



ORDINANCE NO. 5949

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

WHEREAS, on September 28, 2020, the Albany Planning Commission held a public hearing and deliberated on proposed text amendments to the Albany Development Code related to accessory dwelling units (planning file DC-03-20); and

WHEREAS, on September 28, 2020, the planning commission recommended that the Albany City Council approve the proposed text amendments. This recommendation was based on evidence presented in the September 21, 2020, staff report and consideration of public testimony during the public hearing; and

WHEREAS, the city council held a public hearing on the proposal on October 14, 2020, reviewed the findings of fact and conclusions included in the September 21, 2020, staff report (Exhibit A) and testimony and evidence presented at the public hearing, and then deliberated; and

WHEREAS, the text amendments to the development code considered by the planning commission and city council are presented as Attachment A to the staff report (Exhibit A); and

WHEREAS, the text amendments enacted with this ordinance are in addition to those being considered for adoption under planning file DC-02-20, also with a proposed effective date of January 1, 2021; and

WHEREAS, the city council concludes that the findings and conclusions presented in the September 21, 2020, staff report reflect their own findings and conclusions.

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

Section 1: The text of the Albany Development Code is hereby amended as shown in Attachment A to the staff report, provided as Exhibit A of this ordinance.

Section 2: 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 in the Albany Development Code.

Section 3: The effective date of this ordinance shall be January 1, 2021.

Passed by the Council: Oct 28, 2020

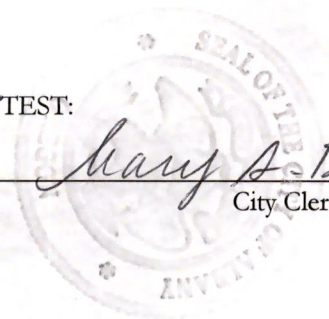
Approved by the Mayor: Oct 28, 2020

Effective Date: Jan 1, 2021

[Signature]
Mayor

ATTEST:

[Signature]
City Clerk





COMMUNITY DEVELOPMENT

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

Staff Report

Albany Development Code Amendments
 Accessory Dwelling Units

File: DC-03-20

September 21, 2020

HEARING BODIES:	Planning Commission	City Council
HEARING DATES:	Monday, September 28, 2020	Wednesday, October 14, 2020
HEARING TIMES:	5:15 p.m.	7:15 p.m.
HEARING LOCATION:	Due to Governor Brown’s Executive Orders limiting public gatherings during the COVID-19 pandemic, this meeting is accessible to the public via phone and video connection.	

At the scheduled start of the hearing, join with the GoToMeeting app on your computer, tablet, or smartphone (using your device’s microphone and speakers):

PLANNING COMMISSION, Monday, September 28, 2020
<https://www.gotomeet.me/CommunityDevelopmentCityofAlbany/pc>

If you wish to dial in using your phone:
 Call 1-571-317-3122 and when prompted enter access code 498-239-709

CITY COUNCIL, Wednesday, October 14, 2020
<https://www.gotomeet.me/cityofalbany/ccm>

If you wish to dial in using your phone:
 Call 1-646-749-3129 and when prompted enter access code 491-970-829

Application Information

Proposal:	Albany Development Code (ADC) amendments related to Accessory Dwelling Units (ADU)
Review Bodies:	Planning Commission and City Council (Type IV - Legislative review process)
Applicant:	City of Albany, Community Development Department
Staff:	Planning Manager David Martineau

Overview

The Albany Development Code (ADC) is not consistent with state law for Accessory Dwelling Units (ADU). Over the past few years, multiple Oregon Revised Statutes (ORS) have been changed to facilitate the development of more



affordable housing. Legislation in Senate Bill 1051, which was signed into law in 2017, attempts to achieve this goal by requiring jurisdictions to “allow in areas zoned for detached single-family dwellings the development of at least one accessory dwelling unit for each detached single-family dwelling, subject to reasonable local regulations relating to siting and design.” To comply with this state statute, the ADC needs to be amended.

Notice Information

Notice was provided to the Oregon Department of Land Conservation and Development (DLCD) on August 7, 2020, at least 35 days before the first evidentiary hearing, in accordance with OAR 660-018-0020 and ADC 1.640. A revised notice of public hearing was provided to DLCD on September 11, 2020 because the first evidentiary hearing date was changed from September 14, 2020 to September 28, 2020.

Notice of the public hearings was mailed on September 17, 2020, to Linn and Benton County Planning Divisions and the City of Millersburg.

Notice of the public hearings was also published in the *Albany Democrat-Herald* on September 21, 2020. In addition, the staff report for the proposed development code amendments was posted on the City’s website on September 21, 2020, at least seven days before the first evidentiary public hearing.

As of the date of this report, no comments have been received by the Community Development Department.

Review Process and Appeals

Amendments to the ADC are made through a Type IV legislative land use review process. Following this process, the Planning Commission will hold a public hearing to consider proposed amendments and will make a recommendation to the City Council. The planning commission’s recommendation cannot be appealed. The city council will hold a subsequent public hearing to consider the proposed amendments. After closing the public hearing, the city council will deliberate and make a final decision. Within five days of the city council’s final action on the proposed amendments, the Community Development director will provide written notice of the decisions to any parties entitled to notice. A city council decision can be appealed to the Oregon Land Use Board of Appeals (LUBA) if a person with standing files a Notice of Intent to Appeal within 21 days of the date the decision is reduced to writing and bears the necessary signatures of the decision makers.

Staff Analysis

Proposed amendments, as they would appear in the ADC, and other relevant documents are included as attachments. Proposed amendments are provided in full as Attachment A and are in numeric order by ADC Article. In this report and attached ADC articles, proposed new text is in red font and proposed deleted text is in red strike-out font. A “clean” copy of proposed amendments, without red strike-out font, is provided in Attachment B. Some pages from the ADC are included with no proposed amendments because they provide context or references related to proposed amendments. Both the strike-out and clean versions of the amended sections of the ADC contain text boxes that explain proposed changes. Should the proposed amendments be approved, the text boxes with the explanations will be removed and the approved amendments made part of the ADC.

This report first summarizes the changes to state law and related proposed ADC revisions. It then analyzes the proposed amendments for conformance with the two applicable review criteria in ADC 2.290.

Summary of Proposed Amendments

Accessory Dwelling Unit (ADU) Amendments

Over the past three years, multiple Oregon Revised Statutes (ORS) have been changed to facilitate the development of more affordable housing. Legislation in Senate Bill 1051, which was signed into law on August 15, 2017, attempts to

achieve this goal by requiring jurisdictions to “allow in areas zoned for detached single-family dwellings the development of at least one accessory dwelling unit for each detached single-family dwelling, subject to reasonable local regulations relating to siting and design” (see Attachment C). Legislation in House Bill 2001, which was signed into law on August 8, 2019, states “Reasonable local regulations relating to siting and design” does not include owner-occupancy requirements of either the primary or accessory structure or requirements to construct additional off-street parking” (see Attachment D). To comply with these state statutes, the ADC needs to be amended. This staff report addresses proposed amendments that would be the minimum to comply with state law.

Analysis of ADC Criteria

ADC section 2.290, “Development Code Amendments” includes two review criteria that must be met for the proposed amendments to be approved. They are:

1. **The proposed amendments better achieve the goals and policies of the Comprehensive Plan than the existing language.**
2. **The proposed amendments are consistent with development code policies on purpose and with the purpose statement for the base zone, special purpose district, or development regulation where the amendment is proposed.**

Analysis of the proposal’s compliance with these criteria is provided below beginning with Criterion 1 and the proposed amendments’ consistency with applicable Comprehensive Plan policies. The findings are organized by the Comprehensive Plan/Statewide Planning goals. Applicable goals and policies are provided in *italics* within the findings below and are considered as separate review criteria.

Criterion 1 – Comprehensive Plan Goals, ADC 2.290(1)

The proposed amendments better achieve the goals and policies of the Comprehensive Plan than the existing language.

Comprehensive Plan Goals

Goal 1: Citizen Involvement

Goal

- *Ensure that local citizens and other affected groups, neighborhoods, agencies, and jurisdictions are involved in every phase of the planning process.*

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.*

Goal 1 Findings of Fact and Conclusions

- 1.1 Prior to the amendments described in this staff report, discussion of proposed ADC amendments occurred during separate, duly-advertised public meetings of the planning commission and city council on April 2, April 9, May 2, and July 11, 2018, respectively; and February 13, 2019 and December 18, 2019. The city council did

not approve amendments proposed through that process; however, that review process is relevant to the current amendment process as it was on the same topic and informed the current proposal.

- 1.2 On September 21, 2020, a public notice regarding the proposed amendments was placed in the Albany Democrat Herald. The notice informed the public that the amendments would be considered during the September 28th, 2020, planning commission and October 14th, 2020, city council public hearings, consistent with the legislative hearing notice requirements of ADC 1.600. These two hearings provide an opportunity for the public to review and comment on proposed amendments, and for decision makers to consider those comments as they recommend or decide on the final ADC text.
- 1.3 Providing opportunities for public involvement as described above is consistent with citizen involvement goals and policies for land use actions in Comprehensive Plan Goal 1: Citizen Involvement.

Goal 10: Housing

Goals

- *Provide a variety of development and program opportunities that meet the housing needs of all Albany's citizens.*
- *Create a city of diverse neighborhoods where residents can find and afford the values they seek.*

Policies - General

1. *Ensure an adequate supply of residentially-zoned land in areas accessible to employment and public services.*
2. *Provide a variety of choices regarding type, location, density and cost of housing units corresponding to the needs and means of city residents.*
3. *Encourage innovation in housing types, densities, lot sizes, and design to promote housing alternatives. Examples include:*
 - a. *Attached single-family housing and condominium ownership opportunities in the Waterfront zoning district.*
 - b. *The adaptive reuse of the upper floors of structures within the Downtown Business District for residential purposes.*
 - c. *Mixed-housing types and price ranges at a minimum of ten units per acre in Village Center Comprehensive Plan districts.*
 - d. *Neighborhoods with a variety of lot and housing sizes and types.*
 - e. *Accessory dwelling units.*
 - f. *Other actions directed at reducing housing costs which conform to the Comprehensive Plan, including innovative Development Code regulations.*
9. *Encourage new residential developments to provide housing choices that allow for persons to stay within their neighborhoods ("age in place") as their housing needs change.*

Policies - Affordable and Special Needs Housing

16. *Encourage the development of affordable housing in a range of types and appropriate sizes to meet Albany's housing needs. Examples include accessory apartments, manufactured housing, and attached single-family houses.*
17. *Recognize groups needing housing, such as the elderly, handicapped, homeless, and other disadvantaged groups when identifying housing programs and opportunities.*
19. *Comply with federal, state, and local fair housing laws and policies that affirm access to housing opportunities for all persons in Albany.*

Implementation Methods

1. *Use a variety of techniques to reduce housing costs including:*
 - a. *Timely processing of development permits.*
 - b. *Providing opportunities for the use of innovative techniques in development, design, and construction.*
 - c. *Promoting Cluster Developments to allow flexibility in residential development and the transfer of density within the development when protecting natural features, open areas, and park spaces.*
 - d. *Allowing increased densities within Planned Unit Developments, zero lot line setbacks, attached single-family housing, and other innovative housing techniques.*
 - e. *Developing new residential street designs that may reduce pavement widths in appropriate situations and allow for natural drainage.*
2. *Periodically review the residential zoning district standards and the subdivision standards in the Development Code for ways to better meet the housing need of all income levels and of all housing types.*

Goal 10 Findings of Facts and Conclusions

- 1.4 As previously mentioned, over the past two years, multiple Oregon Revised Statutes (ORS) have been changed to facilitate the development of more affordable housing. This would occur by facilitating the development of more housing and more housing options by requiring jurisdictions to allow accessory dwelling units in zones where single family detached homes are allowed.
- 1.5 Amending the ADC to comply with state law and facilitate ADU development would provide the opportunity to increase housing options in residential areas, as ADUs may be more affordable because of their smaller size. ADUs also offer flexibility to accommodate changes in household size or composition, allowing for intergenerational living and on-site caretakers/assistants. ADU development also represents an efficient use of residential land and existing public services that serve those areas.
- 1.6 Amending the Code as proposed is consistent with policies of Comprehensive Plan, Goal 10: Housing. Even though the proposed amendments do not add residentially zoned land, they do acknowledge special processes in state law that promote an adequate housing supply. This is consistent with policy 1.
- 1.7 The proposed amendments are consistent with policy 2 because they would facilitate a variety of housing choices throughout residential areas and would provide housing for wider range of income levels within all residentially zoned neighborhoods. The ADU related amendments are consistent with policies 3, 16, and 17, as ADUs are an example of the type of housing that would encourage “innovation in housing type, densities, lot sizes and design to promote housing alternatives”. ADUs also provide opportunities for persons to age in place, or to accommodate a person needing specialized housing, such as extra care, to live on the same site as their family or caretaker.
- 1.8 All proposed amendments are also consistent with policy 19, which calls for compliance with state laws and policies that affirm access to housing opportunities for all persons in Albany.
- 1.9 The proposed amendments are consistent with Goal 10 implementation methods 1 and 4, as they are intended to reduce housing costs through the “timely processing of development permits” and provide opportunities to increase densities through “innovative housing techniques”.

Criterion 1 Conclusions Summary

As explained above, the proposed amendments would facilitate the development of ADUs consistent with state law. The proposed amendments are consistent with applicable Comprehensive Plan goals, policies and implementation methods. Given this, the proposed amendments better achieve the goals and policies of the Comprehensive Plan than the existing language.

Criterion 2 – Development Code Purposes

ADC 2.290(2)

The proposed amendments are consistent with development code policies on purpose and with the purpose statement for the base zone, special purpose district, or development regulation where the amendment is proposed.

Criterion 2 in ADC 2.290, above, requires ADC amendments to be consistent with ADC policies and purpose statements for the affected base zones. Below are purpose statements from Article 1 – Administration and Procedures, Article 3 – Residential Zoning Districts, Article 4 – Commercial and Industrial Zoning Districts, and Article 5 – Mixed Use Zoning District. Article 1 applies to the entire ADC, and Articles 3, 4, and 5 contain base zone provisions that would be affected by proposed amendments.

Article 1 – Administration and Procedures

Introduction

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

- 1. Serve as the principal vehicle for implementation of the City’s Comprehensive Plan in a manner that protects the health, safety, and welfare of the citizens of Albany.**
- 2. Satisfy relevant requirements of federal law, state law, statewide goals, and administrative rules.**
- 3. Facilitate prompt review of development proposals and the application of clear and specific standards.**
- 4. Provide for public information, review, and comment on development proposals that may have a significant impact on the community.**
- 5. Guide public and private planning policies and actions to ensure provision of adequate water, sewage, transportation, drainage, parks, open space, and other public facilities and services for each development.**
- 6. Establish procedures and standards requiring that the design of site improvements and building improvements are consistent with applicable standards and design guidelines.**
- 7. Provide for review and approval of the relationship between land uses and traffic circulation in order to minimize congestion, with particular emphasis on not exceeding the planned capacity of residential streets.**
- 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.**
- 9. Protect and enhance the City’s beauty and character.**
- 10. Protect constitutional property rights, provide due process of law, and give consideration in all matters to affected property owner interests in making land use decisions.**

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

proponent of the burden of responding to allegations that the development action requested is inconsistent with one or more Comprehensive Plan policies.

Article 1 Purposes - Findings of Fact and Conclusions

- 2.1 As described previously under Criterion 1, proposed amendments are consistent with applicable Comprehensive Plan goals, policies, and implementation methods. Proposed amendments would allow detached ADUs in all residential zones where detached single-family homes are permitted, which is required by state law. Amendments related to expedited review of qualifying land division and multi-family development applications reference state law. They are also related to opportunities to facilitate the prompt review of development applications. Given this, the proposed amendments are consistent with Article 1 purpose statements 1, 2, and 3.
- 2.2 Proposed amendments related to ADUs establish reasonable development standards which take into consideration existing lot development standards, and standards and review processes in Article 6 – Natural Resource Districts, and Article 7 – Historic Overlay District. As such, the proposed amendments are consistent with Article 1 purpose statements 3, 6, and 8. These standards, which include setback, height, and current lot coverage standards, help protect and enhance the city's beauty and character while also providing opportunities for property owners to develop an ADU. As such, the proposed amendments are consistent with Article 1 purpose statements 9 and 10.
- 2.3 Proposed amendments comply with state law and are consistent with the City's Comprehensive Plan. Thus, they are consistent with the provisions in ADC 1.050 – Consistency with Plan and Laws.

Article 3 – Residential Zones

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.

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 Districts, and Article 7, Historic Overlay Districts.

Article 5 – Mixed Use Zoning District

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.

Articles 3 and 5 Purposes – Findings of Fact and Conclusions

- 2.4 The purpose statements for both Article 3 – Residential Zoning Districts, and Article 5 – Mixed Use Zoning Districts, contemplate residential development. Zones addressed in each article also currently permit accessory apartments, or ADUs. Proposed amendments continue to allow ADUs in zones where currently permitted and would not further restrict the ability for an ADU to be constructed. For example, proposed text in Article 8 – Design Standards makes clear that standards in that Article do not apply to ADUs. Consequently, proposed amendments related to ADUs are consistent with the purposes of Articles 3 and 5, which contain provisions regarding each of the base zones where ADUs would be allowed.
- 2.5 Proposed amendments regarding expedited review of land divisions and multi-family development do not affect development standards or purposes of any zone. Qualifying development applications would need to meet development standards but would be processed and reviewed as provided in state law, rather than the ADC.

Article 4 Purposes – Findings of Fact and Conclusions

- 2.6 Article 4 zones are primarily intended for commercial and industrial purposes; however, single-family detached homes are permitted outright in the Office Professional zone. Since these single-family detached homes are permitted outright in the Office Professional zone, ADUs could be developed in association with them.

Criterion 2 Conclusions Summary

As explained above, the proposed amendments are consistent with ADC policies and purpose statements for the base zones, special purpose districts, or development regulation where the amendment is proposed. Therefore, the proposed amendments satisfy the criterion in ACD 2.290(2).

