor Marilyn Smith spoke about the costs of maintaining a functional water and wastewater system.

MOTION: Smith moved to adopt the resolution setting rates for wastewater system use as presented. Councilor Ray Kopczynski seconded the motion which passed 5-0 and was designated Resolution No. 7322.

MOTION: Smith moved to adopt the resolution setting rates for water use as presented. Kopczynski seconded the motion which passed 5-0 and was designated Resolution No. 7323.

MOTION: Smith moved to adopt the resolution setting rates for stormwater management services as presented. Kopczynski seconded the motion which passed 5-0 and was designated Resolution No. 7324.

Business from the Public

**6:55 p.m.**

John Pitsch said he is concerned about the amount and speed of traffic on Squire Street in North Albany.

First readings of ordinances

**6:58 p.m.**

a. Parks Tree code ordinances

- 1) Ordinance amending Albany Municipal Code 7.98 to increase number of protected trees and prohibit activities that could harm protected trees.

The City Attorney read the ordinance for the first time in title only.

MOTION: Councilor Jackie Montague moved to have the ordinance read a second time in title only. Kopczynski seconded the motion which passed 5-0.

The City Attorney read the ordinance for a second time in title only.

MOTION: Montague moved to adopt the ordinance as written. Councilor Steph Newton seconded the motion which passed 5-0 and was designated Ordinance No. 6041.

- 2) Ordinance amending Albany Development title 9 to prohibit activities that could harm protected trees.

This item was removed from the agenda at the request of staff.

Award of contracts

a. Contract for the building permitting software system

**7:00 p.m.**

IT Director Sean Park responded to clarification questions and comments from Montague, Johnson II, and Smith.

MOTION: Montague moved to award the contract as presented. Smith seconded the motion which passed 5-0.

b. Award of contract for ST-23-01, Washington Street Area Improvements

**7:03 p.m.**

Civil Engineer II Carl Berg presented the details of the contract and responded to clarification questions and comments from Kopczynski and Smith.

MOTION: Montague moved to award the contract as presented. Smith seconded the motion which passed 5-0.

c. Award of contract for ST-24-02, Queen Ave: Highway 99E to Marion Street

**7:07 p.m.**

Civil Engineer III Chris Cerklewski presented the details of the contract.

MOTION: Montague moved to award the contract as presented. Kopczynski seconded the motion which passed 5-0.

d. Award of contract for insurer of record

**7:28 p.m.**

Human Resources Director Holly Roten presented the details of the contract. Roten said the new contract moves the contract end date to earlier in the fiscal year and away from the annual renewal process.

MOTION: Montague moved to adopt the resolution as presented. Kopczynski seconded the motion which passed 5-0 and was designated Resolution No. 7325.

Adoption of consent agenda

**7:10 p.m.**

- a. Approval of minutes
  - 1) May 6, 2024, city council work session
  - 2) May 8, 2024, city council meeting

MOTION: Smith moved to adopt the consent agenda as presented. Kopczynski seconded the motion which passed 5-0.

Staff reports

- a. Personnel changes for the Police Department **7:11 p.m.**

Roten presented the agenda item and spoke about the number of personnel changes that have come before the council in recent months. Roten said that formerly, personnel changes would have been included in the annual budget process. Since moving to a biennial budget, these changes show up more as individual items. City staff are looking for ways to improve the process of approving personnel changes.

MOTION: Smith moved to approve the reconfiguration of the police supervisor position as presented. Newton seconded the motion which passed 5-0.

- b. Personnel changes in Human Resources Department **7:15 p.m.**

Roten presented the agenda item.

MOTION: Smith moved to approve the changes to the Human Resources Department as presented. Montague seconded the motion which passed 5-0.

- c. Salary grade adjustments for City Clerk **7:20 p.m.**

Roten presented the agenda item. Smith spoke about the job of City Clerks.

MOTION: Montague moved to approve the salary grade adjustment for the City Clerk. Smith seconded the motion which passed 5-0.

Business from the council

**7:24 p.m.**

Novak expressed concern about what she sees as a different response to requests for more city staff versus public requests for funds. Novak spoke about the increase of fees, saying that those with entitlements, including PERS, do not feel the effect of the increases.

Montague thanked staff for the Geary Street sidewalk update and for adjusting the project based on resident concerns. Smith agreed with Montague.

Newton spoke about remains from fishing at Waverly and asked about deed restrictions and system development charges associated with constructing accessory dwelling units or additional habitable

space. City Manager Peter Troedsson and Community Development Director Matthew Ruettgers spoke about the public's options for developing additional habitable space.

Kopczynski shared public comment about excessive noise from cars racing on Lyon Street heard by residents on Queen Avenue. Troedsson said he would look into the matter.

Johnson II said he knows there are people struggling in Albany and that is why there is a low-income assistance program for the utility bills. Johnson II also said that benefits such as PERS are earnings, not entitlements.

City manager report

**7:37 p.m.**

Troedsson spoke about the speed on Squire Street and a request from Pitsch about speed bumps. Troedsson said that data did not support Squire Street as a location for automated speed monitoring and that there would be a cost, partially borne by the residents, to get speed bumps installed on the street.

ADJOURNMENT

There being no other business, the meeting was adjourned at 7:38 p.m.

Respectfully submitted,

Reviewed by,

Gabe Shepherd  
Deputy City Clerk

Peter Troedsson  
City Manager

*\*Documents discussed at the meeting that are not in the agenda packet are archived in the record. Documents from staff are posted to the website after the meeting. Documents submitted by the public are available by emailing [cityclerk@albanyoregon.gov](mailto:cityclerk@albanyoregon.gov).*