



# ALBANY CITY COUNCIL AGENDA

**Wednesday, February 12, 2025**  
**6:00 p.m.**

Council Chambers, City Hall  
333 Broadalbin Street SW

Watch on YouTube: <https://www.youtube.com/user/cityofalbany>

Please help us get Albany's work done.

Be respectful and refer to the rules of conduct posted by the main door to the Chambers and on the website.

1. Call to order and pledge of allegiance
2. Roll call
3. Public hearing

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

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

- a. SETTING FEES FOR ADJUSTMENTS TO LAND USE STANDARDS AUTHORIZED IN THE GOVERNOR'S HOUSING BILL SENATE BILL (SB) 1537 – David Martineau [Pages 3-5]

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

RES NO. \_\_\_\_\_

4. Business from the public

5. Adoption of consent agenda

- a. Appointments/resignations [Pages 6-12]

- 1) Accepting Lacy Ramirez's resignation from the Transportation Commission
- 2) Appointing Erin Miller to the Arts Commission
- 3) Appointing Mason Cox to the Landmarks Commission

- b. Approval of minutes [Pages 13-17]

- 1) January 22, 2025 City Council meeting minutes

- c. Adoption of resolution(s)

- 1) Accept right of way dedication ST-22-06 Geary Street Sidewalk-Johnson – Carl Berg [Pages 18-23]

RES NO. \_\_\_\_\_

- 2) Accept right of way dedication ST-22-06 Geary Street Sidewalk- Bustamante – Carl Berg

[albanyoregon.gov](http://albanyoregon.gov)



[Pages 24-30]

RES NO. \_\_\_\_\_

MOTION: \_\_\_\_\_


6. Second reading of ordinance(s)
  - a. Albany Development Code (ADC) and Comprehensive Plan (CP) amendments to implement strategies in the Housing Implementation Plan – Anne Catlin [Pages 31-163] ORD NO. \_\_\_\_\_
7. Adoption of resolution(s)
  - a. Calling for an election ballot title for public safety operating levy – Jeanna Yeager [Pages 164-166] RES NO. \_\_\_\_\_
  - b. Accept and appropriate FY 24-25 State Hazardous Materials Emergency Preparedness (HMEP) Grant – Chris LaBelle, Chuck Perino [Pages 167-213] RES NO. \_\_\_\_\_
  - c. Accept and appropriate Oregon Department of Human Services Grant for satellite communications equipment and service– Chris LaBelle, Chuck Perino [Pages 214-233] RES NO. \_\_\_\_\_
8. Award of contract(s) / bid(s)
  - a. Exemption from competitive bidding to purchase playground equipment and turf Deerfield Park – Kim Lyddane [Pages 234-257] RES NO. \_\_\_\_\_
  - b. Exemption from competitive bidding Purchase Online Marketplace Products and Services with Amazon Business – Jeanna Yeager/Diane Murzynski [Pages 258-261] RES NO. \_\_\_\_\_
9. Approval of agreement(s)
  - a. Intergovernmental Agreement with DCBS Building Codes Division – Johnathan Balkema [Pages 262-273] RES NO. \_\_\_\_\_
10. Staff report(s)
  - a. Personnel changes for the Information Technology Department – Sean Park [Pages 274] MOTION \_\_\_\_\_
  - b. Summer and Winter 2025 City Council Meeting Schedule- Erik Glover [Pages 275-276] MOTION \_\_\_\_\_
11. Business from the council
12. City manager report
13. Recess to executive session to discuss current litigation or litigation likely to be filed in accordance with ORS 192.660 (2)(h).
14. Reconvene
15. Next meeting dates  
Monday, February 24, 2025; 4:00 p.m. work session  
Wednesday, February 26, 2025; 6:00 p.m. meeting
16. Adjournment


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


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



# MEMO

TO: Albany City Council 

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

FROM: David Martineau, Current Planning Manager 

DATE: January 31, for the February 12, 2025, City Council Meeting

**SUBJECT:** Senate Bill 1537 Background and Resolution

## Action Requested:

Staff recommends the city council deliberate and take action on the attached resolution.

## Discussion:

Senate Bill 1537 (SB 1537) was adopted by the Oregon state Legislature in 2024 and signed into law on May 6, 2024. SB 1537 requires local governments to grant adjustments for specific development and design standards on applications to develop housing that meets the eligibility criteria. The purpose of these standards is to allow “adjustments” consistent with the requirements of SB 1537. The granting of adjustments required by SB 1537 shall sunset on January 2, 2032.

As per SB 1537 the adjustments to specific development and design standards are required to be approved by the local government if the application meets all the criteria as outlined below:

1. The application is for the development of net new housing units in new construction projects, including:
  - a. Single dwelling units or multi-dwelling units;
  - b. Mixed-use developments when at least 75 percent of the developed floor area will be used for residential uses;
  - c. Manufactured dwelling parks;
  - d. Accessory dwelling units;
  - e. Or middle housing as defined in ORS 197A.420 and in the Albany Development Code.
2. The application is associated with a building permit or the following types of land use applications: administrative (Type I), limited (Type I-L), or quasi-judicial (Type III).
3. The development is proposed on land in the Albany city limits.
4. The property is zoned to allow residential or mixed-use residential uses.
5. The application requests not more than 10 distinct adjustments to development standards.

To be eligible, the residential development has a minimum net residential density of 10 units/acre. For the purposes of these standards, the minimum residential density calculation will count each new unit as one dwelling unit, except that in single-room occupancy (SRO) developments each lockable SRO unit will be

considered 0.25 units. The applicant then must demonstrate that at least one of the following eligibility criteria is met:

- a. The adjustment makes housing development feasible when it otherwise would not be
- b. The adjustment reduces the sale/rental price per unit
- c. The adjustment will increase the number of units in the application
- d. All units are subject to an affordable housing covenant to be affordable to moderate income (80 to 120 percent of the Median Family Income) households for at least 30 years
- e. Twenty percent of units are subject to an affordable housing covenant to be affordable to low-income households (less than or equal to 80 percent of the Median Family Income) for at least 60 years
- f. The adjustment enables the provision of accessibility or visibility features that would not otherwise be feasible
- g. The units are subject to a zero equity, limited equity, or shared equity ownership model making them affordable to moderate income households for 90 years.

A decision on an application for an adjustment(s) as permitted by SB 1537 is a limited land use decision and will be processed as a Type I-L Application. The adjustment application must be reviewed concurrently with the associated development application.

**Budget Impact:**

None at this time. The application fee proposed as noted in the associated resolution has been set to achieve cost recovery for staff time spent in the review of the application.

DM:km  
Attachment (1): Resolution



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

A RESOLUTION SETTING FEES FOR ADJUSTMENTS TO LAND USE STANDARDS AUTHORIZED IN THE GOVERNOR'S HOUSING BILL SENATE BILL (SB) 1537

WHEREAS, on March 4, 2024, the Oregon Legislature approved SB 1537, known as the Governor's Housing Bill, and the legislation was signed into law on May 6, 2024; and

WHEREAS, SB 1537 requires local governments to grant adjustments for specific development and design standards if the request for an adjustment in an application to develop housing meets certain conditions; and

WHEREAS, Sections 38 to 41 of SB 1537 authorize adjustments to local land use standards, through a limited land use decision-making process, if a developer states how granting the adjustment(s) will result in additional housing units, improved accessibility, or more affordable housing; and

WHEREAS, the City will incur costs to process the adjustment applications, and ORS 227.175(1) allows municipalities to charge application filing fees to recover all or a portion of those costs; and

WHEREAS, while the adjustment options established by this legislation are new, the limited land use decision making process the City must follow is not, and it is reasonable to set the application filing fee for this new type of adjustment at a rate equivalent to what the City charges for other staff level permits that require public notice; and

WHEREAS, the adjustment provisions in SB 1537 are in effect as of January 1, 2025; therefore, it is appropriate that this resolution establishing a filing fee to review such applications also be January 1, 2025; and

WHEREAS, the Albany City Council held a public hearing on February 12, 2025, on the Adjustment process and public comments were considered; and

WHEREAS, the granting of adjustments in SB 1537 and this Resolution sunsets on January 2, 2032.

NOW, THEREFORE, BE IT RESOLVED by the Albany City Council as follows:

Section 1 Application Fee. The application filing fee for an adjustment authorized by SB 1537 is \$374, plus \$93 for each additional adjustment. Such fees shall be assessed for each adjustment being sought, up to the maximum of 10 authorized by the law.

Section 2 Periodic Fee Adjustments. The fees set forth herein are to be evaluated and may be adjusted on an annual basis using the Bureau of Labor Statistics Consumer Price Index for Wage Earners (CPI-W).

DATED AND EFFECTIVE THIS 12TH DAY OF FEBRUARY 2025.

\_\_\_\_\_  
Mayor


ATTEST:

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



# MEMO

TO: Albany City Council

VIA: Peter Troedsson, City Manager 

FROM: Kinzi McIntosh, Central Services Support Specialist *KM*

DATE: January 31, 2025, for the February 12, 2025, City Council Meeting

**SUBJECT:** Resignation from Citizen Advisory Group  
Relates to Strategic Plan theme: An Effective Government

## Action Requested:

Council acceptance of the following resignation from the Citizen Advisory Groups:

### Transportation Commission

- Lacy Ramirez (position appointed by Councilor McGhee; current term ends 12/31/2026)

## Discussion:

Lacy Ramirez has notified the City of her resignation from the Transportation Commission. Councilor McGhee's appointment to fill this vacancy will be submitted at a subsequent meeting.

## Budget Impact:

None.

KM

Attachment 1

January 27, 2025

Dear Chair Streitberger and Vice-Chair McCullough,

I am writing to formally resign from my position on the Transportation Advisory Commission. This decision comes after a recent move to Salem, which now disqualifies me from continuing to serve on the commission.

I want to express my profound gratitude for the opportunity to serve alongside such dedicated members of the Albany community. Throughout my time here, I have gained invaluable insights into city and transportation policy and the critical importance of the Commission's work. It has been enlightening to see firsthand how essential the efforts of the Commission are, though often undervalued by others, in shaping the transportation landscape to better serve the city of Albany.

Please accept my sincere thanks for the support and guidance I have received, which has greatly enriched my understanding and appreciation of public service. While I regret that I cannot continue my duties, I am confident that the Commission will remain a strong advocate for progressive and effective transportation solutions. Do not be discouraged by those who undermine your efforts.

I wish you, and all on the Commission continued success in all your future endeavors. Thank you once again for the opportunity and the knowledge I have acquired, which I will undoubtedly carry forward in my future pursuits.


Warmest regards,

Lacy Ramirez  
Ward 3-a



# MEMO

TO: Albany City Council

VIA: Peter Troedsson, City Manager 

FROM: Kinzi McIntosh, Central Services Support Specialist *KM*

DATE: January 21, 2025, for the February 12, 2025, City Council Meeting

**SUBJECT:** Appointment to Citizen Advisory Groups  
Relates to Strategic Plan theme: An Effective Government

## Action Requested:

Council ratification of the following appointment to the Citizen Advisory Groups:

### Arts Commission:

- Erin Miller, Ward 1 (Councilor McLeod's appointment to fill a vacancy; term expires 12/31/26)

### Landmarks Commission

- Mason Cox, Ward 3 (Councilor McGhee's reappointment to a new three-year term)

## Discussion:

Mayor and councilor appointments for any remaining vacancies on the City's citizen advisory groups will be submitted for approval at subsequent city council meetings.

## Budget Impact:

None.

KM

Attachments 2





# Citizen Advisory Group Application

---

Applying To Arts Commission

Received January 15, 2025

Name Erin Miller

In City Limits? Yes (Ward 1)

---

Are you currently employed? No

---

List current or most recent occupation, business, trade, profession, or area of study:

Academic Executive Assistant, Chartwell School

Please summarize what qualifications and experience you have that would apply to this position:

I have worked within a Women's Programs Department at a community college which housed the Women's Studies Department. The Programs operated with an understanding of the need and importance of diverse representation which extends to the arts. The department would plan and host educational events for the local campus and community populations. I also served as the advisor to a student club and oversaw the conceptualization and creation of a campus mural. In addition, we secured funding to enable a student trip to participate in the San Francisco mural walk. I later worked at a nonprofit community theatre for youth which relied on fundraising to administer its programs.

Please list any art organizations to which you belong or community art activities in which you have participated. If you do not have an arts background, list community/civic activities in which you are or have been active:

I have volunteer experience at organizations aimed at supporting the arts within my previous community. I have volunteered with both the Arts Council of Monterey County and the Pacific Grove Art Center.

How many Arts Commission meetings have you attended/viewed?

None

Why do you feel that local art is important?

Local art can build a sense of understanding, connection, and belonging within a community. Access and exposure to art are highly beneficial. Observing artwork begets creativity and inspiration. Public art provides a host of advantages ranging from aesthetic value and community enhancement to mood elevation and improved quality of life.

What is your understanding of the role of an Arts Commission member and how do you hope to impact the local arts community through being on commission?

My understanding of the Arts Commission is that it supports local and public art and accessibility to art for the City of Albany. The commission members work to facilitate that goal with an understanding of the significance and advantages associated with art and accessibility to it.

I have appreciation and regard for our city and am familiar with the transformative power that art has, the meaningful impact that it can make, and the value that it provides to both individuals and communities. I would be eager to participate in promoting the arts and working to ensure that our community continues to experience the value and benefits that art provides.

Have you reviewed the meeting schedule for the commission and can you commit to regular meeting attendance?

Yes

I have read and understand the following: Members receive notice of meetings via email. Agendas and communications regarding the group are sent out via email. When unable to attend in person, meetings may be attended virtually via Zoom Videoconferencing. Absenteeism (excused or unexcused) or non-preparation for meetings could result in removal.

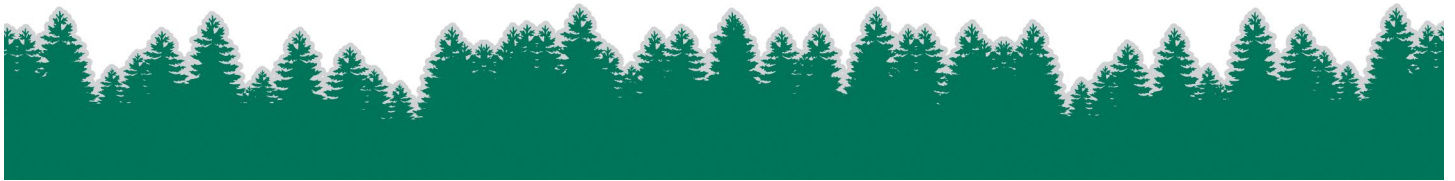
Yes

If there are currently no vacancies for this commission, would you like your application kept on file for the remainder of this recruitment period?

Yes

How did you hear about this opportunity? If social media, please specify:

City of Albany website





# Citizen Advisory Group Application

---

Applying To Landmarks Commission

Received December 13, 2024

Name Mason Cox

In City Limits? Yes (Ward 3)

---

Are you currently employed? Yes (Greater Albany Public Schools)

---

List current or most recent occupation, business, trade, profession, or area of study:

Teacher: Social Studies & English Language Development

Please summarize what qualifications and experience you have that would apply to this position including education, professional experience, and any relevant licenses or certificates:

My most immediate experience is my current position on the Albany Landmarks Commission, to which I was appointed on May 11, 2023. I am already familiar with the relevant Albany Development Codes as well as the Commission's parliamentary procedures like historic review, quasi-judicial decisions, State Historic Preservation Office standards, and more. Additionally, I work well with my colleagues on the Commission and I value our time together in deliberation.

I am the social studies, leadership, and English language development teacher at Albany Options School, which is an alternative high school for students. While there, I have learned strategies for communication and collaboration with challenging youth. Those strategies are also extremely useful for working with members of the Commission and the public because they ensure that everybody is being heard and equity is maintained. I enjoy working with others and considering viewpoints that challenge my own.

My experience also includes my university education and research. I worked with historic architecture during my bachelors at Princeton University; specifically, my thesis project looked into the ways that very old buildings and other built forms exist and are used in the modern world. During these studies, I learned and developed skills relating specifically to the understanding, preservation, and use of historic architecture and architectural heritage.

I firmly believe there is no better place than Albany. The town is unique, hip, and brimming with unlocked possibilities. Albany has buildings and locations stretching back to its founding, even further to when the Kalapuya Indigenous Peoples inhabited the land, and up to today. Not many places are as historic or well-preserved as Albany. For these reasons, it is my hope that I will continue to serve on the Albany Landmarks Commission. The position is an extremely exciting opportunity to combine my passion with the unique skill set that I have developed over my years of education, research, and professional experience.

Thank you for considering my application for the position on the Landmarks Commission.

List community/civic activities in which you are or have been active:

As the leadership teacher at Albany Options, I organize school-wide fundraising events for the community, which include Thanksgiving boxes, Christmas gift boxes, and coin drives. It is my hope that my leadership class might work with the Landmarks Commission and City of Albany at some point.

I also give monthly lectures to various Albany service groups like the Kiwanis and E Lions Club. These lectures are components of my research project, "Who's Who and What's What in Albany from 1847 to the Present."

Do you have any work or volunteer experience specific to local history and/or historic preservation activities such as publications, committee work, etc.? Please describe:

I volunteered at the Cumberland Community Event Center. I removed lead-based paint from the steeple, which entailed special training. I have also helped them with demolition and historical research.

Additionally, I was part of a renovation of a historic home in the Hackleman historic district overlay. There, I became familiar with the uniqueness of working with historic architecture.

Lastly, I serve on the Albany Landmarks Commission.

(optional) If you would like to provide more information related to your qualifications and experience, please attach a file:

[cox\\_resume2024.pdf \(https://cityofalbany.wufoo.com/cabinet/ab0b79d0-989b-421d-9311-5688d791346e\)](https://cityofalbany.wufoo.com/cabinet/ab0b79d0-989b-421d-9311-5688d791346e)

How many Landmarks Commission meetings have you attended/viewed?

7 or more

Are you a professional in one of the disciplines associated with historic preservation?

Yes

What is your understanding of the role of a Landmarks Commission member and what contributions do you hope to make to the commission?

I understand I am to defend the city's history and heritage, to promote and develop Albany pride for (and through) historic accomplishments, to enhance the city's beauty and heritage, to strengthen the economy and property values of the city through preservation and use of Albany historic architecture and heritage, and to advance the use of historic districts and heritage for all peoples of the city. I am especially looking forward to contributing perspectives on accessibility and equity of Albany historic districts, historic architecture, and heritage.

Have you reviewed the meeting schedule for this commission and can you commit to regular meeting attendance?

Yes

I have read and understand the following: Members receive notice of meetings via email. Agendas and communications regarding the group are sent out via email. When unable to attend in person, meetings may be attended virtually via Zoom Videoconferencing. Absenteeism (excused or unexcused) or non-preparation for meetings could result in removal.

Yes

If there are currently no vacancies for this commission, would you like your application kept on file for the remainder of this recruitment period?

Yes

How did you hear about this opportunity? If social media, please specify:

Sits on Commission



**MINUTES**

Wednesday, January 22, 2025

Meeting

Council Chambers, City Hall

Approved: DRAFT

Call to Order and Pledge of Allegiance

Mayor Alex Johnson II called the meeting to order at 6:00 p.m. The mayor led the pledge of allegiance.

Roll Call

Councilors present: Mayor Alex Johnson II and Councilors Michael Thomson, Steph Newton-Azorr, Carolyn McLeod, Jackie Montague, Marilyn Smith, and Ramycia McGhee

Councilors absent: None

Public hearing

- a. Albany Development Code (ADC) and Comprehensive Plan (CP) Amendments to implement strategies in the Housing Implementation Plan.

**OPEN:** Johnson II opened the public hearing at 6:01 p.m.

Planner II Liz Olmstead and Comprehensive Planning Manager Anne Catlin presented.

Catlin said that the items are a package of amendments designed to encourage home types, that are not being built, specifically affordable, accessible and small housing. She provided a summary of the proposed changes. Catlin said that a typo, a bold and strike error was found in the ordinance exhibit in the packet, so a revised exhibit has been placed on the dias and the suggested motions revised to incorporate that change.

**Public Testimony:**

Robert Honneffer said that he understood the city is considering tax changes to incentivize housing development, and surplusing land to support housing. He said any place where the city directly or indirectly invests in a development, there should be a condition that if the property is sold, its sale is restricted to current residents of Albany.

Audrey Eldridge said that she was representing the North Albany Neighborhood Association and had concerns about modifications to R10 lot size to allow smaller homes, and zoning. \*Submitted written comment.

Natalie Janney said that she is a civil engineer, and has done a number of development projects in Albany. Albany is a great example of removing barriers to housing. She said the open space for land divisions requirement would have developers creating pocket parks. The ownership and maintenance of the parks would likely be private, which would require an HOA be formed and the estimated cost of pocket parks is \$2,000 per lot. She said one concern with this change is it may force developers to create high end home developments.

Camron Settlemier said that he had concerns with some sections of the code, specifically 3.20 section 8. Garage size should be included in overall square footage and is concerned about setbacks. Building additional structures in an existing developed neighborhood with side windows causes a privacy concern.

John Robinson said that housing creation can be broken in five l's. Land, Labor, Lumber, Lending and Laws. The city has the most control over the laws. Housing decisions should pass one test, if it reduces cost or regulation it should probably be done, if it increases taxes, fees, or regulations the answer should be no.

Council discussed some of the proposed changes, and asked staff questions.

Catlin shared that she understood that HOA's are often being created for the purposes of supporting stormwater facilities for large developments. Director of Public Works Chris Bailey said that stormwater quality facilities are not always required; there are agreements where a stormwater lot is transferred to the city. In addition, stormwater quality requirements are often met with roadside planters or swales, but as a neighborhood gets larger the stormwater impact increases.



Community Development Director Matthew Ruetters said for stormwater facilities on residential property, if stormwater quality is provided in a detention pond and not in the public right of way, then those facilities are required to be dedicated to the city. For stormwater quality on commercial properties, a maintenance agreement where the property owner is required to maintain is often utilized.

**CLOSE:** Johnson II closed the public hearing at 7:01 p.m.

Thomson said that the amendments are a significant regulatory change to neighborhoods.

Montague said that there are a lot of things the City does not control, but this is something within city control and options for builders in Albany is good.

Johnson said that having multiple types of housing in Albany is good.

**MOTION:** Smith moved to adopt the ordinance with the correction to Exhibit A page 3-24 to amend the Albany Development Code as detailed in ordinance Exhibit A and amend the Albany Comprehensive Plan as described in Exhibit B, and further described in the staff report findings and conclusions included as ordinance Exhibit C for planning files DC-04-24 and CP-02-24. This motion is based on the findings and conclusions in ordinance Exhibit C, and findings in support of the decision made by the city council during deliberations on this matter. Montague seconded the motion.

Assistant City Attorney Aidan Harris conducted the first reading of the ordinance in title only.

**MOTION:** Montague moved to read the ordinance a second time in title only. McLeod seconded the motion. The motion failed 5-1, with Thomson voting no. A second reading in title only in the same meeting requires unanimous approval.

**RECESS** at 7:10 p.m.

**RECONVENE** at 7:18 p.m.

Business from the Public

**7:18 p.m.**

Drew Charley said that he spoke at a work session previously on an easement for 2451 Violet Avenue on behalf of Russ and Tiesha Williams. He shared comments regarding the easement, and property rights. Charley said that he had written information and a presentation to provide the City Council, he was requested to provide it to the City Recorder.

Audrey Eldridge thanked the staff for their meeting with North Albany residents to provide information on housing development.

Brad Dennis shared thoughts on a variety of Oregon legislative bills, primarily related to state control of zoning and housing. He shared that he heard of SB 564 to direct ODOT to widen a portion of HWY 20 between Hwy 99 and the City of Philomath. Dennis wondered why there was not an equivalent bill for Hwy 20 from the Willamette River to Scenic Drive. Smith delivered a handout\* to the City Recorder for distribution to the council.

Jamie Smith said that he was in favor of managed population growth. He said he had concerns about the impact of street size on traffic congestion and said City departments need to grow to match resident population growth.

Adoption of Consent Agenda

**7:31 p.m.**

- a. Appointments/removals/resignations
  - 1) Accepting resignation from the Landmarks Commission
  - 2) Accepting appointments to outside agencies
  - 3) Accepting reappointments of members to the Economic Development Advisory Commission
  - 4) Accepting appointment to the Planning Commission
  - 5) Accepting appointments to citizen advisory groups
- b. Approval of minutes
  - 1) January 06, 2025, city council work session
  - 2) January 08, 2025, city council meeting
- c. Approval of agreement
  - 1) Approve request to extend the audit contract term with SingerLewak Accountants and Consultants

**MOTION:** Smith moved to approve the consent agenda as presented. McGhee seconded the motion, which passed 6-0.

Staff presentation

7:32 p.m.

Public Safety Levy Overview

Finance Director Jeanna Yeager, Fire Chief Chris Labelle and Police Chief Marcia Harnden presented a Powerpoint slideshow\*.

Yeager provided a summary of the levy and the estimated cost to property owners based upon various taxable property values. She said that the levy was last approved by voters in 2020, and the City generally refers the levy to the voters one year ahead of its expiration. She explained Measure 5 and Measure 50. Measure 5 caps property taxes at \$10 per \$1,000 of real market value. Measure 50 limits assessed/property tax increases to 3% per year.

Fire Chief Chris Labelle detailed the impact of the levy on the fire department budget, and staffing levels. He said 85% of the organization FTE's are emergency response, and the management team is the same size as 1999. Labelle said that the department had 16 firefighters on duty at one time in the early 2000's, with a call volume around 4,000. With 21 current firefighters on duty, the call volume is around 12,000 per year.

Police Chief Marcia Harnden detailed the impact of the levy on the police department budget and staffing levels. Montague asked what amount of police staffing the levy funds. Harnden said approximately 15 police department employees are covered by the levy. This included police officers, community service officers and others.

Yeager spoke to Measure 5 limitation of a maximum of \$10 per \$1,000 of property real market value. It was noted that local option levies are the first tax item subject to compression, then permanent tax rates are compressed. McGhee asked why local option taxes are limited first? Yeager said she would have to research that and provide a response to council.

Smith asked when the council would be making a decision on the levy. Yeager said that a discussion of the ballot title would be presented to the council on February 12 to renew/continue the existing levy rate, unless the council directed staff otherwise.

It was the general council consensus to direct staff to bring the ballot title/levy renewal to the February 12 meeting for consideration.

Adoption of resolutions

7:50 p.m.

Intergovernmental Agreement with Salem Keizer Public Schools 24J

Labelle said that West Salem High School has an emergency services program, they have a fire engine and do training for future fire service careers. The school needed local fire departments for observation only participation for their students, more or less a ride along program.

**MOTION:** Montague moved to accept/approve the IGA with Salem Keizer Public Schools 24J. McGhee seconded the motion, which passed 6-0, and was designated as Res. No. 7382.

Grant Application – TGM Quick Response Program Assistance Grant

Community Development Director Matthew Ruetters spoke. He said the quick response program grant (QRP) is a partnership grant, between city, ODOT, and DLCD. The program provides funding for technical assistance. The project would be the East Albany Town Center, or the general area east of Walmart. Under the program a consultant team would develop concepts of what the area could look like and perform public engagement. He said that the work would be in support of the East Albany plan developed in 2023. He noted there was no city funds match except staff time.

Councilor Smith said that she was contacted by Liz Irish, wanting to talk about the East Albany project, but she did not respond to those inquires due to concern about possible ex-parte contact for future land use decisions. McGhee, McLeod and Newton-Azorr also noted they were contacted.

**MOTION:** Montague moved to approve the resolution in support of the grant application to the QRP program. Smith seconded the motion, which passed 6-0, and was designated as Res. No. 7383.

### Water Rate Resolution Correction

Engineering Manager Robert Emmons said that the City Council approved Resolution 7323 in the spring of 2024, which approved a four percent increase in water rates effective January 1, 2025. At the time of implementation, staff determined that the listed consumption rate for residential and multifamily was incorrect and this item was a minor correction.

Smith asked if the four percent increase was still correct. Emmons said that it was; only an adjustment to correct the error.

**MOTION:** Montague moved to approve the resolution, and Smith seconded the motion which passed 6-0 and was designated as Res. No. 7384.

### Staff report

8:02 p.m.

#### Septic Repair - 2705 Park Terrace SW – Aaron Hiemstra

Engineering Manager Aaron Hiemstra said that the city was contacted about a failing septic system at 2705 Park Terrace SW. The Albany Municipal Code mandates connection if a property is within 300 feet of the Albany wastewater system, and the property was determined to be 280 feet away. Hiemstra explained that master plan update was being considered, which would include a basin study which evaluates proper wastewater service in an area. He said that there is a reasonably high likelihood that when the basin study is conducted, that the extension to connect 2705 Park Terrace SW may be unusable and require abandonment. Staff recommendation was to grant a one-time exemption from the Albany Municipal Code connection requirement. He noted that generally a waiver of remonstrance is required, which means that when the city desires to form a local improvement district to install utilities in an area, a property owner will not contest it.

**MOTION:** Smith moved to authorize the septic repair as requested for 2705 Park Terrace SW as a one time exception from Public Sewers Required AMC 10.01.100. McGhee seconded the motion, which passed 6-0.

### Business from the council

8:10 p.m.

McGhee said that she heard concerns from a Human Relations Commission member about what the role or function of the group is, and the HRC would like to do a joint meeting. McGhee said that she would like to see all commissions/committees do a yearly presentation to council.

Newton-Azorr said that she has received a communication from a constituent about fire safety, specifically what mitigations efforts the city was doing. Troedsson said that the city utilized a grant funded program in the past, to utilize goats to eat vegetation as one example. Labelle said that the city recently received a grant from the state for fuels reduction efforts, and those funds were going to target work at SW 53<sup>rd</sup> street west to the Calapooia River.

Smith said that she received a communication about business licenses for shelter facilities. She would like to discuss business licenses in the future.

McLeod said that she received communications regarding Periwinkle Creek. She added that she was looking through the budget, and understood the City budget is currently being developed and had some suggestions to make before the budget was presented.

**MOTION:** McLeod moved to transfer in the 2025-2027 draft budget from Economic Development fund 21-115060, to CARA fund 29-015065, one time only, for the purpose of creating grants, in the amount of \$750,000. Thomson seconded the motion.

Troedsson said that he did not believe transfers from city to CARA was an allowed action, but would research and advise the Council.

Deputy City Manager Kayla Barber-Perrotta and Finance Director Jeanna Yeager were available to speak. Barber-Perrotta said that the budget process has just commenced, a grants program could be a great addition but would not recommend something as specific as an account level funds transfer. The budget is complicated, and funding mechanisms vary. Yeager noted that the Central Albany Revitalization Area is a separate legal entity.

Brief discussion on the matter took place. Troedsson said that he would recommend to table the item, until the City Attorney can address the legal aspects. Thomson withdrew the second on the motion.



It was the general council consensus to direct staff to provide a report about the feasibility of a grants program for businesses, and what other City priorities would have to be reduced or shelved to make that happen.

McLeod said that the public art in Albany does not have much funding. A mural project alone can cost more than \$10,000.

**MOTION:** McLeod moved to transfer funds in the upcoming 2025-2027 draft budget, one time only, from Economic Development Fund 21-115060 to Parks and Recreation Public Art line item 20250000-431050 for the purposes of funding public art installations, matching grants and fundraising in the amount of \$10,000. Thomson seconded the motion.

Troedsson said that it would be better to express the intent to establish a funding priority, instead of being as specific as an account level transfer.

McLeod said that the public art program doesn't receive enough funding, and had concerns about completing mural programs with the grant funding the program receives.

Smith said that boards and commissions of the City are expected to make recommendations to the City Council, and the Public Arts group has not made that recommendation.

Thomson withdrew the second on the motion.

It was the general council consensus to direct staff to provide a report on the feasibility of providing funding for installation projects, grants matching, and fund-raising for a recurring public art program.

#### City Manager Report

Troedsson said that he wanted to speak to Drew Charley's comments on the Violet Avenue easement request. He said that the council reviewed the item in December of 2024, denied the request, and directed the applicant to work with staff to provide the information staff needs, before adding the issue to the agenda for further consideration. Information needed included a wetland delineation study, and preliminary site plan. Charley or the applicants, could speak under business from the public at a future council meeting if they desired.

Troedsson said that the City Council would be having a retreat work session on January 27th, and the League of Oregon Cities City Day at the Capitol would be January 28.

#### Next Meeting Dates

Monday, January 27, 2025; 4:00 p.m. retreat/training  
Monday, February 10, 2025; 4:00 p.m. work-session

#### ADJOURNMENT

There being no other business, the meeting was adjourned at 8:37 p.m.

Respectfully submitted,

Reviewed by,

Erik Glover  
City Recorder

Peter Troedsson  
City Manager

*\*Documents discussed at the meeting that are not in the agenda packet are archived in the record. Documents from staff are posted to the website after the meeting. Documents submitted by the public are available by emailing [cityclerk@albanyoregon.org](mailto:cityclerk@albanyoregon.org).*



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

---

A RESOLUTION ACCEPTING THE FOLLOWING RIGHT-OF-WAY DEDICATION

Grantor

Larry J. Johnson and Bessie A. Johnson

Purpose

Accepting a variable width right-of-way dedication as part of project ST-22-06, Geary Street Sidewalk.

Tax Lot 11S03W17BD02300

NOW, THEREFORE, BE IT RESOLVED by the Albany City Council that it does hereby accept this dedication.

BE IT FURTHER RESOLVED that this resolution shall take effect immediately upon passage by the council and approval by the mayor.

DATED AND EFFECTIVE THIS 12TH DAY OF FEBRUARY 2025.

\_\_\_\_\_  
Mayor

ATTEST:

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

**DEDICATION DEED**

KNOW ALL MEN BY THESE PRESENTS, that **Larry J. Johnson & Bessie A. Johnson**, hereinafter referred to as the Grantor, does dedicate to the City of Albany for street and utility right-of-way purposes, all that real property situated in Linn County, State of Oregon, described as follows:


See legal description on attached Exhibit A, and maps on attached Exhibits B & C. Exhibits A, B and C are attached herewith and made a part hereof this agreement.

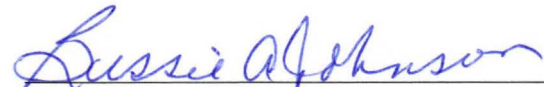
and covenants that the Grantor is the owner of the above-described property free of all encumbrances save and except reservations in patents and easements, covenants, conditions, and restrictions of record, and will warrant and defend the same against all persons who may lawfully claim the same.

The deed granted herein is in consideration of \$216.00, receipt of which is acknowledged by the Grantor, and in further consideration of the public improvements to be placed upon said property and the benefits grantors may obtain therefrom.

IN WITNESS WHEREOF, the Grantor has hereunto fixed their hand and seal the day and year written below.

**GRANTOR: Larry J. Johnson and Bessie A. Johnson**

  
\_\_\_\_\_  
Larry J. Johnson

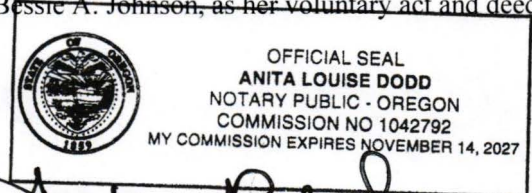
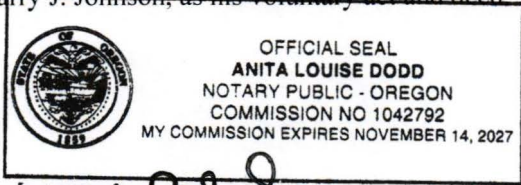
  
\_\_\_\_\_  
Bessie A. Johnson

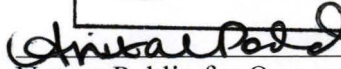
STATE OF OREGON )  
County of Linn ) ss.  
City of Albany )

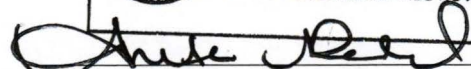
STATE OF OREGON )  
County of Linn ) ss.  
City of Albany )

The foregoing instrument was acknowledged before me this 24 day of December 2024, by Larry J. Johnson, as his voluntary act and deed.

The foregoing instrument was acknowledged before me this 24 day of December 2024, by Bessie A. Johnson, as her voluntary act and deed.



  
\_\_\_\_\_  
Notary Public for Oregon  
My Commission Expires: 11-14-27

  
\_\_\_\_\_  
Notary Public for Oregon  
My Commission Expires: 11-14-27

**CITY OF ALBANY:**

STATE OF OREGON )  
County of Linn ) ss.  
City of Albany )

I, Peter Troedsson, as City Manager of the City of Albany, Oregon, pursuant to Resolution Number \_\_\_\_\_, do hereby accept on behalf of the City of Albany, the above instrument pursuant to the terms thereof this \_\_\_\_\_ day of \_\_\_\_\_ 2025.

\_\_\_\_\_  
City Manager

ATTEST:

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

## **EXHIBIT A**

### **Legal Description for Right-of-Way Dedication**

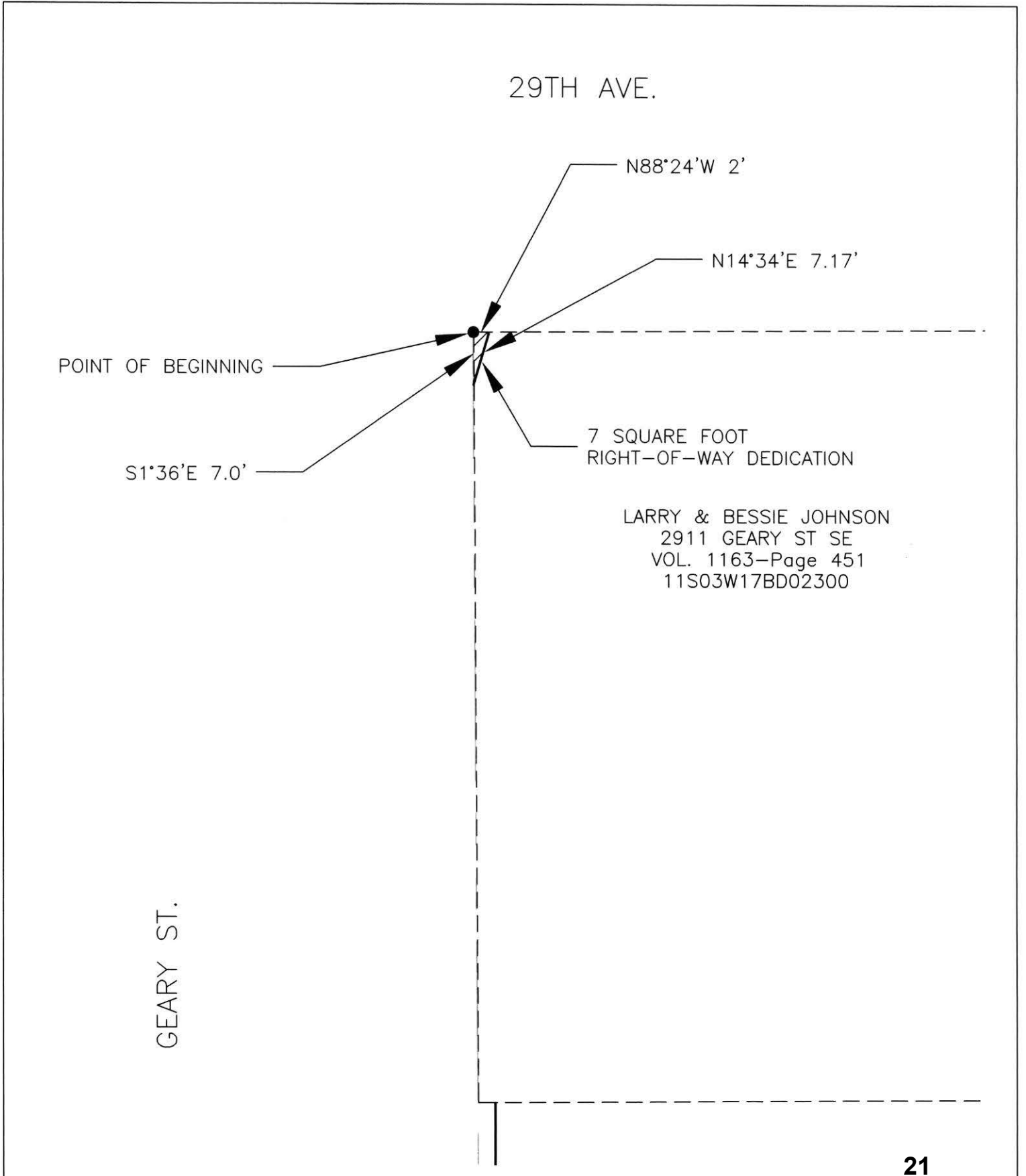
A portion of that property described in Linn County Deed Volume 1163 Page 452, more particularly described below.

Beginning at a 1/2-inch bolt on the East right of way line of Geary Street as shown on Linn County Survey 6325, North 88°24' East 30.00 feet from a point on the West line and South 1°36' East 1838.83 feet from the Northwest corner of the John Burkhart Claim No. 51, Township 11 South, Range 3 West of the Willamette Meridian; thence South 1°36' East along the East line of Geary Street, 7.0 feet; thence North 14°33' 59.28" East 7.17 feet; thence North 88°24' West 2 feet to the point of beginning.

As shown on the attached maps labeled Exhibit B & C, attached hereto and made a part hereof this legal description.



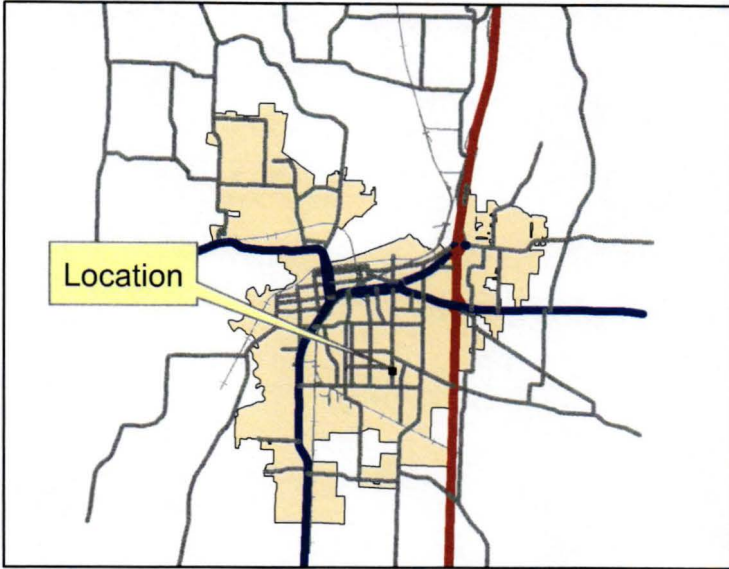
EXHIBIT B  
RIGHT-OF-WAY DEDICATION  
LARRY & BESSIE JOHNSON



# RIGHT-OF-WAY EXHIBIT C

11S03W17BD02300

Variable Width Right-of-Way Dedication  
as part of Geary Street Sidewalk, ST-22-06



Geographic Information Services

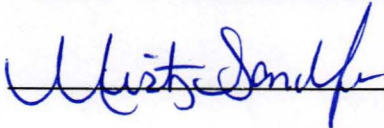


### Consent

The undersigned, holder of that certain \$148,000 Deed of Trust, (recorded in Linn County Oregon Deed Records 2016-17252) which encumbers the property with the attached easement, hereby consents to the above Easement and agrees that said easement shall be a permitted exception under said Deed of Trust.

IN WITNESS WHEREOF, the undersigned has executed this consent as of this 12th day of December, 2024.

Financial Institution: U.S. Bank National Association


By: 

Name: Misty Sandefur

Title: Officer

STATE Kentucky )  
County of Daviess ) ss.  
City of Owensboro

The foregoing instrument was acknowledged before me this 12th day of December, 2024, by Misty Sandefur a Officer of U.S. Bank National Association on behalf of said institution.

  
Notary Public for ~~Oregon~~ Kentucky  
My Commission Expires: 11/28/2028

**STARLA BROWN**  
NOTARY PUBLIC  
STATE AT LARGE  
KENTUCKY  
COMMISSION # KYNP17928  
MY COMMISSION EXPIRES NOV. 28, 2028



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

---

A RESOLUTION ACCEPTING THE FOLLOWING RIGHT-OF-WAY DEDICATION

Grantor

Virginia Bustamante

Purpose

Accepting a 3-foot-wide right-of-way dedication as part of project ST-22-06, Geary Street Sidewalk.

Tax Lot 11S03W17CB01100

NOW, THEREFORE, BE IT RESOLVED by the Albany City Council that it does hereby accept this dedication.

BE IT FURTHER RESOLVED that this resolution shall take effect immediately upon passage by the council and approval by the mayor.

DATED AND EFFECTIVE THIS 12TH DAY OF FEBRUARY 2025.

\_\_\_\_\_  
Mayor

ATTEST:

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



**DEDICATION DEED**

KNOW ALL MEN BY THESE PRESENTS, that **Virginia Bustamante**, hereinafter referred to as the Grantor, does dedicate to the City of Albany for street and utility right-of-way purposes, all that real property situated in Linn County, State of Oregon, described as follows:

See legal description on attached Exhibit A, and maps on attached Exhibits B & C. Exhibits A,B and C, are attached herewith and made a part hereof this agreement.

and covenants that the Grantor is the owner of the above described property free of all encumbrances save and except reservations in patents and easements, covenants, conditions, and restrictions of record, and will warrant and defend the same against all persons who may lawfully claim the same.

The deed granted herein is in consideration of \$6,100.00, receipt of which is acknowledged by the Grantor, and in further consideration of the public improvements to be placed upon said property and the benefits grantors may obtain therefrom.

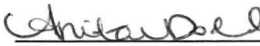
IN WITNESS WHEREOF, the Grantor has hereunto fixed their hand and seal the day and year written below.

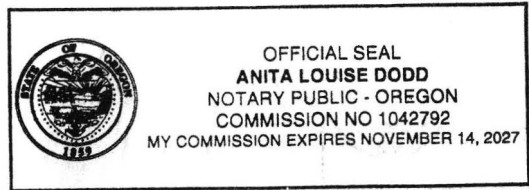
**GRANTOR:**

  
Virginia Bustamante

STATE OF OREGON  
County of Linn

The foregoing instrument was acknowledged before me this 14 day of January 2025, by Virginia Bustamante.

  
Notary Public for Oregon



**CITY OF ALBANY:**

STATE OF OREGON        )  
County of Linn         ) ss.  
City of Albany         )

I, Peter Troedsson, as City Manager of the City of Albany, Oregon, pursuant to Resolution Number \_\_\_\_\_, do hereby accept on behalf of the City of Albany, the above instrument pursuant to the terms thereof this \_\_\_\_\_ day of \_\_\_\_\_ 2025.

\_\_\_\_\_  
City Manager

ATTEST:

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

**EXHIBIT A**  
**Legal Description for Right-of-Way Dedication**

A 3-foot-wide strip of land, being a portion of that property described in Linn County Deed 2016-05294, more particularly described below.

The easterly 3.0 feet of even width of Lot 11, Rodgers Acres, in the City of Albany, County of Linn, State of Oregon

As shown on the attached maps labeled Exhibit B & C, attached hereto and made a part hereof this legal description.



EXHIBIT B  
RIGHT-OF-WAY DEDICATION  
VIRGINIA BUSTAMANTE



31ST AVE.

VIRGINIA BUSTAMANTE  
3104 GEARY ST SE  
2016-05294  
11S03W17CB01100  
TRACT 11, RODGERS ACRES

GEARY ST.

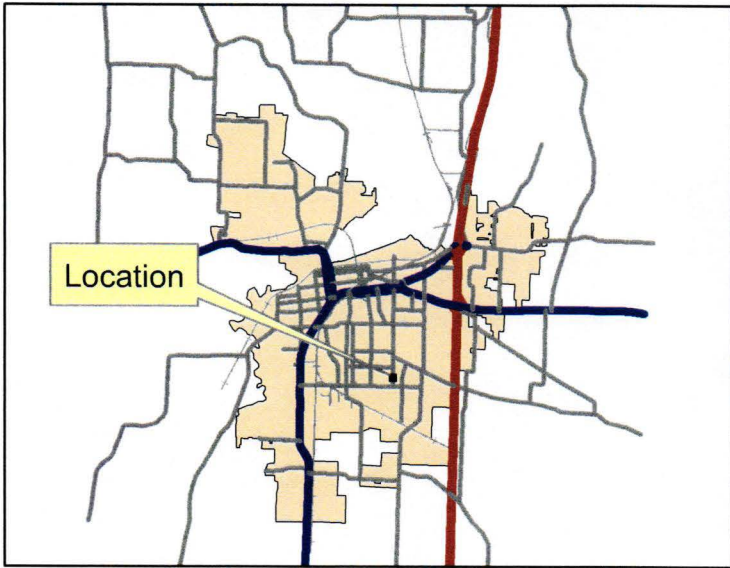
3'

3' WIDE  
RIGHT-OF-WAY DEDICATION

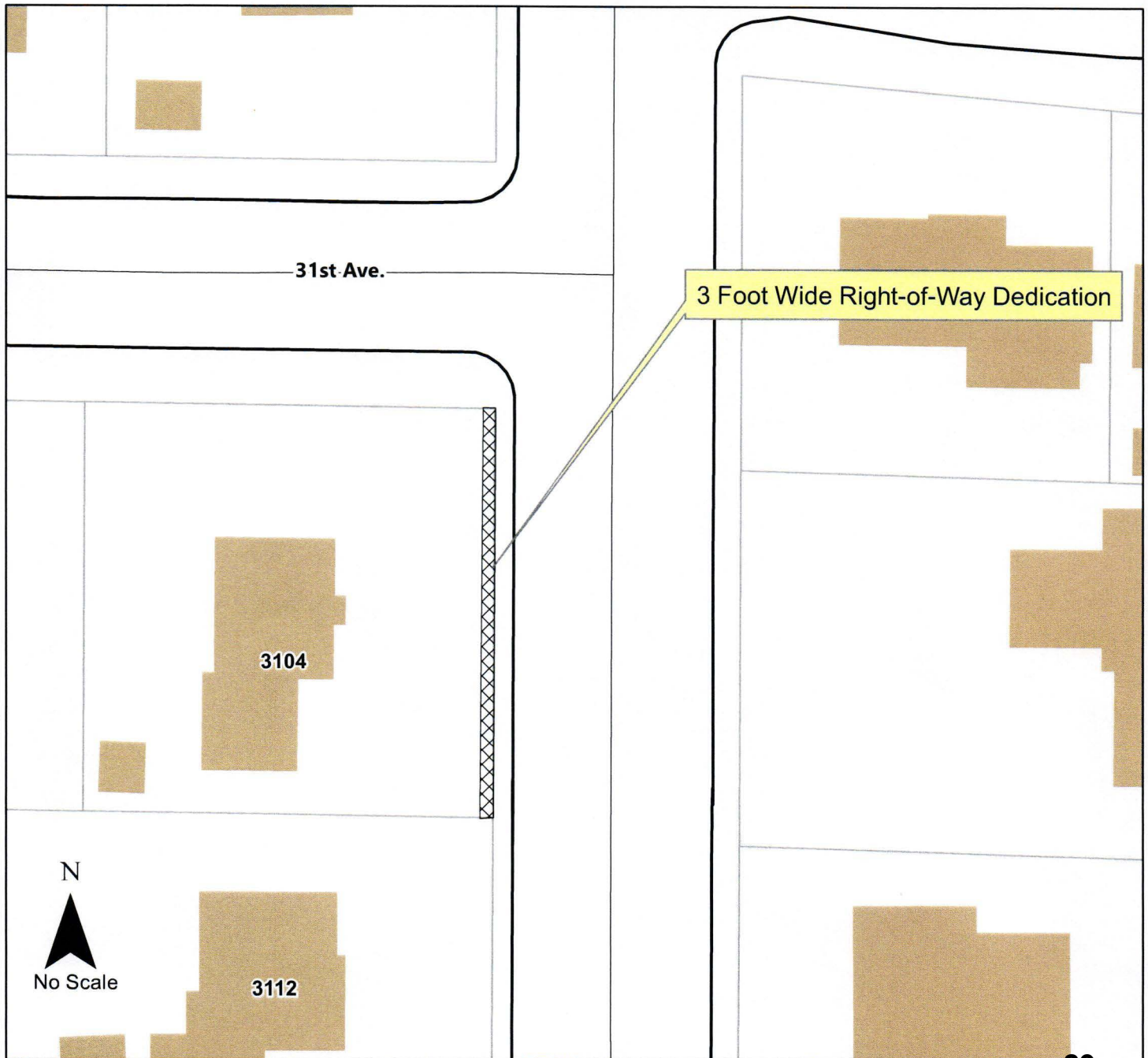
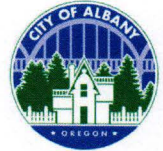
# RIGHT-OF-WAY EXHIBIT C

11S03W17CB01100

A 3 Foot Right-of-Way Dedication  
as part of ST-22-06, Geary Street Sidewalk



Geographic Information Services



## Consent

The undersigned, holder of that certain \$146,473 Deed of Trust, (recorded in Linn County Oregon Deed Records 2021-10929) which encumbers the property with the attached easement, hereby consents to the above Easement and agrees that said right-of-way shall be a permitted exception under said Deed of Trust.

IN WITNESS WHEREOF, the undersigned has executed this consent as of this 20th day of Jan, 2025.

Financial Institution: Mortgage Electronic Registration Systems, Inc., as nominee for Freedom Mortgage Corporation, its successors and assigns.

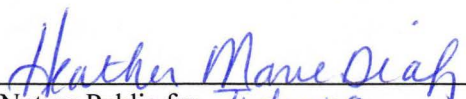
By: 

Name: Michael Knaack

Title: Asst. Secretary

STATE Indiana )  
County of Hamilton ) ss.  
City of Fishers )

The foregoing instrument was acknowledged before me this 20th day of Jan, 2025, by Michael Knaack a Asst. Secretary of MERS, on behalf of said institution.

  
Notary Public for Indiana  
My Commission Expires: 8.15.2025





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

AN ORDINANCE AMENDING ORDINANCE NO. 4441, WHICH ADOPTED THE CITY OF ALBANY DEVELOPMENT CODE, BY AMENDING THE ALBANY DEVELOPMENT CODE AND AMENDING ORDINANCE NO. 4836, WHICH ADOPTED THE CITY OF ALBANY COMPREHENSIVE PLAN, BY AMENDING THE ALBANY COMPREHENSIVE PLAN AND ADOPTING FINDINGS

WHEREAS, from time to time it is appropriate to amend the Albany Development Code (ADC) and Albany Comprehensive Plan (CP) to plan for future needs or changing conditions; and

WHEREAS, in 2020, the City adopted the 2020 Housing and Residential Land Needs Assessment (2020 HNA) as required by Oregon Administrative Rule 660 Division 8 (statewide planning Goal 10, Housing) that identifies Albany's housing needs to 2040; and

WHEREAS, the 2020 HNA projected Albany will need more than 6,700 new housing units by 2040, including more than 3,000 units affordable to households earning 80 percent or less of the area median income; and

WHEREAS, after 18 months of evaluating strategies and soliciting public engagement and input from the Housing Affordability Task Force, the council adopted the Housing Implementation Plan (HIP) in June of 2023 that recommends strategies and actions the City can take to increase housing options for more residents; and

WHEREAS, the Albany Planning Commission and Albany City Council each held a work session on September 30, 2024 to review and provide feedback on the proposed ADC changes and HIP policies; and

WHEREAS, a notice of the planning commission and city council public hearings was published in the Albany Democrat-Herald on November 26, 2024; and

WHEREAS, a "Ballot Measure 56 Notice" was mailed November 22, 2024, to property owners of residentially zoned properties over one-half acre (0.5 acres) and all properties in the Residential Medium Density (RM) and Residential Medium Density Attached (RMA) zones, which were determined to be potentially affected by the proposed changes to the ADC; and

WHEREAS, a notice of public hearing was mailed to Benton County and Linn County on December 2, 2024; and

WHEREAS, on December 16, 2024, the Albany Planning Commission held a public hearing regarding the proposed amendments to the ADC and CP to implement strategies in the HIP, considered public input, deliberated on the proposed amendments, and recommended approval based on findings of fact presented in the staff report and evidence presented during the public hearing; and

WHEREAS, on January 22, 2025, the Albany City Council held a public hearing on the proposed Development Code and Comprehensive Plan text amendments, reviewed the findings of fact and testimony presented at the public hearing, and deliberated.

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

Section 1: The Albany Development Code Chapters 1, 2, 3, 4, 5, 8, 9, 11, 12, and 22 are hereby amended as described in Exhibit A (planning file DC-04-24).

Section 2: The Albany Comprehensive Plan Chapter 9 Land Use Planning is hereby amended as described in Exhibit B (planning file CP-02-24).

Section 3: The findings of fact and conclusions included in the staff report and attached as Exhibit C are hereby adopted in support of the decision.

Section 4: A copy of this ordinance shall be filed in the office of the city clerk of the City of Albany and these changes shall be made to the Albany Comprehensive Plan and Albany Development Code.

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

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

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

\_\_\_\_\_  
Mayor

ATTEST:

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



## ARTICLE 1<sup>1</sup>

### ADMINISTRATION AND PROCEDURES

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

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

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

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

#### GENERAL ADMINISTRATION OF TITLE 20

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

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

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

1.090. Applicable Standards. All land use applications shall be reviewed against the development standards, codes, and laws in place when the application was received and deemed complete.

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

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

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

## LAND USE REVIEW PROCEDURES GENERALLY

- 1.100 Applicability of Review Procedures. Except for those activities and developments listed in Section 1.105, all land use and development permit decisions will be made by using the procedures contained in this Article. The procedure "type" assigned to each application governs the decision-making process for that permit or application. There are six types of permit/application procedures as described in subsections (1) through (6) below. Table 1.100-1 lists the City's land use and development applications and corresponding review procedure(s).
- (1) Type I Procedure (Ministerial Staff Review). A Type I procedure is used in applying City land use standards and criteria that do not require the use of discretion, interpretation, or the exercise of policy or legal judgment (i.e., clear and objective standards). Type I decisions are made by the Director without public notice and without a public hearing. Appeals of Type I decisions are to Circuit Court under writ of review.
  - (2) Type I-L Procedure (Staff Review with Notice). A Type I-L procedure is used for some tentative plats and when applying discretionary land use standards that regulate the physical characteristics of a use which is permitted outright. Type I-L decisions are made by the Director and require public notice and an opportunity for appeal to a local hearing body. With the exception of Historic Resource decisions which are appealed to the Landmarks Commission, appeals of Type I-L decisions are heard by the Planning Commission.
  - (3) Type II Procedure (Staff Review with Notice of Decision). A Type II procedure is used when the land use standards and criteria require some discretion, interpretation, or policy or legal judgment. The Director is the person designated in accordance with ORS 227.175 to make Type II decisions. Type II decisions require public notice and an opportunity for appeal to a local hearing body. With the exception of Historic Resource decisions which are appealed to the Landmarks Commission, appeals of Type II decisions are heard by the Planning Commission.
  - (4) Type III Procedure (Quasi-Judicial Review—Public Hearing). A Type III procedure is used when the land use standards and criteria require discretion, interpretation, or policy or legal judgment or for large projects. Quasi-Judicial decisions implement established policy but typically involve discretion. Type III decisions are made by the Planning Commission, Hearings Board or Landmarks Commission and require public notice and a public hearing, with an opportunity for appeal to the City Council.
  - (5) Type IV-Q Procedure (Quasi-Judicial Review—City Council Public Hearing). The Type IV-Q procedure is used when the land use standards and criteria require discretion, interpretation, or policy or legal judgment and is the procedure used for site-specific land use actions initiated by an applicant. The application is heard by the Planning Commission, Hearings Board, or Landmarks Commission. If the recommending body makes a favorable recommendation, the City Council will hold a hearing and make a final decision. If the Planning Commission, Hearings Board, or Landmarks Commission recommends against a proposal, the City Council will only consider the proposal on appeal by the applicant. Appeal of the City Council's Type IV-Q decisions are heard by the state Land Use Board of Appeals.
  - (6) Type IV-L Procedure (Legislative Review). Legislative review procedures are used to review proposals to amend the Albany Comprehensive Plan, the City's land use regulations, and large-scale changes to the Comprehensive Plan or Plan Maps, and involve the creation, revision, or implementation of broad public policy. Legislative proposals are first considered by the Planning Commission, which makes a recommendation to City Council. City Council makes the final decision on a legislative proposal through the enactment of an ordinance. Appeals of legislative decisions are heard by the state Land Use Board of Appeals.

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

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

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

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

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

Application / Action	Procedure Type	Decision Body	Pre-App Conference Required	Neighborhood Mtg Req.	Applicable Section
<b>Adjustments</b>	III	HB or PC	No	No	2.070
<b>Annexations</b>					
• Annexations mandated by state law	I	CDD	No	No	2.095
• All other annexations	IV-Q and IV-L	See 2.095	Yes	No	2.095
<b>Comprehensive Plan and Map Amendments</b>					
• Quasi-Judicial	IV-Q	PC or CC	Yes	No	2.210
• Legislative	IV-L	CC	Yes*	No	2.210
• Corrections to Comp Plan map	I	CDD	No	No	2.225
<b>Conditional Use</b>	II or III	CDD HB or PC	Yes	See 1.140	2.240
<b>Development Code Amendments</b>					
• Corrections to Development Code	I	CDD	No	No	2.280
• All other amendments	IV-L	CC	Yes*	No	2.280
<b>Interpretations</b>	I, I-L, II, III	See 1.040	Yes*	No	1.040
<b>Land Divisions and Planned Developments</b>					
• Cluster development	<del>III</del> II	<del>PC</del> CDD	Yes	Yes	11.430
• Land division (partition or subdivision) – preliminary plat	I-L	CDD	Yes	See 1.140	11.170
• Land division – final plat	I	CDD	No	No	11.170
• Planned development – preliminary review	III	PC	Yes	Yes	11.260
• Planned development – final approval	I	CDD	No	No	11.260
• Planned development – major changes	III	PC	Yes	Yes*	11.350
• Planned development – minor changes	I	CDD	No	No	11.350
• Property line adjustment	I	CDD	No	No	11.110
• Expedited land divisions***	N/A (ORS 197.360)	CDD	No; Recommended	No	11.600
• Middle housing land division***	N/A (ORS	CDD	No;	No	11.610

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

Application / Action	Procedure Type	Decision Body	Pre-App Conference Required	Neighborhood Mtg Req.	Applicable Section
• Designation of a resource or district	IV-Q or IV-L	LC and CC	No	No	7.040
• Amendments to Exist. Districts	IV-L	CC	No	No	7.040
• Local Historic Inventory Removal (outside districts, not on National Register, demolished or removed resources)	I	CDD	Yes*	No	7.040
• Individual Property Re-Rating	III	LC	Yes*	No	7.040
• Historic review of Ext. Alterations – no change in character; not visible	I	CDD	No	No	7.120
• Historic review of Ext. Alterations – all other, including all non-residential	III	LC	Yes*	See 1.140	7.120
• Substitute materials	III	LC	Yes*	See 1.140	7.180
• New construction	I-L	CDD	Yes*	No	7.240
• Demolitions / Relocations – contributing structures	III	LC	Yes*	See 1.140	7.310
<b>Natural Resource Impact Review</b>					
• Natural Resource review without concurrent land use review	I or I-L	CDD	No	No	6.300
• Natural Resource review for all other	I, I-L, II, III	See 6.300	Yes*	See 1.140	6.300
• Natural Resource minor variance	I-L	CDD	No	No	6.450
• Natural Resource major variance	II	CDD	Yes*	No	6.450
<b>Special Use Permit</b>	I	CDD	No	No	10.440 and 10.470
<b>Tree Removal</b>					
• Site Plan Review for tree removal (5 or more trees 8” in diameter on contiguously owned property 20,000 sf or greater)	I-L	CDD	Yes*	No	9.204 and 9.205
• Site Plan Review for tree removal associated with development of housing	I	CDD	No	No	9.206
<b>Willamette River Greenway</b>					
• Greenway development review	II	CDD	Yes	No	6.520
<p>LEGEND:            City Council (CC), Director (CDD), Hearings Board (HB), Landmarks Commission (LC), Planning Commission (PC).</p> <p>* Unless waived by the Community Development Director.            ** Additional application review procedures applicable to Historic Resources are found in Article 7. In cases of conflict with the procedures in Article 1, the procedures in Article 7 shall prevail. <u>When a Type III land use application is submitted with a Type III Historic Resource review application, the Landmarks Commission will</u></p>					

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

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

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

**Staff Comments for ADC 1.160, Application Submittal Requirements:**  
 For a more thorough review of a land use application at the beginning of the application process, staff propose that applicants submit the most recent deed and/or recorded plat as well as all exceptions (i.e. recorded easements or restrictive covenants).

**APPLICATION SUBMITTAL AND COMPLETENESS REVIEW**

1.160 Application Submittal.

- (1) Submittal Requirements. Type I – IV-Q land use applications must be submitted on forms provided by the City. A land use application may not be accepted in partial submittals. All information supplied on the application form and accompanying the application must be complete and correct as to the applicable facts. Unless otherwise specified, all of the following must be submitted to initiate completeness review under ADC 1.170:
  - (a) Explanation of intent, nature, and proposed use(s) of the development, pertinent background information, and other information that may have a bearing in determining the action to be taken, including detailed findings when required by the provisions of this Code.
  - (b) Signed statement that the property affected by the application is in the exclusive ownership or control of the applicant, or that the applicant has the consent of all partners in ownership of the affected property.
  - (c) Property description and assessor map parcel number(s).
  - (d) Additional information required by other sections of this Code because of the type of proposal or the area involved.
  - (e) Application fees.
  - ~~(f)~~ A report documenting the results of any mandatory neighborhood meeting prepared in accordance with ADC 1.140(5).
  - ~~(g)~~ Most recent deed and/or recorded plat, and all exceptions (ex. recorded easements or restrictive covenants).

[Ord. 6042, 7/12/24]

- (2) Application Intake. Each application, when received, will be date-stamped with the date the application was received by the City, and designated with a receipt number and a notation of the staff person who received the application.
- (3) Administrative Standards for Applications. The Director is authorized to establish administrative standards for application forms and submittals, including but not limited to plan details, information detail and specificity, number of copies, scale, and the form of submittal.

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

## ARTICLE 2 REVIEW CRITERIA

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

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

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

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

### SITE PLAN REVIEW

2.430 Applicability. In general, Type I or Type I-L Site Plan Review is intended for all new development within the city that specifically requires Site Plan Review as listed in Articles 3, 4 and 5. It applies to new construction, additions or expansions, site modifications, and changes in land use categories. Sites that contain legal nonconforming situations will be processed in accordance with Section 2.300 through 2.350.

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

[Ord. 5445, 4/12/00; Ord. 5767, 12/7/11; Ord. 5832, 4/9/14; Ord. 5886, 1/6/17; Ord. 5947, 1/1/21; Ord. 5968, 1/14/22; Ord. 6018, 6/30/23; Ord. 6024, 12/29/23; Ord. 6042, 7/12/24]

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

**ZONING MAP AMENDMENTS**

2.760 Zoning. For rezoning and annexation zoning requests, the zoning of the property ~~shall~~must be compatible with the Comprehensive Plan designation as provided in ~~the~~ Table 2.760-1, Plan Designation Zoning Matrix. Zoning other than that shown in the matrix requires approval of a Comprehensive Plan Map and/or Zoning Map amendment. [Ord. 5947, 1/1/21]

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

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

Comprehensive Plan Designation	Compatible Zoning Districts
Employment*	Employment (EMP), Industrial Park (IP), Office Professional (OP), <u>and land zoned Light Industrial (LI)* in the East Albany Plan area prior to June 30, 2023*</u>
Light Industrial	Industrial Park (IP), Light Industrial (LI), Transit District (TD)
Heavy Industrial	Light Industrial (LI)*, Heavy Industrial (HI)
General Commercial	Neighborhood Commercial (NC), Community Commercial (CC), Regional Commercial (RC), Office Professional (OP)
Neighborhood Village	Neighborhood Commercial (NC), Office Professional (OP), Mixed Use Residential (MUR)
Village Center	Historic Downtown (HD), Downtown Mixed Use (DMU), Central Business (CB), Lyon-Ellsworth (LE), Pacific Boulevard (PB), Elm Street (ES), Main Street (MS), Waterfront (WF), Mixed Use Commercial (MUC), Residential Medium Density (RM), Residential Medium Density Attached (RMA), Mixed Use Residential (MUR), Office Professional (OP), Community Commercial (CC)
Village Center – East (East Albany Plan Area only)	Mixed Use Commercial (MUC), Mixed Use Residential (MUR)
High Density Residential**	High Density Residential (HDR), Residential Medium Density Attached (RMA), Mixed Use Residential (MUR); <u>and land zoned Residential Medium Density (RM) in East Albany prior to June 30, 2023**</u>
Medium Density Residential	<u>R-5 Residential Single Dwelling Unit</u> (RS-5), Residential Medium Density (RM), Residential Medium Density Attached (RMA), Mixed Use Residential (MUR), Office Professional (OP), Neighborhood Commercial (NC)
Low Density Residential	<u>R-10, R-6.5, and R-5 Residential Single Dwelling Unit</u> (RS-10, RS-6.5, RS-5), Hackleman-Monteith (HM), Residential Reserve (RR), Office Professional (OP), Neighborhood Commercial (NC)



Urban Residential Reserve	<u>R-10, R-6.5, and R-5</u> Residential <del>Single Dwelling Unit</del> (RS-10, RS-6.5, RS-5), Residential Reserve (RR), Residential Medium Density Attached (RMA), Residential Medium Density (RM), Mixed Use Residential (MUR), Neighborhood Commercial (NC), Office Professional (OP)
Public and Semi- Public	All zones
Open Space	Open Space (OS)

\*Light Industrial – Properties in the East Albany Plan area that were zoned Light Industrial on June 30, 2023, may remain zoned Light Industrial, including those designated Employment on the Comprehensive Plan map.

\*\*Residential Medium Density (RM) – Properties in the East Albany Plan area that were zoned RM on June 30, 2023, may remain zoned RM, including those designated High Density Residential on the Comprehensive Plan Map.