Overall Conclusions and Recommendation

This report provides analysis of proposed amendments regarding accessory dwelling units (DC-03-20) and finds that proposed amendments satisfy applicable review criteria. Based on the analysis in this report, staff suggests that the planning commission recommend that the city council approve the proposed amendments as shown in Attachments A and B of this staff report. Decision options and suggested motions are provided below.

Decision Options

The planning commission has three options with respect to the proposed Development Code amendments:

Option 1: Recommend that the city council approve the proposed amendments as presented; or

Option 2: Recommend the city council approve the proposed amendments as modified by the planning commission; or

Option 3: Recommend the city council deny the proposed amendments.

Suggested Motion

I move to recommend that the City Council approve the proposed Development Code amendments related to Accessory Dwelling Units (planning file DC-03-20). This motion is based on findings and conclusions in the staff report, and findings in support of the application made during deliberations on this matter.

Attachments

- A. Proposed ADC Amendments – red font strike-out
- B. Proposed ADC Amendments - clean
- C. Senate Bill 1051
- D. House Bill 2001

Acronyms

ADC	Albany Development Code
ADU	Accessory Dwelling Unit
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

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 Uses
- 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 FAMILY DISTRICT. The RS-10 District is intended primarily for a lower density single-family residential environment. The average minimum lot size is 10,000 square feet.
- (3) RS-6.5—RESIDENTIAL SINGLE FAMILY DISTRICT. The RS-6.5 District is intended primarily for low-density urban single-family residential development. The average minimum lot size is 6,500 square feet.
- (4) RS-5—RESIDENTIAL SINGLE FAMILY DISTRICT. The RS-5 District is intended primarily for low- to moderate-density single-family development. The average minimum detached single-family lot size is 5,000 square feet. [Ord. 5673, 6/27/07]
- (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. Development may not exceed 25 units per gross acre. [Ord. 5673, 6/27/07]
- (6) RMA—RESIDENTIAL MEDIUM DENSITY ATTACHED DISTRICT. The RMA District is intended primarily for medium- to high-density urban residential development. All units, whether single- or multiple-family, shall 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]
- (7) HM—HACKLEMAN-MONTEITH DISTRICT. The HM district is intended primarily to preserve the existing single-family residential character of the Hackleman and Monteith National Register Historic Districts. Conversion of single-family residential structures to other uses, including multi-family residential, is not allowed. [Ord. 5555, 2/7/03; Ord. 5673, 6/27/07]

3.030 Establishment of Special Purpose Districts. Special purpose districts are overlay districts that may be combined with a major zoning district. The regulations of a special purpose district are supplementary to the regulations of the underlying major zoning district. The regulations of a special purpose district and the major zoning district shall all apply to any site that has both designations. Where the regulations

and permitted uses of a major zoning district conflict with those of a special purpose district, the more restrictive standards shall apply. The special purpose districts and the additional regulations that apply in such districts are summarized below:

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

[Ord. 5764, 12/1/11]

SCHEDULE OF PERMITTED USES

3.040 Interpretation. The following provisions are used to interpret the schedule of permitted uses found in this Article:

- (1) The schedule of permitted uses cannot anticipate all uses that may be located within the City. There are also situations where proposed uses may relate to more than one type of use. In both instances, the Director will determine the appropriate use category based on operating characteristics and land use impacts. Where ambiguity exists concerning the appropriate classification of a particular use, the use may be reviewed as a conditional use where the Director determines that the proposed use is consistent with other uses allowable within the subject district due to similar characteristics. Use categories not listed in the schedule of permitted uses are not permitted in the residential zoning districts. [Ord. 5673, 6/27/07]
- (2) Where a development proposal involves a combination of uses other than accessory uses, the more restrictive provisions of this Code shall apply. For example, if a portion of a development is subject to conditional use approval and the balance is subject only to Site Plan Review, the entire development shall be reviewed using the conditional use criteria if concurrent approval of all uses is requested.
- (3) A change in the use of a property is subject to review as specified by the schedule of permitted uses:
 - (a) When the change involves a change from one use category to another in the schedule of permitted uses and the Director has not waived review under the provisions of Section 1.070, or
 - (b) When a property that has been unoccupied for more than one year. [Ord. 5673, 6/27/07]

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 2.230-2.260 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]

The table below is amended to clarify that an accessory unit is an accessory dwelling unit.

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
RESIDENTIAL SINGLE FAMILY: One Unit per Property								
Single-Family, detached	19	Y	Y	Y	Y	Y	Y	N
Single-Family, attached (zero lot line)		N	PD/CD	PD/CD	N	Y	Y	Y
RESIDENTIAL TWO FAMILY: Two Units per Property								
2 attached units (Duplex)	3	N	Y-1, PD/CD-20	Y-1, PD/CD-20	N	Y-1, PDCD-20	Y	Y
2 detached units	2	N	PD/CD	PD/CD	S	PD/CD	Y	Y
Primary Residence with one accessory <u>dwelling</u> unit	4	Y	Y	Y	Y	Y	Y	Y
RESIDENTIAL MULTI-FAMILY: Three or More Units per Property								
3 or More Single-Family Attached Units	3	N	PD/CD	PD/CD	N	S	S	S
3 or More Multi-Family Units	3	N	N	N	N	N	S	S
Manufactured Home Parks (see Article 10)	10	N	N	S	N	S	S	S
RESIDENTIAL: Care or Treatment								
Assisted Living		CU	CU	CU	CU	CU	CU	CU
Child or Adult Care Home	6	Y	Y	Y	Y	Y	Y	Y
Daycare Facility		CU	CU	CU	CU	CU	CU	S
Residential Care or Treatment Facility (6 or more residents)		CU	CU	CU	CU	CU	CU	S
Residential or Group Care Home (5 or fewer residents)		Y	Y	Y	Y	Y	Y	Y
RESIDENTIAL: Miscellaneous								
Accessory Buildings, Garages or Carports	9	Y/S	Y/S	Y/S	Y/S	Y/S	Y/S	Y/S
Bed & Breakfast	7	CUII	CUII	CUII	CUII	CUII	CUII	S
Home Businesses (See 3.090-3.160 to determine if CU)		Y/CU	Y/CU	Y/CU	Y/CU	Y/CU	Y/CU	Y/CU
Recreational Vehicle Parks (See Article 10)	5, 10	N	N	N	N	N	CU	CU
Rooming or Boarding Houses		N	N	N	CU	N	S	S
Subdivision Sales Office	19	N	Y	Y	N	Y	Y	Y
Unit(s) Above or Attached to a Business	17	N	N	N	N	N	N	N
Temporary Residence	8	S	S	S	S	S	S	S
INSTITUTIONAL								
Basic Utilities		CU	CU	CU	CU	CU	CU	CU
Community Services		CU	CU	CU	CU	CU	CU	CU
Educational Institutions	13	CU	CU	CU	CU	CU	CU	CU
Hospitals		N	N	N	N	N	CU	CU
Jails & Detention Facilities		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

Religious Institutions	13	CU	CU	CU	CU	CU	CU	CU
COMMERCIAL – Limited Use Types								
Entertainment and Recreation:	18	CU	CU	CU	CU	CU	CU	CU
Indoor Outdoor		CU	CU	CU	N	CU	CU	CU
Offices	17	PD/CD	PD/CD	PD/CD	PD/CD	PD/CD	PD/CD	PD/CD
Restaurants, no drive-thru	17	PD/CD	PD/CD	PD/CD	PD/CD	PD/CD	PD/CD	PD/CD
Retail Sales and Service	17	PD/CD	PD/CD	PD/CD	PD/CD	PD/CD	PD/CD	PD/CD
Self-Serve Storage	15	N	N	N	N	N	S	N
OTHER CATEGORIES								
Agriculture:		Y	Y	Y	N	Y	Y	Y
Crop Production		Y	S	CU	N	CU	CU	CU
On-site Sales of Site-Produced Seasonal Goods Plant Nurseries and Greenhouses		S	S	S	N	S	S	S

Use Categories	Spec. Cond.	RR	RS-10	RS-6.5	HM	RS-5	RM	RMA
OTHER CATEGORIES								
Antennas, owned and operated by FCC licensed member of Amateur Radio Service		Y	Y	Y	Y	Y	Y	Y
Communication Facilities	16	N	N	N	N	N	N	N
Kennels	11	S	CU	CU	N	CU	CU	N
Satellite Dish and Other Antennas	12	Y	Y	Y	Y	Y	Y	Y

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

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

[Ord. 5281, 3/26/97; Ord. 5555, 2/7/03; Ord. 5673, 6/27/07; Ord. 5742, 7/14/10; Ord. 5801, 2/13/13;
 Ord. 5832, 4/9/14; Ord. 5886, 1/6/17]

3.060 – 3.070, *Open Space district moved to Article 6; Ord. 5764, 12/1/11.*

SPECIAL CONDITIONS

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

- (1) In the RS-6.5, RS-5, and RS-10 Districts, one duplex is permitted outright on a corner lot that meets the minimum lot size for a duplex in the zone. Exception for non-corner lots created between May 1, 2000 and January 11, 2006: A duplex is allowed on a non-corner lot created in this time period provided that the lot is at least 1.5 times the single-family minimum lot size in the zone. The lot size threshold may be reduced by use of the 10 percent transportation bonus provided the lot is not a flag lot and it meets the standards in Section 3.220.
 [Ord. 5445, 4/12/2000; Ord. 5635, 1/11/06; Ord. 5673, 6/27/07]
- (2) When more than one single-family 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]
- (3) Duplexes and multi-family development may be divided so that each 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 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]

ORS 197.307 requires standards for all housing to be clear and objective. ORS 197.312 requires that at least one ADU be allowed for each detached single-family dwelling, subject to reasonable siting and design regulations. Reasonable siting and design regulations does not include owner-occupancy requirements of either the primary or accessory structure or requirements to construct additional off-street parking. As proposed, ADC Section 3.080(4) satisfies this ORS requirement by removing the restrictions on detached ADUs, including owner-occupancy and additional off-street parking and allowing ADUs in all Article 3 zones where a single-detached house is permitted. A revised definition of an ADU is provided in Article 22 – Definitions.

~~(4) Where detached single-family residences are permitted outright, one accessory dwelling unit (ADU) may be allowed per legally established detached single-family residence, called the “primary residence”. The ADU shall comply with the following standards:~~

~~(4) One accessory apartment is permitted per primary single family residence, called the “primary residence.” The accessory apartment may be:~~

~~(a) An addition to or within the primary residence, OR~~

~~(b) In a detached building built before February 1, 1998, OR~~

~~(c) On a lot in a subdivision of at least ten lots, when the tentative plat was approved after July 1, 2007.~~

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

~~(a) One of the residences is owner occupied.~~

~~(b)(a)~~ (a) The size of an ~~accessory apartment~~ ADU does not exceed 50 percent of the gross floor area of the primary residence (excluding garages or carports) or ~~750-900~~ square feet, whichever is less. (Note: ~~Accessory apartments~~ ADUs greater than ~~750-900~~ square feet that were legally constructed before July 1, 2007, may remain.)

~~(c) At least three off street parking spaces are provided on the property to serve the two residences. [Ord. 5338, 1/28/98]~~

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

~~(e)(c)~~ (c) T
The size of the property meets the minimum single-family lot area requirements for the zoning district in which the lot is located. [Ord. 5338, 1/28/98; Ord. 5673, 6/27/07]

Detached ~~accessory apartment units~~ 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]

(5) In the RM District, the following criteria must be met in addition to the Conditional Use criteria for permitting RV overnight parks:

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

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

(6) “Child Care Homes” that includes the day or night time 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

- (c) For projects that are affordable for persons whose income is equal to, or less than, .8 times the median income for Linn or Benton Counties – 15 percent density increase. [Ord. 5673, 6/27/07]

Affordable means that the annual mortgage payments, with no more than a 10% down payment required, or the annual rent for a unit equals no more than 28 percent of the income level for which the density bonus points are being applied. Projects must have a guaranteed sale price, interest, or rental price, and include contractual obligations for continued availability to low- and moderate-income persons.

Alley Access

- (7) Lots with alley access may be up to 10 percent smaller than the minimum lot size for the zone. [Ord. 5338, 1/28/98; Ord. 5445, 4/12/00]

SETBACKS

3.230 Setback Measurements. All setbacks must meet the minimum standards as set forth in Tables 1 and 2 in this Article, as appropriate. Setback distances shall be measured perpendicular to all portions of a property line. In addition to the setbacks in this article, all development must comply with Section 12.180, Clear Vision Area. See also Table 2, Accessory Structure Standards. [Ord. 5673, 6/27/07]

TABLE 2

ACCESSORY STRUCTURE STANDARDS	
STRUCTURE	STANDARD
All Accessory Structures	Front setback, see Table 1, by zone if not noted below
Detached Structure walls less than or equal to 8 feet tall (2)	Interior setback = 3 feet (1)
Attached Structure	Interior setback = 5 feet (1)
Detached Structure walls greater than 8 feet tall (2)	Interior setback = 5 feet
Accessory Apartment <u>Dwelling Unit</u> Building	Front setback is equal or greater than primary residence Interior setback, one-story = 5 feet (1) Interior setback, two-story = 8 feet (1)
Garage or carport with access to 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 1
Structures, including fences, intended for housing animals	Interior setback = 10 feet
Fences greater than 6 feet tall	See Table 1, by zone; building permit required.
Outdoor swimming pools with depths greater than or equal to 24 inches	Interior setback = 10 feet
Decks less than or equal to 30 inches from grade, with no rails or covers	No setback from property lines
Decks greater than 30 inches from grade	Interior setback = 5 feet

- (1) Zero-lot line provisions are in Sections 3.265 and 3.270. [Ord. 5832, 4/9/14]
- (2) The slab or foundation of accessory structures is not included in the wall height unless it is greater than 24-inches from the ground. [Ord. 5673, 6/27/07]

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 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.

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- (4) RC – REGIONAL COMMERCIAL DISTRICT. The RC district is intended primarily for developments that serve the wider Albany region. RC allows a wide range of retail sales and service uses, and is typically appropriate for developments that require large sites near Interstate 5. Design guidelines, building location and front-yard landscaping will provide an enhanced community image along major transportation corridors. These uses often have significant impacts on the transportation system. Sound and visual buffers may be required to protect nearby residential areas. RC districts may not be appropriate in all locations.
- (5) TD – TRANSIT DISTRICT. The TD district is intended primarily for regional transit facilities and related uses. This district is suitable as a major office employment center because of easy access to mass transit. Mixed-use development including a multi-modal transportation facility, a park-and-ride facility, and office space should be developed within this district.
- (6) IP – INDUSTRIAL PARK DISTRICT. The IP district is intended primarily for light manufacturing, high-tech, research and development, institutions and offices in a quality environment. Uses are characterized by attractive building architecture and landscaped yards and streetscapes, and the absence of objectionable external effects. The district is designed for industrial and business parks containing offices together with clean, non-polluting industries. IP is located along or near highly visible corridors to provide a positive image and a transition to residential or natural areas from heavier industrial uses.
- (7) 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.
- (8) 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]

4.030 Special Purpose Districts. Special purpose districts are overlay districts that may be combined with a major zoning district. The regulations of a special purpose district are supplementary to the regulations of the underlying major zoning district. The regulations of a special purpose district and the major zoning district shall both apply to any site that has both designations. Where the regulations and permitted uses of a major zoning district conflict with those of a special purpose district, the more restrictive standards shall apply. The special purpose districts and the additional regulations that apply in such districts are summarized below:

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

[Ord. 5555, 2/7/03]

4.035 Relationship to State, Federal and Other Local Regulations. In addition to the regulations of this Code, each use, activity, or operation in the City of Albany must comply with applicable state and federal standards. Other local regulations include those in Article 6, Special Purpose Districts, and those of the Building Division and Fire Department. [Ord. 5555, 2/7/03]

SCHEDULE OF PERMITTED USES

4.040 Interpretation. Each use category in the schedule of permitted uses is described in Article 22, Use Categories and Definitions. Article 22 classifies land uses and activities into categories based on common functional, product, or physical characteristics. Characteristics include the type and amount of activity, the type of customers or residents, how goods and services are sold or delivered, and certain site factors. In addition to the clarification in Article 22, the following provisions shall be used to interpret the schedule of permitted uses found in this Article: [Ord. 5555, 2/7/03]

- (1) The schedule of permitted uses cannot anticipate all uses that may be located within the city. There are also situations where proposed uses may relate to more than one type of use. In both instances, the Director will determine the appropriate use category based on operating characteristics and land use impacts. Where ambiguity exists concerning the appropriate classification of a particular use, the use may be reviewed as a Conditional Use where the Director determines that the proposed use is consistent with other uses allowable within the subject district due to similar characteristics.
- (2) Where a development proposal involves a combination of uses other than accessory uses, the more restrictive provisions of this Code shall apply. For example, if a portion of a development is subject to Conditional Use approval and the balance is subject only to Site Plan review, the entire development shall be reviewed utilizing the conditional use criteria if concurrent approval of all uses is sought.
- (3) A change in the use of a property is subject to review as specified by the schedules of permitted uses:
 - (a) When the change involves a change from one use category to another in the schedule of permitted uses and the Director has not waived review under the provisions of Section 1.070,
 - OR
 - (b) When a property that has been unoccupied for more than one year and is non-conforming under the provisions of Article 2 is proposed to be occupied.