[Ord. 5555, 2/7/03; Ord. 5556, 2/21/03; Ord. 5673, 6/27/07; 10/12/17; Ord. 5947, 1/1/21; Ord. 6004, 12/28/22; Ord. 6010, 7/1/23]

## ARTICLE 3 RESIDENTIAL ZONING DISTRICTS

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

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

- Zoning Districts
- Schedule of Permitted Use
- Development Standards

### Staff Comments:

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

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

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

## ZONING DISTRICTS

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

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

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

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

(5) ~~RM—RESIDENTIAL MEDIUM DENSITY DISTRICT.~~ The RM District is primarily intended for medium-density residential urban development ~~that includes single-dwelling units, townhouses, duplexes, triplexes, fourplexes, cottage clusters, and apartments up to 45 feet tall.~~ New RM districts should be located on a collector or arterial street or in Village Centers. ~~Multiple dwelling and townhouse development may not exceed 25 units per gross acre.~~ [Ord. 5673, 6/27/07; Ord. 6004, 12/28/22; Ord.6024, 12/29/23]

(6) ~~RMA—RESIDENTIAL MEDIUM DENSITY ATTACHED DISTRICT.~~ The RMA District is intended primarily for medium- to high-density urban residential development ~~consisting of. Most units, whether single or multiple dwelling or middle housing, will be attached housing types, including duplexes, triplexes, fourplexes, and apartments up to 60 feet tall.~~ New RMA districts should be located on a collector or arterial street or in Village Centers. ~~Development may not exceed 35 units per gross acre.~~ [Ord. 5673, 6/27/07; Ord. 6004, 12/28/22, Ord. 6024, 12/29/23]

(7) ~~HDR—HIGH DENSITY RESIDENTIAL DISTRICT.~~ The HDR District is intended primarily for high-density urban residential ~~multiple story~~ development ~~and other compatible uses.~~ This district supports the highest residential density in the ~~city and must be located on a collector or arterial street, and adjacent to mixed use, commercial, or industrial zoned land. as D~~ development in the HDR district must achieve a density of at least 25 units per gross acre ~~and may not exceed 50 units per gross acre. The HDR district allows a variety of housing types along with other compatible uses.~~ [Ord. 6010, 7/1/23]

(8) ~~HM—HACKLEMAN-MONTEITH DISTRICT.~~ The HM district is intended primarily to preserve the ~~existing residential historic~~ character of the ~~existing residential resources in the~~ Hackleman and Monteith National Register Historic Districts. ~~Conversion of single-dwelling unit residential structures to non-residential or multiple-dwelling unit residential uses is not allowed Low-density residential infill that is compatible with the historic character of the district is permitted.~~ [Ord. 5555, 2/7/03; Ord. 5673, 6/27/07; Ord. 5968, 1/14/22; Ord. 6004, 12/28/22, Ord. 6024, 12/29/23]

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

<u>Special Purpose District</u>	<u>Applicable Articles</u>	
Airport Approach	Article 4	
Floodplain	Article 6	
Hillside Development	Article 6	
Significant Wetlands	Article 6	
Riparian Corridors	Article 6	
Wildlife Habitat	Article 6	
Willamette Greenway	Article 6	
Historic Overlay	Article 7	[Ord. 5764, 12/1/11]

**SCHEDULE OF PERMITTED USES**

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

(1) The schedule of permitted uses cannot anticipate all uses that may be located within the City. There are also situations where proposed uses may relate to more than one type of use. In both instances, the Director will determine the appropriate use category based on operating characteristics and land use impacts. Where ambiguity exists concerning the appropriate classification of a particular use, the use may be reviewed as a Conditional Use where the Director determines that the proposed use is consistent with other uses allowable within the subject district due to similar characteristics. Use categories not listed in the schedule of permitted uses are not permitted in the residential zoning districts. [Ord. 5673, 6/27/07; Ord. 5947, 1/1/21]

(2) Where a development proposal involves a combination of uses other than accessory uses, the more restrictive provisions of this Code ~~shall apply~~. For example, if a portion of a development is subject to Conditional Use approval and the balance is subject only to Site Plan Review, the entire development ~~shall must~~ be reviewed using the Conditional Use criteria if concurrent approval of all uses is requested. [Ord. 5947, 1/1/21]

(3) A change in the use of a property is subject to review as specified by the schedule of permitted uses:  
 (a) When the change involves a change from one use category to another in the schedule of permitted uses and the Director has not waived review under the provisions of Section 1.105, or  
 (b) When a property that has been unoccupied for more than one year. [Ord. 5673, 6/27/07; Ord. 5947, 1/1/21]

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

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

The abbreviations used in the schedule have the following meanings:

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

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

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

Uses Allowed in Residential Zoning Districts									
USE CATEGORIES (See Article 22 for use descriptions.)	Spec. Cond.	RR	RS-10	RS-6.5	HM	RS-5	RM	RMA	HDR
<b>RESIDENTIAL: Dwellings</b>									
Single Dwelling Unit (SDU)	1, 22, 23	Y	Y	Y	Y	Y	Y	N	N
<del>Primary Residence-SDU</del> with one <del>Accessory Dwelling Unit or Single Room Occupancy Unit</del>	4, 22	Y	Y	Y	Y	Y	Y	Y	N
Two Primary Units	2	N	PD/CD	PD/CD	S	PD/CD	Y	Y	N
Duplex, Triplex, and Fourplex	3, 22, 23, 25	Y	Y	Y	Y	Y	Y	Y	Y
Townhouse	22, 23	Y	Y	Y	Y	Y	Y	Y	Y
Cottage Cluster	3, 22	Y	Y	Y	Y	Y	Y	N	Y
Single Room Occupancy Development	20, 22, 23	Y	Y	Y	Y	Y	Y	Y	Y
Multiple-Dwelling Units	3, 22, 23, 25	N	N	N	N	N	S	S	S
<b>RESIDENTIAL: Care or Treatment</b>									
Assisted Living		CU	CU	CU	CU	CU	<del>CU</del>	<del>CU</del>	<del>CU</del>
Child or Adult Care Home	6	Y	Y	Y	Y	Y	Y	Y	Y
Residential Care or Treatment Facility (6 or more residents)		CU	CU	CU	CU	CU	CU	S	S
Residential or Group Care Home (5 or fewer residents)		Y	Y	Y	Y	Y	Y	Y	Y
<b>RESIDENTIAL: Miscellaneous Uses</b>									
Manufactured Home Parks	10, 22	N	N	S	N	S	S	S	S
Accessory Buildings	9	Y/S	Y/S	Y/S	Y/S	Y/S	Y/S	Y/S	Y/S
Bed & Breakfast	7	CUII	CUII	CUII	CUII	CUII	CUII	S	S
Home Businesses	21	Y/CU	Y/CU	Y/CU	Y/CU	Y/CU	Y/CU	Y/CU	Y/CU
Rooming or Boarding Houses		N	N	N	CU	N	S	S	Y
Subdivision Sales Office	1	N	Y	Y	N	Y	Y	Y	Y
Unit(s) Above or Attached to a Business	17, 22, 23	N	N	N	N	N	N	N	Y
Temporary Residence	8	S	S	S	S	S	S	S	S
<b>INSTITUTIONAL</b>									
Basic Utilities		CU	CU	CU	CU	CU	CU	CU	CU
Community Services	24	CU	CU	CU	CU	CU	CU	CU	CU
Daycare Facility		CU	CU	CU	CU	CU	CU	S	S
Educational Institutions	13	CU	CU	CU	CU	CU	CU	CU	CU
Hospitals		N	N	N	N	N	CU	CU	CU
Jails & Detention Facilities		N	N	N	N	N	N	N	N
Parks, Open Areas, and Cemeteries	14	S/CU	S/CU	S/CU	CU	S/CU	S/CU	S/CU	S/CU
Religious Institutions	13	CU	CU	CU	CU	CU	CU	CU	CU
<b>COMMERCIAL: Limited Use Types</b>									
Entertainment and Recreation:									
Indoor	18, 23	CU	CU	CU	CU	CU	CU	CU	CU
Outdoor		CU	CU	CU	N	CU	CU	CU	CU
Offices	17, 19, 23	PD/CD	PD/CD	PD/CD	PD/CD	PD/CD	PD/CD	PD/CD	S
Recreational Vehicle Parks (See Article 10)	5, 10	N	N	N	N	N	CU	CU	CU
Restaurants, no drive-thru	17, 19, 23	PD/CD	PD/CD	PD/CD	PD/CD	PD/CD	PD/CD	PD/CD	S
Retail Sales and Service	17, 19, 23	PD/CD	PD/CD	PD/CD	PD/CD	PD/CD	PD/CD	PD/CD	S
Self-Serve Storage	15, 23	N	N	N	N	N	S	N	N
<b>OTHER CATEGORIES</b>									
Agriculture:									
Crop Production		Y	Y	Y	N	Y	Y	Y	Y
On-site Sales of Site-Produced Seasonal Goods		Y	S	CU	N	CU	CU	CU	CU
Plant Nurseries and Greenhouses		S	S	S	N	S	S	S	S
Antennas, owned and operated by FCC licensed member of Amateur Radio Service		Y	Y	Y	Y	Y	Y	Y	Y
Communication Facilities	16	N	N	N	N	N	N	N	N
Kennels	11	S	CU	CU	N	CU	CU	N	N

Satellite Dish and Other Antennas	12	Y	Y	Y	Y	Y	Y	Y	Y
-----------------------------------	----	---	---	---	---	---	---	---	---

Y = Yes, allowed, no Site Plan review required  
 CD = Cluster Development, see Art. 11  
 CU = Conditional Use approval required, Type III procedure  
 CUII = Conditional Use approval required, Type II procedure  
 N = No, not allowed  
 PD = Planned Unit Development, see Art. 11  
 S = Site Plan Review required  
 [Ord. 5281, 3/26/97; Ord. 5555, 2/7/03; Ord. 5673, 6/27/07; Ord. 5742, 7/14/10; Ord. 5801, 2/13/13;  
 Ord. 5832, 4/9/14; Ord. 5886, 1/6/17; Ord. 5947, 1/1/21; Ord. 5949, 1/1/21; Ord. 5968, 1/14/22; Ord. 6004, 12/28/22;  
 Ord. 6008, 1/27/23; Ord. 6010, 7/1/23; Ord. 6024, 12/29/23; Ord. 6042, 7/12/24]

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

**SPECIAL CONDITIONS**

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

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

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

- (2) When more than one single-dwelling unit ~~detached residence~~ is located on a property of record in a residential zoning district and the buildings were legally constructed, the property may be divided in conformance with Article 11, even if the resulting lots do not meet the required minimum lot area and dimensional standards for the zoning district, if required setbacks and lot coverage can be met.  
 [Ord. 5338, 1/28/98; Ord. 5673, 6/27/07; Ord. 6004, 12/28/22]
- (3) Duplexes, triplexes, fourplexes, cottage clusters, and multi-dwelling unit development may be divided so that each unit can be individually owned by doing a land division in conformance with Article 11. The total land area provided for the development as a whole must conform with the requirements of Article 3, Table 3.190-1, however, the amount of land on which each unit is located does not need to be split equally between the individual units - one may be larger and one smaller.  
 [Ord. 5673, 6/27/07; Ord. 5947, 1/1/21; Ord. 5968, 1/14/22; Ord. 6004, 12/28/22]

**Staff Comments for Special Condition (4):****1. Increase Flexibility for Accessory Dwelling Units (ADUs)**

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

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

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

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

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

These proposals are also in Article 5 of the ADC.

- (4) Single Dwelling Unit with One Accessory Dwelling Unit or Single Room Occupancy Unit. Where single-dwelling units are permitted outright, one ~~Accessory Dwelling Unit (ADU)~~ or one Single Room Occupancy (SRO) unit may be allowed on each lot that has one a single legally established single-dwelling units, called the "primary residence dwelling unit". ~~The ADU shall comply with the following standards:~~
- (a) Accessory Dwelling Units. Accessory ~~Dwelling Units~~ shall be incidental in size to the primary residence and must meet the following standards:
- i. The size of an ADU ~~does not exceed 50 percent of the gross floor area of the primary residence (excluding garages or carports) or may not exceed 900 square feet, whichever is less.~~ (Note: ADUs greater than 900 square feet that were legally constructed before July 1, 2007, may remain). If the primary Dwelling Unit is less than or equal to 900 square feet, the ADU must be at least 25 square feet less than the primary Dwelling Unit.
  - ii. All required building permits have been obtained. If the primary ~~residence dwelling unit~~ is on the Local Historic Inventory, historic review may be required, per Article 7.
  - iii. The lot was legally established
  - iv. Detached ADUs must also meet the following development standards:
    - Front Setback: Greater than or equal to the location of the front wall of the primary residence; ~~and~~
    - Interior Side and Rear Setbacks: 5 feet for one-story; 8 feet for two-story; and
    - Maximum Height: 24 feet to the ridge of the roof.

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

- v. Conversion of an Existing Building. An existing accessory structure that was legally established prior to February XX, 2025, may be converted into an ADU, provided the conversion does not increase the nonconformity of the structure and complies with applicable building codes.
- (b) Single Room Occupancy (SRO) Unit. The SRO Unit must meet the following standards:
  - i. The SRO Unit must be located interior to the primary Dwelling Unit.
  - ii. The SRO Unit must share a Kitchen with the primary Dwelling Unit and must not contain food preparation facilities.
  - iii. The SRO Unit must have an interior door connecting the primary Dwelling Unit and may have an exterior door located in the rear yard.
  - iv. The SRO Unit must not operate independently of the primary Dwelling Unit unless converted to an Accessory Dwelling Unit after all required building permits have been obtained.

- (5) In the RM, RMA, and HDR Districts, the following criteria must be met in addition to the Conditional Use criteria for permitting RV overnight parks: [Ord. 6010, 7/1/23]
  - (a) The entire site must be located within 750 feet of the Interstate 5 right-of-way.
  - (b) The RV park access is limited to the Interstate 5 frontage road or streets servicing primarily industrial or commercial development.
- (6) “Child Care Homes” that include the day or nighttime care of no more than sixteen children, including the children of the provider or the care and treatment of adults for less than 24-hours are considered a residential use of the property and are allowed outright in zones that allow residential dwellings per the Oregon Revised Statutes (ORS). See ADC Section 22.200. [Ord. 5673, 6/27/07; Ord. 5968, 1/14/22; Ord. 6004, 12/28/22]
- (7) Bed and Breakfast facilities ~~shall~~must:
  - (a) Be owner occupied.
  - (b) Be limited to a maximum of four guest bedrooms.
  - (c) Except for driveway spaces, not contain guest parking facilities in the front setback area or within 10 feet of any ~~interior side or rear~~ residential lot line. [Ord. 5742, 7/14/10]
- (8) Temporary residences in conjunction with construction, emergency repair, or a night watchman are permitted with a Special Use Permit subject to the standards in Sections 10.440 through 10.510. [Ord. 5673, 6/27/07; Ord. 6042, 7/12/24]
- (9) The definitions of “Accessory Building” and “Accessory Use” in Article 22 ~~shall~~ apply. The Director ~~shall have~~has the authority to initially interpret application of these terms to any proposed activity or structure. See also Table 3.230-1 for Accessory Structure Standards.

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

Applicants must submit a completed Residential Accessory Structure Checklist with information that shows the standards below will be met when the applicant applies for building permits. The Community Development Director or his/her designee will determine whether the standards are met.

- (a) The proposed building is not taller than the tallest building on any adjacent property. For this section, building height is measured at its highest point, usually the ridge of the roof, but excluding chimneys and other protrusions from the roof.
- (b) The proposed building’s footprint is not more than the building footprint of the largest building on adjacent property.
- (c) The maximum lot coverage by zone provided in Table 3.190-1 is not exceeded.
- (d) The proposed building meets or exceeds the applicable setback requirements for the primary residence as listed in Table 3.230-1.
- (e) The materials used on the proposed building ~~shall~~must be similar to those used on the primary residential structure (e.g., cement board lap siding is similar to wood lap siding).
- (f) If the proposed building is located in any of the special purpose districts listed in Articles 6 and 7



of the Development Code, the building must also be reviewed for conformance with the requirements of the applicable district and may require a land use review application.

An accessory building may not be located on a vacant developable residentially zoned property unless the following conditions are met. The purposes of this limitation are to preserve the opportunity for residential land to be used for housing, and to avoid a non-residential building on residential property for use as commercial storage. Non-residential structures on residentially zoned land will be allowed when the following conditions are met:

- (g) The structure will not preclude the use of the property for housing or other uses allowed in the zone;
  - (h) The structure is not used for a commercial purpose; and
  - (i) Exception in the RR zone: Buildings used for farm or agricultural production, or equipment storage are permitted.
- [Ord. 5281, 3/26/97, Ord. 5673, 6/27/07, Ord. 5767, 12/7/11; Ord. 5947, 1/1/21, Ord. 5968, 1/14/22, Ord. 6024, 12/29/23; Ord. 6042, 7/12/24]
- (10) Manufactured home and RV park standards are located in Article 10. Manufactured home parks, RV parks and manufactured homes on individual lots are not allowed within the National Register Historic Districts or on land within 100 feet of a historic district, or on land adjacent to a property on the Local Historic Inventory. [Ord. 5673, 6/27/07]
  - (11) Kennels in residential districts ~~shall are be~~ restricted to properties containing a minimum of two acres. This restriction does not apply to indoor veterinary hospital kennels. [Ord. 5673, 6/27/07]
  - (12) Antennas and satellite dishes are subject to the following standards:
    - (a) Antenna or antenna supports may not be located within any front setback area or within any required landscape buffer yard.
    - (b) Antennas ~~shall must~~ not extend higher than fifteen feet above the peak of the roof.
    - (c) Dish antennas exceeding 12 feet in diameter are not permitted.
    - (d) Dish antennas exceeding 36 inches in diameter may not be roof mounted.
    - (e) Dish antennas ~~shall must~~ not exceed 15 feet in height from surrounding grade to the highest point of the structure or dish.
    - (f) Dish antennas located within ten feet of a residential lot line or located so as to be visible from a public street ~~shall must~~ be screened up to a height of six feet with a solid screen fence, wall, hedge, or other landscaping.
    - (g) Antenna used to display sign messages ~~shall must~~ conform to all district sign regulations in addition to the above.
    - (h) Antenna not in conformance with the above may be considered by Conditional Use review, Type II process. [Ord. 5742, 7/14/10, Ord. 5886, 1/6/17]
  - (13) Original Conditional Use approval for education and religious institutions includes the following secondary uses: educational activities; sports and other recreational activities; religious activities; political activities; meals programs; before and after school or full-time childcare activities; fundraising activities; and cultural programs. Such uses will not be required to go through the land use process if all of the activities which constitute the use (excluding parking and travel to and from the site) take place on the site and there is no external noise audible or light visible between 10:30 p.m. and 7:00 a.m. Expansion of an education or religious institution includes the addition of building area, increase in parking lot coverage, or expansion of athletic facilities. Any expansion must be reviewed through the Conditional Use Type II process (CUII). [Ord. 5673, 6/27/07]
  - (14) Public park development activity subject to Conditional Use review includes major development; expansions of activities and development within parks which currently generate substantial traffic; or construction of major structures such as swimming pools, lighted ball fields, and community centers.

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

- (15) Self-Serve Storage is subject to the following standards:
- (a) Freestanding facilities ~~shall be~~ are limited to sites of one to three acres in size and maximum building coverage ~~shall be~~ is limited to 50 percent of the parcel.
  - (b) Building setbacks ~~shall be~~ are as follows: front - 25 feet, ~~interior side and rear~~ - 20 feet. No fencing is permitted in front setbacks and a minimum ten-foot landscape buffer yard is required adjacent to all residential zones. No barbed wire fencing is permitted in residential districts.
  - (c) The minimum driveway width between buildings ~~shall be~~ is 20 feet for one-way drives and 24 feet for two-way drives.
  - (d) The maximum storage unit size ~~shall be~~ is 500 square feet.
  - (e) All outdoor lighting ~~shall~~ must be shielded to prevent reflection on adjacent properties.
  - (f) Repair of autos, boats, motors and furniture, and the storage of flammable materials ~~shall be~~ is prohibited on the premises and rental contracts ~~shall~~ must so specify.
  - (g) Outside storage of vehicles and materials is prohibited within this use category and no other business activity other than the rental of storage units ~~shall~~ may be conducted on the premises. [Ord. 5673, 6/27/07; Ord. 5742, 7/14/10]
- (16) Public and Commercial Communication Facilities are not allowed in residential zoning districts, except when the applicant can provide supportive documentation or evidence, to the satisfaction of the Community Development Director, that, if such a facility is not allowed, there will be a gap in service that denies service to an area within the community. (This decision is a Conditional Use, Type III land use decision.) Article 8 for telecommunication facility design standards also apply.
- Such a tower will also be subject to the following conditions:
- (a) The base of the antenna and any structures associated with the antenna ~~shall~~ must be set back from the property lines of the property on which they are sited a distance of not less than 30 feet.
  - (b) The land on which the facility is sited ~~shall~~ must be screened from adjacent land along its full perimeter, by providing screening, as defined in ADC Section 9.250. [Ord. 5281, 3/26/97; Ord. 5445, 4/12/00; Ord. 5886, 1/6/17]
- (17) Planned Developments allow for limited commercial uses to serve the residents within the development; see Section 11.270. Cluster Developments greater than 50 acres may develop up to 2 acres with neighborhood commercial and office uses through a Conditional Use review (See Section 11.510(2)). [Ord. 5673, 6/27/07; Ord. 5947, 1/1/21]
- (18) In all residential zones, indoor entertainment and recreation uses are limited to athletic, exercise or health clubs, gyms or spas, and similar uses. Examples of outdoor entertainment and recreation uses include sports fields, clubhouses, tennis and golf facilities, swimming pools, and similar uses. [Ord. 5673, 6/27/07]
- (19) In the HDR zone, office, restaurant, and retail sales/service uses are subject to Site Plan Review, provided they are limited to the ground floor of mixed-use buildings, with residential uses on the upper floors, and limited to 5,000 square-foot maximum floor area. All other office and retail sales/service uses must be considered through Planned Development and Cluster Development review, pursuant to Section 3.080(17). [Ord. 6010, 7/1/23]
- (20) One SRO development with no less than four and no more than six SRO units is permitted per property zoned to allow single dwelling units. SRO development is also permitted as multiple dwelling unit development, but each SRO unit is considered 0.5 dwelling units when calculating multiple dwelling unit density. Accessory Dwelling Units are not permitted with SRO developments. [Ord. 6042, 7/12/24]
- (21) See 3.090-3.160 to determine if CU review is required. [Ord. 6042, 7/12/24]

- (22) Affordable housing as defined below will be permitted through Site Plan Review when the following standards are met.
- (a) The development is on property zoned for residential or commercial uses, religious assembly, or is public lands OR is owned by one of the following:
    - i. A local, state, or special government body, as defined in ORS Chapter 174; or
    - ii. A nonprofit corporation that is organized as a religious corporation or is organized as a public benefit corporation whose primary purpose is the development of affordable housing; or
    - iii. A housing authority as defined in ORS 456.005; or
    - iv. A manufactured dwelling park nonprofit cooperative, as defined in ORS 62.803.
  - (b) As used in this section, “affordable housing” means residential dwellings that are subject to an affordable housing covenant as provided in ORS 456.270 to 456.295 for a duration of no less than 30 years and meet either i, ii, or iii below.
    - i. Each unit on the property is made available to own or rent to households with incomes of 80 percent or less of the area median income (AMI); or
    - ii. All units on the property are made available to rent or own to households with incomes with a collective average of 60 percent or less of the AMI; or
    - iii. A manufactured dwelling park that serves only households with incomes of 120 percent or less of the AMI.
  - (c) Does not apply on lands where:
    - i. The development cannot be adequately served by water, sewer, storm water drainage or streets; or
    - ii. The property contains a slope of 25 percent or greater; or
    - iii. The property is within a 100-year floodplain; or
    - iv. The development of the property is constrained by land use regulations based on statewide land use planning goals relating to: natural disasters and hazards; or natural resources, including air, water, land, or natural areas, but not including open spaces or historic resources.

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

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

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

[Ord. 6042, 7/12/24]

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

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

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

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

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

**SPECIAL STATUS**3.085 Existing Residential Uses in the HM and RS-5 Zones Granted Special Status.

Notwithstanding the restrictions or terms of any other section of the Albany Development Code (ADC), properties on the Special Status List ~~shall~~must be deemed to be conforming to the Hackleman Monteith (HM) and Residential Single Dwelling Unit (RS-5) zoning districts, as applicable. If any building on these properties is damaged or destroyed by fire or other causes beyond the control of the owner, it can be rebuilt to the same size (square feet) and density as existed on the property at the time the HM or RS-5 zoning was first applied but will be subject to the regulations of any applicable overlay zone.

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

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

[Ord. 5789, 10/10/12]

If any of the listed buildings are converted to a single dwelling unit use, the special status granted here is rescinded, and the use of the property must thereafter conform to the requirements of this article. The special status granted here will be lost if it is determined that the use that existed at the time the zone was created was not then lawfully in existence.

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

The intent is that each and every legally established duplex, triplex, fourplex, townhouse, and multiple-dwelling unit development that existed at the time the HM zone was applied or properties that were zoned RS-5 or HM from RM-3 (now named RMA) or RM-5 (now named RM) by Ordinance 5673 on June 27, 2007, be put on the Special Status List. Should an existing use not be on the list, the property owner may request that the property and use be listed upon showing that the use was legally established prior to being rezoned HM or RS-5.

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

The property will be added to the list administratively if the owner or the City provide documents that clearly and objectively establish that the use existed prior to adoption of City zoning in 1946; or if the City can clearly and objectively verify the use was allowed in the zoning district at the time it was established and met the minimum lot size, maximum lot coverage and other standards, as applicable. All other requests will be reviewed through the Type I-L land use process and notice will be given to property owners within 100 feet. In order to approve the request, the applicant must document when the use was established and whether the use received the relevant approvals at that time. Satisfactory evidence must be provided by the property owner or applicant to document that the use was legally established. Such evidence may consist of Sanborn Fire Insurance Maps, land use approvals or letters, building permits, utility hookups, tax records, or telephone directory listings, for example. When a request is approved, the property will be added to the list.

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

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

## HOME BUSINESSES

- 3.090 Purpose. The home business provisions recognize the needs of many persons who are engaged in small-scale business ventures which could not be sustained if it were necessary to lease commercial quarters, or which because of the nature of the activity would make it impractical to expand to a full-scale enterprise and that the business is incidental to the residential use. The purpose of these standards is to allow home businesses that can be compatible in scale and operating characteristics within a residential neighborhood without infringing on the right of neighboring residents to enjoy the peaceful occupancy of their homes. Home businesses do not include hobbies as defined in this Code. [Ord. 5832, 4/9/14]
- 3.092 Applicability. The provisions of this section apply to all home businesses except for the following:
- (1) Garage, yard, or estate sales from the site that comply with Albany Municipal Code Section 7.84.190.
  - (2) Open houses and other events involving the sale of goods or services as long as they comply with the frequency of garage sales allowed in Albany Municipal Code Section 7.84.190.
  - (3) Hobbies.
  - (4) Registered or certified family child care homes per ORS 657A.440. [Ord. 5832, 4/9/14]
- 3.094 Prohibited Uses. The following uses are prohibited as home businesses:
- (1) Storage and/or distribution of toxic or flammable materials, and spray painting or spray finishing operations that involves toxic or flammable materials which in the judgment of the Fire Marshal pose a dangerous risk to the residence, its occupants, and/or surrounding properties.
  - (2) Junk and salvage operations.
  - (3) Storage and/or sale of fireworks in quantities judged by the Fire Marshal to be dangerous.
  - (4) Storage or display of more than one motor vehicle for sale. [Ord. 5673, 6/27/07; Ord. 5832, 4/9/14]
- 3.094 (1) and (2) Repealed by Ord. 5832, 4/9/14.
- 3.100 Procedures.
- (1) Home Business Allowed Outright. Home businesses ~~shall~~must be allowed outright as a permitted accessory use to a residence provided that the business or businesses cumulatively meet all of the standards in Section 3.110 and 3.120. [Ord. 5832, 4/9/14]
  - (2) Home Business as a Conditional Use. Applications for a home business that cannot meet the standards in Section 3.120 will be processed as a Conditional Use Type III. The business ~~shall~~must meet the standards in Section 3.110 and the Conditional Use review criteria in Article 2, Section 2.250. [Ord. 5832, 4/9/14]
- 3.110 Standards that Apply to All Home Businesses.
- (1) One window or wall sign is allowed, not larger than 12 inches by 18 inches.
  - (2) There is no visible outside storage of materials or commodities other than plant materials.
  - (3) There is no display, other than the allowed sign, which would indicate from the exterior that the building is being used for any purpose other than a residential use.
  - (4) No customers or employees may enter the premises between the hours of 8:00 p.m. and 7:00 a.m.
  - (5) All required building and other permits pertaining to the proposed business must be obtained. A home business that is classified as commercial or industrial occupancies by the building codes must comply with the applicable requirements of the Uniform Building Code and Uniform Fire Code. [Ord. 5832, 4/9/14]

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

- 3.120 Standards for Home Businesses Allowed Outright. In order to be allowed outright, a home business ~~shall~~ **must** meet all of the following standards. If more than one business is proposed at the same residence, then all businesses must cumulatively meet these standards.
- (1) Employees. The business is carried ~~on~~ **out** only by residents and not more than two outside employees or volunteers.
  - (2) Offsite Impacts. The business operation results in no vibration, smoke, dust, odors, heat, glare or noise more than 60 decibels noticeable at or beyond the property line sustained for more than 10 minutes between the hours of 7:00 a.m. and 6:00 p.m.
  - (3) Deliveries. The business will not average more than three deliveries and pickups by trucks or other commercial vehicles per day, excluding deliveries from the post office.
  - (4) Customer Vehicles. No more than three customer or client vehicles are permitted on the property or in the right-of-way at one time.
  - (5) Sales. On-site sales ~~shall~~ **must** be by appointment only.
  - (6) Size and Scale. Home businesses located in accessory buildings may not exceed 1,000 square feet including storage. [Ord. 5832, 4/9/14]

\*\*\*

### DEVELOPMENT STANDARDS

- 3.190 Purpose. Development standards are intended to promote site planning and design that consider the natural environment, site intensity, building mass, and open space. The standards also promote energy conservation, needed privacy, safe and efficient parking areas for new development, and improve the general living environment and economic life of a development. Table 3.190-1, on the following page, summarizes the basic development standards. It should be used in conjunction with the sections immediately succeeding the table, which address special circumstances and exceptions. See Article 8 for design standards for single-dwelling unit, middle housing, and multiple-dwelling developments. [Ord. 5445, 4/12/00, Ord. 5768, 12/7/11; Ord. 5947, 1/1/21; Ord. 5968, 1/14/22, Ord. 6024, 12/29/23]

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

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

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

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

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

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

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

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

families. Building height and other site controls such as lot coverage and setbacks would limit the intensity of development rather than density or land-area-per-unit requirements.

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

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

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

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

**4.Modify Front and Rear Setbacks**

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

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

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

**TABLE 3.190-1**

RESIDENTIAL DISTRICT DEVELOPMENT STANDARDS								
STANDARD	RR	RS-10	RS-6.5	HM	RS-5	RM	RMA	HDR
<b>Minimum Property Size or Land Requirements by Unit Type (1)(18)</b>								
Single dwelling unit (SDU) <u>over 1,250 SF</u> (1)	5 acres (15)	10,000 sf	6,500 sf	5,000 sf	5,000 sf	3,500 sf	N/A	N/A
<u>Small SDU or Duplex 800 – 1,250 SF</u> (21)	<u>5 acres (15)</u>	<u>6,500 sf</u>	<u>4,000 sf</u>	<u>3,000 sf</u>	<u>3,000 sf</u>	<u>2,000 sf</u>	<u>N/A</u>	<u>N/A</u>
<u>Small SDU or Duplex Less than 800 SF</u> (21)	<u>5 acres (15)</u>	<u>5,000 sf</u>	<u>3,000 sf</u>	<u>2,500 sf</u>	<u>2,500 sf</u>	<u>1,500 sf</u>	<u>N/A</u>	<u>N/A</u>
Townhouse (1)(16)(19)(20)	1,500 sf	1,500 sf	1,500 sf	1,500 sf	1,500 sf	1,500 sf	1,500 sf	None (20)
Two primary units on one property (1)	N/A	N/A	N/A	7,000 sf	N/A	3,500 sf	3,500 sf	N/A
Duplex <u>over 1,250 SF</u> (1)(23)	5 acres (15)	10,000 sf	6,500 sf	5,000 sf	5,000 sf	3,500 sf	3,500 sf	None
Triplex (1)(16)(20)(23)	5 acres	10,000 sf	6,500 sf	5,000 sf	5,000 sf	5,000 sf	5,000 sf	None (24)
Fourplex (1)(16)(20)(23)	5 acres	10,000 sf	7,000 sf	7,000 sf	7,000 sf	7,000 sf	7,000 sf (47)	None (24)

RESIDENTIAL DISTRICT DEVELOPMENT STANDARDS								
Cottage Cluster (1)(16)( <del>17</del> )(20)	5 acres	10,000 sf	7,000 sf	7,000 sf	7,000 sf	7,000 sf	7,000 sf	None ( <del>20</del> )
Multiple-dwelling units:( <del>23</del> ) <del>Studio and 1-bedroom units (1)(20)</del>	N/A	N/A	N/A	N/A	N/A	<del>2,000 sf/ unit</del> None	<del>1,500 sf/ unit</del> None	None ( <del>20</del> )
<del>2-and 3-bedroom units (1)(20)</del>	<del>N/A</del>	<del>N/A</del>	<del>N/A</del>	<del>N/A</del>	<del>N/A</del>	<del>2,400 sf/ unit</del> None	<del>1,800 sf/ unit</del> None	None ( <del>20</del> )
<del>4 or more bedroom units (1)(20)</del>	<del>N/A</del>	<del>N/A</del>	<del>N/A</del>	<del>N/A</del>	<del>N/A</del>	<del>3,000 sf/ unit</del>	<del>2,200 sf/ unit</del>	None ( <del>20</del> )
Single Room Occupancy Development	5 acres (15)	10,000 sf	6,500 sf	5,000 sf	5,000 sf	500 sf/unit	500 sf/unit	500 sf/unit
Minimum Lot Widths ( <del>18</del> ): Townhouse All other uses ( <del>18</del> ) Small SDU or Duplex Lots	20 ft N/A N/A	20 ft 65 ft 50 ft	20 ft 50 ft 40 ft	20 ft 35 ft 30 ft	20 ft 4035 ft 30 ft	20 ft 30 ft 20 ft	None None None	None None N/A
<b>Residential Density (20):</b>								
Minimum Density (units per gross net acres)( <del>20</del> )	None	None	None	None	None	<del>None</del> 12	<del>None</del> 20	25
Maximum Density ( <del>units per gross acre</del> )( <del>20</del> )	(20)	(20)	(20)	(20)	(20)	<del>25</del> <del>(20)</del> None	<del>35</del> None	<del>50</del> None
<b>Setbacks (4)(18):</b>								
Minimum Front <del>Setback</del> (4)( <del>18</del> )	<del>20</del> 15 ft	<del>20</del> 12 ft	<del>45</del> 10 ft	<del>45</del> 10 ft	<del>45</del> 10 ft	<del>45</del> 10 ft	<del>42</del> 10 ft	10 ft
Maximum Front <del>Setback</del> ( <del>18</del> )	None	None	None	None	None	(14)	(14)	(14)
Minimum <del>Interior/Side</del> <del>Setback</del> : • <del>single-story</del> ( <del>4</del> ) • <del>two or more stories</del>	5 ft 8 ft	5 ft 8 ft	5 ft 8 ft	5 ft 6 ft	5 ft 6 ft	10 ft (5) 10 ft (5)(6)	10 ft (5) 10 ft (5)(6)	10 ft (5) 10 ft (5)(6)
<del>Minimum Interior: two or more stories</del> ( <del>4</del> )	<del>8</del> ft	<del>8</del> ft	<del>8</del> ft	<del>6</del> ft	<del>6</del> ft	<del>10</del> ft (5)(6)	<del>10</del> ft (5)(6)	<del>10</del> ft (5)
<del>Minimum Rear Setback</del> (4)(18)( <del>22</del> )	<del>15</del> ft	<del>15</del> ft	<del>125</del> ft	<del>10</del> ft	<del>10</del> ft	<del>408</del> ft (6)	<del>408</del> ft (6)	<del>5</del> ft (6)
Minimum Building Separation	(12)	(12)	(12)	(12)	(12)	(12)	(12)	(12)
Min. Garage or <del>Carport</del> <del>Vehicle</del> <del>Entrance</del> <del>Front Setback</del> (10)	20 ft	20 ft	20 ft (7)	20 ft (7)	20 ft (7)	20 ft (7)	20 ft (7)	20 ft (7)
Maximum Height (8)	30 ft	30 ft	30 ft	30 ft	30 ft	45 ft	60 ft	75 ft
Maximum Lot Coverage (9)(18)	20% (11)	50%	60%	60%	60%	70%	<del>70</del> 75%	<del>75</del> 80%
Minimum Open Space	<del>N/A</del> (13)	<del>N/A</del> (13)	<del>N/A</del> (13)	<del>N/A</del> (13)	<del>N/A</del> (13)	(13)	(13)	(13)
Min. Landscaped Area (18)	None	(2)	(2)	(2)	(2)	(3)	(3)	(3)

N/A means not applicable.

- (1) Section 3.220 bonus provisions may reduce minimum lot size and area requirements of units.
- (2) All yards adjacent to streets.
- (3) All yards adjacent to streets plus required open space.
- (4) The minimum side yard setbacks for small SDUs and Duplexes on reduced size lots is 3 feet for one-story dwellings and 5 feet for two or more story dwellings. For flag lots, all property lines are subject to side yard setbacks. Vision clearance standards provided in Section 12.180 must be met. Additional setbacks may be required or reduced setbacks may be permitted, see Sections 3.230-3.330 and the buffer matrix at 9.210; exceptions to Setbacks for



- ~~Accessibility Retrofits are in Section 3.263; Zero Lot Line standards are in Sections 3.265 and Townhouse setbacks are provided in Section 3.270;~~ Setbacks for cottage clusters are in Section 3.192.
- (5) Except for single-dwelling units, SRO developments with up to 6 units, or middle housing, which have a minimum side yard setback of 3 feet for one-story dwellings and 5 feet for two-story dwellings. See Section 3.270 for Townhouse setbacks.
  - (6) More than 3 stories = 10 feet plus 3 feet for each story over 3 ~~per unit requirements~~ stories. Multiple-dwelling unit (MDU) developments must also meet the setbacks in Section ~~8.270(3)~~ 3.350, except that MDUs that are detached and that are less than 25 feet tall must have a minimum side and rear setback of 3 feet for one-story dwellings and 5 feet for dwellings of two or more stories.
  - (7) Garage front setback for non-vehicle-entrance = 15 feet, except in RR and RS-10 zoning districts where the setback ~~shall~~ must be 20 feet.
  - (8) See exceptions to height restrictions, Section 3.340; Maximum height for cottage clusters is in Section 3.192.
  - (9) Lot coverage for single-dwelling units and middle housing development ~~shall~~ may only include the area of the lot covered by buildings or structures. Lot coverage for townhouses is calculated based on the overall townhouse project, rather than each townhouse lot. Cottage clusters are exempt from maximum lot coverage standards. Alley- and rear-loaded development may increase the maximum lot coverage by 10%.
  - (10) See Table 3.230-1 for garages with alley or rear access.
  - (11) Maximum lot coverage for parcels 20,000 square feet or less is 50%. The configuration of any development on a lot 20,000 square feet in size, or less, in an RR zoning district that covers more than 20 percent of the parcel on which it is proposed, should be located such that it does not preclude a later division of the parcel.
  - (12) The minimum separation between multi-dwelling unit buildings on a single parcel ~~shall~~ must be 10 feet for single-story buildings and 20 feet for two-story or taller buildings. Minimum building separation for cottage clusters is ~~is~~ provided in Section 3.192.
  - (13) Open Space Requirements. Open Space is required in multiple dwelling unit developments of 10 ~~ten~~ or more units ~~require open space.~~ (see Section 8.220); and residential land divisions of 20 or more lots (see Section 11.095).
  - (14) See Section 8.240 for standards.
  - (15) A property line adjustment between two existing RR properties may be allowed as long as no new lots are created and the resulting properties are at least 20,000 square feet and approval of a septic system has been obtained by Benton County.
  - (16) Triplexes, fourplexes, townhouses, and cottage clusters are not permitted on lots that are nonconforming with respect to the minimum lot size applicable to that housing type within the zoning district (see ADC 2.320) unless bonus provisions provided in Section 3.220 are applicable.
  - (17) See Section 5.092 for Cottage Cluster projects with six or fewer cottages, when the floor area of each cottage is less than 800 square feet., the minimum lot size must be 1,000 square feet per cottage. In RMA, a fourplex with one or more studio or 1 bedroom units shall meet the minimum lot size standards for multi dwelling unit development, except in no case shall the minimum lot size required for a fourplex exceed 7,000 square feet.
  - (18) If a duplex, triplex, fourplex, or cottage cluster has been divided by a middle housing land division, the development standards that are applicable to the lot ~~shall~~ apply to the middle housing parent lot, not to the middle housing child lots.
  - (19) The minimum property size for townhouses specified in Table 3.190-1 is the minimum allowable size for an individual townhouse lot; the number of units permitted on a given site (i.e., the maximum density) is established in accordance with subsection 3.191(1).
  - (20) ~~Lot sizes in the HDR zone are controlled by the allowed density range of 25 units to 50 units per gross acre. Maximum density for the RR, RS-10, RS-6.5, HM, and RS-5 District is controlled by minimum lot size requirements for housing types, maximum building height, and lot coverage by each zone. See Section 3.191 for maximum townhouse density. Except for townhouses, middle housing development is not subject to maximum density requirements in the RM District.~~
  - (21) Garage size is not included of the square footage of the Dwelling Unit. The duplex size is the total for both units, excluding garage area.
  - (22) Cottage Cluster rear setbacks are in Section 3.192. For all other development, when a garage or on-site parking is accessed from a rear alley or rear shared access easement, the rear yard setback applies to the habitable space in the dwelling unit(s). When attached garages or carports are accessed from the alley, the garage or carport must be setback at least 5 feet. Detached garage and carport setbacks are provided in Table 3.230-1, Accessory Structure Standards.

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

[Table 3.190-1 and footnotes amended by Ord. 5281, 3/26/97; Ord. 5338, 1/28/98; Ord. 5445, 4/12/00; Ord. 5555, 2/7/03; Ord. 5673, 6/27/07, Ord. 5768, 12/7/11; Ord. 5832, 4/9/14; Ord. 5947, 1/1/21; Ord. 5966, 11/12/21; Ord. 5968, 1/14/22; Ord. 6004, 12/28/22; Ord. 6008, 1/27/23; Ord. 6010, 7/1/23; Ord. 6042, 7/12/24]

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

(1) Maximum Density.

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

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

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

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

(2) Number of Attached Dwelling Units.

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

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

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

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

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

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

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

(3) Setbacks.

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

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

~~(b)(c)~~ Rear Setback. The minimum rear setback for cottages is 5 feet for one-story cottages and 8 feet for two-story cottages.

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

- (4) Building Height. The maximum building height for all structures is 25 feet.
- (5) Maximum Footprint. The maximum footprint of each cottage must be less than 900 square feet. Attached garages or carports up to 200 square feet are exempt from the maximum footprint for each cottage. Detached garages, carports, or accessory structures are not included in the maximum footprint of each cottage. [Ord. 5968, 1/14/22; Ord. 6042, 7/12/24]

3.200 Lot Size Variation Within a Land Division. Up to 50 percent of the total number of ~~standard size detached~~ single-dwelling unit or duplex lots in a land division may have lot sizes up to 30 percent smaller than the standard lot size permitted in any zone provided that the average lot size for lots in the development is at least the standard required in the zone after accounting for all density bonuses. No reduction in the minimum lot size is permitted for lots created for houses or duplexes that are 1,250 square feet or less on reduced lot sizes, or for triplexes, fourplexes, townhouses, or cottage clusters, except as provided in Section 3.220. These lots must be removed from the calculation of average lot size. In such cases, the recorded plat ~~shall~~must indicate that the larger lots may not be further divided or deed restrictions ~~shall~~must be established indicating the same. Lots created for houses or duplexes that are 1,250 square feet or less must be deed restricted to the applicable maximum house size. [Ord. 5673, 6/27/07; Ord. 5968, 1/14/22; Ord. 6004, 12/28/22]

3.210 Lot Size Variation Within Planned Developments. In the ~~RS-6.5, RS-5, RM, RMA, and OP~~ districts; lot area, lot coverage, and setback requirements may be reduced for individual lot or building sites created by a filed and recorded subdivision developed in accordance with the Oregon Revised Statutes; provided the difference in square footage between the standard lot area established in this Article and the square footage of lots created is secured for common use in open space by covenants or associations to be in effect for at least 20 years. [Note: Cluster developments see Section 11.400.] [Ord. 5673, 6/27/07; Ord. 5742, 7/14/10; Ord. 5968, 1/14/22]

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

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

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

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

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

As noted above, the HIP recommends several strategies to facilitate development of more accessible housing units, including new height and lot coverage bonuses. Like the affordability bonuses, the accessibility bonuses are scaled based on the level of accessibility (fully vs. partially accessible), the number of qualifying units, and the zone. These bonus offerings would help offset some of the additional costs associated with requiring enhanced accessibility for City-supported developments, as described in Section 3.192.

3.220 Area, Density, and Height Bonus Provisions for Reduction in Lot Size and Area Requirements. The following standards may be applied to development sites in residential and mixed-use zoning districts resulting in allowed reductions in the average minimum lot size ~~and area per unit requirements, or increases in allowed building height~~, as indicated. In no instance ~~shall~~may the combined total of all bonus provisions applied to a development result in an overall reduction of more than 30 percent in the standard site size ~~or lot area per unit requirements or result in a density that exceeds the allowed density in the zone by more than 20 percent, or by~~ more than ~~30-50~~ percent in the standard site size when housing is provided that is affordable to persons earning 50 percent or less of the area median income (AMI) per 3.220(6) and Table 3.220-2. Housing that

~~meets the affordable housing definition and terms in Section 3.080(22)(b) is subject to the maximums provided in subsection (6)(c).~~ Some bonuses are available for lot design only, with additional bonuses available due to building design or construction.

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

Relationship to Transportation.

- (1) For single-dwelling unit ~~detached~~ and middle housing developments, a 10 percent reduction in the average minimum lot size required in a zoning district is allowed for proposed lots that meet the following qualifications:

- (a) At least 50 percent of the lot area is located within 200 feet of a designated collector or arterial street; and  
 (b) The lot will not have direct access to an arterial.

For example, if the average minimum lot size for the zone is 10,000 square feet, the average lot size may be 9,000 square feet for those properties within 200 feet of the collector or arterial. The remaining lots in the development must average 10,000 square feet.

- (2) For multiple-dwelling unit developments, when any portion of a building is located within 200 feet of a designated arterial, the ~~maximum height may be increased by 10 percent or 5 feet, whichever is greater. area per unit requirements in those buildings can be reduced by 10 percent.~~

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

Significant Natural Resource Overlays. A transfer of development density from undeveloped buildable land within the Significant Natural Resource Overlay Districts to other property within the development proposal site under the same ownership is allowed if it meets the following standards:

- (3) Development Density to Transfer from Overlay Districts. The land area from which density can be transferred excludes developed and unbuildable areas, such as water bodies, areas below ordinary high-water mark, floodways, the unbuildable portions of lands within the Significant Natural Resource Overlay Districts, and easements.
- Residential Zoning – The applicant may choose to transfer up to 50 percent of the development density if the above standard is met. For example, if the base zoning would have allowed 8 single-dwelling units (net), 4 units can be transferred; if it would have allowed 20 multiple-dwelling units (net), 10 units can be transferred.
  - Open Space Zoning – If the lot was legally created prior to July 1, 1991, and the area is of sufficient size and dimension to comply with the development standards for a single-dwelling unit home, one single-dwelling unit can be transferred.
- (4) Development Density in Receiving Area. Up to a maximum 20 percent reduction in average minimum lot size, ~~or lot area per unit requirements,~~ is allowed in order to accommodate the density transfer.

Energy Conservation.

- (5) Solar Access Protection. If buildings are sited (either by site design or defining buildable areas) ~~and~~ covenants or other mechanisms are established that protect solar access of south building walls from shading by structures and vegetation, a density bonus of up to 10 percent in reduced lot size ~~or area~~ requirements, ~~as applicable,~~ may be allowed. Table 3.220-1 indicates the amount of bonus that ~~shall~~ ~~must~~ be given, based on the percentage of lots or dwelling units that are protected. For subdivisions, to receive a bonus, a covenant or other mechanism ~~shall~~ ~~must~~ be established that provides and protects solar access for the southerly building area of protected lots from 9:30 a.m. to 2:30 p.m. on December 21. For middle housing or multiple-dwelling unit developments to receive a bonus, protected units ~~shall~~ ~~must~~ receive this same solar access protection for south facing walls, and the south facing glass of those units ~~shall~~ ~~must~~ total at least 7 percent of the conditioned area. (South facing is defined as being within 25 degrees of true south.)

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

TABLE 3.220-1

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

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

Moderate-Cost and Affordable Housing

- (6) Provision of Moderate-Cost and Affordable Housing. For the provision of housing that is affordable to low- and moderate-income households earning 120 percent or less of the area median income (AMI), a density bonus through reductions in lot size or ~~area requirement increase in height~~ is permitted for all units within the development, or development phase for phased developments, as provided in Table 3.220-2. [Ord. 5966, 11/12/21]
- (a) For the purpose of this section, “AMI” means the area median income for the county in which the project is located.
- (b) “Affordable” in Table 3.220-2 means that the sales price or rental amount is within the means of a household that may occupy moderate- and low-income housing. In the case of dwelling units for sale, affordable means housing in which the mortgage, amortization, taxes, insurance, and condominium or association fees, if any, constitute no more than 30 percent of such gross annual household income for a household of the size that are most likely to or intended to occupy the unit in question. In the case of dwelling units for rent, affordable means housing for which the rent and utilities constitute no more than 30 percent of such gross annual household income for a household of the size that are most likely to or intended to occupy the unit in question. Projects must ~~include be subject to an affordable housing covenant as provided in ORS 456.220 to 456.295 contractual obligations~~ for continued availability to low- and moderate-income persons for a period of at least 30 years. [Ord. 5947, 1/01/21]

TABLE 3.220-2

AFFORDABLE HOUSING <del>DENSITY AREA &amp; HEIGHT</del> BONUS STANDARDS					
Affordability Level	Percent of units set aside for persons whose household income is less than or equal to the affordability level (including bonus units)	Lot Area Reduction Bonus Permitted*	Height bonus in historic districts and HM, MUR, LE, ES	Height Bonus in RM, RMA, WF, CB, DMU, HD	Height Bonus in HDR &MUC
120% AMI	50 percent of units	5 percent	<u>N/A</u>	<u>N/A</u>	<u>12 feet</u>
100% AMI	50 percent of units	10 percent	<u>N/A</u>	<u>N/A</u>	<u>12 feet</u>
80% AMI	5 percent of units	<del>5</del> <u>10</u> percent	<u>N/A</u>	<u>N/A</u>	<u>12 feet</u>
	10 percent of units	<del>4</del> <u>15</u> percent	<u>N/A</u>	<u>N/A</u>	<u>12 feet</u>
	20 percent of units	<del>2</del> <u>25</u> percent	<u>N/A</u>	<u>12 feet</u>	<u>24 feet</u>

<u>50/60% AMI</u>	5 percent of units	<del>40</del> <u>15</u> percent	<u>N/A</u>	<u>12 feet</u>	<u>24 feet</u>
	10 percent of units	<del>20</del> <u>25</u> percent	<u>12 feet</u>	<u>24 feet</u>	<u>36 feet</u>
	20 percent of units	<del>30</del> <u>35</u> percent	<u>12 feet</u>	<u>24 feet</u>	<u>36 feet</u>

\*For Single-Dwelling Units and Middle Housing Types

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

(c) Per ORS 197A.445, an affordable housing development as defined in Section 3.080(22)(b) that is in a residential or mixed-use zone outside of a National Register historic district is permitted the following height and density bonuses\* in lieu of the bonuses provided in (b) of this section.

**TABLE 3.220-3**

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

\* For Single-Dwelling Units and Middle Housing Types

Alley Access.

(7) Lots with vehicular access from an alley or shared access easement from the rear of the lot may be up to 10 percent smaller than the minimum lot size for the zone.

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

Accessible and Adaptable Housing

(8) For the provision of housing that is accessible to people with disabilities, or that can be adapted to be fully accessible, a density bonus through increase in lot coverage and heights. The terms “Accessible Unit” and “Type A Unit” are defined below.

(a) “Accessible Unit” means a dwelling unit that complies with the Oregon Structural Specialty Code and the provisions for Accessible units in ICC A117.1.

(b) “Type A Unit” (i.e., partially accessible unit) means a dwelling unit that is designed and constructed for accessibility in accordance with the Oregon Structural Specialty Code and the provisions for Type A units in ICC A117.1.

**TABLE 3.220-4**

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

<u>Accessible Unit</u>	<u>20 percent of units</u>	<u>20 percent</u>	<u>12 feet</u>	<u>24 feet</u>	<u>36 feet</u>
<u>Type A Unit</u>	<u>20 percent of units</u>	<u>10 percent</u>	<u>12 feet</u>	<u>12 feet</u>	<u>24 feet</u>
	<u>50 percent of units</u>	<u>20 percent</u>	<u>12 feet</u>	<u>24 feet</u>	<u>36 feet</u>

**SETBACKS**

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

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

**TABLE 3.230-1**

<b>ACCESSORY STRUCTURE STANDARDS</b>	
<b>STRUCTURE</b>	<b>STANDARD</b>
All Accessory Structures	Front setback, see Table 3.190-1, by zone if not noted below
Detached Structure walls less than or equal to 8 feet tall (2)	<del>Interior-Side and rear</del> setback = 3 feet (1)(3)
Attached Structure	<del>Interior-Side and rear</del> setback = 5 feet (1)
Detached Structure walls greater than 8 feet tall (2)	<del>Interior-Side and rear</del> setback = 5 feet
Garage or carport with vehicular access from an alley	Alley setback = 20 feet, less the width of the alley right-of-way, but at least 3 feet. Other <del>interior</del> setbacks=see Table 3.190-1
Structures, including fences, intended for housing animals	See AMC 6.10.020
Fences greater than <del>6.8</del> feet tall <i>All fences, see 9.360 through 9.380.</i>	Fences over <del>6.8</del> feet tall must meet setbacks in Table 3.190-1, by zone, except when permitted along property lines in Sections 9.370(4)(d) and 9.380(3).
Outdoor swimming pools with depths greater than or equal to 24 inches	<del>Interior-Side and rear</del> setback = 10 feet
Decks less than or equal to 30 inches from grade, with no rails or covers	No setback from property lines
Decks greater than 30 inches from grade	<del>Interior-Side and rear</del> setback = 3 feet

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

- (1) Zero-lot line provisions are in Sections 3.265 and 3.270.
- (2) The slab or foundation of accessory structures is not included in the wall height unless it is greater than 24-inches from the ground. [Ord. 5673, 6/27/07]
- (3) Accessory Structures up to 200 square feet or less that are exempt from building permit requirements under the Oregon Residential Specialty Code and no habitable may have a reduced interior setback of 2 feet with a roof overhang no more than 12 inches. [Ord. 6024, 12/29/23]

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

3.250 ~~Parking Standards-Restrictions in Setback or Yard Areas. No parking shall occur not be located~~ in the front yard, ~~for single dwelling unit, duplex, triplex, fourplex, cottage cluster, and townhouse residences~~ except on a paved driveway. [Ord. 6024, 12/29/23]

\*\*\*

3.263 Exceptions to Setbacks for Accessibility Retrofits. An encroachment into the interior setback for the purpose of retrofitting an existing residential bathroom to accommodate mobility impairments is permitted if the following criteria are met:

- (1) The existing bathroom does not have sufficient space for a retrofit to accommodate persons with mobility impairments; and
- (2) A written medical report from a licensed physician that documents a person residing in the dwelling has a mobility impairment; and
- (3) The adjustment is to expand the bathroom no more than 3 feet into ~~an interior-side and rear~~ setbacks; and
- (4) A minimum of a 3-foot ~~interior-side and rear~~ setback is retained adjacent to the expansion.

[Ord. 5832, 4/9/14]

3.265 Zero Lot Line. Any residential dwelling unit or residential accessory building may be located on ~~the interior a side~~ property line where:

- (1) There are no openings or windows in the lot line wall. Additionally, a setback and maintenance easement must be recorded on the abutting property deed or plat. The width of the easement ~~shall must~~ be six feet or the width of the required setback of the abutting property, whichever is less. If the abutting property is not subject to ~~an interior-side or rear~~ setback, then no maintenance agreement is required. This easement is not revocable without City approval.

OR

- (2) Two or more units or garages are attached at the property line and are approved for such in accordance with other provisions of this Code and the applicable Building and Fire codes.

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

3.270 Setbacks for Townhouses. The ~~interior-side~~ setback requirements for townhouse units ~~shall be are~~ zero where the units adjoin, ~~and 3 feet for one-story townhouses, and 5 feet for two or more story townhouses on end units not abutting a street; however, all other~~ The front and rear setbacks ~~shall must~~ conform to this Code.

[Ord. 5968, 1/14/22]

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

3.290 Setback and Fencing for Swimming Pools. Swimming pools ~~shall must~~ conform to the setback regulations for main buildings, except that outdoor swimming pools ~~shall must~~ be set back not less than 10 feet from all ~~interior-side and rear lot-property~~ lines. Also, all swimming pools ~~shall must~~ be fenced or equipped with electric alarm systems in a manner that will prevent entry or trigger an alarm upon entry. Required pool fencing must be at least 4 feet tall and be equipped with a self-locking gate that closes automatically.

[Ord. 5673, 6/27/07]

## BUILDING HEIGHT

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

- (1) Roof Structures and Architectural Features. Roof structures for the housing of elevators, stairways, tanks, ventilating fans and similar equipment required to operate and maintain the building, fire walls, skylights, towers, flagpoles, chimneys, smokestacks, wireless masts, antennas, steeples, and similar



## Exhibit A

structures may be erected above the height limits prescribed in this Article provided that no roof structure, feature, or any other device above the prescribed height limit ~~shall may~~ be allowed or used for the purpose of providing additional floor space.

- (2) Religious Institutions and Public and Semi-Public Buildings. In districts where religious institutions and certain public and semi-public buildings require Conditional Use approval, the height restrictions may be waived as a part of the Conditional Use proceedings provided that a request for such has been noted in the public hearing notice. [Ord. 5673, 6/27/07; Ord. 5947, 1/1/21]

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

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

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

#### 3.350 Transition Heights Abutting Lower Density Uses.

- (1) Purpose. ~~The standards of this section are intended to create transitions between multiple-dwelling unit developments and nearby, lower-density residential development, to reduce the impacts of the multiple-dwelling unit development on lower-density development. These impacts may include incompatible building mass and scale, reduced privacy, and loss of solar access for lower-density development.~~
- (2) Applicability. ~~These standards apply to multiple-dwelling unit housing in the RM, RMA, and HDR zoning districts. These standards do not apply when the abutting property is developed with a non-residential use, or multi-dwelling unit or mixed-use development.~~
- (3) Standards. ~~When the abutting lot is zoned R-10, R-6.5, R-5, HM, or MUR, the height of multiple-dwelling unit structures in the RM district is limited to 35 feet within 20 feet from the shared property line; and in the RMA and HDR districts, height is limited to 35 feet within 30 feet from the shared property line.~~

### LANDSCAPING

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

### BUFFERING AND SCREENING

- 3.370 General. Buffering and screening may be required to offset the impact of development. See Sections 9.210 through 9.270. [Ord. 5445, 4/12/00; Ord. 5673, 6/27/07; Ord. 5947, 1/1/21]

### OUTSIDE STORAGE

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

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

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

## ARTICLE 4

### COMMERCIAL AND INDUSTRIAL ZONING DISTRICTS

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

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

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

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

#### SCHEDULE OF PERMITTED USES

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

- (1) The schedule of permitted uses cannot anticipate all uses that may be located within the city. There are also situations where proposed uses may relate to more than one type of use. In both instances, the Director will determine the appropriate use category based on operating characteristics and land use impacts. Where ambiguity exists concerning the appropriate classification of a particular use, the use may be reviewed as a Conditional Use where the Director determines that the proposed use is consistent with other uses allowable within the subject district due to similar characteristics.
- (2) Where a development proposal involves a combination of uses other than accessory uses, the more restrictive provisions of this Code ~~shall~~ apply. For example, if a portion of a development is subject to Conditional Use approval and the balance is subject only to Site Plan review, the entire development ~~shall-must~~ be reviewed utilizing the Conditional Use criteria if concurrent approval of all uses is sought.
- (3) A change in the use of a property is subject to review as specified by the schedules of permitted uses:
  - (a) When the change involves a change from one use category to another in the schedule of permitted uses and the Director has not waived review under the provisions of Section 1.105,

OR

- (b) When a property that has been unoccupied for more than one year and is non-conforming under the provisions of Article 2 is proposed to be occupied.

[Ord. 5555, 2/7/03; Ord. 5947, 1/1/21]

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

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

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

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

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

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

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

Commercial, Office and Industrial Zoning Districts										
Use Categories (See Article 22 for use category descriptions.)	Spec. Cond.	OP	NC	CC	RC	TD	EMP	IP	LI	HI
gas/oil/wash										
<b>INSTITUTIONAL USE CATEGORIES</b>										
Basic Utilities		CU	CU	CU	CU	CU	CU	S	S	S
Community Services	15	S/CU-15	S/CU-15	S	S	S	S/CU-15	S/CU-15	S	N
Daycare Facility		CU	CU	S	N	N	S	S	CU	N
Educational Institutions	16	N	N	CU	N	CU	S/CU	S/CU	S/CU	N
Hospitals		CU	N	N	N	N	CU	CU	CU	N
Jails and Detention Facilities		N	N	N	N	N	N	N	CU	N
Parks, Open Areas and Cemeteries	17	CU	CU	CU	N	CU	CU	CU	CU	N
Religious Institutions	16	CU	CU	S	N	N	CU	CU	CU	N
<b>RESIDENTIAL USE CATEGORIES</b>										
Assisted Living Facility		CU	CU	CU	N	N	N	N	N	N
Home Businesses (See 3.090-3.180 to determine if CU.)		Y/CU	Y/CU	Y/CU	Y/CU	Y/CU	Y/CU	Y/CU	Y/CU	Y/CU
Residential Care or Treatment Facility		S	S	S	N	N	N	N	N	N
Single Dwelling Unit (SDU)	20, 27, 29	Y-19	S-19	N	N	N	N	N	N	N
Middle Housing	20, 28, 30	CU-19	S-19/N	N	N	N	N	N	N	N
Multiple-Dwelling Unit	27, 28, 30	<del>CU-7-S-28, 29</del>	<del>N-7-S-28, 29</del>	<del>N-3-S-28, 29</del>	<del>N-7-S-28, 29</del>	N	<del>N/S-28</del>	<del>N/S-28</del>	<del>N/S-28</del>	N
Units Above or Attached to a Business	27, 28	S, 29	S, 29	S, 29	<del>CU/S-29</del>	S	S	S	S	N
Residential Accessory Buildings	21	Y/S	Y/S	N	N	N	N	N	N	N
<b>OTHER USE CATEGORIES</b>										
Agriculture (on Vacant Land)	22	N	N	N	Y	N	Y	Y	Y	Y
Satellite Dish, Other Antennas, & Communication Facilities <50 ft.	23	Y	Y	Y	Y	Y	Y	Y	Y	Y
Communication Facilities >= 50 ft.	23	N	N	CU	S	CU	CU	CU	S	Y
Kennels	24	N	N	N	CU	N	N	N	S	N
Non-Residential Accessory Buildings	18	<del>Y/S-48</del>	<del>Y/S</del>	<del>Y/S</del>	<del>Y/S</del>	<del>Y/S</del>	<del>Y/S</del>	<del>Y/S</del>	<del>Y/S</del>	Y
Passenger Terminals		N	N	S	CU	S	CU	CU	CU	N
Rail And Utility Corridors		CU	CU	CU	CU	S	CU	CU	S	S

Y = Yes, allowed, no Site Plan Review required

N = No, not allowed

CU = Conditional Use review, Type III procedure

S = Site Plan Review required

CUII = Conditional Use review, Type II procedure

[Ord. 5555, 2/7/03; Ord. 5728, 1/27/10; Ord. 5742, 7/14/10, Ord. 5767, 12/7/11; Ord. 5832, 4/9/14, Ord. 5886, 1/6/17; Ord. 5947, 1/1/21; Ord. 5949, 1/1/21; Ord. 5968, 1/14/22; Ord. 6010, 7/1/23; Ord. 6024, 12/29/23; Ord. 6042, 7/12/24]

### SPECIAL CONDITIONS

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

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

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

- (2) Manufacturing and Production. The environmental performance standards of Article 9 may limit the placement of certain uses in some districts. If the site is located within 300 feet of residentially zoned land, the use may require a Conditional Use approval.
- (3) Manufacturing in the CC zone. Manufacturing uses in CC must have a retail storefront and sell their products to the public on site.
- (4) Waste and Recycling Related Uses in the CC, LI, and HI zones.
  - (a) Limited uses in CC. Only processing and sorting operations conducted within enclosed structures less than 5,000 sq. ft. in total area are considered with a Conditional Use review.
  - (b) Limited uses in LI. Processing and sorting operations conducted within enclosed structures less than 5,000 sq. ft. in total area are allowed with Site Plan Review. Salvage yards, junkyards, and refuse transfer stations are not permitted. All other material and recycling operations are considered through a Conditional Use review.
  - (c) Limited uses in HI. Processing and sorting operations conducted within enclosed structures less than 5,000 sq. ft. in total area and all other material and recycling operations, excluding salvage yards and junkyards, are allowed with Site Plan Review. Salvage yards, junkyards, sanitary landfills, and refuse transfer stations require a Conditional Use review.
- (5) Wholesale Sales in the IP and EMP zone. This use is allowed in IP and EMP only if all operations and storage are conducted entirely within enclosed buildings.
- (6) Adult Entertainment. Where allowed, Adult Entertainment uses ~~shall~~must meet the following standards:
  - (a) An adult entertainment use ~~shall~~may not be established or expanded within 300 feet of the district boundary line of any residential zoning district.
  - (b) An adult entertainment use ~~shall~~may not be established or expanded within 300 feet of any other adult entertainment use.
  - (c) An adult entertainment use ~~shall~~may not be established or expanded within 300 feet of the property line of a church, school, or public park.
  - (d) Exceptions to the above may be considered by the Major Variance procedures.
- (7) Indoor Entertainment and Recreation in the CC, RC, IP, EMP, LI and HI zones.
  - (a) Limited uses in CC. Indoor firing ranges or gun clubs, coliseums, and stadiums are not permitted.
  - (b) Limited uses in RC. Indoor firing ranges or gun clubs are not permitted.
  - (c) Limited uses in IP and EMP. Exercise and health clubs or gyms are permitted through Site Plan Review. Convention centers, coliseums and stadiums are considered through a Conditional Use Type III review. All other indoor entertainment uses are not permitted.
  - (d) Limited uses in LI. Indoor firing ranges or gun clubs, pool halls, paint gun facilities, cheerleading, tumbling, gymnastics, fairgrounds, coliseums and stadiums are considered through a Conditional Use Type II review. Exercise and health clubs or gyms are considered through a Conditional Use Type III review and must meet the additional criteria in Special Condition (11)(b). All other indoor entertainment uses are not permitted.
  - (e) Limited uses in HI. Indoor firing ranges or gun clubs, pool halls, paint gun facilities, motor racetrack, coliseums and stadiums are considered through a Conditional Use review. All other indoor entertainment uses are not permitted.
- (8) Offices in the IP zone. Traditional Offices intended to serve customers on site are considered through the Conditional Use Type II review. Industrial Offices are permitted through Site Plan Review. See Article 22 for Office examples.
- (9) Offices in the LI zone. Traditional Offices intended to serve customers on site are not allowed. Industrial Offices are permitted through Site Plan Review. See Article 22 for Office examples.

- (10) Restaurants in the NC zone. Drive-through restaurants are allowed in NC provided there are no more than two drive-through windows, and there is no speaker service (for ordering).
- (11) Retail Sales and Services in the OP, NC, EMP, IP and LI zones.
- (a) Limited uses in OP, NC, EMP, and IP. The only retail uses allowed are convenience-oriented retail and personal services-oriented retail intended to serve nearby residences and employees. Businesses are limited to a 5,000-square-foot maximum business footprint, except for businesses located within buildings in the OP and NC zones constructed prior to February 7, 2003, there is no business footprint limit. See Article 22 for examples of convenience-oriented and personal service-oriented businesses. Vehicle repair-oriented services, motor vehicle sales, large equipment sales, and bulk sales are prohibited.
  - (b) Retail Sales and Service Uses in Existing Buildings in the LI zone. To encourage the reuse of buildings constructed prior to April 9, 2014, in the LI zone, Repair-Oriented Retail Sales and Service uses as described in Section 22.140 will be permitted through Site Plan Review. Personal Service-Oriented uses and Sales and Service-Oriented Retail Sales uses as described in Section 22.140 may be permitted through a Conditional Use review. Retail Sales and Service uses permitted in accordance with this subsection are subject to the following additional review criteria:
    - i. The street system has adequate capacity to accommodate the use through the horizon year of the current Transportation Systems Plan; and
    - ii. The development will not alter the existing building or site in a way that would discourage or preclude its later conversion back to an industrial use; and
    - iii. The new commercial user ~~shall~~must acknowledge that industrial uses have a right to operate free from the new use complaining about externalities typical of industrial uses.
- (12) Self-Serve Storage. These facilities are subject to the following standards:
- (a) The minimum driveway width between buildings is 20 feet for one-way drives and 24 feet for two-way drives.
  - (b) The maximum storage unit size is 1,000 square feet.
  - (c) All outdoor lighting ~~shall~~must be shielded to prevent glare and reflection on adjacent properties.
  - (d) Repair of autos, boats, motors, and furniture and the storage of flammable materials are prohibited on the premises, and rental contracts ~~shall~~must so specify.
- (13) Self-Serve Storage in the HI zone. Self-Serve storage units are allowed in HI only on sites less than 3 acres.
- (14) Truck Stops/Fuel Sales in the LI zone. This use is classified as Contractors and Industrial Services, rather than Vehicle Service, Quick.
- (15) Community Service Uses. Community Service uses that may have significant off-site impacts, such as public swimming pools, public safety facilities, and homeless shelters, may be considered through the Conditional Use process. Applications for emergency shelters sited under ORS 197.782 and ORS 197.783 are not a land use decision.
- (16) Educational and Religious Institutions.
- (a) Vocational or trade schools in EMP, IP, LI and HI are allowed through Site Plan Review. All other educational and religious institutions are reviewed as a Conditional Use.
  - (b) The Conditional Use approval for educational and religious institutions includes the following secondary uses: educational activities; sports and other recreational activities; religious activities; political activities; meals programs; before- and after-school childcare activities; fund raising activities; and cultural programs. Such uses will not be required to go through the land use process if all of the activities that constitute the use (excluding parking and travel to and from the site) take place on the site and no external noise is audible or light visible between 10:30 p.m. and 8:00 a.m.
- Any expansion to an existing educational or religious institution ~~shall~~must be reviewed through the

Conditional Use Type II process. Expansion of a school or church includes addition of building area, increase in parking lot coverage, or expansion of athletic facilities.

Note: There are special setbacks for educational institutions in 4.210 and loading standards in 4.260(2).

- (17) Park Development. Park activity subject to Conditional Use review includes major development; expansions of activities and development in parks that currently generate substantial traffic; or construction of major structures such as swimming pools, lighted ball fields, and community centers. Conditional use review is not required, however, for construction of play equipment, tennis courts, bike paths, picnic shelters, restrooms, landscaping, and similar activities in existing improved parks.
- (18) Non-Residential Accessory Buildings over 750 square feet in the OP zone and over 2,000 square feet in all other zones except HI require Site Plan Review.
- (19) Single-Dwelling Units and Middle Housing.
- (a) In the OP zone, single-dwelling units are allowed outright. Middle housing requires a Conditional Use review. One accessory dwelling unit (ADU) may be allowed per legally established single-dwelling unit, called the “primary ~~residence dwelling unit~~”. The ADU ~~shall~~ must comply with the standards for ADUs in ADC 5.070 (15).
- (b) In the NC zone, single-dwelling units, individual SRO dwellings, duplexes, and townhouses require Site Plan Review. All other middle housing is prohibited. One accessory dwelling unit (ADU) may be allowed per legally established single-dwelling ~~detached residence unit~~, called the “primary ~~residence dwelling unit~~”. The ADU ~~shall~~ must comply with the standards for ADUs in ADC 5.070(15).
- (20) Single-Dwelling Units and Middle Housing Townhouses. ~~See Section 4.075. New single dwelling units and townhouses are not permitted unless allowed in the zoning district.~~
- (a) New single-dwelling units and townhouses are not permitted unless allowed in the zoning district. See section 4.075.
- (b) Cottage Cluster projects must comply with the standards in Sections 5.092 and 8.175.
- (21) Residential Accessory Buildings, excluding Accessory Dwelling Units, are permitted outright with residential uses if they meet the following conditions:
- (a) Detached accessory buildings, garages and carports are less than 750 square feet and have walls equal to or less than 12 feet tall.
- (b) All other residential accessory buildings require a Site Plan Review.
- (22) Agriculture. All agricultural uses established before January 8, 2003, are allowed to remain. New agriculture uses are limited to the raising of crops and plants on vacant land. The raising of livestock as a new use is not permitted. Regulations governing the keeping of animals/livestock are found in the Albany Municipal Code Title 6.
- (23) Communication Facility Placement Standards. Where allowed, Communication Towers and Poles over 50 feet in height when measured from the ground or over 15 feet above a rooftop are not permitted in front yard setbacks and must meet the standards in Section 8.500.
- Placement of antennas, satellite dish antennas, and monopoles less than 50 feet tall when measured from the ground; or when located on a rooftop, within 15 feet of a rooftop, is permitted outright in all districts subject to the following standards:
- (a) Antennas or antenna supports. Satellite dishes and monopoles ~~shall~~ must not be located within any front yard setback area or within any required landscape buffer yard.
- (b) Dish antennas larger than three feet in diameter and located within ten feet of a residential lot line or visible from a public street ~~shall~~ must be screened with a six-foot solid screen fence, wall, hedge, or other landscaping.
- (c) Antennas used to display sign messages ~~shall~~ must conform to all district sign regulations in addition to the above.
- (d) Antennas satellite dishes, monopoles and other communication structures less than 50 feet in

height when measured from the ground or over 15 feet above a rooftop, and not in conformance with the above may be considered by Conditional Use review, Type II process.

- (e) See Section 8.500 for additional design standards for all telecommunications facilities.
- (24) Kennels adjacent to residential districts are restricted to sites containing a minimum of two acres. This restriction does not apply to care and boarding provided indoors by veterinary hospitals.
- (25) Hours of Operation. Hours of operation for establishments or outdoor seating areas within 300 feet of a residence may be restricted through conditions of approval to be compatible with neighbors.
- (26) Manufacturing Production and Small-Scale Manufacturing in the EMP zone.
- (a) Uses that require state or federal air quality discharge permits are prohibited.
- (27) One SRO development with no less than four and no more than six SRO units is permitted outright per property zoned to allow for single dwelling units. SRO development is also permitted through Site Plan Review as a multiple dwelling unit development, but each individual SRO unit is considered 0.5 dwelling units when calculating density. Accessory Dwelling Units are not permitted with SRO developments.
- (28) Housing. Affordable housing and conversion of buildings or portion of buildings in commercial use to housing will be permitted through Site Plan Review when the following standards are met.
- (a) Affordable housing as defined in (b) is permitted on property zoned for commercial uses, religious assembly, or public lands OR is owned by one of the following:
- i. A local, state, or special government body, as defined in ORS Chapter 174; or
  - ii. A nonprofit corporation that is organized as a religious corporation or is organized as a public benefit corporation whose primary purpose is the development of affordable housing; or
  - iii. A housing authority as defined in ORS 456.005; or
  - iv. A manufactured dwelling park nonprofit cooperative, as defined in ORS 62.803.
- (b) As used in this section, “affordable housing” means residential dwellings that are subject to an affordable housing covenant as provided in ORS 456.270 to 456.295 for a duration of no less than 30 years and meet either i, ii, or iii below.
- i. Each unit on the property is made available to own or rent to households with incomes of 80 percent or less of the area median income (AMI); or
  - ii. All units on the property are made available to rent or own to households with incomes with a collective average of 60 percent or less of the AMI; or
  - iii. A manufactured dwelling park that serves only households with incomes of 120 percent or less of the AMI.
- (c) A building or portion of a building in commercial use may be converted to a residential use in the OP, NC, CC and RC zones.
- (d) ~~The Affordable housing residential uses as defined and used in this Section described in (a) through (c) above are~~ permitted on property zoned EMP, IP or LI only if the property is:
- i. Publicly owned; and
  - ii. Adjacent to lands zoned for residential uses or schools.
- (e) The above provisions do not apply on lands zoned HI or where:
- i. The development cannot be adequately served by water, sewer, storm water drainage or streets; or
  - ii. The property contains a slope of 25 percent or greater; or
  - iii. The property is within a 100-year floodplain; or
  - iv. The development of the property is constrained by land use regulations based on statewide land use planning goals relating to: natural disasters and hazards; or natural resources, including air, water, land, or natural areas, but not including open spaces or historic resources.
- (f) Height Bonus. An affordable housing development proposal that meets the standards in this



special condition and is located outside of a National Register historic district, will be granted the following height bonuses as applicable.