4.050 Schedule of Permitted Uses. The specific uses listed in the following schedule (Table 4-1) are permitted in the zones as indicated, subject to the general provisions, special conditions, additional restrictions, and exceptions set forth in this Code. A description of each use category is in Article 22, Use Categories and Definitions. The abbreviations used in the schedule have the following meanings:

- Y Yes; use allowed without review procedures but may be subject to special conditions.
- S Use permitted that requires a site plan approval prior to the development or occupancy of the site or building.
- CU Use considered conditionally through the Type III procedure under the provisions of Sections 2.230-2.260.
- CUII Uses considered conditionally through the Type II procedure under the provisions of Sections 2.230-2.260. [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]

**TABLE 4-1
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	IP	LI	HI
INDUSTRIAL									
Contractors and Industrial Services		N	N	S-1	N	S-1	S-1	S-1	S
Manufacturing and Production	2	S/CU	N	S/CU,3	N	S/CU	S/CU	S/CU	S
Small-scale Manufacturing	2	S/CU	N	S/CU	S/CU	S/CU	S/CU	S/CU	S/CU
Railroad Yard		N	N	N	N	S	N	S	S
Warehousing and Distribution		N	N	N	N	N	CU	S	S
Waste and Recycling Related	4	N	N	CU	N	N	N	S/CU	S/CU
Wholesale Sales		N	N	N	N	N	S-5	S	N
COMMERCIAL									
Adult Entertainment		N	N	S-6	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	CUII-7 CU-7, 11 N-7	CU-7 CU
Offices: Traditional Offices Industrial		S S	S N	S S	S N	S N	CUII-8 S-8	N S-9	N S
Parking		N	N	S	S	S	S	S	S
Recreational Vehicle Park		N	N	CU	N	S	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	N N	N N
Retail Sales and Service		S-11	S-11	S	S	S	S-11	S/CU/N-11	N
Self-Serve Storage	12	N	N	S	S	N	CU	S	S-13
Taverns, Bars, Breweries, Nightclubs	25	CUII	CUII	S	S	S	CUII	CUII	CUII
Vehicle Repair		N	N	S	S	N	N	S	N
Vehicle Service, Quick- gas/oil/wash		N	N	S	S	N	CU	N-14	N
INSTITUTIONAL									
Basic Utilities		CU	CU	CU	CU	CU	S	S	S
Community Services	15	S/CU	S/CU	S/CU	S/CU	S/CU	CU	CU	N
Daycare Facility		CU	CU	S	N	N	S	CU	N
Educational Institutions	16	N	N	CU	N	CU	S/CU	S/CU	N
Hospitals		CU	N	N	N	N	CU	CU	N
Jails and Detention Facilities		N	N	N	N	N	N	CU	N
Parks, Open Areas and Cemeteries	17	CU	CU	CU	N	CU	CU	CU	N
Religious Institutions	16	CU	CU	S	N	N	CU	CU	N
RESIDENTIAL									
Assisted Living Facility		CU	CU	CU	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
Residential Care or Treatment Facility		S	S	S	N	N	N	N	N
Single Family and Two Family Units	20	Y/CU-19	S-19	N	N	N	N	N	N
Three or More Units		CU	N	N	N	N	N	N	N

Attachment A.11

tennis courts, bike paths, picnic shelters, restrooms, landscaping, and similar activities in existing improved parks.

- (18) Non-Residential Accessory Buildings over 750 square feet in the OP zone require Site Plan Review. [Ord. 5742, 7/14/10]

ORS 197.307 requires standards for all housing to be clear and objective. ORS 197.312 requires that at least one ADU be allowed for each single-family dwelling, subject to reasonable siting and design regulations that does not include an owner occupancy requirement or additional off-street parking spaces. Proposed revisions to special condition 19 satisfy this ORS requirement by allowing ADUs to be constructed in the Office Professional (OP) and the Neighborhood Commercial (NC) zone, where single-family detached homes are permitted. Since ADC Article 4 does not have standards governing ADUs, proposed revisions require a new ADU to comply with the ADU standards in Article 5 – Mixed Use Zoning Districts. A revised definition of an ADU is provided in Article 22 – Definitions.

- (19) Single-Family and Two-Family Units ~~in the OP zone.~~

(a) In the OP zone, sSingle-family residences are allowed outright. Attached single-family and two-family residences require a conditional use review. One accessory dwelling unit (ADU) may be allowed per legally established single-family residence, called the “primary residence”. The ADU shall comply with the standards for ADUs in ADC 5.070(15).

(b) In the NC zone, single family residences require Site Plan Review. One accessory dwelling unit (ADU) may be allowed per legally established single-family residence, called the “primary residence”. The ADU shall comply with the standards for ADUs in ADC 5.070(15).

[Ord. 5742, 7/14/10]

- ~~(19)~~(20) Existing Single-Family Homes. Single-family homes built before December 11, 2002, in any commercial or industrial zone may remain as a permitted use without being nonconforming. New single-family homes are not permitted unless allowed in the zoning district. See Section 4.075. Single-family includes attached units, one unit per lot.

- ~~(20)~~(21) Residential Accessory Buildings, except 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 feet tall.
- (b) All other residential district accessory buildings, garages or carports require a site plan review. [Ord. 5767, 12/7/11]

- ~~(21)~~(22) griculture. 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] A

- ~~(22)~~(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:

Attachment A.12

- (a) 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]
- (b) Dish antennas larger than three feet in diameter, and located within ten feet of a residential lot line or visible from a public street shall 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 by conditional use review, Type II process.
[Ord. 5886, 1/6/17]
- (e) See Section 8.500 for additional design standards for all telecommunications facilities.
[Ord. 5445, 4/12/00]

~~(23)~~(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]

~~(24)~~(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]

SPECIAL STATUS FOR SINGLE FAMILY RESIDENCES

4.075 Existing Uses Granted Special Status (Allowed) in the Commercial and Industrial Districts. Notwithstanding the restrictions of any other section of the Albany Development Code (ADC), all single-family residential dwellings built before January 1, 2002, on commercial or industrially zoned properties shall be deemed conforming to the base zoning district. If any building on these properties is substantially destroyed, as defined in ADC 2.340(4), it may be rebuilt to the same size (in square feet) as existed when it was destroyed, subject to the regulations of any applicable overlay district. If an existing single-family residence is converted to a permitted use in the base zoning district, the special status granted here is rescinded, and the use of the property must thereafter conform to the requirements of Article 4.
[Ord. 5789, 10/10/12; Ord. 5555, 2/7/03]

DEVELOPMENT STANDARDS

4.090 Purpose. Development standards are intended to promote site planning and design that consider the natural environment, site intensity, building mass, and open space. The standards also promote energy conservation, needed privacy, safe and efficient parking areas for new development, and improve the general living environment and economic life of a development. Table 4-2, 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-family and multiple-family developments.

[Ord. 5445, 4/12/00, Ord. 5555, 2/7/03; Ord. 5742, 7/14/10, Ord. 5768, 12/7/11]

**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 on Knox Butte Road, 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]

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

5.040 Establishment of Special-Purpose Districts. Special-purpose districts are overlay districts that may be combined with a major zoning district. The regulations of a special-purpose district are supplementary to the regulations of the underlying major zoning district. The regulations of a special-purpose district and the major zoning district shall both apply to any site that has both designations. Where the regulations and permitted uses of a major zoning district conflict with those of a special purpose district, the more restrictive standards shall apply. The special purpose districts and the additional regulations that apply in such districts are summarized below:

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

[Ord. 5555, 2/7/03]

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- 5.045 Relationship to State, Federal and Other Local Regulations. In addition to the regulations of this Code, each use, activity, or operation in the City of Albany must comply with applicable state and federal standards. Other local regulations including those in Article 6 – Natural Resource Districts and Article 7 – Historic Overlay District, and those of the Building Division and Fire Department.
[Ord. 5555, 2/7/03; Ord. 5894, 10/14/17]

SCHEDULE OF PERMITTED USES

- 5.050 Interpretation. Each use category in the schedule of permitted uses is described in Article 22, Use Categories and Definitions. Article 22 classifies land uses and activities into categories based on common functional, product, or physical characteristics. Characteristics include the type and amount of activity, the type of customers or residents, how goods and services are sold or delivered, and certain site factors. In addition to the clarification in Article 22, the following provisions shall be used to interpret the schedule of permitted uses found in this Article: [Ord. 555, 2/7/03]
- (1) The schedule of permitted uses cannot anticipate all uses that may be located within the city. There are also situations where proposed uses may relate to more than one type of use. In both instances, the Director will determine the appropriate use category based on operating characteristics and land use impacts. Where ambiguity exists concerning the appropriate classification of a particular use, the use may be reviewed as a conditional use where the Director determines that the proposed use is consistent with other uses allowable within the subject district due to similar characteristics.
 - (2) Where a development proposal involves a combination of uses other than accessory uses, the more restrictive provisions of this Code shall apply. For example, if a portion of a development is subject to Conditional Use approval and the balance is subject only to Site Plan Review, the entire development shall be reviewed utilizing the Conditional Use criteria if concurrent approval of all uses is sought.
 - (3) A change in the use of a property is subject to review as specified by the schedules of permitted uses:
 - (a) When the change involves a change from one use category to another in the schedule of permitted uses and the Director has not waived review under the provisions of Section 1.070; or
 - (b) When a property that has been unoccupied for more than one year and is non-conforming under the provisions of Article 2 is proposed to be occupied.
- 5.060 Schedule of Permitted Uses. The specific uses listed in the following schedule (Table 5-1) are permitted in the zones as indicated, subject to the general provisions, special conditions, additional restrictions, and exceptions set forth in this Code. A description of each use category is in Article 22, Use Categories and Definitions. The abbreviations used in the schedule have the following meanings:
- | | |
|------|---|
| Y | Yes; use allowed without review procedures but may be subject to special conditions. |
| S | Use permitted that requires a site plan approval prior to the development or occupancy of the site or building. |
| CU | Use considered conditionally under the provisions of Sections 2.230-2.260 through the Type III procedure. |
| CUII | Uses considered conditionally through the Type II procedure under the provisions of Sections 2.230-2.260. [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]

**TABLE 5-1
SCHEDULE OF PERMITTED USES**

Use Categories (See Article 22 for use category descriptions)	Spec. Cond.	MUC	WF	HD	DMU	CB	LE	PB	MS	ES	MUR
INDUSTRIAL											
Contractors and Industrial Services	1	N	N/ CU-24	N	N	CU	S	S	N	N	N
Manufacturing and Production	2	N	N/ CU-24	CU-3	N	CU-3	S/CU	N	N	N	N
Small-scale Manufacturing - less than 5,000 sq. ft. -5,000 to 10,000 sq. ft.	2	S/CU CU	S/CU CU	S/CU CU	S/CU CU	S/CU CU	S/CU CU	S/CU CU	S/CU CU	N N	N N
Warehousing and Distribution		N	N/ CU-24	N	N	N	N	N	N	N	N
Waste and Recycling		N	N	N	N	N	N	N	N	N	N
Wholesale Sales		N	N/ CU-24	N	N	CU	N	N	N	N	N
COMMERCIAL											
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 N
Offices Traditional		S CU	S S	S S	S S	S S	S S	S S	S S	S N	S N
Industrial Parking		S	CU	CU	CU	CU	S	S	S	CU-7	CU
Recreational Vehicle Park		N	N	N	N	N	N	N	N	N	N
Restaurants, no drive-thru with drive-thru or mostly delivery	23	S CU	S N	S N	S N	S N	S S	S S	S N	CUII N	S N
Retail Sales and Service		S-8	S-8/ CU-24	S-8	S-8	S	S	S	S-8	S-8	S-8
Self-Serve Storage	9	N	N	N	N	N	N	N	N	N	N
Taverns, Bars, Breweries, Nightclubs	23	CUII	CUII	S	S/ CUII (25)	S/ CUII (25)	S	S	CUII	CU	CUII
Vehicle Repair		N	N/ CU-24	N	N	CU	N	S	N	N	N
Vehicle Service, Quick (gas/oil/wash)		S	N	N	N	N	N	S	S	S	N
INSTITUTIONAL											
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	S	S	S	S	S	S	CU
Educational Institutions	12	CU	CU	CU	CU	CU	CU	N	CU	CU	CU

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Use Categories (See Article 22 for use category descriptions)	Spec. Cond.	MUC	WF	HD	DMU	CB	LE	PB	MS	ES	MUR
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											
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 Family and Two Family Units	15	Y-17	S/CU-16	N/Y-16	S/CU-16	S/CU-16	N-16	N	N-16	CU-16	Y
Three or More Units	17	S-17	S/CU-17	N	S/CU-17	S/CU-17	S	N	CU	CU	S
Units Above or Attached to a Business		S-17	S	S-17	S	S	S	S	S	S	S
Home Business (See 3.090-3.180 to determine if CU)		Y/CU	Y/CU	Y/CU	Y/CU	Y/CU	Y/CU	Y/CU	Y/CU	Y/CU	Y/CU
Residential Accessory Buildings	18	Y/S	Y/S	Y/S	Y/S	Y/S	CUII	N	Y/ CUII	Y/ CUII	Y/S
OTHER CATEGORIES											
Agriculture (on Vacant Land)	19	N	N	N	N	N	N	N	N	N	N
Satellite Dish, Other Antennas, & Communication Facility <50 ft.	20	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y
Communication Facility >= 50 ft.	21	CU	N	N	N	CU	CU	CU	N	CU	N
Kennels	22	N	N	N	N	N	N	N	N	N	N
Non-Res'l Accessory Buildings, larger than 750 sq. ft.		S	S	S	S	S	S	S	S	S	S
Passenger Terminals		CU	N	CU	CU	CU	CU	S	CU	N	N
Rail And Utility Corridors		CU	CU	N	N	CU	CU	CU	CU	CU	N

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

N = No, not allowed
 S = Site Plan Review required

[Schedule of Uses amended by Ord. 5555, 2/7/03; Ord. 5556, 2/21/03; Ord. 5635, 1/11/06; Ord. 5673, 6/27/07; Ord. 5728, 1/27/10, Ord. 5742, 7/14/10; Ord. 5767, 12/7/11; Ord. 5832, 4/9/14; Ord. 5886, 1/6/17; Ord. 5894, 10/14/17]

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:

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- (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.
- (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-family residences. [Ord. 5673, 6/27/07; Ord. 5742, 7/14/10]

ORS 197.307 requires standards for all housing to be clear and objective. ORS 197.312 requires that at least one ADU be allowed for each single-family dwelling, subject to reasonable siting and design regulations. Reasonable siting and design regulations does not include owner-occupancy requirements of either the primary or accessory structure or requirements to construct additional off-street parking. As proposed, ADC Section 5.070(15) satisfies this ORS requirement by removing the restrictions on detached ADUs, including owner-occupancy and additional off-street parking and allowing ADUs in all Article 5 zones where a single-detached house is permitted, including the MUR zone. A revised definition of an ADU is provided in Article 22 – Definitions.

- (15) Existing Single- and Two-Family. Single-family and two-family 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]

Accessory Dwelling Units. Where detached single-family residences are permitted outright, one accessory dwelling unit (ADU) may be allowed per legally established detached single-family residence, called the “primary residence”.

~~Accessory Apartments~~. ~~One accessory apartment is permitted per single family residence on a property. The single family residence is referred to as the “primary residence” below.~~

~~The accessory apartment may be:~~

- ~~• An addition to or within the primary residence; OR~~
- ~~• In a detached building built before February 1, 1998; OR~~
- ~~• On a lot in a subdivision of at least 10 lots, when the tentative plat was approved after July 1, 2007.~~

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

~~(a) One of the residences is owner occupied.~~

~~(b)(a)~~ The size of an ~~accessory apartment~~ ADU may not exceed 50 percent of the gross floor area of the primary residence (excluding garages or carports) or ~~750-900~~ square feet, whichever is less.

~~(e)(b)~~ The size of the property meets the minimum single-family lot area requirements for the zoning district in which the lot is located.

~~(d)(c)~~ The front door of an ~~accessory apartment~~ 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 ~~apartment~~ ADU front door is set back at least five feet from the front facade of the primary residence.

~~(e) At least three off street parking spaces are provided on the property to serve the two~~

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~~residences.~~

- ~~(f)~~(d) Exterior additions must substantially match the existing materials, colors, and finish of the primary structure.
- ~~(g)~~(e) All required building permits must be obtained. If the primary residence is on the Local Historic Inventory, historic review may be required.
- ~~(h)~~(f) he front setback shall be greater than or equal to the location of the front wall of the primary residence. [Ord. 5673, 6/27/07]

(16) Single-Family and Two-Family Units.

- (a) Limited Uses in DMU, CB, ES, LE, and WF. New construction of single-family units is limited to attached units (one unit per lot or condominiums) and two-family units (a duplex). [Ord. 5742, 7/14/10; Ord. 5894, 10/14/17]
- (b) In CB, ES, DMU, and LE: Buildings originally built as a single-family house or church may be converted to a single-family residential use without requiring a land use application. [Ord. 5673, 6/27/07; Ord. 5894, 10/14/17]
- (c) Limited Uses in HD: Buildings originally built as a single-family house or church may be converted to a single-family residential use without requiring a land use application. All other single-family and two-family units are prohibited.
- (d) In CB, WF, and DMU: Single-family attached units and two-family units with driveways that meet the standards in ADC 8.150(1) are permitted subject to site plan review. All other single-family attached units and two-family units may be considered through a Conditional Use review.

(17) Residential Development in CB, HD, MS, ES, and MUC. [Ord. 5894, 10/14/17]

- (a) In MS and ES, dwelling units at the street level are discouraged unless located behind a retail, service or office storefront. [Ord. 5894, 10/14/17]
- (b) 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. [Ord. 5556, 2/21/03]
- (c) 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. [Ord. 5894, 10/14/17]
- i. Units above a business: Dwelling units on the second story or above are permitted. [Ord. 5894, 10/14/17]
 - 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. [Ord. 5894, 10/14/17]
 - 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. [Ord. 5894, 10/14/17]
 - iv. All other units above or attached to a business are prohibited. [Ord. 5894, 10/14/17]
- (d) In CB, WF, and DMU, multifamily units with individual driveways that do not meet the standards of 8.150(1) may be considered through a Conditional Use review. All other multifamily units are permitted subject to site plan review. [Ord. 5894, 10/14/17]

(18) Residential Accessory Buildings. Accessory buildings are permitted outright in MUC, MUR, WF,

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HD, DMU, CB, ES, LE, and MS if they meet the following conditions: [Ord. 5894, 10/14/17]

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

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]

Accessory buildings on the National Register of Historic Districts require historic review. See Article 7 for the review process and criteria.

Accessory dwelling units: ~~apartments~~ see Special Condition 15. [Ord. 5673, 6/27/07]

- (19) Agriculture. All agricultural uses in existence before December 11, 2002, are allowed to remain. New agriculture uses are limited to the raising of crops and plants on vacant land. Regulations governing the keeping of animals/livestock area found in the Albany Municipal Code Title 6. [Ord. 5742, 7/14/10]
- (20) Communication Facility Placement Standards. The placement of antennas, satellite dishes and monopoles less than 50 feet in height when measured from the ground or within 15 feet of a rooftop is permitted outright in all districts subject to the following standards and those found in Section 8.500:
- (a) No antennas, antenna supports, satellite dishes or monopoles shall be located within any front yard setback area or within any required landscape buffer yard. [Ord. 5886, 1/6/17]
- (b) Dish antennas larger than three feet in diameter, and located within ten feet of a residential lot line or visible from a public street, shall 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

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.

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

- Single-Family Homes
 - Multiple Family 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]

SINGLE-FAMILY HOMES

8.100 Purpose. The design standards for single-family homes are intended to create pedestrian-friendly, sociable, safe and attractive neighborhoods through human-scale design. These standards emphasize the functional relationship between the home and the street. Compatibility standards protect the architectural character of existing neighborhoods. These design standards are adaptable to many different architectural styles. [Ord. 5445, 4/12/00]

ADC 8.110(3) has been modified, below, to make it clear that Design Standards do not apply to detached accessory dwelling units.

- 8.110 Applicability.
- (1) The standards of ADC Sections 8.110 through 8.160 apply to all new single-family detached units, manufactured homes, two-family units (duplexes), and single family attached units on individual lots in all zones that allow single-family housing, except as otherwise noted. [Ord. 5894, 10/14/17]
 - (2) In addition, except as otherwise noted, the standards of ADC Sections 8.110 through 8.160 apply to multifamily 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]
 - (3) These standards do not apply to detached accessory dwelling units, existing structures, ~~to~~ new additions to existing structures, or to manufactured home parks. [Ord. 5894, 10/14/17]
 - (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. [Ord. 5445, 4/12/00; Ord. 5894, 10/14/17]

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]

**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

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RESIDENTIAL USE CATEGORIES

- 22.260 Residential Care or Treatment Facility
- 22.270 Assisted Living Facility
- 22.280 Single Family, Two Family Units
- 22.300 Multiple Family: Three 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]

22.020 Description of Use Categories.

- (1) *Considerations.* Uses are assigned to the category whose description most closely describes the nature of the primary use. Each use category is described and defined. Developments may have more than one primary use. Developments may also have one or more accessory uses. The following are considered in determining what category the use is in, and whether the activities constitute primary uses or accessory uses:
 - The description of the activity(ies) in relationship to the characteristics of each use category;
 - The relative amount of site or floor space and equipment devoted to the activity;
 - Relative amounts of sales from each activity;
 - The customer type for each activity;
 - The relative number of employees in each activity;
 - Hours of operation;
 - Building and site arrangement;
 - Vehicles used with the activity;
 - The relative number of vehicle trips generated by the activity;
 - Signs;
 - How the use advertises itself; and
 - Whether the activity would be likely to be found independent of other activities on the site.
- (2) *Developments with multiple primary uses.* When all of the primary uses of a development fall into one use category, the development is assigned to that use category. For example, a development that contains a retail bakery and a café would be classified in the Retail Sales and Service category because all of the primary uses are in that category. When the primary uses of a development fall into different use categories, each primary use is classified in the applicable category and is subject to the regulations for that category.
- (3) *Accessory Uses.* Accessory uses are incidental to the primary use category and may contribute to the comfort, convenience, or necessity of the principal use. Examples of accessory uses include but are not limited to storage, employee and customer parking, and employee facilities. These uses are allowed by right in conjunction with the use unless stated otherwise in the regulations. Unless otherwise stated, they are subject to the same regulations as the primary use. [Ord. 5742, 7/14/10]

Lists of accessory uses were deleted from the use categories in Sections 22.030 to 22.370 by Ord. 5742, adopted 7/14/10].
- (4) *Use Examples.* The “Use Examples” subsection of each use category provides a list of examples of uses that are included in the category. The names of uses on the lists are generic. They are based

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- (3) *Accessory Uses.* Accessory uses commonly found are recreational activities, raising of pets, hobbies, and parking of the occupants' vehicles. Home occupations, accessory dwelling units, and bed and breakfast facilities are accessory uses that are subject to additional regulations.
- (4) *Exceptions.*
- 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.
 - Single-room occupancy situations where care is provided are classified as a Group or Residential Care Home or Residential Care or Treatment Facility. [Ord. 5801, 2/13/13]
 - 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]

22.310 Unit(s) Above or Attached to a Business

- 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]
- Use Examples.* Apartments, condominiums, retirement center apartments, and other structures with self-contained dwelling units located above a business.
- Exceptions.*
 - 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.
 - SROs that contain programs that include common dining are classified as a Group or Residential Care Home or Residential Care or Treatment Facility.
 - 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

- A detached building that is subordinate to and consistent with the principal use of the property located on the same property as the principal dwelling. Residential accessory buildings are permitted in residential and mixed-use zones if they meet the following standards:
 - 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 ~~apartments~~ have special conditions in Articles 3 and 5, Sections 3.080(4) and 5.070(15) respectfully. [Ord. 5742, 7/14/10]

DEFINITIONS

22.400 Definitions. As used in this Code, the following words and phrases shall have the following meanings:

Abut: Contiguous to; for example, two lots with a common property line. However, “abut” does not apply to buildings, uses, or properties separated by public right-of-way.

Access: The place, means, or way by which pedestrians or vehicles shall have ingress and/or egress to a property or parking area.

Accessory ~~Apartment~~Dwelling Unit: A self-contained living unit that is attached to or ~~a part of interior to the primary~~ a single-family dwelling, ~~a detached structure, or in a portion of constructed within~~ a detached accessory structure ~~(e.g. above a garage or workshop) built before February 1, 1998, or constructed in a subdivision platted after July 1, 2007, and~~ that is incidental and subordinate to the principal dwelling unit (primary residence). [Ord. 5338, 1/28/98; Ord. 5801, 2/13/13]

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). [Ord. 5742, 7/14/10]

Accessory Use: A use on the same property or development site under the same ownership that is customarily incidental, subordinate to, and compatible with the principal use and surrounding properties. [Ord. 5742, 7/14/10]

Access Way: An unobstructed drive or roadway that provides vehicular access and connects to a public street.

Adjacent: Contiguous to a property boundary or across an adjoining right-of-way.

Adult Entertainment: Adult entertainment uses are sexually-oriented business entertainment uses and accessory uses which exclude minors by virtue of age under the laws of the State of Oregon, whether or not such minors are accompanied by a consenting parent, guardian, or spouse. Such uses include but are not limited to, adult motion picture theaters, video arcades, massage parlors, nude modeling studios, lotion studios, adult bookstores, nude photography studios, or eating and drinking establishments that have sexually-oriented entertainment such as nude dancers, strippers, or other similar entertainers.

Affected Party: Any person who owns property or resides on property within the notification area for a development permit application, or any person who provides written or oral testimony in regard to a development permit application and who can demonstrate standing by virtue of an affected property interest.

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]

Alter, Alteration: Any human-induced physical change to the existing condition or occupancy of a building or structure, or to land including but not limited to clearing, grubbing, draining, removal of vegetation (chemical or otherwise), excavation, grading, placement of fill material, placement of structures or impervious surfaces or other construction.

Amendment: A change in the wording, context, or substance of the Code, or a change in the zone boundaries or use district boundaries upon the zoning map or a change in the Comprehensive Plan.

Amenity: A natural or created feature that enhances the aesthetic, functional or visual quality or makes a particular property a more attractive or appealing place or area. [Ord. 5742, 7/14/10]

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 Uses
- 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 FAMILY DISTRICT. The RS-10 District is intended primarily for a lower density single-family residential environment. The average minimum lot size is 10,000 square feet.
- (3) RS-6.5—RESIDENTIAL SINGLE FAMILY DISTRICT. The RS-6.5 District is intended primarily for low-density urban single-family residential development. The average minimum lot size is 6,500 square feet.
- (4) RS-5—RESIDENTIAL SINGLE FAMILY DISTRICT. The RS-5 District is intended primarily for low- to moderate-density single-family development. The average minimum detached single-family lot size is 5,000 square feet. [Ord. 5673, 6/27/07]
- (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. Development may not exceed 25 units per gross acre. [Ord. 5673, 6/27/07]
- (6) RMA—RESIDENTIAL MEDIUM DENSITY ATTACHED DISTRICT. The RMA District is intended primarily for medium- to high-density urban residential development. All units, whether single- or multiple-family, shall 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]
- (7) HM—HACKLEMAN-MONTEITH DISTRICT. The HM district is intended primarily to preserve the existing single-family residential character of the Hackleman and Monteith National Register Historic Districts. Conversion of single-family residential structures to other uses, including multi-family residential, is not allowed.

[Ord. 5555, 2/7/03; Ord. 5673, 6/27/07]

- 3.030 Establishment of Special Purpose Districts. Special purpose districts are overlay districts that may be combined with a major zoning district. The regulations of a special purpose district are supplementary to the regulations of the underlying major zoning district. The regulations of a special purpose district and the major zoning district shall all apply to any site that has both designations. Where the regulations

- CU Use permitted conditionally under the provisions of Sections 2.230-2.260 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]

The table below is amended to clarify that an accessory unit is an accessory dwelling unit.

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
RESIDENTIAL SINGLE FAMILY: One Unit per Property								
Single-Family, detached	19	Y	Y	Y	Y	Y	Y	N
Single-Family, attached (zero lot line)		N	PD/CD	PD/CD	N	Y	Y	Y
RESIDENTIAL TWO FAMILY: Two Units per Property								
2 attached units (Duplex)	3	N	Y-1, PD/CD-20	Y-1, PD/CD-20	N	Y-1, PDCD-20	Y	Y
2 detached units	2	N	PD/CD	PD/CD	S	PD/CD	Y	Y
Primary Residence with one accessory dwelling unit	4	Y	Y	Y	Y	Y	Y	Y
RESIDENTIAL MULTI-FAMILY: Three or More Units per Property								
3 or More Single-Family Attached Units	3	N	PD/CD	PD/CD	N	S	S	S
3 or More Multi-Family Units	3	N	N	N	N	N	S	S
Manufactured Home Parks (see Article 10)	10	N	N	S	N	S	S	S
RESIDENTIAL: Care or Treatment								
Assisted Living		CU	CU	CU	CU	CU	CU	CU
Child or Adult Care Home	6	Y	Y	Y	Y	Y	Y	Y
Daycare Facility		CU	CU	CU	CU	CU	CU	S
Residential Care or Treatment Facility (6 or more residents)		CU	CU	CU	CU	CU	CU	S
Residential or Group Care Home (5 or fewer residents)		Y	Y	Y	Y	Y	Y	Y
RESIDENTIAL: Miscellaneous								
Accessory Buildings, Garages or Carports	9	Y/S	Y/S	Y/S	Y/S	Y/S	Y/S	Y/S
Bed & Breakfast	7	CUII	CUII	CUII	CUII	CUII	CUII	S
Home Businesses (See 3.090-3.160 to determine if CU)		Y/CU	Y/CU	Y/CU	Y/CU	Y/CU	Y/CU	Y/CU
Recreational Vehicle Parks (See Article 10)	5, 10	N	N	N	N	N	CU	CU
Rooming or Boarding Houses		N	N	N	CU	N	S	S
Subdivision Sales Office	19	N	Y	Y	N	Y	Y	Y
Unit(s) Above or Attached to a Business	17	N	N	N	N	N	N	N
Temporary Residence	8	S	S	S	S	S	S	S
INSTITUTIONAL								
Basic Utilities		CU	CU	CU	CU	CU	CU	CU
Community Services		CU	CU	CU	CU	CU	CU	CU
Educational Institutions	13	CU	CU	CU	CU	CU	CU	CU
Hospitals		N	N	N	N	N	CU	CU
Jails & Detention Facilities		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

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Religious Institutions	13	CU	CU	CU	CU	CU	CU	CU
COMMERCIAL – Limited Use Types								
Entertainment and Recreation:	18	CU	CU	CU	CU	CU	CU	CU
Indoor Outdoor		CU	CU	CU	N	CU	CU	CU
Offices	17	PD/CD	PD/CD	PD/CD	PD/CD	PD/CD	PD/CD	PD/CD
Restaurants, no drive-thru	17	PD/CD	PD/CD	PD/CD	PD/CD	PD/CD	PD/CD	PD/CD
Retail Sales and Service	17	PD/CD	PD/CD	PD/CD	PD/CD	PD/CD	PD/CD	PD/CD
Self-Serve Storage	15	N	N	N	N	N	S	N
OTHER CATEGORIES								
Agriculture:		Y	Y	Y	N	Y	Y	Y
Crop Production		Y	S	CU	N	CU	CU	CU
On-site Sales of Site-Produced Seasonal Goods Plant Nurseries and Greenhouses		S	S	S	N	S	S	S

Use Categories	Spec. Cond.	RR	RS-10	RS-6.5	HM	RS-5	RM	RMA
OTHER CATEGORIES								
Antennas, owned and operated by FCC licensed member of Amateur Radio Service		Y	Y	Y	Y	Y	Y	Y
Communication Facilities	16	N	N	N	N	N	N	N
Kennels	11	S	CU	CU	N	CU	CU	N
Satellite Dish and Other Antennas	12	Y	Y	Y	Y	Y	Y	Y

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

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

[Ord. 5281, 3/26/97; Ord. 5555, 2/7/03; Ord. 5673, 6/27/07; Ord. 5742, 7/14/10; Ord. 5801, 2/13/13;
 Ord. 5832, 4/9/14; Ord. 5886, 1/6/17]

3.060 – 3.070, *Open Space district moved to Article 6; Ord. 5764, 12/1/11.*

SPECIAL CONDITIONS

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

(1) In the RS-6.5, RS-5, and RS-10 Districts, one duplex is permitted outright on a corner lot that meets the minimum lot size for a duplex in the zone. Exception for non-corner lots created between May 1, 2000 and January 11, 2006: A duplex is allowed on a non-corner lot created in this time period provided that the lot is at least 1.5 times the single-family minimum lot size in the zone. The lot size threshold may be reduced by use of the 10 percent transportation bonus provided the lot is not a flag lot and it meets the standards in Section 3.220.

[Ord. 5445, 4/12/2000; Ord. 5635, 1/11/06; Ord. 5673, 6/27/07]

(2) When more than one single-family 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]

(3) Duplexes and multi-family development may be divided so that each 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 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]

ORS 197.307 requires standards for all housing to be clear and objective. ORS 197.312 requires that at least one ADU be allowed for each detached single-family dwelling, subject to reasonable siting and design regulations. Reasonable siting and design regulations does not include owner-occupancy requirements of either the primary or accessory structure or requirements to construct additional off-street parking. As proposed, ADC Section 3.080(4) satisfies this ORS requirement by removing the restrictions on detached ADUs, including owner-occupancy and additional off-street parking and allowing ADUs in all Article 3 zones where a single-detached house is permitted. A revised definition of an ADU is provided in Article 22 – Definitions.

- (4) Where detached single-family residences are permitted outright, one accessory dwelling unit (ADU) may be allowed per legally established detached single-family residence, called the “primary residence”. The ADU shall comply with the following standards:

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.)
- (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 size of the property meets the minimum single-family lot area requirements for the zoning district in which the lot is located. [Ord. 5338, 1/28/98; Ord. 5673, 6/27/07]

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]

- (5) In the RM District, the following criteria must be met in addition to the Conditional Use criteria for permitting RV overnight parks:
 - (a) The entire site must be located within 750 feet of the Interstate 5 right-of-way.
 - (b) The RV park access is limited to the Interstate 5 frontage road or streets servicing primarily industrial or commercial development.
- (6) “Child Care Homes” that includes the day or night time 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 single-family homes per the Oregon Revised Statutes (ORS). See ADC Section 22.200. [Ord. 5673, 6/27/07]
- (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]
 - (d) Provide at least one off-street parking space for each rental room, except in the HM zone, where on-street parking along the frontage of the property line(s) may count toward the parking requirements. To count towards this standard, each on-street space must be at least 25 feet long. [Ord. 5673, 6/27/07, Ord. 5768, 12/7/11]

- (c) For projects that are affordable for persons whose income is equal to, or less than, .8 times the median income for Linn or Benton Counties – 15 percent density increase. [Ord. 5673, 6/27/07]

Affordable means that the annual mortgage payments, with no more than a 10% down payment required, or the annual rent for a unit equals no more than 28 percent of the income level for which the density bonus points are being applied. Projects must have a guaranteed sale price, interest, or rental price, and include contractual obligations for continued availability to low- and moderate-income persons.

Alley Access

- (7) Lots with alley access may be up to 10 percent smaller than the minimum lot size for the zone. [Ord. 5338, 1/28/98; Ord. 5445, 4/12/00]

SETBACKS

- 3.230 Setback Measurements. All setbacks must meet the minimum standards as set forth in Tables 1 and 2 in this Article, as appropriate. Setback distances shall be measured perpendicular to all portions of a property line. In addition to the setbacks in this article, all development must comply with Section 12.180, Clear Vision Area. See also Table 2, Accessory Structure Standards. [Ord. 5673, 6/27/07]

TABLE 2

ACCESSORY STRUCTURE STANDARDS	
STRUCTURE	STANDARD
All Accessory Structures	Front setback, see Table 1, by zone if not noted below
Detached Structure walls less than or equal to 8 feet tall (2)	Interior setback = 3 feet (1)
Attached Structure	Interior setback = 5 feet (1)
Detached Structure walls greater than 8 feet tall (2)	Interior setback = 5 feet
Accessory Dwelling Unit Building	Front setback is equal or greater than primary residence Interior setback, one-story = 5 feet (1) Interior setback, two-story = 8 feet (1)
Garage or carport with access to 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 1
Structures, including fences, intended for housing animals	Interior setback = 10 feet
Fences greater than 6 feet tall	See Table 1, by zone; building permit required.
Outdoor swimming pools with depths greater than or equal to 24 inches	Interior setback = 10 feet
Decks less than or equal to 30 inches from grade, with no rails or covers	No setback from property lines
Decks greater than 30 inches from grade	Interior setback = 5 feet

- (1) Zero-lot line provisions are in Sections 3.265 and 3.270. [Ord. 5832, 4/9/14]
 (2) The slab or foundation of accessory structures is not included in the wall height unless it is greater than 24-inches from the ground. [Ord. 5673, 6/27/07]

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 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.