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

- (29) Commercial Land for Affordable Housing. Per ORS 197A.460, affordable housing development subject to an affordable housing covenant as provided in ORS 456.270 to 456.295 is permitted through Site Plan Review in the OP, NC, CC and RC zones when the following standards are met.
- (a) Each unit is affordable to a household with income less than or equal to 60 percent of the area median income (AMI) as defined in ORS 456.270; or
  - (b) Mixed use structures with ground floor commercial units and residential units are made affordable to moderate income households with incomes between 80 and 120 percent of the AMI, as defined in ORS 456.270.
  - (c) Affordable housing per this section is only permitted on land that has been in the city’s Urban Growth Boundary for at least 15 years and does not apply on vacant land or on lands where the city determines:
    - i. The development cannot be adequately served by water, sewer, storm water drainage or streets;
    - ii. The property contains a slope of 25 percent or greater;
    - iii. The property is within a 100-year floodplain; or
    - iv. The development of the property is constrained by land use regulations based on statewide land use planning goals relating to: Natural disasters and hazards; or Natural resources, including air, water, land or natural areas, but not including open spaces.

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

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

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

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

[Ord. 5445, 4/12/00; Ord. 5555, 2/7/03; Ord. 5728, 1/27/10; Ord. 5742, 7/14/10; Ord. 5767, 12/7/11; Ord. 5832, 4/9/14; Ord. 5886, 1/6/17; Ord. 5923, 2/8/19; Ord. 5947, 1/1/21; Ord. 5949, 1/1/21; Ord. 5968, 1/14/22; Ord. 6010, 7/1/23; Ord. 6018, 6/30/23; Ord. 6042, 7/12/24]

**SPECIAL STATUS FOR SINGLE DWELLING RESIDENCES**

4.075 Existing Uses Granted Special Status (Allowed) in the Commercial and Industrial Districts. Notwithstanding the restrictions of any other section of the Albany Development Code (ADC), all legally established single dwelling ~~detached unit~~, and townhouse dwellings built before January 1, 2002, on commercial or industrially zoned properties ~~shall~~**must** be deemed conforming to the base zoning district. If any building on these properties is damaged or destroyed by fire or other causes beyond the control of the owner, it may be rebuilt to the same size (in square feet) as existed when it was destroyed, subject to the regulations of any applicable overlay district. If an existing single-dwelling ~~detached-unit~~ or townhouse residence is converted to a permitted use in the base zoning district, the special status granted here is rescinded, and the use of the property must thereafter conform to the requirements of Article 4.  
 [Ord. 5789, 10/10/12; Ord. 5555, 2/7/03; Ord. 5947, 1/1/21; Ord. 5968, 1/14/22]

**DEVELOPMENT STANDARDS**

4.090 Purpose. Development standards are intended to promote site planning and design that consider the natural environment, site intensity, building mass, and open space. The standards also promote energy conservation, needed privacy, and improve the general living environment and economic life of a development. Table 4.090-1, on the following page, summarizes the basic development standards. It should be used in conjunction with the sections immediately succeeding the table, which address special circumstances and exceptions. See Article 8 for design standards for single-dwelling, middle housing, and multiple-dwelling developments.  
 [Ord. 5445, 4/12/00, Ord. 5555, 2/7/03; Ord. 5742, 7/14/10, Ord. 5768, 12/7/11; Ord. 5947, 1/1/21; Ord. 5968, 1/14/22; Ord. 6018, 6/30/23]

**TABLE 4.090-1**

<b>Commercial and Industrial District Development Standards</b>									
<b>STANDARD</b>	<b>OP</b>	<b>NC</b>	<b>CC</b>	<b>RC</b>	<b>TD</b>	<b>EMP</b>	<b>IP</b>	<b>LI</b>	<b>HI</b>
<b>MINIMUMS</b>									
Lot size (sq. ft.)(1)	None	None(2)	None	None	None	None	3 acres(4)	None	None
Lot width	None	None	None	None	None	None	None	None	None
Lot depth	None	None	None	None	None	None	None	None	None
Front setback	10'	10'	10'	10'	10'	15'(11)	15'(11)	15'(11)	15'
<del>Interior</del> Side and rear setbacks - abutting non-res'l	5'	None	None	None	None	15'(6)	15'(6)	None	None
<del>Interior</del> Side and rear setbacks - abutting residential <del>district</del> zones	10'(5)	10'(5)	10'(5)	10' (5)(6)	10' (5)(6)	30'(11)	30'(11)	40'(11)	50'
<b>MAXIMUMS</b>									
Building Size	None(10)	None(10)	100,000 (13)	None	None	None	None(10)	None	None
Lot size (sq. ft.)	None	30,000(2)	None	None	None	None	None	None	None
Height (8)	30'	30'	50'	None	None	50'(12)	50'(12)	None	None
Lot Coverage (7)	70%	80%	90%	90%	None	80%	80%	None	None
Landscaped Area (3)	100%	100%	100%	100%	100%	100%	100%	100%	100%
Open Space	(9)	(9)	(9)	N/A	N/A	N/A	N/A	N/A	N/A

N/A means not applicable.

- (1) The minimum lot size for residential units is 1,600 sq. ft. per unit. No minimum lot size is required for non-residential development.
- (2) New NC zones may be no more than 30,000 sq. ft. of contiguous land.
- (3) All yards adjacent to streets. Approved vegetated post-construction stormwater quality facilities are allowed in landscaped areas.

- (4) The minimum lot size for supporting commercial uses may be smaller than 3 acres.
  - (5) Structures on property abutting ~~residential~~ the R-5, R-6.5, R-10, RR, HM, and MUR districts ~~and/or uses~~ require 1 foot of setback for each foot of finished wall height with a minimum setback of 10 feet and a maximum setback of 25 feet. Garages or vehicle parking accessed from the rear by an alley or shared access easement only need to be setback 5 feet from the rear property line.
  - (6) No setbacks are required for buildings abutting railroad rights-of-way.
  - (7) Lot coverage for single dwelling ~~detached units~~ and middle housing development ~~shall~~ only includes the area of the lot covered by buildings or structures. Lot coverage may be increased by up to 10 percent for residential or mixed-use development in the OP and NC zones that have no garages or driveways, or all garages or parking areas are accessed from the rear by an alley or shared access easement.
  - (8) Unless in Airport Approach Overlay District. See Sections 4.400 to 4.440.
  - (9) Ten or more multiple-dwelling units require common open space. See Section 8.220.
  - (10) The maximum business footprint for supporting commercial uses allowed in IP is 5,000 square feet. The maximum business footprint for convenience-oriented and personal service-oriented retail uses in NC and OP is 5,000 square feet. Convenience-oriented and personal service-oriented retail uses in buildings constructed prior to February 7, 2003, in the NC and OP districts are exempt from the maximum business footprint.
  - (11) When adjacent to or across the street from residentially zoned land, the setback ~~shall~~ must be 1 foot for each foot of building height over 30 ft. Buildings may increase in height (“step” up) as the setback increases. For example, at the minimum setback in LI, a building may be 30 feet tall but may increase in height up to 50 feet when set back 50 feet from the property line.
  - (12) Higher structures permitted by Conditional Use approval.
  - (13) The maximum building size may be exceeded for non-commercial and non-office uses when the building is multi-story.
- [Table and footnotes amended by Ord. 5445, 4/12/00; Ord. 5555, 2/7/03; Ord. 5556, 2/21/03; Ord. 5742, 7/14/10; Ord. 5768, 12/7/11; Ord. 5842, 1/1/15; Ord. 5923, 2/8/19; Ord. 5947, 1/1/21; Ord. 5968, 1/14/22; Ord. 6010, 7/1/23]

## SETBACKS

- 4.100 Minimum Standards. All setbacks must meet the minimum standards in Table 4.090-1, Development Standards. In addition to the setbacks in this Article, all development must comply with Section 12.180, Clear Vision Area. For residential accessory structures, see also Article 3, Table 3.230-1, Accessory Structure Standards. [Ord. 5555, 2/7/03; Ord. 5742, 7/14/10; Ord. 5947, 1/1/21; Ord. 6004, 12/28/22]
- 4.110 Measurements. Setback distances must be measured perpendicular to all portions of a property line.
- 4.130 Setback Alternative in Developed Areas. When an addition or new development is proposed in an area containing the same types of uses that were developed to a previous setback standard, the Director or review body may approve setbacks that are the same as those for the existing buildings on the site for additions, or the same as those for buildings on abutting parcels for new development. In such instances, the Type I procedure will be used to process requests, and approval will be based upon the following criteria:
- (1) The area between buildings is sufficient for adequate property maintenance and rear yard access.
  - (2) If there are primary structures on both abutting lots with front setbacks less than the required setback, the proposed front setback for a structure is not less than the average of the abutting structures.
  - (3) If only one abutting property contains a primary structure, the proposed front setback is no less than the setback of the abutting structure on that property.
  - (4) A driveway extending at least 20 feet from the street right-of-way must precede on-site parking spaces or parking structures.
  - (5) For detached dwellings, no wall of a dwelling unit may be closer than 10 feet to a window of another dwelling unit.
  - (6) All other provisions of this Code must be met.

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

- 4.140 General Exceptions to Setback Requirements. The following may project into required setbacks, provided that they conform to the conditions and limitations indicated:
- (1) Depressed Areas. In any zoning district, open-work fences, berms, hedges, guard railings, or other landscaping or architectural devices for safety protection around depressed areas, ramps, stairs, or retaining walls may be located in required setbacks, provided that the devices are not more than 3-1/2 feet tall.
  - (2) Projecting Building Features. The following may project into the required front setback up to 5 feet and into the required ~~interior-side and rear~~ setbacks up to 2 feet:
    - (a) Awnings, eaves, buttresses, architectural appendages (such as, but not limited to, bay windows, planters, cantilevered stairways).
    - (b) Chimneys and fireplaces provided they do not exceed 8 feet in width.
    - (c) Porches, steps, platforms or landings, raised patios or decks (applies only to structures above 30 inches in height: structures 30 inches or less are not subject to setback provisions).
    - (d) Projecting signs must conform to applicable ordinance requirements. See Article 13, Sign Code.  
[Ord. 5555, 2/7/03; Ord. 5742, 7/14/10]
- 4.150 Zero Lot Line. Any residential dwelling or residential accessory building may be located on the ~~interior-side or rear~~ property line when:
- (1) There are no openings or windows in the wall abutting the property line. Additionally, a setback and maintenance easement must be recorded on the abutting property deed or plat. The width of the easement ~~shall-must~~ be six feet or the width of the required setback of the abutting property, whichever is less. If the abutting property is not subject to an ~~interior-side or rear~~ setback, then no maintenance agreement is required. This easement ~~shall-must~~ be written so it is not revocable without City approval.  
  
OR
  - (2) Two or more dwelling units are attached at the property line and are approved for such in accordance with other provisions of this Code.  
[Ord. 5555, 2/7/03; Ord. 5742, 7/14/10; Ord. 5947, 1/1/21]
- 4.160 Interior-Side and Rear Setbacks for Attached Dwellings. The ~~interior-side and rear~~ setback requirement for townhouses is zero where the units adjoin; however, all other setbacks must conform to the requirements of this Code. The setback requirements for residential uses do not apply to a dwelling legally located above a commercial use.  
[Ord. 5445, 4/12/00; Ord. 5968, 1/14/22]
- 4.170 Setbacks and Fencing for Swimming Pools. Swimming pools must conform to the setback regulations for main buildings, except that outdoor swimming pools must be set back at least 10 feet from all ~~interior-side and rear lot-property~~ lines. Also, all swimming pools must be fenced or equipped with electric alarm systems that prevent entry or alarm upon entry. Required pool fencing must be at least four feet tall and have a self-locking gate that closes automatically.
- 4.180 Setbacks for Properties Abutting Future Street Rights-of-Way. Where the adopted Comprehensive Plan and future street plans include widening or connecting existing streets, or establishing new streets, the placement of all buildings and the establishment of all required setbacks must be in relation to the proposed street right-of-way boundaries. Also, no building may be erected on a lot that abuts a proposed street right-of-way unless the lot will have the width and depth needed to complete the street width plus the width and depth of the setbacks required on the lot.  
[Ord. 5742, 7/14/10]

4.200 Special Noise Corridor Setbacks. Residential developments adjacent to the following listed streets and highways must maintain the setbacks listed from the designated right-of-way in addition to the required setbacks for the zoning district:

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

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

4.210 Special Setbacks for Religious Institutions, Public and Semi-Public Buildings. Any new construction of a Religious Institution or Public or Semi-Public building, as defined in Article 22, must be set back at least 25 feet from any property line adjoining or directly across public right-of-way from any residential district. Stockpiling or storing materials or equipment is not permitted in the required front ~~or interior, side, or rear~~ setbacks. All other setbacks of the district where the property is located apply.  
 [Ord. 5555, 2/7/03; Ord. 6024, 12/29/23]

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

(1) Paved driveways provided for single-dwelling unit ~~detached~~, duplex, triplex, fourplex, cottage cluster, and townhouse residences.  
 [Ord. 5555, 2/7/03; Ord. 5742, 7/14/10; Ord. 5947, 1/1/21; Ord. 5968, 1/14/22; Ord. 6004, 12/28/22; Ord. 6018, 6/30/23]

**HEIGHT**

4.230 Height Standards. See Table 4.090-1 for height restrictions. [Ord. 5555, 2/7/03; Ord. 5947, 1/1/21]

4.240 Height Exceptions.

(1) Roof structures for the housing of elevators, stairways, tanks, ventilating fans and similar equipment required to operate and maintain the building, fire walls, skylights, towers, flagpoles, chimneys, smokestacks, wireless masts, antennas, steeples, and similar structures may be erected above the height limits prescribed in this article, provided that no roof structure, feature, or any other device above the prescribed height limit may be allowed or used for the purpose of providing additional floor space.

(2) Religious Institutions and Public and Semi-Public Buildings. In zoning districts where churches and certain public and semi-public buildings require Conditional Use approval, the height restrictions may be waived as a part of the Conditional Use proceedings, provided that a request for such has been noted in the public hearing notice. [Ord. 5555, 2/7/03]

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

**LANDSCAPING**

4.270 General. Developments must comply with the site landscaping standards in Article 9 before occupancy or in accordance with Section 9.140. [Ord. 5742, 7/14/10]

**BUFFERING AND SCREENING**

4.280 General. Buffering and screening may be required in addition to the minimum landscaping to offset the impact of development. See Sections 9.210 through 9.270.  
 [Ord. 5445, 4/12/00, Ord. 5555, 2/7/03; Ord. 5742, 7/14/10; Ord. 5947, 1/1/21]

## OUTSIDE STORAGE

### 4.290 General.

- (1) In the NC, OP, TD, EMP, and IP zoning districts, outside storage or display of materials, junk, parts, or merchandise is not permitted, except for automobile sales (where allowed). [Ord. 6010, 7/1/23]
- (2) In the PB and CC zones, outside storage is allowed if screened from the public rights-of-way with a sight-obscuring fence, wall, hedge, or berm, which must be constructed of non-combustible material. This provision excludes automobile and plant sales. Display of goods is not permitted.
- (3) In the RC zone:
  - (a) Exterior display of goods is permitted except in the required front setback or buffer yard. Display is limited to a sample of goods offered for sale by the establishment. Display areas may not be used for storage. Display areas may not expand beyond 25 percent of the primary street frontage and must be designated on the site plan. Display areas adjacent to residential districts or uses must be set back at least 10 feet and must be screened from view with a sight-obscuring fence, wall, hedge, or berm, which must be constructed of non-combustible material.
  - (b) Exterior storage is permitted in interior-side and rear yards, except in required buffer yards and setbacks. Storage areas adjacent to residential districts or uses must be screened from view with a sight-obscuring fence, wall, hedge, or berm, which must be constructed of non-combustible material. This enclosure must be located on the property at the required setback line as if the berm, fence, wall, or hedge were a building.
- (4) In the LI and HI zones, outside storage is permitted in interior-side and rear yards outside of the required setback. Outside storage is allowed in front yards outside the front setback provided that it is enclosed with a sight-obscuring fence, wall, hedge, or berm, which must be constructed of non-combustible material. This enclosure must be located on the property at the required setback line as if the berm, fence, wall, or hedge was a building.
- (5) Where outside storage is permitted.
  - (a) Materials and equipment stored as permitted in this subsection may be no more than 14 feet above the elevation of the storage area.
  - (b) Outside storage over six feet tall must be screened in accordance with 9.250.  
[Ord. 5555, 2/7/03; Ord. 5742, 7/14/10; Ord. 5886, 1/6/17]

4.300 Screening of Refuse Containers. The following standards apply to all development, except for refuse containers or disposal areas serving four or fewer dwellings. Any refuse container or disposal area that would otherwise be visible from a public street, customer or resident parking area, any public facility, or any residential area, must be screened from view by placement of a sight-obscuring fence, wall, or hedge at least 6 feet tall. All refuse materials must be contained within the screened area. All refuse containers and disposal areas must be covered. The cover must be at least 8 feet tall. Refuse disposal areas may not be located in required setbacks or buffer yards, and must be placed at least 15 feet from any dwelling window, or between multiple dwelling unit buildings and single dwelling units.

[Ord. 5968, 1/14/22]

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

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

## ARTICLE 5 MIXED USE ZONING DISTRICTS

5.000 Purpose. This article is intended to define the character of Albany’s mixed-use zoning districts. The mixed-use zones implement the concepts identified in the Balanced Development Patterns Project (2001) and the Town Center Plan (Central Albany Land Use and Transportation Study, CALUTS, 1996). These zoning districts are compatible with the Village Center Comprehensive Plan designation applied in the Central Albany area, North Albany, east of Interstate 5, and south of Oak Creek near Highway 99E (Pacific Boulevard). The mixed-use zones may be applied outside of the Village Center plan designation.  
[Ord. 5555, 2/7/03; Ord. 6010, 7/1/23]

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

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; Ord. 5894, 10/14/17]

### ZONING DISTRICTS

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

- (1) HD – HISTORIC DOWNTOWN DISTRICT. The HD district is intended for a dense mixture of uses with an emphasis on entertainment, theaters, restaurants, nightlife and specialty shops. High-density residential infill on upper floors is encouraged, as is the continued presence of the government center and supporting uses.
- (2) DMU – DOWNTOWN MIXED USE DISTRICT. The DMU district is intended for a mix of retail, services, institutions, offices, and housing that supports businesses in and around the Historic Downtown District. Mixed uses are encouraged both horizontally and vertically. High-density residential infill and office employment are both encouraged.
- (3) CB – DOWNTOWN CENTRAL BUSINESS DISTRICT. The CB district is intended for a broad mix of residential and non-residential uses. Mixed uses are encouraged both horizontally and vertically. High-density residential infill is encouraged to support nearby businesses.
- (4) MUR – MIXED USE RESIDENTIAL DISTRICT. The MUR district is intended primarily to create a residential district that allows a mixture of neighborhood commercial uses that meet the daily needs of area residents.

- (5) WF – WATERFRONT DISTRICT. The WF district is intended to transition Albany’s Willamette River waterfront into a vibrant center characterized by a variety of housing choices and a mixture of housing, office, and retail uses. Infill and redevelopment are encouraged, as well as adaptive reuse of existing buildings until the area is redeveloped. Development and design standards will result in great neighborhoods, a pedestrian-friendly environment, and an enhanced community image.
- (6) LE – LYON-ELLSWORTH DISTRICT. The LE district is intended primarily as a location for development that serves the Historic Downtown district and Downtown Central Business district. This district is the most desirable location in the Central Albany area for parking structures with ground-floor commercial uses.
- (7) MS – MAIN STREET DISTRICT. The MS district is intended primarily as an employment center with supporting commercial and retail services for residents and employees in the area. Infill and redevelopment are encouraged provided there is no adverse impact to surrounding residences.
- (8) ES – ELM STREET DISTRICT. The ES district is intended primarily to provide enough land for Albany General Hospital and associated medical uses while maintaining compatibility with adjacent residences in scale and design. Light commercial and personal services are encouraged to serve the nearby residents. Removal of existing residences and landscapes is discouraged. New parking facilities should be underground or completely screened. Only the amount of parking that is necessary should be provided for uses in this district, to minimize the amount of land consumed by parking.
- (9) PB – PACIFIC BOULEVARD DISTRICT. The PB district is intended as an auto-oriented commercial area along Pacific Boulevard in the Central Albany area. Design guidelines and front-yard landscaping will provide a coordinated look and enhance the community image along this major corridor as it develops or redevelops. Commercial infill and redevelopment are encouraged. Sound and visual buffers should be used to protect nearby residential areas.
- (10) MUC – MIXED USE COMMERCIAL DISTRICT. The MUC zoning district is intended primarily to provide a mix of convenience commercial, personal services, offices and medium density residential uses. The district would typically be anchored by a grocery store and may include a mix of smaller retailers, offices, live-work units, and residences. The MUC district is easily accessible to nearby residences, and commercial uses are compatible in scale and design with adjacent neighborhoods. Uses in the MUC zone will serve area residents and should not draw from the region.

[Ord. 5556, 2/21/03; Ord. 5577, 7/28/04; Ord. 5555, 2/7/03; Ord. 5635, 1/11/06; Ord. 5673, 6/27/07; Ord. 5832, 4/9/14; Ord. 5894, 10/14/17; Ord. 6018, 6/30/23]

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

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

[Ord. 5555, 2/7/03]

5.045 Relationship to State, Federal and Other Local Regulations. In addition to the regulations of this Code, each use, activity, or operation in the City of Albany must comply with applicable state and federal standards. Other local regulations including those in Article 6 – Natural Resource Districts and Article 7 – Historic Overlay District, and those of the Building Division and Fire Department.

[Ord. 5555, 2/7/03; Ord. 5894, 10/14/17]



**Staff Comments: Clarifications and consistency**

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

**SCHEDULE OF PERMITTED USES**

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

- (1) The schedule of permitted uses cannot anticipate all uses that may be located within the city. There are also situations where proposed uses may relate to more than one type of use. In both instances, the Director will determine the appropriate use category based on operating characteristics and land use impacts. Where ambiguity exists concerning the appropriate classification of a particular use, the use may be reviewed as a Conditional Use where the Director determines that the proposed use is consistent with other uses allowable within the subject district due to similar characteristics.
- (2) Where a development proposal involves a combination of uses other than accessory uses, the more restrictive provisions of this Code ~~shall~~ apply. For example, if a portion of a development is subject to Conditional Use approval and the balance is subject only to Site Plan Review, the entire development ~~shall~~must be reviewed utilizing the Conditional Use criteria if concurrent approval of all uses is sought.
- (3) A change in the use of a property is subject to review as specified by the schedules of permitted uses:
  - (a) When the change involves a change from one use category to another in the schedule of permitted uses and the Director has not waived review under the provisions of Section 1.105, or
  - (b) When a property that has been unoccupied for more than one year and is non-conforming under the provisions of Article 2 is proposed to be occupied.

[Ord. 5555, 2/7/03; Ord. 5947, 1/1/21]

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

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

A number appearing opposite a use in the “special conditions” column indicates that special provisions apply to the use in all zones. A number in a cell particular to a use and zone(s) indicates that special provisions apply to the use category for that zone(s). These conditions are found following the schedule in Section 5.070.

**TABLE 5.060-1  
SCHEDULE OF PERMITTED USES**

Use Categories (See Article 22 for use category descriptions.)	Spec. Cond.	MUC	WF	HD	DMU	CB	LE	PB	MS	ES	MUR
<b>INDUSTRIAL USE CATEGORIES</b>											
Contractors and Industrial Services	1	N	N/ CU-24	N	N	CU	S	S	N	N	N
Manufacturing and Production	2	N	N/ CU-24	CU-3	N	CU-3	S/CU	N	N	N	N
Small-scale Manufacturing - less than 5,000 sq. ft. -5,000 to 10,000 sq. ft.	2	S/CU CU	S/CU CU	S/CU CU	S/CU CU	S/CU CU	S/CU CU	S/CU CU	S/CU CU	N N	N N
Warehousing and Distribution		N	N/ CU-24	N	N	N	N	N	N	N	N
Waste and Recycling		N	N	N	N	N	N	N	N	N	N
Wholesale Sales		N	N/ CU-24	N	N	CU	N	N	N	N	N
<b>COMMERCIAL USE CATEGORIES</b>											
Adult Entertainment	4	N	N	S	S	S	N	N	N	N	N
Entertainment and Recreation Indoor Outdoor		S-5 CU	S-5/CU-24 CU-6	S N	S N	S CU-6	S N	S-5 S	S-5 N	S-5 N	CU-26 N
Offices: Traditional Industrial		S CU	S S	S S	S S	S S	S S	S S	S S	S N	S-26 N
Parking		S	CU	CU	CU	CU	S	S	S	CU-7	CU
Recreational Vehicle Park		N	N	N	N	N	N	N	N	N	N
Restaurants, no drive-thru with drive-thru or mostly delivery	23	S CU	S N	S N	S N	S N	S S	S S	S N	CUII N	S-26 N
Retail Sales and Service		S-8	S-8/ CU-24	S-8	S-8	S	S	S	S-8	S-8	S-8/26
Self-Serve Storage	9	N	N	N	N	N	N	N	N	N	N
Taverns, Bars, Brewpubs, Nightclubs	23	CUII	CUII	S	S/CUII (25)	S/CUII (25)	S	S	CUII	CU	CUII-26
Vehicle Repair		N	N/ CU-24	N	N	CU	N	S	N	N	N
Vehicle Service, Quick (gas/oil/wash)		S	N	N	N	N	N	S	S	S	N
<b>INSTITUTIONAL USE CATEGORIES</b>											
Basic Utilities	10	CU	CU	CU	CU	CU	CU	CU	CU	CU	CU
Daycare Facility		S	S	S	S	S	N	CU	S	S	S
Community Services	11	CU	CU	S (11)	S (11)	S (11)	S (11)	S (11)	S (11)	S (11)	CU
Educational Institutions	12	CU	CU	CU	CU	CU	CU	N	CU	CU	CU
Hospitals		N	CU	CU	CU	S	S	CU	N	CU	CU
Jails & Detention Facilities		N	N	N	N	N	N	N	N	N	N
Parks, Open Areas, and Cemeteries	13	CU	CU	CU	CU	CU	CU	CU	CU	CU	CU
Religious Institutions	12	CU	CU	CU	CU	S	S	CU	CU	CU	CU
<b>RESIDENTIAL USES</b>											
Residential Care or Treatment Facility	14	S	CU	S	S	S	S	N	S	S	S
Assisted Living Facility		<del>CU-S</del>	CU	CU	CU	CU	CU	CU	CU	CU	<del>CU-S</del>
Single-Dwelling Unit (SDU)	15, 27	Y-17	N	N/ Y-16	N/ Y-16	N/ Y-16	N/ Y-16	N	N	N/ Y-16	Y

Use Categories (See Article 22 for use category descriptions.)	Spec. Cond.	MUC	WF	HD	DMU	CB	LE	PB	MS	ES	MUR
Duplex	15, 28, 29, <u>30</u>	Y-17	S-16	N	S-16	S-16	Y	N	N	CU	Y
Townhouse	15, 28, 29	Y-17	S-16	N	S-16	S-16	N	N	N	CU	Y
Triplex or Fourplex	<u>15</u> , 28, 29, <u>30</u>	Y-17	S-17	N	S-17	S-17	S	N	CU	CU	Y
Cottage Cluster		Y-17	N	N	S	N	N	N	N	N	Y
Multiple-Dwelling Units	27, 28, 29, <u>30</u>	S-17	S-17	N	S-17	S-17	S	N	CU	CU	S
Units Above or Attached to a Business	<u>27</u> , 28, 29	S-17	S	S-17	S	S	S	S	S	S	S
Home Business (See 3.090-3.180 to determine if CU.)		Y/CU	Y/CU	Y/CU	Y/CU	Y/CU	Y/CU	Y/CU	Y/CU	Y/CU	Y/CU
Residential Accessory Buildings	18	Y/S	Y/S	Y/S	Y/S	Y/S	CUII	N	Y/CUII	Y/CUII	Y/S
<b>OTHER USE CATEGORIES</b>											
Agriculture (on Vacant Land)	19	N	N	N	N	N	N	N	N	N	N
Satellite Dish, Other Antennas, & Communication Facility <50 ft.	20	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y
Communication Facility >= 50 ft.	21	CU	N	N	N	CU	CU	CU	N	CU	N
Kennels	22	N	N	N	N	N	N	N	N	N	N
Non-Res'l Accessory Buildings, larger than 750 sq. ft.		S	S	S	S	S	S	S	S	S	S
Passenger Terminals		CU	N	CU	CU	CU	CU	S	CU	N	N
Rail And Utility Corridors		CU	CU	N	N	CU	CU	CU	CU	CU	N

Y = Yes, allowed, no Site Plan review required  
 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; Ord. 5947, 1/1/21; Ord. 5968, 1/14/22; Ord. 2010, 7/1/23; Ord. 6024, 12/29/23]

**SPECIAL CONDITIONS**

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

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

- (a) Limited uses in the CB zone. The following manufacturing and production uses are prohibited in the CB zone: slaughterhouses, meat packing, and concrete and asphalt production.
- (b) Limited uses in the HD zone. Expansion of existing Small-Scale Manufacturing uses into more than 10,000 square feet of floor area is allowed with a Conditional Use approval, subject to the following limitations. All other manufacturing and production uses are prohibited.
- i. Retail must be included as an accessory use.
  - ii. The Small-Scale Manufacturing Use must have occupied the space for at least 12 months prior to applying to expand.
  - iii. The use ~~shall~~ must occupy no more than 30,000 square feet of floor area on the first story.
- (4) Adult Entertainment.
- (a) An adult entertainment use or store may not be established or expanded within 300 feet of the district boundary line of any residential zoning district.
  - (b) An adult entertainment use may not be established or expanded within 300 feet of any other adult entertainment use.
  - (c) An adult entertainment use may not be established or expanded within 300 feet of the property line of a church, school, or public park.
  - (d) Exceptions to the above may be considered by the Major Variance procedures.  
[Ord. 5947, 1/1/21]
- (5) Indoor Entertainment and Recreation in the WF, PB, MS, ES and MUC zones.
- (a) Limited Uses in PB and MUC. The following indoor entertainment and recreation uses are prohibited in PB and MUC: movie theaters, indoor firing ranges, paint gun, coliseums, stadiums, and similar facilities.  
[Ord. 5894, 10/14/17]
  - (b) Limited Uses in MS and ES. Only the following indoor entertainment and recreation uses are allowed in MS and ES: athletic or exercise facilities, bowling alleys, skating rinks, pool halls, games, amusements, arcades and uses with similar impacts. All other indoor entertainment and recreation uses are prohibited.
  - (c) Limited Uses in WF. The following indoor entertainment and recreation uses are prohibited in WF, except as specified for Special Status sites pursuant to ADC Section 5.085: indoor firing ranges, coliseums, stadiums and similar facilities.  
[Ord. 5894, 10/14/17]
- (6) Outdoor Entertainment and Recreation in the CB zone.
- (a) Conditional Uses in CB and WF. The following Outdoor Entertainment and Recreation uses are allowed with a Conditional Use approval: tennis courts, miniature golf, skateboard parks and similar uses. All other uses in the Outdoor Entertainment and Recreation use category are prohibited.  
[Ord. 5894, 10/14/17]
- (7) Parking Facility in the ES zone.
- (a) Limited Uses. Parking that is provided for a primary use on the same or adjacent property is allowed. Fee parking for people not connected to the primary use is limited to parking structures.  
[Ord. 5635, 1/11/06; Ord. 5894, 10/14/17; Ord. 6018, 6/30/23]
- (8) Retail Sales and Service in the MS, ES, HD, WF, DMU, MUC and MUR zones.  
[Ord. 5894, 10/14/17]
- (a) Limited Uses in MS, ES, and MUR. The following retail uses are permitted: convenience and personal service-oriented commercial intended to serve nearby residents and employees; specialty retail stores and studios; small appliance rental and repair, shoe repair, and tailoring. All other retail uses are prohibited. See Article 22 for descriptions of convenience-oriented and personal service-oriented commercial uses.
  - (b) Limited Uses in MUC. The following retail uses are prohibited: sale, leasing, and rental of vehicles and trucks; hotels and motels.  
[Ord. 5556, 2/21/03; Ord. 5894, 10/14/17]

- (c) Limited Uses in HD, WF, and DMU zones. The following retail uses are prohibited, except as specified for Special Status sites pursuant to ADC Section 5.085: sale, leasing, and rental of vehicles and trucks. [Ord. 5894, 10/14/17]
- (9) Self-Serve Storage. These facilities are subject to the following standards:
- The minimum driveway width between buildings is 20 feet for one-way drives and 24 feet for two-way drives.
  - The maximum storage unit size is 1,000 square feet.
  - All outdoor lighting ~~shall~~must be shielded to prevent glare and reflection on adjacent properties.
  - Repair of autos, boats, motors and furniture and storage of flammable materials are prohibited on the premises, and rental contracts ~~shall~~must so specify.
- (10) Basic Utilities. In all mixed-use village center zones, new regional/community utilities including treatment plants, major power generation and storage facilities, major overhead power lines requiring tower support structures, and utilities with potential visual or off-site impacts are prohibited. All other Basic Utilities are considered through the Conditional Use review.
- (11) Community Services. Community Service uses that may have significant off-site impacts like noise or traffic, such as public swimming pools, public safety facilities, and homeless shelters may be considered through the Conditional Use process. Applications for emergency shelters sited under ORS 197.782 and ORS 197.783 are not a land use decision. [Ord. 6042, 7/12/24]
- (12) Conditional Use Approval for Religious and Educational Institutions includes the following secondary uses: educational activities; sports and other recreational activities; religious activities; political activities; meals programs; before- and after-school childcare activities; fundraising activities; and cultural programs. Such uses will not be required to go through the land use process if all of the activities that constitute the use (excluding parking and travel to and from the site) take place on the site and no external noise is audible or light visible between 10:30 p.m. and 8:00 a.m.
- Expansion of an educational or religious institution ~~shall~~must be reviewed through the Conditional Use Type II procedure. An expansion includes the addition of building area, increase in parking lot coverage, or expansion of athletic facilities.
- An educational institution having a capacity greater than 25 students ~~shall~~must have a driveway designed for the continuous forward flow of passenger vehicles for the purpose of loading and unloading children. [Ord. 5673, 6/27/07; Ord. 5947, 1/1/21]
- (13) Public Park development activity subject to Conditional Use review includes major development; expansions of activities and development within parks which currently generate ~~or will generate~~ substantial traffic; or construction of major structures ~~and facilities~~ such as swimming pools, lighted ball fields, and community centers. Conditional use review is not required, however, for construction of play equipment, tennis courts, bike paths, picnic shelters, restrooms, landscaping, and similar activities within existing improved parks. [Ord. 5947, 1/1/21]
- (14) Residential Care or Treatment Facility. A residential care facility (six or more residents) requires a Site Plan Review. A “residential home” (as defined in ORS Chapter 443) or group home that includes five or fewer residents is permitted outright in any zone that allows single-dwelling unit residences. [Ord. 5673, 6/27/07; Ord. 5742, 7/14/10]
- (15) Single-Dwelling Units, Townhouses, ~~Triplexes, Fourplexes,~~ and Duplexes.
- Single-dwelling ~~units~~, townhouse, ~~triplex, fourplex,~~ and duplex units ~~that were legally constructed built~~ before December 11, 2002, may remain as a permitted use in any zone without being nonconforming. See Section 5.080.
  - In CB, ES, HD, DMU, and LE: Buildings originally built as a single-dwelling unit, house, or church may be converted to a single dwelling unit residential use without requiring a land use application. In HD all other single dwelling units and middle housing are prohibited.

- (c) ~~In CB, WF, and DMU:~~ Townhouses, ~~triplexes, fourplexes,~~ and duplexes with driveways that meet the standards in ADC 8.150(1) are permitted subject to Site Plan Review. An Adjustment may be requested for units with driveways that do not meet the standards in ADC 8.150 (1).  
 [Ord. 5673, 6/27/07; Ord. 5894, 10/14/17; Ord. 5947, 1/1/21; Ord. 5968, 1/14/22; Ord. 6042, 7/12/24]

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

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

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

- (16) ~~Single Dwelling Unit with One Accessory Dwelling Units or Single Room Occupancy Unit.~~ Where single-dwelling units are permitted outright, one accessory dwelling unit (ADU) or one Single Room Occupancy (SRO) Unit may be allowed on each lot that has ~~a one~~ single legally established detached single-dwelling unit, called the “primary residence dwelling unit”.
- (a) ~~Accessory Dwelling Units.~~ Accessory ~~d~~Dwelling ~~u~~Units ~~shall must be incidental in size to the primary residence and~~ meet the following standards:
- i. The size of an ADU may not exceed 50 percent of the gross floor area of the primary residence (excluding garages or carports) or 900 square feet, whichever is less. (Note: ADU’s greater than 900 square feet that were legally constructed before July 1, 2007, may remain.) If the primary dwelling unit Dwelling Unit is less than or equal to 900 square feet, the ADU must be at least 25 square feet less than the primary dwelling unit.
  - ii. The lot was legally established.
  - iii. The front door of an ADU may not be located on the same façade as the front door of the primary residence dwelling unit unless the door already exists or the wall that contains the ADU front door is set back at least five feet from the front facade of the primary residence dwelling unit.
  - iv. Exterior additions must substantially match the existing materials, colors, and finish of the primary structure dwelling unit.
  - v. All required building permits must be obtained. If the primary residence dwelling unit is on the Local Historic Inventory, historic review may be required per Article 7.
  - vi. The front setback ~~shall must~~ be greater than or equal to the location of the front wall of the primary residence dwelling unit. All other setbacks must meet the requirements of the zone.
  - vii. Conversion of an Existing Building to an ADU. An existing accessory structure that was legally established prior to February XX, 2025, may be converted into an ADU, provided, the conversion does not increase the nonconformity of the structure and complies with applicable building codes.
- (b) ~~Single Room Occupancy (SRO) Unit.~~ The SRO Unit must meet the following standards:
- i. The SRO Unit must be located interior to the primary dwelling-unit.
  - ii. The SRO Unit must share a kitchen with the primary dwelling unit and must not contain food preparation facilities.
  - iii. The SRO Unit must have an interior door connecting to the primary dwelling unit and may have an exterior door located in the rear yard.
  - ~~iv.~~ The SRO Unit must not operate independently of the primary dwelling unit unless

converted to an accessory dwelling unit after all required building permits have been obtained.

[Ord. 5673, 6/27/07; Ord. 5949, 1/01/21; Ord. 5966, 11/12/21; Ord. 5968, 1/14/22]

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

- (a) In MUC, residential development ~~shall~~must develop at a minimum gross density of 10 units an acre. Residences above a business or office are exempt from meeting the minimum density. In MUC districts located east of interstate 5, new development of uses in the Residential Use Categories is only permitted in conjunction with a primary use from the Commercial or Institutional Use Categories. The new residential use must be in the same building or on the same property as the primary non-residential use. [Ord. 5556, 2/21/03; Ord. 5947, 1/1/21; Ord. 6010, 7/1/23]
- (b) In HD, dwelling units above or attached to a business are limited as follows. For the purposes of this section, the non-residential portion of a live/work dwelling unit is regulated as part of the dwelling unit and subject to all of the standards below.
  - i. Units above a business: Dwelling units on the second story or above are permitted.
  - ii. Units behind a business: Dwelling units on the first story that are separated from the front lot line by a non-residential use are permitted. The non-residential use may be located within the same building or in another building.
  - iii. Units attached to a business on a multiple frontage lot: On a lot with three or more street frontages, dwelling units are permitted on the first story facing a street line that is considered an ~~interior side or rear~~ lot line pursuant to the definition of front lot line in Article 22; however, in no case ~~shall~~may first-story dwelling units face onto First or Second Avenue. Street-facing first-story dwelling units ~~shall~~must meet all applicable setbacks and design standards in Articles 5 and 8 as if the street line that the units are facing were a front lot line.
  - iv. All other units above or attached to a business are prohibited.

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

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

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

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

- (a) Detached accessory buildings, garages, and carports are less than 750 square feet and have walls equal to or less than 12 feet tall.
- (b) All other residential accessory buildings require a Site Plan Review in MUC, MUR, HD, DMU, CB, and WF, and are considered through a Conditional Use Type II review in ES, LE, and MS. [This is indicated by the use of a “/” in the matrix. For example, “Y/S” means accessory uses that don’t meet the standards in (a) above require a Site Plan Review.]
- (c) Accessory buildings over 100 square feet proposed on property in a National Register of Historic District or on the National Register of Historic Places require historic review. See Article 7 for the review process and criteria.

Accessory dwelling units: See Special Condition 16.

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

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

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

- (a) No antennas, antenna supports, satellite dishes or monopoles ~~shall~~may be located within any front yard setback area or within any required landscape buffer yard
- (b) Dish antennas larger than three feet in diameter and located within 10 feet of a residential lot line or visible from a public street, ~~shall~~must be screened with a six-foot solid screen fence, wall, hedge, or other landscaping.
- (c) Antennas used to display sign messages ~~shall~~must conform to all district sign regulations in addition to the above.
- (d) Antennas, satellite dishes, monopoles, and other communication structures less than 50 feet in height, when measured from the ground or over 15 feet above a rooftop, and not in conformance with the above, may be considered through a Conditional Use review, Type II process. [Ord. 5445, 4/12/00, Ord. 5886, 1/6/17]
- (21) Communication towers and poles at least 50 feet in height when measured from the ground or over 15 feet above a rooftop, may be considered through a Conditional Use review, Type II process No communication structure is allowed in any front setback. Article 8 for telecommunication facility design standards also apply. [Ord. 5742, 7/14/10; Ord. 5886, 1/6/17]
- (22) Kennels. Kennels do not include indoor veterinary hospital kennels. [Ord. 5555, 2/7/03]
- (23) Hours of Operation. Hours of operation for establishments or outdoor seating areas within 300 feet of a residence may be restricted through conditions of approval to be compatible with neighbors. [Ord. 5728, 1/27/10]
- (24) Additional uses for Special Status List sites in the WF zone. Limited additional uses may be considered through the Conditional Use process for Special Status List sites, pursuant to ADC Section 5.085.
- (25) Developments on sites located within 300 feet of residentially zoned land require a Type II Conditional Use approval.
- (26) Non-residential uses in MUR. In MUR districts located east of Interstate 5, new development of uses in nonresidential Use Categories is only permitted in conjunction with a primary use from the Residential Use Categories. The new nonresidential use must be in the same building or on the same property as the primary Residential Use. [Ord. 2010, 7/1/23]
- (27) One Single Room Occupancy (SRO) ~~and~~ development with no less than four and no more than six individual SRO units is permitted outright per property zoned to allow for single dwelling units. SRO development is also permitted through Site Plan Review as a multiple dwelling unit development, but each individual SRO unit is considered 0.5 dwelling units when calculating density. [Ord. 6042, 7/12/24]
- (28) Housing. Affordable housing and conversion of buildings or portion of buildings in commercial use to housing will be permitted through Site Plan Review when the following standards are met.
- (a) Affordable housing as defined in (b) is permitted on property zoned for commercial uses, religious assembly, or public lands OR is owned by one of the following:
- i. A local, state, or special government or public body, as defined in ORS Chapter 174; or
  - ii. A nonprofit corporation that is organized as a religious corporation or is organized as a public benefit corporation whose primary purpose is the development of affordable housing; or
  - iii. A housing authority as defined in ORS 456.005; or
  - iv. A manufactured dwelling park nonprofit cooperative, as defined in ORS 62.803.
- (b) As used in this section, “affordable housing” means residential dwellings that are subject to an affordable housing covenant as provided in ORS 456.270 to 456.295 for a duration of no less than 30 years and meet either i, ii, or iii below.
- i. Each unit on the property is made available to own or rent to households with incomes of 80 percent or less of the area median income (AMI); or
  - ii. All units on the property are made available to rent or own to households with incomes with a collective average of 60 percent or less of the AMI; or
  - iii. A manufactured dwelling park that serves only households with incomes of 120 percent or



less of the AMI.

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

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

[Ord. 6042, 7/12/24]

- (29) **Commercial Land for Affordable Housing.** Per ORS 197A.460, affordable housing development subject to an affordable housing covenant as provided in ORS 456.270 to 456.295 is permitted through Site Plan Review when the following standards are met.
  - (a) Each unit is affordable to a household with income less than or equal to 60 percent of the area median income (AMI) as defined in ORS 456.270; or
  - (b) Mixed use structures with ground floor commercial units when all residential units are made affordable to moderate income households with incomes between 80 and 120 percent of the AMI, as defined in ORS 456.270.
  - (c) Affordable housing per this section is only permitted on land that has been in the city’s Urban Growth Boundary for at least 15 years and does not apply on vacant land or on lands where the city determines:
    - i. The development cannot be adequately served by water, sewer, storm water drainage or streets;
    - ii. The property contains a slope of 25 percent or greater;
    - iii. The property is within a 100-year floodplain; or
    - iv. The development of the property is constrained by land use regulations based on statewide land use planning goals relating to: Natural disasters and hazards; or Natural resources, including air, water, land or natural areas, but not including open spaces.

**Staff Comments for Special Condition (30): Add clarification regarding townhouses versus “plexes”**

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

The goal of this amendment is to make it more transparent that a non-property line separated townhouse is allowed within the ADC where a triplex, fourplex, or multiple dwelling unit structure is permitted. New special condition (30) eliminates the confusion and the need to refer to a proposed structure as a “plex” or multiple dwelling unit structure for the ADC and a townhouse at the building permit stage.

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

## SPECIAL STATUS

5.080 Existing Single-Dwelling Unit, Townhouse, and Duplex Uses Granted Special Status.

Single-Dwelling Unit-~~Detached~~, Townhouse, and Duplex Dwellings. Notwithstanding the restrictions or terms of any other section of the Albany Development Code (ADC), all single-dwelling units-~~detached~~, townhouse, and duplex dwellings legally established before January 1, 2002, ~~shall-must~~ be deemed to be conforming to the base zoning district. If any building on these properties is damaged or destroyed by fire or other causes beyond the control of the owner, it may be rebuilt to the same density, size (square feet) and setbacks as existed on the property at the time it was destroyed but will be subject to the regulations of any applicable overlay zone. If any single-dwelling unit-~~detached~~, townhouse, or duplex dwelling is converted to non-residential use, the special status granted here is rescinded, and the use of the property ~~shall-must~~ thereafter conform to the requirements of Article 5. The special status granted herein ~~shall-will~~ be lost if it is determined that the residence was not legally established prior to January 1, 2002.

[Ord. 5789, 10/10/12; Ord. 5555, 2/7/03, Ord. 5635, 1/11/06; Ord. 5947, 1/1/21; Ord. 5968, 1/14/22]

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

## DEVELOPMENT STANDARDS

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

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

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

5.090 Purpose. Development standards are intended to promote site planning and design that consider the natural environment; site intensity, building mass and open space. The standards also promote energy conservation, needed privacy, and safe and efficient parking areas for new development; and improve the general living environment and economic life of a development. Table 5.090-1 summarizes the basic development standards. It should be used with the sections immediately following the table, which addresses special circumstances and exceptions. Additional design standards are located in Article 8.

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

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

STANDARD	MUC	WF	HD	DMU	CB	LE	PB	MS	ES	MUR
<b>Minimum Lot Size or Area Requirement (sq.ft.) (3) (21) (24)</b>										
Single-Dwelling Unit <del>detached</del> (20)(21)	None	None	None	None	None	N/A	N/A	N/A	<del>5,000</del> None	None
Townhouse, Per lot (21)	None	<del>1,600</del> None	N/A	None	None	N/A	N/A	None	None	None
Duplex (21)(25)	None	<del>3,600</del> None	N/A	None	None	None	N/A	N/A	<del>7,000</del> None	None
Triplex and Fourplex (25)	None	N/A	N/A	None	N/A	None	N/A	None	None	(22)
Cottage Cluster (21)	None	N/A	N/A	<del>7,000</del> None	N/A	N/A	N/A	N/A	N/A	<del>7,000</del> None
Multiple-Dwelling Unit (24)(25)	None	<del>1,600/±</del> None	N/A	None	None	None	<del>1,600/±</del> None	<del>1,600/±</del> None	<del>3,300/±</del> None	<del>1,600/±</del> None
All other uses	6,000	5,000	1,000	1,000	1,000	2,000	15,000	6,000	5,000	10,000
<b>Maximum Building Size (sq. ft.) (16)</b>										
Non-grocery (16)	20,000	None	None	None	None	None	None	None	None	None
Grocery-anchored	80,000 (13)	None	None	None	None	None	None	None	None	None
<b>Maximum Business Footprint (sq. ft.) (16)(17)</b>										
Non-grocery (16)	20,000	None	None	None	None	None	25,000	10,000	10,000	10,000
Grocery-anchored	80,000 (13)	None	None	None	None	None	60,000	60,000	60,000	60,000
<b>Lot Width, minimum</b>	None	None	20'	None	None	20'	None	None	None	None
<b>Lot Depth, minimum</b>	None	None	50'	None	None	50'	None	None	None	None
<b>Landscaped Area (24)</b>	100% (2)	None	None	None	None	100% (2)	100% (2)	100% (2)	100% (2)	100% (2)
<b>Minimum Open Space</b>	(12)	(12)	(12)	(12)	(12)	(12)	(12)	(12)	(12)	(12)
<b>Maximum Front Setbacks: (10)(24)</b>	10' (15)	5'/15' (18)	0'	5'/15' (18)	5'/15' (18)	None	20'	10'	10'	20'
<b>Minimum Setbacks: (24)</b>										
Front (5) (14)	5'	0'	0'	0'	0'	0'	5'	5'	5'	15'
<del>Side and Rear Interior</del> (5) (14)	(11)(4)	0' (1)(4)	0'(4)	0' (1) (4)	0' (1) (4)	(4)	(4)	(1)(4)	5'	10'(11)
Garage Entrance (9)	20' (8)	5' or 20' (8)(7)	None	5' or 20' (8) (7)	5' or 20' (8) (7)	20'	20'	20'(8)	20'	20'
<b>Height, maximum (23)</b>	85'	55'	85' (19)	85' (19)	65'	<del>60'</del> (19)	50'	50'	50' (19)	45'
<b>Lot Coverage, maximum (6)(24)(3)</b>	80%	100%	100%	100%	100%	100%	80%	90%	80%	70%

“N/A” means not applicable. “None” means there is no requirement under Article 5 (other standards may apply). “0” means that the minimum or maximum is zero.

- Single-dwelling units ~~detached homes~~, townhouses, and duplexes, where permitted, must have a 3-foot ~~interior side~~ setback for single-story buildings, and a five-foot ~~interior side~~ setback for two-or more story buildings. See Sections 5.150 and 5.160 for zero lot line options and townhouses and 5.091 for townhouse development standards.
- All yards adjacent to streets. Approved vegetated post-construction stormwater quality facilities are allowed in landscaped areas.
- Lots with only alley or rear access where garages and/or parking areas are accessed from the rear property line may be up to 10 percent smaller than the minimum lot size for the zone and may increase lot coverage by ten percent.
- See ADC Section 5.115 for special ~~interior~~-setback standards abutting residential zones and uses.
- Minimum front and interior, side, and rear setbacks are not required for buildings abutting railroad rights-of-way; Setbacks for cottage clusters are in Section 5.092.
- Achievement of maximum lot coverage is subject to meeting all other standards of the ADC, including, but not limited to, landscaping, buffering and setback requirements. Lot coverage for single-dwelling unit ~~detached~~ and middle housing development ~~shall~~ only includes the area of the lot covered by buildings or structures. Lot coverage for townhouses is calculated based on the overall townhouse project, which includes the townhouse structure(s)

together with the development site, including any commonly owned property; Cottage clusters are exempt from maximum lot coverage standards.

- (7) To prevent parked vehicles from intruding in the street right-of-way, garage entrances ~~shall~~must be set back five feet or at least 20 feet. A setback of more than 5 feet and less than 20 feet is not permitted. Garage entrances may not be located closer to the front lot line than the front façade of the building. For garages with alley access, see Table 5.100-1.
- (8) Garage setback for non-vehicle entrance must conform to the requirements for interior-front, side or rear setbacks.
- (9) For garages with alley access, see Table 5.100-1. [Ord. 5894, 10/14/17; Ord. 5947, 1/1/21]. See Section 5.092 for Cottage Cluster development standards. For Cottage Cluster projects with six or fewer cottages, when the floor area of each cottage is less than 800 square feet, the minimum lot size must be 1,000 square feet per cottage.
- (10) The maximum front setback may be increased with the condition that 100 percent of the increased setback is used for pedestrian amenities associated with the building use, such as patio dining for a restaurant, sidewalk café, plaza, or courtyard; or to accommodate changes in elevation due to road and site grading or natural slopes. See ADC Section 5.120 for additional exceptions and calculation methodology for the HD, CB, DMU, and WF zoning districts.
- (11) In MUC and MUR, single-dwelling units ~~detached homes~~ and middle housing must have a 3-foot interior-side setback for single-story buildings, and a five-foot interior-side setback for two-story buildings. See Section 5.150 and 5.160 for zero lot line options and attached dwellings units.
- (12) Open Space Requirements. Open space is required in Ten or more residential multiple-dwelling units developments of 10 or more units require common open space. (See Section 8.220) and residential land divisions of 20 or more lots (see Section 11.095).
- (13) The building and business footprint maximum is 80,000 square feet if a grocery store occupies at least fifty percent (50 percent) of the total square footage. This footprint may include one or more businesses or attached buildings. For purposes of this section, a grocery store is defined as a business that sells primarily food and household supplies. Ancillary grocery uses include uses such as pharmacy, bakery, and florist.
- (14) Properties adjacent to the Willamette River see also the Willamette Greenway standards in Sections 5.200 - - 5.207 and Sections 6.500-6.560.
- (15) Except for residential development, which has a maximum setback of 25 feet. See Sections 8.200 – 8.305 for multiple dwelling residential design standards.
- (16) The maximum building size and business footprint size may be exceeded for mixed-use developments when the building is multi-story.
- (17) In shopping centers with multiple tenants, “business” refers to each individually leasable space. “Footprint” refers to the amount of area covered by the first floor. Businesses may build on additional floors.
- (18) The maximum setback for non-residential and mixed-use development is five feet. The maximum setback for residential development is 15 feet. See ADC Section 5.120 for exceptions and calculation methodology.
- (19) In order to maintain compatibility with existing historic structures and the character of designated historic districts, maximum building heights in the HD, ~~and~~ DMU, ES, and LE zones are limited within designated historic districts. Within the Downtown Commercial National Register Historic District (see Article 7, Figure 7.010-1), the maximum building height in the HD and DMU zones is 65 feet. Within the Hackleman and Monteith National Register Historic Districts (see Article 7, Figure 7.010-1), the maximum building height in the HD, ~~and~~ DMU, ES and LE zones is 45 feet.
- (20) Where new single-dwelling units ~~detached~~ housing ~~is are~~ not permitted in a given Mixed Use zone, minimum lot size for single-dwelling unit refers to legally established existing single-dwelling unit uses with special status.
- (21) Section 3.220 bonus provisions may reduce minimum area requirements for residential developments.
- (22) In MUR, in no case ~~shall may~~ the minimum lot size required for a triplex exceed 5,000 square feet, or for a fourplex exceed 7,000 square feet.
- (23) Maximum height for cottage clusters is in Section 5.092.
- (24) In MUC and MUR, if a duplex, triplex, fourplex, or cottage cluster has been divided by a middle housing land division, the development standards that are applicable to the lot ~~shall~~ apply to the middle housing parent lot, not to the middle housing child lots.

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

[Table and footnotes amended by Ord. 5338, 1/28/98; Ord. 5445, 4/12/00; Ord. 5555, 2/7/03; Ord. 5556, 2/21/2003; Ord. 5627, 7/27/05; Ord. 5673, 6/27/07; Ord. 5742, 7/14/10; Ord. 5768, 12/7/2011; Ord. 5842,

1/1/15; Ord. 5894, 10/14/17; Ord. 5947, 1/1/21; Ord. 5966, 11/12/21; Ord. 5968, 1/14/22; Ord. 6010, 7/1/23; Ord. 6024, 12/29/23]

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

- (1) Number of Attached Dwelling Units.
  - (a) Minimum. A townhouse project must contain at least two attached units.
  - (b) Maximum. The maximum number of townhouse units that may be attached together to form a group is specified below.
    - MUC and MUR districts: maximum of 10 attached units per group
    - Other mixed-use districts: no limit [Ord. 5968, 1/14/22]

5.092 Standards for Cottage Clusters. Where permitted, cottage clusters ~~shall~~must meet the standards in subsections (1) through (5) below. Cottage clusters ~~shall~~must also meet all ~~of~~ the design standards in ADC Section 8.175.

- (1) Definition. A cottage cluster is a grouping of detached dwelling units (cottages) that includes a common courtyard. All cottages within a single cottage cluster must share a common courtyard. A cottage cluster project may include more than one cluster and more than one common courtyard.
- (2) Minimum Density. The minimum density for a cottage cluster project is 4 units per gross acre, unless a higher minimum density is required in the zoning district.
- (3) Setbacks.
  - (a) Front Setback. In zoning districts where the minimum front setback exceeds 10 feet, the minimum front setback to cottages and all other structures is 10 feet.
  - (b) Building Separation. Cottages ~~shall~~must be separated by a minimum distance of six (6) feet. The minimum distance between all other structures, including accessory structures, ~~shall~~must be in accordance with building code requirements.
  - (c) All other setbacks, including to garage or carport entrances, are provided in Tables 5.190-1 and 5.100-1.
- (4) Building Height. The maximum building height for all structures is 25 feet.
- (5) Maximum Footprint. ~~The maximum footprint of Each cottage shall have a building footprint of must be less than 900 square feet. Individual Attached garages or carports up to 200 square feet shall be exempted from the calculation of maximum building footprint for each cottage. Detached garages, carports, or accessory structures are not included in the maximum footprint of each cottage.~~ [Ord. 5968, 1/14/22]

**SETBACKS**

5.100 Minimum Standards. Primary structures must meet the minimum setback standards in Table 5.090-1, Development Standards. In addition to the setbacks in this Article, all development must comply with Section 12.180, Clear Vision Area.

The Accessory Structure Standards (Table 5.100-1) apply to residential accessory structures in the MUR, WF, MS, ES, and MUC districts. [Ord. 5555, 2/7/03; Ord. 5556, 2/21/03; Ord. 5947, 1/1/21]

**TABLE 5.100-1  
ACCESSORY STRUCTURE STANDARDS**

STRUCTURE	SETBACK STANDARD
All Accessory Structures	See Table 5.090-1 for minimum front setbacks.
Detached, walls less than or equal to 8 ft. tall	<del>Interior Side and rear</del> setback = 3 feet (1)
Detached, walls greater than 8 ft. tall	<del>Interior Side and rear</del> setback = 5 feet

Attached structure	<del>Interior-Side and rear</del> setback = 5 feet
Garage with vehicular access from an alley	Alley setback = 20 feet, less the width of the alley right-of-way, but at least 3 feet. Other <del>interior</del> setbacks, see Table 5.090-1
Structures, including fences, intended for housing animals	See AMC 6.10.020
Fences more than <del>68 feet. High</del> tall <i>All fences, see 9.360 through 9.380</i>	<del>Fences over 8 feet tall must meet setbacks standards;</del> in Table 5.090-1 <del>apply by zone, unless except when</del> permitted along property lines in Sections 9.3760(4)(d) through 9.380.
Outdoor swimming pools with depths greater than or equal to 24 inches	<del>Interior-Side and rear</del> setbacks = 10 feet
Decks less than 30 in. off grade, no rails, covers	No setback from property line
Decks greater than or equal to 30 in. off grade	<del>Interior-Side and rear</del> setback = 3 feet

- (1) Residential Accessory Structures that are exempt from building permit requirements in the Oregon building codes and not habitable may have a reduced setback of 2 feet with a roof overhang no more than 12 inches.  
[Ord. 5445, 4/12/00; Ord. 5673, 6/27/07; Ord. 5894, 10/14/17; Ord. 5947, 1/1/21; Ord. 6042, 7-12-24]

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

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

- (1) Special ~~interior~~ setbacks in all Mixed Use Zones except HD, DMU, CB, and WF. Commercial or office buildings abutting residential districts and/or uses require one foot of setback for each foot of wall height with a minimum setback of 10 feet. For developments abutting commercial or industrial districts or uses, no ~~interior-side or rear~~ setback is required.
- (2) Special ~~interior~~ setbacks in the HD, DMU, CB and WF zoning districts. New buildings and expansions to existing buildings must provide ~~interior-side and rear~~ setbacks as follows.
  - (a) Setbacks abutting Residential Districts.
    - i. Purpose: To provide for compatible transitions to adjacent neighborhoods.
    - ii. Applicability: Properties in the HD, DMU, CB, and WF zoning districts abutting residential districts listed in Article 3.
    - iii. Standard: The minimum ~~interior-side and rear~~ setback ~~shall~~ must be 10 feet from the lot line abutting the residential zone.
  - (b) Setbacks abutting Historic Residential Buildings.
    - i. Purpose: To respect and respond to the character and scale of recognized historic residential buildings and ensure adequate light and air to such buildings, while allowing reasonable use of abutting properties consistent with the vision for Central Albany.
    - ii. Applicability: Properties in the DMU, CB, and WF zoning districts abutting a historic Landmark, as defined in ADC 7.020 that was originally built for residential use.
    - iii. Standard: For new buildings and expansions that exceed 35 feet in height, the minimum ~~interior-side and rear~~ setback ~~shall~~ must be 5 feet. [Ord. 5894, 10/14/17]

5.120 Maximum Front Setbacks in HD, CB, DMU and WF. Maximum front setbacks are intended to maintain a pedestrian-oriented development pattern with buildings close to the street. The following setback standards apply to new buildings and expansions and modifications of existing buildings in the HD, CB, DMU, and WF zoning districts. [Ord. 5894, 10/14/17]

- (1) Non-residential and mixed-use development:
  - (a) Regulated façade: any façade between grade and the top of the first story of the building that faces toward or within 45 degrees of a front lot line, with the exceptions below. See definition of front lot line in Article 22 for application on lots with multiple frontages; however, a lot line abutting

First or Second Avenue ~~shall~~**must** always be considered a front lot line for purposes of these standards. A Willamette River setback line established pursuant to ADC 5.200 through 5.207 may be considered a front lot line for purposes of these standards.

- i. Maximum setback standards do not apply to any portion of a building that is separated from the front lot line by another building, based on a line perpendicular to the front lot line (see Figure 5.120-1). [Ord. 5947, 1/01/21]
- ii. Accessory buildings less than 750 square feet are exempt from maximum setback standards. [Ord. 5894, 10/14/17]

(b) Standard in the HD zoning district: 100 percent of regulated façades must meet the maximum setback required in the zone, with the exceptions listed below.

- i. The maximum setback may be increased for pedestrian amenities pursuant to ADC Section 5.090(10).
- ii. Windows may be recessed up to 18 inches from the building façade.
- iii. Entrances (including up to four feet on either side of entrance doors) may be recessed up to six feet from the building façade.
- iv. The maximum front setback may be increased by 10 feet for properties that are separated from the street by a rail line.
- v. On a site with an existing building(s), the maximum setback may be increased to a point which is no further from the front lot line than the portion of the existing regulated façade that is closest to the front lot line. [Ord. 5894, 10/14/17]

(c) Standard in the CB, DMU and WF zoning districts: At least 80 percent of regulated façades must meet the maximum setback required in the zone, with the exceptions listed below.

- i. The maximum setback may be increased for pedestrian amenities pursuant to ADC Section 5.090(10).
- ii. Windows may be recessed up to 18 inches from the building façade.
- iii. Entrances (including up to 4 feet on either side of entrance doors) may be recessed up to 6 feet from the building façade.
- iv. The maximum front setback may be increased by 10 feet for properties that are separated from the street by a rail line.
- v. On a site with an existing building(s), the maximum setback may be increased to a point which is no further from the front lot line than the portion of the existing regulated façade that is closest to the front lot line. [Ord. 5894, 10/14/17]

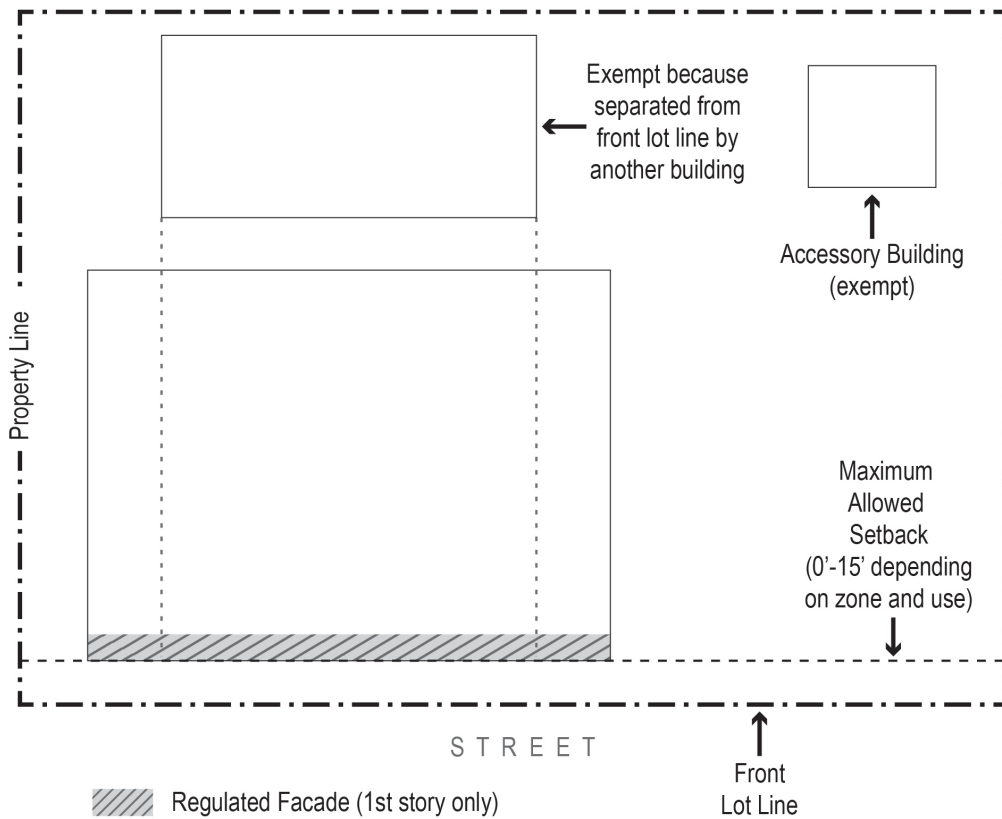
(2) Residential development:

(a) Regulated façades: any façade between grade and the top of the first story of the building that faces toward or within 45 degrees of a front lot line, with the exceptions listed below. See definition of front lot line in Article 22 for application on lots with multiple frontages; however, a lot line abutting First or Second Avenue ~~shall~~**must** always be considered a front lot line for purposes of these standards. A Willamette River setback line established pursuant to ADC 5.200 through 5.207 may be considered a front lot line for purposes of these standards.

- i. Maximum setback standards do not apply to any portion of a building that is separated from the front lot line by another building, based on a line perpendicular to the front lot line (see Figure 5.120-1). [Ord. 5947, 1/01/21]
- ii. Accessory buildings less than 750 square feet are exempt from maximum setback standards.
- iii. Where permitted, a garage entrance that faces the front lot line and any building façade that encloses the garage is exempt from the maximum setback standard.

- (b) **Standard:** At least 80 percent of regulated façades must meet the maximum setback required in the zone, with the exceptions listed below.
  - i. Buildings that provide a landscaped courtyard separating a portion of the regulated façade from the front lot line must meet the maximum setback standard on at least 40 percent of the regulated façade.
  - ii. Where units with individual garages facing the front lot line are permitted, such units may be set back up to 20 feet to match the garage entrance.
  - iii. On a site with an existing building(s), the maximum setback may be increased to a point which is no further from the front lot line than the portion of the existing regulated façade that is closest to the front lot line. [Ord. 5894, 10/14/17]

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



[Ord. 5947, 1/1/21]

5.130 **Alternative Setbacks in Developed Areas.** When an addition or new development is proposed in an area containing the same type of uses that have been developed to a previous setback standard, the Director or review body may approve setbacks that are the same as those for the existing buildings on the site for additions, or the same as those for buildings on abutting parcels for new development. The Director or review body ~~shall~~ **may** approve an alternative setback request if the applicant demonstrates that the following criteria are met: [Ord. 5947, 1/1/21; Ord. 5968, 1/14/22]

- (1) The front setback of the structure is not less than the average of the setbacks for the same uses on the abutting properties on either side facing the same street. If the same use is only on one abutting property, the proposed front setback may be no less than the setback of the abutting structures facing the same street. [Ord. 5742, 7/14/10; Ord. 5947, 1/1/21]



- (2) Addition of a garage or carport. The front setback for a garage or carport meets the current front setback standard, and the driveway to it is paved. [Ord. 5742, 7/14/10]
- (3) Additions to the side or rear of a dwelling. The proposed structure does not encroach any further into the setback than the existing structure.
- (4) No wall of one dwelling unit is closer than 10 feet to a window of another dwelling unit.
- (5) All other provisions of this Code must be met. [Ord. 5446, 5/10/00]

5.140 General Exceptions to Setback Requirements. The following may project into required setbacks, provided that they conform to the conditions and limitations indicated:

- (1) Depressed Areas. In any district, open-work fences, berms, hedges, guard railings, or other landscaping or architectural devices for safety protection around depressed areas, ramps, stairs, or retaining walls may be located in required setbacks, provided that the devices are not more than 3 1/2 feet tall.
- (2) Projecting Building Features. The following may project into the required front setback no more than five feet and into the required ~~interior-side and rear~~ setbacks no more than two feet:
  - (a) Awnings, eaves, buttresses, architectural appendages (such as, but not limited to, bay windows, planters, cantilevered stairways.)
  - (b) Chimneys and fireplaces provided they do not exceed eight feet in width.
  - (c) Porches, steps, platforms or landings, raised patios or decks (applies only to structures above 30 inches in height: structures 30 inches or less are not subject to setback provisions).
  - (d) Signs conforming to applicable ordinance requirements.

[Ord. 5742, 7/14/10]

5.150 Zero Lot Line. Any residential dwelling or residential accessory building may be located on the ~~interior-side~~ property line when:

- (1) There are no openings or windows in the lot line wall. Additionally, a setback and maintenance easement must be recorded on the abutting property deed or plat. The width of the easement ~~shall~~ **must** be six feet or the width of the required setback of the abutting property, whichever is less. If the abutting property is not subject to an ~~interior-side~~ setback, then no maintenance agreement is required. This easement is not revocable without City approval.

OR

- (2) Two or more dwelling units are attached at the property line and are approved for such in accordance with other provisions of this Code.

[Ord. 5555, 2/7/03, Ord. 5742, 7/14/10; Ord. 5947, 1/1/21]

5.160 Setbacks for Townhouses. The ~~interior-side~~ setback requirement for townhouses is zero where the units adjoin; however, all other setbacks must conform to the requirements of this Code.

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

5.170 Special setback for Development Adjacent to Waterways. Development adjacent to the following waterways must maintain the setback from the centerline of the waterway listed instead of the required setback for the zoning district:

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

5.180 Setback and Fencing for Swimming Pools. Swimming pools must conform to the setback regulations for main buildings, except that outdoor swimming pools must be set back at least 10 feet from all ~~interior-side and rear~~ or ~~lot-property~~ lines. Also, all swimming pools must be fenced or equipped with electric alarm systems that prevent entry or alarm upon entry. Required pool fencing must be at least four feet tall and have a self-locking gate that closes automatically.

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

- 5.210 Special Setbacks for Religious Institutions, Public and Semi-Public Buildings. Any new construction of a religious institution, or Public or Semi-Public building, as defined in Article 22, must be set back at least 25 feet from any property line abutting any residential district. Stockpiling or storage of materials or equipment is not permitted in the ~~front or interior required~~ setbacks of the lot on which such building or use is located. All other setbacks of the district where the property is located continue to apply. [Ord. 6024, 12/29/23]
- 5.220 Parking Restrictions in Setback Areas. Parking and loading spaces ~~shall~~ must not be located in ~~a~~ required ~~front or interior~~ setbacks, except:
- (1) Paved driveways ~~used to fulfill parking requirements~~ for single-dwelling units ~~detached residences~~, duplexes, triplexes, fourplexes, cottage clusters, and townhouses. Each space must be a paved area at least 10 feet wide and 20 feet long. [Ord. 5445, 4/12/00; Ord. 5555, 2/7/03; Ord. 5968, 1/14/22; Ord. 6004, 12/28/22]
- 5.230 Dwellings Located Above Commercial Uses. The setback requirements for residential uses do not apply when a dwelling is legally located above a commercial use. [Ord. 5742, 7/14/10]

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

### **OUTSIDE STORAGE**

- 5.370 Screening of Refuse Containers. The following standards apply to all development, except for refuse containers or disposal areas serving four or fewer dwellings. Any refuse container or disposal area that would otherwise be visible from a public street, customer or resident parking area, any public facility, or any residential area, must be screened from view by placement of a sight-obscuring fence, wall, or hedge at least 6 feet tall. All refuse containers and disposal areas must be covered. The cover must be at least 8 feet tall. Refuse disposal areas may not be located in required setback areas or buffer yards and must be contained within the screened area. No refuse container ~~may~~ shall be placed within 15 feet of a dwelling window or between multiple dwelling unit buildings and single-dwelling units. [Ord. 5555, 2/7/03; Ord. 5968, 1/14/22]

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

## ARTICLE 8 DESIGN STANDARDS

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

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

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

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

[Ord. 5445, 4/12/00, Ord. 5801, 2/13/13; Ord. 5832, 4/9/14; Ord. 5947, 1/1/21; Ord. 5968, 1/14/22; Ord. 6004, 12/28/22]

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

### SINGLE DWELLING UNIT HOMES AND MIDDLE HOUSING

8.110 Applicability.

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

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

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

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

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

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

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

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

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

[Ord. 5968, 1/14/22]

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

[Ord. 5968, 1/14/22]

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

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

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

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

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

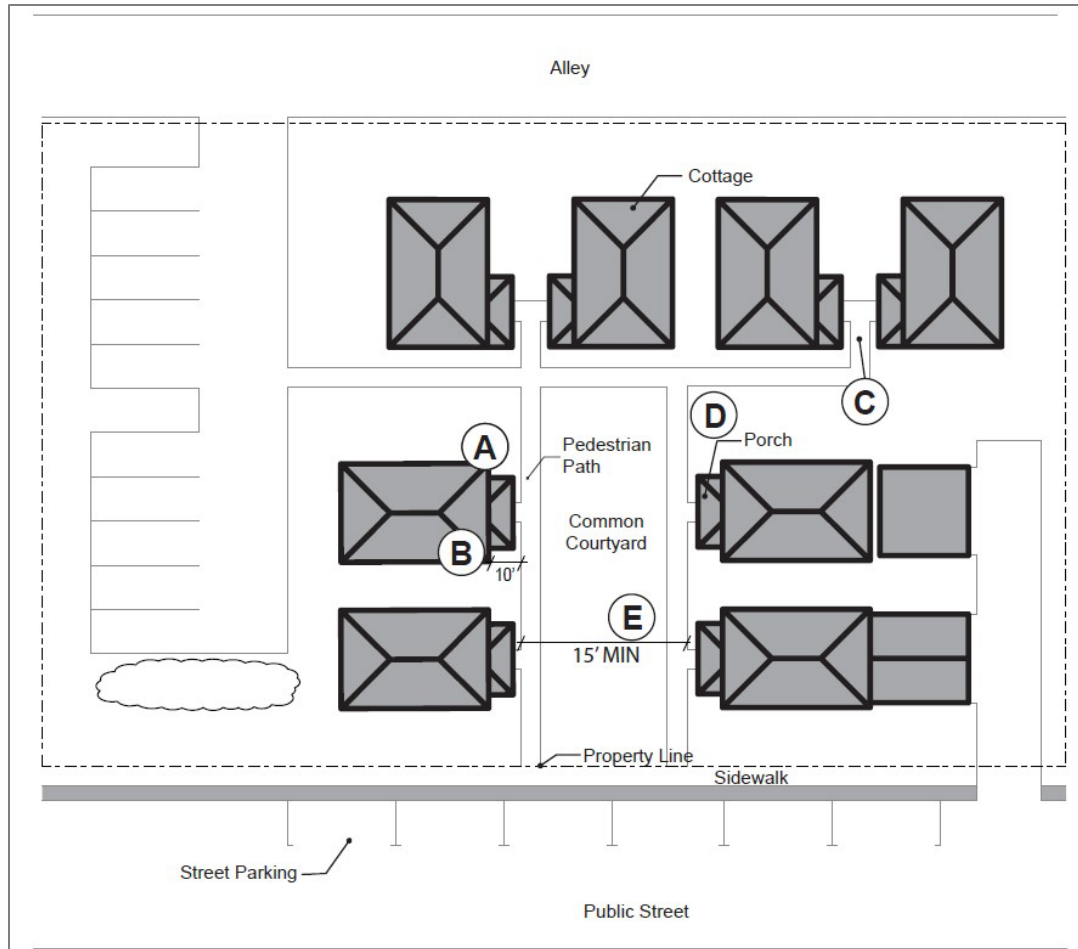
8.175 Cottage Cluster Design Standards. Cottage clusters are clusters of small, detached dwelling units (cottages) that are oriented around a common courtyard. Cottage clusters typically share amenities such as open space. The purpose of this section is to provide standards that promote quality development; create a sense of openness and community; and enhance the livability, walkability, and safety of the community.

[Ord. 6018, 6/30/23]

- (1) Number of Dwellings. The purpose of these standards is to place appropriate limits on the scale of cottage clusters, and to limit the number of cottages that can be developed on an individual lot. ~~For the purposes of these standards, all cottages that share the same common courtyard constitute a single cottage cluster.~~
  - (a) ~~Except as provided in subsection (c), a~~ single cottage cluster ~~shall~~must contain a minimum of three (3) and a maximum of eight (8) cottages.
  - (b) ~~Except as provided in subsection (c), a~~ lot ~~shall~~must contain no more than eight (8) cottages, arranged in one or more cottage clusters.
  - (c) When all cottages on a lot are less than 800 square feet in floor area, the maximum number of cottages permitted on one lot is as follows:
    - R-10, RS-6.5, and HM districts: 10 cottages
    - R-5 district: 12 cottages
    - RM and MUR districts: 16 cottages
- (2) Floor Area. The purpose of these standards is to ensure that cottages are limited in size while providing flexibility for a range of unit sizes within a cottage cluster. Limiting unit size promotes lower-cost housing choices and promotes accessibility for residents of various ages and abilities.
  - (a) “Floor area” is defined in ADC Section 22.400; however, for the purpose of this section, “floor area” includes stairwells, ramps, shafts, chases, and the area devoted to garages. Floor area does not include porches, exterior balconies, or other similar areas, unless they are enclosed. Floor area is measured for each floor from the exterior faces of a building or structure.
  - (b) Floor Area. The maximum permitted floor area of ~~each an individual~~ cottage is 1,400 square feet.
  - (c) Average Floor Area. The maximum average floor area permitted for all cottages in a cottage cluster project is 1,100 square feet. ~~Community buildings shall be included in the average floor area calculation for a cottage cluster.~~

- (3) Cottage Orientation. The purpose of these standards is to provide a sense of community within a cottage cluster, and to ensure that each dwelling has access to a common courtyard. Cottages must be clustered around a common courtyard and must meet the following standards (see Figure 8.175-1):
- (a) Each cottage within a cluster must either abut the common courtyard or must be directly connected to it by a pedestrian path.
  - (b) A minimum of 50 percent of cottages within a cluster must be oriented to the common courtyard and must:
    - i. Have a main entrance facing the common courtyard;
    - ii. Be within 10 feet from the common courtyard, measured from the façade of the cottage to the nearest edge of the common courtyard; and
    - iii. Be connected to the common courtyard by a pedestrian path.
  - (c) Cottages within 20 feet of a street property line may have their entrances facing the street.
  - (d) Cottages not facing the common courtyard or the street must have their main entrances facing a pedestrian path that is directly connected to the common courtyard.
- (4) Common Courtyard Design Standards. The purpose of these standards is to ensure that common courtyards provide usable shared spaces that are adequately sized, located, and functional, and that are an integral part of the overall cottage cluster design. Each cottage cluster must share a common courtyard. Common courtyards must meet the following standards (see Figure 8.175-1):
- (a) The common courtyard provided for each cluster must be a single, contiguous piece.
  - (b) Cottages must abut the common courtyard on at least two sides of the courtyard.
  - (c) The common courtyard must contain a minimum of 150 100 square feet per cottage within the cluster, or 75 square feet per cottage if the cottage cluster project contains four (4) or fewer cottages or is in the MUC, DMU, or MUR zones.
  - (d) The common courtyard must be a minimum of 15 feet wide at its narrowest dimension.
  - (e) The common courtyard shall-must be developed with a mix of landscaping, lawn area, pedestrian paths, and/or paved courtyard area, and may also include recreational amenities. Impervious elements of the common courtyard shall-must not exceed 75 percent of the total common courtyard area.
  - (f) Pedestrian paths must be included in a common courtyard. Paths that are contiguous to a courtyard shall-must count toward the courtyard's minimum dimension and area. Parking areas, required setbacks, and driveways do not qualify as part of a common courtyard. [Ord. 5968, 1/14/22]

FIGURE 8.175-1. Cottage Cluster Orientation and Common Courtyard Standards



- (A)** A minimum of 50% of cottages must be oriented to the common courtyard.
- (B)** Cottages oriented to the common courtyard must be within 10 feet of the courtyard.
- (C)** Cottages must be connected to the common courtyard by a pedestrian path.
- (D)** Cottages must abut the courtyard on at least two sides of the courtyard.
- (E)** The common courtyard must be at least 15 feet wide at its narrowest width.

[Ord. 5968, 1/14/22]

- (5) Community Buildings. The purpose of these standards is to allow development of community buildings for the shared use of residents that provide space for accessory uses such as community meeting rooms, guest housing, exercise rooms, daycare, or community eating areas. The purpose is also to ensure that community buildings are compatible in scale with dwellings in a cottage cluster. Community buildings must meet the following standards:
  - (a) Each cottage cluster is permitted one community building.
  - (b) The community building ~~shall~~must have a maximum floor area of 1,400 square feet. ~~In addition, the community building shall count towards the maximum average floor area of the cottage cluster, pursuant to subsection 8.175(2)(c).~~
  - (c) Community buildings ~~shall~~must not be used for long-term residential occupancy. For the purposes of this standard, long-term residential occupancy ~~shall mean~~s the continued use by the same

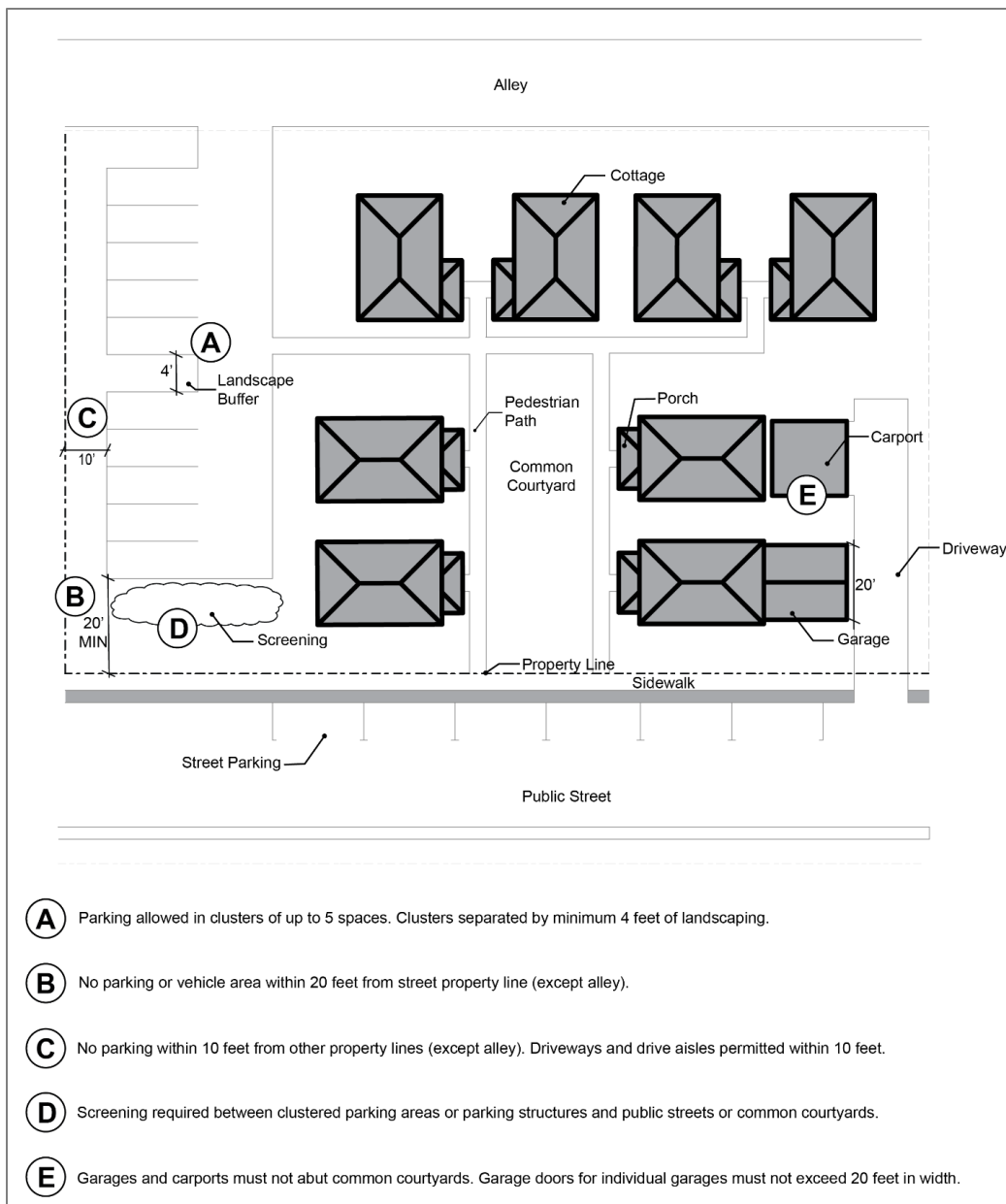
occupant for longer than 14 days in any 60-day timeframe or for more than 30 days in a calendar year.

- (6) Pedestrian Access. The purpose of these standards is to ensure that pedestrian circulation systems are designed to provide safe and convenient connections within a cottage cluster development and to adjacent public streets/sidewalks.
- (a) An accessible pedestrian path must be provided that connects the main entrance of each cottage to the following:
    - i. The common courtyard;
    - iv. Shared parking areas, if provided;
    - v. Community buildings; and
    - vi. Sidewalks in public rights-of-way abutting the site or rights-of-way if there are no sidewalks.
  - (b) The pedestrian path must be hard-surfaced and a minimum of four (4) feet wide.
 

[Ord. 6018, 6/30/23]
- (7) Windows. Cottages within 20 feet of a street property line must meet the Street-Facing Windows requirements of ADC Section 8.133.
- (8) Parking Design. The purpose of these standards is to support a pedestrian-friendly street environment and to support livability for cottage cluster residents by minimizing the impacts of parking areas and garages (see Figure 8.175-2).
- (a) Off-street parking may be provided with individual cottages or arranged in clusters (shared parking lots).
  - (b) Clustered parking. If clustered parking is proposed, it must meet the following standards:
    - i. A parking cluster must not exceed five (5) contiguous spaces.
    - ii. Parking clusters must be separated from other spaces by at least four (4) feet of landscaping.
    - iii. Clustered parking areas may be covered.
    - iv. Parking areas must also meet the standards in ADC Section 9.100, and parking areas that exceed 1,000 square feet must meet the standards in ADC Sections 9.120 and 9.150, except where they conflict with the standards in this subsection.
  - (c) Parking location and access.
    - i. Off-street parking spaces and vehicle maneuvering areas ~~shall~~ may not be located:
      - Within 20 feet from any street property line, except alley property lines;
      - Between a street property line and the front façade of cottages located closest to the street property line. This standard does not apply to alleys.
    - ii. Off-street parking spaces ~~shall~~ may not be located within 10 feet of any other property line, except alley property lines. Driveways and drive aisles are permitted within 10 feet of other property lines.
    - iii. Driveways ~~shall~~ must meet the access standards in ADC Section 12.100.
  - (d) Screening. Landscaping, fencing, or walls at least three feet tall ~~shall~~ must separate clustered parking areas and parking structures from common courtyards and public streets.
  - (e) Garages and carports.
    - i. Garages and carports (whether shared or individual) must not abut common courtyards.
    - ii. Individual detached garages must not exceed 400 square feet in floor area.
    - iii. Garage doors for attached and detached individual garages must not exceed 20 feet in width.
    - iv. Garages ~~shall~~ must not be converted into living space.
- (9) Accessory Structures. The purpose of this standard is to ensure that accessory structures are appropriately sized relative to the scale of cottage cluster dwellings.
- (a) Accessory structures must not exceed 400 square feet in floor area.

- (10) **Existing Structures.** An existing ~~detached~~ single-dwelling unit on a lot or parcel to be used for a cottage cluster project may remain within the cottage cluster project area under the following conditions:
- (a) The existing dwelling may be nonconforming with respect to the requirements of this Section 8.175.
  - (b) The existing dwelling may be expanded up to the maximum height (ADC 3.192(4) or 5.092(4), as applicable) or the maximum building footprint (ADC 3.192(5) or 5.092(5) as applicable); however, existing dwellings that exceed the maximum height and/or footprint standards may not be expanded.
  - (c) The floor area of the existing dwelling ~~shall~~**must** be excluded from the calculation of average floor area for the cottage cluster, per subsection 8.175(2)(c).
  - (d) The existing dwelling ~~shall~~**must** be excluded from the calculation of orientation toward the common courtyard, per subsection 8.175(3)(b). [Ord. 5968, 1/14/22; Ord. 6004, 12/28/22]

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



[Ord. 5968, 1/14/22]



## MULTIPLE-DWELLING UNIT DEVELOPMENT

- 8.200 Purpose. These sections are intended to set standards for quality designs in new multiple dwelling unit developments. Good design results when buildings are visually compatible with one another and adjacent neighborhoods and contribute to a residential neighborhood that is attractive, active, and safe.  
[Ord. 5445, 4/12/00; Ord. 5947, 1/1/21; Ord. 6004, 12/28/22]

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

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

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

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

- 8.205 Applicability.
- (1) Except as specified in ADC Section 8.110(2), the standards of ADC Sections 8.220 through 8.300 apply to the development of new Multiple-Dwelling Unit residential buildings (accessory buildings are exempt), additions to existing structures that create additional multiple-dwelling units, and to the residential components of new buildings with Units Above or Attached to a Business (see ADC Section 22.310). Non-residential components of mixed-use development are subject to the Commercial and Institutional Site Design Standards of Sections 8.330 through 8.390.
  - (2) Except as required to meet building code, fire code, or other regulations, expansions and modifications to existing buildings and sites must not decrease conformance with these standards.
  - (3) Unless otherwise specified, these standards apply in all zoning districts.  
[Ord. 5894, 10/14/17; Ord. 5947, 1/1/21; Ord. 6004, 12/28/22]
- 8.210 Relationship to Historic Overlay Districts. For property inside the Historic Overlay Districts and properties designated as Historic Landmarks, the provisions of Article 7 also apply. For development subject to historic review under Article 7, the review body may grant flexibility in meeting any of the design standards where necessary to achieve historic compatibility. [Ord. 5445, 4/12/00; Ord. 5894, 10/14/17]

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

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

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

Open Space	CB, HD, DMU, LE, WF, <del>MUC, and MUR,</del> <u>OP, NC, CC, and RC</u> Zoning Districts	All Other Zoning Districts
Common Open Space		
• Developments with fewer than 10 units	Not required	Not required
• Developments with 10 or more units as part of a multiple-dwelling unit development or 10 or more units above or attached to a business	250 square feet (useable <del>floor</del> area) <del>in size</del> subject to ADC 8.220(1)	15% of the total development site area, and subject to the standards in ADC 8.220(2)
Children’s Play Areas		
• Developments with fewer than <del>40-20</del> units <del>that have 2 or more bedrooms</del>	Not required	Not required
• Developments <del>that have</del> with 20 <del>40</del> or more units, <del>excluding developments for seniors, senior living facilities, and housing for persons with mental or physical disabilities with 2 or more bedrooms</del>	Not required	Required and subject to the standards in ADC 8.220( <del>23</del> )( <del>ac</del> )( <del>ix</del> )
Private Open Space		
	Not required	Required for at least 80% of units and subject to the standards in ADC 8.220( <del>1</del> ) <u>and</u> ( <del>3</del> )

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

- (1) Common Open Space in All Zoning Districts. A multi-use path must be provided if identified in the Parks Master Plan, the Transportation Systems Plan, an adopted area plan, or any other plan adopted by the City of Albany. The path must be at least 10 feet wide, centered within a 20-foot-wide easement, and constructed to city standards as approved by the City Engineer. If the path is not provided at the time of development, a development agreement may be entered into for future construction and/or financial assurance thereof.
- ~~(2)~~ Common Open Space in the CB, HD, DMU, WF, LE, MUC, and MUR, OP, NC, CC, and RC Zoning Districts. When required by Table 8.220-1, common open space ~~shall~~must provide a minimum of one indoor or outdoor common area amenity with no dimension less than 15 feet. Common area amenities must include fixed or movable seating. [Ord. 5947, 1/1/21]
- ~~(3)~~ Common Open Space in All Other Zoning Districts. When required by Table 8.220-1, in all zoning districts except the CB, HD, DMU, WF, LE, ~~MUC, and MUR, OP, NC, CC, and RC~~ Zoning Districts, the following standards apply.
  - ~~(a)~~ Required Minimum Usable eCommon eOpen sSpace. For developments with ~~40-20~~ or more units, - usable common areas ~~shall~~must be provided as specified below with ~~have~~no horizontal dimension less than 20 feet. The usable common open space counts towards the minimum common open space requirement of 15 percent of the site area.
    - i. 10 to 20 units: 400 square feet
    - ii. 21 or more units: 400 square feet plus 20 square feet/unit over 20 units

~~(a)(b)~~ Required Usable Common Open Space and shall must be entirely improved with one or more of the following amenities:

- i. Inground permanent swimming pools with a minimum area of 400 square feet, or inground spas or hot tubs. Common Ppatios and decks or pavement abutting and within 50 feet of the swimming pool, spa, or hot tub may be included. ~~These amenities may not account for more than 60 percent of the required common open spaces.~~
- ii. Regulation sized and equipped sports courts for tennis, handball, volleyball, pickleball, and/or basketball. ~~These amenities may not account for more than 50 percent of the required common open space.~~
- iii. Community Gardens for use by residents to grow food and other vegetation. Gardens must have irrigation available for use by the residents. ~~This amenity may not account for more than 50 percent of the required common open space.~~
- iv. Rooftop terrace or ground level courtyard accessible to residents. ~~A t~~Ferrace or courtyard must include barbecues, tables, and seating that are available for use by residents.
- v. Indoor community room. ~~This amenity may not account for more than 50 percent of the required common open space requirements.~~
- ~~v~~.vi. Multi-use path at least 10-foot wide, centered within a 20-wide-easement constructed to city standards as approved by the City Engineer. The Ppath must connect to a nearby proposed or existing trail, if applicable.
- vii. Children's Play Areas that meet the standards in Section 8.220(3)(c).

~~(c)(i)~~ Children's Play Areas. Each children's play area must include a play structure or play equipment at least 100 square feet in area, and at least threetwo (32) of the following different children's play amenities/equipment :- a swing structure with at least two (2) swings, a slide, a permanent sand box, permanent wading pool, or other children's play equipment approved for use in a public playground. Required play equipment may or may not be attached to the primary play structure. Equipment must be manufactured to American Society for Testing and Materials (ASTM) F1487-11 standards or other comparable standards applicable to public playground equipment. The play area and open space located within 50-25 feet of the play structure(s) or equipment may count towards the required usable common open space requirement in 8.220(2)(b)be included. Each children's play area must be fenced along any perimeter that is within 10 feet of a street, alley, property line, ~~or~~ parking area, or abutting the RR, R-10, R-6.5, R-5, and HM.

~~(d)~~ Remaining Required Common Open Space. The remaining common open space needed to meet 15 percent of the project site may consist of the following:

- i. Areas within Significant Natural Resource overlay districts, per ADC 6.260, or stands of mature trees greater than or equal to six inches diameter at breast height that form a contiguous tree canopy (including areas within 10 feet of the drip line). These amenities may not account for more than 50 percent of the required common open space. Areas used for cluster development density transfers are not eligible for meeting common open space requirements.
- ii. Approved vegetated post-construction stormwater quality facilities. This amenity may not account for more than 20 percent of the required common open space.
- iii. Lawn, ornamental gardens, and landscaped areas including trees and shrubs. Areas may include picnic tables, benches, and drinking fountains, paths, garden art, or structures. This amenity may not account for more than 7050 percent of the remaining requirement for common open space after usable open space requirements are met. If this amenity accounts for more than 5025 percent of the required common open space, at least one accessible bench or picnic table and trees that provide a mature canopy of at least 25 percent of the landscaped area must be provided. Pathways, decks, or other hard surface areas or covered areas may be included but may not exceed 30 percent of the landscaped area.

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

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

- ii. Required setback areas may be applied toward the minimum usable common open space requirement of 15 percent, except that sport courts, swimming pools and spas, ~~and~~ children’s play areas, and common courtyards or covered areas shall are not be allowed in any required setbacks.
- iii. No more than 20 percent of the common open space requirement ~~shall~~ must be on land with slopes greater than 20 percent.

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

- i. A credit, not to exceed 25 percent of the required common open space area, ~~shall~~ must be granted if there is direct access by an ADA accessible pedestrian path or sidewalk, not exceeding ¼ mile, from the proposed multiple-dwelling unit development to an improved public park and recreation area or publicly ~~accessible~~ school playground.
- ii. A credit toward the minimum common open space area required by Table 8.220-1 ~~shall~~ must be granted to development projects providing high value outdoor recreation amenities. Provision of high value amenities is determined by the dollar amount spent on the amenities as a proportion of the overall project cost (including all construction costs except land cost). The credit is calculated as follows: if one percent (1%) of the overall project development cost is spent on outdoor recreation facilities, the minimum amount of required common open space ~~shall~~ must be reduced by 10 percent. Further reductions in the minimum required common open space area ~~shall~~ must be proportional to spending. For example, if 1.5 percent of a project’s cost is spent on outdoor recreation facilities, the minimum required common open space area ~~shall~~ must be reduced by 15 percent. The total reduction ~~shall~~ must not exceed 20 percent of the minimum required open space area. It is the responsibility of the applicant to document the overall project cost and the cost of the recreation amenities by providing cost estimates at the time of land use application.

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

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

- (a) ~~For Each~~ dwelling units providing required private open space, ~~each dwelling unit located at finished grade, or within five feet of finished grade, shall have at least 80 square feet of private open space. All other dwelling units providing required private open space shall must each~~ have at least ~~72-48~~ square feet of private open space.
- (b) No dimension of the required private open space shall be less than ~~six-four~~ feet. Accessible units must meet ADA standards.
- (c) All required private open space ~~shall~~ must be directly accessible from the dwelling unit through a doorway.
- (d) Except for front porches, required private open space ~~shall~~ must be physically and/or visually separated from common open space.
- (e) Except for front porches, required private open space for at-grade dwellings ~~shall~~ must be screened ~~from view from public streets~~ in accordance with ADC 9.240.
- (f) Private open space that is provided at-grade may be within interior courtyards created within a single building or cluster of buildings.
- ~~(g)~~ Private open space that is above grade may be provided individually, as with a balcony, or collectively by combining into a larger area that serves multiple units. [Ord. 5947, 1/1/21]

(h) Private Open Space Transfers and Credit.

- i. Up to 50 percent of the total required private open space may be transferred to usable common open space. All transferred private open space is in addition to the required usable common open space.
- ii. Affordable Housing Credit. Up to 75% of the required private open space may be transferred

to usable common open spaces. All transferred private open space is in addition to the required usable common open space.

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

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

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

~~8.270~~ Transition to Lower Density Uses:

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

**COMMERCIAL AND INSTITUTIONAL SITE DESIGN**

8.365 Pedestrian Amenities in the HD, CB, DMU, and WF zoning districts. Pedestrian amenities are required in the HD, CB, DMU and WF zoning districts. The purpose of the pedestrian amenity requirements is to enhance the pedestrian environment. Because the sidewalk area is the most important element of the pedestrian environment in an urban setting, these standards focus primarily on sidewalk enhancements. The standards in (1) - (3), below, apply to the following development within the HD, CB, DMU, and WF zoning districts: new buildings (excluding accessory buildings); expansions or modifications to existing buildings that are not covered under ADC Section 1.105(7); and any development that requires sidewalk improvements. The City Engineer may waive the requirement to provide pedestrian amenities where public streetscape improvement projects that include pedestrian amenities have been completed or are planned.[Ord. 5894, 10/14/17; Ord. 5947, 1/1/21]

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

standards.

- (b) Benches or outdoor public seating for at least four people. Benches or seating must be located in a public right of way or be accessible to the general public (including providing a public access easement) and visible from the sidewalk.
  - (c) Pocket parks or plazas ~~shall~~must have a minimum usable area of 100 square feet and include at least one seating area. Public access must be provided by a public right-of-way or a public access easement, and the pocket park or plaza must be visible from the sidewalk. [Ord. 6024, 12/29/23]
  - (d) Continuous weather protection (awnings, etc.) along all building façades adjacent to (within one foot of) the sidewalk. Awnings or other weather protection must be constructed of durable materials and extend at least 4 feet in horizontally ~~distance~~ from the building wall.
  - (e) Pedestrian-scale streetlights along the full site frontage, excluding any driveways. Development on lots with multiple frontages must meet this standard on all frontages. Suitable light fixtures and spacing ~~shall~~must be determined by the City Engineer for consistency with publicly installed light fixtures and lighting specifications.
  - (f) Other pedestrian amenities that are not listed but are similar in scale and benefit.
- (2) Improvements within the public right of way require the approval of the City Engineer.
  - (3) Materials should be suitable for outdoor use, easily maintained, and have a reasonably long life cycle (e.g., 10 years before replacement). [Ord. 5894, 10/14/17]

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

## ARTICLE 9

### ON-SITE DEVELOPMENT AND ENVIRONMENTAL STANDARDS

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

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

\*As identified in Section 9.210, in limited circumstances, an applicant can apply for an Adjustment to the Buffering and Screening standards.

[Ord. 5764, 12/1/11; Ord. 5445, 4/12/00; Ord. 5947, 1/01/21; Ord. 6018, 6/30/23]

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

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

#### BUFFERING AND SCREENING

9.255 Screening of Refuse Containers. The following standards apply to all developments except for refuse containers or disposal areas serving four or fewer dwellings. Any refuse container or disposal area that would otherwise be visible from a public street, customer or resident parking area, any public facility, or any residential area, must be screened from view by placement of a sight-obscuring fence, wall, or hedge at least 6 feet tall. Refuse disposal areas may not be located in required setback areas or buffer yards and must be contained within the screened area. All refuse materials ~~shall~~must be contained within the screened areas and the disposal area must be covered. The cover must be at least 8 feet in height. No refuse container ~~shall~~may be placed within 15 feet of a dwelling window or between a multiple dwelling unit building and a single dwelling unit. [Ord. 6018, 6/30/23; Ord. 6042, 7/12/24]

#### FENCES

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

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

- (1) Barbed wire is permitted on top of a six-foot-tall fence in commercial, industrial, and mixed-use zones except for HD, DMU, MUC, and MUR. The total height of the fence and barbed wire is limited to 8 feet. Barbed-wire-only fences are prohibited except as allowed under subsection (2).
- (2) Correctional Institutions and High-Security Areas. Concertina wire or barbed-wire only fences may be used around correctional institutions and high-security areas provided that the fences are posted at 15-

foot intervals with clearly visible warnings of the hazard.

- (3) Large Animal Containment. Where cattle, sheep, horses or other livestock are permitted or existed when the property was annexed to the City, barbed wire is permitted within six inches from the top of a fence at least four feet tall that is used to contain or restrict large animals. Fences for this purpose must meet the standards in AMC 6.10.
- (4) Battery-Charged Fence: A fence that interfaces with an alarm system in a manner that enables the fence to cause the connected alarm system to transmit a signal intended to summon law enforcement in response to an intrusion and has an energizer that is driven by battery. Battery-charged fences are permitted when the following standards can be met:
- (a) Must use a battery that is not more than 12 volts of direct current; and
  - (b) Must produce an electric charge on contact that does not exceed energizer characteristics set for electric fence energizers by IEC standards; and
  - (c) Must be surrounded by a nonelectric perimeter fence or all that is not less than five feet in height; and
  - (d) May not be higher than the greater of 10 feet in height or two feet higher than the height of the non-electric perimeter fence or all; and
  - (e) Must be marked with conspicuous warning signs that are located on the fence at not more than 30-foot intervals and that read: "WARNING: ELECTRIC FENCE."
- (5) Electrically charged fences are permitted in the LI and HI zones when the following standards can be met:
- (a) The fence is located outside the front setback and required landscaping, buffering or screening; and
  - (b) The electrically charged fence ~~shall~~must not exceed 10 feet in height; and
  - (c) The electrically charged fence ~~shall~~must be a pulsed charge system and not a continuous charge system.
  - (d) No electric fence ~~shall~~may be installed or used unless it is completely surrounded by a perimeter non-electrical fence or wall that is not less than six feet tall; and
  - (e) Warning signs stating, "Warning, Electric Fence" ~~shall~~must be posted at intervals not less than 50 feet; and
  - (f) When property lines are shared with a residential zoning district, the following additional standard ~~shall~~must be met:
    - i. A solid fence or wall between 6 and 8 feet tall ~~shall~~must be placed at the shared property line(s); and
    - ii. Warning signs ~~shall~~must be posted at intervals of not less than 25 feet.
  - (g) The fence ~~shall~~must be tested and approved by the State of Oregon approved testing laboratory; and
  - (h) The fence ~~shall~~must be installed and used accordance with the Oregon Electrical Specialty Code, the listing, and the manufacturer's installation instructions; and
  - (i) Electrical permits and inspections ~~shall be~~are required for the installation. Work must be performed by a licensed Oregon electrician.
  - (j) In addition to the Fire Department access requirements in the Oregon Fire Code, the following additional standards are required for properties protected by an electric fence:
    - i. Each vehicle gate ~~shall~~must open automatically using a sensing device approved by the fire department. This automatic operation ~~shall~~must be supplemented by the installation of a Knox electric switch (with dust cover) to be installed in an approved location.
    - ii. The gate opening equipment ~~shall~~must be equipped with a battery backup in the advent of power failure (both ingress & egress sides).
    - iii. Power to the electrified fence, excluding gate opening controls, ~~shall~~must be deactivated upon activation of automatic or manual fire department access for ingress or egress through the gate.
    - iv. The vehicle gate ~~shall~~must provide a means for the fire department to egress from the site.



- v. A pedestrian type gate ~~shall~~must be installed immediately adjacent to all vehicle access gates.  
[Ord. 5446, 5/10/00; Ord. 5751, 3/9/11; Ord. 6004, 12/28/22]

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

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

- 9.380 Standards. Fences and walls ~~shall~~must meet the following standards. If a fence or wall is used to meet required screening, it ~~shall~~must meet the provisions of Section 9.385.

Standards in Residential, MUR and MUC zones:

- (1) Fences in front setbacks. Fences ~~shall~~must be no taller than 4 feet in required front setbacks unless allowed below.
  - (a) Properties listed on the National Register of Historic Places may have front yard fences taller than 4 feet if the fence is appropriate to the building style and scale and is approved by the Landmarks Commission.
- (2) Corner properties, which ~~by definition~~ have two front yards, may have a fence no taller than 6 feet in the front yard adjacent to the street that does not contain the main door entrance when the fence does not extend in front of the building and one of the following conditions is met:
  - (a) If the adjoining street is improved with sidewalks and a planter strip, the fence may be on or behind the property line.
  - (b) If the adjoining street is improved with sidewalks but no planter strip, the fence is located a minimum of three feet from the sidewalk.
  - (c) If the adjoining street is improved with curbs and gutters but no sidewalks, the fence is located 10 feet from the face of the curb.
  - (d) If the adjoining street is unimproved, the fence is no closer than three feet from the property line.
- (3) Interior Side and Rear Setbacks.  
Fences in a residential zone in Article 3 or in the MUR or MUC zone may have fences up to ~~six~~8 feet tall in the ~~interior side and rear setbacks, except that a single dwelling use or zone that shares an interior property line with a multiple dwelling unit, commercial or industrial use or zone may have a fence up to eight feet tall along the property line.~~

Standards in Commercial, Industrial, ES, LE, MS, PB, and TD zones:

- (4) Fences in front setbacks. Fences ~~shall~~must be no taller than ~~6~~8 feet in required front setbacks. ~~6~~8-foot fences containing barbed wire on top or fences taller than ~~6~~8 feet are not permitted in the front setback.

Standards in HD, DMU, CB, and WF zones:

- (5) Fences in front setbacks. Fences ~~shall~~may be no taller than 4 feet within 10 feet of a front lot line unless allowed under (a)-(c), below. Barbed wire on top of fences is not permitted within 10 feet of a front lot line.
  - (a) Properties listed on the National Register of Historic Places may have fences taller than four feet within 10 feet of a front lot line if the fence is appropriate to the building style and scale and is approved by the Landmarks Commission.
  - (b) The following uses (where allowed in the applicable zone) may have fences up to ~~six~~8 feet tall within 10 feet of a front lot line:
    - i. All industrial uses
    - ii. All institutional uses

- iii. Vehicle Repair
  - iv. Rail and Utility Corridors
- (c) Corner properties, which by definition have two front yards, may have a fence no taller than six feet within 10 feet of the front lot line that does not contain the main door entrance provided the fence does not extend in front of the building.

Standards for All fences:

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

[Ord. 5446, 5/10/00; Ord. 5673, 6/27/07; Ord. 5689, 3/12/08; Ord. 5742, 7/14/10; Ord. 5751, 3/9/11, Ord. 5886, 1/6/17; Ord. 5894, 10/14/17; Ord. 5945, 9/25/20; Ord. 6004, 12/28/22]

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

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

[Ord. 5742, 7/14/10]

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

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

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

## ARTICLE 11

### LAND DIVISIONS AND PLANNED DEVELOPMENTS

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

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

- General Provisions
- Lot and Block Arrangement
- Property Line Adjustments
- Subdivisions and Partitions
- Planned Developments
- Condominiums
- Cluster Development
- Expedited and Middle Housing Land Divisions

[Ord. 5668, 4/11/07; Ord. 5968, 1/14/22]

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

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

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

#### OPEN SPACE IN RESIDENTIAL LAND DIVISIONS

11.095 Purpose. The purpose of requiring open space in residential land divisions is to provide access to green space, recreation, gathering space, and relaxation. These standards are intended to ensure that a land division's open space is an integral part of the overall development.

(1) Applicability. For residential subdivisions of 20 or more lots in the R-10, R-6.5, R-5, HM, RM, RMA, and MUR zoning districts, at least 50 square feet of open space per lot, must be provided.

(2) Improvement Standards

(a) Usable Open Space. At least one area on the land to be divided must be improved as usable open space of at least 400 square feet with a minimum dimension of 15 feet. The usable open space must consist of a small accessible park and contain seating, trees, and landscaping.

(b) Remaining Open Space. The remaining open space may consist of:

i. A larger usable open space as described above, and could include, but is not limited to a multi-use path at least 10 feet wide; constructed to city standards, trails, sidewalks, passive landscaping and trees, water features, garden(s), swale(s) or natural area may be considered part of the remaining open space.

ii Up to 50 percent of a vegetated post-construction storm water quality facility (e.g. swale) or natural area may be considered part of the usable open space if an accessible sidewalk or path at least 5 feet wide provides access to the facility and surrounds at least 75% percent of it. Exemption. Open space is not required if a portion of the subdivision is within 1/4 mile

(measured in walking distance) of a publicly accessible park or elementary school.

(3) A multi-use path must be provided if identified in the Parks Master Plan, the Transportation System Plan, an adopted area plan, or any other plan adopted by the City of Albany. The path must be at least 10 feet wide, centered within a 20-foot-wide easement and constructed to city standards as approved by the City Engineer. If the path is not provided at the time of development, a development agreement may be entered into for future construction and/or financial assurance thereof.

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

### SUBDIVISIONS AND PARTITIONS

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

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

- 11.170 Procedure.
  - (1) Except as provided in subsection (2), a tentative subdivision or partition plat is reviewed through the Type I-L procedure.
  - (2) A tentative subdivision plat that is reviewed concurrently with a Planned Development or a Cluster Development is subject to the Type ~~III~~ II-procedure.
  - (3) A final subdivision or partition plat is reviewed through the Type I procedure.  
[Ord. 5562, 10/10/03; Ord. 5968, 1/14/22]
- 11.180 Tentative Plat Review Criteria. Approval of a tentative subdivision or partition plat, including for Planned Development, will be granted if the review body finds that the applicant has met all of the following criteria which apply to the development:
  - (1) The proposal meets the development standards of the underlying zoning district, ~~and~~ applicable lot and block standards, and open space requirements of this Article.
  - (2) Development of any remainder of property under the same ownership can be accomplished in accordance with this Code.
  - (3) Adjoining land can be developed or is provided access that will allow its development in accordance with this Code.
  - (4) The Public Works Director has determined that transportation improvements are available to serve the proposed subdivision or partition in accordance with Article 12 or will be made available at the time of development.

- (5) The Public Works Director has determined that public facilities and utilities are available to serve the proposed subdivision or partition in accordance with Article 12 or will be made available at the time of development.
- (6) Activities and developments within special purpose districts must comply with the regulations described in Articles 4 (Airport Approach), 6 (Natural Resources), and 7 (Historic), as applicable.  
[Ord. 5764, 12/1/11; Ord. 5886, 1/6/17; Ord. 5968, 1/14/22]

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

**PLANNED DEVELOPMENTS**

- 11.240 Definition. A planned development is a master planned environment intended for a variety of related activities. It promotes an integrated, coordinated development of land, normally involving increased flexibility in use and design standards, with special incentives or restrictions on development. A planned development may be primarily residential uses with associated commercial uses, a mixed-use development, or it may be a commercial or industrial development.
- 11.250 Purposes. The purposes of a Planned Development are to:
  - (1) Encourage more innovative planning that results in more desirable or sustainable environments or neighborhoods, improved protection of open spaces, transportation options, and site phasing of developments through the application of flexible and diversified land development standards than would otherwise occur under conventional land development procedures; and
  - (2) Facilitate the efficient use of land and resources in regard to land uses, buildings, circulation systems, natural features, energy conservations, open space and utilities.

[Ord. 5832, 4/9/14]

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

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

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

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

- 11.330 Planned Development Standards. In conjunction with standard requirements for setbacks and landscaped areas, the following standards apply to planned developments:
  - (1) Open Space and Common Areas in Residential, Mixed-Use and other Non-Industrial Planned Developments. Open space or common areas ~~shall~~**must** be provided for common enjoyment. In all residential developments and mixed-use developments, except as provided in subsections (b) and (h), 25 percent of the gross land area ~~shall~~**must** be devoted to open space, outdoor living area or common areas as follows.

- (a) Land that may be counted towards the open space requirement includes:
- Natural resources accessible to the public;
  - Common recreational space or commonly enjoyed amenities accessible to residents, including indoor or rooftop amenities – the total square footage of indoor amenities will be subtracted from the total land area; and
  - Common landscaped areas and paths but excluding sidewalks and planter strips in the right-of-way.
- (b) If proposing less than 25 percent open space, the applicant must demonstrate that the amount of open space proposed is appropriate to the scale and character of the planned development and well located to serve the residents and public, with high quality improvements designed to address the enjoyment, safety, and comfort of users. In no case ~~shall~~ may open space of less than 15 percent of the gross land area be approved.
- (c) Locations, shapes, sizes and other characteristics of open spaces ~~shall~~ must be consistent with their proposed uses and the purposes of the planned development.
- (d) Land in the right-of-way may not count towards the open space requirement unless designed with larger planter strips to allow for mature trees, a multi-use path, or a landscaped median.
- (e) Side and rear yards may not count towards the minimum open space requirements. Front yards may count toward the open space requirements in residential developments if they are shared by more than one dwelling unit.
- (f) Outdoor open space or living areas required by this Article may be dedicated to the City provided the size and amount of the proposed dedication meets the criteria of the City for neighborhood parks by one-half and if the City agrees to accept the dedication. The square footage of land dedicated for public parks ~~shall~~ must be deemed a part of the development site for the purpose of computing density.
- (g) Approved vegetated post-construction stormwater quality facilities are allowed in open space, outdoor living area and common areas.
- (h) Cottage clusters are exempt from the 25 percent open space requirement and subsections (a) through (f); however, subsection (g) applies. Cottage clusters must meet the common courtyard standards in ADC 8.175(4), except as modified by the proposed planned development pursuant to subsection 11.280(2) or as modified through Adjustment review.
- (2) Natural Resources. The planned development ~~shall~~ must provide for the protection of significant landscape features including Oak groves, heritage trees as defined by the Albany Municipal Code and land located within Albany's natural resource overlay districts and any historic sites and landmarks. Natural and cultural resources ~~shall~~ must integrate the proposed development with the environmental characteristics of the site and adjacent uses.
- (3) Underground Utilities. In any planned development, all electric and telephone facilities, fire alarm conduits, street light wiring, and other wiring, conduits and similar facilities ~~shall~~ must be placed underground by the developer, unless allowed above ground by the review body.
- (4) Density. When calculating density of a proposed planned development, the gross area including streets and park land dedications ~~shall~~ must be included, except for land in the Significant Wetland overlay district and waterways. The maximum density permitted per zoning district is outlined in Table 11.330-1 below.

[Ord. 5832, 4/9/14; Ord. 5842, 1/1/15; Ord. 5947, 1/1/21; Ord. 5968, 1/14/22]

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

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

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

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

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

\* In Middle Housing Zoning Districts, additional density to allow for middle housing may be permitted. Middle housing lot sizes ~~shall-must~~ not be less than the minimum lot size for the housing type in the applicable zoning district.

\*\* Allows 1 residential unit per existing lot

- (5) Building Spacing and Yard Requirements. The plan ~~shall-must~~ provide adequate building separation to allow for light, ventilation, and visual and acoustic privacy for residences and other structures. Fences, insulation, walks, barriers, and landscaping ~~shall-must~~ be used, as appropriate, for the protection and aesthetic enhancement of property and the privacy of its occupants, screening of objectionable views, and reduction of noise.
- (6) Building Locations. Taller buildings ~~shall-must~~ be located within the planned development in such a way as to avoid adverse impact on neighboring lower buildings and ~~shall-must~~ not invade the privacy of the occupants of adjacent lower buildings.
- (7) Perimeter Compatibility. The plan ~~shall-must~~ minimize adverse impacts of proposed uses and structures in the planned development on existing and anticipated uses and structures on adjacent properties and neighborhoods. The buffering and screening standards in Sections 9.210-9270 apply. If topographical or other physical barriers do not provide reasonable privacy and mitigation of potential adverse impacts on existing uses adjacent to the development, the development ~~shall-must~~ provide additional setbacks, buffering or screening between residential and non-residential uses.

[Ord. 5801, 2/13/13; Ord. 5832, 4/9/14; Ord. 5947, 1/1/21; Ord. 5968, 1/14/22]

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

**CLUSTER DEVELOPMENT**

11.400 Purpose. Cluster development is intended to protect and/or restore natural and other special features in the development of a site. In return, the more flexible standards found in this section may supersede other stricter standards of this Code. Cluster developments may provide greater flexibility, reduced and/or varied lot sizes, and more variety in permitted uses. Residential density may be transferred within the development in exchange for restoring degraded or marginal quality resources located in a Significant Natural Resource overlay district or for protecting natural or other special features of the site. Developments must satisfy high-quality master planning and design requirements. [Ord. 5923, 2/8/19]

11.405 Optional Nature. Cluster development is an optional form of development. Cluster development proposals are reviewed as part of the land division, site plan, or Conditional Use application processes. [Ord. 5947, 1/1/21]

- 11.410 Eligibility. To be eligible to apply for cluster development, all of the following are required:
- (1) Residential Zoning. The site must be located in a residential zoning district.
  - (2) Natural and Other Special Features. The site must contain one or more of the features listed in Section 11.460
  - (3) Professional Designer. An applicant for cluster development approval must certify in writing that a certified landscape architect, site planner, or landscape designer, approved by the Director, will be used in the planning and design process for the proposed development.
- [Ord. 5668, 4/11/07]
- 11.420 Relationship to Other Regulations. If the applicant chooses the cluster development option, and the site is deemed eligible by the City, these standards will supplement other provisions of this Code. For example, a subdivision proposed as a cluster development is also subject to other provisions of Article 11 of the Development Code. Other types of residential development are subject to Site Plan Review or Conditional Use review. These provisions apply to issuance of building permits in a cluster development and to ongoing uses and activities in a cluster development.
- [Ord. 5562, 10/10/03; Ord. 5668, 4/11/07; Ord. 5947, 1/1/21]
- 11.430 Procedure. Cluster development proposals are reviewed as a Type ~~III~~ procedure.
- [Ord. 5562, 10/10/03; Ord. 5668, 4/11/07]
- 11.440 Review Criteria. The review criteria for a cluster development are those that apply to a particular type of development. For example, the tentative plat criteria in Article 11 apply to cluster land divisions. (See Section 11.420 for relation to the other requirements.) Also, the review body must find that the application meets the following additional criteria:
- (1) The proposed development meets all of the requirements for cluster development.
  - (2) The proposed development preserves or restores natural or other special features as identified and prioritized in ADC 11.460.
- [Ord. 5562, 10/10/03; Ord. 5668, 4/11/07; Ord. 5764, 12/1/11; Ord. 5923, 2/8/19; Ord. 5968, 1/14/22]
- 11.450 Natural Area Requirements. Cluster developments must provide a minimum of 20 percent of the site as permanent natural areas. Land designated as Open Space on the Comprehensive Plan or Zoning maps may not be used to fulfill this requirement. [Ord. 5562, 10/10/03; Ord. 5668, 4/11/07; Ord. 5764, 12/1/11]
- 11.460 Designation of Permanent Natural Area. The required natural area may be public or private. The minimum 20 percent of the gross acreage of the development site set aside as natural area in a cluster development ~~shall~~ **must** be designated in the following priority order:
- (1) The first priority for natural area designation is significant tree groves identified on the South Albany Area Plan Organizational Framework map in the Comprehensive Plan (Figure 1), and Oregon White Oak (*Quercus garryana*) trees citywide equal to or greater than six and one-half feet in circumference (approximately 25 inches in diameter) measured as defined in Article 9.203(4). For individual trees, the natural area boundary is defined as the critical root zone (as defined in Article 9.203 (1)) plus a 10-foot buffer.
  - (2) The second priority for natural area designation is natural resources within the Significant Natural Resource overlay districts that are of degraded or marginal quality and subsequently restored to good quality in accordance with the quality levels in ADC Section 6.410(5). This priority ~~shall~~ **must** be satisfied in the following order:
    - (a) Habitat for western painted and northwestern pond turtles within the Habitat Assessment Overlay (/HA), as identified by a turtle habitat assessment, that is restored to good quality.
    - (b) Wetland within the Significant Wetland overlay district (/SW) that is restored to good quality.
    - (c) Riparian area within the Riparian Corridor overlay district (/RC) that is restored to good quality.
  - (3) The third priority for natural area designation is protection of other environmentally sensitive areas, or natural and scenic features of the site. This priority ~~shall~~ **must** be satisfied in the following order:
    - (a) Good quality habitat for western painted and northwestern pond turtles near Thornton Lakes



within the Habitat Assessment overlay (/HA) as identified by a turtle habitat assessment.

- (b) Good quality wetland within the Significant Wetland overlay district (/SW).
  - (c) Good quality riparian area within the Riparian Corridor overlay district (/RC).
  - (d) Other wetlands not within the Significant Wetland overlay district, as shown on the City’s Local Wetland Inventories, or by a delineation approved by the Oregon Department of State Lands.
  - (e) Existing channels identified in the most current version of the City of Albany Storm Water Master Plan.
  - (f) Springs.
  - (g) Land with natural slopes 12 percent or greater as designated by the Hillside Development overlay district (/HD).
  - (h) Wooded area with five or more healthy trees over 25 inches in circumference (approximately eight inches in diameter) measured as defined in Article 9.203(4), if approved by the City Forester.
  - (i) Land that provides bike or walking trails that connect to existing or proposed parks or trails, inventoried natural features, or areas zoned Open Space; or areas otherwise protected as permanent natural areas.
  - (j) Incorporate public parks, trails, trailheads or open space designated in the Parks, Recreation and Open Space Plan, the North Albany Refinement Plan, and the South Albany Area Plan.
  - (k) Other features of the site unique to Albany, if approved by the Director.
- (4) The fourth priority for natural area designation is to create “open spaces” in and around neighborhoods. This priority is satisfied by any of the following:
- (a) Continuity of adjacent open space corridors or parkways.
  - (b) A network of interconnected open space corridors.
  - (c) A buffer between neighborhoods.

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

11.470 Creation of Permanent Natural Areas.

- (1) Natural areas in a cluster development may be set aside and managed in one or more of the following ways:
  - (a) Portions of one or more individual lots; or
  - (b) Common ownership by residents of the development; or
  - (c) Third party (non-profit organization) whose primary purpose is to hold or manage the open space, subject to a reversionary clause in the event of dissolution of the non-profit organization; or
  - (d) Dedicated to City of Albany, if the City agrees to accept ownership and maintain the space.
- (2) Except for Subsection (1)(d) above, natural areas ~~shall be~~ are subject to restrictive covenants and easements reviewed by the Community Development Director and recorded and filed when the subdivision plat for the project area is recorded. Except when allowed in 11.480, an easement ~~shall~~ must include permanent provisions prohibiting the placement of structures or impervious surfaces, alteration of the ground contours, or any other activity or use inconsistent with the purpose of these provisions.

[Ord. 5562, 10/10/03; Ord. 5668, 4/11/07]

11.480 Protection of Permanent Natural Areas.

- (1) If any applicable overlay districts allow it, the development may encroach into permanent natural areas, only under the following circumstances:
  - (a) Meets the requirements of all overlay districts in Articles 4, 6 and 7; and
  - (b) The encroachment is necessary to meet transportation, utility infrastructure requirements, or post construction stormwater quality requirements; or
  - (c) The encroachment is necessary to provide bike or walking trails that connect to existing or proposed parks or trails, inventoried natural features, or areas zoned Open Space or otherwise protected as permanent natural areas.

- (2) Permanent alteration by grading may be authorized for the purpose of natural resource enhancement, such as wetland, riparian, or wildlife habitat restoration.
- (3) Significant wetlands, riparian corridors, and intermittent streams preserved as natural areas in a cluster development may be used for conveyance of storm waters only when the applicant has demonstrated that the discharge is compatible with the protection of the natural resource. These natural features ~~shall~~ **must** not be used for drainage improvements, such as detention or retention ponds, or any other utility improvement necessary for development of the lots.
- (4) Areas set aside for permanent natural areas in a cluster development cannot be further subdivided.
- (5) Fences are permitted in and around the natural areas if consistent with the expressed purpose of the natural areas.
- (6) Provisions must be established to ensure the continued maintenance of areas designated as natural areas through Cluster Development. See Section 11.470.

[Ord. 5562, 10/10/03; Ord. 5668, 4/11/07; Ord. 5801, 2/13/13; Ord. 5842, 1/1/15]

11.490 **Permitted Uses.** The uses allowed within cluster developments outside the permanent natural areas are determined by the underlying zoning district standards in Section 3.050, with the following exceptions:

- (1) On development sites greater than 20 acres, up to 20 percent of the housing units in ~~RS-6.5~~ and ~~RS-10~~ may be multiple dwelling units.
- (2) On development sites greater than 50 acres, up to two acres may be developed with neighborhood commercial uses through a Conditional Use review. The maximum building footprint of commercial or office uses ~~shall~~ **must** be 3,000 square feet. Commercial and office uses ~~shall are be~~ limited to restaurants with no drive-through service, and convenience-oriented and personal service-oriented uses as described in Article 22.

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

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

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

11.495 **Development Standards.** In a cluster development, the following development standards in Table 11.495-1 supersede the same standards in Section 3.190, Table 3.190-1. The maximum density permitted by zoning district is specified in the following table.

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

Standard	<del>RS-10</del>	<del>RS-6.5</del>	<del>RS-5 &amp; HM</del>	RM	RMA	<b>HDR</b>	OS
<del>Max. Single Dwelling Units (SDU) per gross net acre (1)</del>	4	6	8	<del>25</del> None	35 None	None	1 (5)
<del>Small SDU or Duplex 800 – 1,250 SF per net acres (1)</del>	6	9	12	None	None	None	1 (5)
<del>Small SDU or Duplex Less than 800 SF per net acres (1)</del>	8	12	16	None	None	None	1 (5)
Minimum Lot Size (2)	None	None	None	None	None	None	N/A
Minimum Lot Width	None	None	None	None	None	None	N/A
<del>Minimum Lot Depth</del>	None	None	None	None	None		N/A
Minimum front setback (3)	<del>15</del> 12 ft.	10 ft.	10 ft.	10 ft.	10 ft.	10 ft.	N/A
Maximum Lot Coverage (4)	70%	70%	70%	<del>70</del> 75%	<del>75</del> 80%	85%	N/A

(1) In Middle Housing Zoning Districts, additional density to allow for middle housing may be

permitted. Density for middle housing ~~shall be is~~ based on the minimum lot size for the housing type in the applicable zoning district.

- (2) Lots on the perimeter of the cluster development ~~shall must~~ meet the standards in 11.500.
- (3) Except, when lots are adjacent to existing development on the same side of the street, the setback ~~shall must~~ be within 5 feet of the adjacent house(s) setback(s).
- (4) The maximum lot coverage may be up to 100 percent for lots that provide land only for the building footprint.
- (5) Allows 1 residential unit per existing lot.

[Ord. 5801, 2/13/13; Ord. 5923, 2/8/19; Ord. 5947, 1/1/21; Ord. 5968, 1/14/22]

11.500 Perimeter Lot Compatibility. The following standards and exceptions will apply to the lots on the perimeter of a proposed cluster development.

- (1) Standards. The term “standard minimum lot size” as used in this section, means the minimum lot size allowed in the underlying base zone without any reductions in size allowed elsewhere in this Code.
  - (a) When the proposed cluster development abuts developed property in a lower density residential zoning district, the size of lots on the perimeter of the proposed cluster development ~~shall must~~ be at least the standard minimum lot size applicable to the proposed housing type that is allowed in the zone underlying the cluster development.

Example:

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

- (b) When the proposed cluster development abuts developed property in the same residential zoning district as the proposed cluster development, the size of lots on the perimeter of the cluster development ~~shall must~~ be at least 70 percent of the standard minimum lot size applicable to the proposed housing type that is allowed in the underlying zoning district.

Example:

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

- (2) Exceptions. The Perimeter Lot Compatibility standards do not apply in the following cases:
  - (a) Perimeter lots that are adjacent to land that is zoned for higher density housing, mixed-use or non-residential uses, or to residentially zoned property not in residential use (such as educational, institutional, religious or park uses).
  - (b) Where the same property owner owns the property abutting the proposed cluster development or when the perimeter lots share a property line with the Urban Growth Boundary.
  - (c) If a buffer area is created as a separate property along the perimeter and is at least 20 feet wide, the buffer area ~~shall must~~ become a permanent natural area and ~~shall must~~ meet the provisions in Sections 11.470 and 11.480.

Example:

<p><b>Cluster Development with Buffer Area</b> <i>No minimum lot size required on perimeter</i></p>	<p><b>Buffer Area at least 20 feet</b></p>	<p><b>Any Residential Zoning</b></p>
---	--	--

(d) Cluster developments abutting property that is at least 1 acre in size.

[Ord. 5668, 4/11/07; Ord. 5968, 1/14/22]

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

## ARTICLE 12

### PUBLIC IMPROVEMENTS

12.000 Overview. This article provides public improvement standards to address the City’s concerns relative to public health, safety, and welfare as it relates to the management of public transportation systems and utilities. These standards are used with the procedural and design requirements contained in other articles of the Albany Development Code.

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

- General Provisions
- Streets
- Sidewalks
- Street Trees
- Bikeways
- Utilities—General
- Water
- Sanitary Sewer
- Storm Drainage
- Improvement Assurances
- Addresses and Street Names

[Ord. 5673, 6/27/07; Ord. 5947, 1/01/21]

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

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

### STREETS

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

- (1) Approaches and driveways to City streets and alleys must be paved and constructed in accordance with the Standard Construction Specifications. Driveways serving more than one property ~~shall~~must be paved the full length of the shared portion.
- (2) Driveways for single-dwelling unit ~~detached~~ dwellings and middle housing must have a minimum width of 10 feet and a maximum width of 24 feet (not to exceed the width of the driveway curb cut) and minimum separation of 5 feet. See also the additional driveway standards in ADC Section 8.140. Spacing between driveways is measured along the front property line.

Triplexes and fourplexes are also subject to the driveway design standards in ADC Section 8.165. Townhouses are also subject to the driveway design standards in ADC Section 8.170. Where the standards in Sections 8.165 or 8.170 conflict with this subsection (2), the Article 8 standards ~~shall~~must control.

Driveways for all other uses must have widths of 12-16 feet for one-lane (one-way) driveways, 24-32 feet for two-lane driveways, and 36 feet for three-lane driveways. Three-lane driveways must have designated lanes and turning movements. Industrial driveways ~~shall~~must have a width of 24-48 feet. There must be a minimum separation of 22 feet between all driveways except for single- and two-unit dwellings, and middle housing of four units or less. The width of a driveway will be determined by measuring at the curb line and will exclude the transitions which must conform to standards fixed by the City Engineer.

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

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

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

- (4) The location, width, and number of accesses to a public street may be limited for developments that are subject to land use review.
- (5) Access points to a public street ~~shall must~~ be the minimum necessary to provide reasonable access while not inhibiting the safe circulation and carrying capacity of the street.
- (6) Properties with frontage on more than one street may be restricted to access on the street(s) of a lower classification through site plan, land division, or other review procedures.
- (7) A common access point at a property line is encouraged and may be required in order to reduce the number of access points to streets. Construction of common access points must be preceded by recording of joint access and maintenance easements.
- (8) Driveways ~~shall must~~ comply with applicable fire and building codes. Approach grades must not exceed 10 percent slope within 20 feet of a public street, except as specified below.
  - (a) Residential driveways serving four (4) or fewer units may exceed the maximum slope specified above.
- (9) Access to designated state highways is subject to the provisions of this Article in addition to requirements of the State Highway Division and State Department of Transportation. When regulations of the City and State conflict, the more restrictive requirements apply.
- (10) For developments on property larger than five acres in contiguous ownership fronting on an arterial street or limited access highway, a frontage road may be required in order to provide a single access determined by the review body to be the most appropriate location for safety and convenience.
- (11) When access is allowed on an arterial street, efforts ~~shall must~~ be made to locate it adjacent to the interior property line where it could be shared by the adjacent property.

[Ord. 5338, 1/28/1998; Ord. 5445, 4/12/2000; Ord. 5720, 8/12/2009; Ord. 5842, 1/01/15; Ord. 5947, 1/01/21; Ord. 5968, 1/14/22; Ord. 6004, 12/28/22]

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

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

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

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

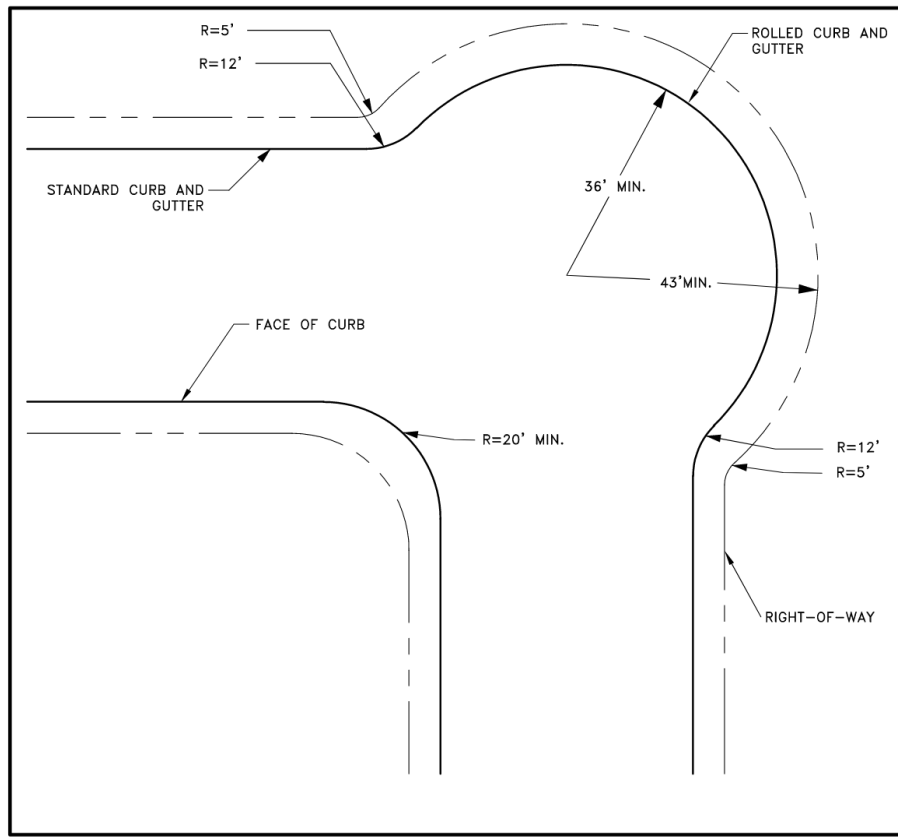
A future improvement assurance, as described in Section 12.600, may be accepted by the City when the City Engineer determines that the street improvement would not be timely.

[Ord. 5338, 1/28/1998; Ord. 5886, 1/6/17; Ord. 5968, 1/14/22; Ord. 6004, 12/28/22]

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

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

Figure 12.210-1. Example Knuckle Layout



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

## SIDEWALKS

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

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

[Ord. 5445, 4/12/2000; Ord. 5947, 1/01/21; Ord. 5968, 1/14/22; Ord. 6004, 12/28/22]

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

### Staff Comments: Bikeways in Other Plans

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

## BIKEWAYS

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

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

In the case of arterial or collector streets, bike facilities ~~shall~~must be built during their construction and considered during their reconstruction. This provision ~~shall~~ also applies to local streets in other than single-dwelling unit residential developments.

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

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

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



## WATER

- 12.410 When Public Water is Available. All new development, including a single-dwelling unit residence, must extend and connect to the public water system when service is available within 150 feet of the property. Fire hydrants, mains, and related appurtenances ~~shall~~must be installed as required by the City Fire Marshal.  
[Ord. 6004, 12/28/22]
- 12.420 When Public Water is Not Available. No new development is allowed on private well systems, except for construction of one single-dwelling unit ~~detached-dwelling~~ or one duplex on an existing lot of record. Residential lots created by a land partition may be served by private wells if approved by the City, and provided the new lots are subject to a Petition for Improvement/Waiver of Remonstrance for a future assessment district for public water. If a second partition plat is filed on the same parcel, the application will be subject to the subdivision requirement that the development be served by public water.  
[Ord. 5968, 1/14/22; Ord. 6004, 12/28/22]
- 12.430 Extension Along Property Frontage and Within Interior. Water distribution mains must be extended along the full length of the property's frontage along the right-of-way or to a point identified by the City Engineer as necessary to accommodate likely system expansion. Main extensions may be required through the interior of properties when necessary to provide service to other properties or to provide looping for fire flows.
- 12.440 Water Plan Approval. Preliminary water plans and systems must be submitted to the City Engineer as part of the tentative plat or Site Plan Review application. These plans must provide enough information to enable the City Engineer to determine that the proposed development is feasible, but are not required to be detailed construction level documents. The City's Engineering Standards, while not land use criteria, may be used, in whole or in part, by the City Engineer to determine the feasibility of a proposed plan.  
[Ord. 5720, 8/12/2009]
- 12.450 Design Requirements for New Development. All new development within the City must, when appropriate, make provisions for the continuation or appropriate projection of existing principal water lines serving surrounding areas.
- 12.460 Restriction of Development. The review body may restrict development approvals when a deficiency exists in the water system or portion thereof which cannot be corrected as a part of the development improvements.

## SANITARY SEWERS

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

[Ord. 5720, 8/12/2009]

- 12.510 Design Requirements for New Developments. All new development within the City must, where appropriate, make provisions for the continuation or appropriate projection of existing sewer lines serving surrounding areas. Line extensions may be required through the interior of a property to the developed when the City Engineer determines that the extension is needed to provide service to upstream properties.
- 12.520 Restriction of Development. The review body may restrict development approvals where a deficiency exists in the sewer system or portion thereof that cannot be corrected as a part of the development improvements.

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

## ARTICLE 22 USE CATEGORIES AND DEFINITIONS

The following is a list of content in this article.

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

### USE CATEGORIES

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

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

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

#### INDUSTRIAL USE CATEGORIES

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

#### COMMERCIAL USE CATEGORIES

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

#### INSTITUTIONAL USE CATEGORIES

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

RESIDENTIAL USE CATEGORIES

- 22.260 Residential Care or Treatment Facility
- 22.270 Assisted Living Facility
- 22.280 Single-Dwelling Units and Two Primary Units
- 22.285 Middle Housing
- 22.300 Multiple Dwelling Unit Development: Five or More Units
- 22.310 Unit(s) Above or Attached to a Business
- 22.320 Residential Accessory Buildings

OTHER USE CATEGORIES

- 22.325 Accessory Buildings, Non-Residential
- 22.330 Agriculture
- 22.340 Communication Facility
- 22.350 Kennels
- 22.360 Passenger Terminals
- 22.370 Rail and Utility Corridors  
[Ord. 5742, 7/14/10; Ord. 5968, 1/14/22; Ord. 6004, 12/28/22, Ord. 6042, 7/12/24]

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

**INSTITUTIONAL USE CATEGORIES**

22.180 Basic Utilities.

- (1) Basic Utilities uses provide community infrastructure, including water and sewer systems, telephone exchanges, power substations and transit. Utility uses generally do not have regular employees at the site. Services may be public or privately provided.
- (2) Use Examples. Types of uses include but are not limited to: water and sewer pump stations; sewage disposal and conveyance systems; electrical substations; water towers and reservoirs; water quality and flow control facilities; water conveyance systems; stormwater facilities and conveyance systems; telephone exchanges; mass transit stops, transit centers, park-and-ride facilities for mass transit; and emergency communication broadcast facilities.
- (3) Exceptions.
  - (a) Public Works projects, such as streets, utility lines, and pump stations.
  - (b) Services, where people are generally present, other than transit stops and park-and-ride facilities, are classified as Community Services or Offices.
  - (c) Utility offices where employees or customers are generally present are classified as Offices.
  - (d) Bus and light-rail barns are classified as Warehousing and Distribution.
  - (e) Public or private passageways, including easements, for the express purpose of transmitting or transporting electricity, gas, oil, water, sewage, communication signals, or other similar services on a regional level are classified as Rail and Utility Corridors.
  - (f) Energy production facilities are classified as Manufacturing uses; see Section 22.040.

[Ord. 5742, 7/14/10]

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

22.190 Community Services.

Community Services are operated by the government, a nonprofit, or charitable organization to provide a local service to people of the community. Generally, the services and employees are provided on a regular on-going basis at the site. The use may provide emergency shelter or short-term housing where tenancy may

be arranged for periods of generally less than one month when operated by a public or non-profit agency.

- (1) Use Examples. Types of uses include, but are not limited to: libraries, museums, senior centers, community centers, publicly owned swimming pools and athletic courts or facilities, youth club facilities, public safety facilities including fire and police stations, drug and alcohol centers, vocational training for the physically or mentally disabled, social service facilities, emergency shelters or short-term housing when operated by a public or non-profit agency, soup kitchens, and food distribution centers.
- (1) Exceptions.
  - (a) Private lodges, clubs, and private or commercial athletic or health clubs or centers are classified as Indoor Entertainment and Recreation.
  - (b) Parks and cemeteries are classified as Parks, Open Areas, and Cemeteries.
  - (c) Uses where tenancy is arranged on a month-to-month basis (except at hotels/motels) or for a longer period are residential and are classified under Residential use categories.
  - (d) Applications for emergency shelters sited under ORS 197.782 and ORS 197.783 are not a land use decision.

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

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

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

**Staff Comments:**

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

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

**RESIDENTIAL USE CATEGORIES**

22.280 Single- Dwelling Unit and Two Primary Units.

- (2) Single- ~~d~~ Dwelling Units are one dwelling unit on one lot, with or without ~~an~~ one accessory dwelling unit or Single Room Occupancy (SRO) Unit. Two primary units are two primary detached dwellings on one lot.
- (3) Use Examples. Single detached units, a single dwelling unit with one ~~A~~ accessory ~~D~~ dwelling Unit, a Single Dwelling Unit with one SRO Unit, two detached primary dwelling units, one ~~Single Room Occupancy (SRO)~~ ~~d~~ Development with a minimum of four and no more than six SRO units, manufactured homes, prefabricated dwellings, and child and adult care or treatment homes for five or fewer individuals.
- (1) Exceptions.
  - (a) In certain situations, lodging where tenancy may be arranged for periods less than one month, such as short-term housing or homeless shelter, may be classified as Community Service uses.
  - (b) Dwellings and SRO developments where care or treatment is provided and that typically provide common dining are classified as a Group or Residential Care Home or Residential Care or Treatment Facility.
  - (c) Attached primary dwelling units are classified as Middle Housing (either a duplex, triplex, fourplex, or townhouse) or Multiple Dwelling Unit Development.
  - (d) Dwelling units located above, behind, or contiguous to a business or office on the ground floor(s)

are classified as Units Above or Attached to a Business.  
 [Ord. 5742, 7/14/10, Ord. 5894, 10/14/17, Ord. 5968, 1/14/22; Ord. 6004, 12/28/22; Ord. 6008, 1/27/23; Ord. 6042, 7/12/2024]

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

22.320 Residential Accessory Buildings.

- (1) A detached building that is subordinate to and consistent with the ~~principal primary~~ residential use of the property and located on the same property as the ~~principal primary~~ dwelling. The use of a residential accessory building must be incidental to the primary dwelling and must not contain sleeping rooms or kitchens, unless approved as part of a permitted Accessory Dwelling Unit. Residential accessory buildings are permitted in residential and mixed-use zones when they meet the standards in Articles 3, 4, and 5.

[Ord. 5742, 7/14/10; Ord. 5947, 1/01/21; Ord. 5949, 1/01/21; Ord. 6042, 7/12/24]

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

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

**DEFINITIONS**

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

Accessible Unit: A dwelling unit that complies with the Oregon Structural Specialty Code and the provisions for Accessible units in ICC A117.1. A “Type A Unit” (i.e., partially accessible unit) means a dwelling unit that is designed and constructed for accessibility in accordance with the Oregon Structural Specialty Code and the provisions for Type A units in ICC A117.1.