**TABLE 4-1
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	IP	LI	HI
INDUSTRIAL									
Contractors and Industrial Services		N	N	S-1	N	S-1	S-1	S-1	S
Manufacturing and Production	2	S/CU	N	S/CU,3	N	S/CU	S/CU	S/CU	S
Small-scale Manufacturing	2	S/CU	N	S/CU	S/CU	S/CU	S/CU	S/CU	S/CU
Railroad Yard		N	N	N	N	S	N	S	S
Warehousing and Distribution		N	N	N	N	N	CU	S	S
Waste and Recycling Related	4	N	N	CU	N	N	N	S/CU	S/CU
Wholesale Sales		N	N	N	N	N	S-5	S	N
COMMERCIAL									
Adult Entertainment		N	N	S-6	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	CUII-7 CU-7, 11 N-7	CU-7 CU
Offices: Traditional Offices Industrial		S S	S N	S S	S N	S N	CUII-8 S-8	N S-9	N S
Parking		N	N	S	S	S	S	S	S
Recreational Vehicle Park		N	N	CU	N	S	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	N N	N N
Retail Sales and Service		S-11	S-11	S	S	S	S-11	S/CU/N-11	N
Self-Serve Storage	12	N	N	S	S	N	CU	S	S-13
Taverns, Bars, Breweries, Nightclubs	25	CUII	CUII	S	S	S	CUII	CUII	CUII
Vehicle Repair		N	N	S	S	N	N	S	N
Vehicle Service, Quick- gas/oil/wash		N	N	S	S	N	CU	N-14	N
INSTITUTIONAL									
Basic Utilities		CU	CU	CU	CU	CU	S	S	S
Community Services	15	S/CU	S/CU	S/CU	S/CU	S/CU	CU	CU	N
Daycare Facility		CU	CU	S	N	N	S	CU	N
Educational Institutions	16	N	N	CU	N	CU	S/CU	S/CU	N
Hospitals		CU	N	N	N	N	CU	CU	N
Jails and Detention Facilities		N	N	N	N	N	N	CU	N
Parks, Open Areas and Cemeteries	17	CU	CU	CU	N	CU	CU	CU	N
Religious Institutions	16	CU	CU	S	N	N	CU	CU	N
RESIDENTIAL									
Assisted Living Facility		CU	CU	CU	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
Residential Care or Treatment Facility		S	S	S	N	N	N	N	N
Single Family and Two Family Units	20	Y/CU-19	S-19	N	N	N	N	N	N
Three or More Units		CU	N	N	N	N	N	N	N

Attachment B.8

Use Categories (See Article 22 for use category descriptions.)	Spec. Cond.	OP	NC	CC	RC	TD	IP	LI	HI
Units Above or Attached to a Business		S	S	S	CU	S	S	S	N
Residential Accessory Buildings	21	Y/S	Y/S	N	N	N	N	N	N
OTHER CATEGORIES									
Agriculture (on Vacant Land)	22	N	N	N	Y	N	Y	Y	Y
Satellite Dish, Other Antennas, & Communication Facilities <50 ft.	23	Y	Y	Y	Y	Y	Y	Y	Y
Communication Facilities >= 50 ft.	23	N	N	CU	S	CU	CU	S	Y
Kennels	24	N	N	N	CU	N	N	S	N
Non-Res'l Accessory Buildings		S-18	Y	Y	Y	Y	Y	Y	Y
Passenger Terminals		N	N	S	CU	S	CU	CU	N
Rail And Utility Corridors		CU	CU	CU	CU	S	CU	S	S

Y = Yes, allowed, no Site Plan Review required

N = No, not allowed

CU = Conditional Use review, Type III procedure

S = Site Plan Review required

CUII = Conditional Use review, Type II procedure

[Ord. 5555, 2/7/03; Ord. 5728, 1/27/10; Ord. 5742, 7/14/10, Ord. 5767, 12/7/11; Ord. 5832, 4/9/14, Ord. 5886, 1/6/17]

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 and LI zones.
 - (a) Limited Uses. Salvage or wrecking operations are prohibited in the CC, TD, IP, and LI zones. See Section 4.290 for outside storage standards.
- (2) Manufacturing and Production. The environmental performance standards of Article 9 may limit the placement of certain uses in some districts. If the site is located within 300 feet of residentially zoned land, the use may require a Conditional Use approval.
- (3) Manufacturing in the CC zone. Manufacturing uses in CC must have a retail storefront and sell their products to the public on site.
- (4) Waste and Recycling Related Uses in the CC, LI, and HI zones.
 - (a) Limited uses in CC. Only processing and sorting operations conducted within enclosed structures less than 5,000 sq. ft. in total area are considered with a conditional use review.
 - (b) Limited uses in LI. Processing and sorting operations conducted within enclosed structures less than 5,000 sq. ft. in total area are allowed with Site Plan Review. Salvage yards, junkyards, and refuse transfer stations are not permitted. All other material and recycling operations are considered through a conditional use review.
 - (c) Limited uses in HI. Processing and sorting operations conducted within enclosed structures less than 5,000 sq. ft. in total area and all other material and recycling operations, excluding salvage yards and junkyards, are allowed with Site Plan Review. Salvage yards, junkyards, sanitary landfills, and refuse transfer stations require a conditional use review.
- (5) Wholesale Sales in the IP zone. This use is allowed in IP only if all operations and storage are conducted entirely within enclosed buildings.

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tennis courts, bike paths, picnic shelters, restrooms, landscaping, and similar activities in existing improved parks.

- (18) Non-Residential Accessory Buildings over 750 square feet in the OP zone require Site Plan Review. [Ord. 5742, 7/14/10]

ORS 197.307 requires standards for all housing to be clear and objective. ORS 197.312 requires that at least one ADU be allowed for each single-family dwelling, subject to reasonable siting and design regulations that does not include an owner occupancy requirement or additional off-street parking spaces. Proposed revisions to special condition 19 satisfy this ORS requirement by allowing ADUs to be constructed in the Office Professional (OP) zone and the Neighborhood Commercial (NC) zone, where single-family detached homes are permitted. Since ADC Article 4 does not have standards governing ADUs, proposed revisions require a new ADU to comply with the ADU standards in Article 5 – Mixed Use Zoning Districts. A revised definition of an ADU is provided in Article 22 – Definitions.

- (19) Single-Family and Two-Family Units.

(a) In the OP zone, single-family residences are allowed outright. Attached single-family and two-family residences require a conditional use review. One accessory dwelling unit (ADU) may be allowed per legally established detached single-family residence, called the “primary residence”. The ADU shall comply with the standards for ADUs in ADC 5.070(15).

(b) In the NC zone, single family residences require Site Plan Review. One accessory dwelling unit (ADU) may be allowed per legally established detached single-family residence, called the “primary residence”. The ADU shall comply with the standards for ADUs in ADC 5.070(15).

[Ord. 5742, 7/14/10]

- (20) Existing Single-Family Homes. Single-family homes built before December 11, 2002, in any commercial or industrial zone may remain as a permitted use without being nonconforming. New single-family homes are not permitted unless allowed in the zoning district. See Section 4.075. Single-family includes attached units, one unit per lot.

- (21) Residential Accessory Buildings, except 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 feet tall.
- (b) All other residential district accessory buildings, garages or carports require a site plan review.

[Ord. 5767, 12/7/11]

- (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:

- (a) Antennas or antenna supports. Satellite dishes and monopoles shall not be located within

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 on Knox Butte Road, 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]

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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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]

**TABLE 5-1
SCHEDULE OF PERMITTED USES**

Use Categories (See Article 22 for use category descriptions)	Spec. Cond.	MUC	WF	HD	DMU	CB	LE	PB	MS	ES	MUR
INDUSTRIAL											
Contractors and Industrial Services	1	N	N/ CU-24	N	N	CU	S	S	N	N	N
Manufacturing and Production	2	N	N/ CU-24	CU-3	N	CU-3	S/CU	N	N	N	N
Small-scale Manufacturing - less than 5,000 sq. ft. -5,000 to 10,000 sq. ft.	2	S/CU CU	S/CU CU	S/CU CU	S/CU CU	S/CU CU	S/CU CU	S/CU CU	S/CU CU	N N	N N
Warehousing and Distribution		N	N/ CU-24	N	N	N	N	N	N	N	N
Waste and Recycling		N	N	N	N	N	N	N	N	N	N
Wholesale Sales		N	N/ CU-24	N	N	CU	N	N	N	N	N
COMMERCIAL											
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 N
Offices Traditional Industrial		S CU	S S	S S	S S	S S	S S	S S	S S	S N	S N
Parking		S	CU	CU	CU	CU	S	S	S	CU-7	CU
Recreational Vehicle Park		N	N	N	N	N	N	N	N	N	N
Restaurants, no drive-thru with drive-thru or mostly delivery	23	S CU	S N	S N	S N	S N	S S	S S	S N	CUII N	S N
Retail Sales and Service		S-8	S-8/ CU-24	S-8	S-8	S	S	S	S-8	S-8	S-8
Self-Serve Storage	9	N	N	N	N	N	N	N	N	N	N
Taverns, Bars, Breweries, Nightclubs	23	CUII	CUII	S	S/ CUII (25)	S/ CUII (25)	S	S	CUII	CU	CUII
Vehicle Repair		N	N/ CU-24	N	N	CU	N	S	N	N	N
Vehicle Service, Quick (gas/oil/wash)		S	N	N	N	N	N	S	S	S	N
INSTITUTIONAL											
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	S	S	S	S	S	S	CU
Educational Institutions	12	CU	CU	CU	CU	CU	CU	N	CU	CU	CU

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Use Categories (See Article 22 for use category descriptions)	Spec. Cond.	MUC	WF	HD	DMU	CB	LE	PB	MS	ES	MUR
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											
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 Family and Two Family Units	15	Y-17	S/CU-16	N/Y-16	S/CU-16	S/CU-16	N-16	N	N-16	CU-16	Y
Three or More Units	17	S-17	S/CU-17	N	S/CU-17	S/CU-17	S	N	CU	CU	S
Units Above or Attached to a Business		S-17	S	S-17	S	S	S	S	S	S	S
Home Business (See 3.090-3.180 to determine if CU)		Y/CU	Y/CU	Y/CU	Y/CU	Y/CU	Y/CU	Y/CU	Y/CU	Y/CU	Y/CU
Residential Accessory Buildings	18	Y/S	Y/S	Y/S	Y/S	Y/S	CUII	N	Y/CUII	Y/CUII	Y/S
OTHER CATEGORIES											
Agriculture (on Vacant Land)	19	N	N	N	N	N	N	N	N	N	N
Satellite Dish, Other Antennas, & Communication Facility <50 ft.	20	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y
Communication Facility >= 50 ft.	21	CU	N	N	N	CU	CU	CU	N	CU	N
Kennels	22	N	N	N	N	N	N	N	N	N	N
Non-Res'l Accessory Buildings, larger than 750 sq. ft.		S	S	S	S	S	S	S	S	S	S
Passenger Terminals		CU	N	CU	CU	CU	CU	S	CU	N	N
Rail And Utility Corridors		CU	CU	N	N	CU	CU	CU	CU	CU	N

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

N = No, not allowed
 S = Site Plan Review required

[Schedule of Uses amended by Ord. 5555, 2/7/03; Ord. 5556, 2/21/03; Ord. 5635, 1/11/06; Ord. 5673, 6/27/07; Ord. 5728, 1/27/10, Ord. 5742, 7/14/10; Ord. 5767, 12/7/11; Ord. 5832, 4/9/14; Ord. 5886, 1/6/17; Ord. 5894, 10/14/17]

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:

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- (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.
- (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-family residences. [Ord. 5673, 6/27/07; Ord. 5742, 7/14/10]

ORS 197.307 requires standards for all housing to be clear and objective. ORS 197.312 requires that at least one ADU be allowed for each single-family dwelling, subject to reasonable siting and design regulations. Reasonable siting and design regulations does not include owner-occupancy requirements of either the primary or accessory structure or requirements to construct additional off-street parking. As proposed, ADC Section 5.070(15) satisfies this ORS requirement by removing the restrictions on detached ADUs, including owner-occupancy and additional off-street parking and allowing ADUs in all Article 5 zones where a single-detached house is permitted, including the MUR zone. A revised definition of an ADU is provided in Article 22 – Definitions.

- (15) Existing Single- and Two-Family. Single-family and two-family 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]

Accessory Dwelling Units. Where detached single-family residences are permitted, one accessory dwelling unit (ADU) may be allowed per legally established detached single-family residence, called the “primary residence”.

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 size of the property meets the minimum single-family lot area requirements for the zoning district in which the lot is located.
 - (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]
- (16) Single-Family and Two-Family Units.
- (a) Limited Uses in DMU, CB, ES, LE, and WF. New construction of single-family units is limited to attached units (one unit per lot or condominiums) and two-family units (a duplex). [Ord. 5742, 7/14/10; Ord. 5894, 10/14/17]
 - (b) In CB, ES, DMU, and LE: Buildings originally built as a single-family house or church may

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be converted to a single-family residential use without requiring a land use application.

[Ord. 5673, 6/27/07; Ord. 5894, 10/14/17]

- (c) Limited Uses in HD: Buildings originally built as a single-family house or church may be converted to a single-family residential use without requiring a land use application. All other single-family and two-family units are prohibited.
- (d) In CB, WF, and DMU: Single-family attached units and two-family units with driveways that meet the standards in ADC 8.150(1) are permitted subject to site plan review. All other single-family attached units and two-family units may be considered through a Conditional Use review.
- (17) Residential Development in CB, HD, MS, ES, and MUC. [Ord. 5894, 10/14/17]
- (a) In MS and ES, dwelling units at the street level are discouraged unless located behind a retail, service or office storefront. [Ord. 5894, 10/14/17]
- (b) 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. [Ord. 5556, 2/21/03]
- (c) 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. [Ord. 5894, 10/14/17]
- i. Units above a business: Dwelling units on the second story or above are permitted. [Ord. 5894, 10/14/17]
- 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. [Ord. 5894, 10/14/17]
- 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. [Ord. 5894, 10/14/17]
- iv. All other units above or attached to a business are prohibited. [Ord. 5894, 10/14/17]
- (d) In CB, WF, and DMU, multifamily units with individual driveways that do not meet the standards of 8.150(1) may be considered through a Conditional Use review. All other multifamily units are permitted subject to site plan review. [Ord. 5894, 10/14/17]
- (18) Residential Accessory Buildings. Accessory buildings are permitted outright in MUC, MUR, WF, HD, DMU, CB, ES, LE, and MS if they meet the following conditions: [Ord. 5894, 10/14/17]
- (a) Detached accessory buildings, garages, and carports are less than 750 square feet and have walls equal to or less than 11 feet tall. [Ord. 5767, 12/7/11]

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]

Accessory buildings on the National Register of Historic Districts require historic review. See Article 7 for the review process and criteria.

Accessory dwelling units: see Special Condition 15.

[Ord. 5673, 6/27/07]

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.

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

- Single-Family Homes
 - Multiple Family 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]

SINGLE-FAMILY HOMES

8.100 Purpose. The design standards for single-family homes are intended to create pedestrian-friendly, sociable, safe and attractive neighborhoods through human-scale design. These standards emphasize the functional relationship between the home and the street. Compatibility standards protect the architectural character of existing neighborhoods. These design standards are adaptable to many different architectural styles. [Ord. 5445, 4/12/00]

ADC 8.110(3) has been modified, below, to make it clear that Design Standards do not apply to detached accessory dwelling units.

8.110 Applicability.

- (1) The standards of ADC Sections 8.110 through 8.160 apply to all new single-family detached units, manufactured homes, two-family units (duplexes), and single family attached units on individual lots in all zones that allow single-family housing, except as otherwise noted. [Ord. 5894, 10/14/17]
- (2) In addition, except as otherwise noted, the standards of ADC Sections 8.110 through 8.160 apply to multifamily 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]
- (3) These standards do not apply to detached accessory dwelling units, existing structures, new additions to existing structures, or to manufactured home parks. [Ord. 5894, 10/14/17]
- (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. [Ord. 5445, 4/12/00; Ord. 5894, 10/14/17]

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]

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

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- (3) *Accessory Uses.* Accessory uses commonly found are recreational activities, raising of pets, hobbies, and parking of the occupants' vehicles. Home occupations, accessory dwelling units, and bed and breakfast facilities are accessory uses that are subject to additional regulations.
- (4) *Exceptions.*
- (a) Lodging in a dwelling unit or Single Room Occupancy (SRO) unit where less than two-thirds of the units are rented on a monthly basis is considered a hotel or motel use and is classified in the Retail Sales and Service category.
 - (b) Single-room occupancy situations where care is provided 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]

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.*
 - (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) SROs that contain programs that include 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 located on the same property as the principal dwelling. Residential accessory buildings are permitted in residential and mixed-use zones if they meet the following standards:
 - (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).
 - (b) Accessory Dwelling Units have special conditions in Articles 3 and 5, Sections 3.080(4) and 5.070(15) respectfully. [Ord. 5742, 7/14/10]

DEFINITIONS

22.400 Definitions. As used in this Code, the following words and phrases shall have the following meanings:

Abut: Contiguous to; for example, two lots with a common property line. However, “abut” does not apply to buildings, uses, or properties separated by public right-of-way.

Access: The place, means, or way by which pedestrians or vehicles shall have ingress and/or egress to a property or parking area.

Accessory Dwelling Unit: A self-contained living unit that is attached to or interior to the primary single-family dwelling, a detached structure, or in a portion of a detached accessory structure (e.g. above a garage or workshop) that is incidental and subordinate to the principal dwelling unit (primary residence).
[Ord. 5338, 1/28/98; Ord. 5801, 2/13/13]

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).
[Ord. 5742, 7/14/10]

Accessory Use: A use on the same property or development site under the same ownership that is customarily incidental, subordinate to, and compatible with the principal use and surrounding properties.
[Ord. 5742, 7/14/10]

Access Way: An unobstructed drive or roadway that provides vehicular access and connects to a public street.