Accessory Dwelling Unit: A self-contained ~~living dwelling~~ unit that is on the same lot as the primary single dwelling unit and is smaller than, and subordinate to the primary dwelling unit. The accessory dwelling unit may be attached to or interior to the primary single-dwelling unit, a detached structure, or in a portion of a detached accessory structure (e.g., above a garage or workshop) ~~that is incidental and subordinate to the principal dwelling unit (primary residence).~~

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

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

Duplex: A single-detached building containing two dwelling units. Both dwelling units are located on a single lot, except where a middle housing land division has been approved. ~~For the purposes of this Code, a Non-Property Line Separated Townhouse constructed under the Oregon Residential Specialty Code has the same meaning.~~

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

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

Fourplex: A single detached building containing four dwelling units. All dwelling units are located on a single lot, except where a middle housing land division has been approved. ~~For the purposes of this Code, a non-property line separated townhouse constructed under the Oregon Residential Special Code has the same meaning.~~

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

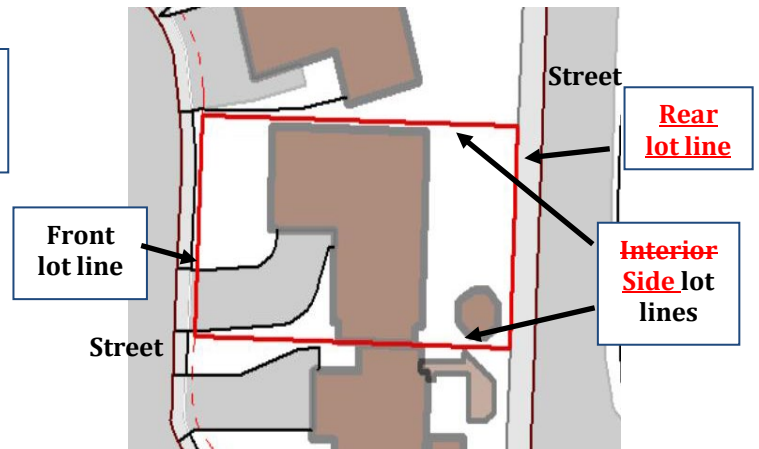
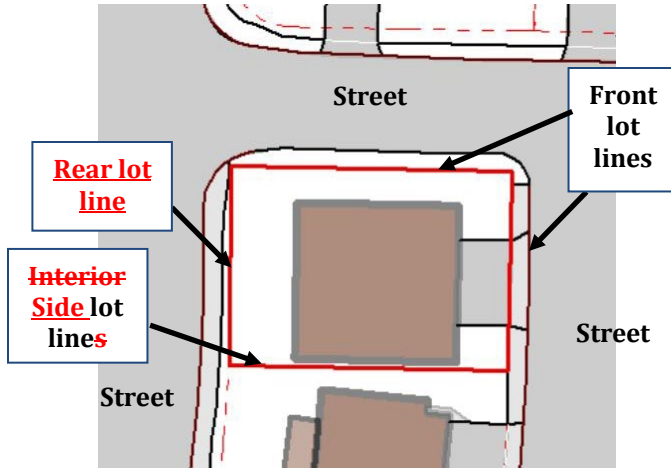
Kitchen: An area used or designed to be used for preparation and storage of food. For the purposes of this Code, a kitchenette and wet bar has the same meaning.

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

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

Example 1: Triple Frontage Lot

Example 2: Double Frontage Lot



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

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

Lot Line, Rear: A lot line that is opposite a front lot line. A triangular lot has two side lot lines, but no rear lot line. For other irregularly shaped lots, the rear lot line is all lot lines that are most nearly opposite the front lot line.

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

Middle Housing Zoning District: A zoning district in which residential dwellings are the primary use and single-dwelling units are permitted, and which implements a residential comprehensive plan map designation in accordance with OAR 660-046-0020. In the City of Albany that includes the following zoning districts:

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

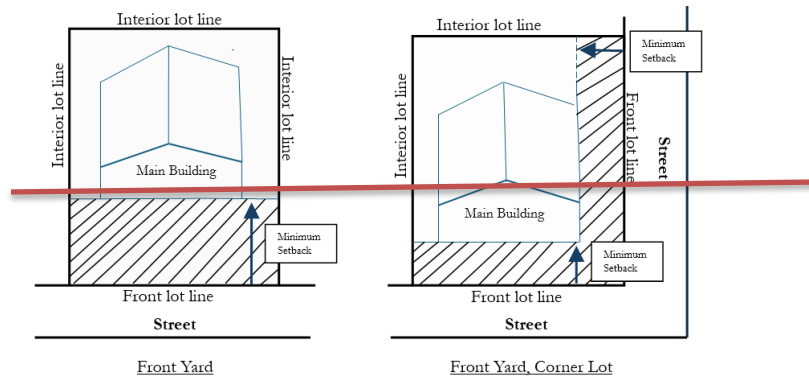
[Ord. 5968, 1/14/22; Ord. 6004, 12/28/22]

Multiple Dwelling Unit Development: Five or more dwelling units on one property or development site, attached or detached, including a building or collection of buildings, and excluding Middle Housing. Residential developments of three to four units are also defined as Multiple Dwelling Unit Housing if the development cannot otherwise meet the definition of Middle Housing. For the purposes of this code, a Non-Property Line Separated Townhouse constructed under of the Oregon Residential Special code has the same meaning.

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

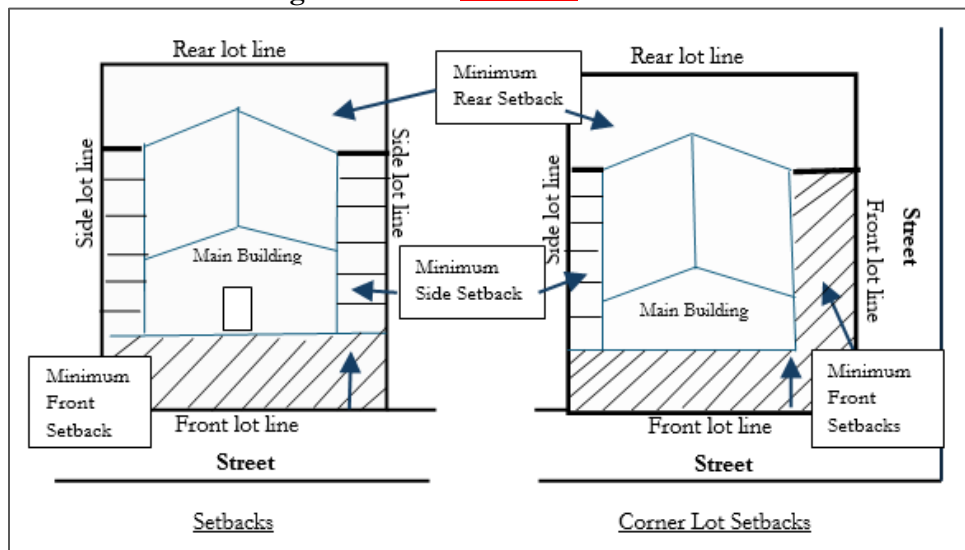
[Ord. 5968, 1/14/22; Ord. 6004, 12/28/22]

Setback, Front: The minimum horizontal distance required from the front ~~property~~lot line to the nearest



vertical wall of a building or structure, fence, or other element as defined by this Code. [Ord. 6042, 7/12/24]

Figure 22.400-3: Setbacks Front Yard



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

Setback, Rear: The minimum horizontal distance from a rear property line to the nearest vertical wall of a building or structure, fence, or other element as defined by this code.

Setback, Side: The minimum horizontal distance from a side property line to the nearest vertical wall of a building or structure, fence, or other element as defined by this Code.

Single-Dwelling Unit - Detached (SDU): A single detached building containing one dwelling unit on a lot. Where allowed by this Code, an SDU may also contain an Accessory Dwelling Unit (ADU) or one Single Room Occupancy (SRO) Unit. For the purposes of calculating density, an SDU with or without an ADU or one SRO Unit is considered as one Dwelling Unit. Dwelling Units on individual lots that are part of a cottage cluster are not single-dwelling units ~~detached~~ for the purposes of this Code.

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

Single -Room Occupancy (SRO) Development: A detached building or buildings with no less than four attached but separate Single Rroom Ooccupancy Uunits and a shared Kkitchen-or food preparation facility(ies). Sanitary facilities (bathrooms) may be shared or may be provided within or between SRO units. For purposes of this Code, density ~~shall~~must be calculated as one dwelling for every 2 SRO units or fraction



thereof, except that one SRO development with a minimum of four and no more than six SRO units sited on a property zoned to allow single dwelling units is considered one dwelling unit. See definition for a Single Room Occupancy Unit. [Ord. 5801, 2/13/13; Ord. 6042, 7/12/24]

Single Room Occupancy (SRO) Unit. Area within a Single Room Occupancy Development or a Single Dwelling Unit (SDU) that is independently rented and lockable and provides living and sleeping space for the exclusive use of the unit occupant(s). The living and sleeping space SRO unit must share the Kitchen with other SRO Units or the SDU and may or may not include sanitary share bathroom facilities. See definitions for SRO Development. [Ord. 6042, 7/12/24]

Townhouse: A dwelling unit that is part a grouping of two or more common wall dwelling units, each unit of which is built upon an individual subdivided or partitioned lot or parcel. Townhouses are also called single-dwelling unit attached houses, rowhouses, and zero-lot-line houses. “Non-property line” townhouses are not considered townhouses. [Ord. 5742, 7/14/10; Ord. 5968, 1/14/22; Ord. 6004, 12/28/22]

Townhouse Project: One or more townhouse structures constructed, or proposed to be constructed, together with the development site where the land has been divided, or is proposed to be divided, to reflect the townhouse property lines and any commonly owned property. [Ord. 5968, 1/14/22]

Triplex: A single detached building containing three dwelling units. All dwelling units are located on a single lot, except where a middle housing land division has been approved. For the purposes of this code, a non-property line separated townhouse constructed under the Oregon Residential Special eCode has the same meaning. [Ord. 5801, 2/13/13; Ord. 5968, 1/14/22]

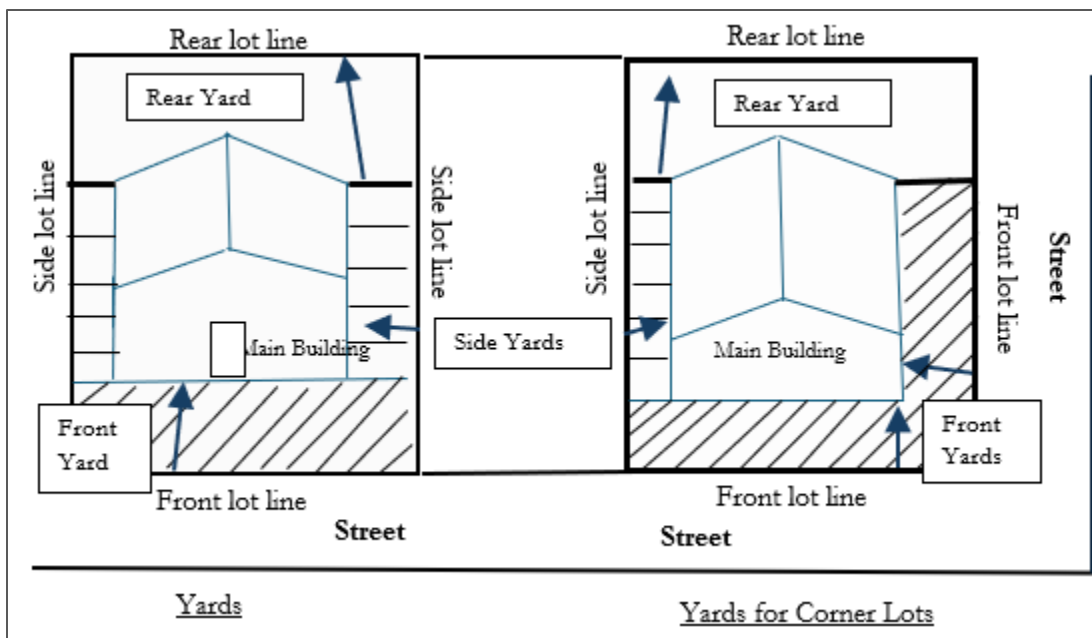
Yard, Front: The area between the front property line and the nearest point of any building on that same parcel. Corner properties have two front yards. See Figure 22.400-4. [Ord. 6042, 7/12/24]

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

Yard, Rear: The area between the rear property line and any building on that same lot, extending across the full width of a lot, required or otherwise, and that is not a front or side yard, and that is adjacent to a rear lot line. See Figure 22.400-4.

Yard, Side: The area between the building and the side lot line extending from the front yard or front lot line to the rear yard or lot line across the full depth of a lot, required or otherwise, that is not a front or rear yard and that is adjacent to a side lot line. See Figure 22.400-4.

**Figure 22.400-4. Yards**





## CHAPTER 9: LAND USE PLANNING

### GOAL 1: CITIZEN INVOLVEMENT

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

### GOAL 2: LAND USE PLANNING

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

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

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

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

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

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

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

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

## GOAL 2: LAND USE PLANNING

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

#### GOAL

Undertake Periodic Review and Update of the Albany Comprehensive Plan to ensure the Plan:

1. Remains current and responsive to community needs.
2. Retains long-range reliability.
3. Incorporates the most recent and reliable information.
4. Remains consistent with state laws and administrative rules.

#### POLICIES

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

#### IMPLEMENTATION METHODS

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

consistency.

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

### RECOMMENDATIONS

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

## GOAL 2: LAND USE PLANNING

### LAND USE DESIGNATIONS BACKGROUND SUMMARY

#### COMPREHENSIVE PLAN MAP DESIGNATIONS

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

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

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

#### RESIDENTIAL: GENERAL REQUIREMENTS

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

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

[Ord. 5667, 4/25/2007; Ord. 5968, 1/14/2022]

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

## SPECIAL USE DESIGNATIONS

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

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

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

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

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

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

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

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



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

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

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

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

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

## ZONING DISTRICTS

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

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

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

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

## PLAN MATRIX

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

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

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

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

**PLAN DESIGNATION ZONING MATRIX**

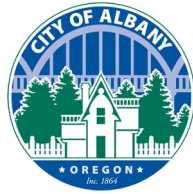
Plan Designation	Compatible Zoning Districts
Employment*	Employment (EMP), Industrial Park (IP), Office Professional (OP), <u>and land zoned Light Industrial (LI)* in the East Albany Plan area prior to June 30, 2023</u>
Light Industrial	Industrial Park (IP), Light Industrial (LI), Transit District (TD)
Heavy Industrial	Light Industrial (LI), Heavy Industrial (HI)
General Commercial	Neighborhood Commercial (NC), Office Professional (OP), Community Commercial (CC), Regional Commercial (RC)
Neighborhood Village	Neighborhood Commercial (NC), Office Professional (OP), Mixed Use Residential (MUR)
Village Center	Historic Downtown (HD), Downtown Mixed Use (DMU), Central Business (CB), Lyon-Ellsworth (LE), Elm Street (ES), Main Street (MS), Pacific Boulevard (PB), Waterfront (WF), Mixed-Use Commercial (MUC), Mixed-Use Residential (MUR), Residential Medium Density (RM), Office Professional (OP), Community Commercial (CC)
	Village Center - East (East Albany Plan Area only): Mixed Use Commercial (MUC), Mixed Use Residential (MUR)
High Density Residential**	High Density Residential (HDR), <u>Residential Medium Density Attached (RMA), Mixed Use Residential (MUR); and land zoned Residential Medium Density (RM) in the East Albany Plan area prior to June 30, 2023</u>
Medium Density Residential	<u>R-5 Residential Single Family (RS-5)</u> , Residential Medium Density (RM), Residential Medium Density Attached (RMA), Mixed Use Residential (MUR), Office Professional (OP), Neighborhood Commercial (NC)
Low Density Residential	<u>R-10, R-6.5 and R-5 Residential Single Family (RS-10, RS-6.5, RS-5);</u> Hackleman Monteith (HM), Residential Reserve (RR), Office Professional (OP), Neighborhood Commercial (NC)
Urban Residential Reserve	<u>R-10, R-6.5 and R-5 Residential Single Family (RS-10, RS-6.5, RS-5);</u> Residential Reserve (RR), Residential Medium Density (RM), Residential Medium Density Attached (RMA), Mixed Use Residential (MUR), Office Professional (OP), Neighborhood Commercial (NC)
Public & Semi-Public	All zones
Open Space	Open Space (OS)

\*Light Industrial – Properties in the East Albany Plan area that were zoned Light Industrial on June 30, 2023, may remain zoned Light Industrial, including those designated Employment on the Comprehensive Plan map.

\*\*Residential Medium Density (RM) – Properties in the East Albany Plan area that were zoned RM on June 30, 2023 may

remain zoned RM, including those designated High Density Residential on the Comprehensive Plan Map.

[Ord. 5443, 10/23/2002; Ord. 5667, 4/25,2007; Ord. 5895, 10/14/2017; Ord. 6010, 7/1/2023]



COMMUNITY DEVELOPMENT

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

# Staff Report Findings & Conclusions

## Housing Implementation Plan Albany Comprehensive Plan and Development Code Text Amendments

Planning Files: CP-02-24, DC-04-24

December 5, 2024

HEARING BODIES:	Planning Commission	City Council
HEARING DATES:	Monday, December 16, 2024	Wednesday, January 22, 2025
HEARING TIMES:	5:15 p.m.	6:00 p.m.
HEARING LOCATION:	Council Chambers, Albany City Hall, 333 Broadalbin Street SW	
VIRTUAL OPTIONS:	Instructions to attend the hearings and provide comments will be provided on the applicable agenda.	
STAFF REPORT PREPARED BY:	Liz Olmstead, Planner II	

### Application Information

- Proposal: The proposed legislative amendments would amend the Albany Comprehensive Plan and Albany Development Code to implement actions identified in the City’s adopted Housing Implementation Plan.
- Applicant: Albany Community Development Department, 333 Broadalbin Street SW, Albany, OR 97321
- Location: Legislative amendments; not site specific

### Overview

The Housing Implementation Plan was adopted by the City of Albany in June of 2023 which evaluated policies and strategies that the City can employ to address Albany’s current and future housing needs. To implement the strategies of the Plan, amendments to the Albany Comprehensive Plan and Albany Development Code are proposed which encourage needed housing and incentivize more affordable housing.

### Summary of Proposed Changes

The City of Albany is proposing to amend the Albany Comprehensive Plan and the Albany Development Code to implement actions identified in the City’s adopted Housing Implementation Plan. The amendments include removing barriers for small houses, encouraging cottage cluster housing and smaller cottages, increasing flexibility for ADUs, reserving higher density zones for higher density development, encouraging open space/pocket parks in residential subdivisions, and encouraging rear loaded development.

The specific proposed amendments are attached as Exhibit A and areas of amendments are listed below. In the exhibits, proposed new text is shown in red underline print and proposed deleted text is in ~~black strike-out font~~.



*Commentary boxes in the attached exhibits provide context for the proposed amendments. Should the proposed amendments be approved, the text boxes with the explanations will be removed and the approved amendments made part of the ADC.*

#### Ordinance Exhibit A: Albany Comprehensive Plan Text Amendments

- Chapter 9, Land Use Planning Goals

#### Ordinance Exhibit B: Albany Development Code

- Article 1, Administration
- Article 2, Review Criteria
- Article 3, Residential Zoning Districts
- Article 4, Commercial and Industrial Zoning Districts
- Article 5, Mixed Use Zoning Districts
- Article 8, Design Standards
- Article 9, On-Site Development and Environmental Standards
- Article 11, Land Divisions and Planned Developments
- Article 12, Public Improvements
- Article 22, Use Categories and Definitions

## Notice Information

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

- Notice was provided to the Oregon Department of Land Conservation and Development (DLCD) on November 8, 2024, at least 35 days before the first evidentiary hearing, in accordance with Oregon Administrative Rule (OAR) 660-018-0020 and the ADC.
- A Measure 56 Notice was mailed November 22, 2024, to residentially zoned properties over half an acre (0.5 acres) and all properties in the RM and RMA zones.
- Notice of the proposed amendments was mailed on December 2, 2024, to Linn County and Benton County.
- Notice of the public hearings was published in the *Albany Democrat-Herald* on November 26, 2024, more than two weeks before the first public hearing on December 16, 2024.

As of the date of this report, the Community Development Department has not received any written testimony.

## Comprehensive Plan Amendment Review Criteria (ADC 2.220)

***Criterion 1: A legislative amendment is consistent with the goals and policies of the Comprehensive Plan, the statewide planning goals, and any relevant area plans adopted by the City Council.***

### FINDINGS OF FACT

- 1.1 The Comprehensive Plan defines a goal as, “a general statement indicating a desired end, or the direction the city will follow to achieve that end.”
- 1.2 The Comprehensive Plan defines a policy as, “a statement identifying a course of action or City position.”
- 1.3 The Comprehensive Plan describes the City’s obligation regarding policies as follows: “The City must follow relevant policy statements in making a land use decision or show cause why the Comprehensive Plan should be amended consistent with statewide goals. Such an amendment must take place following prescribed procedures prior to taking a land use action that would otherwise violate a Plan policy. However, in the instance where specific Plan policies appear to be conflicting, the City must seek solutions that maximize each applicable policy objective within the overall content of the Comprehensive Plan and in a manner consistent with statewide

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

- 1.4 The applicable Statewide Planning goals are identified below with underlines followed by the associated Albany Comprehensive Plan goals and policies are provided below in **bold** print and are followed by findings of fact and conclusions.
- 1.5 The proposed legislative amendments would amend the Albany Comprehensive Plan text and Albany Development Code to implement strategies to support needed housing identified in the Housing Implementation Plan and other housing related amendments.
- 1.6 The amendments in Exhibit A propose to amend Chapter 9 of the Comprehensive Plan, by updating zoning designations to reflect modifications to the zoning district names and the types of housing that are permitted and updating the plan designation matrix to reflect modifications to the zoning district names and adding compatible zoning allowances from the East Albany Plan.

**Statewide Planning Goal 1: Citizen Involvement. To develop a citizen involvement program that ensures the opportunity for citizens to be involved in all phases of the planning process.**

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

**Applicable Policies:**

**2. When making land use and other planning decisions:**

- a. **Actively seek input from all points of view from citizens and agencies and assure that interested parties from all areas of the Urban Growth Boundary have the opportunity to participate.**
- b. **Utilize all criteria relevant to the issue.**
- c. **Ensure the long-range interests of the general public are considered.**
- d. **Give particular attention to input provided by the public.**
- e. **Where opposing viewpoints are expressed, attempt to reach consensus where possible.**

**4. Ensure information is made available to the public concerning development regulations, land use, and other planning matters including ways they can effectively participate in the planning process.**

- 1.7 Community engagement of the proposed housing related amendments included a variety of public engagement activities – including seven focus group meetings, an online community survey, a project website, emails to interested parties, and work sessions and public hearings with the Planning Commission and City Council.
- 1.8 Three focus group meetings and one developer meeting were held in August and September 2024 to discuss potential ADC amendments. Focus group participants included residents, realtors, for profit builders, nonprofit builders, social service agencies, engineers, architects, financial institutions, housing providers and property management, and members of the former Housing Affordability Task Force.
- 1.9 City staff held office hours to discuss the proposed ADC amendments on four occasions in September 2024. Four community members participated.
- 1.10 An online survey was made available August 27 through September 15, 2024, and received 90 complete responses and 43 partial responses. The survey asked respondents to provide input about proposed changes to the ADC, as well as housing policies and incentives, to address the community’s current and future housing needs.
- 1.11 A project website was maintained throughout the project and periodically updated when new project documents were completed.

- 1.12 City staff shared project updates at key stages of the project through emails to the interested parties list for the Housing Implementation Plan, social media posts (on Facebook and Instagram), and in the City Bridges newsletter.
- 1.13 Input received from stakeholders, community members, and the Planning Commission and City Council was incorporated into revisions to the proposed Code amendments.
- 1.14 Public notice and hearings were held in accordance with Oregon Administrative Rules (OAR) and ADC 1.260. Public involvement for the amendments included public notice as required in the OAR and in ADC Section 1.260. Specifically, notice was sent to the Department of Land Conservation and Development on November 8, 2024; notice of public hearings was mailed December 2, 2024, to Benton County and Linn County, and notice was published in the Albany Democrat Herald on November 26, 2024. Two public hearings are scheduled on December 16, 2024 (planning commission), and January 22, 2025 (city council).
- 1.15 Information was made available to the public regarding the proposed development code amendments by posting materials to the project website on November 22, 2024 and the staff report was posted on December 5, 2024, at least seven days before the first public hearing.
- 1.16 Through the notification and public hearing process, all interested parties are afforded the opportunity to review proposed text amendments, comment on the proposal, attend the public hearings, and for decisionmakers to consider testimony as they recommend or decide on the final amendments.
- 1.17 The proposed Comprehensive Plan and ADC amendments are consistent with the goal and policies noted above.

Statewide Planning Goal 2: Land Use Planning. **To establish a land use planning process and policy framework as a basis for all decisions and actions related to the use of land and to assure an adequate factual basis for such decisions.**

**Goal: Undertake Periodic Review and Update of the Albany Comprehensive Plan to ensure the Plan:**

1. Remains current and responsive to community needs.
2. Retains long-range reliability.
3. Incorporates the most recent and reliable information.
4. Remains consistent with state laws and administrative rules.

**Policy 2: Base approval of Comprehensive Plan amendments upon consideration of the following:**

- a. Conformance with goals and policies of the Plan,
- b. Citizen review and comment,
- c. Applicable Statewide Planning Goals,
- d. Input from affected governmental units and other agencies,
- e. Short - and long-term impacts of the proposed change,
- f. Public need for the change, and
- g. The amendments will best meet the identified public need versus other available alternatives.

- 1.18 The ADC serves as the principal vehicle for implementing the Comprehensive Plan.
- 1.19 In accordance with the above Goal, the proposed amendments help ensure the City's policies and regulations remain current and responsive to community needs by removing regulatory obstacles to housing development. Through the Housing Implementation Plan, members of the public have expressed that increasing housing choices, especially more affordable and lower-cost housing options, is a primary concern to the Albany community. As summarized in the Housing Implementation Plan, some of Albany's key housing needs and gaps include medium- and high-density housing; units available to low-income households (those earning 80% or less of area median income); first-time homebuyer opportunities; small, single-level homes; housing for seniors to age in place; accessible homes for people with disabilities and mobility challenges; housing that fits on the spectrum between single-dwelling homes and larger apartment complexes (i.e., missing middle housing);

and accessory dwelling units (ADUs).

- 1.20 The proposed amendments respond to these community needs by:
- Increasing flexibility for ADUs and allowing a Single Room Occupancy (SRO) Unit as an alternative to an ADU;
  - Reducing minimum lot sizes for smaller houses (under 1,250 square feet); reducing side yard setbacks for small house lots and townhouse lots; reducing front yard setbacks, while increasing rear yard setbacks to enable more usable backyards;
  - Encouraging cottage cluster housing, including incentives for tiny cottages (under 800 square feet);
  - Ensuring that land designated for higher-density housing is developed at higher densities by removing the land-area-per-unit requirements for multiple-dwelling unit development, setting minimum densities in the RM and RMA zoning districts, and removing maximum densities in the RM, RMA, and HDR zoning districts;
  - Modifying density and height bonuses to better encourage affordable housing for low- and moderate-income households; using height and density bonuses to encourage accessible housing units;
  - Reducing barriers to multiple dwelling unit development by offering more flexibility for how required open space is provided; and
  - Updating Transition Height standards for multiple dwelling unit development in RM, RMA, and HDR zoning districts to provide more flexibility while still protecting adjacent lower density uses.
- 1.21 Many opportunities for citizen review and comment were provided throughout the process, as described in Findings 1.7 – 1.17, which are included herein by reference.
- 1.22 Input from affected governmental units and other agencies was solicited as described in Finding 1.15, which is incorporated herein by reference.
- 1.23 The projected impacts of the proposed changes include facilitating development of housing and a wider variety of housing types, which will benefit Albany residents over the longer term by providing a wider variety of housing choices.
- 1.24 The public need for the change is for housing options that meet the needs of all Albany residents, including lower-income households. The proposed amendments help meet this need by facilitating housing development, especially smaller housing units, higher-density housing, low-income housing, and accessible housing.
- 1.25 The proposed Comprehensive Plan amendments are consistent with the policies noted above.

**Statewide Planning Goal 10: Housing. To provide for the housing needs of citizens of the state.**

**Goal: Provide a variety of development and program opportunities that meet the housing needs of all Albany’s citizens.**

**Goal: Create a city of diverse neighborhoods where residents can find and afford the values they seek.**

**Policy 2: Provide a variety of choices regarding type, location, density, and cost of housing units corresponding to the needs and means of city residents.**

**Policy 3: Encourage innovation in housing types, densities, lot sizes and design to promote housing alternatives. ...**

**Policy 6: Encourage residential development on already serviced vacant residential lots or in areas where services are available or can be economically provided.**

**Policy 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.**

**Policy 17: Encourage the development of accessible, affordable, and lower-cost housing in a range of types and appropriate sizes to meet Albany’s housing needs. Examples include tiny homes, smaller homes on**



smaller lots, accessory dwelling units, single room occupancy and micro housing, manufactured and prefabricated housing, and middle housing.

**Policy 18: Recognize groups needing specialized housing such as the elderly, homeless, individuals with disabilities, and other disadvantaged groups when identifying housing programs and opportunities.**

- 1.26 The proposed ADC and Comprehensive Plan amendments strongly support the above housing goals. The amendments will reduce regulatory obstacles and make the development of more types of housing feasible in more situations, especially for housing choices that are most needed in the community and that are more affordable than typical single dwelling unit homes. This includes smaller homes, higher-density housing, cottage cluster housing, ADUs, low-income housing, and accessible housing units. This will support the City's ability to meet the housing needs of all residents and also support more diverse and affordable neighborhoods.
- 1.27 The proposed amendments will support Chapter 4 Housing policies 2, 3, 6, 9, 17, and 18 listed above by:
- Increasing housing choices and variety;
  - Helping meet the needs of a wider range of residents;
  - Enabling more infill development in areas where services are available, by enabling higher-density development as well as development on smaller lots;
  - Allowing more options for “aging in place” within the same neighborhood and options for those with specialized needs such as older adults and people with disabilities, by supporting development of accessible units, smaller homes, and multigenerational living opportunities, including small single dwelling units, cottage clusters, ADUs, and SRO units within single dwelling unit homes; and
  - Enabling development of more housing overall, which can reduce housing costs over the long term.
- 1.28 According to the 2020 Housing and Residential Needs Analysis, Albany is projected to need between 6,700 and 9,300 housing units between 2020 and 2040. Of these, Albany is projected to need between 3,800 and 5,300 units that are affordable to households earning less than 120 percent of area median income, and 2,600 to 3,700 units that are affordable to households earning less than 80 percent of area median income.
- 1.29 The proposed amendments will help meet those needs by reducing barriers to housing types that are affordable to moderate and low-income households, including income-restricted housing, multiple dwelling unit housing, and smaller homes.
- 1.30 The proposed ADC and Comprehensive Plan amendments are consistent with the policies noted above.

**Statewide Planning Goal 5, Natural Resources, Scenic and Historic Areas, and Open Spaces: To protect natural resources and conserve scenic and historic areas and open spaces.**

#### **Albany Comprehensive Plan Chapter 1: Natural Resources**

**Vegetation and Wildlife Goal 3: Balance compact development patterns with natural resource protection.**

#### **Albany Comprehensive Plan Chapter 2: Special Areas**

**Historic and Archaeological Resources Goal: Protect Albany's historic resources and utilize and enhance those resources for Albany residents and visitors.**

**Policy 3: Within the city limits, maintain historic review ordinances for historic structures and districts which incorporate the following:**

- a. Except where public safety is jeopardized, allow the demolition of historic structures only when the existing structure cannot be economically rehabilitated or moved, or there is a demonstrated public need for the new use; and the proposed development is compatible with the adjacent properties.
- b. Ensure that exterior alterations of historic structures maintain the historic value of the structure and conform with the Secretary of the Interior's Standards for Historic Preservation.
- c. Ensure that the design of new construction within historic districts does not detract from the architectural qualities of the district.

- d. Where the original or intended use of a structure is not feasible, encourage compatible adaptive uses of historic structures (i.e. establishment of bed and breakfast operations, specialty shops, restaurants, and professional offices) provided the historic integrity of the structure is maintained.

#### **Albany Comprehensive Plan Chapter 7: Social Amenities**

**Policy 1: Expansion and new development projects shall be designed and landscaped to complement and enhance the appearance of the development site and surrounding area.**

- 1.31 The City's natural resource regulations will continue to apply and to protect Goal 5 resources; there is no change to the standards related to natural resource protections.
- 1.32 The ADC and Comprehensive Plan amendments will not change the applicability of Article 7 Historic Overlay District standards to local landmarks on the Local Historic Inventory.

**Statewide Planning Goal 7, Areas Subject to Natural Hazards: To protect people and property from natural hazards.**

#### **Albany Comprehensive Plan Chapter 2: Special Areas**

**Flood Hazards and Hillside Goal: Protect life and property from natural disasters and hazards.**

- 1.33 The City's Hillside Development Overlay District (/HD) will continue to apply and to protect people and property from geologic hazards; there is no change to these regulations.
- 1.34 The City's Floodplain Overlay District (/FP) will continue to apply and to protect people and property from flood hazards; there is no change to these regulations.

**Statewide Planning Goal 9, Economic Development: To provide adequate opportunities throughout the state for a variety of economic activities vital to the health, welfare, and prosperity of Oregon's citizens.**

#### **Albany Comprehensive Plan Chapter 3: Economic Development**

**Goal 2. Provide a supportive environment for the development and expansion of desired businesses.**

- 1.34 The proposed amendments will remove code barriers to various types of housing development, thereby enabling additional housing options. Improving opportunities for work force housing (i.e., moderate-income housing) is one way the city can provide a supportive environment for the development and expansion of desired businesses.

**Statewide Planning Goal 12, Transportation: To provide and encourage a safe, convenient, and economic transportation system.**

#### **Albany Comprehensive Plan –Chapter 5: Transportation**

**Goal 2. Provide a safe transportation system.**

**Goal 3. Provide a diversified transportation system that ensures mobility for all members of the community and provides alternatives to automobile travel.**

**Policy 5. Encourage development design that emphasizes safety and does not create unnecessary conflicts.**

- 1.35 The City's street and transportation standards in Articles 11 and 12 will continue to apply to housing development to help ensure a safe transportation system.
- 1.36 The increased density that could be enabled by the proposed amendments helps support a compact urban form which can be more transit-supportive and pedestrian and bicycle-friendly thus potentially reducing the number and length of automobile trips.
- 1.37 The proposed amendments will ensure multi-use paths and bikeways in adopted plans are constructed with new housing development creating a more pedestrian and bicycle-friendly environment.

**Statewide Planning Goal 14, Urbanization:** To provide for an orderly and efficient transition from rural to urban land use, to accommodate urban population and urban employment inside urban growth boundaries, to ensure efficient use of land, and to provide for livable communities.

### Albany Comprehensive Plan –Chapter 8: Urbanization

**Goal 1:** Achieve stable land use growth which results in a desirable and efficient land use pattern.

**Policy 2.** Discourage low-density sprawl development within the unincorporated portion of the Urban Growth Boundary that cannot be converted to urban uses when urban services become available.

**Policy 15.** Encourage land use patterns and development plans which take advantage of density and location to reduce the need for travel and dependency on the private automobile, facilitate energy-efficient public transit systems, and permit building configurations which increase the efficiency of energy use.

- 1.38 By making compact development forms more feasible to construct, including various types of moderate- and high-density housing, the proposed amendments are supportive of the goal to achieve stable land use growth which results in a desirable and efficient land use pattern and discourage low-density sprawl.
- 1.39 The amendments to enable compact development also support land use patterns and development plans which take advantage of density and location to reduce the need for travel and dependency on the private automobile, facilitate energy-efficient public transit systems, and permit building configurations which increase the efficiency of energy use.

### CONCLUSIONS

- 1.1 The proposed ADC and Comprehensive Plan text amendments are consistent with the Comprehensive Plan policies and the Statewide Planning Goals. In particular, the proposed amendments will support Statewide Planning Goal 10 to provide for the housing needs of residents and will support the city's Plan policies provide a variety of housing choices to meet the needs and means of wider range of Albany residents. The proposed amendments also support other statewide planning goals to plan for population growth, protect natural resources and special areas, support business growth through workforce housing, and provide a more diversified transportation system.
- 1.2 Based on the above analysis, this review criterion is met.

***Criterion 2: A legislative amendment is needed to meet changing conditions or new laws.***

### FINDINGS OF FACT

- 2.1 The proposed Comprehensive Plan text amendments are needed for consistency with the proposed ADC amendments. This includes amending the land use designations in Comprehensive Plan Chapter 9: Land Use Planning to update the descriptions of the residential land use designations and the zoning districts in the Plan Designation Zoning Matrix. These changes are needed for consistency with the proposed renaming of some of the residential zoning districts in the ADC (e.g., changing "RS-5 Residential Single-Family" to "R-5 Residential"). These changes to zoning district names are intended to move away from an emphasis on "single-family" zoning. This acknowledges that the zoning districts that were formerly reserved for single dwelling unit homes now allow middle housing types (duplexes, triplexes, quadplexes, townhouses, and cottage clusters), as required by state law (ORS 197A.420). This also reflects recent legislation (House Bill 2583, 2021 legislative session), which prohibits local governments from limiting the occupancy of dwelling units based on familial or non-familial relationships. Statewide, dwelling units can no longer be limited to occupancy by "one family," as defined by familial relationships. Within the past few years, the City of Albany has moved away using the term "family" in its housing definitions; for example, the former "single-family dwelling" and "multiple family dwellings" are now termed "single dwelling unit" and "multiple dwelling unit" development. The residential zoning districts are now proposed to be updated to also remove the references to "single-family" housing.
- 2.2 Albany will continue to need more housing development of a range of types, sizes, and costs to meet the current and futures needs of its residents. Key findings from the City's Housing Needs Analysis are summarized in Finding 1.28, which is included herein by reference.

## CONCLUSIONS

- 2.1 The proposed Comprehensive Plan text amendments and implementing ADC amendments are needed to meet new laws and changing conditions related to housing needs.
- 2.2 Based on the above analysis, this criterion is satisfied.

## Analysis of Development Code Criteria

The ADC includes the following review criteria in Section 2.290, which must be met for these legislative amendments to be approved. Code criteria are written in *bold italics* and are followed by findings and conclusions.

### Development Code Amendments Review Criteria (ADC 2.290)

*Criterion 1: The proposed amendments better achieve the goals and policies of the Comprehensive Plan than the existing language.*

#### Findings of Fact

- 1.1 The proposed amendments to the Albany Development Code (ADC) are included in Exhibit B.
- 1.2 See Findings 1.1 through 1.39 above, incorporated herein by reference on how proposed amendments better achieve the goals and policies of the Comprehensive Plan.
- 1.3 This review criterion is met.

#### Conclusions: Development Code Amendments Criterion 1

- 1.1 The proposed ADC amendments are consistent with the applicable Albany Comprehensive Plan goals and policies related to public involvement, land use planning, and housing.
- 1.2 The proposed ADC amendments do not conflict with the goals of the Comprehensive Plan applicable to economic development, transportation, or urbanization.
- 1.3 This review criterion is met.

*Criterion 2: The proposed amendments are consistent with Development Code policies on purpose and with the purpose statements for the base zone, special purpose districts, or development regulation where the amendment is proposed.*

#### Findings of Fact

- 2.1 ADC 2.290(2) requires ADC amendments to be consistent with ADC policies and purpose statements for the affected base zones or development regulations where the amendments are proposed. Below are purpose statements from Article 1 – Administration and Procedures, Article 2 – Review Criteria, Article 3 – Residential Zoning Districts, Article 4 – Commercial and Industrial Zoning Districts, Article 5 – Mixed Use Zoning Districts, Article 8 – Design Standards, Article 11 – Land Divisions and Planned Developments, Article 12 – Public Improvements, and Article 22 – Use Categories and Definitions.

#### Article 1 Administration and Procedures:

**ADC Purpose 1: Serve as the principal vehicle for implementation of the City’s Comprehensive Plan in a manner that protects the health, safety, and welfare of the citizens of Albany.**

**ADC Purpose 2: Satisfy relevant requirements of federal law, state law, statewide goals, and administrative rules.**

- 2.2 The proposed amendments support the Comprehensive Plan goals and policies, as demonstrated in Findings 1.1 through 1.39. The amendments will strengthen the Development Code as an implementing tool of these Plan goals and policies.

2.3 Proposed amendments include:

- Adding the option for applicants for the development of housing to “opt in” to new standards adopted by the city after the application was submitted per Senate Bill 1537 (2024).
- Revising the review process for Cluster Developments from a Type III to a Type II.
- Streamlining the Type III Historic Resources Review by including other non-historic Type III applications that are submitted in conjunction with the historic application to be reviewed by one hearing body.
- Adding submittal of the most recent deed and/or recorded plat to application requirements.
- Replacing “shall” with “must”, “may” or “can”. These are updated in all articles of the ADC.

2.4 The proposed ADC amendments are consistent with the purpose statement for Article 1.

**Article 2 Review Criteria for Zoning Map Amendments. For rezoning and annexation zoning requests, the zoning of property shall be compatible with the Comprehensive Plan designation.**

2.5 The proposed amendments to Article 2 include:

- Updating the Plan Designation Zoning Matrix (Table 2.760-1) design to reflect modifications to the zoning district names and adding compatible zoning allowances for existing LI and RM zoned property in the East Albany Plan.

2.6 The proposed ADC amendments are consistent with the purpose statement for Article 2.

**Article 3 Residential Zoning Districts. The residential zones are intended to preserve land for housing. This Code preserves the character of neighborhoods by providing seven zones with different density standards. The site development standards allow for flexibility of development while maintaining compatibility within the City's various neighborhoods. These regulations provide certainty to property owners, developers, and neighbors by stating the allowed uses and development standards for the base zones. Sites within overlay districts are also subject to the regulations in Articles 6 and 7.**

2.7 The proposed ADC amendments help facilitate housing development and enable additional housing options within the residential zoning districts, which help preserve land for housing. This includes ensuring that land designated for higher-density housing is developed at higher densities by removing the land-area-per-unit requirements for multiple-dwelling unit development, setting minimum densities in the RM and RMA zoning districts, and removing maximum densities in the RM, RMA, and HDR zoning districts.

2.8 The purpose of the residential zoning districts is to provide housing. The proposed amendments will remove obstacles to housing development and facilitate housing production in all residential districts through clarifications to side and rear setback standards, which were formerly both referred to as “interior setbacks.”, increasing allowed lot coverage for dwellings with rear access, and increasing flexibility for Accessory Dwelling Units and Cottage Clusters.

2.9 Proposed amendments to the zone names and purpose statements include removing the term “single-dwelling unit” from the names of the districts where middle housing is allowed and updating the housing types that are allowed in each district. The amendments also clarify how the lot size standards apply, given that reduced lot sizes are proposed to be allowed for small homes and remove density in the medium and high-density zone statements.

2.10 The proposed amendments continue to provide varying density standards within the residential districts through differing minimum lot sizes as well as minimum densities in the RM, RMA, and HDR zoning districts.

2.11 Most of the development standards that ensure compatibility with the City’s various neighborhoods are being retained—particularly building height and lot coverage. These standards will ensure that the overall scale and bulk of development will be regulated in the same way, even as minimum setbacks and minimum lot sizes for small homes are proposed to be updated.

2.12 The update also includes clarifying updates and minor amendments.

2.13 The proposed ADC amendments are consistent with the purpose statements for the Residential Zoning Districts.

**Article 4 Commercial and Industrial Zoning Districts.** The zones created in this article are intended to provide land for commercial, office and industrial uses. The differences among the zones, in the permitted uses and development standards, reflect the existing and potential intensities of commercial and industrial development. The site development standards allow for flexibility of development while minimizing impacts on surrounding uses. The regulations in this article promote uses and development that will enhance the economic viability of specific commercial and industrial areas and the city as a whole.

2.14 The proposed amendments in Article 4 are primarily related to housing development, which is not addressed in the purpose statement. The amendments are needed for consistency with the proposed changes in Article 3. These include:

- Clarifying edits in the schedule of permitted uses, needed to comply with state law regarding when housing is allowed in commercial zones.
- Clarifying that the state building code use of “townhouses” does not apply to attached “plexes” in the ADC.
- Clarifications to side and rear setback standards, which were formerly both referred to as “interior setbacks.” These are proposed to be differentiated in the residential zoning districts.
- Allowing additional lot coverage for development with vehicle access in the rear, to encourage rear-loaded and alley-loaded development.
- Amendments are proposed for the transition setback standards to limit the total setback that can be required when abutting lower-density residential districts. This is intended to reduce a potential code barrier in commercial districts.
- Clarifying updates and items missed from a previous amendment.

2.15 The proposed ADC amendments are consistent with the purpose statements for the Commercial and Industrial Zoning Districts.

**Article 5 Mixed Use Zoning Districts.** The mixed-use zoning districts are the center of neighborhood and commercial activity, providing a horizontal or vertical mix of retail and residential uses to serve nearby neighborhoods. Other uses may include offices, and community and personal services. Centers are easily accessible to nearby residences, are pedestrian-friendly, and relate to adjacent land uses. Commercial uses must fit the scale of adjacent neighborhoods, and the desired character envisioned for each Village Center or mixed-use area.

2.16 The proposed amendments in Article 5 are consistent with many of the proposed changes in Article 3. Additional clarifications are also proposed. The amendments include:

- Clarifying edits in the schedule of permitted uses, needed to comply with state law regarding when housing is allowed in commercial zones.
- Clarifying that the state building code use of “townhouses” does not apply to attached “plexes” in the ADC.
- Increasing flexibility for ADUs.
- Allowing one single-room occupancy (SRO) unit as an alternative to an ADU.
- Removing the land-area-per-unit requirements for multiple-dwelling unit development.
- Encouraging cottage cluster housing, including incentives for tiny cottages (under 800 square feet).

- Clarifications to side and rear setback standards, which were formerly both referred to as “interior setbacks.”

2.17 The proposed ADC amendments are consistent with the purpose statements for the Mixed Use Zoning Districts.

**Article 8 Design Standards.** Applicable purpose statements are provided followed by findings.

**Cottage Cluster Design Standards.** Cottage clusters are clusters of small, detached dwelling units (cottages) that are oriented around a common courtyard. Cottage clusters typically share amenities such as open space. The purpose of this section is to provide standards that promote quality development; create a sense of openness and community; and enhance the livability, walkability, and safety of the community.

2.18 The proposed amendments to the cottage cluster design standards are intended to facilitate “tiny home villages” as cottage cluster housing and to clarify and add flexibility to the design standards. The proposed amendments allow additional cottages in a cluster if all dwellings are less than 800 SF. Because tiny homes would be smaller than typical cottages, additional homes could fit onto the same size lot and would have less impact on neighbors than larger cottages. The proposed changes also scale the allowed number of tiny homes in a cottage cluster by the intensity of the zone. In addition, the proposed amendments add clarity and flexibility by increasing the average floor area limit for standard-size cottages; allowing reduced open space for small cottage clusters (four or fewer units); and allowing more than one cottage cluster in a cottage cluster project.

2.19 The amendments summarized above are consistent with the purpose of purpose of promoting quality development, creating a sense of community, and enhancing livability, because they recognize that different sized homes are likely to have different impacts on neighbors, and by allowing additional tiny homes to create more opportunities for openness and community. Clarifying the standards also ensures they are implemented as intended.

2.20 The proposed ADC amendments are consistent with the purpose statement for Cottage Cluster Design Standards in Article 8.

**Multiple-Dwelling Unit Development – Recreation and Open Space Areas.** The purpose of these standards is to ensure that new multiple dwelling unit developments and mixed-use developments with multiple-dwelling units provide spaces for outdoor recreation and relaxation that are adequately sized, located, and functional. The standards are also intended to ensure that a development project’s open space is an integral part of the overall development design, not merely leftover space.

2.21 The proposed amendments to the open space standards are intended to remove barriers to multiple dwelling unit development. The amendments are intended to bring Albany’s standards more in line with neighboring jurisdictions and to add design flexibility. This includes reducing the requirement for private balconies, which tend to add to development costs, have a shorter lifespan than other building components, and cause issues for building maintenance. The proposed amendments also reduce the minimum size of required private open spaces and allow usable common open space to count towards a portion of private open space. These proposed changes will help ensure that developments provide private open spaces that are adequately sized and functional, consistent with the purpose of these standards.

2.22 For common open space, the proposed amendments distinguish between usable/active and passive/remaining common open space, to ensure more space is devoted to usable amenities. This is intended to ensure that open space is functional, consistent with the purpose statement.

2.23 The proposed amendments modify the threshold for triggering the standards for children’s play areas, so the requirement applies to developments with 20 or more units, regardless of size, rather than 10 or more units with 2 or more bedrooms. This is intended to reduce barriers to housing development, while recognizing that parents may share bedrooms with children; therefore, the play area standards should apply even if the development only includes 1-bedroom units. These amendments will help ensure that new multiple dwelling

unit developments will provide recreation spaces for children that are right sized to the development, consistent with the purpose statement.

2.24 The proposed ADC amendments are consistent with the purpose statement for Multiple Dwelling Unit Recreation and Open Space Areas in Article 8.

**Article 9 On-Site Development and Environmental Standards.**

2.25 The proposed amendment in Article 9 include:

- Increasing the maximum fence height for residential development from 6 feet to 8 feet for consistency with fence heights that do not require a building permit.

**Article 11 Land Divisions and Planned Developments.** This article describes the process of converting raw land into building sites. The primary goals of this design review are to better ensure that natural features have been taken into account; that roads and utilities are properly designed and installed, and that adequate open space has been provided.

2.26 The proposed amendments to Article 11 include:

- Adding an open space requirement in residential subdivisions of 20 or more lots. This is intended to provide green space and access to green space in larger developments.
- Adding maximum density in Cluster and Planned Developments and updating tables to include smaller lots.

**Article 12 Public Improvements.** The provisions for new public improvements in this article are intended to address the City's concerns relative to public health, safety, and welfare.

2.27 The proposed Amendments to Article 12 include:

- Revising the Slope and Curves Section to clarify street layouts when two terminating streets create a 90-degree curve.
- Adding references to adopted plans in the bikeways section of the code to ensure these facilities are constructed with development.

**Article 22 Use Categories and Definitions.**

**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.

2.28 The proposed amendments to use categories and definitions include:

- Updating language for consistency with a previous code update regarding Single Room Occupancy (SRO) Units. In other sections of the ADC, the proposed changes would enable SRO Units on a property with a single dwelling unit as an alternative to an ADU. Several use categories and definitions need to be updated to reflect this allowance.
- Clarifying that residential accessory buildings may not contain sleeping rooms or kitchens unless approved as part of an Accessory Dwelling Unit.
- Other updates to definitions to reflect proposed amendments in other sections of the ADC. This includes defining "accessible unit," clarifying that the state building code use of "townhouses" does not apply to attached "plexes" in the ADC, and defining rear and side setbacks/yards separately.

2.29 The proposed ADC amendments are consistent with the purpose statement for Use Categories and Definitions.



## Conclusions: Development Code Amendment Criterion 2

- 2.1 The proposed ADC amendments are consistent with applicable purpose statements or development regulations where amendments are proposed in Articles 1, 2, 3, 4, 5, 8, 9, 10, 11, 12, and 22.
- 2.2 Based on the above analysis, this criterion is satisfied.

## Overall Conclusions

Based on the analysis in this report, the proposed Comprehensive Plan and Development Code amendments meet the applicable review criteria as outlined in this report.

The Planning Commission has two options with respect to the proposed Comprehensive Plan and Development Code amendments:

Option 1: Recommend that the City Council approve the amendment requests as presented; or

Option 2: Recommend the City Council approve the proposed amendments as modified by the Planning Commission.

## Staff Recommendation

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

**I move that the Planning Commission recommend that the City Council approve the proposed Comprehensive Plan and Development Code amendments detailed in planning file CP-02-24 and DC-04-24.**

**This motion is based on the findings and conclusions in the December 9, 2024, staff report, and the findings in support of the application made by the Planning Commission during deliberations on this matter.**

## Attachments

Exhibit A: Albany Comprehensive Plan Amendments

Exhibit B: Albany Development Code Amendments

## Acronyms

ADC	Albany Development Code
AMC	Albany Municipal Code
DC	Development Code Text Amendment File Designation
DLCD	Oregon Department of Land Conservation and Development
LUBA	Oregon Land Use Board of Appeals
OAR	Oregon Administrative Rule
ORS	Oregon Revised Statutes



# MEMO

TO: Albany City Council

VIA: Peter Troedsson, City Manager  
Matthew Ruettgers, Community Development Director

*MR*

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

*ale*

DATE: January 10, 2025, for the January 22, 2025, City Council Meeting

**SUBJECT:** Public Hearing Regarding Albany Development Code (ADC) and Comprehensive Plan (CP) Amendments to implement strategies in the Housing Implementation Plan (Planning Files: DC-04-24, CP-02-24)

Relates to Strategic Plan theme: Effective Government

## Action Requested:

Staff recommends that the city council hold a public hearing, deliberate, and make a decision regarding the proposed legislative text amendments to the ADC and CP to implement strategies proposed in Albany's Housing Implementation Plan (HIP) as presented in the attached ordinance exhibits. If the council elects to approve the amendments, staff also recommends council adopt the ordinance as presented or modified.

## Discussion:

On January 22, 2025, the city council will hold a public hearing regarding the ADC and CP text amendments to adopt strategies recommended in the HIP as described in detail in the attached ordinance exhibit A (ADC amendments) and exhibit B (CP amendments). The staff report findings and conclusions are found in ordinance Exhibit C.

The proposed amendments to the ADC will:

- Increase flexibility for Accessory Dwelling Units
- Encourage and facilitate smaller houses
- Encourage more usable backyards
- Encourage Cottage Cluster housing and tiny home clusters
- Support higher density housing
- Support affordable and accessible housing
- Require green space in residential subdivisions

Amendments to the CP will update zoning district names to be consistent with changes in the ADC and include other minor clarifications.

The staff-initiated amendments have been processed through the Type IV legislative land use review process in accordance with the ADC. This process is required for legislative changes to the ADC that affect many people, properties, or situations and includes review and a recommendation by the planning commission prior to a final local decision made by the city council. This process also included a Ballot Measure 56 Notice, which

was mailed November 22, 2024, to property owners of residentially zoned properties over one-half acre (0.5 acres) and all properties in the RM and RMA zones, as they were determined to be potentially affected by the proposed changes to the ADC.

On December 16, 2024, the planning commission held a duly advertised public hearing. After considering verbal and written testimony presented prior to and during the hearing, the planning commission unanimously recommended that the city council approve the proposed amendments. All testimony received to date on the proposed amendments are attached to this memo.

**Options for the City Council:**

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

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

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

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

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

**Motion to Adopt**

I MOVE that the city council ADOPT the ordinance to amend the Albany Development Code as detailed in ordinance Exhibit A and amend the Albany Comprehensive Plan as described in ordinance Exhibit B, and further described in the staff report findings and conclusions included as ordinance Exhibit C for planning files DC-04-24 and CP-02-24. This motion is based on the findings and conclusions in the ordinance Exhibit C, and findings in support of the decision made by the city council during deliberations on this matter.

**Budget Impact:**

None.

LO:km

Attachments (2):


1: Ordinance

2: Public Testimony



# MEMO

TO: Albany City Council

VIA: Peter Troedsson, City Manager 

FROM: Jeanna Yeager, Finance Director

DATE: February 2, 2025, for the February 12, 2025, City Council Meeting

**SUBJECT:** Public Safety Operating Levy Ballot Title

**Action Requested:**

Adoption of a ballot title for renewal of the public safety levy.

**Discussion:**

On January 22, 2025, staff presented information regarding the role of the local option levy in funding the City of Albany’s public safety programs. These funds are a crucial component of the city's financial framework, supporting essential services and ensuring stability in operations.

The levy generates approximately 10 percent of the city’s general fund budget. Without these funds, the city could face significant financial challenges, including service reductions, project delays, staff layoffs, and negative impacts on economic development. Maintaining stable funding through the existing levy rate is critical to preserving core services and mitigating financial risks caused by external economic factors.

After careful evaluation, staff has determined that maintaining the current levy rate is the safest course of action. The City of Albany relies on this funding as a consistent and essential part of its biennial budget. However, there are risks to future revenue growth. If compression increases at a faster rate than assessed property values, anticipated revenue gains could be reduced or eliminated. This challenge is influenced not only by property value trends but also by decisions made by other taxing jurisdictions.

The following amounts assume the levy rate remains at its current level of \$1.15 per thousand dollars of assessed value and are estimates based on current year numbers with a three percent year-over-year increase.

2026-2027	2027-2028	2028-2029	2029-2030	2030-2031
\$ 6,121,915	\$ 6,305,572	\$ 6,494,739	\$ 6,689,581	\$ 6,890,269

Staff recommends the following title for the prospective ballot measure: “Renewal of the Fire, Ambulance, and Police Local Option Tax.”

Upon approval of the attached resolution, staff will submit the requisite election filings to Linn and Benton Counties. Election Day is May 20.





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

A RESOLUTION OF ALBANY, LINN AND BENTON COUNTIES, OREGON, CALLING FOR AN ELECTION TO SUBMIT TO THE ELECTORS OF THE CITY THE QUESTION OF RENEWING A LEVY AT \$1.15 PER \$1,000.00 OF ASSESSED VALUE FOR AMBULANCE, FIRE, AND POLICE OPERATIONS BEGINNING IN FISCAL YEAR 2026-2027 FOR FIVE YEARS.

WHEREAS, the budget committee of the City of Albany found that revenues were needed to enhance essential services provided for everyone's use and protection beginning in Fiscal Year 2003-2004 and recommended that a five-year public safety operating levy be submitted to the legal voters of the City of Albany; and

WHEREAS, the Albany City Council supports the value of continuing to provide quality services to Albany Citizens.

NOW, THEREFORE, BE IT RESOLVED BY THE ALBANY CITY COUNCIL:

Section 1. Date of Election. A levy election with the question set forth in Section 2 of this resolution shall be submitted in the manner prescribed herein to the legal voters residing within the City of Albany, on the 20th day of May 2025.

Section 2. Form of Question. Shall Albany continue \$1.15 per \$1,000.00 of assessed value for ambulance, fire, police operations for five more years beginning 2026-2027? This measure renews current local option taxes.

Section 3. Project Description. The City will use tax revenue from this measure to continue funding for firefighter/ emergency medical technicians, deputy fire marshal and emergency services positions, for police officers, police clerks, community service officers, and telecommunications and crime analyst positions, together with related equipment and training. Taxes will also continue to be used to pay operating costs for the fire and police departments. The levy continues the rate previously approved by voters in 2020.

Section 4. Hours of Election. The election shall be conducted by mail.

Section 5. Notice of Election. Notice of the levy election shall be given by the county clerks and city elections officer, as provided in the general election laws of the State of Oregon and the Charter of the City of Albany.

Section 6. Ballot Form. The city attorney has reviewed a notice of levy election and ballot title in substantially the form attached hereto as Exhibit A.

DATED AND EFFECTIVE THIS 12th DAY OF FEBRUARY 2025.

\_\_\_\_\_  
Mayor

ATTEST:

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

Exhibit "A"

CAPTION

Renewal of the Ambulance, Fire, and Police Local Option Tax

QUESTION

Shall Albany continue \$1.15 per \$1,000.00 of assessed value for ambulance, fire, police operations for five more years beginning 2026-2027? This measure renews current local option taxes.

SUMMARY

The City will use tax revenue from this measure to continue funding for firefighter/ emergency medical technicians, deputy fire marshal and emergency services positions, for police officers, police clerks, community service officers, and telecommunications and crime analyst positions, together with related equipment and training. Taxes will also continue to be used to pay operating costs for the fire and police departments. The levy continues the rate previously approved by voters in 2020.

The proposed rate will raise approximately \$6,121,900 in 2026-2027; \$6,305,600 in 2027-2028; \$6,494,700 in 2028- 2029; \$6,689,600 in 2029-2030; and \$6,890,300 in 2030-2031, for a total of \$32,502,100.


The estimated tax cost for this measure is an ESTIMATE ONLY based on the best information available from the county assessor at the time of estimate and may not reflect the impact of early payment discounts, compression and the collection rate.



# MEMO



TO: Albany City Council

VIA: Peter Troedsson, City Manager 

FROM: Chris LaBelle, Fire Chief

DATE: January 31, 2025, for the February 12, 2025, City Council Meeting

**SUBJECT:** Accept and Appropriate the Fiscal Year 2024-2025 State Hazardous Materials Emergency Preparedness Grant on Behalf of the Mid-Valley Local Emergency Planning Committee  
 Relates to Strategic Plan theme: A Safe City

### Action Requested:

City Council approval by resolution to accept the Fiscal Year (FY) 2024-25 State Hazardous Material Emergency Preparedness (HMEP) Grant on behalf of the Mid-Valley Local Emergency Planning Committee (LEPC) for an exercise of the emergency response plan and responder training.

### Discussion:

The City of Albany participates in the Mid-Valley LEPC. The Oregon State Fire Marshal’s Office provides grant opportunities to Oregon’s LEPCs for hazardous materials emergency preparedness, and the City receives and distributes the grant funds on behalf of the LEPC.

The Mid-Valley LEPC has been notified by the State Fire Marshal’s Office that the FY 2024-25 HMEP Grant request has been approved. City staff recommend Council accept and appropriate the grant funds for the following activities:

1. Emergency Operations Center Hazardous Materials Functional Exercise - \$30,000
2. Hazardous Materials Full-Scale Exercise - \$55,000

### Budget Impact:

\$85,000 – State HMEP Grant (20325801).

The grant requires an in-kind match of \$21,250 which would be satisfied through personnel participation in grant-supported activities.

Attachment: Resolution

c: Chuck Perino, City Emergency Manager





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

A RESOLUTION ACCEPTING AND APPROPRIATING THE FISCAL YEAR 2024-25 STATE HAZARDOUS MATERIALS EMERGENCY PREPAREDNESS GRANT ON BEHALF OF THE MID-VALLEY LOCAL EMERGENCY PLANNING COMMITTEE FOR HAZARDOUS MATERIALS RESPONSE EXERCISES

WHEREAS, the Office of the State Fire Marshal (OSFM) administers the Hazardous Materials Emergency Preparedness (HMEP) grant program funded by the U.S. Department of Transportation; and

WHEREAS, the HMEP grant program is available to Oregon local emergency planning committees (LEPC) for the purpose of increasing effectiveness in safely and efficiently handling hazardous materials incidents; and

WHEREAS, the state requires that a city or fire service agency be the pass-through for receipt and distribution of grant funds on behalf of the LEPCs; and

WHEREAS, the Mid-Valley LEPC has identified the need to conduct functional and full-scale exercises for the benefit of Linn and Benton County emergency responders, the Oregon Region 5 HazMat team, and the community; and

WHEREAS, the FY 2024-25 HMEP grant program supports hazardous materials training and exercises as identified by the Mid-Valley LEPC.

NOW, THEREFORE, BE IT RESOLVED by the Albany City Council that the Albany Fire Department is approved and authorized to receive funds for the FY 2024-25 Hazardous Materials Emergency Preparedness grant in the amount of \$85,000 on behalf of the Mid-Valley Local Emergency Planning Committee for hazardous materials training and exercise (Exhibit A); and

BE IT FURTHER RESOLVED that the FY 2024-25 Hazardous Materials Emergency Preparedness grant funds are hereby appropriated as follows:

	Debit	Credit
Resources:		
20325801-420030		\$85,000
Requirements:		
20325801-600400	\$85,000	

DATED AND EFFECTIVE THIS 12TH DAY OF FEBRUARY 2025.

\_\_\_\_\_  
Mayor

ATTEST:

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



**DEPARTMENT OF THE OREGON STATE FIRE MARSHAL  
Hazardous Material Emergency Preparedness Grant (HMEP)**

**CFDA # 20.703**

**City of Albany**

**Grant No: 2025-HMEP-010**

This Agreement is made and entered into by and between the **State of Oregon**, acting by and through its Department of the Oregon State Fire Marshal, hereinafter referred to as “OSFM” or “State,” and **CITY OF ALBANY**, hereinafter referred to as “Subrecipient,” and collectively referred to as the “Parties.”

**Recitals**

- A. By authority granted under ORS 190.110, a state agency or unit of local government of this state may cooperate by agreement or otherwise, with a state agency or unit of local government of this or another state in performing a duty imposed upon it or in exercising a power conferred upon it.
  - B. OSFM desires to enter into this Agreement to assist with local emergency response planning through the training and support of an appropriate local hazardous materials emergency response capability. Subrecipient desires to receive financial assistance from OSFM to carry out the local hazardous materials emergency preparedness training(s) or project(s) as further described in Exhibit A attached hereto (the “Project”).
  - C. The parties acknowledge and agree that this Agreement is a subaward of certain grant funds from OSFM Subrecipient (the “Grant Funds”). The Grant Funds are from the United States Department of Transportation. The Catalog of Federal Domestic Assistance (CFDA) number for the United States Department of Transportation, Pipeline and Hazardous Materials Safety Administration, Office of Hazardous Materials Safety, Hazardous Materials Emergency Preparedness program is 20.703.
  - D. By authority granted under ORS 476.033, the State Fire Marshal may distribute grants to carry out the duties of the State Fire Marshal and perform such other duties as required by law.
1. **Effective Date.** This Agreement shall become effective on the date that it is fully executed and approved as required by applicable law (the “Effective Date”). Reimbursements will be made for Project costs incurred beginning on **October 1, 2024**, and ending, unless otherwise terminated, on or before **September 30, 2025**, (the “Grant Award Period”). No Grant Funds are available for expenditures before or after the Grant Award Period. OSFM’s obligation to disburse Grant Funds under this Agreement is subject to Sections 5 and 9 of this Agreement.
  2. **Agreement Documents.** This Agreement consists of this document and the following documents, all of which are attached hereto and incorporated herein by reference:

**Exhibit A: Approved Project Description****Exhibit B: Workplan Template****Exhibit C: Request for Reimbursement Example****Exhibit D: Change Request****Exhibit E: Grant and Cooperative Agreement Terms and Conditions****Exhibit F: Insurance Requirements****Exhibit G: Information Required by 2 CFR 200.332 (b)****Exhibit H: Federal Requirements and Certifications**

In the event of a conflict between two or more of the documents comprising this Agreement, the language in the document with the highest precedence shall control. The precedence of each of the documents comprising this Agreement is as follows, listed from highest precedence to lowest precedence: This Agreement; Exhibit A, Exhibit E, Exhibit G, Exhibit H, Exhibit B, Exhibit C, Exhibit F, Exhibit D.

3. **Grant Funds.** In accordance with the terms and conditions of this Agreement, OSFM shall provide Subrecipient an amount not to exceed \$85,000.00 in Grant Funds for eligible costs described in Section 5 hereof. Grant Funds for this Program will be from the Fiscal Year 2024 Hazardous Materials Emergency Preparedness Grant Program (HMEP).
4. **HMEP Workplan, Performance Updates, and Change Requests.**
  - a. Subrecipient shall submit a HMEP Workplan, using an HMEP Workplan template provided by OSFM, describing its approved projects, deliverables, and budget (the “Workplan”) within 30 days of the Effective Date or upon a later date as agreed with OSFM. Reimbursement of Project costs incurred during the Grant Award Period is contingent upon OSFM approval of the Workplan. Exhibit B provides an example of a Workplan template that Subrecipient may utilize.
  - b. Subrecipient must submit performance updates to OSFM on or before the deadline set by OSFM. Subrecipient shall submit its performance updates via an email to OSFM.
  - c. Subrecipient may request from OSFM prior written approval to extend the deadline for the filing of a performance report. OSFM, in its sole discretion, may approve or reject the request.
  - d. Subrecipient shall not make any changes to the Workplan without prior approval from OSFM and must submit requests for Project changes to OSFM via Exhibit D change request form at least 30 days prior to the agreed upon milestone target date.
5. **Disbursement and Recovery of Grant Funds.**
  - a. **Disbursement Generally.** OSFM shall reimburse eligible costs incurred in carrying out the Project, up to the Grant Fund amount provided in Section 3. Reimbursements shall be made by OSFM upon approval by OSFM of a Request for Reimbursement (an “RFR”). Eligible costs are the reasonable and necessary costs incurred by Subrecipient for the Project, in accordance with the Hazardous Materials Emergency Preparedness Grant Program guidance and application materials, including without limitation the United States Department of Transportation of Funding Opportunity (NOFO), that are not excluded from reimbursement by OSFM, either by this Agreement or by exclusion as a result of financial review or audit.
  - b. **Reimbursement Process.**
    - i. To receive reimbursement, Subrecipient must submit a signed RFR (Exhibit C) using a form provided by OSFM that includes supporting documentation for all grant expenditures. RFRs shall be submitted

within 30 days of incurring expenses. The final RFR shall be submitted no later than November 30, 2025 (the "RFR Deadline"). OSFM has no obligation to reimburse Subrecipient for any RFR submitted after the RFR Deadline.

- ii. Upon request for additional documentation, the Subrecipient shall provide the requested documentation within 30 days of the request.
  - iii. All reimbursable Project work must be completed by September 30, 2025.
  - iv. Reimbursements for expenses will be withheld if performance reports are not submitted by the specified dates or vary from the agreed upon Workplan.
  - v. Reimbursement rates for travel expenses shall not exceed those allowed by the State of Oregon. Requests for reimbursement for travel must be supported with a detailed statement identifying the person who traveled, the purpose of the travel, the dates, times, and places of travel, and the actual expenses or authorized rates incurred.
  - vi. Reimbursements will only be made for actual expenses incurred during the Grant Award Period. Expenses incurred before or after the Grant Award Period are not eligible for reimbursement.
- c. Conditions Precedent to Disbursement.** OSFM's obligation to disburse Grant Funds to Subrecipient is subject to satisfaction, with respect to each disbursement, of each of the following conditions precedent:
- i. OSFM has received funding, appropriations, limitations, allotments, or other expenditure authority sufficient to allow OSFM, in the exercise of its reasonable administrative discretion, to make the disbursement.
  - ii. Subrecipient is in compliance with the terms of this Agreement including, without limitation, Exhibit B and the requirements incorporated by reference in Exhibit B.
  - iii. Subrecipient's representations and warranties set forth in Section 6 hereof are true and correct on the date of disbursement with the same effect as though made on the date of disbursement.
  - iv. Subrecipient has provided to OSFM an RFR in accordance with Section 5.b of this Agreement.
- d. Recovery of Grant Funds.** Any funds disbursed to Subrecipient under this Agreement that are expended in violation or contravention of one or more of the provisions of this Agreement ("Misexpended Funds") or that remain unexpended on the earlier of termination or expiration of this Agreement ("Unexpended Funds") must be returned to OSFM. Subrecipient shall return all Misexpended Funds to OSFM promptly after OSFM's written demand and no later than 15 days after OSFM's written demand.
- 6. Representations and Warranties of Subrecipient.** Subrecipient represents and warrants to OSFM as follows:
- a. Organization and Authority.** Subrecipient is duly organized and validly existing under the laws of the State of Oregon and is eligible to receive the Grant Funds. Subrecipient has full power, authority, and legal right to make this Agreement and to incur and perform its obligations hereunder, and the making and performance by Subrecipient of this Agreement (1) have been duly authorized by all necessary action of Subrecipient and (2) do not and will not violate any provision of any applicable law, rule, regulation, or order of any court, regulatory commission, board, county charter, or other administrative agency, (3) do not and will not result in the breach of, or constitute a default or require any consent under any other agreement or instrument to which Subrecipient is a party or by which Subrecipient or any of its properties may be bound or affected. No authorization, consent, license, approval of, filing or registration with or notification to any governmental body or regulatory or supervisory authority is required for the execution, delivery, or performance by Subrecipient of this Agreement.

- b. **Binding Obligation.** This Agreement has been duly executed and delivered by Subrecipient and constitutes a legal, valid, and binding obligation of Subrecipient, enforceable in accordance with its terms subject to the laws of bankruptcy, insolvency, or other similar laws affecting the enforcement of creditors' rights generally.
  - c. **No Solicitation.** Subrecipient's officers, employees, and agents shall neither solicit nor accept gratuities, favors, or any item of monetary value from contractors, potential contractors, or parties to subagreements. No member or delegate to the Congress of the United States shall be admitted to any share or part of this Agreement or any benefit arising therefrom.
7. **Uniform Administrative Requirements, Cost Principles and Audit Requirements for Federal Awards (2 CFR Part 200).** Subrecipient must comply with these requirements Uniform Administrative Requirements, Cost Principles and Audit Requirements for Federal Awards (2 CFR Part 200). If Subrecipient expends \$1,000,000 or more during Subrecipient's fiscal year in federal awards, it is subject to audit conducted in accordance with the provisions of 2 CFR part 200, subpart F.
8. **Subrecipient Procurements; Property and Equipment Management and Records; Subcontractor Indemnity and Insurance.**
- a. **Subagreements.** Subrecipient may enter into agreements (hereafter "subagreements") for performance of the Project. Subrecipient shall use its own procurement procedures and regulations, provided that the procurement conforms to applicable Federal and State law (including, without limitation ORS chapters 279A, 279B, 279C, and that for contracts for more than \$150,000, the contract shall address administrative, contractual or legal remedies for violation or breach of contract terms and provide for sanctions and penalties as appropriate, and for contracts for more than \$10,000 address termination for cause or for convenience including the manner in which termination will be effected and the basis for settlement).
    - i. Subrecipient shall provide to OSFM copies of all Requests for Proposals or other solicitations for procurements anticipated to be for \$100,000 or more and to provide to OSFM, upon request by OSFM, such documents for procurements for less than \$100,000. The subrecipient shall include with its RFR a list of all procurements issued during the period covered by the report.
    - ii. All subagreements, whether negotiated or competitively bid and without regard to dollar value, shall be conducted in a manner that encourages fair and open competition to the maximum practical extent possible. All sole-source procurements in excess of \$100,000 must receive prior written approval from OSFM in addition to any other approvals required by law applicable to Subrecipient. Justification for sole-source procurement in excess of \$100,000 should include a description of the program and what is being contracted for, an explanation of why it is necessary to contract noncompetitively, time constraints and any other pertinent information. Interagency agreements between units of government are excluded from this provision.
    - iii. Subrecipient shall be alert to organizational conflicts of interest or non-competitive practices among contractors that may restrict or eliminate competition or otherwise restrain trade. Contractors that develop or draft specifications, requirements, statements of work, or Requests for Proposals (RFP) for a proposed procurement shall be excluded from bidding or submitting a proposal to compete for the award of such procurement. Any request for exemption must be submitted in writing to OSFM.
    - iv. Subrecipient agrees that, to the extent it uses contractors, such contractors shall use small, minority, women-owned or disadvantaged business concerns and contractors or subcontractors to the extent practicable.

- b. Purchases and Management of Property and Equipment; Records.** Subrecipient agrees to comply with all applicable grant requirements referenced in Exhibit E to this Agreement and procedures for managing and maintaining records of all purchases of property and equipment will, at a minimum, meet the following requirements:
- i. All property and equipment purchased under this agreement, whether by Subrecipient or a contractor, will be conducted in a manner providing full and open competition and in accordance with all applicable procurement requirements, including without limitation ORS chapters 279A, 279B, 279C, and purchases shall be recorded and maintained in Subrecipient's property or equipment inventory system.
  - ii. Subrecipient's property and equipment records shall include: a description of the property or equipment; the manufacturer's serial number, model number, or other identification number; the source of the property or equipment, including the Catalog of Federal Domestic Assistance (CFDA) number; name of person or entity holding title to the property or equipment; the acquisition date; cost and percentage of Federal participation in the cost; the location, use and condition of the property or equipment; and any ultimate disposition data including the date of disposal and sale price of the property or equipment.
  - iii. A physical inventory of the property and equipment must be taken, and the results reconciled with the property and equipment records at least once every two years.
  - iv. Subrecipient must develop a control system to ensure adequate safeguards to prevent loss, damage, or theft of the property and equipment. Subrecipient shall investigate any loss, damage, or theft and shall provide the results of the investigation to OSFM upon request.
  - v. Subrecipient must develop, or require its contractors to develop, adequate maintenance procedures to keep the property and equipment in good condition.
  - vi. If Subrecipient is authorized to sell the property or equipment, proper sales procedures must be established to ensure the highest possible return.
  - vii. Subrecipient agrees to comply with 2 CFR 200.313 pertaining to use and disposal of equipment purchased with Grant Funds, including when original or replacement equipment acquired with Grant Funds is no longer needed for the original project or program or for other activities currently or previously supported by a federal agency.
  - viii. Subrecipient shall require its contractors to use property and equipment management requirements that meet or exceed the requirements provided herein applicable to all property and equipment purchased with Grant Funds.
  - ix. Subrecipient shall, and shall require its contractors to, retain the records described in this Section 8.b. for a period of six years from the date of the disposition or replacement or transfer at the discretion of OSFM. Title to all property and equipment purchased with Grant Funds shall vest in Subrecipient if Subrecipient provides written certification to OSFM that it will use the property and equipment for purposes consistent with Non-disaster Grant Programs.
- c. Subagreement indemnity; insurance.** Subrecipient's subagreement(s) shall require the other party to such subagreements(s) that is not a unit of local government as defined in ORS 190.003, if any, to indemnify, defend, save and hold harmless OSFM and its officers, employees and agents from and against any and all claims, actions, liabilities, damages, losses, or expenses, including attorneys' fees, arising from a tort, as now or hereafter defined in ORS 30.260, caused, or alleged to be caused, in whole or in part, by the negligent or willful acts or omissions of the other party to Subrecipient's subagreement or any of such party's officers, agents, employees or subcontractors ("Claims"). It is the specific intention of the Parties that OSFM shall, in all instances, except for Claims arising solely from the negligent or willful acts or

omissions of OSFM, be indemnified by the other party to Subrecipient's subagreement(s) from and against any and all Claims.

Any such indemnification shall also provide that neither Subrecipient's contractor(s) nor any attorney engaged by Subrecipient's contractor(s) shall defend any claim in the name of OSFM or any agency of the State of Oregon (collectively "State"), nor purport to act as legal representative of the State or any of its agencies, without the prior written consent of the Oregon Attorney General. The State may, at any time at its election, assume its own defense and settlement in the event that it determines that Subrecipient's contractor is prohibited from defending State or that Subrecipient's contractor is not adequately defending State's interests, or that an important governmental principle is at issue or that it is in the best interests of State to do so. The State reserves all rights to pursue claims it may have against Subrecipient's contractor if State elects to assume its own defense.

Subrecipient shall require the other party, or parties, to each of its subagreements that are not units of local government as defined in ORS 190.003 to obtain and maintain insurance of the types and in the amounts provided in Exhibit F to this Agreement.

## 9. Termination

- a. Termination by OSFM.** OSFM may terminate this Agreement effective upon delivery of written notice of termination to Subrecipient, or at such later date as may be established by OSFM in such written notice, if:
- i. Subrecipient fails to perform the Project within the time specified herein or any extension thereof or commencement, continuation, or timely completion of the Project by Subrecipient is, for any reason, rendered improbable, impossible, or illegal; or
  - ii. OSFM fails to receive funding, appropriations, limitations, or other expenditure authority sufficient to allow OSFM, in the exercise of its reasonable administrative discretion, to continue to make payments for performance of this Agreement; or
  - iii. Federal or state laws, rules, regulations, or guidelines are modified or interpreted in such a way that the Project is no longer allowable or no longer eligible for funding under this Agreement; or
  - iv. The Project would not produce results commensurate with the further expenditure of funds; or
  - v. Subrecipient takes any action pertaining to this Agreement without the approval of OSFM and which under the provisions of this Agreement would have required the approval of OSFM.
  - vi. OSFM determines there is a material misrepresentation, error, or inaccuracy in Subrecipient's application.
- b. Termination by Subrecipient.** Subrecipient may terminate this Agreement effective upon delivery of written notice of termination to OSFM, or at such later date as may be established by Subrecipient in such written notice, if:
- i. The requisite local funding to continue the Project becomes unavailable to Subrecipient; or
  - ii. Federal or state laws, rules, regulations, or guidelines are modified or interpreted in such a way that the Project is no longer allowable or no longer eligible for funding under this Agreement.

- c. **Termination by Either Party.** Either Party may terminate this Agreement upon at least ten days' notice to the other Party and failure of the other Party to cure within the ten days, if the other Party fails to comply with any of the terms of this Agreement.
- d. **Settlement upon Termination.** Immediately upon termination under Sections 9.a.i, v., or vi, no Grant Funds shall be disbursed by OSFM and Subrecipient shall return to OSFM Grant Funds previously disbursed to Subrecipient by OSFM in accordance with Section 5.d and the terminating party may pursue additional remedies in law or equity. Termination of this Agreement does not relieve Subrecipient of any other term of this Agreement that may survive termination, including, without limitation, Sections 10.a. and 10.c.

## 10. GENERAL PROVISIONS

### a. Contribution; indemnification.

- 1) If Subrecipient is a unit of local government as defined in ORS 190.003, then the contribution provisions of this Section 10.a.1 apply:
  - i. If any third party makes any claim or brings any action, suit or proceeding alleging a tort as now or hereafter defined in ORS 30.260 ("Third Party Claim") against a party (the "Notified Party") with respect to which the other party ("Other Party") may have liability, the Notified Party must promptly notify the Other Party in writing of the Third Party Claim and deliver to the Other Party a copy of the claim, process, and all legal pleadings with respect to the Third Party Claim. Either party is entitled to participate in the defense of a Third Party Claim, and to defend a Third Party Claim with counsel of its own choosing. Receipt by the Other Party of the notice and copies required in this paragraph and meaningful opportunity for the Other Party to participate in the investigation, defense and settlement of the Third Party Claim with counsel of its own choosing are conditions precedent to the Other Party's liability with respect to the Third Party Claim.
  - ii. With respect to a Third Party Claim for which the State is jointly liable with Subrecipient (or would be if joined in the Third Party Claim), the State shall contribute to the amount of expenses (including attorneys' fees), judgments, fines, and amounts paid in settlement actually and reasonably incurred and paid or payable by Subrecipient in such proportion as is appropriate to reflect the relative fault of the State on the one hand and of Subrecipient on the other hand in connection with the events which resulted in such expenses, judgments, fines or settlement amounts, as well as any other relevant equitable considerations. The relative fault of the State on the one hand and of Subrecipient on the other hand shall be determined by reference to, among other things, the parties' relative intent, knowledge, access to information and opportunity to correct or prevent the circumstances resulting in such expenses, judgments, fines or settlement amounts. The State's contribution amount in any instance is capped to the same extent it would have been capped under Oregon law if the State had sole liability in the proceeding.
  - iii. With respect to a Third Party Claim for which Subrecipient is jointly liable with the State (or would be if joined in the Third Party Claim), Subrecipient shall contribute to the amount of expenses (including attorneys' fees), judgments, fines, and amounts paid in settlement actually and reasonably incurred and paid or payable by the State in such proportion as is appropriate to reflect the relative fault of Subrecipient on the one hand and of the State on the other hand in connection with the events which resulted in such expenses, judgments, fines or settlement amounts, as well as any other relevant equitable considerations. The relative fault of Subrecipient on the one hand and of the State on the other hand shall be determined by reference to, among other things, the parties' relative intent, knowledge, access to information and opportunity to correct or prevent the

circumstances resulting in such expenses, judgments, fines, or settlement amounts. Subrecipient’s contribution amount in any instance is capped to the same extent it would have been capped under Oregon law if it had sole liability in the proceeding.

- 2) If Subrecipient is **not** a unit of local government as defined in ORS 190.003, then the indemnification provisions of this Section 10.a.2 apply:
  - i. ***SUBRECIPIENT SHALL DEFEND, SAVE, HOLD HARMLESS, AND INDEMNIFY THE STATE OF OREGON, OSFM AND ITS OFFICERS, AGENTS AND EMPLOYEES FROM AND AGAINST ALL CLAIMS, SUITS, ACTIONS, LOSSES, DAMAGES LIABILITIES, COSTS (INCLUDING ATTORNEYS’ FEES) AND EXPENSES OF ANY NATURE WHATSOEVER RESULTING FROM, ARISING OUT OF, OR RELATING TO THE INTENTIONAL MISCONDUCT, OR RECKLESS OR NEGLIGENT ACTS OR OMISSIONS OF SUBRECIPIENT OR ITS OFFICERS, EMPLOYEES, CONTRACTORS, OR AGENTS UNDER THIS AGREEMENT.***
  - ii. State shall reasonably cooperate in good faith, at Subrecipient’s reasonable expense, in the defense of a claim. Subrecipient shall select counsel reasonably acceptable to the Oregon Attorney General to defend such claim and all costs of such counsel shall be borne by Subrecipient. Counsel must accept appointment as a Special Assistant Attorney General under ORS Chapter 180 before such counsel may act in the name of, or represent the interests of, State, its officers, employees or agents. State may elect to assume its own defense with an attorney of its own choice and its own expense at any time State determines important governmental interests are at stake. State agrees to promptly provide Subrecipient with notice of any claim that may result in an indemnification obligation hereunder. Subject to the limitations noted above, Subrecipient may defend such claim with counsel of its own choosing provided that no settlement or compromise of any such claim shall occur without the consent of State, which consent shall not be unreasonably withheld, conditioned or delayed.

This Section 10.a. shall survive any expiration or termination of this Agreement.

- b. Dispute Resolution.** The Parties shall attempt in good faith to resolve any dispute arising out of this Agreement. In addition, the Parties may agree to utilize a jointly selected mediator or arbitrator (for non-binding arbitration) to resolve the dispute short of litigation. Each party shall bear its own costs incurred under this Section 10.b.
- c. Responsibility for Grant Funds.** Subrecipient, pursuant to this Agreement with OSFM, shall assume sole liability for its breach of the conditions of this Agreement, and shall, upon its breach of conditions that causes or requires OSFM to return funds to the U.S. Department of Transportation, hold harmless and indemnify OSFM for an amount equal to the funds received under this Agreement; or if legal limitations apply to the Subrecipient’s indemnification ability, the indemnification amount shall be the maximum amount of funds available to Subrecipient for expenditure, including any available contingency funds or other available non-appropriated funds, up to the amount received under this Agreement.
- d. Amendments.** This Agreement may be amended or extended only by a written instrument signed by both Parties and approved as required by applicable law.
- e. Duplicate Payment.** Subrecipient is not entitled to compensation or any other form of duplicate, overlapping or multiple payments for the same work performed under this Agreement from any agency of the State of Oregon or the United States of America or any other party, organization or individual.



- f. No Third Party Beneficiaries.** OSFM and Subrecipient are the only Parties to this Agreement and are the only Parties entitled to enforce its terms. Nothing in this Agreement gives, is intended to give, or shall be construed to give or provide any benefit or right, whether directly or indirectly, to a third person unless such a third person is individually identified by name herein and expressly described as an intended beneficiary of the terms of this Agreement.

Subrecipient acknowledges and agrees that the Federal Government, absent express written consent by the Federal Government, is not a party to this Agreement and shall not be subject to any obligations or liabilities to Subrecipient, contractor or any other party (whether or not a party to the Agreement) pertaining to any matter resulting from this Agreement.

- g. Notices.** Except as otherwise expressly provided in this Section, any communications between the parties hereto or notice to be given hereunder shall be given in writing by personal delivery, facsimile, email or mailing the same by registered or certified mail, postage prepaid to Subrecipient or OSFM at the appropriate address or number set forth on the signature page of this Agreement, or to such other addresses or numbers as either party may hereafter indicate pursuant to this Section. Any communication or notice so addressed and sent by registered or certified mail shall be deemed delivered upon receipt or refusal of receipt. Any communication or notice delivered by facsimile shall be deemed to be given when receipt of the transmission is generated by the transmitting machine. Any communication or notice by personal delivery shall be deemed to be given when actually delivered. Any communication by email shall be deemed to be given when the recipient of the email acknowledges receipt of the email. The parties also may communicate by telephone, regular mail, or other means, but such communications shall not be deemed Notices under this Section unless receipt by the other party is expressly acknowledged in writing by the receiving party.

- h. Governing Law, Consent to Jurisdiction.** This Agreement shall be governed by, construed in accordance with, and enforced under the laws of the State of Oregon without regard to principles of conflicts of law. Any claim, action, suit or proceeding (collectively, "Claim") between OSFM (or any other agency or department of the State of Oregon) and Subrecipient that arises from or relates to this Agreement shall be brought and conducted solely and exclusively within the Circuit Court of Marion County in the State of Oregon. In no event shall this section be construed as a waiver by the State of Oregon of any form of defense or immunity, whether sovereign immunity, governmental immunity, immunity based on the eleventh amendment to the Constitution of the United States or otherwise, from any Claim or from the jurisdiction of any court. Each party hereby consents to the exclusive jurisdiction of the Circuit Court of Marion County in the State of Oregon, waives any objection to venue, and waives any claim that such forum is an inconvenient forum.

- i. Compliance with Law.** Subrecipient shall comply with all federal, state, and local laws, regulations, executive orders, and ordinances applicable to the Agreement or to the implementation of the Project, including without limitation as described in Exhibit B.

- j. Insurance; Workers' Compensation.** All employers, including Subrecipient, that employ subject workers who provide services in the State of Oregon shall comply with ORS 656.017 and provide the required Workers' Compensation coverage, unless such employers are exempt under ORS 656.126. Employer's liability insurance with coverage limits of not less than \$500,000 must be included. The subrecipient shall ensure that each of its subrecipient(s), contractor(s), and subcontractor(s) complies with these requirements. In addition, a Subrecipient that is not a unit of local government as defined in ORS 190.003 must obtain and maintain insurance of the types and in the amounts provided in Exhibit F to this Agreement.

- k. Independent Contractor.** Subrecipient shall perform the Project as an independent contractor and not as an agent or employee of OSFM. Subrecipient has no right or authority to incur or create any obligation for or legally bind OSFM in any way. Subrecipient acknowledges and agrees that Subrecipient is not an “officer”, “employee”, or “agent” of OSFM, as those terms are used in ORS 30.265, and shall not make representations to third parties to the contrary.
- l. Severability.** If any term or provision of this Agreement is declared by a court of competent jurisdiction to be illegal or in conflict with any law, the validity of the remaining terms and provisions shall not be affected, and the rights and obligations of the Parties shall be construed and enforced as if this Agreement did not contain the particular term, or provision held to be invalid.
- m. Counterparts.** This Agreement may be executed in two or more counterparts (by facsimile or otherwise), each of which is an original and all of which together are deemed one-agreement binding on all Parties, notwithstanding that all Parties are not signatories to the same counterpart.
- n. Integration and Waiver.** This Agreement, including all Exhibits and referenced documents, constitutes the entire agreement between the Parties on the subject matter hereof. There are no understandings, agreements, or representations, oral or written, not specified herein regarding this Agreement. The delay or failure of either Party to enforce any provision of this Agreement shall not constitute a waiver by that Party of that or any other provision. Subrecipient, by the signature below of its authorized representative, hereby acknowledges that it has read this Agreement, understands it, and agrees to be bound by its terms and conditions.
- o. Survival.** The following provisions, including this one, survive the expiration or termination of this Agreement: Sections 5.d., 7, 8.c. and 10.

**THE PARTIES**, by execution of this Agreement, hereby acknowledge that each Party has read this Agreement, understands it, and agrees to be bound by its terms and conditions.

**CITY OF ALBANY  
(Albany Fire Department)**

**STATE OF OREGON, acting by and through its  
Department of the State Fire Marshal**

Signature:

Signature:

Name: Chris LaBelle  
Title: Fire Chief  
Date: \_\_\_\_\_

Name: Bethany Wachtler  
Title: Procurement Manager  
Date: \_\_\_\_\_

**Subrecipient Project Contact**

**OSFM Grant Contact**

Name: Bryan Lee  
Title: Emergency Manager  
Agency: Benton County  
Address 1: 180 NW 5<sup>th</sup> St.  
Address 2: Corvallis, OR 97330  
Phone: (541) 766-6114  
Email: Bryan.lee@co.benton.or.us

Name: Shaun Parkman  
Title: Grants Manager  
Agency: Dept. of the State Fire Marshal  
Address 1: 3991, Fairview Industrial Dr. SE  
Address 2: Salem, OR 97302  
Phone: (503) 779-8364  
Email: shaun.parkman@osfm.oregon.gov

**Subrecipient Fiscal Contact**

**HMEP General Inquiry Email**

Name: Chris LaBelle  
Title: Fire Chief  
Agency: Albany Fire Department  
Address 1: 611 Lyon Street SE  
Address 2: Albany, OR 97321  
Phone: (541) 917-7700  
Email: Chris.labelle@albanyoregon.gov

osfm.hmep@osfm.oregon.gov

**APPROVED AS TO LEGAL SUFFICIENCY**  
(Subrecipients Legal Counsel, if required for  
Subrecipient)

**APPROVED AS TO LEGAL SUFFICIENCY IN  
ACCORDANCE WITH ORS 291.047**

Signature:

NOT REQUIRED  
Senior Assistant Attorney General

Name:

Date:

**EXHIBIT A**  
**Approved Project Description**

**Approved Project Description: FUNCTIONAL and FULL SCALE Exercises**

Subrecipient shall use grant funds to develop, improve, and carry out emergency plans within the National Response System and the Emergency Planning Community Right-To-Know act of 1986.

Subrecipient shall use grant funds for the following OSFM approved activities that fall within the selected below and in agreement with an OSFM approved work plan.

Preparedness and Training Expenditures Guide  
<https://www.grants.gov/search-results-detail/338398>

INSERT ELIGIBLE PROJECT TYPE: PREPAREDENESS

INSERT ELIGIBLE PROJECT DESCRIPTION: City of Albany will contract for a functional and full scale exercise to be executed before 9/30/2025.

All reimbursable work must be completed by September 30, 2025.

**EXHIBIT B**  
Workplan Template

**Hazardous Materials Emergency Preparedness (HMEP) Grant Workplan**

**[Insert Name of Subrecipient]**

(Insert associated LEPC, if applicable)

**Insert Project Contact Name**

Title

Email

Phone

**MaryAnn Christian, LEPC Coordinator**

[maryann.christian@osfm.oregon.gov](mailto:maryann.christian@osfm.oregon.gov)

720-0026

**Insert Fiscal Contact Name**

Title

Email

Phone

**Michelle Slay, Grants Coordinator**

[michelle.slay@osfm.oregon.gov](mailto:michelle.slay@osfm.oregon.gov) (971)

(503) 791-1956

Project Title	Awarded	Amount
Project 1: Insert Title	Yes or No	\$00.00
Project 2:		
Project 3:		
Project 4:		
	<b>Total Award:</b>	<b>\$00.00</b>

This workplan will be used to support and track the progress of subrecipients' project(s).

Page 1: Subrecipient information and awarded projects Page 2:

Approved budget descriptions

Page 3: Detailed project descriptions

Page 4: Deliverables (to be completed by subrecipient)

## EXHIBIT C REQUEST FOR REIMBURSEMENT

HAZARDOUS MATERIALS EMERGENCY PREPAREDNESS (HMEP) GRANT REQUEST FOR REIMBURSEMENT (RFR)			
If any auto-filled information is incorrect, contact <a href="mailto:OSFM.HMEP@OSFM.Oregon.gov">OSFM.HMEP@OSFM.Oregon.gov</a> to request correction. RFR's shall be submitted within 30-days of payment of approved project expenses. Submit completed RFR's and supportive documentation to <a href="mailto:OSFM.HMEP@OSFM.Oregon.gov">OSFM.HMEP@OSFM.Oregon.gov</a>			
<b>LEPC:</b> _____			
<b>Project Contact:</b> _____			
<b>Fiscal Agency:</b> _____		<b>Fed Tax ID:</b> _____	
<b>Fiscal Contact:</b> _____		<b>UEI:</b> _____	
<b>Phone:</b> _____		<b>Email:</b> _____	
<b>Mail/P.O. Box:</b> _____			
<b>City, State, Zip:</b> _____			
<b>Agreement No.:</b> _____		<b>Project No.:</b> _____	
<b>Project Title:</b> _____			
CATEGORY	BRIEF DESCRIPTION	REQUESTED REIMBURSEMENT	PAID TO DATE
Travel:			
Equipment:			
Supplies:			
Contractual:			
(Other, explain):			
(Other, explain):			
(Other, explain):			
<b>TOTALS</b>			
<b>AWARD AMOUNT:</b> _____			
<b>PAID TO DATE:</b> - _____			
<b>REMAINING FUNDS:</b> _____			
<b>Prepared by:</b> _____		<b>Title:</b> _____	
<b>Fiscal Signatory:</b> _____		<b>Title:</b> _____	
<b>Fiscal Printed:</b> _____		<b>Date:</b> _____	
Note: Please refer to the workplan per Grant Agreement. All expenditures must have adequate documentation following generally accepted accounting principles.			
Internal Use Only			
Grants Approval:		Date Submitted to Accounting:	
Management Approval:		Use PCA:	

Questions? Email [OSFM.HMEP@osfm.oregon.gov](mailto:OSFM.HMEP@osfm.oregon.gov) for assistance.

**EXHIBIT D  
CHANGE REQUEST**

**Hazardous Materials Emergency Preparedness Grant Program  
Change Request Form**

When a subrecipient would like to change their project scope or has a savings of 10% or more in their subaward, a change request form is required to authorize reallocation. Subrecipient shall not spend funds outside of the original agreement, unless an approved change request form is granted.

<b>Local Emergency Planning Committee (if applicable)</b>		
LEPC:		
<b>Project Contact</b>		
Name:		Title:
Phone:		Email:
<b>Fiscal Contact</b>		
Fiscal agency:		
Name:		Title:
Phone:		Email:
<b>Budget Details</b>		
<b>CATEGORY</b>	<b>ORIGINAL BUDGET</b>	<b>REVISED BUDGET REQUEST</b>
Travel:		
Equipment:		
Supplies:		
Contractual:		
Other:		
Other:		
<b>Change Narrative</b>		
Describe what the original funding was for, the proposed change, and how this benefits your projects goals.		
<div style="position: absolute; top: 50%; left: 50%; transform: translate(-50%, -50%); opacity: 0.3; font-size: 100px; pointer-events: none;">SAMPLE</div>		
Requested by:		Date:
Internal Use Only		
LEPC Coordinator: Approved <input checked="" type="radio"/> Denied <input type="radio"/> or Grant Administrator: Approved <input type="radio"/> Denied <input type="radio"/>		
Reviewed by:		

Submit to [OSFM.HMEP@OSFM.Oregon.gov](mailto:OSFM.HMEP@OSFM.Oregon.gov) for review.

**EXHIBIT E**

**Department of Transportation  
Pipeline and Hazardous Materials Safety Administration (PHMSA)**

**Grant and Cooperative Agreement  
Award No. 693JK32240038HMEP**

**Terms and Conditions – August 2024**

**Table of Contents**

1. Definitions ..... 2

2. Recipient Responsibilities ..... 2

3. Compliance with Award Terms and Conditions ..... 2

4. Order of Precedence..... 3

5. Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards (2 CFR 200)..... 3

6. Restrictions on Use of Funds for: Lobbying, Support of Litigation, or Direct Advocacy ..... 3

7. Nondiscrimination..... 3

8. Government-wide Debarment and Suspension (Non-procurement)..... 4

9. Drug-Free Workplace ..... 4

10. eInvoicing (PHMSA May 2024) ..... 4

11. Payments (PHMSA May 2024) ..... 5

12. Adherence to Original Project Objectives and Budget Estimates..... 7

13. Prior Approvals..... 7

14. Contracting with Small Businesses, Small Minority-Disadvantaged Businesses, and Small Businesses which are Women-Owned, Veteran-Owned, Disabled Veteran-Owned or located in HubZone Areas ..... 8

15. Seat Belt Use Policies and Programs ..... 8

16. Ban on Text Messaging While Driving..... 9

17. Rights in Technical Data..... 9

18. Notice of News Releases, Public Announcements, and Presentations..... 9

19. Violation of Award Terms ..... 10

20. Reporting Fraud, Waste, or Abuse ..... 10

21. Reporting Grantee Executive Compensation/First Tier Sub-Awards (PHMSA May, 2024) 10

22. 811, Call Before You Dig Program (PHMSA May 2024) ..... 12

23. Access to Electronic and Information Technology (PHMSA May 2024) ..... 13

24. Combating Trafficking in Persons (PHMSA May 2024)..... 13

25. Prohibition on Awarding to Entities that Require Certain Internal Confidentiality Agreements (PHMSA May 2024) ..... 14

26. American Materials Required (PHMSA May 2024)

27. Awardee Reporting Requirements

28. Extension Requests Requirements



**Definitions**

- a) **Recipient** – A non-Federal entity that receives a Federal award directly from a Federal awarding agency to carry out an activity under a Federal program. The term “recipient” does not include subrecipients.
- b) **Agreement Officer (AO)** – The AO has full authority to negotiate, administer, and execute all business matters of the award. Further, should any changes to the scope, budget, schedule, or any other terms become necessary, only the AO has the authority to amend the award.
- c) **Agreement Administrator (AA)** – The AA is responsible for the daily administration of the award. The AA is NOT AUTHORIZED to change the scope, budget, specifications, and terms and conditions as stated in the award, to make any commitments that otherwise obligates the Government or authorize changes which affect the award budget, delivery schedule, period of performance, or other terms and conditions.
- d) **Agreement Officer’s Representative (AOR)** – The AOR assists in monitoring the work under the award. The AOR will oversee the technical administration of the award and will act as a technical liaison with the performing organization. The AOR is NOT AUTHORIZED to change the scope, budget, specifications, and terms and conditions as stated in the award, to make any commitments that otherwise obligate the Government or authorize changes which affect the award budget, delivery schedule, period of performance, or other terms and conditions.
- e) **Principal Investigator (PI)** – The PI is the individual designated by the Recipient and approved by PHMSA who is responsible for the technical direction of the project. The PI cannot be changed or become someone substantially less involved than was indicated in the Recipient’s proposal, without prior written approval of the Agreement Officer.

**2. Recipient Responsibilities**

In accepting a PHMSA financial assistance award (grant or cooperative agreement), the Recipient assumes legal, financial, administrative, and programmatic responsibility for administering the award in accordance with the laws, rules, regulations, and Executive Orders governing grants and cooperative agreements, and these Award Terms and Conditions, including responsibility for complying with any provisions included in the award.

**3. Compliance with Award Terms and Conditions**

Submission of a signed Request for Advance or Reimbursement (payment request) form constitutes the Recipient’s agreement to comply with and spend funds consistent with all the terms and conditions of this award. If PHMSA determines that noncompliance by the Recipient cannot be remedied by imposing additional conditions, PHMSA may take one or more of the following actions, as appropriate in the circumstances:

- a) Temporarily withhold cash payments pending correction of the deficiency by the Recipient.
- b) Disallow all, or part of, the cost of the activity or action not in compliance.
- c) Wholly or partly suspend or terminate the Federal award.
- d) Initiate suspension or debarment proceedings as authorized under 2 CFR part 180.
- e) Withhold further Federal awards for the project or program.
- f) Take other remedies that may be legally available.

#### 4. Order of Precedence

Any inconsistency or conflict in the terms and conditions specified in this award will be resolved according to the following order of precedence:

- a) The Federal statute authorizing this award or any other Federal statutes, laws, regulations or directives directly affecting performance of this award.
- b) Terms and Conditions of this award.

#### 5. Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards (2 CFR 200)

The recipient (and any subrecipients) must comply with these requirements including the cost principles which apply to the recipient, and the audit requirements the recipient must follow. A recipient which expends \$1,000,000 or more of federal funds, in the recipient's fiscal year, must have an audit conducted.

2 CFR 200 is incorporated by reference into this award

#### 6. Restrictions on Use of Funds for: Lobbying, Support of Litigation, or Direct Advocacy costs associated with obtaining Federal assistance awards

The Recipient and its contractors may not use grant funds for lobbying in direct support of litigation, or in direct advocacy for, or against, a pipeline construction or expansion project.

The Recipient and its contractors may not conduct political lobbying, as defined in the statutes, regulations, and 2 CFR 200.450– “Lobbying,” within the Federally-supported project. The Recipient and its contractors may not use Federal funds for lobbying specifically to obtain grants and cooperative agreements. The Recipient and its contractors must comply with 49 CFR 20, U.S. Department of Transportation “New Restrictions on Lobbying.”

49 CFR 20 is incorporated by reference into this award.

#### 7. Nondiscrimination

The Recipient must comply with Title VI of the Civil Right Act of 1964, which provides that no person in the United States shall, on the grounds of race, color, or national origin, be excluded from participation in, be denied benefits of, be subject to discrimination under any program or activity receiving Federal financial assistance. The Recipient must comply with 49 CFR 21, “Nondiscrimination in Federally-Assisted Programs of the Department of Transportation—Effectuation of Title VI of the Civil Rights Act of 1964”

49 CFR 21 is incorporated by reference into this award.

In an effort to ensure that all Recipients of PHMSA funds are aware of their responsibilities under the various civil rights laws and regulations, the PHMSA Office of Civil Rights has developed an information tool and training. These documents are found on the PHMSA website at

<http://www.phmsa.dot.gov/org/civilrights/grantrecipientinformation>. If you should have any questions concerning your responsibilities under the External Civil Rights Program, please contact Rosanne Goodwill, Civil Rights Director, at 202-366-9638 or by e-mail at [rosanne.goodwill@dot.gov](mailto:rosanne.goodwill@dot.gov).

**8. Government-wide Debarment and Suspension (Non-procurement)**

The Recipient must review the “list of parties excluded from federal procurement or non-procurement programs” located on the System for Award Management (SAM) website before entering into a sub-award. <https://www.sam.gov> No sub-award may be issued to an entity or person identified in the “list of parties excluded from federal procurement or non-procurement programs.”

**2 CFR 1200** “Non-procurement Suspension and Debarment” is incorporated by reference into this award.

The Recipient must inform the AO if the recipient suspends or debars a sub-awardee.

**9. Drug-Free Workplace**

The Recipient must comply with the provisions of Public Law 100-690, Title V, Subtitle D, “Drug-Free Workplace Act of 1988,” which require the Recipient to take steps to provide a drug-free workplace. The Recipient must comply with **49 CFR 32**, “Government-wide Requirements for Drug Free Workplace (Financial Assistance)” which is incorporated by reference into this award.

**10. eInvoicing (PHMSA MAY 2024)**

Recipients of PHMSA grants, cooperative agreements, and other transaction agreements (OTA) must use the DOT Delphi eInvoicing System.

**a) Recipients’ Requirements:**

Recipients must:

- have internet access to register and submit payment requests through the Delphi eInvoicing system.
- submit payment requests electronically and receive payment electronically.

(1) Revised 03/2024 New Grant Recipient User: Once a grant is fully executed, the grant management specialist will submit the recipients’ request (External Delphi UAR Form) to the PHMSA Delphi Access Administrator via email to [PHMSAinvoicing@dot.gov](mailto:PHMSAinvoicing@dot.gov) for a new user account to be granted Delphi. Once a Grantee has completed the registration process and obtained their username and password, they can access the Delphi eInvoicing System. Grantees should activate their system account within 3 days of receiving their credentials to prevent the account from being deactivated. A user account will remain valid unless it is deactivated due to a period of inactivity (it has not been logged into for 45 days) or your agency requests it to be deactivated. If a Grantees account has been deactivated due to a period of inactivity for any reason, they should contact the ESC Production Helpdesk, who can be reached at 866-641-3500, Option 4 , 3.

NOTE: The “Delphi External Access Request” form should be completed at the time of grant award execution to ensure that the Grant Recipient has access to the system in order to submit invoices as needed. The following tutorial outlines the steps that each grant recipient user must take to become authenticated and activate his/her Delphi eInvoicing System account – Please share this link with new grantees who need new accounts in Delphi System:  
<http://www.transportation.gov/mission/budget/eauthentication-process-tutorial>

**b) System User Requirements:**

- Contact the PHMSA Agreement Administrator directly to sign up for the system. PHMSA will provide the recipient's name and email address to the DOT Financial Management Office. The DOT Financial Management Office will then invite the recipient to sign up for the system.
- DOT will send the recipient a User Account Application form to verify identity. The recipient must complete the form and present it to a Notary Public for verification. The recipient will return the notarized form as follows:

**Via U.S. Postal Service (certified):**

DOT Enterprise Services Center FAA Accounts  
Payable, AMZ-100 PO Box 25710  
Oklahoma City, OK 73125

**Via FedEx or UPS:**

DOT Enterprise Services Center MMAC-  
FAA/ESC/AMZ-150  
6500 S. MacArthur Blvd. Oklahoma City, OK  
73169

**Note:** Additional information, including training materials, and helpdesk support can be found on the DOT Delphi eInvoicing website (<http://www.transportation.gov/cfo/delphi-einvoicing-system.html>)

**c) Waivers**

DOT Financial Management officials may, on a case by case basis, waive the requirement to register, and use, the electronic payment system. Waiver request forms can be obtained on the DOT eInvoicing website (<http://www.transportation.gov/cfo/delphi-einvoicing-system.html>) or by contacting the PHMSA Agreement Administrator. Recipients must explain why they are unable to use or access the internet to register and enter payment requests.

**11. Payments (PHMSA MAY 2024)**

Once the award is fully executed, recipients will be sent separate notification regarding the specific payment process and timeframes applicable to the award.

**Advance payments or Reimbursement payments will be made after the electronic receipt via the DOT eInvoicing System of "Request for Advance or Reimbursement" (Standard Form SF-270).**

**a) Method of payment.**

- i) PHMSA will make all payments under this agreement by electronic funds transfer (EFT), except as provided by section 13.8(a)(2). As used in this section 13.8, the term "EFT" refers to the funds transfer and may also include the payment information transfer. If PHMSA is unable to release one or more payments by EFT, the Recipient agrees either to: –
  - i) Accept payment by check or some other mutually agreeable method of payment; or

- ii) extend the payment due date until such time as PHMSA can make payment by EFT (but see section 13.8(d)).
- b) Recipient's EFT information. The Government will make payment to the Recipient using the EFT information contained in the System for Award Management (SAM) database. If the EFT information changes, the Recipient is responsible for providing the updated information into the System for Award Management (SAM) at: <https://www.sam.gov>
- c) Mechanisms for EFT payment. The Government may make payment by EFT through either the Automated Clearing House (ACH) network, subject to the rules of the National Automated Clearing House Association, or the Fedwire Transfer System. The rules governing Federal payments through the ACH are contained in 31 CFR Part 210.
- d) Suspension of payment. If the Recipient's EFT information in the SAM database is incorrect, the Government is not obligated to make payment to the Recipient under this agreement until the correct EFT information is entered into the SAM database. An invoice or agreement-financing request is not a proper invoice for the purpose of prompt payment under this agreement.
- e) Recipient EFT arrangements. If the Recipient has identified multiple payment receiving points (i.e., more than one remittance address and/or EFT information set) in the SAM database, and the Recipient has not notified the Government of the payment receiving point applicable to this agreement, the Government will make payment to the first payment receiving point (EFT information set or remittance address as applicable) listed in the SAM database.
- f) Liability for uncompleted or erroneous transfers.
- i) If an uncompleted or erroneous transfer occurs because the Government used the Recipient's EFT information incorrectly, the Government remains responsible for –
- i) Making a correct payment;
- ii) Paying any prompt payment penalty due; and
- iii) Recovering any erroneously directed funds.
- ii) If an uncompleted or erroneous transfer occurs because the Recipient's EFT information was incorrect, or was revised within 30 days of Government release of the EFT payment transaction instruction to the Federal Reserve System, and –
- i) If the funds are no longer under the control of the payment office, the Government is deemed to have made payment and the Recipient is responsible for recovery of any erroneously directed funds; or
- ii) If the funds remain under the control of the payment office, the Government will not make payment, and the provisions of paragraph d. of this clause apply.
- g) EFT and prompt payment. A payment will have been made in a timely manner in accordance with the prompt payment terms of this agreement if, in the EFT payment transaction instruction released to the Federal Reserve System, the date specified for settlement of the payment is on or before the prompt payment due date, provided the specified payment date is a valid date under the rules of the Federal Reserve System.

- h) EFT and assignment of claims. If the Recipient assigns the proceeds of this agreement, the Recipient must require, as a condition of any such assignment, that the assignee register in the SAM database and be paid by EFT in accordance with the terms of this clause. In all respects, the requirements of this clause will apply to the assignee as if it were the Recipient. EFT information that shows the ultimate recipient of the transfer to be other than the Recipient, in the absence of a proper assignment of claims acceptable to the Government, is incorrect EFT information within the meaning of paragraph d. of this clause.
- i) Liability for change of EFT information by financial agent. The Government is not liable for errors resulting from changes to EFT information made by the Recipient's financial agent.
- j) Payment information. The payment or disbursing office will forward to the Recipient available payment information that is suitable for transmission as of the date of release of the EFT instruction to the Federal Reserve System. The Government may request the Recipient to designate a desired format and method(s) for delivery of payment information from a list of formats and methods the payment office is capable of executing. However, the Government does not guarantee that any particular format or method of delivery is available at any particular payment office and retains the latitude to use the format and delivery method most convenient to the Government. If the Government makes payment by check in accordance with paragraph a. of this clause, the Government will mail the payment information to the remittance address contained in the SAM database.

#### **12. Adherence to Original Project Objectives and Budget Estimates**

- a) The Recipient is responsible for any commitments or expenditures it incurs in excess of the funds provided by an award. Pre-award costs are those incurred prior to the effective date of the Federal award directly pursuant to the negotiation and in anticipation of the Federal award where such costs are necessary for efficient and timely performance of the scope of work. Such costs are allowable only to the extent that they would have been allowable if incurred after the date of the Federal award, *and only with the written approval of the PHMSA Agreement Officer.*
- b) The Recipient must submit any proposed change, that requires PHMSA's written approval, 30 days prior to the requested effective date of the proposed change. PHMSA will not approve any change to the award during the last 30 days of the award period.

#### **13. Prior Approvals**

- a) The following expenditures require the AO's advance written approval:
  - i) Changes in the scope, objective, or key personnel referenced in the Recipient's proposal.
  - ii) Change in the project period. PHMSA must receive this request no later than 30 calendar days prior to the end of the project period. The Recipient must submit a revised budget indicating the planned use of all unexpended funds during the extension period.
- b) The Recipient must submit a revised financial estimate and plan for i) and ii) above.
- c) The AA will notify the Recipient in writing within 30 calendar days after receipt of the request for revision or adjustment whether the request has been approved.

**14. Contracting with Small Businesses, Small Minority-Disadvantaged Businesses, and Small Businesses which are Women-Owned, Veteran-Owned, Disabled Veteran-Owned or located in HubZone Areas**

- a) It is the Department of Transportation (DOT) policy to award a fair share of contracts to small businesses, small minority-disadvantaged business, and small businesses which are women-owned, veteran-owned, disabled veteran-owned or located in a HubZone. DOT is strongly committed to the objectives of this policy and encourages all Recipients of its Grants and Cooperative Agreements to take affirmative steps to ensure such fairness on the awarding of any subcontracts.
- b) The Recipient and any Sub-recipients are encouraged to take all necessary affirmative steps to assure that small businesses, small minority-disadvantaged businesses, and small businesses which are women-owned, veteran-owned, disabled veteran-owned, or located in a HUBZone are used when possible.
- c) Affirmative steps include:
  - i) Placing qualified small businesses, small minority-disadvantaged businesses, and small businesses which are women owned, veteran-owned, disabled veteran-owned, or located in a HUBZone on solicitation lists;
  - ii) Assuring that small businesses, small minority-disadvantaged businesses, and small businesses which are women-owned, veteran-owned, disabled veteran-owned or located in a HUBZone are solicited whenever they are potential sources;
  - iii) Dividing total requirements, when economically feasible, into small tasks or quantities to permit maximum participation by small businesses, small minority-disadvantaged businesses, and small businesses which are women-owned, veteran-owned, disabled veteran-owned, or located in a HUBZone;
  - iv) Establishing delivery schedules, when economically feasible, into small tasks or quantities to permit maximum participation by small businesses, small minority-disadvantaged businesses, and small businesses which are women-owned, veteran-owned, disabled veteran-owned, or located in a HUBZone; and
  - v) Using the services and assistance of the U.S. Small Business Administration and the Office of the Small and Disadvantaged Business Utilization of the Department of Transportation, as appropriate.

**15. Seat Belt Use Policies and Programs**

In accordance with Executive Order 13043, the Recipient is encouraged to adopt on-the-job seat belt use policies and programs for its employees when operating company-owned, rented, or personally-owned vehicles. The National Highway Traffic Safety Administration (NHTSA) is responsible for providing leadership and guidance in support of this presidential initiative. For information on how to implement such a program or for statistics on the potential benefits and cost-savings to your company or organization, please visit the Buckle Up America section on NHTSA's website at [www.nhtsa.dot.gov](http://www.nhtsa.dot.gov). Additional resources are available from the Network of Employers for Traffic Safety (NETS), a public-private partnership headquartered in Washington, D.C. dedicated to improving the traffic safety practices of employers and employees. NETS is prepared to help with technical assistance, a simple, user-friendly program kit, and an award for achieving the President's goal of 85 percent seat belt use. NETS can be contacted at 1-888-221-0045 or visit its website at [www.trafficsafety.org](http://www.trafficsafety.org).

**16. Ban on Text Messaging While Driving**

**a) Definitions.** The following definitions are intended to be consistent with the definitions in DOT Order 3902.10 and the E.O. For clarification purposes, they may expand upon the definitions in the E.O.

“Driving”-

- i) Means operating a motor vehicle on a roadway, including while temporarily stationary because of traffic, a traffic light, stop sign, or otherwise.
- ii) It does not include being in your vehicle (with or without the motor running) in a location off the roadway where it is safe and legal to remain stationary.

“Text messaging” --- means reading from or entering data into any handheld or other electronic device, including for the purpose of short message service texting, e-mailing, instant messaging, obtaining navigational information, or engaging in any other form of electronic data retrieval or electronic data communication. The term does not include the use of a cell phone or other electronic device for the limited purpose of entering a telephone number to make an outgoing call or answer an incoming call, unless the practice is prohibited by State or local law.

**b)** In accordance with Executive Order 13513, Federal Leadership on Reducing Text Messaging While Driving, October 1, 2009, and DOT Order 3902.10, Text Messaging While Driving, December 30, 2009, financial assistance recipients and subrecipients of grants and cooperative agreements are encouraged to:

- 1) **Adopt** and enforce workplace safety policies to decrease crashes caused by distracted drivers including policies to ban text messaging while driving--
  - i) Company-owned or -rented vehicles or Government-owned, leased or rented vehicles; or
  - ii) Privately-owned vehicles when on official Government business or when performing any work for or on behalf of the Government.
- 2) Conduct workplace safety initiatives in a manner commensurate with the size of the business, such as-
  - i) Establishment of new rules and programs or re-evaluation of existing programs to prohibit text messaging while driving; and
  - ii) Education, awareness, and other outreach to employees about the safety risks associated with texting while driving.

**c) Assistance Awards.** All recipients and subrecipients of financial assistance to include: grants, cooperative agreements, loans and other types of assistance, shall insert the substance of this clause, including this paragraph (c), in all assistance awards.

**17. Rights in Technical Data**

Rights to intangible property under this agreement are governed in accordance with [2 CFR 200.315](#) - “Intangible Property.”

**18. Notice of News Releases, Public Announcements, and Presentations**

The Recipient must have the AO’s prior approval for all press releases, formal announcements, or other planned written issuance containing news or information concerning this Agreement before issuance. The Recipient must provide two copies of the document to the AO and AOR for review prior to release. Also, the AO must approve any planned



presentations/briefings related to this Agreement, as well as the actual presentation (e.g. slides/vu-graphs) to be used.

**19. Violation of Award Terms**

If the Recipient has materially failed to comply with any term of the award, the Agreement Officer may suspend, terminate, or take other remedies as may be legally available and appropriate in the circumstances.

**20. Reporting Fraud, Waste, or Abuse**

The DOT Inspector General maintains a toll-free hotline for receiving information concerning fraud, waste, or abuse under grants and cooperative agreements. Such reports are kept confidential and callers may decline to give their names if they choose to remain anonymous. The number is: (800) 424-9071.

The mailing address is:

DOT Inspector General Hotline 1200 New

Jersey Ave SE

West Bldg. 7<sup>th</sup> Floor Washington,

DC 20590 Email:

[hotline@oig.dot.gov](mailto:hotline@oig.dot.gov)

Web: <http://www.oig.dot.gov/Hotline>

**21. Reporting Grantee Executive Compensation/First Tier Sub-Awards (PHMSA MAY, 2024)**

**a) Definitions.** As used in this provision:

“Executive” means an officer or any other employee in a management position.

“First-tier sub-award” means an award issued directly by the prime Awardee to a sub-awardee to provide support for the performance of any portion of the substantive project or program for which the award was received. A sub-award includes an agreement that the prime Awardee or a sub-awardee considers a contract.

“Total compensation” means the cash and noncash dollar value earned by the executive during the Awardee’s preceding fiscal year and includes the following (for more information see 17 CFR 229.402(c)(2)):

**i) Salary and bonus.**

**ii) Awards of stock, stock options, and stock appreciation rights.** Use the dollar amount recognized for financial statement reporting purposes with respect to the fiscal year in accordance with the Financial Accounting Standards Board’s Accounting Standards Codification (FASB ASC) 718, Compensation-Stock Compensation.

**iii) Earnings for services under non-equity incentive plans.** This does not include group life, health, hospitalization or medical reimbursement plans that do not discriminate in favor of executives, and are available generally to all salaried employees.

iv) Change in pension value. This is the change in present value of defined benefit and actuarial pension plans.

v) Above-market earnings on deferred compensation which is not tax-qualified.

vi) Other compensation, if the aggregate value of all such other compensation (e.g., severance, termination payments, value of life insurance paid on behalf of the employee, perquisites or property) for the executive exceeds \$10,000.

**b) System for Award Management (SAM).** As a recipient of a Federal award you are required to register in the System for Award Management (SAM) at: <https://www.sam.gov>

**c) Notification to Sub-Awardees.** Awardees are required to report information on sub-awards. The law requires all reported information be made public; therefore, the Awardee is responsible for notifying its sub-awardees that the required information will be made public.

**d) Reporting of First-Tier Sub-Awards.** By the end of the month following the month of award of a first-tier sub-award with a value of \$25,000 or more, the Awardee shall report the information below at <http://www.fsr.gov> for each first-tier sub-award. (The Awardee shall follow the instructions at <http://www.fsr.gov> to report the data.) If the Awardee, in the previous tax year, had gross income from all sources under \$300,000, the Awardee is exempt from the requirement to report subcontractor awards. If a sub-awardee, in the previous tax year had gross income from all sources under \$300,000, the Awardee does not need to report awards made to that sub-awardee.

i) Unique entity identifier (12-character (UEI) number) for the sub-awardee receiving the award, and for the sub-awardee's parent company, if the sub-awardee has a parent company.

ii) Name of the sub-awardee.

iii) Amount of the sub-award.

iv) Date of the sub-award.

v) A description of the effort being provided under the sub-award, including the overall purpose and expected outcome or result of the sub-award.

vi) Sub-award number (assigned by the Awardee).

vii) Sub-awardee's physical address including street address, city, state, country, 9-digit zip code, and congressional district.

viii) Sub-awardee's primary performance location including street address, city, state, country, 9-digit zip code, and congressional district.

ix) The prime award number (assigned by PHMSA)

x) Awarding agency name. (PHMSA)

xi) Funding agency name. (PHMSA)

xii) Government awarding office code. (56)

xiii) Treasury account symbol (TAS) as reported in FAADS.

xiv) The applicable North American Industry Classification System (NAICS) code.

**e) Reporting Executive Compensation of Awardee.** If the Awardee, in the previous tax year, had gross income from all sources under \$300,000, the Awardee is exempt from the requirement to its executive compensation.

By the end of the month following the month of receipt of a prime award, and annually thereafter, the Awardee shall report the names and total compensation of each of the five most highly compensated executives for the Awardee's preceding completed fiscal year at <https://www.sam.gov> if, in the Awardee's preceding fiscal year, the Awardee received:

i) 80 percent or more of its annual gross revenues from Federal contracts (and subcontracts), loans, grants (and sub-awards), cooperative agreements, other transaction agreements; and

ii) \$25,000,000 or more in annual gross revenues from Federal contracts (and subcontracts), loans, grants (and sub-awards), cooperative agreements, other transaction agreements; and

iii) The public does not have access to information about the compensation of the executives through periodic reports filed under section 13(a) or 15(d) of the Securities Exchange Act of 1934 (15 U.S.C. 78m(a), 78o(d)) or section 6104 of the Internal Revenue Code of 1986. (To determine if the public has access to the compensation information, see the U.S. Security and Exchange Commission total compensation filings at <http://www.sec.gov/answers/execomp.htm>.)

**f) Reporting Executive Compensation of Sub-Awardees.** If the Awardee, in the previous tax year, had gross income from all sources under \$300,000, the Awardee is exempt from the requirement to report the executive compensation of sub-awardees. If a sub-awardee, in the previous tax year had gross income from all sources under \$300,000, the Awardee does not need to report the executive compensation of that sub-awardee.

By the end of the month following the month of a first-tier sub-award with a value of \$25,000 or more, and annually thereafter, the Awardee shall report the names and total compensation of each of the five most highly compensated executives for each first-tier sub-awardee for the sub-awardee's preceding completed fiscal year at <http://www.fsr.gov>, if in the sub-awardee's preceding fiscal year, the sub-awardee received:

i) 80 percent or more of its annual gross revenues from Federal contracts (and subcontracts), loans, grants (and sub-awards), cooperative agreements, other transaction agreements; and

ii) \$25,000,000 or more in annual gross revenues from Federal contracts (and subcontracts), loans, grants (and sub-awards), cooperative agreements, other transaction agreements; and

iii) The public does not have access to information about the compensation of the executives through periodic reports filed under section 13(a) or 15(d) of the Securities Exchange Act of 1934 (15 U.S.C. 78m(a), 78o(d)) or section 6104 of the Internal Revenue Code of 1986. (To determine if the public has access to the compensation information, see the U.S. Security and Exchange Commission total compensation filings at <http://www.sec.gov/answers/execomp.htm>.)

**22. 811, Call Before You Dig Program (PHMSA MAY 2024)**

Damage to pipelines during excavation is a leading cause of accidents resulting in serious injuries and fatalities. 811 is designated as the national call-before-you-dig number. Every state has a one-

call law requiring excavators to have underground utilities marked before digging. The recipient is encouraged to adopt the “811, Call Before You Dig” program for its employees and contractors when digging on company-owned, leased, or personally-owned property. For information on how to implement such a program please visit the 811 – Call Before You Dig section of PHMSA’s website at [www.phmsa.dot.gov](http://www.phmsa.dot.gov).

**23. Access to Electronic and Information Technology (PHMSA MAY 2024)**

Each Electronic and Information Technology (EIT) product or service, furnished under this award, must be in compliance with the Electronic and Information Technology Accessibility Standard (36 CFR 1194), which implements Section 508 of the Rehabilitation Act of 1973, codified at 29 U.S.C. § 794d. The PHMSA Office of Civil Rights (Code PH-20) will respond to any questions, and will certify Section 508 compliance for the requirement. You can reach the PHMSA Office of Civil Rights at [phmsa.civilrights@dot.gov](mailto:phmsa.civilrights@dot.gov), or 202-366-9638.

**24. Combating Trafficking in Persons (PHMSA MAY 2024)**

PHMSA may terminate grants, cooperative agreements, or other transaction agreements, or take any of the other remedial actions authorized under 22 U.S.C. 7104(g), without penalty, if the grantee or any subgrantee, engages in, or uses labor recruiters, brokers, or other agents who engage in the follow activities below per 22 U.S. Code § 7104 - Prevention of trafficking -

- a) severe forms of trafficking in persons;
  - b) the procurement of a commercial sex act during the period of time that the grant, or cooperative agreement is in effect;
  - c) the use of forced labor in the performance of the grant or cooperative agreement; or
  - d) acts that directly support or advance trafficking in persons, including the following acts:
    - i) Destroying, concealing, removing, confiscating, or otherwise denying an employee access to that employee’s identity or immigration documents.
    - ii) Failing to provide return transportation or pay for return transportation costs to an employee from a country outside the United States to the country from which the employee was recruited upon the end of employment if requested by the employee, unless-
      - 1) exempted from the requirement to provide or pay for such return transportation by the Federal department or agency providing or entering into the grant, or cooperative agreement; or
      - 2) the employee is a victim of human trafficking seeking victim services or legal redress in the country of employment or a witness in a human trafficking enforcement action.
    - iii) Soliciting a person for the purpose of employment, or offering employment, by means of materially false or fraudulent pretenses, representations, or promises regarding that employment.
    - iv) Charging recruited employees unreasonable placement or recruitment fees, such as fees equal to or greater than the employee's monthly salary, or recruitment fees that violate the laws of the country from which an employee is recruited.
    - v) Providing or arranging housing that fails to meet the host country housing and safety standards.

**25. Prohibition on Awarding to Entities that Require Certain Internal Confidentiality Agreements (PHMSA MAY 2024)**

As indicated in 48 CFR § 52.203-18 -

- a) The Recipient shall not require employees or subcontractors seeking to report fraud, waste, or abuse to sign or comply with internal confidentiality agreements or statements prohibiting or otherwise restricting such employees or subcontractors from lawfully reporting such waste, fraud or abuse to a designated investigative or law enforcement representative of a federal department or agency authorized to receive such information.
- b) The Recipient shall notify employees that the prohibitions and restrictions of any internal confidentiality agreements covered herein are no longer in effect.
- c) The prohibition in paragraph (a) above does not contravene requirements applicable to Standard Form 312, Form 4414, or any other form issued by a Federal department or agency governing the nondisclosure of classified information.
- d) In accordance with section 743 of Division E, Title VII, of the Consolidated and Further Continuing Resolution Appropriations Act, 2015 (P.L. 113-235), use of funds appropriated (or otherwise made available) under that or any other Act may be prohibited, if the Government determines that the Recipient is not in compliance with the provisions herein.

The Government may seek any available remedies in the event the Recipient fails to comply with the provisions herein.

**26. American Materials Required (PHMSA MAY 2024)**

If articles, materials, or supplies, are required: Per 41 USC 8302, only unmanufactured articles, materials, and supplies, that have been mined or produced in the United States, and only manufactured articles, materials, and supplies that have been manufactured in the United States substantially all from articles, materials, or supplies mined, produced, or manufactured in the United States, shall be acquired under this award unless PHMSA determines their acquisition to be inconsistent with the public interest of their cost to be unreasonable.

This requirement does not apply:

- 1) to articles, materials, or supplies for use outside the United States;
- 2) if articles, materials, or supplies of the class or kind to be used, or the articles, materials, or supplies from which they are manufactured, are not mined, produces, or manufactured in the United States in sufficient and reasonably available commercial quantities and are not of a satisfactory quality; and

- 3) to manufactured articles, materials, or supplies procured under any contract with an award value that is not more than the micro-purchase threshold.

## 27. Awardee Reporting Requirements

- a) *Biannual Federal Financial Report (FFR) (SF-425)* – The mid-year FFR provides an update on the status of funds for the first half of the performance period. This report is cumulative. The biannual FFR is due no later than 11:59pm Eastern Standard Time (EST), April 30th and December 30th of the performance year.
- b) *Progress Reports* – Each grant recipient is required to submit a progress report to show progression of approved projects and activities. Awardee must use the HMEP progress report template and follow the instructions outlined in the report template that will be sent out 45 days before due date. Grant recipients with a twelve (12) or twenty-four (24) month period of performance are required to submit an annual progress report and must follow the instructions outlined in the terms and conditions of the grant award.
- c) *End of year financial report* – The end of year FFR closes-out the financial reporting for the performance period. An end of year FFR is due no later than 11:59pm Eastern Standard Time (EST), 120 days after the end of the performance period.
- d) *End of year performance report* – The final performance report provides the status of the activities performed during the entire performance period. The end of year performance report is due no later than 11:59pm Eastern Standard Time (EST), 120 days after the end of the performance period.

## 28. Extension Requests

- a) A request for extension of the due date for a mid and end of year reports must be made in writing to PHMSA no later than 15 days before the reports are due. The request must include the reason for the request and the requested due date.
- b) A request for a performance period extension must be made in writing to PHMSA no later than 60 days before the end of the performance period. The request must include the following:
  1. The duration and end date of the extension request.
    - Grantees may request an extension between 1 to 12 months. The proposed end date of the performance period must be identified in the request.
    - The extension date must be sufficient to complete grant activities. For example, do not request a one-month extension if remaining activities will take three months to complete.
    - Activities that occur after the extension end date will be unallowable for payment.

- Extension requests beyond 12 months will not be considered.
- 2. Justification for the extension.
  - Grantees must provide a brief summary of the reason the extension is needed (e.g. delays in awarding subgrants, staff turnover, poor weather, state budget constraints, etc.).
- 3. Summary and timeline of extension activities.
  - Grantees must submit a brief summary and timeline of activities that will take place during the extended performance period. There must be a sufficient plan in place to complete the grant activities during the requested extension period.

PHMSA may request the additional information or deny the extension request that do not contain the elements listed above. Additionally, any activities that were not included in the approved HMEP application require an activity request after an extension is approved.

## **EXHIBIT F**

### **Insurance Requirements**

A Subrecipient that is not a unit of local government as defined in ORS 190.003 must: i) obtain insurance specified in this Exhibit before performance under the Agreement commences; and ii) maintain the insurance in full force throughout the duration of the Agreement, as required by any extended reporting period or continuous claims-made coverage requirements, and all warranty periods that apply. The insurance must be provided by insurance companies or entities that are authorized to transact the business of insurance and issue coverage in the State of Oregon and that are acceptable to OSFM.

In addition, all Subrecipients shall require in any first tier subagreements with entities that are not units of local government as defined in ORS 190.003 (each, a “contractor”), if any, to: i) obtain insurance specified in this Exhibit before performance under the subagreement commences; and ii) maintain the insurance in full force throughout the duration of the subagreement, as required by any extended reporting period or continuous claims-made coverage requirements, and all warranty periods that apply. The insurance must be provided by insurance companies or entities that are authorized to transact the business of insurance and issue coverage in the State of Oregon and that are acceptable to OSFM. Subrecipient shall not authorize work to begin under subagreements until the insurance is in full force. Thereafter, Subrecipient shall monitor continued compliance with the insurance requirements on an annual or more frequent basis. Subrecipient shall incorporate appropriate provisions in the subagreement permitting it to enforce compliance with the insurance requirements and shall take all reasonable steps to enforce such compliance. In no event shall Subrecipient permit work under a subagreement when Subrecipient is aware that the contractor is not in compliance with the insurance requirements. As used in this section, “first tier” means a subagreement in which Subrecipient is a Party.

If a contractor maintains broader coverage and/or higher limits than the minimums shown in this Exhibit, OSFM requires and shall be entitled to the broader coverage and/or higher limits maintained by the contractor.

#### **i. WORKERS’ COMPENSATION AND EMPLOYERS’ LIABILITY:**

All employers, including Subrecipient’s contractors, that employ subject workers, as defined in ORS 656.027, shall comply with ORS 656.017, and provide Workers' Compensation Insurance coverage for those workers, unless they meet the requirement for an exemption under ORS 656.126(2). The contractors shall require and ensure that each of their subcontractors complies with these requirements. If a contractor is a subject employer, as defined in ORS 656.023, the contractor shall also obtain Employers' Liability insurance coverage with limits not less than \$500,000 each accident.

If Subrecipient’s contractor is an employer subject to any other state’s workers’ compensation law, the contractor shall provide Workers’ Compensation Insurance coverage for its employees as required by applicable workers’ compensation laws including Employers’ Liability Insurance coverage with limits not less than \$500,000 and shall require and ensure that each of its out-of-state subcontractors complies with these requirements.

#### **ii. COMMERCIAL GENERAL LIABILITY:**

Subrecipient’s contractors shall provide Commercial General Liability Insurance covering bodily injury and property damage in a form and with coverage that are satisfactory to the State of Oregon. This insurance must include personal and advertising injury liability, products and completed operations,



contractual liability coverage for the indemnity provided under this Grant Agreement, and have no limitation of coverage to designated premises, project, or operation. Coverage must be written on an occurrence basis in an amount of not less than \$1,000,000 per occurrence and not less than \$2,000,000 annual aggregate limit.

### **iii. AUTOMOBILE LIABILITY INSURANCE:**

Subrecipient's contractors shall provide Automobile Liability Insurance covering their business use including coverage for all owned, non-owned, or hired vehicles with a combined single limit of not less than \$1,000,000 for bodily injury and property damage. This coverage may be written in combination with the Commercial General Liability Insurance (with separate limits for Commercial General Liability and Automobile Liability). Use of personal Automobile Liability insurance coverage may be acceptable if evidence that the policy includes a business use endorsement is provided.

### **EXCESS/UMBRELLA INSURANCE:**

A combination of primary and Excess/Umbrella Insurance may be used to meet the required limits of insurance. When used, all of the primary and Excess or Umbrella policies must provide all of the insurance coverages required herein, including, but not limited to, primary and non-contributory, additional insured, Self-Insured Retentions (SIRs), indemnity, and defense requirements. The Excess or Umbrella or policies must be provided on a true "following form" or broader coverage basis, with coverage at least as broad as provided on the underlying insurance. No insurance policies maintained by the Additional Insureds, whether primary or excess, and which also apply to a loss covered hereunder, must be called upon to contribute to a loss until contractor's primary and excess liability policies are exhausted.

If Excess/Umbrella Insurance is used to meet the minimum insurance requirement, the Certificate of Insurance must include a list of all policies that fall under the Excess/Umbrella insurance.

### **ADDITIONAL INSURED:**

All liability insurance, except for Workers' Compensation, Professional Liability, Directors and Officers Liability and Network Security and Privacy Liability (if applicable), required under this Grant Agreement must include an Additional Insured endorsement specifying the State of Oregon, its officers, employees, and agents as Additional Insureds, but only with respect to the contractor's activities to be performed under this Grant Agreement. Coverage shall be primary and non-contributory with any other insurance and self-insurance.

Regarding Additional Insured status under the General Liability policy, OSFM requires Additional Insured status with respect to liability arising out of ongoing operations and completed operations, but only with respect to contractor activities to be performed under this Grant Agreement. The Additional Insured endorsement with respect to liability arising out of a contractor's ongoing operations must be on, or at least as broad as, ISO Form CG 20 10 and the Additional Insured endorsement with respect to completed operations must be on, or at least as broad as, ISO form CG 20 37.

### **WAIVER OF SUBROGATION:**

Each contractor shall waive rights of subrogation which the contractor or any insurer of the contractor may acquire against OSFM or the State of Oregon by virtue of the payment of any loss. The contractor shall

obtain any endorsement that may be necessary to affect this waiver of subrogation, but this provision applies regardless of whether or not OSFM has received a Waiver of Subrogation endorsement from the contractor or the contractor’s insurer(s).

**CONTINUOUS CLAIMS-MADE COVERAGE:**

If any of the required liability insurance is on a claims made basis and does not include an extended reporting period of at least 24 months, then the contractor shall maintain continuous claims-made liability coverage, provided the effective date of the continuous claims-made coverage is on or before the effective date of the Grant Agreement, for a minimum of 24 months following the later of:

- (i) Contractor’s completion and OSFM’s acceptance of all services required under the Grant Agreement, or
- (ii) OSFM or Subrecipient’s termination of this Grant Agreement, or
- (iii) The expiration of all warranty periods provided under this Grant Agreement.

**CERTIFICATE(S) AND PROOF OF INSURANCE:**

Each of Subrecipient’s contractors shall provide to OSFM Certificate(s) of Insurance for all required insurance before delivering any goods and performing any work required under this Grant Agreement. The Certificate(s) of Insurance must list the State of Oregon, its officers, employees, and agents as a Certificate holder and as an endorsed Additional Insured. The Certificate(s) of insurance must also include all required endorsements or copies of the applicable policy language effecting coverage required by this Grant Agreement. If Excess/Umbrella Insurance is used to meet the minimum insurance requirement, the Certificate(s) of Insurance must include a list of all policies that fall under the Excess/Umbrella Insurance. As proof of insurance, OSFM has the right to request copies of insurance policies and endorsements relating to the insurance requirements in this Exhibit.

**NOTICE OF CHANGE OR CANCELLATION:**

Each of Subrecipient’s contractors or its insurer must provide at least 30 calendar days’ written notice to OSFM before cancellation of, material change to, potential exhaustion of aggregate limits of, or non-renewal of the required insurance coverage(s).

**INSURANCE REQUIREMENT REVIEW:**

Subrecipient agrees to periodic review of insurance requirements by OSFM under this Grant Agreement and to provide updated requirements as mutually agreed upon by Subrecipient and OSFM.

**STATE ACCEPTANCE:**

All insurance providers are subject to OSFM acceptance. If requested by OSFM, Subrecipient shall provide complete copies of insurance policies, endorsements, self-insurance documents and related insurance documents to OSFM’s representatives responsible for verification of the insurance coverages required under this Exhibit.

**EXHIBIT G**  
Information required by 2 CFR 200.332(b)

- 1. Federal Award Identification: 693JK32240038HMEP
  - (i) Subrecipient name (which must match registered name in UEI): CITY OF ALBANY
  - (ii) Subrecipient’s Unique Entity Identifier (UEI): ZBCVCUBFETA2
  - (iii) Federal Award Identification Number (FAIN): 693JK32240038HMEP
  - (iv) Federal Award Date: September 29, 2024
  - (v) Subaward Period of Performance Start and End Date: From October 1, 2024, to September 30, 2025
  - (vi) Subaward Budget Period State and End Date: From: October 1, 2024, to September 30, 2025
  - (vii) Amount of Federal Funds Obligated by this Agreement: \$85,000.00
  - (viii) Total Amount of Federal Funds Obligated to the Subrecipient by the pass-through entity including this agreement \*: \$85,000.00
  - (ix) Total Amount of Federal Award committed to the Subrecipient by the pass-through entity: \$85,000.00
  - (x) Federal award project description: The objective of the HEMP Grant Program is to develop, improve and carry out emergency plans. The grant is designed to allow grantees the flexibility to implement training and planning programs that address differing needs for each location based on demographics, emergency response capabilities, commodity flow studies, and hazard analysis.
  - (xi) (a) Name of Federal awarding agency: U.S. Department of Transportation Pipeline and Hazardous Materials Safety Administration.  
(b) Name of Pass-through entity: The Department of the State Fire Marshal  
(c) Contact information for awarding official: Shaun Parkman
  - (xii) Assistance Listings Number and Title: Assistance Listing Number: 20.703, Title: Interagency Hazardous Materials Public Sector Training and Planning Grants.
  - (xiii) Is Award R&D? No
  - (xiv) Indirect cost rate for the Federal award: 0%

2. Subrecipient’s indirect cost rate: 15%

\*The Total amount of Federal Funds Obligated to the Subrecipient by the pass-through entity is the Total Amount of Federal Funds Obligated to the Subrecipient by the pass-through entity during the current fiscal year.

## **EXHIBIT C**

### **Federal Requirements and Certifications**

#### **I. General.**

Subrecipient agrees to comply with all federal requirements applicable to this Agreement. Those federal requirements include, without limitation, financial management and procurement requirements; requirements for maintaining accounting and financial records in accordance with Generally Accepted Accounting Principles (GAAP); and all other financial, administrative, and audit requirements as set forth in the most recent versions of the Code of Federal Regulations (CFR), and U.S. Department of Transportation program regulations and requirements. References below to “recipient” include Subrecipient.

#### **1 - Hotel and Motel Fire Safety Act of 1990**

In accordance with Section 6 of the Hotel and Motel Fire Safety Act of 1990, 15 U.S.C. section 2225a, recipients must ensure that all conference, meeting, convention, or training space funded in whole or in part with federal funds complies with the fire prevention and control guidelines of the Federal Fire Prevention and Control Act of 1974, (codified as amended at 15 U.S.C. section 2225.)

#### **2 - Duplication of Benefits**

Any cost allocable to a particular federal financial assistance award provided for in 2 C.F.R. Part 200, Subpart E may not be charged to other federal financial assistance awards to overcome fund deficiencies; to avoid restrictions imposed by federal statutes, regulations, or federal financial assistance award terms and conditions; or for other reasons. However, these prohibitions would not preclude recipients from shifting costs that are allowable under two or more awards in accordance with existing federal statutes, regulations, or the federal financial assistance award terms and conditions.

#### **3 - Fly America Act of 1974**

Recipients must comply with Preference for U.S. Flag Air Carriers (air carriers holding certificates under 49 U.S.C. section 41102) for international air transportation of people and property to the extent that such service is available, in accordance with the International Air Transportation Fair Competitive Practices Act of 1974, 49 U.S.C. section 40118, and the interpretative guidelines issued by the Comptroller General of the United States in the March 31, 1981, amendment to Comptroller General Decision B-138942. Article XXXVI - Reporting of Matters Related to Recipient Integrity and Performance If the total value of any currently active grants, cooperative agreements, and procurement contracts from all federal awarding agencies exceeds \$10,000,000 for any period of time during the period of performance of this federal award, then the recipients must comply with the requirements set forth in the government-wide Award Term and Condition for Recipient Integrity and Performance Matters located at 2 C.F.R. Part 200, Appendix XII, the full text of which is incorporated here by reference in the award terms and conditions.

**4 - Lobbying Prohibitions**

Recipients must comply with 31 U.S.C. section 1352, which provides that none of the funds provided under a federal financial assistance award may be expended by Subrecipient to pay any person to influence, or attempt to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with any federal action related to a federal award or contract, including any extension, continuation, renewal, amendment, or modification.

**5 - False Claims Act and Program Fraud Civil Remedies**

Recipients must comply with the requirements of the False Claims Act, 31 U.S.C. sections 3729-3733, which prohibit the submission of false or fraudulent claims for payment to the federal government. (See 31 U.S.C. sections 3801-3812, which details the administrative remedies for false claims and statements made.)

**6 - Federal Debt Status**

All recipients are required to be non-delinquent in their repayment of any federal debt. Examples of relevant debt include delinquent payroll and other taxes, audit disallowances, and benefit overpayments. (See OMB Circular A-129.)

**7 - Nondiscrimination in Matters Pertaining to Faith-Based Organizations**

It is DHS policy to ensure the equal treatment of faith-based organizations in social service programs administered or supported by DHS or its component agencies, enabling those organizations to participate in providing important social services to beneficiaries. Subrecipient must comply with the equal treatment policies and requirements contained in 6 C.F.R. Part 19 and other applicable statutes, regulations, and guidance governing the participations of faith-based organizations in individual DHS programs.

**8 - Contracting with Small Businesses, Small Minority-Disadvantaged Businesses, and Small Businesses which are Women-Owned, Veteran-Owned, Disabled Veteran-Owned or located in HubZone Areas**

- a) It is the Department of Transportation (DOT) policy to award a fair share of contracts to small businesses, small minority-disadvantaged business, and small businesses which are women-owned, veteran-owned, disabled veteran-owned or located in a HubZone. DOT is strongly committed to the objectives of this policy and encourages all Recipients of its Grants and Cooperative Agreements to take affirmative steps to ensure such fairness on the awarding of any subcontracts.
- b) Subrecipient is encouraged to take all necessary affirmative steps to assure that small businesses, small minority-disadvantaged businesses, and small businesses which are women-owned, veteran-owned, disabled veteran-owned, or located in a HUBZone are used when possible.
- c) Affirmative steps include:

- i) Placing qualified small businesses, small minority-disadvantaged businesses, and small businesses which are women owned, veteran-owned, disabled veteran-owned, or located in a HUBZone on solicitation lists;
- ii) Assuring that small businesses, small minority-disadvantaged businesses, and small businesses which are women-owned, veteran-owned, disabled veteran owned or located in a HUBZone are solicited whenever they are potential sources;
- iii) Dividing total requirements, when economically feasible, into small tasks or quantities to permit maximum participation by small businesses, small minority-disadvantaged businesses, and small businesses which are women owned, veteran-owned, disabled veteran-owned, or located in a HUBZone;
- iv) Establishing delivery schedules, where the requirement permits, which encourage participation by small and minority businesses, and women's business enterprises; and using the services and assistance of the U.S. Small Business Administration and the Office of the Small and Disadvantaged Business Utilization of the Department of Transportation, as appropriate.

**9 - Seat Belt Use Policies and Programs**

In accordance with Executive Order 13043, Subrecipient is encouraged to adopt on-the-job seat belt use policies and programs for its employees when operating company-owned, rented, or personally owned vehicles. The National Highway Traffic Safety Administration (NHTSA) is responsible for providing leadership and guidance in support of this presidential initiative. For information on how to implement such a program or for statistics on the potential benefits and cost-savings to your company or organization, please visit the Buckle Up America section on NHTSA’s website at [www.nhtsa.dot.gov](http://www.nhtsa.dot.gov). Additional resources are available from the Network of Employers for Traffic Safety (NETS), a public-private partnership headquartered in Washington, D.C. dedicated to improving the traffic safety practices of employers and employees. NETS is prepared to help with technical assistance, a simple, user-friendly program kit, and an award for achieving the President’s goal of 85 percent seat belt use. NETS can be contacted at 1-888-221-0045 or visit its website at [www.trafficsafety.org](http://www.trafficsafety.org).