Adjacent: Contiguous to a property boundary or across an adjoining right-of-way.

Adult Entertainment: Adult entertainment uses are sexually-oriented business entertainment uses and accessory uses which exclude minors by virtue of age under the laws of the State of Oregon, whether or not such minors are accompanied by a consenting parent, guardian, or spouse. Such uses include but are not limited to, adult motion picture theaters, video arcades, massage parlors, nude modeling studios, lotion studios, adult bookstores, nude photography studios, or eating and drinking establishments that have sexually-oriented entertainment such as nude dancers, strippers, or other similar entertainers.

Affected Party: Any person who owns property or resides on property within the notification area for a development permit application, or any person who provides written or oral testimony in regard to a development permit application and who can demonstrate standing by virtue of an affected property interest.

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]

Alter, Alteration: Any human-induced physical change to the existing condition or occupancy of a building or structure, or to land including but not limited to clearing, grubbing, draining, removal of vegetation (chemical or otherwise), excavation, grading, placement of fill material, placement of structures or impervious surfaces or other construction.

Amendment: A change in the wording, context, or substance of the Code, or a change in the zone boundaries or use district boundaries upon the zoning map or a change in the Comprehensive Plan.

Amenity: A natural or created feature that enhances the aesthetic, functional or visual quality or makes a particular property a more attractive or appealing place or area.
[Ord. 5742, 7/14/10]

80th OREGON LEGISLATIVE ASSEMBLY--2019 Regular Session

Enrolled Senate Bill 1051

Sponsored by Senators BEYER, DEMBROW, Representative POWER

CHAPTER

AN ACT

Relating to mitigating fuel costs; creating new provisions; amending sections 42, 46 and 47, chapter _____, Oregon Laws 2019 (Enrolled House Bill 2020); repealing section 48, chapter _____, Oregon Laws 2019 (Enrolled House Bill 2020); and prescribing an effective date.

Be It Enacted by the People of the State of Oregon:

CREDIT FOR FUEL USED TO PROPEL ELIGIBLE MOTOR VEHICLES ON PUBLIC HIGHWAYS

SECTION 1. As used in sections 1 to 5 of this 2019 Act:

- (1) "Eligible motor vehicle" means a passenger motor vehicle that is powered by fuel.
- (2) "Eligible person" means an individual with an adjusted gross income that does not exceed 250 percent of the federal poverty guidelines, based on the individual's household size and household members.
- (3) "Fuel" means:
 - (a) Motor vehicle fuel as defined in ORS 319.010; and
 - (b) Fuel as defined in ORS 319.520.
- (4) "Median vehicle miles traveled" means, for a county, the median number of miles traveled, per eligible motor vehicle, by residents of that county who are eligible persons using eligible motor vehicles.
- (5) "Oregon Climate Action Program" has the meaning given that term in section 15, chapter _____, Oregon Laws 2019 (Enrolled House Bill 2020).
- (6) "Per-gallon carbon price" means the portion of the price of a gallon of fuel in Oregon that is attributable to the cost to a fuel producer or importer of being regulated under the Oregon Climate Action Program.

SECTION 2. (1)(a) Not later than August 15 of each year, the Department of Transportation, in consultation with the Climate Policy Office, shall prepare an annual estimate of the per-gallon carbon price and, for each county, an annual estimate of:

- (A) The median vehicle miles traveled for that county; and
- (B) The median number of gallons of fuel used by an eligible motor vehicle in traveling the median vehicle miles traveled for that county.
- (b) The annual estimate of the per-gallon carbon price required under paragraph (a) of this subsection shall be expressed in a positive amount of dollars per gallon of fuel.
- (c) The department may contract with an independent third-party organization to assist in preparing the estimates required under this subsection.

(2) Using the estimates prepared under subsection (1) of this section, the department shall develop a schedule that lists for each county the annual per capita credit amount available to each eligible person who is a resident of the county. The annual per capita credit amount shall be computed:

(a) To reflect the median number of gallons of fuel used by an eligible motor vehicle in traveling the median vehicle miles traveled for the county, multiplied by the applicable per-gallon carbon price;

(b) To closely approximate the carbon price indirectly paid by eligible persons in the county through the purchase of fuel to propel eligible motor vehicles on the public highways; and

(c) To reflect any adjustments necessary to account for differences between the total moneys available for issuance of credits during the previous calendar year in the Climate Action Reimbursement Fund established under section 5 of this 2019 Act and the total moneys issued as payment of credits during the previous calendar year, if the amount claimed as credits exceeded the total moneys available.

(3) Not later than August 15 of each year, the Department of Transportation shall notify the Department of Revenue of, as calculated for each county for the immediately preceding fiscal year:

(a) The estimates required under this section; and

(b) The annual per capita credit amount available to an eligible person.

(4) The Department of Transportation may adopt rules necessary to carry out this section.

SECTION 3. (1) Each eligible person may apply for a credit under this section in an amount equal to the annual per capita credit amount for the county in which the eligible person resided as of December 31 of the year for which the credit is applied for, as computed under section 2 of this 2019 Act.

(2) The Department of Revenue shall provide a means on the personal income tax return, beginning with returns filed for tax years beginning on or after January 1, 2021, by which an eligible person may apply for the credit. An eligible person may apply for the credit on the return filed by the eligible person for any personal income tax year beginning on or after the date on which the estimate required under section 2 of this 2019 Act is made.

(3) The department shall allow for an eligible person who is not required to file a personal income tax return to apply for the credit in a form prescribed by the department by rule.

(4) An eligible person claiming a credit under this section shall provide to the department:

(a) Proof of registration in Oregon, as of December 31 of the year for which the credit is applied for, to the eligible person of at least one eligible motor vehicle; and

(b) Any other information required by the department by rule.

(5) The amount of credit allowed under this section shall equal, for residents of each county:

(a) Twice the amount of the per capita credit amount listed for that county on the schedule developed under section 2 of this 2019 Act, if claimed on a joint return, provided the return includes proof of registration of two eligible motor vehicles; or

(b) The per capita credit amount listed for that county on the schedule developed under section 2 of this 2019 Act, for credits claimed on all types of personal income tax returns other than joint returns.

(6) In no event may more than twice the per capita credit amount be allowed on the basis of one return, regardless of the number of eligible motor vehicles registered to an eligible person.

(7) The amounts authorized under this section shall be credited by the department out of the Climate Action Reimbursement Fund established under section 5 of this 2019 Act and in the manner of refund payments in excess of tax liability under ORS chapter 316.

(8) Amounts received through a credit issued under this section are exempt from personal income taxation under Oregon law.

(9) Credits allowed under this section do not bear interest.

SECTION 4. Except as otherwise provided in section 3 of this 2019 Act, or where the context requires otherwise, the provisions of ORS chapters 305 and 314 as to the audit and examination of reports and returns, periods of limitation, determination of and notices of deficiencies, assessments, collections, liens, delinquencies, claims for refund and refunds, conferences, appeals to the Oregon Tax Court, stays of collection pending appeal, confidentiality of returns and the penalties and procedures relative thereto, apply to the determinations of taxes, credits, penalties and interest under section 3 of this 2019 Act.

SECTION 5. The Climate Action Reimbursement Fund is established in the State Treasury, separate and distinct from the General Fund. The Climate Action Reimbursement Fund shall consist of moneys transferred to the fund under section 42, chapter _____, Oregon Laws 2019 (Enrolled House Bill 2020). Interest earned by the fund shall be credited to the fund. Moneys in the fund are continuously appropriated to the Department of Revenue to issue credits under section 3 of this 2019 Act and to pay the administrative expenses of the department in connection with implementation and administration of sections 1 to 5 of this 2019 Act.

REFUND FOR FUEL USED IN CERTAIN FARM OR FOREST ACTIVITIES

SECTION 6. (1) As used in this section, "fuel" and "per-gallon carbon price" have the meaning given those terms in section 1 of this 2019 Act.

(2) The following persons may apply to the Department of Transportation for a refund equal to the number of gallons of fuel used during a calendar year for the following purposes, multiplied by the per-gallon carbon price for that calendar year, as estimated by the department under section 2 of this 2019 Act:

(a) A farmer, as defined in ORS 319.320 (4), for fuel used in farming operations in the operation of any motor vehicle on any road, thoroughfare or property in private ownership.

(b) Any person, for fuel used in operation of a motor vehicle on any road, thoroughfare or property, other than a state highway, county road or city street, for the removal of forest products as defined in ORS 321.005, or the product of forest products converted to a form other than logs at or near the harvesting site, or when used for the construction or maintenance of the road, thoroughfare or property, pursuant to a written agreement or permit authorizing the use, construction or maintenance of the road, thoroughfare or property, with:

- (A) An agency of the United States;
- (B) The State Board of Forestry;
- (C) The State Forester; or
- (D) A licensee of an agency named in this paragraph.

(c) Any person, for fuel used in operation of a motor vehicle on any county road for the removal of forest products as defined in ORS 321.005, or the products of forest products converted to a form other than logs at or near the harvesting site, if:

(A) The use of the county road is pursuant to a written agreement entered into with the State Board of Forestry, the State Forester or an agency of the United States, authorizing the person to use the road and requiring the person to pay for or to perform the construction or maintenance of the county road;

(B) The board, officer or agency that entered into the agreement or granted the permit, by contract with the county court or board of county commissioners, has assumed the responsibility for the construction or maintenance of the county road; and

(C) Copies of the agreements or permits required by this subsection are filed with the Director of Transportation.

(3) An application for a refund under this section shall be in a form prescribed by the Department of Transportation by rule and must include a statement, signed by the applicant under penalties for false swearing, that sets forth the number of gallons of fuel proposed under subsection (2) of this section as the basis for computing the amount of the refund. An application for a refund under this section must be filed with the department within 15 months of the date of purchase of fuel proposed under subsection (2) of this section as the basis for computing the amount of the refund.

(4)(a) The department may investigate a refund application submitted under this section and gather and compile such information related to the application as the department considers necessary.

(b) The department may examine the relevant records of the applicant in order to establish the validity of an application.

(c) If an applicant does not permit the department to examine the relevant records, the applicant waives all rights to the refund to which the application relates.

(5)(a) The department shall reject or approve an application for a refund submitted under this section.

(b) The department may allow the applicant to modify an application without refileing to any reasonable extent necessary for approval of the application.

(c) If the department rejects an application, the department shall notify the applicant and explain the reasons for the rejection. An applicant may request review of a rejection in the manner prescribed for a contested case under ORS chapter 183.

(d) If the department approves an application, the department shall notify the applicant and issue payment of the refund.

(6) The refunds authorized under this section shall be paid by the department out of the Farm and Forest Climate Action Reimbursement Fund established under section 7 of this 2019 Act.

(7) The refunds available under this section shall be in addition to and not in lieu of any other refund available pursuant to ORS 319.320 or 319.831.

(8) Amounts received through a refund issued under this section are exempt from personal income taxation under Oregon law.

(9) Refunds allowed under this section do not bear interest.

(10) The department may adopt rules necessary to carry out this section.

SECTION 7. (1) The Farm and Forest Climate Action Reimbursement Fund is established in the State Treasury, separate and distinct from the General Fund. Interest earned by the Farm and Forest Climate Action Reimbursement Fund shall be credited to the fund. Moneys in the fund are continuously appropriated to the Department of Transportation to issue refunds under section 6 of this 2019 Act and to pay the administrative expenses of the department in connection with implementation and administration of section 6 of this 2019 Act.

(2) The Farm and Forest Climate Action Reimbursement Fund shall consist of:

(a) Moneys transferred to the fund under section 42, chapter _____, Oregon Laws 2019 (Enrolled House Bill 2020);

(b) Moneys allocated from the Climate Investments Fund established under section 46, chapter _____, Oregon Laws 2019 (Enrolled House Bill 2020);

(c) Funds appropriated by the Legislative Assembly; and

(d) Any moneys deposited in the fund from any other public or private source.

TRANSPORTATION DECARBONIZATION INVESTMENTS ACCOUNT AMENDMENTS

SECTION 8. If House Bill 2020 becomes law, section 42, chapter _____, Oregon Laws 2019 (Enrolled House Bill 2020), is amended to read:

Sec. 42. (1) The Transportation Decarbonization Investments Account is established as a separate account within the State Highway Fund. Interest earned by the Transportation Decarbonization Investments Account shall be credited to the account.

(2) Moneys in the Transportation Decarbonization Investments Account are continuously appropriated to the Department of Transportation for the purposes described in subsections (4) and (5) of this section and sections 43 and 44, **chapter _____, Oregon Laws 2019 (Enrolled House Bill 2020)** [of this 2019 Act].

(3) The Transportation Decarbonization Investments Account consists of moneys deposited in the account under sections 34 and 35, **chapter _____, Oregon Laws 2019 (Enrolled House Bill 2020)** [of this 2019 Act].

(4)(a) Of the moneys deposited in the Transportation Decarbonization Investments Account each biennium, **the department shall:**

(A) **First, transfer 30 percent to the Climate Action Reimbursement Fund established under section 5 of this 2019 Act; and**

(B) **Second, transfer an amount to the Farm and Forest Climate Action Reimbursement Fund established under section 7 of this 2019 Act, as necessary to pay the refunds authorized under section 6 of this 2019 Act for which moneys in the Transportation Decarbonization Investments Account may constitutionally be used.**

(b) **Of the moneys available each biennium after meeting the requirements of paragraph (a) of this subsection:**

[(a)] (A) 50 percent shall be used by the Department of Transportation for transportation projects selected by the Oregon Transportation Commission pursuant to section 44, **chapter _____, Oregon Laws 2019 (Enrolled House Bill 2020)** [of this 2019 Act]; and

[(b)] (B) 50 percent shall be used to provide grants for transportation projects pursuant to sections 43 and 44, **chapter _____, Oregon Laws 2019 (Enrolled House Bill 2020)**, [of this 2019 Act] and to provide technical assistance, which may include grant writing assistance, to applicants for and recipients of the grants.

(5) The amount of moneys used to provide technical assistance under subsection [(4)(b)] **(4)(b)(B)** of this section may not exceed one percent of the amount of moneys [deposited in the account each biennium] **available each biennium after meeting the requirements of subsection (4)(a) of this section.**

(6) Expenditures [from the Transportation Decarbonization Investments Account] **under subsection (4)(b) of this section** shall, to the extent feasible and consistent with law, be in addition to and not in replacement of any existing allocation or appropriation for transportation projects.

(7) Examples of uses of moneys [deposited in the Transportation Decarbonization Investments Account] **pursuant to subsection (4)(b) of this section** may include, but are not limited to, uses related to:

(a) Enhancing roadway drainage, improving slope stability, investment in the safe routes to schools program established under ORS 184.741, the repower, retrofit or replacement of certain diesel engines, reducing vehicle miles traveled through bike, pedestrian or other multimodal improvements and traffic signal optimization; and

(b) Increasing the resilience of transportation infrastructure and evacuation routes against the effects of climate change, extreme precipitation, sea level rise, and extreme temperatures and wildfires.

CLIMATE INVESTMENTS FUND AMENDMENTS

SECTION 9. If House Bill 2020 becomes law, section 46, chapter _____, Oregon Laws 2019 (Enrolled House Bill 2020), is amended to read:

Sec. 46. (1) The Climate Investments Fund is established in the State Treasury, separate and distinct from the General Fund. The Climate Investments Fund shall consist of moneys deposited in the fund under sections 34 and 35, **chapter _____, Oregon Laws 2019 (Enrolled House Bill**

2020) [of this 2019 Act]. Interest earned by the fund shall be credited to the fund. The Oregon Department of Administrative Services shall administer the fund.

(2) Moneys in the fund are continuously appropriated to be used only for programs, projects and activities that further one or more of the purposes set forth in section 14, **chapter _____, Oregon Laws 2019 (Enrolled House Bill 2020)**, [of this 2019 Act] consistent with section 59, **chapter _____, Oregon Laws 2019 (Enrolled House Bill 2020)** [of this 2019 Act].

(3) The Legislative Assembly shall allocate the moneys deposited in the fund as informed by the biennial climate action investment plan delivered by the Climate Policy Office under section 57, **chapter _____, Oregon Laws 2019 (Enrolled House Bill 2020)** [of this 2019 Act].

(4) Of the moneys deposited in the fund each biennium:

(a) 10 percent shall be allocated for uses that directly benefit eligible Indian tribes, as defined in section 15, **chapter _____, Oregon Laws 2019 (Enrolled House Bill 2020)** [of this 2019 Act];

(b) 40 percent shall be allocated for uses that benefit impacted communities, as defined in section 15, **chapter _____, Oregon Laws 2019 (Enrolled House Bill 2020)** [of this 2019 Act];

(c) 20 percent shall be allocated for uses that benefit natural and working lands, as defined in section 15, **chapter _____, Oregon Laws 2019 (Enrolled House Bill 2020)** [of this 2019 Act];

(d) No more than one percent shall be allocated to provide technical assistance to applicants for or recipients of moneys described in paragraphs (a) to (c) of this subsection; [and]

(e) \$10 million shall be allocated for deposit in the Just Transition Fund established in section 51, **chapter _____, Oregon Laws 2019 (Enrolled House Bill 2020)**, [of this 2019 Act] to be used to establish a Just Transition Program and develop a Just Transition Plan pursuant to section 52, **chapter _____, Oregon Laws 2019 (Enrolled House Bill 2020)** [of this 2019 Act.]; and

(f) An amount shall be allocated for deposit in the Farm and Forest Climate Action Reimbursement Fund established under section 7 of this 2019 Act, as necessary for the payment of refunds authorized under section 6 of this 2019 Act that may not be paid with moneys deposited in the Transportation Decarbonization Investments Account established under section 42, chapter _____, Oregon Laws 2019 (Enrolled House Bill 2020).