**10 - Rights in Technical Data**

Rights to intangible property under this agreement are governed in accordance with **2 CFR 200.315** - “Intangible Property.”

**11 - Disposition of Equipment Acquired Under the Federal Award**

When original or replacement equipment acquired under this award by Subrecipient is no longer needed for the original project or program or for other activities currently or previously supported by a federal awarding agency, you must request instructions from FEMA to make proper disposition of the equipment pursuant to 2 C.F.R. section 200.313.

**12 - Notice of News Releases, Public Announcements, and Presentations**

Subrecipient must have the PAO’s prior approval for all press releases, formal announcements, or other planned written issuance containing news or information concerning this Agreement before issuance.

**13 – Copyright**

PHMSA reserves a royalty-free, nonexclusive, and irrevocable license to reproduce, publish or otherwise use, and to authorize others to use, for Federal government purposes:

- a) The copyright in any work developed under a grant, sub award, or contract under a grant or sub award; and
- b) Any rights of copyright to which a Recipient, subrecipient or a contractor purchases ownership with grant support.

**14 - Reporting Grantee Executive Compensation/First Tier Sub-Awards (PHMSA Oct, 2010)**

a) **Definitions.** As used in this provision:

“Executive” means an officer or any other employee in a management position.

“First-tier sub-award” means an award issued directly by the prime Awardee to a subawardee to provide support for the performance of any portion of the substantive project or program for which the award was received. A sub-award includes an agreement that the prime Awardee or a sub-awardee considers a contract.

“Total compensation” means the cash and noncash dollar value earned by the executive during the Awardee’s preceding fiscal year and includes the following:

- i) Salary and bonus.
- ii) Awards of stock, stock options, and stock appreciation rights.
- iii) Earnings for services under non-equity incentive plans. This does not include group life, health, hospitalization or medical reimbursement plans that do not discriminate in favor of executives and are available generally to all salaried employees.
- iv) Change in pension value. This is the change in present value of defined benefit and actuarial pension plans.
- iv) Above-market earnings on deferred compensation which is not tax-qualified.
- v) Other compensation, if the aggregate value of all such other compensation (*e.g.*, severance, termination payments, value of life insurance paid on behalf of the employee, perquisites or property) for the executive exceeds \$10,000.

b) **System for Award Management (SAM).** As a subrecipient of a Federal award you are required to register in the System for Award Management (SAM) at: <https://www.sam.gov>

c) **Notification to Sub-Awardees.** Awardees are required to report information on subawards. The law requires all reported information be made public; therefore, the Awardee is responsible for notifying its sub-awardees that the required information will be made public.

d) **Reporting of First-Tier Sub-Awards.** By the end of the month following the month of award of a first-tier sub-award with a value of \$25,000 or more, the Awardee shall report the information below at <http://www.fsrs.gov> for each first-tier sub-award. (The Awardee shall follow the instructions at <http://www.fsrs.gov> to report the data.) If the Awardee, in the previous tax year, had gross income from all sources under \$300,000, the Awardee is exempt from the requirement to report subcontractor awards. If a sub-awardee, in the previous tax year had gross income from all sources under \$300,000, the Awardee does not need to report awards made to that sub-awardee.

- i) Unique Entity Identifier (The Unique Entity ID is a 12-character alphanumeric ID assigned to an entity by SAM.gov) number) for the sub-awardee receiving the award, and for the sub-awardee's parent company, if the sub-awardee has a parent company.
- ii) Name of the sub-awardee.
- iii) Amount of the sub-award.
- iv) Date of the sub-award.
- v) A description of the effort being provided under the sub-award, including the overall purpose and expected outcome or result of the sub-award.
- vi) Sub-award number (assigned by the Awardee).
- vii) Sub-awardee's physical address including street address, city, state, country, 9-digit zip code, and congressional district.
- viii) Sub-awardee's primary performance location including street address, city, state, country, 9-digit zip code, and congressional district.
- ix) The prime award number (assigned by PHMSA)
- x) Awarding agency name. (PHMSA)
- xi) Funding agency name. (PHMSA)
- xii) Government awarding office code. (56)
- xiii) Treasury account symbol (TAS) as reported in Federal Assistance Award Data System.
- xiv) The applicable North American Industry Classification System (NAICS) code.

e) **Reporting Executive Compensation of Awardee.** If the Awardee, in the previous tax year, had gross income from all sources under \$300,000, the Awardee is exempt from the requirement to its executive compensation.

By the end of the month following the month of receipt of a prime award, and annually thereafter, the Awardee shall report the names and total compensation of each of the five most highly compensated executives for the Awardee's preceding completed fiscal year at <https://www.sam.gov> if, in the Awardee's preceding fiscal year, the Awardee received:

- i) 80 percent or more of its annual gross revenues from Federal contracts (and subcontracts), loans, grants (and sub-awards), cooperative agreements, other transaction agreements; and
- ii) \$25,000,000 or more in annual gross revenues from Federal contracts (and subcontracts), loans, grants (and sub-awards), cooperative agreements, other transaction agreements; and
- iii) The public does not have access to information about the compensation of the executives through periodic reports filed under section 13(a) or 15(d) of the Securities Exchange Act of 1934 (15 U.S.C. 78m(a), 78o(d)) or section 6104 of the Internal Revenue Code of 1986. (To determine if the public has access to the compensation information, see the U.S. Security and Exchange commission total compensation filings at <http://www.sec.gov/answers/excomp.htm>.)



f) **Reporting Executive Compensation of Sub-Awardees.** If the Awardee, in the previous tax year, had gross income from all sources under \$300,000, the Awardee is exempt from the requirement to report the executive compensation of sub-awardees. If a sub-awardee, in the previous tax year had gross income from all sources under \$300,000, the Awardee does not need to report the executive compensation of that sub-awardee.

By the end of the month following the month of a first-tier sub-award with a value of \$25,000 or more, and annually thereafter, the Awardee shall report the names and total compensation of each of the five most highly compensated executives for each first-tier subawardee for the sub-awardee’s preceding completed fiscal year at <http://www.fsrs.gov>, if in the sub-awardee’s preceding fiscal year, the sub-awardee received:

- i) 80 percent or more of its annual gross revenues from Federal contracts (and subcontracts), loans, grants (and sub-awards), cooperative agreements, other transaction agreements; and
- ii) \$25,000,000 or more in annual gross revenues from Federal contracts (and subcontracts), loans, grants (and sub-awards), cooperative agreements, other transaction agreements; and

iii) The public does not have access to information about the compensation of the executives through periodic reports filed under section 13(a) or 15(d) of the Securities Exchange Act of 1934 (15 U.S.C. 78m(a), 78o(d)) or section 6104 of the Internal Revenue Code of 1986. (To determine if the public has access to the compensation information, see the U.S. Security and Exchange Commission total compensation filings at <http://www.sec.gov/answers/excomp.htm>.)

**15- 811, Call Before You Dig Program (PHMSA June 2014)**

Damage to pipelines during excavation is a leading cause of accidents resulting in serious injuries and fatalities, but these accidents are preventable, and you can help in preventing them.

811 is designated as the national call-before-you-dig number. Every state has a one-call law requiring excavators to have underground utilities marked before digging. There are five steps to safer digging:

- 1) Make a free call to 811 a few days before digging.
- 2) Wait the required time – which is prescribed in state law but generally two to three days.
- 3) Locate/mark the utilities accurately. (This step applies to underground facility/utility owners.)
- 4) Respect the marks.
- 5) Dig with care.

Subrecipient is encouraged to adopt the “811, Call Before You Dig” program for its employees when digging on company-owned, leased, or personally owned property. For information on how to implement such a program please visit the *811 – Call Before You Dig* section of Pipeline and Hazardous Materials Safety Administration’s (PHMSA’s) website at [www.phmsa.dot.gov](http://www.phmsa.dot.gov).

**16 - Access to Electronic and Information Technology (PHMSA DEC 2013)**

Each Electronic and Information Technology (EIT) product or service, furnished under this award, must be in compliance with the Electronic and Information Technology Accessibility Standard (36 CFR 1194), which implements Section 508 of the Rehabilitation Act of 1973, codified at 29 U.S.C. § 794d. The PHMSA Office of Civil Rights will respond to any questions and will certify Section 508 compliance for the requirement. You can reach the PHMSA Office of Civil Rights at [phmsa.civilrights@dot.gov](mailto:phmsa.civilrights@dot.gov), or 202-366-9638.

### **17 - Whistleblower Protection Act**

Recipients must comply with the statutory requirements for whistleblower protections (if applicable) at 10 U.S.C section 2409.

### **18 - Americans with Disabilities Act of 1990**

Recipients must comply with the requirements of Titles I, II, and III of the *Americans with Disabilities Act*, Pub. L. No. 101-336 (1990) (codified as amended at 42 U.S.C. sections 12101- 12213), which prohibits recipients from discriminating on the basis of disability in the operation of public entities, public and private transportation systems, places of public accommodation, and certain testing entities.

### **19 - Rehabilitation Act of 1973**

Recipients must comply with the requirements of Section 504 of the *Rehabilitation Act of 1973*, Pub. L. 93-112 (1973), (codified as amended at 29 U.S.C. section 794,) which provides that no otherwise qualified handicapped individuals in the United States will, solely by reason of the handicap, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving federal financial assistance.

### **20 - Civil Rights Act of 1964 - Title VI**

Recipients must comply with the requirements of Title VI of the *Civil Rights Act of 1964* (codified as amended at 42 U.S.C. section 2000d *et seq.*), which provides that no person in the United States will, on the grounds of race, color, or national origin, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving federal financial assistance. DHS implementing regulations for the Act are found at 6 C.F.R. Part 21 and 44 C.F.R. Part 7.

### **21 - Notice of Funding Opportunity Requirements**

All the instructions, guidance, limitations, and other conditions set forth in the Notice of Funding Opportunity (NOFO) for this program are incorporated here by reference in the award terms and conditions. All recipients must comply with any such requirements set forth in the program NOFO.

### **22 - Combatting Trafficking in Persons (PHMSA July 2016)**

PHMSA may terminate grants, cooperative agreements, or take any of the other remedial actions authorized under 22 U.S.C. 7104(g), without penalty, if the grantee or any subgrantee, engages in, or uses labor recruiters, brokers, or other agents who engage in-

- a) severe forms of trafficking in persons;
- b) the procurement of a commercial sex act during the period of time that the grant, or cooperative agreement is in effect;
- c) the use of forced labor in the performance of the grant or cooperative agreement; or
- d) acts that directly support or advance trafficking in persons, including the following acts:

- i) Destroying, concealing, removing, confiscating, or otherwise denying an employee access to that employee's identity or immigration documents.
- ii) Failing to provide return transportation or pay for return transportation costs to an employee from a country outside the United States to the country from which the employee was recruited upon the end of employment if requested by the employee, unless-
  - 1) exempted from the requirement to provide or pay for such return transportation by the Federal department or agency providing or entering into the grant, or cooperative agreement; or
  - 2) the employee is a victim of human trafficking seeking victim services or legal redress in the country of employment or a witness in a human trafficking enforcement action.
- iii) Soliciting a person for the purpose of employment, or offering employment, by means of materially false or fraudulent pretenses, representations, or promises regarding that employment.
- iv) Charging recruited employees' unreasonable placement or recruitment fees, such as fees equal to or greater than the employee's monthly salary, or recruitment fees that violate the laws of the country from which an employee is recruited.
- v) Providing or arranging housing that fails to meet the host country housing and safety standards.

### **23 - Prohibition on Awarding to Entities that Require Certain Internal Confidentiality Agreements (PHMSA FEB 2015)**

- a) Subrecipient shall not require employees or subcontractors seeking to report fraud, waste, or abuse to sign or comply with internal confidentiality agreements or statements prohibiting or otherwise restricting such employees or subcontractors from lawfully reporting such waste, fraud or abuse to a designated investigative or law enforcement representative of a federal department or agency authorized to receive such information.
- b) Subrecipient shall notify employees that the prohibitions and restrictions of any internal confidentiality agreements covered herein are no longer in effect.
- c) The prohibition in paragraph (a) above does not contravene requirements applicable to Standard Form 312, Form 4414, or any other form issued by a Federal department or agency governing the nondisclosure of classified information.
- d) In accordance with section 743 of Division E, Title VII, of the Consolidated and Further Continuing Resolution Appropriations Act, 2015 (P.L. 113-235), use of funds appropriated (or otherwise made available) under that or any other Act may be prohibited if the Government determines that Subrecipient is not in compliance with the provisions herein. The Government may seek any available remedies in the event Subrecipient fails to comply with the provisions herein.

### **24 - Non-Supplanting Requirement**

Recipients receiving federal financial assistance awards made under programs that prohibit supplanting by law must ensure that federal funds do not replace (supplant) funds that have been budgeted for the same purpose through non-federal sources.

### **25 - Drug-Free Workplace Regulations**

Recipients must comply with drug-free workplace requirements in Subpart B (or Subpart C, if the recipient is an individual) of 2 C.F.R. Part 3001, which adopts the Government-wide implementation (2 C.F.R. Part 182) of Sec. 5152-5158 of the *Drug-Free Workplace Act of 1988* (41 U.S.C. sections 8101-8106).

**26 - Ban on Text Messaging While Driving**

a) *Definitions.* The following definitions are intended to be consistent with the definitions in DOT Order 3902.10 and the E.O. For clarification purposes, they may expand upon the definitions in the E.O.

“Driving”-

- i) Means operating a motor vehicle on a roadway, including while temporarily stationary because of traffic, a traffic light, stop sign, or otherwise.
- ii) It does not include being in your vehicle (with or without the motor running) in a location off the roadway where it is safe and legal to remain stationary.

“Text messaging” --- means reading from or entering data into any handheld or other electronic device, including for the purpose of short message service texting, e-mailing, instant messaging, obtaining navigational information, or engaging in any other form of electronic data retrieval or electronic data communication. The term does not include the use of a cell phone or other electronic device for the limited purpose of entering a telephone number to make an outgoing call or answer an incoming call, unless the practice is prohibited by State or local law.

b) In accordance with Executive Order 13513, Federal Leadership on Reducing Text Messaging While Driving, October 1, 2009, and DOT Order 3902.10, Text Messaging While Driving, December 30, 2009, financial assistance recipients and subrecipients of grants and cooperative agreements are encouraged to:

- 1) Adopt and enforce workplace safety policies to decrease crashes caused by distracted drivers including policies to ban text messaging while driving--
  - i) Company-owned or -rented vehicles or Government-owned, leased or rented vehicles; or
  - ii) Privately-owned vehicles when on official Government business or when performing any work for or on behalf of the Government.
- 2) Conduct workplace safety initiatives in a manner commensurate with the size of the business, such as
  - i) Establishment of new rules and programs or re-evaluation of existing programs to prohibit text messaging while driving; and
  - ii) Education, awareness, and other outreach to employees about the safety risks associated with texting while driving.

b) *Assistance Awards.* All recipients and subrecipients of financial assistance to include: grants, cooperative agreements, loans and other types of assistance, shall insert the substance of this clause, including this paragraph (c), in all assistance awards.

**27 - Reporting Fraud, Waste, or Abuse**

The DOT Inspector General maintains a toll-free hotline for receiving information concerning fraud, waste, or abuse under grants and cooperative agreements. Such reports are kept confidential, and callers may decline to give their names if they choose to remain anonymous. The number is: (800) 424-9071.

The mailing address is:  
DOT Inspector General Hotline  
1200 New Jersey Ave SE  
West Bldg 7th Floor

Washington, DC 20590  
Email: [hotline@oig.dot.gov](mailto:hotline@oig.dot.gov)  
Web: <http://www.oig.dot.gov/Hotline>

**28 - Civil Rights Act of 1968**

Recipients must comply with Title VIII of the *Civil Rights Act of 1968*, Pub. L. 90-284, as amended through Pub. L. 113-4, which prohibits recipients from discriminating in the sale, rental, financing, and advertising of dwellings, or in the provision of services in connection therewith, on the basis of race, color, national origin, religion, disability, familial status, and sex (see 42 U.S.C. section 3601 *et seq.*), as implemented by the U.S. Department of Housing and Urban Development at 24 C.F.R. Part 100. The prohibition on disability discrimination includes the requirement that new multifamily housing with four or more dwelling units-i.e., the public and common use areas and individual apartment units (all units in buildings with elevators and ground-floor units in buildings without elevators)-be designed and constructed with certain accessible features. (See 24 C.F.R. Part 100, Subpart D.)

**29 - Debarment and Suspension**


Recipients are subject to the non-procurement debarment and suspension regulations implementing Executive Orders (E.O.) 12549 and 12689, which are at 2 C.F.R. Part 180 as adopted by DHS at 2 C.F.R. Part 3000. These regulations restrict federal financial assistance awards, subawards, and contracts with certain parties that are debarred, suspended, or otherwise excluded from or ineligible for participation in federal assistance programs or activities.



# MEMO



TO: Albany City Council

VIA: Peter Troedsson, City Manager 

FROM: Chris LaBelle, Fire Chief

DATE: January 31, 2025, for the February 12, 2025, City Council Meeting

**SUBJECT:** Accept and Appropriate Oregon Department of Human Services Grant  
Relates to Strategic Plan theme: A Safe City

## Action Requested:

City Council approval by resolution to accept an Oregon Department of Human Services Grant through the Office of Resilience and Emergency Management for high-speed satellite communications equipment and service.

## Discussion:

Emergency management and information technology staff continually look for means and methods to improve resiliency and community outreach and response for daily needs and during emergencies. High-speed satellite internet service can help ensure communications when terrestrial networks are not available. This service provides a high level of availability that is a vital asset in the event network connections to the internet are compromised. The technology also allows for continuation of service for emergency response during a disaster or cybersecurity incident.

The City was awarded a grant to implement this technology with the initial purchase and service contract. The IT department will manage the service and budget to continue it after grant funds are expended.

## Budget Impact:

The grant award of \$5,699 will cover the cost of equipment and one year of service. In subsequent years, the service will cost \$3,000 annually and will be allocated in the IT budget (70113001-600400).

Attachment: Resolution

c: Chuck Perino, City Emergency Manager  
Sean Park, Chief Information Officer, IT



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

A RESOLUTION ACCEPTING AND APPROPRIATING THE OREGON DEPARTMENT OF HUMAN SERVICES GRANT THROUGH THE OFFICE OF RESILIENCE AND EMERGENCY MANAGEMENT FOR HIGH-SPEED SATELLITE COMMUNICATIONS EQUIPMENT AND SERVICE.

WHEREAS, the Office of Resilience and Emergency Management administers the Resilience Hubs and Networks Grant program funded by the Oregon Department of Human Services; and

WHEREAS, the grant program is available to cities and emergency management agencies for the purpose of increasing resilience and community emergency responsiveness; and

WHEREAS, the City of Albany information technology and emergency management staff have identified that high-speed satellite internet service provides a high level of availability that is a vital asset in the event network connections to the internet are compromised and allows for continuation of service for emergency response during a disaster or cybersecurity incident; and

WHEREAS, the City of Albany was awarded a grant for implementing high-speed satellite communications and service.

NOW, THEREFORE, BE IT RESOLVED by the Albany City Council that the Albany Fire Department is authorized to accept and appropriate the Resilience Hubs and Networks grant in the amount of \$5,699 to purchase the awarded equipment and service (Exhibit A).

DATED AND EFFECTIVE THIS 12TH DAY OF FEBRUARY, 2025.

	Debit	Credit
20325800-469015		\$5,699
20325800-600400	\$5,699	

\_\_\_\_\_  
Mayor

ATTEST:

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



**Grant Agreement Number 184699**

**STATE OF OREGON  
INTERGOVERNMENTAL GRANT AGREEMENT**

You can get this document in other languages, large print, braille, or a format you prefer free of charge. Contact the Agreement Administrator at the contact information found below. We accept all relay calls.

This Agreement is between the State of Oregon, acting by and through its Oregon Department of Human Services, hereinafter referred to as “ODHS,” and

**City of Albany  
333 Broadalbin SW  
Albany, Oregon 97321  
Attention: Chuck Perino  
Telephone: (541) 917-7725  
E-mail address: [chuck.perino@albanyoregon.gov](mailto:chuck.perino@albanyoregon.gov)**

hereinafter referred to as “**Recipient.**”

The program to be supported under this Agreement relates principally to the ODHS’

**Office of Resilience and Emergency Management  
6035 NE 78<sup>th</sup> Court, Suite 200  
Portland, Oregon 97218  
Agreement Administrator: Max Seiler or delegate  
Telephone: (503) 890-2388  
E-mail address: [max.seiler@odhs.oregon.gov](mailto:max.seiler@odhs.oregon.gov)**

1. **Effective Date and Duration.** This Agreement shall become effective on the later of: (I) the last date all required signatures in Section 6., below have been obtained, or (II) **January 1, 2025** provided it is (i) signed by all parties on or before such date, and (ii) when required, approved in writing by the Oregon Department of Justice on or before such date, and (iii) when required, approved in writing by the Oregon Department of Administrative Services. Unless extended or terminated earlier in accordance with its terms, this Agreement shall expire on **November 30, 2025**. Agreement termination shall not extinguish or prejudice ODHS’ right to enforce this Agreement with respect to any default by Recipient that has not been cured.



**2. Agreement Documents.**

a. This Agreement consists of this document and includes the following listed exhibits which are incorporated into this Agreement:

- (1) Exhibit A, Part 1: Program Description
- (2) Exhibit A, Part 2: Disbursement and Financial Reporting
- (3) Exhibit B: Standard Terms and Conditions
- (4) Exhibit C: Subcontractor Insurance Requirements

There are no other Agreement documents unless specifically referenced and incorporated into this Agreement.

b. In the event of a conflict between two or more of the documents comprising this Agreement, the language in the document with the highest precedence shall control. The documents comprising this Agreement shall be in the following descending order of precedence: this Agreement less all exhibits, Exhibits B, A, and C.

**3. Grant Disbursement Generally.** The maximum not-to-exceed amount payable to Recipient under this Agreement, which includes any allowable expenses, is **\$5,699.00**. ODHS will not disburse grant to Recipient in excess of the not-to-exceed amount and will not disburse grant until this Agreement has been signed by all parties. ODHS will disburse the grant to Recipient as described in Exhibit A.

**4. Subrecipient Determination.** In accordance with the State Controller's Oregon Accounting Manual, policy 30.40.00.104, ODHS' determination is that:

Recipient is a subrecipient                       Not applicable

Assistance Listings number(s) of federal funds to be paid through this Agreement: N/A

**5. Recipient Information and Certification.**

**a. Recipient Information.** Recipient shall provide the information set forth below.

**PLEASE PRINT OR TYPE THE FOLLOWING INFORMATION**

**Recipient Name (exactly as filed with the IRS):** City of Albany

Street address: 333 Broadalbin St SW

City, state, zip code: Albany, OR 97321

Email address: chuck.perino@albanyoregon.gov

Telephone: ( 543 ) 917-7725 Fax: ( )

**Recipient Proof of Insurance.** Recipient shall provide the following information upon submission of the signed Agreement. All insurance listed herein must be in effect prior to Agreement execution.

Workers' Compensation Insurance Company: SAIF

Policy #: 100034322 Expiration Date: 6/30/2025

**b. Certification.** Without limiting the generality of the foregoing, by signature on this Agreement, the undersigned hereby certifies under penalty of perjury that:

- (1) Recipient acknowledges that the Oregon False Claims Act, ORS 180.750 to 180.785, applies to any "claim" (as defined by ORS 180.750) that is made by (or caused by) the Recipient and that pertains to this Agreement or to the project for which the grant activities are being performed. Recipient certifies that no claim described in the previous sentence is or will be a "false claim" (as defined by ORS 180.750) or an act prohibited by ORS 180.755. The Oregon Attorney General may enforce the liabilities and penalties provided by the Oregon False Claims Act against the Recipient, in addition to any remedies that may be available to ODHS under this Agreement;
- (2) The information shown in Section 5.a. "Recipient Information", is Recipient's true, accurate and correct information;
- (3) To the best of the undersigned's knowledge, Recipient has not discriminated against and will not discriminate against minority, women or emerging small business enterprises certified under ORS 200.055 in obtaining any required subcontracts;
- (4) Recipient and Recipient's employees and agents are not included on the list titled "Specially Designated Nationals" maintained by the Office of Foreign Assets Control of the United States Department of the Treasury

and currently found at: <https://www.treasury.gov/resource-center/sanctions/SDN-List/Pages/default.aspx>;

- (5) Recipient is not listed on the non-procurement portion of the General Service Administration's "List of Parties Excluded from Federal procurement or Non-procurement Programs" found at: <https://www.sam.gov/SAM>;
- (6) Recipient is not subject to backup withholding because:
  - (a) Recipient is exempt from backup withholding;
  - (b) Recipient has not been notified by the IRS that Recipient is subject to backup withholding as a result of a failure to report all interest or dividends; or
  - (c) The IRS has notified Recipient that Recipient is no longer subject to backup withholding.
- (7) Recipient's Federal Employer Identification Number (FEIN) or Social Security Number (SSN) provided to ODHS is true and accurate. If this information changes, Recipient is required to provide ODHS with the new FEIN or SSN within 10 days.

**RECIPIENT, BY EXECUTION OF THIS AGREEMENT, HEREBY ACKNOWLEDGES THAT RECIPIENT HAS READ THIS AGREEMENT, UNDERSTANDS IT, AND AGREES TO BE BOUND BY ITS TERMS AND CONDITIONS.**

6. **Signatures.** This Agreement and any subsequent amendments may be executed in several counterparts, all of which when taken together shall constitute one agreement binding on all parties, notwithstanding that all parties are not signatories to the same counterpart. Each copy of the Agreement and any amendments so executed shall constitute an original.

**City of Albany**

**By:**

CHARLES PERINO  
Authorized Signature  
Emergency Manager  
Title

Charles Perino  
Printed Name  
01/06/2025  
Date

**State of Oregon, acting by and through its Oregon Department of Human Services**

**By: Edwin A.**

Digitally signed by Edwin  
A. Flick  
Date: 2025.01.07 10:07:43  
-08'00'

Flick  
Authorized Signature  
Title

Printed Name  
Date

**Approved for Legal Sufficiency:**

Not required per OAR 137-045-0030(1)(b).

## EXHIBIT A

**Part 1**  
**Program Description**

**1. Purpose and Background.**

House Bill 3409 (2023 Regular Session) appropriated funding and ORS 409.760 assigned responsibility for Oregon Department of Human Services (ODHS) to provide grants, support, and technical assistance to Resilience Hubs and Networks in Oregon. ODHS' responsibilities include implementing a grant program and disbursing funds related to planning and organizing resilience hubs and networks, supporting and expending the development and expansion of Resilience Hubs and Networks, and other resources and services needed to otherwise prepare for and respond to disasters.

Recipient has applied for and is selected to receive an award under the Resilience Hubs and Networks grant program. The purpose of this Grant Agreement is for Recipient to obtain funding for Resilience Network communication equipment.

**2. Definitions.**

- a.** "Resilience Hubs" means a physical facility that is operated, managed or supported by one or more local residents, local governments, tribal governments, public schools, community-based organizations, faith-based organizations, nonprofit organizations or nongovernmental organizations and that:
- i. Supports the needs of community members or tribal communities, facilitates gathering and communication, distributes resources and otherwise enhances quality of life within a community;
  - ii. Serves as a central point for gathering, information sharing, and coordination in response to a disruption in the community;
  - iii. Enhances the ability of a community to respond to and recover from a disruption in a community;
  - iv. Is positioned, operated and resourced on a day-to-day basis to provide community resources, including but not limited to food, water, information exchange, electronic charging stations, basic medical supplies and equipment proportionate to the size of the community's population and needs;
  - v. Supports community cache sites and other support for community members who shelter in place;
  - vi. Can provide child care, training, food distribution and other services that can help a community respond to unmet social needs to prepare for, respond to and recover from disasters;
  - vii. Can provide, or can be retrofitted to provide, heating, cooling, air filtration and weather protection; and
  - viii. Accommodates individuals with accessibility needs.

- b. “Resilience Networks” means an association of facilities, organizations, resource providers or service providers outside of a physical Resilience Hub facility that collectively serve the purposes of a Resilience Hub.

**3. Grant Activities.**

Recipient will use grant funds to conduct the following Grant Activities:

- a. Purchase Starlink communication equipment;
- b. Install Starlink; and
- c. Maintain 1 year of Starlink service.

**4. Reporting Requirements.**

**a. Progress Report.**

- i. Recipient shall submit a Progress Report by **March 31, 2025, June 30, 2025, and September 30, 2025**, to the ODHS Agreement Administrator by email at: [oremgrants@odhs.oregon.gov](mailto:oremgrants@odhs.oregon.gov). The Progress Report must include the following:
  - (1) Verification of purchase (paid invoice).
  - (2) Verification of Starlink service agreement for one year.
  - (3) How the new Resilience Network resource is being communicated to the community.

**b. Final Report.**

- i. Recipient shall submit a Final Report by **November 30, 2025**, to the ODHS Agreement Administrator by email at [oremgrants@odhs.oregon.gov](mailto:oremgrants@odhs.oregon.gov). The Final Report must include the following:
  - (1) Provide a detailed report to fulfill the specific requirements listed in OAR 407-100-0070(3).

**EXHIBIT A****Part 2  
Disbursement and Financial Reporting**

- 1. Expenditure of Grant Funds or Equipment.**
  - a.** Total disbursement of Grant Funds to Recipient shall not exceed the maximum not-to-exceed amount payable to Recipient as specified in **Section 3. “Grant Disbursement Generally.”** of this Agreement. The disbursements will be made as follows:
    - i. Upon execution of this Grant Agreement, Recipient shall submit an invoice to ODHS for the amount of:
      - (1) \$2,699.00 for Starlink equipment and install; and
      - (2) \$3,000.00 for one year of Starlink service.
    - ii. Upon ODHS receipt and approval of the invoice, ODHS will provide payment to Recipient.
- 2. Invoices.**
  - a.** Recipient shall submit one (1) invoice, which must include at a minimum:
    - i. This Agreement number;
    - ii. Recipient’s Name;
    - iii. Recipient’s Address;
    - iv. Recipient’s Invoice Number; and
    - v. Amount of grant award.
  - b.** Invoice must be submitted through the Form at this link: <https://app.smartsheet.com/b/form/879b9a3830844ef1ad429e4a3d4b905d> Recipient will email [OREMGrants@odhs.oregon.gov](mailto:OREMGrants@odhs.oregon.gov) with any questions. ODHS Agreement Administrator or a designated ODHS Representative will review the invoice for correctness and approval.
- 3. Allowable Expenses.** Recipient must expend the grant funds exclusively on expenses necessarily incurred by Recipient in performing the Grant Activities described in Exhibit A, Part 1.

## EXHIBIT B

## Standard Terms and Conditions

1. **Governing Law, Consent to Jurisdiction.** This Agreement shall be governed by and construed in accordance with the laws of the State of Oregon without regard to principles of conflicts of law. Any claim, action, suit or proceeding (collectively, "Claim") between ODHS or any other agency or department of the State of Oregon, or both, and Recipient that arises from or relates to this Agreement shall be brought and conducted solely and exclusively within the Circuit Court of Marion County for the State of Oregon; provided, however, if a Claim must be brought in a federal forum, then it shall be brought and conducted solely and exclusively within the United States District Court for the District of Oregon. In no event shall this Section be construed as a waiver by the State of Oregon of the jurisdiction of any court or of any form of defense to or immunity from any Claim, whether sovereign immunity, governmental immunity, immunity based on the eleventh amendment to the Constitution of the United States or otherwise. Each party hereby consents to the exclusive jurisdiction of such court, waives any objection to venue, and waives any claim that such forum is an inconvenient forum. This Section shall survive expiration or termination of this Agreement.
2. **Compliance with Law.** Recipient shall comply with all federal, state and local laws, regulations, executive orders and ordinances applicable to the Recipient and this Agreement. This Section shall survive expiration or termination of this Agreement.
3. **Independent Parties.** The parties agree and acknowledge that their relationship is that of independent parties and that Recipient is not an officer, employee, or agent of the State of Oregon as those terms are used in ORS 30.265 or otherwise.
4. **Grant Funds; Disbursements.**
  - a. Recipient is not entitled to compensation under this Agreement by any other agency or department of the State of Oregon. Recipient understands and agrees that ODHS' participation in this Agreement is contingent on ODHS receiving appropriations, limitations, allotments or other expenditure authority sufficient to allow ODHS, in the exercise of its reasonable administrative discretion, to participate in this Agreement.
  - b. **Disbursement Method.** Disbursements under this Agreement will be made by Electronic Funds Transfer (EFT). Upon request, Recipient shall provide its taxpayer identification number (TIN) and other necessary banking information to receive EFT disbursement. Recipient shall maintain at its own expense a single financial institution or authorized disbursement agent capable of receiving and processing EFT using the Automated Clearing House (ACH) transfer method. The most current designation and EFT information will be used for all disbursements under this Agreement. Recipient shall provide this designation and information on a form provided by ODHS. In the event that EFT information changes or the Recipient elects to designate a different financial institution for the receipt of any disbursement made using EFT procedures, the Recipient shall provide the changed information or designation to ODHS on an ODHS-approved form. ODHS is not required to make any disbursement under this Agreement until receipt of the correct EFT designation and disbursement information from the Recipient.



5. **Recovery of Overpayments.** Any funds disbursed to Recipient under this Agreement that are expended in violation or contravention of one or more of the provisions of this Agreement “Misexpended Funds” or that remain unexpended on the earlier of termination or expiration of this Agreement “Unexpended Funds” must be returned to ODHS. Recipient shall return all Misexpended Funds to ODHS promptly after ODHS’ written demand and no later than 15 days after ODHS’ written demand. Recipient shall return all Unexpended Funds to ODHS within 14 days after the earlier of termination or expiration of this Agreement. ODHS, in its sole discretion, may recover Misexpended or Unexpended Funds by withholding from payments due to Recipient such amounts, over such periods of time, as are necessary to recover the amount of the overpayment. Prior to withholding, if Recipient objects to the withholding or the amount proposed to be withheld, Recipient shall notify ODHS that it wishes to engage in dispute resolution in accordance with Section 14 of this Exhibit.
6. **Ownership of Work Product.** Reserved.
7. **Contribution.**
  - a. If any third party makes any claim or brings any action, suit or proceeding alleging a tort as now or hereafter defined in ORS 30.260 (“Third Party Claim”) against a party (the “Notified Party”) with respect to which the other party (“Other Party”) may have liability, the Notified Party must promptly notify the Other Party in writing of the Third Party Claim and deliver to the Other Party a copy of the claim, process, and all legal pleadings with respect to the Third Party Claim. Either party is entitled to participate in the defense of a Third Party Claim, and to defend a Third Party Claim with counsel of its own choosing. Receipt by the Other Party of the notice and copies required in this paragraph and meaningful opportunity for the Other Party to participate in the investigation, defense and settlement of the Third Party Claim with counsel of its own choosing are conditions precedent to the Other Party’s liability with respect to the Third Party Claim.
  - b. With respect to a Third Party Claim for which the State is jointly liable with the Recipient (or would be if joined in the Third Party Claim), the State shall contribute to the amount of expenses (including attorneys' fees), judgments, fines and amounts paid in settlement actually and reasonably incurred and paid or payable by the Recipient in such proportion as is appropriate to reflect the relative fault of the State on the one hand and of the Recipient on the other hand in connection with the events which resulted in such expenses, judgments, fines or settlement amounts, as well as any other relevant equitable considerations. The relative fault of the State on the one hand and of the Recipient on the other hand shall be determined by reference to, among other things, the parties' relative intent, knowledge, access to information and opportunity to correct or prevent the circumstances resulting in such expenses, judgments, fines or settlement amounts. The State’s contribution amount in any instance is capped to the same extent it would have been capped under Oregon law if the State had sole liability in the proceeding.
  - c. With respect to a Third Party Claim for which the Recipient is jointly liable with the State (or would be if joined in the Third Party Claim), the Recipient shall contribute to the amount of expenses (including attorneys' fees), judgments, fines

and amounts paid in settlement actually and reasonably incurred and paid or payable by the State in such proportion as is appropriate to reflect the relative fault of the Recipient on the one hand and of the State on the other hand in connection with the events which resulted in such expenses, judgments, fines or settlement amounts, as well as any other relevant equitable considerations. The relative fault of the Recipient on the one hand and of the State on the other hand shall be determined by reference to, among other things, the parties' relative intent, knowledge, access to information and opportunity to correct or prevent the circumstances resulting in such expenses, judgments, fines or settlement amounts. The Recipient's contribution amount in any instance is capped to the same extent it would have been capped under Oregon law if it had sole liability in the proceeding.

This Section shall survive expiration or termination of this Agreement.

**8. Indemnification by Subcontractors.** Recipient shall take all reasonable steps to require its contractor(s) that are not units of local government as defined in ORS 190.003, if any, to indemnify, defend, save and hold harmless the State of Oregon and its officers, employees and agents ("Indemnitee") from and against any and all claims, actions, liabilities, damages, losses, or expenses (including attorneys' fees) arising from a tort (as now or hereafter defined in ORS 30.260) caused, or alleged to be caused, in whole or in part, by the negligent or willful acts or omissions of Recipient's contractor or any of the officers, agents, employees or subcontractors of the contractor ("Claims"). It is the specific intention of the parties that the Indemnitee shall, in all instances, except for Claims arising solely from the negligent or willful acts or omissions of the Indemnitee, be indemnified by the contractor from and against any and all Claims. This Section shall survive expiration or termination of this Agreement.

**9. Default; Remedies; Termination.**

**a. Default by Recipient.** Recipient shall be in default under this Agreement if:

- (1) Recipient fails to perform, observe or discharge any of its covenants, agreements or obligations set forth herein;
- (2) Any representation, warranty or statement made by Recipient herein or in any documents or reports relied upon by ODHS to measure compliance with this Agreement, the expenditure of disbursements or the desired outcomes by Recipient is untrue in any material respect when made;
- (3) Recipient (1) applies for or consents to the appointment of, or taking of possession by, a receiver, custodian, trustee, or liquidator of itself or all of its property, (2) admits in writing its inability, or is generally unable, to pay its debts as they become due, (3) makes a general assignment for the benefit of its creditors, (4) is adjudicated a bankrupt or insolvent, (5) commences a voluntary case under the Federal Bankruptcy Code (as now or hereafter in effect), (6) files a petition seeking to take advantage of any other law relating to bankruptcy, insolvency, reorganization, winding-up, or composition or adjustment of debts, (7) fails to controvert in a timely and appropriate manner, or acquiesces in writing to, any petition filed against it in an involuntary case under the Bankruptcy Code, or (8) takes any action for the purpose of effecting any of the foregoing; or

- (4) A proceeding or case is commenced, without the application or consent of Recipient, in any court of competent jurisdiction, seeking (1) the liquidation, dissolution or winding-up, or the composition or readjustment of debts, of Recipient, (2) the appointment of a trustee, receiver, custodian, liquidator, or the like of Recipient or of all or any substantial part of its assets, or (3) similar relief in respect to Recipient under any law relating to bankruptcy, insolvency, reorganization, winding-up, or composition or adjustment of debts, and such proceeding or case continues undismissed, or an order, judgment, or decree approving or ordering any of the foregoing is entered and continues unstayed and in effect for a period of sixty consecutive days, or an order for relief against Recipient is entered in an involuntary case under the Federal Bankruptcy Code (as now or hereafter in effect).
- b. ODHS' Remedies for Recipient's Default. In the event Recipient is in default under Section 9.a., ODHS may, at its option, pursue any or all of the remedies available to it under this Agreement and at law or in equity, including, but not limited to:
- (1) termination of this Agreement under Section 9.c.(2);
  - (2) withholding all or part of monies not yet disbursed by ODHS to Recipient;
  - (3) initiation of an action or proceeding for damages, specific performance, or declaratory or injunctive relief; or
  - (4) exercise of its right of recovery of overpayments under Section 5. of this Exhibit B.

These remedies are cumulative to the extent the remedies are not inconsistent, and ODHS may pursue any remedy or remedies singly, collectively, successively or in any order whatsoever. If a court determines that Recipient was not in default under Section 9.a., then Recipient shall be entitled to the same remedies as if this Agreement was terminated pursuant to Section 9.c.(1).

c. Termination.

- (1) ODHS' Right to Terminate at its Discretion. At its sole discretion, ODHS may terminate this Agreement:
  - (a) For its convenience upon 30 days' prior written notice by ODHS to Recipient;
  - (b) Immediately upon written notice if ODHS fails to receive funding, appropriations, limitations, allotments or other expenditure authority at levels sufficient to continue supporting the program; or
  - (c) Immediately upon written notice if federal or state laws, regulations, or guidelines are modified or interpreted in such a way that ODHS' support of the program under this Agreement is prohibited or ODHS is prohibited from paying for such support from the planned funding source.
  - (d) Immediately upon written notice to Recipient if there is a threat to the health, safety, or welfare of any person receiving funds or

benefitting from services under this Agreement “ODHS Client”, including any Medicaid Eligible Individual, under its care.

- (2) ODHS’ Right to Terminate for Cause. In addition to any other rights and remedies ODHS may have under this Agreement, ODHS may terminate this Agreement immediately upon written notice to Recipient, or at such later date as ODHS may establish in such notice if Recipient is in default under Section 9.a.
  - (3) Mutual Termination. The Agreement may be terminated immediately upon mutual written consent of the parties or at such other time as the parties may agree in the written consent.
  - (4) Return of Property. Upon termination of this Agreement for any reason whatsoever, Recipient shall immediately deliver to ODHS all of ODHS’ property that is in the possession or under the control of Recipient at that time. This Section 9.c.(4) survives the expiration or termination of this Agreement.
  - (5) Effect of Termination. Upon receiving a notice of termination of this Agreement or upon issuing a notice of termination to ODHS, Recipient shall immediately cease all activities under this Agreement unless, in a notice issued by ODHS, ODHS expressly directs otherwise.
- 10. Insurance.** All employers, including Recipient, that employ subject workers, as defined in ORS 656.027, shall comply with ORS 656.017 and shall provide workers’ compensation insurance coverage for those workers, unless they meet the requirement for an exemption under ORS 656.126(2). Recipient shall require subcontractors to maintain insurance as set forth in Exhibit C, which is attached hereto.
- 11. Records Maintenance, Access.** Recipient shall maintain all financial records relating to this Agreement in accordance with generally accepted accounting principles. In addition, Recipient shall maintain any other records, books, documents, papers, plans, records of shipments and payments and writings of Recipient, whether in paper, electronic or other form, that are pertinent to this Agreement, in such a manner as to clearly document Recipient’s performance. All financial records, other records, books, documents, papers, plans, records of shipments and payments and writings of Recipient whether in paper, electronic or other form, that are pertinent to this Agreement, are collectively referred to as “Records.” Recipient acknowledges and agrees that ODHS and the Oregon Secretary of State’s Office and the federal government and their duly authorized representatives shall have access to all Records to perform examinations and audits and make excerpts and transcripts. Recipient shall retain and keep accessible all Records for the longest of:
- a. Six years following final disbursement and termination of this Agreement;
  - b. The period as may be required by applicable law, including the records retention schedules set forth in OAR Chapter 166; or
  - c. Until the conclusion of any audit, controversy or litigation arising out of or related to this Agreement.
- 12. Information Privacy/Security/Access.** If this Agreement requires or allows Recipient or, when allowed, its subcontractor(s), to access or otherwise use any ODHS Information Asset or Network and Information System in which security or privacy requirements

apply, and ODHS grants Recipient, its subcontractor(s), or both access to such ODHS Information Assets or Network and Information Systems, Recipient shall comply and require its subcontractor(s) to which such access has been granted to comply with the terms and conditions applicable to such access or use, including OAR 407-014-0300 through OAR 407-014-0320, as such rules may be revised from time to time. For purposes of this Section, “Information Asset” and “Network and Information System” have the meaning set forth in OAR 407-014-0305, as such rule may be revised from time to time.

- 13. Assignment of Agreement, Successors in Interest.**
- a. Recipient shall not assign or transfer its interest in this Agreement without prior written consent of ODHS. Any such assignment or transfer, if approved, is subject to such conditions and provisions required by ODHS. No approval by ODHS of any assignment or transfer of interest shall be deemed to create any obligation of ODHS in addition to those set forth in this Agreement.
  - b. The provisions of this Agreement shall be binding upon and inure to the benefit of the parties, their respective successors, and permitted assigns.
- 14. Resolution of Disputes.** The parties shall attempt in good faith to resolve any dispute arising out of this Agreement. In addition, the parties may agree to utilize a jointly selected mediator or arbitrator (for non-binding arbitration) to resolve the dispute short of litigation. This Section shall survive expiration or termination of this Agreement.
- 15. Subcontracts.** Recipient shall not enter into any subcontracts for any part of the program supported by this Agreement without ODHS’ prior written consent. In addition to any other provisions ODHS may require, Recipient shall include in any permitted subcontract under this Agreement provisions to ensure that ODHS will receive the benefit of subcontractor activity(ies) as if the subcontractor were the Recipient with respect to Sections 1, 2, 3, 6, 7, 8, 10, 11, 12, 13, 15, 16, and 17 of this Exhibit B. ODHS’ consent to any subcontract shall not relieve Recipient of any of its duties or obligations under this Agreement.
- 16. No Third Party Beneficiaries.** ODHS and Recipient are the only parties to this Agreement and are the only parties entitled to enforce its terms. Nothing in this Agreement gives, is intended to give, or shall be construed to give or provide any benefit or right, whether directly, indirectly or otherwise, to third persons any greater than the rights and benefits enjoyed by the general public unless such third persons are individually identified by name herein and expressly described as intended beneficiaries of the terms of this Agreement. This Section shall survive expiration or termination of this Agreement.
- 17. Severability.** The parties agree that if any term or provision of this Agreement is declared by a court of competent jurisdiction to be illegal or in conflict with any law, the validity of the remaining terms and provisions shall not be affected, and the rights and obligations of the parties shall be construed and enforced as if the Agreement did not contain the particular term or provision held to be invalid. This Section shall survive expiration or termination of this Agreement.
- 18. Notice.** Except as otherwise expressly provided in this Agreement, any communications between the parties hereto or notices to be given hereunder shall be given in writing by personal delivery, facsimile, e-mail, or mailing the same, postage prepaid to Recipient or

ODHS at the address or number set forth in this Agreement, or to such other addresses or numbers as either party may indicate pursuant to this Section. Any communication or notice so addressed and mailed by regular mail shall be deemed received and effective five days after the date of mailing. Any communication or notice delivered by e-mail shall be deemed received and effective five days after the date of e-mailing. Any communication or notice delivered by facsimile shall be deemed received and effective on the day the transmitting machine generates a receipt of the successful transmission, if transmission was during normal business hours of the Recipient, or on the next business day if transmission was outside normal business hours of the Recipient. Notwithstanding the foregoing, to be effective against the other party, any notice transmitted by facsimile must be confirmed by telephone notice to the other party. Any communication or notice given by personal delivery shall be deemed effective when actually delivered to the addressee.

**ODHS:** Office of Contracts & Procurement  
500 Summer Street NE, E-03  
Salem, OR 97301  
Telephone: 503-945-5818  
Fax: 503-378-4324

This Section shall survive expiration or termination of this Agreement.

19. **Headings.** The headings and captions to sections of this Agreement have been inserted for identification and reference purposes only and shall not be used to construe the meaning or to interpret this Agreement.
20. **Amendments; Waiver; Consent.** ODHS may amend this Agreement to the extent provided herein, the solicitation document, if any from which this Agreement arose, and to the extent permitted by applicable statutes and administrative rules. No amendment, waiver, or other consent under this Agreement shall bind either party unless it is in writing and signed by both parties and when required, approved by the Oregon Department of Justice. Such amendment, waiver, or consent shall be effective only in the specific instance and for the specific purpose given. The failure of either party to enforce any provision of this Agreement shall not constitute a waiver by that party of that or any other provision. This Section shall survive the expiration or termination of this Agreement.
21. **Merger Clause.** This Agreement constitutes the entire agreement between the parties on the subject matter hereof. There are no understandings, agreements, or representations, oral or written, not specified herein, regarding this Agreement.
22. **Limitation of Liabilities.** NEITHER PARTY SHALL BE LIABLE TO THE OTHER FOR ANY INCIDENTAL OR CONSEQUENTIAL DAMAGES ARISING OUT OF OR RELATED TO THIS AGREEMENT. NEITHER PARTY SHALL BE LIABLE FOR ANY DAMAGES OF ANY SORT ARISING SOLELY FROM THE TERMINATION OF THIS AGREEMENT OR ANY PART HEREOF IN ACCORDANCE WITH ITS TERMS.

**EXHIBIT C****Subcontractor Insurance Requirements**

Recipient shall require its first-tier Contractor(s) (Contractor) that are not units of local government as defined in ORS 190.003, if any, to:

- i) obtain the insurance specified under TYPES AND AMOUNTS and meet the requirements under ADDITIONAL INSURED, CONTINUOUS CLAIMS MADE COVERAGE, NOTICE OF CANCELLATION OR CHANGE, and CERTIFICATES OF INSURANCE before the Contractor(s) perform under contracts between Recipient and the Contractors (the "Subcontracts"), and
- ii) maintain the insurance in full force throughout the duration of the Subcontracts. The insurance must be provided by insurance companies or entities authorized to transact the business of insurance and issue coverage in the State of Oregon and that are acceptable to ODHS.

Recipient shall not authorize Contractors to begin work under the Subcontracts until the insurance is in full force. Thereafter, Recipient shall monitor continued compliance with the insurance requirements on an annual or more frequent basis. Recipient shall incorporate appropriate provisions in the Subcontracts permitting it to enforce Contractor compliance with the insurance requirements and shall take all reasonable steps to enforce such compliance. Examples of "reasonable steps" include issuing stop work orders (or the equivalent) until the insurance is in full force, terminating the Subcontracts as permitted by the Subcontracts, or pursuing legal action to enforce the insurance requirements. In no event, shall Recipient permit a Contractor to work under a Subcontract when the Recipient is aware that the Contractor is not in compliance with the insurance requirements. As used in this section, a "first-tier" Contractor is a Contractor with which the Recipient directly enters into a contract. It does not include a subcontractor with which the Contractor enters into a contract.

If Contractor maintains broader coverage and/or higher limits than the minimums shown in this insurance requirement exhibit, ODHS requires and shall be entitled to the broader coverage and/or higher limits maintained by Contractor.

**WORKERS' COMPENSATION AND EMPLOYERS' LIABILITY:**

All employers, including Contractor, that employ subject workers, as defined in ORS 656.027, shall comply with ORS 656.017 and shall provide Workers' Compensation Insurance coverage for those workers, unless they meet the requirement for an exemption under ORS 656.126(2). Contractor shall require and ensure that each of its subcontractors complies with these requirements. If Contractor is a subject employer, as defined in ORS 656.023, Contractor shall also obtain Employers' Liability Insurance coverage with limits not less than \$500,000 each accident.

If Contractor is an employer subject to any other state's workers' compensation law, Contractor shall provide Workers' compensation Insurance coverage for its employees as required by applicable workers' compensation laws including Employers' Liability Insurance coverage with limits not less than \$500,000 and shall require and ensure that each of its out-of-state subcontractors complies with these requirements.

As applicable, Contractor shall obtain coverage to discharge all responsibilities and liabilities that arise out of or relate to the Jones Act with limits of no less than \$5,000,000 and/or the Longshoremen's and Harbor Workers' Compensation Act.

**COMMERCIAL GENERAL LIABILITY:**

Contractor shall provide Commercial General Liability Insurance covering bodily injury and property damage in a form and with coverage that are satisfactory to the State of Oregon. This insurance must include personal and advertising injury liability, products and completed operations, contractual liability coverage for the indemnity provided under this Contract, and have no limitation of coverage to designated premises, project, or operation. Coverage must be written on an occurrence basis in an amount of not less than \$1,000,000 per occurrence and not less than \$2,000,000 annual aggregate limit.

**EXCESS/UMBRELLA INSURANCE:**

A combination of primary and Excess/Umbrella insurance may be used to meet the required limits of insurance. When used, all of the primary and Excess or Umbrella policies must provide all of the insurance coverages required herein, including, but not limited to, primary and non-contributory, additional insured, Self-Insured Retentions (SIRs), indemnity, and defense requirements. The Excess or Umbrella policies must be provided on a true "following form" or broader coverage basis, with coverage at least as broad as provided on the underlying insurance. No insurance policies maintained by the Additional Insureds, whether primary or Excess, and which also apply to a loss covered hereunder, are to be called upon to contribute to a loss until the Contractor's primary and Excess liability policies are exhausted.

If Excess/Umbrella insurance is used to meet the minimum insurance requirement, the Certificate of Insurance must include a list of all policies that fall under the Excess/Umbrella insurance.

**ADDITIONAL COVERAGE REQUIREMENTS:**

Contractor's insurance shall be primary and non-contributory with any other insurance. Contractor shall pay for all deductibles, self-insured retention (SIR), and self-insurance, if any.

**ADDITIONAL INSURED:**

All liability insurance, except for Workers' Compensation, Professional Liability, Directors and Officers Liability and Network Security and Privacy Liability (if applicable), required under the Subcontract must include an Additional Insured Endorsement specifying the State of Oregon, its officers, employees and agents as Additional Insureds, including additional insured status with respect to liability arising out of ongoing operations and completed operations, but only with respect to Contractor's services to be performed under the Subcontract. Coverage must be primary and non-contributory with any other insurance and self-insurance.

Regarding Additional Insured status under the General Liability policy, the State of Oregon requires Additional Insured status with respect to liability arising out of ongoing operations and completed operations. The Additional Insured Endorsement with respect to liability arising out of Contractor's ongoing operations must be on or at least as broad as ISO Form CG 20 10 and the Additional Insured endorsement with respect to completed operations must be on or at least as broad as ISO form CG 20 37.



**WAIVER OF SUBROGATION:**

Contractor shall waive rights of subrogation which Contractor or any insurer of Contractor may acquire against the ODHS or State of Oregon by virtue of the payment of any loss. Contractor must obtain any endorsement that may be necessary to affect this waiver of subrogation, but this provision applies regardless of whether or not the ODHS or State of Oregon has received a waiver of subrogation endorsement from the Contractor or the Contractor's insurer(s).

**CONTINUOUS CLAIMS MADE COVERAGE:**

If any of the required liability insurance is on a claims made basis and does not include an extended reporting period of at least 24 months, then Contractor shall maintain Continuous Claims Made coverage, provided the effective date of the Continuous Claims Made coverage is on or before the effective date of the Contract, for a minimum of 24 months following the later of:

- (i) Contractor's completion and ODHS/Recipient's acceptance of all Services required under the Contract, or
- (ii) ODHS or Contractor's termination of this Contract, or
- (iii) The expiration of all warranty periods provided under this Contract.

**CERTIFICATE(S) AND PROOF OF INSURANCE:**

Recipient shall obtain from the Contractor a Certificate(s) of Insurance for all required insurance before Contractor delivers any goods and performs any Services required under this Contract. The Certificate(s) must list the State of Oregon, its officers, employees, and agents as a certificate holder and as an endorsed Additional Insured. The Certificate(s) of Insurance must also include all required endorsements or copies of the applicable policy language effecting coverage required by this Contract. If Excess/Umbrella Insurance is used to meet the minimum insurance requirement, the Certificate of Insurance must include a list of all policies that fall under the Excess/Umbrella Insurance. As proof of insurance, ODHS/Recipient has the right to request copies of insurance policies and endorsements relating to the insurance requirements in this Contract.

**NOTICE OF CHANGE OR CANCELLATION:**

The Contractor or its insurer must provide at least 30 days' written notice to Recipient before cancellation of, material change to, potential exhaustion of aggregate limits of, or non-renewal of the required insurance coverage(s).

**INSURANCE REQUIREMENT REVIEW:**

Contractor agrees to periodic review of insurance requirements by ODHS/Recipient under this agreement and to provide updated requirements as mutually agreed upon by Contractor and ODHS/Recipient.


**STATE ACCEPTANCE:**

All insurance providers are subject to ODHS/Recipient acceptance. If requested by ODHS/Recipient, Contractor shall provide complete copies of insurance policies, endorsements, self-insurance documents and related insurance documents to ODHS/Recipient's representatives responsible for verification of the insurance coverages required under this Exhibit.



# MEMO

TO: Albany City Council

VIA: Peter Troedsson, City Manager 

FROM: Kim Lyddane, Parks and Recreation Director

DATE: February 10, 2025, City Council Work Session; and February 12, 2025, City Council Meeting

**SUBJECT:** Exemption from Competitive Bidding to Purchase Playground Equipment for Deerfield Park  
Relates to Strategic Plan theme: An Effective Government; A Safe City

## Action Requested:

Staff recommends city council, acting as the local contract review board, approve by resolution an exemption from the competitive bidding process for the purchase of playground equipment and related turf safety surfacing from Ross Recreation Equipment Company, Inc., through a cooperative contract with National Purchasing Partners (NPP), and authorize the parks and recreation director to execute a contract with Ross Recreation Equipment Company, Inc. for \$426,313.

## Discussion:

Deerfield Park was identified in the 2021 Parks Master Plan for rehabilitation. Using Oregon Parks and Recreation Local Government Grant funds, in addition to department funds, playground equipment will be needed for the upcoming park refurbishment. The new playground will include a 6,500 square feet universally accessible play area with new accessible play equipment and accessible play surfacing.

Landscape Structures, Inc. (LSI) is a leader in the industry for recreation and play equipment. Ross Recreation Equipment Company, Inc., is a local distributor of Landscape Structures, Inc. products. National Purchasing Partners is a City approved cooperative network and has an interstate cooperative purchasing agreement with Ross Recreation Equipment, Inc. to provide playground equipment and installation that meets the design needs and sensory requirements for Deerfield Park.

As the lead public agency for National Purchasing Partners, in Seattle, WA, the League of Oregon Cities conducted a formal, competitive Request for Proposals (RFP), No. 2060, for Park, Playground and Recreation Equipment, on October 14, 2020. The contract was awarded to Ross Recreation Equipment, Inc., with a condition that the Master Price Agreement's price, terms, and conditions may be used by participating agencies in the United States. The solicitation and the resulting contract meet the requirements of ORS 279A.220 and OAR 137-046-0400 to 480 for cooperative procurement use and include advertisement in the Daily Journal of Commerce in Oregon.

## Budget Impact:

The Deerfield Park playground equipment and installation cost will not exceed \$426,313 and will be paid for out of Park Maintenance (20250035). This grant is funded through state lottery dollars.

KL:dm

Attachments

- Resolution

- Playground Quote
- ForeverLawn Quote
- PIP Quote



A RESOLUTION APPROVING AN EXEMPTION FROM COMPETITIVE BIDDING REQUIREMENTS AND APPROVING THE USE OF A COOPERATIVE PURCHASING METHOD TO ACQUIRE PLAYGROUND EQUIPMENT FOR DEERFIELD PARK; AND AUTHORIZING THE PARKS AND RECREATION DIRECTOR TO EXECUTE A CONTRACT TO PURCHASE PLAYGROUND EQUIPMENT USING A COOPERATIVE CONTRACT BETWEEN NATIONAL PURCHASING PARTNERS AND ROSS RECREATION EQUIPMENT COMPANY, INC. NOT TO EXCEED \$426,313

WHEREAS, Deerfield Park was identified for refurbishment in the 2021 Parks Master Plan; and

WHEREAS, the refurbishment is funded through department funds in addition to \$485,000 from the Oregon Parks and Recreation Department (OPRD) Local Government Grant Program; and

WHEREAS, the refurbishment includes purchase and installation of new playground equipment and playground surfacing, an upgrade to the existing basketball court, addition of assessable pathways, and the addition of a nine-hole disc golf course; and

WHEREAS, National Purchasing Partners (NPP), based in Seattle, WA, is an interstate cooperative purchasing network, offering a portfolio of competitively bid and publicly awarded contracts to its members nationwide; and

WHEREAS, Oregon Revised Statutes 279A.220 and Oregon Administrative Rules 137-046-0400 to 480 allow local governments access to competitively bid contracts using interstate cooperative procurements for the purchase of goods and services; and

WHEREAS, the lead public agency for NPP, the League of Oregon Cities conducted a formal, competitive request for proposals for park, playground and recreation equipment (No. 2060) that includes cooperative language for participating agencies to use and was advertised in the Daily Journal of Commerce in Oregon; and

WHEREAS, a contract was awarded to Ross Recreation Equipment Company, Inc., on March 22, 2021, and extended through March 21, 2025, with a condition that the Master Price Agreement's price, terms, and conditions could be assigned to NPP members; and

WHEREAS, the Master Price Agreement includes specifications for playground equipment and playground surfacing from Landscape Structures Inc. that meet the needs of Deerfield Park.

NOW, THEREFORE, BE IT RESOLVED that the Albany City Council approve an exemption from the competitive bidding requirements, and approve the use of an interstate cooperative purchasing method to acquire Landscape Structures Inc. playground equipment and related surfacing for Deerfield Park through an existing contract between National Purchasing Partners and Ross Recreation Equipment Company, Inc.; and

BE IT FURTHER RESOLVED that the Albany City Council authorize the parks and recreation director to execute a contract with Ross Recreation Equipment Company, Inc. not to exceed \$426,313 for the purchase of Landscape Structures Inc. playground equipment and related surfacing.

DATED AND EFFECTIVE THIS 12TH DAY OF FEBRUARY 2025.

\_\_\_\_\_  
Mayor

ATTEST:

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

**ALL PURCHASE ORDERS, CONTRACTS, AND CHECKS TO BE MADE OUT TO:**  
ROSS RECREATION EQUIPMENT, INC.  
100 BRUSH CREEK RD, #206 SANTA ROSA, CA. 95404  
707.538.3800 - accounting@rossrec.com

**Quote #:** 00046275  
**Quote Name:** Landscape Structures  
Design #1186699-01-02 Including  
Installation Services  
**Quote Total:** \$241,375.33  
**NPP Contract:** PS21070

**Shipping Address:**  
Albany Parks & Recreation  
3650 Dogwood Ave. SE  
Albany, Oregon 97322

**Billing Address:**  
Albany Parks & Recreation  
P.O. Box 490  
Albany, Oregon 97322

**Quote Date:** 1/7/25  
**Expiration Date:** 3/14/25

Opportunity Name	Lead Time	Sales Representative	Payment terms
Deerfield Park LSI	6-8 weeks	Len Fransen	Net 30 On Materials Shipment

QTY	PRODUCT DESCRIPTION	UNIT PRICE	SUBTOTAL
1.00	PlayBooster , 5-12 Landscape Structures PlayBooster, Ages 5-12 / 2-12 Design #1186699-01-02 - Including Installation Services. Colors TBD Prior to Final Order Consisting of the following: 1 182503C Welcome Sign (LSI Provided) Ages 5-12 years Direct Bury Freestanding Play Swings 1 221292A 5" Arch Swing Frame 8' Beam Height Only 1 221293A 5" Arch Swing Frame Additional Bay 8' Beam Height Only 1 237294A Friendship Swing w/5" Arch Frame Additional Bay ProGuard Chains 2 174018A Belt Seat ProGuard Chains for 8' Beam Height 1 177351A Molded Bucket Seat w/Harness ProGuard Chains for 8' Beam Height 1 218671C Molded Bucket Seat 2-5 w/Harness ProGuard Chains 8' Beam Height Structures 1 254626A SUPER NETPLEX 12FT SINGLE TOWER Motion & More Fun 1 248819B We-Go-Round w/Perf Panels And w/3 Seats 1 186490A We-saw DB Only 1 247179A CURVA SPINNER DB Sensory Play 1 168099A Cozy Dome DB	\$178,310.00	\$178,310.00
1.00	Install - Play Equipment Installation of Landscape Structures (PlayBooster) design #1186699-01-02 by a manufacturer certified installer. Quoted at Prevailing Wage Rates for 2025	\$59,914.00	\$59,914.00

Quote does not include any additional labor, union or wage requirements. If project has additional labor requirements, additional costs will be incurred through a change order to the originally quoted labor prices shown on this quote unless otherwise noted.

\*Installation price quoted for favorable working conditions. If rock, poor soil conditions, a high water table and/or other unforeseen site conditions exist requiring additional materials and labor, additional charges may be incurred.

\*Installation quoted includes standard manufacturer provided footing details. If different and/or engineered footing details are provided by the contractor/owner/specifier, a change order will be required.

\*Installation quoted includes installing footings through native soil or 95% compacted base rock. If installing through concrete, asphalt or through less compacted or permeable base or drain rock, or in other conditions, please provide additional details and a change order may be required.



# NPP CONTRACT

**ALL PURCHASE ORDERS, CONTRACTS, AND CHECKS TO BE MADE OUT TO:**

ROSS RECREATION EQUIPMENT, INC.  
 100 BRUSH CREEK RD, #206 SANTA ROSA, CA. 95404  
 707.538.3800 - accounting@rossrec.com

**Quote #:** 00046275  
**Quote Name:** Landscape Structures  
 Design #1186699-01-02 Including  
 Installation Services  
**Quote Total:** \$241,375.33  
**NPP Contract:** PS21070

1.00	NPP Ross Discount	Please Provide Customer NPP #	(\$12,481.70)	(\$12,481.70)
------	-------------------	-------------------------------	---------------	---------------

**Totals**

<b>County/ City Tax</b>	(Oregon State Tax 0.0000 %)	<b>Materials</b>	\$165,828.30
		<b>Sales Tax</b>	\$0.00
		<b>Labor/ Fees</b>	\$59,914.00
		<b>Freight</b>	\$15,633.03
		<b>Total</b>	\$241,375.33

**Notes to Customer**



# NPP CONTRACT

**ALL PURCHASE ORDERS, CONTRACTS, AND CHECKS TO BE MADE OUT TO:**

ROSS RECREATION EQUIPMENT, INC.  
100 BRUSH CREEK RD, #206 SANTA ROSA, CA. 95404  
707.538.3800 - accounting@rossrec.com

**Quote #:** 00046275  
**Quote Name:** Landscape Structures  
Design #1186699-01-02 Including  
Installation Services  
**Quote Total:** \$241,375.33  
**NPP Contract:** PS21070

## Deerfield Park Playground

### NPP Contract Document

**PREPARED FOR:**

Albany Parks & Recreation  
P.O. Box 490  
Albany, Oregon 97322  
Credit Terms: Net 30 On Materials Shipment

**GENERAL TERMS:**

Thank you for choosing Ross Recreation Equipment for your project. This document outlines the arrangements for your selected products, labor and services. It will serve as a Contract Agreement (“Contract”) between Albany Parks & Recreation (“Customer”) and Ross Recreation Equipment (“Ross Recreation”). All arrangements described in this Contract will be confirmed by returning your signed Contract Agreement no later than **3/14/25**.

This Contract contains the entire agreement between Ross Recreation and the Customer and takes precedence over all previous quotations, estimates and agreements. No changes, amendments or modifications of this Contract shall be valid unless made in writing and signed by both parties.

Ross Recreation coordinates the ordering, production and shipment of materials with the installation of those materials, if we are providing installation of your equipment. Site readiness is a critical component of shipping coordination. If project and/or site readiness changes after materials are already produced, neither the manufacturer nor Ross Recreation, can hold and store such materials. Once materials ship, the materials will be invoiced based on customer's terms and payment for materials is required regardless of installation status.

Credit terms are established by Ross Recreation and for this order are as follows: **Net 30 On Materials Shipment**. Pay when paid by the Owner is not accepted as alternative payment terms.

Sales tax rates will be charged and determined by the Department of Tax and Fee Administration at the time of shipping. Any changes to the County/City tax rate and/or a change to the ship to location may affect the final total due on this contract. The customer is responsible for these sales tax changes. For this order, the sales tax rate is as follows: **(Oregon State Tax 0.0000 %)**.

Labor costs quoted and contracted are good for six months. If the duration and/or timeline of the project and Ross Recreation’s start date is extended beyond six months from the time of an executed contract, additional costs may be incurred reflecting current labor costs at the time the labor is performed.

**1. PRE-DELIVERY INSTRUCTIONS:**

100 Brush Creek Rd, #206, Santa Rosa, CA 95404 • 707.538.3800 • www.rossrec.com •  
CA Contractors License #520752 • OR Contractors License #186870 • Tax ID #68-0103540

**ALL PURCHASE ORDERS, CONTRACTS, AND CHECKS TO BE MADE OUT TO:**

ROSS RECREATION EQUIPMENT, INC.  
100 BRUSH CREEK RD, #206 SANTA ROSA, CA. 95404  
707.538.3800 - accounting@rossrec.com

**Quote #:** 00046275  
**Quote Name:** Landscape Structures  
Design #1186699-01-02 Including  
Installation Services  
**Quote Total:** \$241,375.33  
**NPP Contract:** PS21070

The contractor must notify Ross Recreation of any requested delivery changes at least two (2) weeks prior to shipment. If the delivery address on the contract is not correct, please contact our office immediately as a re-consignment fee may be added if materials ship and the delivery address is changed. If Ross Recreation is not installing your equipment, you are responsible for offloading and having equipment for offloading the shipment (i.e. - forklift or similar); the truck driver is not obligated to offload your shipment. If Ross Recreation is installing your equipment, the installers will offload the equipment. It is your responsibility to mark all underground utilities before installation (call USA North, 1-800-227-2600).

**2. DELIVERY INSTRUCTIONS:**

Make sure the materials and quantities match the freight bill/Bill of Lading (BOL) you are signing to ensure you are receiving a complete and intact shipment. Make sure all pieces you are receiving are correctly addressed to the project and site, as trucks carry multiple shipments. Any shortages or visible damage must be noted on both copies of the freight bill/Bill of Lading (BOL), and both copies signed. Jointly inspect each delivered piece for signs of damage (i.e. torn packaging, punctures, etc.) with the driver. Notations on the freight bill/Bill of Lading (BOL) should be as detailed as possible to avoid controversy at a later date if a claim is necessary. Taking photos of any damaged packaging is highly recommended for documentation.

**2. POST-DELIVERY INSTRUCTIONS:**

After receipt of order, inventory your shipment. All shortages must be reported within thirty (30) days of receiving your order. When inspecting the equipment, please minimize the amount of tearing of the packaging and do not dispose of packaging. If concealed damage is found, a Carrier inspection must take place within fifteen (15) days from the time of delivery to protect your rights as the Consignee. Store your equipment in a safe and secure location before installation. Returns are subject to a restocking fee. Credit on returns is contingent upon credit issued from the manufacturer. Materials must be packaged well and received at the manufacturer in new and resalable condition.

**3. DELAY:**

Ross Recreation shall be excused for any delay in completion of the contract caused by acts of God, acts of the Owner or Contractor or the Owner's or Contractor's agent, employee or independent contractor, weather, labor trouble, acts of public utilities, public bodies or inspectors, extra work, failure of the Owner or Contractor to make progress payments promptly, or other contingencies unforeseeable by or beyond the reasonable control of Ross Recreation.

**4. CONTRACT, PLANS AND SPECIFICATIONS:**

The contract, plans and specifications are intended to supplement each other. In case of conflict, the specifications shall control the plans, and the provisions of this contract shall control both. The Project will be constructed according to the plans and specifications and any addenda, which have been signed by the parties hereto.

**5. CHANGE ORDERS:**

Should the Contractor, Owner, inspector or other person direct any modification or addition to the work covered by this contract, the contract price shall be adjusted accordingly. Modifications or additions to the work shall be executed only when a contract Change Order has been signed by both the Contractor and/or Owner and Ross Recreation. The change in the contract price caused by such contract Change Order shall be as agreed and approved in writing. If the parties are not in agreement as to the change in Contract Price, then Ross Recreation's actual cost for all labor, materials, subcontracts and costs associated with the change in scope, plus Ross Recreation's fee of twenty-five percent (25%) shall be the change in the final contract price and final amount due. Ross Recreation shall promptly notify the Contractor or Owner of (1) a site differing materially from those indicated in this contract, (b) unknown physical conditions differing



**ALL PURCHASE ORDERS, CONTRACTS, AND CHECKS TO BE MADE OUT TO:**

ROSS RECREATION EQUIPMENT, INC.  
100 BRUSH CREEK RD, #206 SANTA ROSA, CA. 95404  
707.538.3800 - accounting@rossrec.com

**Quote #:** 00046275  
**Quote Name:** Landscape Structures  
Design #1186699-01-02 Including  
Installation Services  
**Quote Total:** \$241,375.33  
**NPP Contract:** PS21070

materially from those originally encountered and generally recognized as inherent in the work of the character provided for in this contract, or (c) any additional materials needed to complete the agreed upon scope of work. Any expenses incurred due to such conditions shall be paid for by Contractor or Owner as added work as outlined above.

## 6. RIGHT TO STOP WORK:

Ross Recreation shall have the right to stop work if any payment is not made under this Agreement and set credit terms. Ross Recreation may keep the job idle until all payments due are received. In the alternative, Ross Recreation may, at its option, terminate the contract and recover from the Contractor or Owner payment for all work executed to the date of such termination.

## 7. SITE CONDITIONS:

Installation price quoted for favorable working conditions. If rock, poor soil conditions, a high-water table, unknown obstructions (ie - old footings, concrete, pipes, conduits, etc), and/or other unforeseen site conditions exist requiring additional materials and labor, additional charges may be incurred. Ross Recreation is not responsible for any additional costs or delays caused by unforeseen site conditions, including but not limited to contaminated soil, hidden utilities, archaeological findings, or other site conditions.

## 8. EXCLUSIONS/CLARIFICATIONS:

Permits, permit fees, licenses, inspections, site work, and any materials or labor unless specifically quoted and included in the approved scope of work are excluded.

**Mobilization:** Labor quoted by Ross Recreation is for one move-in and one move-out mobilization. Delays and/or multiple mobilizations due to inadequate site prep, project delays, or other reasons will require an additional mobilization fee by Ross Recreation.