(5) Moneys allocated for investments and expenditures that benefit natural and working lands pursuant to subsection (4)(c) of this section shall be allocated to promote adaptation and resilience in the face of climate change and ocean acidification through actions that may include, but need not be limited to:

(a) Programs, projects or activities that achieve energy efficiency or emissions reductions in the agricultural sector such as through fertilizer management, soil management, bioenergy or biofuels;

(b) Programs, projects or activities that result in sequestration of carbon in forests, agricultural soils, and other terrestrial and aquatic areas;

(c) Improving forest and natural and working lands health and resilience to climate change impacts through actions including thinning, prescribed fire and wildland fire prevention;

(d) Project-specific planning, design and construction projects that reduce the storm water impacts of existing infrastructure and development;

(e) Reducing the risk of flooding by restoring natural floodplain ecological functions, protecting against damage caused by floods and protecting or restoring naturally functioning areas where floods occur;

(f) Improving the availability and reliability of water supplies for instream uses and out-of-stream uses;

(g) Projects to prepare for sea level rise and to restore and protect estuaries, fisheries, marine shoreline and inland habitats; and

(h) Increasing the ability to adapt to and remediate the impacts of ocean acidification.

(6) Allocations from the Climate Investments Fund shall, to the maximum extent feasible and consistent with law, be in addition to and not in replacement of any existing allocations or appropriations for programs, projects and activities.

SECTION 10. If House Bill 2020 becomes law, section 47, chapter _____, Oregon Laws 2019 (Enrolled House Bill 2020), is amended to read:

Sec. 47. The amendments to section 46, chapter _____, Oregon Laws 2019 (Enrolled House Bill 2020), [of this 2019 Act] by [section 48 of this 2019 Act] section 11 of this 2019 Act become operative on July 1, 2027.

SECTION 11. If House Bill 2020 becomes law, section 48, chapter _____, Oregon Laws 2019 (Enrolled House Bill 2020) (amending section 46, chapter _____, Oregon Laws 2019 (Enrolled House Bill 2020)), is repealed and section 46, chapter _____, Oregon Laws 2019 (Enrolled House Bill 2020), as amended by section 9 of this 2019 Act, is amended to read:

Sec. 46. (1) The Climate Investments Fund is established in the State Treasury, separate and distinct from the General Fund. The Climate Investments Fund shall consist of moneys deposited in the fund under sections 34 and 35, chapter _____, Oregon Laws 2019 (Enrolled House Bill 2020). Interest earned by the fund shall be credited to the fund. The Oregon Department of Administrative Services shall administer the fund.

(2) Moneys in the fund are continuously appropriated to be used only for programs, projects and activities that further one or more of the purposes set forth in section 14, chapter _____, Oregon Laws 2019 (Enrolled House Bill 2020), consistent with section 59, chapter _____, Oregon Laws 2019 (Enrolled House Bill 2020).

(3) The Legislative Assembly shall allocate the moneys deposited in the fund as informed by the biennial climate action investment plan delivered by the Climate Policy Office under section 57, chapter _____, Oregon Laws 2019 (Enrolled House Bill 2020).

(4) Of the moneys deposited in the fund each biennium:

(a) 10 percent shall be allocated for uses that directly benefit eligible Indian tribes, as defined in section 15, chapter _____, Oregon Laws 2019 (Enrolled House Bill 2020); **and**

[(b) 40 percent shall be allocated for uses that benefit impacted communities, as defined in section 15, chapter _____, Oregon Laws 2019 (Enrolled House Bill 2020);]

[(c) 20 percent shall be allocated for uses that benefit natural and working lands, as defined in section 15, chapter _____, Oregon Laws 2019 (Enrolled House Bill 2020);]

[(d) No more than one percent shall be allocated to provide technical assistance to applicants for or recipients of moneys described in paragraphs (a) to (c) of this subsection;]

[(e) \$10 million shall be allocated for deposit in the Just Transition Fund established in section 51, chapter _____, Oregon Laws 2019 (Enrolled House Bill 2020), to be used to establish a Just Transition Program and develop a Just Transition Plan pursuant to section 52, chapter _____, Oregon Laws 2019 (Enrolled House Bill 2020); and]

[(f) (b) An amount shall be allocated for deposit in the Farm and Forest Climate Action Reimbursement Fund established under section 7 of this 2019 Act, as necessary for the payment of refunds authorized under section 6 of this 2019 Act that may not be paid with moneys deposited in the Transportation Decarbonization Investments Account established under section 42, chapter _____, Oregon Laws 2019 (Enrolled House Bill 2020).

[(5) Moneys allocated for investments and expenditures that benefit natural and working lands pursuant to subsection (4)(c) of this section shall be allocated to promote adaptation and resilience in the face of climate change and ocean acidification through actions that may include, but need not be limited to:]

[(a) Programs, projects or activities that achieve energy efficiency or emissions reductions in the agricultural sector such as through fertilizer management, soil management, bioenergy or biofuels;]

[(b) Programs, projects or activities that result in sequestration of carbon in forests, agricultural soils, and other terrestrial and aquatic areas;]

[(c) Improving forest and natural and working lands health and resilience to climate change impacts through actions including thinning, prescribed fire and wildland fire prevention;]

[(d) Project-specific planning, design and construction projects that reduce the storm water impacts of existing infrastructure and development;]

[(e) Reducing the risk of flooding by restoring natural floodplain ecological functions, protecting against damage caused by floods and protecting or restoring naturally functioning areas where floods occur;]

[(f) *Improving the availability and reliability of water supplies for instream uses and out-of-stream uses;*]

[(g) *Projects to prepare for sea level rise and to restore and protect estuaries, fisheries, marine shoreline and inland habitats; and*]

[(h) *Increasing the ability to adapt to and remediate the impacts of ocean acidification.*]

[(6)] (5) Allocations from the Climate Investments Fund shall, to the maximum extent feasible and consistent with law, be in addition to and not in replacement of any existing allocations or appropriations for programs, projects and activities.

CAPTIONS

SECTION 12. The unit captions used in this 2019 Act are provided only for the convenience of the reader and do not become part of the statutory law of this state or express any legislative intent in the enactment of this 2019 Act.

OPERATIVE DATE

SECTION 13. (1) Sections 1 to 7 of this 2019 Act and the amendments to sections 42 and 46, chapter _____, Oregon Laws 2019 (Enrolled House Bill 2020), by sections 8 and 9 of this 2019 Act become operative on January 1, 2021.

(2) The Department of Transportation and the Department of Revenue may adopt rules or take any actions before the operative date specified in subsection (1) of this section that are necessary to enable the departments, on and after the operative date specified in subsection (1) of this section, to carry out the provisions of sections 1 to 7 of this 2019 Act and the amendments to sections 42 and 46, chapter _____, Oregon Laws 2019 (Enrolled House Bill 2020), by sections 8 and 9 of this 2019 Act.

EFFECTIVE DATE

SECTION 14. This 2019 Act does not take effect unless House Bill 2020 becomes law.

SECTION 15. If House Bill 2020 becomes law, this 2019 Act takes effect on the later of:

(1) The 91st day after the date on which the 2019 regular session of the Eightieth Legislative Assembly adjourns sine die; or

(2) The effective date of chapter _____, Oregon Laws 2019 (Enrolled House Bill 2020).

Passed by Senate June 13, 2019

.....
Lori L. Brocker, Secretary of Senate

.....
Peter Courtney, President of Senate

Passed by House June 19, 2019

.....
Tina Kotek, Speaker of House

Received by Governor:

.....M.,....., 2019

Approved:

.....M.,....., 2019

.....
Kate Brown, Governor

Filed in Office of Secretary of State:

.....M.,....., 2019

.....
Bev Clarno, Secretary of State

80th OREGON LEGISLATIVE ASSEMBLY--2019 Regular Session

Enrolled House Bill 2001

Sponsored by Representative KOTEK; Representatives FAHEY, HERNANDEZ, MARSH,
MITCHELL, POWER, STARK, WILLIAMS, ZIKA (Presession filed.)

CHAPTER

AN ACT

Relating to housing; creating new provisions; amending ORS 197.296, 197.303, 197.312 and 455.610 and section 1, chapter 47, Oregon Laws 2018; and declaring an emergency.

Be It Enacted by the People of the State of Oregon:

SECTION 1. Section 2 of this 2019 Act is added to and made a part of ORS chapter 197.

SECTION 2. (1) As used in this section:

(a) "Cottage clusters" means groupings of no fewer than four detached housing units per acre with a footprint of less than 900 square feet each and that include a common courtyard.

(b) "Middle housing" means:

- (A) Duplexes;
- (B) Triplexes;
- (C) Quadplexes;
- (D) Cottage clusters; and
- (E) Townhouses.

(c) "Townhouses" means a dwelling unit constructed in a row of two or more attached units, where each dwelling unit is located on an individual lot or parcel and shares at least one common wall with an adjacent unit.

(2) Except as provided in subsection (4) of this section, each city with a population of 25,000 or more and each county or city within a metropolitan service district shall allow the development of:

(a) All middle housing types in areas zoned for residential use that allow for the development of detached single-family dwellings; and

(b) A duplex on each lot or parcel zoned for residential use that allows for the development of detached single-family dwellings.

(3) Except as provided in subsection (4) of this section, each city not within a metropolitan service district with a population of more than 10,000 and less than 25,000 shall allow the development of a duplex on each lot or parcel zoned for residential use that allows for the development of detached single-family dwellings. Nothing in this subsection prohibits a local government from allowing middle housing types in addition to duplexes.

(4) This section does not apply to:

- (a) Cities with a population of 1,000 or fewer;
- (b) Lands not within an urban growth boundary;

(c) Lands that are not incorporated and also lack sufficient urban services, as defined in ORS 195.065;

(d) Lands that are not zoned for residential use, including lands zoned primarily for commercial, industrial, agricultural or public uses; or

(e) Lands that are not incorporated and are zoned under an interim zoning designation that maintains the land's potential for planned urban development.

(5) Local governments may regulate siting and design of middle housing required to be permitted under this section, provided that the regulations do not, individually or cumulatively, discourage the development of all middle housing types permitted in the area through unreasonable costs or delay. Local governments may regulate middle housing to comply with protective measures adopted pursuant to statewide land use planning goals.

(6) This section does not prohibit local governments from permitting:

(a) Single-family dwellings in areas zoned to allow for single-family dwellings; or

(b) Middle housing in areas not required under this section.

SECTION 3. (1) Notwithstanding ORS 197.646, a local government shall adopt land use regulations or amend its comprehensive plan to implement section 2 of this 2019 Act no later than:

(a) June 30, 2021, for each city subject to section 2 (3) of this 2019 Act; or

(b) June 30, 2022, for each local government subject to section 2 (2) of this 2019 Act.

(2) The Land Conservation and Development Commission, with the assistance of the Building Codes Division of the Department of Consumer and Business Services, shall develop a model middle housing ordinance no later than December 31, 2020.

(3) A local government that has not acted within the time provided under subsection (1) of this section shall directly apply the model ordinance developed by the commission under subsection (2) of this section under ORS 197.646 (3) until the local government acts as described in subsection (1) of this section.

(4) In adopting regulations or amending a comprehensive plan under this section, a local government shall consider ways to increase the affordability of middle housing by considering ordinances and policies that include but are not limited to:

(a) Waiving or deferring system development charges;

(b) Adopting or amending criteria for property tax exemptions under ORS 307.515 to 307.523, 307.540 to 307.548 or 307.651 to 307.687 or property tax freezes under ORS 308.450 to 308.481; and

(c) Assessing a construction tax under ORS 320.192 and 320.195.

(5) When a local government makes a legislative decision to amend its comprehensive plan or land use regulations to allow middle housing in areas zoned for residential use that allow for detached single-family dwellings, the local government is not required to consider whether the amendments significantly affect an existing or planned transportation facility.

SECTION 4. (1) Notwithstanding section 3 (1) or (3) of this 2019 Act, the Department of Land Conservation and Development may grant to a local government that is subject to section 2 of this 2019 Act an extension of the time allowed to adopt land use regulations or amend its comprehensive plan under section 3 of this 2019 Act.

(2) An extension under this section may be applied only to specific areas where the local government has identified water, sewer, storm drainage or transportation services that are either significantly deficient or are expected to be significantly deficient before December 31, 2023, and for which the local government has established a plan of actions that will remedy the deficiency in those services that is approved by the department. The extension may not extend beyond the date that the local government intends to correct the deficiency under the plan.

(3) In areas where the extension under this section does not apply, the local government shall apply its own land use regulations consistent with section 3 (1) of this 2019 Act or the model ordinance developed under section 3 (2) of this 2019 Act.

(4) A request for an extension by a local government must be filed with the department no later than:

- (a) **December 31, 2020, for a city subject to section 2 (3) of this 2019 Act.**
- (b) **June 30, 2021, for a local government subject to section 2 (2) of this 2019 Act.**
- (5) **The department shall grant or deny a request for an extension under this section:**
 - (a) **Within 90 days of receipt of a complete request from a city subject to section 2 (3) of this 2019 Act.**
 - (b) **Within 120 days of receipt of a complete request from a local government subject to section 2 (2) of this 2019 Act.**
 - (6) **The department shall adopt rules regarding the form and substance of a local government's application for an extension under this section. The department may include rules regarding:**
 - (a) **Defining the affected areas;**
 - (b) **Calculating deficiencies of water, sewer, storm drainage or transportation services;**
 - (c) **Service deficiency levels required to qualify for the extension;**
 - (d) **The components and timing of a remediation plan necessary to qualify for an extension;**
 - (e) **Standards for evaluating applications; and**
 - (f) **Establishing deadlines and components for the approval of a plan of action.**

SECTION 5. ORS 197.296 is amended to read:

197.296. (1)(a) The provisions of subsections (2) to (9) of this section apply to metropolitan service district regional framework plans and local government comprehensive plans for lands within the urban growth boundary of a city that is located outside of a metropolitan service district and has a population of 25,000 or more.

(b) The Land Conservation and Development Commission may establish a set of factors under which additional cities are subject to the provisions of this section. In establishing the set of factors required under this paragraph, the commission shall consider the size of the city, the rate of population growth of the city or the proximity of the city to another city with a population of 25,000 or more or to a metropolitan service district.

(2) At periodic review pursuant to ORS 197.628 to 197.651 or at any other legislative review of the comprehensive plan or regional framework plan that concerns the urban growth boundary and requires the application of a statewide planning goal relating to buildable lands for residential use, a local government shall demonstrate that its comprehensive plan or regional framework plan provides sufficient buildable lands within the urban growth boundary established pursuant to statewide planning goals to accommodate estimated housing needs for 20 years. The 20-year period shall commence on the date initially scheduled for completion of the periodic or legislative review.

(3) In performing the duties under subsection (2) of this section, a local government shall:

(a) Inventory the supply of buildable lands within the urban growth boundary and determine the housing capacity of the buildable lands; and

(b) Conduct an analysis of **existing and projected** housing need by type and density range, in accordance with **all factors under** ORS 197.303 and statewide planning goals and rules relating to housing, to determine the number of units and amount of land needed for each needed housing type for the next 20 years.

(4)(a) For the purpose of the inventory described in subsection (3)(a) of this section, "buildable lands" includes:

(A) Vacant lands planned or zoned for residential use;

(B) Partially vacant lands planned or zoned for residential use;

(C) Lands that may be used for a mix of residential and employment uses under the existing planning or zoning; and

(D) Lands that may be used for residential infill or redevelopment.

(b) For the purpose of the inventory and determination of housing capacity described in subsection (3)(a) of this section, the local government must demonstrate consideration of:

(A) The extent that residential development is prohibited or restricted by local regulation and ordinance, state law and rule or federal statute and regulation;

(B) A written long term contract or easement for radio, telecommunications or electrical facilities, if the written contract or easement is provided to the local government; and

(C) The presence of a single family dwelling or other structure on a lot or parcel.

(c) Except for land that may be used for residential infill or redevelopment, a local government shall create a map or document that may be used to verify and identify specific lots or parcels that have been determined to be buildable lands.

(5)(a) Except as provided in paragraphs (b) and (c) of this subsection, the determination of housing capacity *[and need]* pursuant to subsection [(3)] **(3)(a)** of this section must be based on data relating to land within the urban growth boundary that has been collected since the last *[periodic]* review or *[five]* **six** years, whichever is greater. The data shall include:

(A) The number, density and average mix of housing types of urban residential development that have actually occurred;

(B) Trends in density and average mix of housing types of urban residential development;

(C) Market factors that may substantially impact future urban residential development; and

[(C) Demographic and population trends;]

[(D) Economic trends and cycles; and]

[(E)] **(D)** The number, density and average mix of housing types that have occurred on the buildable lands described in subsection (4)(a) of this section.

(b) A local government shall make the determination described in paragraph (a) of this subsection using a shorter time period than the time period described in paragraph (a) of this subsection if the local government finds that the shorter time period will provide more accurate and reliable data related to housing capacity *[and need]*. The shorter time period may not be less than three years.

(c) A local government shall use data from a wider geographic area or use a time period *[for economic cycles and trends]* longer than the time period described in paragraph (a) of this subsection if the analysis of a wider geographic area or the use of a longer time period will provide more accurate, complete and reliable data relating to trends affecting housing need than an analysis performed pursuant to paragraph (a) of this subsection. The local government must clearly describe the geographic area, time frame and source of data used in a determination performed under this paragraph.

(6) If the housing need determined pursuant to subsection (3)(b) of this section is greater than the housing capacity determined pursuant to subsection (3)(a) of this section, the local government shall take one or *[more]* **both** of the following actions to accommodate the additional housing need:

(a) Amend its urban growth boundary to include sufficient buildable lands to accommodate housing needs for the next 20 years. As part of this process, the local government shall consider the effects of measures taken pursuant to paragraph (b) of this subsection. The amendment shall include sufficient land reasonably necessary to accommodate the siting of new public school facilities. The need and inclusion of lands for new public school facilities shall be a coordinated process between the affected public school districts and the local government that has the authority to approve the urban growth boundary[;].

(b) Amend its comprehensive plan, regional framework plan, functional plan or land use regulations to include new measures that demonstrably increase the likelihood that residential development will occur at densities sufficient to accommodate housing needs for the next 20 years without expansion of the urban growth boundary. A local government or metropolitan service district that takes this action shall *[monitor and record the level of development activity and development density by housing type following the date of the adoption of the new measures; or]* **adopt findings regarding the density expectations assumed to result from measures adopted under this paragraph based upon the factors listed in ORS 197.303 (2) and data in subsection (5)(a) of this section. The density expectations may not project an increase in residential capacity above achieved density by more than three percent without quantifiable validation of such departures. For a local government located outside of a metropolitan service district, a quantifiable vali-**

dition must demonstrate that the assumed housing capacity has been achieved in areas that are zoned to allow no greater than the same authorized density level within the local jurisdiction or a jurisdiction in the same region. For a metropolitan service district, a quantifiable validation must demonstrate that the assumed housing capacity has been achieved in areas that are zoned to allow no greater than the same authorized density level within the metropolitan service district.

[(c) Adopt a combination of the actions described in paragraphs (a) and (b) of this subsection.]

(c) As used in this subsection, “authorized density level” has the meaning given that term in ORS 227.175.

(7) Using the **housing need** analysis conducted under subsection (3)(b) of this section, the local government shall determine the overall average density and overall mix of housing types at which residential development of needed housing types must occur in order to meet housing needs over the next 20 years. If that density is greater than the actual density of development determined under subsection (5)(a)(A) of this section, or if that mix is different from the actual mix of housing types determined under subsection (5)(a)(A) of this section, the local government, as part of its periodic review, shall adopt measures that demonstrably increase the likelihood that residential development will occur at the housing types and density and at the mix of housing types required to meet housing needs over the next 20 years.

(8)(a) A local government outside a metropolitan service district that takes any actions under subsection (6) or (7) of this section shall demonstrate that the comprehensive plan and land use regulations comply with goals and rules adopted by the commission and implement ORS 197.295 to 197.314.

(b) *[The]* A local government shall determine the density and mix of housing types anticipated as a result of actions taken under subsections (6) and (7) of this section and monitor and record the actual density and mix of housing types achieved **following the adoption of these actions**. The local government shall compare actual and anticipated density and mix. The local government shall submit its comparison to the commission at the next periodic review or at the next legislative review of its urban growth boundary, whichever comes first.

(9) In establishing that actions and measures adopted under subsections (6) and (7) of this section demonstrably increase the likelihood of higher density residential development, the local government shall at a minimum ensure that land zoned for needed housing is in locations appropriate for the housing types identified under subsection (3) of this section, *[and]* is zoned at density ranges that are likely to be achieved by the housing market using the analysis in subsection (3) of this section **and is in areas where sufficient urban services are planned to enable the higher density development to occur over the 20-year period**. Actions or measures, or both, may include but are not limited to:

- (a) Increases in the permitted density on existing residential land;
- (b) Financial incentives for higher density housing;
- (c) Provisions permitting additional density beyond that generally allowed in the zoning district in exchange for amenities and features provided by the developer;
- (d) Removal or easing of approval standards or procedures;
- (e) Minimum density ranges;
- (f) Redevelopment and infill strategies;
- (g) Authorization of housing types not previously allowed by the plan or regulations;
- (h) Adoption of an average residential density standard; and
- (i) Rezoning or redesignation of nonresidential land.

(10)(a) The provisions of this subsection apply to local government comprehensive plans for lands within the urban growth boundary of a city that is located outside of a metropolitan service district and has a population of less than 25,000.

(b) At periodic review pursuant to ORS 197.628 to 197.651 or at any other legislative review of the comprehensive plan that requires the application of a statewide planning goal relating to buildable lands for residential use, a city shall, according to rules of the commission:

- (A) Determine the estimated housing needs within the jurisdiction for the next 20 years;
 - (B) Inventory the supply of buildable lands available within the urban growth boundary to accommodate the estimated housing needs determined under this subsection; and
 - (C) Adopt measures necessary to accommodate the estimated housing needs determined under this subsection.
- (c) For the purpose of the inventory described in this subsection, "buildable lands" includes those lands described in subsection (4)(a) of this section.

SECTION 6. ORS 197.303 is amended to read:

197.303. (1) As used in ORS [197.307] **197.295 to 197.314**, "needed housing" means all housing on land zoned for residential use or mixed residential and commercial use that is determined to meet the need shown for housing within an urban growth boundary at price ranges and rent levels that are affordable to households within the county with a variety of incomes, including but not limited to households with low incomes, very low incomes and extremely low incomes, as those terms are defined by the United States Department of Housing and Urban Development under 42 U.S.C. 1437a. "Needed housing" includes the following housing types:

- (a) Attached and detached single-family housing and multiple family housing for both owner and renter occupancy;
- (b) Government assisted housing;
- (c) Mobile home or manufactured dwelling parks as provided in ORS 197.475 to 197.490;
- (d) Manufactured homes on individual lots planned and zoned for single-family residential use that are in addition to lots within designated manufactured dwelling subdivisions; and
- (e) Housing for farmworkers.

(2) For the purpose of estimating housing needs, as described in ORS 197.296 (3)(b), a local government shall use the population projections prescribed by ORS 195.033 or 195.036 and shall consider and adopt findings related to changes in each of the following factors since the last periodic or legislative review or six years, whichever is greater, and the projected future changes in these factors over a 20-year planning period:

- (a) Household sizes;**
- (b) Household demographics in terms of age, gender, race or other established demographic category;**
- (c) Household incomes;**
- (d) Vacancy rates; and**
- (e) Housing costs.**

(3) A local government shall make the estimate described in subsection (2) of this section using a shorter time period than since the last periodic or legislative review or six years, whichever is greater, if the local government finds that the shorter time period will provide more accurate and reliable data related to housing need. The shorter time period may not be less than three years.

(4) A local government shall use data from a wider geographic area or use a time period longer than the time period described in subsection (2) of this section if the analysis of a wider geographic area or the use of a longer time period will provide more accurate, complete and reliable data relating to trends affecting housing need than an analysis performed pursuant to subsection (2) of this section. The local government must clearly describe the geographic area, time frame and source of data used in an estimate performed under this subsection.

[(2)] **(5)** Subsection (1)(a) and (d) of this section does not apply to:

- (a) A city with a population of less than 2,500.
- (b) A county with a population of less than 15,000.

[(3)] **(6)** A local government may take an exception under ORS 197.732 to the definition of "needed housing" in subsection (1) of this section in the same manner that an exception may be taken under the goals.

SECTION 7. ORS 197.312, as amended by section 7, chapter 15, Oregon Laws 2018, is amended to read:

197.312. (1) A city or county may not by charter prohibit from all residential zones attached or detached single-family housing, multifamily housing for both owner and renter occupancy or manufactured homes. A city or county may not by charter prohibit government assisted housing or impose additional approval standards on government assisted housing that are not applied to similar but unassisted housing.

(2)(a) A single-family dwelling for a farmworker and the farmworker's immediate family is a permitted use in any residential or commercial zone that allows single-family dwellings as a permitted use.

(b) A city or county may not impose a zoning requirement on the establishment and maintenance of a single-family dwelling for a farmworker and the farmworker's immediate family in a residential or commercial zone described in paragraph (a) of this subsection that is more restrictive than a zoning requirement imposed on other single-family dwellings in the same zone.

(3)(a) Multifamily housing for farmworkers and farmworkers' immediate families is a permitted use in any residential or commercial zone that allows multifamily housing generally as a permitted use.

(b) A city or county may not impose a zoning requirement on the establishment and maintenance of multifamily housing for farmworkers and farmworkers' immediate families in a residential or commercial zone described in paragraph (a) of this subsection that is more restrictive than a zoning requirement imposed on other multifamily housing in the same zone.

(4) A city or county may not prohibit a property owner or developer from maintaining a real estate sales office in a subdivision or planned community containing more than 50 lots or dwelling units for the sale of lots or dwelling units that remain available for sale to the public.

(5)(a) A city with a population greater than 2,500 or a county with a population greater than 15,000 shall allow in areas within the urban growth boundary that are zoned for detached single-family dwellings the development of at least one accessory dwelling unit for each detached single-family dwelling, subject to reasonable local regulations relating to siting and design.

(b) As used in this subsection[,]:

(A) "Accessory dwelling unit" means an interior, attached or detached residential structure that is used in connection with or that is accessory to a single-family dwelling.

(B) "**Reasonable local regulations relating to siting and design**" **does not include owner-occupancy requirements of either the primary or accessory structure or requirements to construct additional off-street parking.**

(6) **Subsection (5) of this section does not prohibit local governments from regulating vacation occupancies, as defined in ORS 90.100, to require owner-occupancy or off-street parking.**

SECTION 8. Section 1, chapter 47, Oregon Laws 2018, is amended to read:

Sec. 1. (1) For purposes of this section:

(a) A household is severely rent burdened if the household spends more than 50 percent of the income of the household on gross rent for housing.

(b) A regulated affordable unit is a residential unit subject to a regulatory agreement that runs with the land and that requires affordability for an established income level for a defined period of time.

[(c) A single-family unit may be rented or owned by a household and includes single-family homes, duplexes, townhomes, row homes and mobile homes.]

(2)(a) The Housing and Community Services Department shall annually provide to the governing body of each city in this state with a population greater than 10,000 the most current data available from the United States Census Bureau, or any other source the department considers at least as reliable, showing the percentage of renter households in the city that are severely rent burdened.

(b) The Housing and Community Services Department, in collaboration with the Department of Land Conservation and Development, shall develop a survey form on which the governing body of

a city may provide specific information related to the affordability of housing within the city, including, but not limited to:

(A) The actions relating to land use and other related matters that the governing body has taken to increase the affordability of housing and reduce rent burdens for severely rent burdened households; and

(B) The additional actions the governing body intends to take to reduce rent burdens for severely rent burdened households.

(c) If the Housing and Community Services Department determines that at least 25 percent of the renter households in a city are severely rent burdened, the department shall provide the governing body of the city with the survey form developed pursuant to paragraph (b) of this subsection.

(d) The governing body of the city shall return the completed survey form to the Housing and Community Services Department and the Department of Land Conservation and Development within 60 days of receipt.

(3)(a) In any year in which the governing body of a city is informed under this section that at least 25 percent of the renter households in the city are severely rent burdened, the governing body shall hold at least one public meeting to discuss the causes and consequences of severe rent burdens within the city, the barriers to reducing rent burdens and possible solutions.

(b) The Housing and Community Services Department may adopt rules governing the conduct of the public meeting required under this subsection.

(4) No later than February 1 of each year, the governing body of each city in this state with a population greater than 10,000 shall submit to the Department of Land Conservation and Development a report for the immediately preceding calendar year setting forth separately for each of the following categories the total number of units that were permitted and the total number that were produced:

- (a) Residential units.
- (b) Regulated affordable residential units.
- (c) Multifamily residential units.
- (d) Regulated affordable multifamily residential units.
- (e) Single-family [*units*] **homes**.
- (f) Regulated affordable single-family [*units*] **homes**.
- (g) **Accessory dwelling units.**
- (h) **Regulated affordable accessory dwelling units.**
- (i) **Units of middle housing, as defined in section 2 of this 2019 Act.**
- (j) **Regulated affordable units of middle housing.**

SECTION 9. ORS 455.610 is amended to read:

455.610. (1) The Director of the Department of Consumer and Business Services shall adopt, and amend as necessary, a Low-Rise Residential Dwelling Code that contains all requirements, including structural design provisions, related to the construction of residential dwellings three stories or less above grade. The code provisions for plumbing and electrical requirements must be compatible with other specialty codes adopted by the director. The Electrical and Elevator Board, the Mechanical Board and the State Plumbing Board shall review, respectively, amendments to the electrical, mechanical or plumbing provisions of the code.

(2) Changes or amendments to the code adopted under subsection (1) of this section may be made when:

- (a) Required by geographic or climatic conditions unique to Oregon;
- (b) Necessary to be compatible with other statutory provisions;
- (c) Changes to the national codes are adopted in Oregon; or
- (d) Necessary to authorize the use of building materials and techniques that are consistent with nationally recognized standards and building practices.

(3) Notwithstanding ORS 455.030, 455.035, 455.110 and 455.112, the director may, at any time following appropriate consultation with the Mechanical Board or Building Codes Structures Board,

amend the mechanical specialty code or structural specialty code to ensure compatibility with the Low-Rise Residential Dwelling Code.

(4) The water conservation provisions for toilets, urinals, shower heads and interior faucets adopted in the Low-Rise Residential Dwelling Code shall be the same as those adopted under ORS 447.020 to meet the requirements of ORS 447.145.

(5) The Low-Rise Residential Dwelling Code shall be adopted and amended as provided by ORS 455.030 and 455.110.

(6) The director, by rule, shall establish uniform standards for a municipality to allow an alternate method of construction to the requirements for one and two family dwellings built to the Low-Rise Residential Dwelling Code in areas where the local jurisdiction determines that the fire apparatus means of approach to a property or water supply serving a property does not meet applicable fire code or state building code requirements. The alternate method of construction, which may include but is not limited to the installation of automatic fire sprinkler systems, must be approved in conjunction with the approval of an application under ORS 197.522.

(7) For lots of record existing before July 2, 2001, or property that receives any approval for partition, subdivision or construction under ORS 197.522 before July 2, 2001, a municipality allowing an alternate method of construction to the requirements for one and two family dwellings built to the Low-Rise Residential Dwelling Code may apply the uniform standards established by the director pursuant to subsection (6) of this section. For property that receives all approvals for partition, subdivision or construction under ORS 197.522 on or after July 2, 2001, a municipality allowing an alternate method of construction to the requirements for one and two family dwellings built to the Low-Rise Residential Dwelling Code must apply the uniform standards established by the director pursuant to subsection (6) of this section.

(8) The director, by rule, shall establish uniform standards for a municipality to allow alternate approval of construction related to conversions of single-family dwellings into no more than four residential dwelling units built to the Low-Rise Residential Dwelling Code that received occupancy approval prior to January 1, 2020. The standards established under this subsection must include standards describing the information that must be submitted before an application for alternate approval will be deemed complete.

(9)(a) A building official described in ORS 455.148 or 455.150 must approve or deny an application for alternate approval under subsection (8) of this section no later than 15 business days after receiving a complete application.

(b) A building official who denies an application for alternate approval under this subsection shall provide to the applicant:

(A) A written explanation of the basis for the denial; and

(B) A statement that describes the applicant's appeal rights under subsection (10) of this section.

(10)(a) An appeal from a denial under subsection (9) of this section must be made through a municipal administrative process. A municipality shall provide an administrative process that:

(A) Is other than a judicial proceeding in a court of law; and

(B) Affords the party an opportunity to appeal the denial before an individual, department or body that is other than a plan reviewer, inspector or building official for the municipality.

(b) A decision in an administrative process under this subsection must be completed no later than 30 business days after the building official receives notice of the appeal.

(c) Notwithstanding ORS 455.690, a municipal administrative process required under this subsection is the exclusive means for appealing a denial under subsection (9) of this section.

(11) The costs incurred by a municipality under subsections (9) and (10) of this section are building inspection program administration and enforcement costs for the purpose of fee adoption under ORS 455.210.

SECTION 10. (1) It is the policy of the State of Oregon to reduce to the extent practicable administrative and permitting costs and barriers to the construction of middle housing, as defined in section 2 of this 2019 Act, while maintaining safety, public health and the general welfare with respect to construction and occupancy.

(2) The Department of Consumer and Business Services shall submit a report describing rules and standards relating to low-rise residential dwellings proposed under ORS 455.610, as amended by section 9 of this 2019 Act, in the manner provided in ORS 192.245, to an interim committee of the Legislative Assembly related to housing no later than January 1, 2020.

SECTION 11. Section 12 of this 2019 Act is added to and made a part of ORS 94.550 to 94.783.

SECTION 12. A provision in a governing document that is adopted or amended on or after the effective date of this 2019 Act, is void and unenforceable to the extent that the provision would prohibit or have the effect of unreasonably restricting the development of housing that is otherwise allowable under the maximum density of the zoning for the land.

SECTION 13. A provision in a recorded instrument affecting real property is not enforceable if:

(1) The provision would allow the development of a single-family dwelling on the real property but would prohibit the development of:

- (a) Middle housing, as defined in section 2 of this 2019 Act; or
- (b) An accessory dwelling unit allowed under ORS 197.312 (5); and

(2) The instrument was executed on or after the effective date of this 2019 Act.

SECTION 14. (1) Sections 2, 12 and 13 of this 2019 Act and the amendments to ORS 197.296, 197.303, 197.312 and 455.610 and section 1, chapter 47, Oregon Laws 2018, by sections 5 to 9 of this 2019 Act become operative on January 1, 2020.

(2) The Land Conservation and Development Commission, the Department of Consumer and Business Services and the Residential and Manufactured Structures Board may take any actions before the operative date specified in subsection (1) of this section necessary to enable the commission, department or board to exercise, on or after the operative date specified in subsection (1) of this section, the duties required under sections 2, 3 and 10 of this 2019 Act and the amendments to ORS 455.610 by section 9 of this 2019 Act.

SECTION 15. In addition to and not in lieu of any other appropriation, there is appropriated to the Department of Land Conservation and Development, for the biennium beginning July 1, 2019, out of the General Fund, the amount of \$3,500,000 for the purpose of providing technical assistance to local governments in implementing section 3 (1) of this 2019 Act and to develop plans to improve water, sewer, storm drainage and transportation services as described in section 4 (2) of this 2019 Act. The department shall prioritize technical assistance to cities or counties with limited planning staff or that commit to implementation earlier than the date required under section 3 (1) of this 2019 Act.

SECTION 16. This 2019 Act being necessary for the immediate preservation of the public peace, health and safety, an emergency is declared to exist, and this 2019 Act takes effect on its passage.

Passed by House June 20, 2019

.....
Timothy G. Sekerak, Chief Clerk of House

.....
Tina Kotek, Speaker of House

Passed by Senate June 30, 2019

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Peter Courtney, President of Senate

Received by Governor:

.....M,....., 2019

Approved:

.....M,....., 2019

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Kate Brown, Governor

Filed in Office of Secretary of State:

.....M,....., 2019

.....
Bev Clarno, Secretary of State