**Site Access:** Customer must ensure that the site may be accessed by large machinery or equipment (i.e. a Bobcat tractor, lift, etc.) for use of moving equipment, footing excavation, and performing required installation work. Site access must be free from curbs, concrete walkways, fencing, plantings, etc. If such conditions exist, Ross Recreation will do our best to gain access with minimal damage but will not be responsible for needed repairs made due to limited access to the site.

**Labor/Installation:** Ross Recreation will provide materials and installation (if applicable and quoted) only as quoted and per each manufacturer's installation specifications, guidelines, and standard footing details. Installation includes the layout of the equipment, post-footing excavation based on the manufacturer's standard footing details and specifications, concrete for footings, and complete assembly/installation of the purchased materials unless stated otherwise.

**Underground Utilities:** Services for underground utilities that are not marked by USA or other location services are not the responsibility of Ross Recreation. If utilities are inadvertently affected and damaged during the installation and completion of Ross Recreation's scope of work, Ross Recreation is not liable for repair nor any associated repair costs incurred by footing and/or excavation work. Scan/X-ray services prior to the start of work to better identify utilities is highly recommended.

The correct and determined location of the equipment/structure(s) is the sole responsibility of the owner or designated architect, engineer or designer of the project. If the relocation of the equipment/structure(s) is required due to unknown

**ALL PURCHASE ORDERS, CONTRACTS, AND CHECKS TO BE MADE OUT TO:**

ROSS RECREATION EQUIPMENT, INC.  
100 BRUSH CREEK RD, #206 SANTA ROSA, CA. 95404  
707.538.3800 - accounting@rossrec.com

**Quote #:** 00046275  
**Quote Name:** Landscape Structures  
Design #1186699-01-02 Including  
Installation Services  
**Quote Total:** \$241,375.33  
**NPP Contract:** PS21070

site conditions, permits, project approvals or other occurrences, additional costs may be incurred for re-mobilization, new site considerations and conditions and/or other project specifics.

Existing ground cover or surfacing materials interfering with the installation will require a change order to include removal and/or disposal of materials. Landscape repairs are excluded, including irrigation or/and lines interfering with installation.

Third-party playground equipment inspection/certification to be completed independently from this contract and by others.

**Project Security:** Ross Recreation requires that the customer provide a secure site for the materials and installation of equipment and surfacing. Ross Recreation is not responsible for providing site security nor safeguarding the worksite and providing materials against theft, vandalism, or other criminal activities unless specifically included in the scope of work. Any costs are the responsibility of the customer/Owner.

For rubberized surfacing installations, Ross Recreation will require the use of temporary cyclone fencing or a security guard for the curing period following the installation of the rubberized surfacing. If fencing or security is declined, Ross Recreation will require a waiver form provided and signed by the customer accepting liability for securing the site during the surfacing cure time of forty-eight hours.

Ross Recreation excludes any work or items not explicitly listed in the ordered quote and scope of work or otherwise included by reference in this contract. Any additional materials and/or work requested shall be subject to a separate agreement or Change Order.

**9. CLEAN-UP:**

If Ross Recreation is installing your equipment, upon completion of work, Ross Recreation will remove debris and surplus material created by its operation on Owner's property and leave the area where the construction occurred in a neat and broom clean condition.

Off haul of spoils from footings or other construction work is excluded from Ross Recreation's scope of work unless otherwise noted. The customer is to provide a location for spoils to be stored/distributed on-site. If spoils are to be removed from the site, Ross Recreation must be notified and included in the agreed scope of work.

**10. ARBITRATION:**

Any controversy arising out of this contract, construction of the project referred to in this contract or regarding the interpretation of this contract, or any subcontract or sub-subcontract is subject to arbitration. Arbitration shall be had in accordance with the applicable rules of the American Arbitration Association which are in effect at the time the Demand for Arbitration is filed.

**11. ATTORNEY FEES:**

In the event, the parties hereto become involved in litigation arising out of this contract, or the performance or breach thereof, the court or arbitrator, in such litigation, or in separate suit, shall award reasonable costs, expenses, and attorney's fees to the prevailing party. The court or arbitrator shall not be bound by any court fee schedule and shall award the full amount of costs, expenses, and attorney's fees incurred in good faith.

**ALL PURCHASE ORDERS, CONTRACTS, AND CHECKS TO BE MADE OUT TO:**

ROSS RECREATION EQUIPMENT, INC.  
100 BRUSH CREEK RD, #206 SANTA ROSA, CA. 95404  
707.538.3800 - accounting@rossrec.com

**Quote #:** 00046275  
**Quote Name:** Landscape Structures  
Design #1186699-01-02 Including  
Installation Services  
**Quote Total:** \$241,375.33  
**NPP Contract:** PS21070

**12. ASSIGNMENT:**

Neither party may assign this contract without the written consent of the other party.

**13. HAZARDOUS MATERIALS:**

Unless specifically called out in the contract, this contract does not contemplate the removal or disturbance of asbestos, lead, mold or other hazardous material. The Contractor or Owner warrants that no such material is present. In the event that such material is encountered, Ross Recreation shall stop work immediately and will not start work again until such hazardous materials are clear of the site.

**14. NON UNION CONTRACTORS:**

Ross Recreation will provide labor using a subcontractor for all installation and labor quoted. Neither Ross Recreation nor our subcontractors are signatory to any unions; however compliance with prevailing wage rate requirements will occur in compliance with the Department of Industrial Relations (DIR) guidelines. If union enrollment is required by Ross Recreation's subcontractor and they are able, willing and agree to the enrollment for completion of this project, Ross Recreation will require a change order to cover the costs on a per project enrollment and additional wage/benefit requirements.

**15. CONTRACTORS:**

Contractors are required by law to be licensed, bonded, and regulated by the Contractor's State License Board whose address is:

Contractor's State License Board  
P.O. Box 26000  
Sacramento, CA 95826

**SIGNATURES:** In witness whereof, both of the Parties have executed this Contract, both Parties by its representative, as of the day and year set forth below. The signature assumes acceptance of stated payment terms. 2% per month late fees will be charged on delinquent payments. The signature below accepting this proposal will constitute a purchase order only upon Ross Recreation Equipment, Inc.'s approval. Customer receipt of an order acknowledgment constitutes such approval.

\_\_\_\_\_  
Customer Signature

\_\_\_\_\_  
Customer Print Name

\_\_\_\_\_  
Date



# NPP CONTRACT

**ALL PURCHASE ORDERS, CONTRACTS, AND CHECKS TO BE MADE OUT TO:**

ROSS RECREATION EQUIPMENT, INC.  
 100 BRUSH CREEK RD, #206 SANTA ROSA, CA. 95404  
 707.538.3800 - accounting@rossrec.com

**Quote #:** 00046392  
**Quote Name:** ForeverLawn  
 Playground Grass Ultra - 2" Foam - W/  
 Installation Services Included  
**Quote Total:** \$177,698.15  
**NPP Contract:** PS21070

**Shipping Address:**  
 Albany Parks & Recreation  
 ATTN: Kim Lyddane  
 Final Delivery Address TBD  
 Albany, Oregon 97322

**Billing Address:**  
 Albany Parks & Recreation  
 P.O. Box 490  
 Albany, Oregon 97322

**Quote Date:** 1/22/25  
**Expiration Date:** 4/11/25

Opportunity Name	Lead Time	Sales Representative	Payment terms
Deerfield Surfacing	4-6 weeks	Len Fransen	Net 30 On Materials Shipment

QTY	PRODUCT	DESCRIPTION	UNIT PRICE	SUBTOTAL
1.00	ForeverLawn Playground Grass	<p>ForeverLawn Playground Grass Ultra            Square Footage: 6,690 sqft of Turf Required to Cover All Areas (per takeoff)            SafetyFoam Thickness: 2" (per 8' x 12' CFH of play equipment)            Includes: Playground Grass Ultra, SafetyFoam, Envirofill (non-rubber) Coated Sand Infill and installation supplies (Seam Tape and Glue).</p> <p>Any change in product type, SafetyFoam thickness or critical fall height, square footage or area dimensions will require a change order.            *Quote does not include sub-base materials. Acceptable sub-base materials include: Concrete, Asphalt or Compacted aggregate stone. More details available upon request.            *Price does not include nailer board which is required around the perimeter border. Nailer board to be provided by others.            *It is the responsibility of the General Contractor to verify all material details and square footages prior to placing an order. Any revision to materials will require a revised quote and may result in a price increase.            *Artificial grass blade fibers are constructed of polyethylene, which can melt / discolor if exposed to high heat. Please be mindful of high temperatures if this product will be installed on a rooftop, in a southern facing direction and / or near high-energy efficient windows. If the project / surfacing application needs heat resistant artificial grass, it will have to be re-quoted with a nylon-based product, such as Fusion, and costs may change.</p>	\$83,412.12	\$83,412.12
1.00	Install - Artificial Grass	<p>Installation of Playground Grass Ultra. Includes Supply and Installation of Nailer Boards</p> <p>Price does not include sub-base preparation, drainage or any other materials/labor. General contractor is responsible for verifying that quoted material meets all details and that sub-base is prepared at the proper depth from finish grade. Surfacing will be installed to follow slope of the sub-base. Please advise if surfacing is to be installed in any other manner, so quote can be adjusted.            *Acceptable sub-base materials include: Concrete, Asphalt or Compacted Aggregate Class II Base Rock. More details available upon request. Other sub-bases are not acceptable and Ross Recreation will not install rubberized surfacing over other sub-base materials.</p>	\$63,354.00	\$63,354.00
1.00	Surfacing-Loose Fill Rubber	<p>Surfacing-Loose Fill Rubber - 1,702 Sqft at 4" Depth - For Under Tower Area / Combines with Safety Foam for 12' CFH Protection</p>	\$4,800.00	\$4,800.00



# NPP CONTRACT

**ALL PURCHASE ORDERS, CONTRACTS, AND CHECKS TO BE MADE OUT TO:**

ROSS RECREATION EQUIPMENT, INC.  
100 BRUSH CREEK RD, #206 SANTA ROSA, CA. 95404  
707.538.3800 - accounting@rossrec.com

**Quote #:** 00046392  
**Quote Name:** ForeverLawn  
Playground Grass Ultra - 2" Foam - W/  
Installation Services Included  
**Quote Total:** \$177,698.15  
**NPP Contract:** PS21070

1.00 NPP Ross Please Provide Customer NPP #M-5700688 (\$6,672.97) (\$6,672.97)  
Discount

**Totals**

<b>County/ City Tax</b> (Oregon State Tax 0.0000 %)	<b>Materials</b>	\$81,539.15
	<b>Sales Tax</b>	\$0.00
	<b>Labor/ Fees</b>	\$63,354.00
	<b>Freight</b>	\$32,805.00
	<b>Total</b>	\$177,698.15

**Notes to Customer**

**ALL PURCHASE ORDERS, CONTRACTS, AND  
CHECKS TO BE MADE OUT TO:**

ROSS RECREATION EQUIPMENT, INC.  
100 BRUSH CREEK RD, #206 SANTA ROSA, CA. 95404  
707.538.3800 - accounting@rossrec.com

**Quote #:** 00046392  
**Quote Name:** ForeverLawn  
Playground Grass Ultra - 2" Foam - W/  
Installation Services Included  
**Quote Total:** \$177,698.15  
**NPP Contract:** PS21070

## Deerfield Park Playground

### NPP Contract Document

#### PREPARED FOR:

Albany Parks & Recreation  
P.O. Box 490  
Albany, Oregon 97322  
Credit Terms: Net 30 On Materials Shipment

#### GENERAL TERMS:

Thank you for choosing Ross Recreation Equipment for your project. This document outlines the arrangements for your selected products, labor and services. It will serve as a Contract Agreement ("Contract") between Albany Parks & Recreation ("Customer") and Ross Recreation Equipment ("Ross Recreation"). All arrangements described in this Contract will be confirmed by returning your signed Contract Agreement no later than **4/11/25**.

This Contract contains the entire agreement between Ross Recreation and the Customer and takes precedence over all previous quotations, estimates and agreements. No changes, amendments or modifications of this Contract shall be valid unless made in writing and signed by both parties.

Ross Recreation coordinates the ordering, production and shipment of materials with the installation of those materials, if we are providing installation of your equipment. Site readiness is a critical component of shipping coordination. If project and/or site readiness changes after materials are already produced, neither the manufacturer nor Ross Recreation, can hold and store such materials. Once materials ship, the materials will be invoiced based on customer's terms and payment for materials is required regardless of installation status.

Credit terms are established by Ross Recreation and for this order are as follows: **Net 30 On Materials Shipment**. Pay when paid by the Owner is not accepted as alternative payment terms.

Sales tax rates will be charged and determined by the Department of Tax and Fee Administration at the time of shipping. Any changes to the County/City tax rate and/or a change to the ship to location may affect the final total due on this contract. The customer is responsible for these sales tax changes. For this order, the sales tax rate is as follows: **(Oregon State Tax 0.0000 %)**.

Labor costs quoted and contracted are good for six months. If the duration and/or timeline of the project and Ross Recreation's start date is extended beyond six months from the time of an executed contract, additional costs may be incurred reflecting current labor costs at the time the labor is performed.

#### 1. PRE-DELIVERY INSTRUCTIONS:

100 Brush Creek Rd, #206, Santa Rosa, CA 95404 • 707.538.3800 • www.rossrec.com •  
CA Contractors License #520752 • OR Contractors License #186870 • Tax ID #68-0103540 • DIR 1000003500

**ALL PURCHASE ORDERS, CONTRACTS, AND CHECKS TO BE MADE OUT TO:**

ROSS RECREATION EQUIPMENT, INC.  
100 BRUSH CREEK RD, #206 SANTA ROSA, CA. 95404  
707.538.3800 - accounting@rossrec.com

**Quote #:** 00046392  
**Quote Name:** ForeverLawn  
Playground Grass Ultra - 2" Foam - W/  
Installation Services Included  
**Quote Total:** \$177,698.15  
**NPP Contract:** PS21070

The contractor must notify Ross Recreation of any requested delivery changes at least two (2) weeks prior to shipment. If the delivery address on the contract is not correct, please contact our office immediately as a re-consignment fee may be added if materials ship and the delivery address is changed. If Ross Recreation is not installing your equipment, you are responsible for offloading and having equipment for offloading the shipment (i.e. - forklift or similar); the truck driver is not obligated to offload your shipment. If Ross Recreation is installing your equipment, the installers will offload the equipment. It is your responsibility to mark all underground utilities before installation (call USA North, 1-800-227-2600).

**2. DELIVERY INSTRUCTIONS:**

Make sure the materials and quantities match the freight bill/Bill of Lading (BOL) you are signing to ensure you are receiving a complete and intact shipment. Make sure all pieces you are receiving are correctly addressed to the project and site, as trucks carry multiple shipments. Any shortages or visible damage must be noted on both copies of the freight bill/Bill of Lading (BOL), and both copies signed. Jointly inspect each delivered piece for signs of damage (i.e. torn packaging, punctures, etc.) with the driver. Notations on the freight bill/Bill of Lading (BOL) should be as detailed as possible to avoid controversy at a later date if a claim is necessary. Taking photos of any damaged packaging is highly recommended for documentation.

**2. POST-DELIVERY INSTRUCTIONS:**

After receipt of order, inventory your shipment. All shortages must be reported within thirty (30) days of receiving your order. When inspecting the equipment, please minimize the amount of tearing of the packaging and do not dispose of packaging. If concealed damage is found, a Carrier inspection must take place within fifteen (15) days from the time of delivery to protect your rights as the Consignee. Store your equipment in a safe and secure location before installation. Returns are subject to a restocking fee. Credit on returns is contingent upon credit issued from the manufacturer. Materials must be packaged well and received at the manufacturer in new and resalable condition.

**3. DELAY:**

Ross Recreation shall be excused for any delay in completion of the contract caused by acts of God, acts of the Owner or Contractor or the Owner's or Contractor's agent, employee or independent contractor, weather, labor trouble, acts of public utilities, public bodies or inspectors, extra work, failure of the Owner or Contractor to make progress payments promptly, or other contingencies unforeseeable by or beyond the reasonable control of Ross Recreation.

**4. CONTRACT, PLANS AND SPECIFICATIONS:**

The contract, plans and specifications are intended to supplement each other. In case of conflict, the specifications shall control the plans, and the provisions of this contract shall control both. The Project will be constructed according to the plans and specifications and any addenda, which have been signed by the parties hereto.

**5. CHANGE ORDERS:**

Should the Contractor, Owner, inspector or other person direct any modification or addition to the work covered by this contract, the contract price shall be adjusted accordingly. Modifications or additions to the work shall be executed only when a contract Change Order has been signed by both the Contractor and/or Owner and Ross Recreation. The change in the contract price caused by such contract Change Order shall be as agreed and approved in writing. If the parties are not in agreement as to the change in Contract Price, then Ross Recreation's actual cost for all labor, materials, subcontracts and costs associated with the change in scope, plus Ross Recreation's fee of twenty-five percent (25%) shall be the change in the final contract price and final amount due. Ross Recreation shall promptly notify the Contractor or Owner of (1) a site differing materially from those indicated in this contract, (b) unknown physical conditions differing

**ALL PURCHASE ORDERS, CONTRACTS, AND CHECKS TO BE MADE OUT TO:**

ROSS RECREATION EQUIPMENT, INC.  
100 BRUSH CREEK RD, #206 SANTA ROSA, CA. 95404  
707.538.3800 - accounting@rossrec.com

**Quote #:** 00046392  
**Quote Name:** ForeverLawn  
Playground Grass Ultra - 2" Foam - W/  
Installation Services Included  
**Quote Total:** \$177,698.15  
**NPP Contract:** PS21070

materially from those originally encountered and generally recognized as inherent in the work of the character provided for in this contract, or (c) any additional materials needed to complete the agreed upon scope of work. Any expenses incurred due to such conditions shall be paid for by Contractor or Owner as added work as outlined above.

**6. RIGHT TO STOP WORK:**

Ross Recreation shall have the right to stop work if any payment is not made under this Agreement and set credit terms. Ross Recreation may keep the job idle until all payments due are received. In the alternative, Ross Recreation may, at its option, terminate the contract and recover from the Contractor or Owner payment for all work executed to the date of such termination.

**7. SITE CONDITIONS:**

Installation price quoted for favorable working conditions. If rock, poor soil conditions, a high-water table, unknown obstructions (ie - old footings, concrete, pipes, conduits, etc), and/or other unforeseen site conditions exist requiring additional materials and labor, additional charges may be incurred. Ross Recreation is not responsible for any additional costs or delays caused by unforeseen site conditions, including but not limited to contaminated soil, hidden utilities, archaeological findings, or other site conditions.

**8. EXCLUSIONS/CLARIFICATIONS:**

Permits, permit fees, licenses, inspections, site work, and any materials or labor unless specifically quoted and included in the approved scope of work are excluded.

**Mobilization:** Labor quoted by Ross Recreation is for one move-in and one move-out mobilization. Delays and/or multiple mobilizations due to inadequate site prep, project delays, or other reasons will require an additional mobilization fee by Ross Recreation.

**Site Access:** Customer must ensure that the site may be accessed by large machinery or equipment (i.e. a Bobcat tractor, lift, etc.) for use of moving equipment, footing excavation, and performing required installation work. Site access must be free from curbs, concrete walkways, fencing, plantings, etc. If such conditions exist, Ross Recreation will do our best to gain access with minimal damage but will not be responsible for needed repairs made due to limited access to the site.

**Labor/Installation:** Ross Recreation will provide materials and installation (if applicable and quoted) only as quoted and per each manufacturer's installation specifications, guidelines, and standard footing details. Installation includes the layout of the equipment, post-footing excavation based on the manufacturer's standard footing details and specifications, concrete for footings, and complete assembly/installation of the purchased materials unless stated otherwise.

**Underground Utilities:** Services for underground utilities that are not marked by USA or other location services are not the responsibility of Ross Recreation. If utilities are inadvertently affected and damaged during the installation and completion of Ross Recreation's scope of work, Ross Recreation is not liable for repair nor any associated repair costs incurred by footing and/or excavation work. Scan/X-ray services prior to the start of work to better identify utilities is highly recommended.

The correct and determined location of the equipment/structure(s) is the sole responsibility of the owner or designated architect, engineer or designer of the project. If the relocation of the equipment/structure(s) is required due to unknown



**ALL PURCHASE ORDERS, CONTRACTS, AND CHECKS TO BE MADE OUT TO:**

ROSS RECREATION EQUIPMENT, INC.  
100 BRUSH CREEK RD, #206 SANTA ROSA, CA. 95404  
707.538.3800 - accounting@rossrec.com

**Quote #:** 00046392  
**Quote Name:** ForeverLawn  
Playground Grass Ultra - 2" Foam - W/  
Installation Services Included  
**Quote Total:** \$177,698.15  
**NPP Contract:** PS21070

site conditions, permits, project approvals or other occurrences, additional costs may be incurred for re-mobilization, new site considerations and conditions and/or other project specifics.

Existing ground cover or surfacing materials interfering with the installation will require a change order to include removal and/or disposal of materials. Landscape repairs are excluded, including irrigation or/and lines interfering with installation.

Third-party playground equipment inspection/certification to be completed independently from this contract and by others.

**Project Security:** Ross Recreation requires that the customer provide a secure site for the materials and installation of equipment and surfacing. Ross Recreation is not responsible for providing site security nor safeguarding the worksite and providing materials against theft, vandalism, or other criminal activities unless specifically included in the scope of work. Any costs are the responsibility of the customer/Owner.

For rubberized surfacing installations, Ross Recreation will require the use of temporary cyclone fencing or a security guard for the curing period following the installation of the rubberized surfacing. If fencing or security is declined, Ross Recreation will require a waiver form provided and signed by the customer accepting liability for securing the site during the surfacing cure time of forty-eight hours.

Ross Recreation excludes any work or items not explicitly listed in the ordered quote and scope of work or otherwise included by reference in this contract. Any additional materials and/or work requested shall be subject to a separate agreement or Change Order.

**9. CLEAN-UP:**

If Ross Recreation is installing your equipment, upon completion of work, Ross Recreation will remove debris and surplus material created by its operation on Owner's property and leave the area where the construction occurred in a neat and broom clean condition.

Off haul of spoils from footings or other construction work is excluded from Ross Recreation's scope of work unless otherwise noted. The customer is to provide a location for spoils to be stored/distributed on-site. If spoils are to be removed from the site, Ross Recreation must be notified and included in the agreed scope of work.

**10. ARBITRATION:**

Any controversy arising out of this contract, construction of the project referred to in this contract or regarding the interpretation of this contract, or any subcontract or sub-subcontract is subject to arbitration. Arbitration shall be had in accordance with the applicable rules of the American Arbitration Association which are in effect at the time the Demand for Arbitration is filed.

**11. ATTORNEY FEES:**

In the event, the parties hereto become involved in litigation arising out of this contract, or the performance or breach thereof, the court or arbitrator, in such litigation, or in separate suit, shall award reasonable costs, expenses, and attorney's fees to the prevailing party. The court or arbitrator shall not be bound by any court fee schedule and shall award the full amount of costs, expenses, and attorney's fees incurred in good faith.



# NPP CONTRACT

**ALL PURCHASE ORDERS, CONTRACTS, AND CHECKS TO BE MADE OUT TO:**

ROSS RECREATION EQUIPMENT, INC.  
100 BRUSH CREEK RD, #206 SANTA ROSA, CA. 95404  
707.538.3800 - accounting@rossrec.com

**Quote #:** 00046392  
**Quote Name:** ForeverLawn  
Playground Grass Ultra - 2" Foam - W/  
Installation Services Included  
**Quote Total:** \$177,698.15  
**NPP Contract:** PS21070

**12. ASSIGNMENT:**

Neither party may assign this contract without the written consent of the other party.

**13. HAZARDOUS MATERIALS:**

Unless specifically called out in the contract, this contract does not contemplate the removal or disturbance of asbestos, lead, mold or other hazardous material. The Contractor or Owner warrants that no such material is present. In the event that such material is encountered, Ross Recreation shall stop work immediately and will not start work again until such hazardous materials are clear of the site.

**14. NON UNION CONTRACTORS:**

Ross Recreation will provide labor using a subcontractor for all installation and labor quoted. Neither Ross Recreation nor our subcontractors are signatory to any unions; however compliance with prevailing wage rate requirements will occur in compliance with the Department of Industrial Relations (DIR) guidelines. If union enrollment is required by Ross Recreation's subcontractor and they are able, willing and agree to the enrollment for completion of this project, Ross Recreation will require a change order to cover the costs on a per project enrollment and additional wage/benefit requirements.

**15. CONTRACTORS:**

Contractors are required by law to be licensed, bonded, and regulated by the Contractor's State License Board whose address is:

Contractor's State License Board  
P.O. Box 26000  
Sacramento, CA 95826

**SIGNATURES:** In witness whereof, both of the Parties have executed this Contract, both Parties by its representative, as of the day and year set forth below. The signature assumes acceptance of stated payment terms. 2% per month late fees will be charged on delinquent payments. The signature below accepting this proposal will constitute a purchase order only upon Ross Recreation Equipment, Inc.'s approval. Customer receipt of an order acknowledgment constitutes such approval.

\_\_\_\_\_  
Customer Signature

\_\_\_\_\_  
Customer Print Name

\_\_\_\_\_  
Date



# NPP CONTRACT

**ALL PURCHASE ORDERS, CONTRACTS, AND CHECKS TO BE MADE OUT TO:**

ROSS RECREATION EQUIPMENT, INC.  
 100 BRUSH CREEK RD, #206 SANTA ROSA, CA. 95404  
 707.538.3800 - accounting@rossrec.com

**Quote #:** 00046390  
**Quote Name:** Surface America PIP  
 3.5" and 5.5" - 5,580 w/ Installation Services  
**Quote Total:** \$187,937.23  
**NPP Contract:** PS21070

**Shipping Address:**  
 Albany Parks & Recreation  
 ATTN: Kim Lyddane  
 Final Delivery Address TBD  
 Albany, Oregon 97322

**Billing Address:**  
 Albany Parks & Recreation  
 P.O. Box 490  
 Albany, Oregon 97322

**Quote Date:** 1/22/25  
**Expiration Date:** 5/16/25

Opportunity Name	Lead Time	Sales Representative	Payment terms
Deerfield Surfacing	4-6 weeks	Len Fransen	Net 30 On Materials Shipment

QTY	PRODUCT	DESCRIPTION	UNIT PRICE	SUBTOTAL
1.00	PIP Rubber	<p>Surface America Poured-In-Place Rubber Safety Surfacing Materials:            Square Footage: 5,580 sqft (per takeoff)            Thickness: 3.5" and 5.5" (per 8' and 12' CFH of play equipment)            Binder: Aliphatic            Color: 100% Color or Mix (Colors TBD)</p> <p>Rubber surfacing will follow the contour of the sub-base and will be 3.5" and 5.5" thick as required throughout the area.            Any change to color, thickness, square footage or binder type will require a change order.            It is the responsibility of the General Contractor to verify all colors and square footage prior to placing an order. Any changes will require a revised quote and may result in a price increase.            Pricing does not include sub-base materials. Acceptable sub-base materials include: Concrete, Asphalt or Compacted Aggregate Class II Base Rock. More details available upon request.</p> <p>Thicknesses quoted to meet industry standards for ASTM testing of 1000 HIC/200 GMax.</p>	\$123,132.00	\$123,132.00
1.00	Install - Rubber Surfacing	<p>Installation of Surface America Poured-in-Place rubber surfacing for 5,580 square feet at a 3.5" and 5.5" thickness by a manufacturer certified installer.</p> <p>Price does not include sub-base preparation, drainage, design work or inspections. General contractor is responsible for verifying that quoted material meets all details and that sub-base is prepared at the proper depth from finish grade. Surfacing will be installed to follow slope of the sub-base and thickness of safety surfacing quoted to be kept consistent. Surfacing will not be installed thicker over drains unless requested. Please advise if surfacing is to be installed in any other manner, so quote can be adjusted.            *Thicknesses installed to meet industry standards for ASTM testing of 1000 HIC/200 GMax.            *Installations over 1,800 sq ft or repairs to existing surfacing will have seams in the finished surface.            *Acceptable sub-base materials include: Concrete, Asphalt or Compacted Aggregate Class II Base Rock. If compacted aggregate is the sub-base, Ross Recreation will require: Class II base rock with fines, minimum of 4" compacted to 90-95%, sloping 1-1.5%; any other base rock conditions will void the surfacing</p>	\$56,246.00	\$56,246.00



# NPP CONTRACT

**ALL PURCHASE ORDERS, CONTRACTS, AND CHECKS TO BE MADE OUT TO:**

ROSS RECREATION EQUIPMENT, INC.  
 100 BRUSH CREEK RD, #206 SANTA ROSA, CA. 95404  
 707.538.3800 - accounting@rossrec.com

**Quote #:** 00046390  
**Quote Name:** Surface America PIP  
 3.5" and 5.5 " - 5,580 w/ Installation  
 Services  
**Quote Total:** \$187,937.23  
**NPP Contract:** PS21070

warranty. More details available upon request. Other sub-bases are not acceptable and Ross Recreation will not install rubberized surfacing over other sub-base materials.

1.00	NPP Ross Discount	Customer NPP #M-5700688		(\$4,925.28)	(\$4,925.28)
<b>Totals</b>					
<b>County/ City Tax</b>	(Oregon State Tax 0.0000 %)				
			<b>Materials</b>		\$118,206.72
			<b>Sales Tax</b>		\$0.00
			<b>Labor/ Fees</b>		\$56,246.00
			<b>Freight</b>		\$13,484.51
			<b>Total</b>		\$187,937.23
<b>Notes to Customer</b>					



# NPP CONTRACT

**ALL PURCHASE ORDERS, CONTRACTS, AND CHECKS TO BE MADE OUT TO:**

ROSS RECREATION EQUIPMENT, INC.  
100 BRUSH CREEK RD, #206 SANTA ROSA, CA. 95404  
707.538.3800 - accounting@rossrec.com

**Quote #:** 00046390  
**Quote Name:** Surface America PIP  
3.5" and 5.5 " - 5,580 w/ Installation  
Services  
**Quote Total:** \$187,937.23  
**NPP Contract:** PS21070

## Deerfield Park Playground

### NPP Contract Document

**PREPARED FOR:**

Albany Parks & Recreation  
P.O. Box 490  
Albany, Oregon 97322  
Credit Terms: Net 30 On Materials Shipment

**GENERAL TERMS:**

Thank you for choosing Ross Recreation Equipment for your project. This document outlines the arrangements for your selected products, labor and services. It will serve as a Contract Agreement ("Contract") between Albany Parks & Recreation ("Customer") and Ross Recreation Equipment ("Ross Recreation"). All arrangements described in this Contract will be confirmed by returning your signed Contract Agreement no later than **5/16/25**.

This Contract contains the entire agreement between Ross Recreation and the Customer and takes precedence over all previous quotations, estimates and agreements. No changes, amendments or modifications of this Contract shall be valid unless made in writing and signed by both parties.

Ross Recreation coordinates the ordering, production and shipment of materials with the installation of those materials, if we are providing installation of your equipment. Site readiness is a critical component of shipping coordination. If project and/or site readiness changes after materials are already produced, neither the manufacturer nor Ross Recreation, can hold and store such materials. Once materials ship, the materials will be invoiced based on customer's terms and payment for materials is required regardless of installation status.

Credit terms are established by Ross Recreation and for this order are as follows: **Net 30 On Materials Shipment**. Pay when paid by the Owner is not accepted as alternative payment terms.

Sales tax rates will be charged and determined by the Department of Tax and Fee Administration at the time of shipping. Any changes to the County/City tax rate and/or a change to the ship to location may affect the final total due on this contract. The customer is responsible for these sales tax changes. For this order, the sales tax rate is as follows: **(Oregon State Tax 0.0000 %)**.

Labor costs quoted and contracted are good for six months. If the duration and/or timeline of the project and Ross Recreation's start date is extended beyond six months from the time of an executed contract, additional costs may be incurred reflecting current labor costs at the time the labor is performed.

**1. PRE-DELIVERY INSTRUCTIONS:**

100 Brush Creek Rd, #206, Santa Rosa, CA 95404 • 707.538.3800 • www.rossrec.com •  
CA Contractors License #520752 • OR Contractors License #186870 • Tax ID #68-0103540 • DIR 1000003500

**ALL PURCHASE ORDERS, CONTRACTS, AND CHECKS TO BE MADE OUT TO:**

ROSS RECREATION EQUIPMENT, INC.  
100 BRUSH CREEK RD, #206 SANTA ROSA, CA. 95404  
707.538.3800 - accounting@rossrec.com

**Quote #:** 00046390  
**Quote Name:** Surface America PIP  
3.5" and 5.5 " - 5,580 w/ Installation  
Services  
**Quote Total:** \$187,937.23  
**NPP Contract:** PS21070

The contractor must notify Ross Recreation of any requested delivery changes at least two (2) weeks prior to shipment. If the delivery address on the contract is not correct, please contact our office immediately as a re-consignment fee may be added if materials ship and the delivery address is changed. If Ross Recreation is not installing your equipment, you are responsible for offloading and having equipment for offloading the shipment (i.e. - forklift or similar); the truck driver is not obligated to offload your shipment. If Ross Recreation is installing your equipment, the installers will offload the equipment. It is your responsibility to mark all underground utilities before installation (call USA North, 1-800-227-2600).

## 2. DELIVERY INSTRUCTIONS:

Make sure the materials and quantities match the freight bill/Bill of Lading (BOL) you are signing to ensure you are receiving a complete and intact shipment. Make sure all pieces you are receiving are correctly addressed to the project and site, as trucks carry multiple shipments. Any shortages or visible damage must be noted on both copies of the freight bill/Bill of Lading (BOL), and both copies signed. Jointly inspect each delivered piece for signs of damage (i.e. torn packaging, punctures, etc.) with the driver. Notations on the freight bill/Bill of Lading (BOL) should be as detailed as possible to avoid controversy at a later date if a claim is necessary. Taking photos of any damaged packaging is highly recommended for documentation.

## 2. POST-DELIVERY INSTRUCTIONS:

After receipt of order, inventory your shipment. All shortages must be reported within thirty (30) days of receiving your order. When inspecting the equipment, please minimize the amount of tearing of the packaging and do not dispose of packaging. If concealed damage is found, a Carrier inspection must take place within fifteen (15) days from the time of delivery to protect your rights as the Consignee. Store your equipment in a safe and secure location before installation. Returns are subject to a restocking fee. Credit on returns is contingent upon credit issued from the manufacturer. Materials must be packaged well and received at the manufacturer in new and resalable condition.

## 3. DELAY:

Ross Recreation shall be excused for any delay in completion of the contract caused by acts of God, acts of the Owner or Contractor or the Owner's or Contractor's agent, employee or independent contractor, weather, labor trouble, acts of public utilities, public bodies or inspectors, extra work, failure of the Owner or Contractor to make progress payments promptly, or other contingencies unforeseeable by or beyond the reasonable control of Ross Recreation.

## 4. CONTRACT, PLANS AND SPECIFICATIONS:

The contract, plans and specifications are intended to supplement each other. In case of conflict, the specifications shall control the plans, and the provisions of this contract shall control both. The Project will be constructed according to the plans and specifications and any addenda, which have been signed by the parties hereto.

## 5. CHANGE ORDERS:

Should the Contractor, Owner, inspector or other person direct any modification or addition to the work covered by this contract, the contract price shall be adjusted accordingly. Modifications or additions to the work shall be executed only when a contract Change Order has been signed by both the Contractor and/or Owner and Ross Recreation. The change in the contract price caused by such contract Change Order shall be as agreed and approved in writing. If the parties are not in agreement as to the change in Contract Price, then Ross Recreation's actual cost for all labor, materials, subcontracts and costs associated with the change in scope, plus Ross Recreation's fee of twenty-five percent (25%) shall be the change in the final contract price and final amount due. Ross Recreation shall promptly notify the Contractor or Owner of (1) a site differing materially from those indicated in this contract, (b) unknown physical conditions differing

**ALL PURCHASE ORDERS, CONTRACTS, AND CHECKS TO BE MADE OUT TO:**

ROSS RECREATION EQUIPMENT, INC.  
100 BRUSH CREEK RD, #206 SANTA ROSA, CA. 95404  
707.538.3800 - accounting@rossrec.com

**Quote #:** 00046390  
**Quote Name:** Surface America PIP  
3.5" and 5.5" - 5,580 w/ Installation  
Services  
**Quote Total:** \$187,937.23  
**NPP Contract:** PS21070

materially from those originally encountered and generally recognized as inherent in the work of the character provided for in this contract, or (c) any additional materials needed to complete the agreed upon scope of work. Any expenses incurred due to such conditions shall be paid for by Contractor or Owner as added work as outlined above.

**6. RIGHT TO STOP WORK:**

Ross Recreation shall have the right to stop work if any payment is not made under this Agreement and set credit terms. Ross Recreation may keep the job idle until all payments due are received. In the alternative, Ross Recreation may, at its option, terminate the contract and recover from the Contractor or Owner payment for all work executed to the date of such termination.

**7. SITE CONDITIONS:**

Installation price quoted for favorable working conditions. If rock, poor soil conditions, a high-water table, unknown obstructions (ie - old footings, concrete, pipes, conduits, etc), and/or other unforeseen site conditions exist requiring additional materials and labor, additional charges may be incurred. Ross Recreation is not responsible for any additional costs or delays caused by unforeseen site conditions, including but not limited to contaminated soil, hidden utilities, archaeological findings, or other site conditions.

**8. EXCLUSIONS/CLARIFICATIONS:**

Permits, permit fees, licenses, inspections, site work, and any materials or labor unless specifically quoted and included in the approved scope of work are excluded.

**Mobilization:** Labor quoted by Ross Recreation is for one move-in and one move-out mobilization. Delays and/or multiple mobilizations due to inadequate site prep, project delays, or other reasons will require an additional mobilization fee by Ross Recreation.

**Site Access:** Customer must ensure that the site may be accessed by large machinery or equipment (i.e. a Bobcat tractor, lift, etc.) for use of moving equipment, footing excavation, and performing required installation work. Site access must be free from curbs, concrete walkways, fencing, plantings, etc. If such conditions exist, Ross Recreation will do our best to gain access with minimal damage but will not be responsible for needed repairs made due to limited access to the site.

**Labor/Installation:** Ross Recreation will provide materials and installation (if applicable and quoted) only as quoted and per each manufacturer's installation specifications, guidelines, and standard footing details. Installation includes the layout of the equipment, post-footing excavation based on the manufacturer's standard footing details and specifications, concrete for footings, and complete assembly/installation of the purchased materials unless stated otherwise.

**Underground Utilities:** Services for underground utilities that are not marked by USA or other location services are not the responsibility of Ross Recreation. If utilities are inadvertently affected and damaged during the installation and completion of Ross Recreation's scope of work, Ross Recreation is not liable for repair nor any associated repair costs incurred by footing and/or excavation work. Scan/X-ray services prior to the start of work to better identify utilities is highly recommended.

The correct and determined location of the equipment/structure(s) is the sole responsibility of the owner or designated architect, engineer or designer of the project. If the relocation of the equipment/structure(s) is required due to unknown

**ALL PURCHASE ORDERS, CONTRACTS, AND CHECKS TO BE MADE OUT TO:**

ROSS RECREATION EQUIPMENT, INC.  
100 BRUSH CREEK RD, #206 SANTA ROSA, CA. 95404  
707.538.3800 - accounting@rossrec.com

**Quote #:** 00046390  
**Quote Name:** Surface America PIP  
3.5" and 5.5 " - 5,580 w/ Installation  
Services  
**Quote Total:** \$187,937.23  
**NPP Contract:** PS21070

site conditions, permits, project approvals or other occurrences, additional costs may be incurred for re-mobilization, new site considerations and conditions and/or other project specifics.

Existing ground cover or surfacing materials interfering with the installation will require a change order to include removal and/or disposal of materials. Landscape repairs are excluded, including irrigation or/and lines interfering with installation.

Third-party playground equipment inspection/certification to be completed independently from this contract and by others.

**Project Security:** Ross Recreation requires that the customer provide a secure site for the materials and installation of equipment and surfacing. Ross Recreation is not responsible for providing site security nor safeguarding the worksite and providing materials against theft, vandalism, or other criminal activities unless specifically included in the scope of work. Any costs are the responsibility of the customer/Owner.

For rubberized surfacing installations, Ross Recreation will require the use of temporary cyclone fencing or a security guard for the curing period following the installation of the rubberized surfacing. If fencing or security is declined, Ross Recreation will require a waiver form provided and signed by the customer accepting liability for securing the site during the surfacing cure time of forty-eight hours.

Ross Recreation excludes any work or items not explicitly listed in the ordered quote and scope of work or otherwise included by reference in this contract. Any additional materials and/or work requested shall be subject to a separate agreement or Change Order.

## 9. CLEAN-UP:

If Ross Recreation is installing your equipment, upon completion of work, Ross Recreation will remove debris and surplus material created by its operation on Owner's property and leave the area where the construction occurred in a neat and broom clean condition.

Off haul of spoils from footings or other construction work is excluded from Ross Recreation's scope of work unless otherwise noted. The customer is to provide a location for spoils to be stored/distributed on-site. If spoils are to be removed from the site, Ross Recreation must be notified and included in the agreed scope of work.

## 10. ARBITRATION:

Any controversy arising out of this contract, construction of the project referred to in this contract or regarding the interpretation of this contract, or any subcontract or sub-subcontract is subject to arbitration. Arbitration shall be had in accordance with the applicable rules of the American Arbitration Association which are in effect at the time the Demand for Arbitration is filed.

## 11. ATTORNEY FEES:

In the event, the parties hereto become involved in litigation arising out of this contract, or the performance or breach thereof, the court or arbitrator, in such litigation, or in separate suit, shall award reasonable costs, expenses, and attorney's fees to the prevailing party. The court or arbitrator shall not be bound by any court fee schedule and shall award the full amount of costs, expenses, and attorney's fees incurred in good faith.





# NPP CONTRACT

**ALL PURCHASE ORDERS, CONTRACTS, AND CHECKS TO BE MADE OUT TO:**

ROSS RECREATION EQUIPMENT, INC.  
100 BRUSH CREEK RD, #206 SANTA ROSA, CA. 95404  
707.538.3800 - accounting@rossrec.com

**Quote #:** 00046390  
**Quote Name:** Surface America PIP  
3.5" and 5.5 " - 5,580 w/ Installation  
Services  
**Quote Total:** \$187,937.23  
**NPP Contract:** PS21070

**12. ASSIGNMENT:**

Neither party may assign this contract without the written consent of the other party.

**13. HAZARDOUS MATERIALS:**

Unless specifically called out in the contract, this contract does not contemplate the removal or disturbance of asbestos, lead, mold or other hazardous material. The Contractor or Owner warrants that no such material is present. In the event that such material is encountered, Ross Recreation shall stop work immediately and will not start work again until such hazardous materials are clear of the site.

**14. NON UNION CONTRACTORS:**

Ross Recreation will provide labor using a subcontractor for all installation and labor quoted. Neither Ross Recreation nor our subcontractors are signatory to any unions; however compliance with prevailing wage rate requirements will occur in compliance with the Department of Industrial Relations (DIR) guidelines. If union enrollment is required by Ross Recreation's subcontractor and they are able, willing and agree to the enrollment for completion of this project, Ross Recreation will require a change order to cover the costs on a per project enrollment and additional wage/benefit requirements.

**15. CONTRACTORS:**

Contractors are required by law to be licensed, bonded, and regulated by the Contractor's State License Board whose address is:

Contractor's State License Board  
P.O. Box 26000  
Sacramento, CA 95826

**SIGNATURES:** In witness whereof, both of the Parties have executed this Contract, both Parties by its representative, as of the day and year set forth below. The signature assumes acceptance of stated payment terms. 2% per month late fees will be charged on delinquent payments. The signature below accepting this proposal will constitute a purchase order only upon Ross Recreation Equipment, Inc.'s approval. Customer receipt of an order acknowledgment constitutes such approval.

\_\_\_\_\_  
Customer Signature


\_\_\_\_\_  
Customer Print Name

\_\_\_\_\_  
Date



# MEMO

TO: Albany City Council

VIA: Peter Troedsson, City Manager 

FROM: Jeanna Yeager, Finance Director  
Diane Murzynski, Contracts & Procurement Officer

DATE: February 12, 2025, City Council Meeting

**SUBJECT:** Exemption from Competitive Bidding to Purchase On-line Marketplace Products and Services with Amazon Business

Relates to Strategic Plan theme: An Effective Government

## Action Requested:

Staff recommends city council, acting as the local contract review board, approve by resolution an exemption from the competitive bidding process for the purchase of On-line Marketplace for the purchases of products and services from Amazon Business, through an interstate cooperative contract with Omnia Partners; and authorize the finance director to execute a contract with Amazon Business to use On-line Marketplace for the purchase of products and services.

## Discussion:

Currently City staff are making purchases for products and services from Amazon using three different Amazon environments, Amazon.com, Amazon Business, and Amazon Prime. Upon review of City procurement card use with Amazon Business, findings reflect there are 22 consumer accounts, eight business accounts, and four Amazon prime accounts. Total spend for these accounts total approximately \$215,000 over the past year.

To achieve savings and initiate purchasing transparency, all city accounts would be consolidated. Additional benefits provided are procurement compliance, security features, such as blocked categories, guided product buy ins/preferred products, quotation services by category of service, a rebate program, and various Amazon Business discounts. Several program discounts are offered based on annual bulk spending, key value items (KVI) categories of service (e.g., office supplies, information technology (IT) products, maintenance, repair and operations (MRO)), and government pricing. The rebate program may provide a three percent return the first year based on our current spend and anticipated growth. Amazon Business reviews state most agencies will realize an average of 18-20% savings the first year using On-line Marketplace for the purchase of similar products and service.

Oregon Revised Statutes 279A.220 and Oregon Administrative Rules 137-046-0400 to 480 allow local governments access to competitively bid contracts using interstate cooperative procurements for the purchase of goods and services. Amazon Business offers an Amazon Business Prime Government account through a cooperative contract between Omnia Partners, formerly U.S. Communities, and Amazon Business to participating public agencies.

Omnia Partners member lead agency, Prince William County Public Schools, Manassas, Virginia, conducted a formal, competitive request for proposals for “On-line Marketplace for the Purchase of Products and Services”,

(RFP# R-TC-170067), on September 14, 2016. The contract was awarded to Amazon Business, and the solicitation was advertised in the Daily Journal of Commerce in Oregon, a requirement of Oregon purchasing law, OAR 137-046-0400 to 480.

Staff recommends Council approve an exemption from the competitive bidding process for the purchase of Amazon Business On-line Marketplace through a cooperative contract with Omnia Partners for savings, discounts, consolidation, centralization, procurement compliance, and provision of security and transparency.

**Budget Impact:**

The first year is at no cost and the second year is based on aggregate spending from year one but will not exceed \$3,499. Products and services purchased will be paid for from the respective departments' materials and services budget line item.

DM

Attachment - Resolution



A RESOLUTION APPROVING AN EXEMPTION FROM COMPETITIVE BIDDING REQUIREMENTS AND APPROVING THE USE OF A COOPERATIVE PURCHASING METHOD FOR ON-LINE MARKETPLACE PURCHASES OF PRODUCTS AND SERVICES FROM AMAZON BUSINESS; AND AUTHORIZING THE FINANCE DIRECTOR TO EXECUTE A CONTRACT FOR ON-LINE MARKETPLACE PURCHASES OF PRODUCTS AND SERVICES USING A COOPERATIVE CONTRACT BETWEEN OMNIA PARTNERS AND AMAZON BUSINESS

WHEREAS, currently purchases are being made for products and services from Amazon using three different Amazon environments, Amazon.com, Amazon Business, and Amazon Prime; and

WHEREAS, currently the City has 22 consumer accounts, eight business accounts, and four Amazon prime accounts; and

WHEREAS, it is beneficial to consolidate accounts for centralization and compliance, and provision of security, transparency, and savings from program discounts and elimination of shipping charges; and

WHEREAS, the current spend for Amazon products and services purchases is approximately \$215,000 annually, based on City procurement card use; and

WHEREAS, Amazon Business offers an Amazon Business Prime Government account through a cooperative contract between Omnia Partners and Amazon Business to participating public agencies; and

WHEREAS, Oregon Revised Statutes 279A.220 and Oregon Administrative Rules 137-046-0400 to 480 allow local governments access to competitively bid contracts using interstate cooperative procurements for the purchase of products and services; and

WHEREAS, the lead public agency, Prince William County Public Schools, Manassas, Virginia, conducted a formal, competitive request for proposals through U.S. Communities Government Purchasing Alliance, currently Omnia Partners, for “On-line Marketplace for the Purchase of Products and Services”, (RFP# R-TC-170067), on September 14, 2016, advertised the opportunity in the Daily Journal of Commerce in Oregon, and is a current cooperative contract with Omnia Partners; and

WHEREAS, upon establishing an Amazon Business Prime Government account and consolidating citywide department spend under one account should provide up to 18% savings on future purchases made in similar product categories; and

WHEREAS, Amazon offers a rebate program, bulk spend discounts, key value items (KVI) category of service discounts, government pricing, guided product buy-ins/agency preferred products, and quotation services; and

WHEREAS, the Amazon program offers initial government discounts, potential rebates up to three percent in year one, a “no cost” initial program entry, and aligns with budgetary goals for cost savings and revenue growth based on aggregate spend and annual growth.

NOW, THEREFORE, BE IT RESOLVED that the Albany City Council approve an exemption from the competitive bidding requirements, and approve the use of an interstate cooperative purchasing method to acquire On-line Marketplace for the purchase of products and services through an existing contract between Omnia Partners and Amazon Business; and

BE IT FURTHER RESOLVED that the Albany City Council authorize the finance director to execute a contract with Amazon Business for the purchase and use of On-line Marketplace for purchases of products and services for five years with options to extend.

DATED AND EFFECTIVE THIS 12TH DAY OF FEBRUARY 2025.

\_\_\_\_\_  
Mayor



ATTEST:


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



# MEMO

TO: Albany City Council

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

FROM: Johnathan Balkema, Building Official Manager 

DATE: January 28, 2025, for the February 12, 2025, City Council Meeting

**SUBJECT:** Intergovernmental Agreement with DCBS Building Codes Division  
Relates to Strategic Plan theme: An Effective Government

## Action Requested:

Council approval of an intergovernmental agreement between the Community Development Department's Building and Electrical Inspection Program and the state of Oregon's Department of Consumer and Business Services (DCBS): Building Codes Division for Building Evaluation Services.

## Discussion:

The City of Albany's Building Division operates the building and electrical inspection program within the jurisdictional boundaries of the City of Albany under a delegation of authority from the state of Oregon's Department of Consumer and Business Services' Building Code's Division (BCD). As part of this delegation, we are required to perform inspections and plan reviews within the timelines established under Oregon Administrative Rule (OAR) and Oregon Revised Statutes (ORS).

To meet requirements, we rely on employees with various certifications. Because certification requirements vary based on project type and discipline, it is not always feasible or fiscally responsible to have redundancy in house to cover absences and separations. To address this need, the Building Division has exclusively relied on contracts awarded through a request for proposals process (RFP). Due to the limited number of contract companies and their shared difficulty in recruiting those more rare, certified staff, there have been rare occurrences where we had to limit inspection capacity to the minimum allowed under rule.

To help address this challenge, BCD has created a new master intergovernmental agreement (IGA) they are referring to as Building Evaluation Services Agreement (BESA). Under the BESA program a local jurisdiction can enter the program and request coverage in areas including inspections and plan review from other participating jurisdictions at a predetermined rate and repayment terms. While this program does not replace jurisdiction's ability to have an individual IGA with a neighboring jurisdiction, it does allow us to be part of a larger pool of inspectors and examiners for when needs arise and we are unable to cover our customers in-house or through our contract companies.

## Budget Impact:

The cost of the services provided within this IGA are within the adopted budget for contractual services. This agreement does create the potential for limited additional revenue, not accounted for in the adopted budget, if our services are provided with a requesting jurisdiction.

JB:km

Attachment (1): Resolution



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

---

A RESOLUTION AUTHORIZING EXECUTION OF AN INTERGOVERNMENTAL AGREEMENT WITH THE DEPARTMENT OF CONSUMER AND BUSINESS SERVICES: BUILDING CODE DIVISION FOR BUILDING EVALUATION SERVICES

WHEREAS, ORS 190.110 provides that a unit of local government may enter into an agreement with state agencies for performing a duty imposed upon it, in exercising a power conferred upon it or in administering a policy or program delegated to it; and

WHEREAS, the Albany Building Division provides building inspection and plan review services for construction projects within the city limits; and

WHEREAS, these services are essential to ensure public safety for our residents and visitors to our community; and

WHEREAS, these services are essential to ensure projects proceed in a reasonable and timely manner; and

WHEREAS, entering into an agreement with the Building Codes Divisions Building Evaluation Services program will provide additional resources to provide these essential services.

NOW, THEREFORE, BE IT RESOLVED by the Albany City Council that the Albany Community Development Director executes an Intergovernmental Agreement with the Department of Consumer and Business Services: Building Codes Division for Building Evaluation Services (Exhibit A).

DATED AND EFFECTIVE THIS 12TH DAY OF FEBRUARY 2025.

\_\_\_\_\_  
Mayor

ATTEST:

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

**BUILDING EVALUATION SUPPORT AGREEMENT  
(FIXED TERM)**

**MASTER AGREEMENT  
PO-44000-00039380**

This BUILDING EVALUATION SUPPORT AGREEMENT (FIXED TERM) (“**Agreement**”) is entered into by and amongst the Joining Parties, as defined in Section I of this Agreement, in accordance with ORS 190.110 and 455.185.

**I. PARTIES; NOTICES**

The parties to this Agreement are (A) the Department of Consumer and Business Services, Building Codes Division (“DCBS”); and (B) each municipality providing building official services, plan review services, or inspection services pursuant to ORS Chapter 455 (and its related rules) that executes an undertaking in the form attached hereto as Exhibit 1 and delivers (by mail or email) such undertaking to the following (or such other address and email address as may be specified in writing by DCBS):

Building Codes Division  
Department of Consumer and Business Services  
Attn: Dawn Bass  
P.O. Box 14470  
Salem, OR 97309-0404  
Email: [Dawn.Bass@dcbs.oregon.gov](mailto:Dawn.Bass@dcbs.oregon.gov)

Each such executed and delivered undertaking (including the undertaking executed and delivered by DCBS) may be referred to herein as an “**Undertaking**”. Those who become party to this Agreement (including DCBS) may be referred to herein individually as a “**Joining Party**” and collectively as the “**Joining Parties**”. DCBS will maintain on its website, [www.oregon.gov/bcd](http://www.oregon.gov/bcd), a list of all Joining Parties, and DCBS will deliver and make available to all Joining Parties each Undertaking executed and delivered in accordance with this Agreement. The Undertaking executed and delivered by DCBS is attached hereto as Exhibit 2.

All notices to be given to any Joining Party under this Agreement shall be delivered in accordance with the information set forth on the Undertaking of such Joining Party.

**II. PURPOSE**

By this Agreement, the Joining Parties intend to provide building official services, plan review services, or inspection services to each other when requested and mutually agreed. For example, any municipality that is a Joining Party may request from and provide services to DCBS and any other municipality that is also a Joining Party.

**III. TERM OF AGREEMENT**

As to each Joining Party, this Agreement shall become effective on the date on which such Joining Party has executed and delivered its Undertaking in accordance with this Agreement. As to all



Joining Parties, this Agreement shall expire on June 30, 2034, unless earlier terminated in accordance with Section X of this Agreement.

#### IV. STATEMENT OF WORK

- A. When requesting or receiving services under this Agreement, a Joining Party is a **“Requesting Party”**. When providing or agreeing to provide requested services under this Agreement, a Joining Party is the **“Service Provider”**.
- B. A Requesting Party shall:
1. When services are needed, contact the Building Official of the Service Provider from whom such services are requested;
  2. Electronically provide inspection requests to the Building Official of the Service Provider, at least twenty-four (24) hours in advance of any inspection;
  3. Send all construction plans for which plan review is requested to the address referenced in the Undertaking of the Service Provider; and
  4. Remit payment in accordance with Section V.
- C. If a Service Provider agrees to provide requested services to a Requesting Party, the Service Provider shall:
1. Provide an interim Building Official who is certified to perform Building Official duties during business hours by telephone and onsite, as requested. The interim Building Official shall be an employee of the Service Provider, managed by, reporting within, and subject to the direction and control of the Service Provider;
  2. Perform plan review and inspection services, by plan or inspection as requested, consistent with construction codes and standards adopted by the State of Oregon;
  3. Perform services using Service Provider staff possessing appropriate certification or designation recognized by the State of Oregon;
  4. Complete residential plan reviews within ten (10) calendar days of receipt of complete plans, not including any time the plans are with the customer for correction. Complete commercial Plan reviews within fifteen (15) calendar days of receipt of complete plans, not including any time the plans are with the customer for correction; and
  5. Submit inspection reports to the Requesting Party within forty-eight (48) hours of the inspection.
- D. The only services that will be provided under this Agreement are those requested by the Requesting Party and as Service Provider has available staff to complete the requested work and has agreed to so provide.

**V. CONSIDERATION**

- A. Each Requesting Party agrees to pay each Service Provider according to one of the following options:
1. Percentage Option:
    - a. Ninety percent (90%) of the plan review fee collected by the Requesting Party for each plan review completed by the Service Provider.
    - b. Ninety percent (90%) of the permit fee collected by the Requesting Party for permitted work where the Service Provider will conduct all associated inspections with the permit.
    - c. Eighty-five dollars (\$85.00) per hour for any work performed by Service Provider that is not identified in (a) or (b).
    - d. For each month that Service Provider provides interim building official services, but no inspection services or plan review services, ten percent (10%) of all building code related fees collected by Requesting Party.
  2. Hourly Option: An hourly rate of eighty-five dollars (\$85.00) per hour for all work performed by the Service Provider.
- B. Each Joining Party certifies that, at the time such Joining Party executes and delivers its Undertaking in accordance with this Agreement, sufficient funds are available and authorized for expenditure to satisfy the financial obligations incurred by such Joining Party under this Agreement.
- C. Requesting Party shall remit payment to Service Provider on a quarterly basis. Quarters will be: January through March, April through June, July through September, and October through December. Payment is due within 60 days of the close of each quarter. Requesting Party shall deliver payment to the address specified in the Undertaking of the Service Provider.
- D. With each payment for work done under this Agreement, Requesting Party shall provide Service Provider with the following for each quarter for which payment is being remitted:
1. Documentation of each plan review performed by Service Provider and the associated fees collected by Requesting Party;
  2. Documentation of each permit inspected by Service Provider and the associated fees collected by Requesting Party;
  3. Documentation of any request for interim building official services made, as well as the month and number of hours Service Provider provided interim building official services;
  4. Documentation of all work performed by Service Provider at the hourly rate under paragraph A.1.c or A.2 of this section, as well as the date and number of hours such

work was performed; and

5. If interim building official services were provided, Requesting Party's accounting of all plan review fees and permit fees collected by Requesting Party, and all payment remitted to Service Provider, for the subject quarter.
- E. Each Requesting Party agrees that it shall provide or make available, if and as requested by a Service Provider, any and all records and information related to this Agreement of which the Requesting Party is custodian, within thirty (30) days of such request by the Service Provider.
  - F. Each Joining Party agrees that it shall retain and not destroy any and all documents and records related to this Agreement for a minimum of one year after such document or record is created.

## VI. TRAVEL AND OTHER EXPENSES

Requesting Party shall not be responsible to Service Provider for travel or other expenses.

## VII. BREACH

No Joining Party shall be in breach of this Agreement until written notice of an unperformed obligation has been given and such obligation remains unperformed after notice for ten (10) days. In the event of a breach, a Joining Party not in breach (a "**Nonbreaching Party**") shall be entitled to seek damages or any other remedy provided by applicable law against the breaching Joining Party (a "**Breaching Party**").

## VIII. THIRD PARTY CLAIMS; CONTRIBUTION

If any person who is not a Joining Party ("**Third Party**") makes any claim or brings any action, suit, or proceeding alleging a tort as now or hereafter defined in ORS 30.260 ("**Third Party Claim**") against a Joining Party (the "**Notified Party**") with respect to which any other Joining Party (each, an "**Other Party**") may have liability, the Notified Party must promptly notify each such Other Party in writing of the Third Party Claim and deliver to each such Other Party a copy of the claim, process, and all legal pleadings with respect to the Third Party Claim. The Notified Party and each Other Party is entitled to participate in the defense of a Third Party Claim, and to defend a Third Party Claim with counsel of its own choosing. Receipt by an Other Party of the notice and copies required in this paragraph and the meaningful opportunity for such Other Party to participate in the investigation, defense, and settlement of the Third Party Claim with counsel of its own choosing are conditions precedent to such Other Party's liability with respect to the Third Party Claim.

With respect to any Third Party Claim for which any Joining Party is jointly liable with any of the other Joining Parties (or would be if joined in the Third Party Claim), each such jointly liable Joining Party shall contribute to the amount of expenses (including attorneys' fees), judgments, fines, and amounts paid in settlement actually and reasonably incurred and paid or payable by all such jointly liable Joining Parties in such proportion as is appropriate to reflect the relative fault of such jointly liable Joining Party in connection with the events which resulted in such expenses, judgments, fines, or settlement amounts, as well as any other relevant equitable considerations. The relative fault of each such jointly liable Joining Party shall be determined by reference to,

among other things, the parties' relative intent, knowledge, access to information, and opportunity to correct or prevent the circumstances resulting in such expenses, judgments, fines or settlement amounts. In any instance, the contribution amount of each such jointly liable Joining Party is capped to the same extent as it would have been capped under Oregon law if such Joining Party had sole liability in the proceeding.

#### **IX. AMENDMENTS**

The terms of this Agreement shall not be waived, altered, modified, supplemented, or amended except by written instrument signed by all Joining Parties. This Agreement may be extended upon written amendment.

#### **X. TERMINATION**

This Agreement may be terminated with respect to all Joining Parties by the written mutual assent of all Joining Parties. Any Joining Party may terminate its status as a party to this Agreement upon thirty (30) days' notice, in writing to DCBS.

#### **XI. FORCE MAJEURE**

No Joining Party shall be held responsible for delay or failure to perform when such delay or failure is due to fire, flood, epidemic, strikes, acts of God or the public enemy, unusually severe weather, legal acts of public authorities, or delays or defaults caused by public carriers, which cannot be reasonably foreseen or provided against. In such event, the period for the performance shall be extended for the period of such delay. Upon the cessation of the cause of delay or nonperformance, the affected Joining Party shall resume performance of its obligations under this Agreement. Any Joining Party may terminate its status as a party to this Agreement, effective with the giving of written notice, if it determines that such delays or failure will reasonably prevent successful performance in accordance with the terms of this Agreement.

#### **XII. ALTERNATIVE DISPUTE RESOLUTION**

The Joining Parties shall attempt in good faith to resolve any dispute arising out of this Agreement. This may be done at any management level, including at a level higher than persons directly responsible for administration of this Agreement. In addition, the Joining Parties may agree to utilize a jointly selected mediator or arbitrator (for non-binding arbitration) to resolve the dispute short of litigation.

#### **XIII. NONDISCRIMINATION**

The Joining Parties shall comply with all applicable requirements of Federal and State civil rights and rehabilitation statutes, rules, and regulations in the performance of this Agreement.

#### **XIV. COMPLIANCE WITH APPLICABLE LAWS; GOVERNING LAW**

The Joining Parties shall comply with all Federal, State, and local laws and ordinances applicable to the work to be done under this Agreement. The parties agree that this Agreement shall be administered and construed under the laws of the State of Oregon.

**XV. PARTNERSHIP**

No Joining Party is, by virtue of this Agreement, a partner of or joint venturer with any other Joining Party in connection with activities carried out under this Agreement, and no Joining Party shall have any obligation with respect to any other Joining Party's debts or any other liability or obligation of any other Joining Party of whatever kind or nature.

**XVI. AUDIT**

DCBS reserves the right to audit all records of any other Joining Party that may be pertinent to this Agreement, and such other Joining Party shall bear the expense of any such audit.

**XVII. NO WAIVER OF CLAIMS**

The failure by any Joining Party to enforce any provision of this Agreement shall not constitute a waiver by that party of that provision or of any other provision or provisions of this Agreement.

**XVIII. ENTIRE AGREEMENT**

This Agreement, including all Undertakings executed and delivered by the Joining Parties, constitutes the entire Agreement between the Joining Parties concerning the subject matter of this Agreement and supersedes any and all prior or contemporaneous negotiations or agreements between the Joining Parties, or any of them, whether written or oral, concerning the subject matter of this Agreement which is not fully expressed herein. This Agreement may not be modified or amended except by a writing signed by all Joining Parties.

**JOINING PARTY SIGNATURES**

See various Undertakings, each of which is incorporated into and made part of this Agreement.

**EXHIBITS**

Ex. 1: Form of Undertaking

Ex. 2: Executed DCBS Undertaking

**EXHIBIT 1**

**BUILDING EVALUATION SUPPORT AGREEMENT**

**FORM OF UNDERTAKING**

The undersigned \_\_\_\_\_ hereby:

- 1. Enters into and joins that certain BUILDING EVALUATION SUPPORT AGREEMENT (FIXED TERM), a copy of which is attached hereto as Exhibit A (the "Agreement"), as a Joining Party;
- 2. Represents that it has read and understands the Agreement and all terms and conditions thereof;
- 3. Agrees to comply with and be bound by the Agreement and all terms and conditions thereof; and
- 3. Reaffirms and restates all material assertions, representations, and warranties made by the Joining Parties in the Agreement.

**CONTRACT ADMINISTRATOR**

The undersigned's Contract Administrator for the Agreement is:\*

Name: \_\_\_\_\_ Address: \_\_\_\_\_  
 Title: \_\_\_\_\_  
 Phone: \_\_\_\_\_  
 Email: \_\_\_\_\_ FEIN: \_\_\_\_\_

**NOTICES**

All notices and deliveries (other than payment) to the undersigned under the Agreement should be directed to:\*

Joining Party: \_\_\_\_\_  
 ATTN: \_\_\_\_\_  
 Address: \_\_\_\_\_  
 \_\_\_\_\_  
 Email: \_\_\_\_\_

**PAYMENTS**

All payments to the undersigned under the Agreement should be directed to:\*

Joining Party: \_\_\_\_\_

ATTN: \_\_\_\_\_

Address: \_\_\_\_\_

Email: \_\_\_\_\_

*\*Or as may be otherwise designated in writing and delivered to all Joining Parties.*

The undersigned understands and acknowledges that this undertaking shall not take effect unless and until this undertaking is executed and delivered in accordance with Section I of the Agreement.

IN WITNESS WHEREOF, the undersigned has executed this undertaking and the Agreement as of the date set forth below.

JOINING PARTY:

\_\_\_\_\_

Signature: \_\_\_\_\_

Signature: \_\_\_\_\_

Name: \_\_\_\_\_

Name: \_\_\_\_\_

Title: \_\_\_\_\_

Title: \_\_\_\_\_

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

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

**EXHIBIT 2**

**BUILDING EVALUATION SUPPORT AGREEMENT**

**EXECUTED DCBS FORM OF UNDERTAKING**

The undersigned, Department of Consumer and Business Services, Building Codes Division hereby:

1. Enters into and joins that certain BUILDING EVALUATION SUPPORT AGREEMENT (FIXED TERM), a copy of which is attached hereto as Exhibit A (the "Agreement"), as a Joining Party;
2. Represents that it has read and understands the Agreement and all terms and conditions thereof;
3. Agrees to comply with and be bound by the Agreement and all terms and conditions thereof; and
3. Reaffirms and restates all material assertions, representations, and warranties made by the Joining Parties in the Agreement.

**CONTRACT ADMINISTRATOR**

The undersigned's Contract Administrator for the Agreement is:\*

Name: Michelle Usselman Address: PO Box 14470  
Financial Operations  
Title: Manager Salem, OR 97309-0404  
Phone: 503-378-3755 Email: [Michelle.M.Usselman@dcbs.oregon.gov](mailto:Michelle.M.Usselman@dcbs.oregon.gov)

**NOTICES**

All notices and deliveries (other than payment) to the undersigned under the Agreement should be directed to:\*

Joining Party: DCBS – Building Codes Division  
ATTN: Statewide Services  
Address: PO Box 14470  
Salem, OR 97309-0404  
Email: [BCD.jurisdictionssupport@dcbs.oregon.gov](mailto:BCD.jurisdictionssupport@dcbs.oregon.gov)



**PAYMENTS**

All payments to the undersigned under the Agreement should be directed to:\*

Joining Party: DCBS – Building Codes Division

ATTN: Fiscal Services

Address: PO Box 14470  
Salem, OR 97309-0404

Email: [Fiscal.BCD@dcbs.oregon.gov](mailto:Fiscal.BCD@dcbs.oregon.gov)

*\*Or as may be otherwise designated in writing and delivered to all Joining Parties.*

The undersigned understands and acknowledges that this undertaking shall not take effect unless and until this undertaking is executed and delivered in accordance with Section I of the Agreement.

IN WITNESS WHEREOF, the undersigned, Department of Consumer and Business Services, Building Codes Division has executed this undertaking and the Agreement as of the date set forth below.

**DCBS:**

State of Oregon, Department of Consumer and Business Services, Building Codes Division

Reviewed by:

Executed by:

Signature:   
Dawn Bass (Oct 2, 2024 11:55 PDT)

Name: Dawn Bass

Title: Deputy Administrator

Date: 10/02/2024

Signature: 

Name: Miriha Aglietti

Title: Designated Procurement Officer

Date: 10/03/2024

**State of Oregon Approvals:**

*Approved Pursuant to ORS 279A.140*  
Department of Administrative Services

*Approved Pursuant to ORS 291.047*  
Department of Justice

Signature: Not Required per OAR 125-247-0365(4)

Name: \_\_\_\_\_

Title: \_\_\_\_\_

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

Signature: Approved via email

Name: Jacob Gill

Title: Assistant Attorney General


Date: 09/09/2024



# MEMO

TO: Albany City Council

VIA: Peter Troedsson, City Manager

FROM: Sean Park, Information Technology Director 

DATE: January 22, 2025, for the February 12, 2025, City Council Regular Session

**SUBJECT:** Personnel Change for the Information Technology Department

Relates to Strategic Plan theme: A Safe City, Effective Government

## Action Requested:

Staff recommends that the City Council, by motion, approve the addition of 1.0 FTE Information Technology Business Analyst (A159) effective March 1, 2025.

## Discussion:

As technology plays an increasingly critical role across City operations, staff in various departments often encounter specific challenges and opportunities that could be addressed through technical solutions. However, they may lack the expertise or language to effectively articulate these needs. An IT Business Analyst (ITBA) would act as a bridge between business and IT, translating operational requirements into actionable technical solutions. This role would ensure that the IT department can proactively address the rapidly evolving technology needs of all departments, while leveraging new technologies as well as more efficiently using the systems we have.

The IT department has been operating at full capacity for the past two years and is consistently stretched thin by the dual demands of day-to-day operational tasks (e.g., break/fix issues) and business-driven project work. Despite reorganization and process improvements, with the team focused on maintaining existing systems and addressing immediate priorities, there remains no capacity to explore or implement innovative solutions. This limitation has resulted in missed opportunities to enhance the efficiency and security of services across the organization. It is also a known roadblock for departments eager to move forward with technology-based process improvements in their areas. The sustained increase in workload, coupled with a growing backlog of automation initiatives and security projects, have necessitated the addition of an Information Technology Business Analyst. Human Resources conducted a compensation analysis for this new classification and recommends placement at A159 on the AFSCME salary schedule.

This action was reviewed and approved by Human Resources Director Holly Roten.

## Budget Impact:

No additional budget appropriation is needed. The cost of this position for the remainder of this biennium is approximately \$36,000. With vacancies due to retirements, the addition of this position can be supported in the existing IT budget.

SP



# MEMO

TO: Albany City Council

VIA: Peter Troedsson, City Manager

FROM: Erik Glover, City Recorder

DATE: January 27, 2025, for the February 12, 2025, City Council Regular Session

**SUBJECT:** Summer and Winter 2025 City Council Meeting Schedule

### Discussion:

In 2023, Mayor Alex Johnson II asked staff to consider how to provide a six-week break during the summer months, while remaining compliant with the Albany Charter requirement for two meetings per month.

As the 2025 meeting break schedule was being evaluated, it was noted in discussions that the six-week break was a pain point for some of the time sensitive issues the city deals with during this period. It was instead proposed that this break be split between the summer, and later in the year during December where Council has cancelled the pre-holiday meeting each year for the last several years due to a lack of items on the agenda.

In addition, the Albany City Council meeting schedule for 2025 has several conflicts with adjacencies to federal holidays which require adjustments. It was noted by staff that it would be helpful for workload planning purposes to know those adjustments earlier on. As such, staff worked to outline a proposed schedule that not only accounts for the requested break, but also addresses these holiday conflicts.

Staff is proposing to cancel the second work session, and second regular city council meeting in July 2025. This would provide a four week meeting recess requested during the summer.

Proposed Meeting Schedule Summer 2025:

June							July							August						
S	M	T	W	T	F	S	S	M	T	W	T	F	S	S	M	T	W	T	F	S
1	2	3	4	5	6	7			1	2	3	4	5						1	2
8	9	10	11	12	13	14	6	7	8	9	10	11	12	3	4	5	6	7	8	9
15	16	17	18	19	20	21	13	14	15	16	17	18	19	10	11	12	13	14	15	16
22	23	24	25	26	27	28	20	21	22	23	24	25	26	17	18	19	20	21	22	23
29	30						27	28	29	30	31			24	25	26	27	28	29	30
														31						



Proposed Meeting Schedule November/December 2025:

October							November							December						
S	M	T	W	T	F	S	S	M	T	W	T	F	S	S	M	T	W	T	F	S
			1	2	3	4							1		1	2	3	4	5	6
5	6	7	8	9	10	11	2	3	4	5	6	7	8	7	8	9	10	11	12	13
12	13	14	15	16	17	18	9	10	11	12	13	14	15	14	15	16	17	18	19	20
19	20	21	22	23	24	25	16	17	18	19	20	21	22	21	22	23	24	25	26	27
26	27	28	29	30	31		23	24	25	26	27	28	29	28	29	30	31			
							30													

Staff is proposing to adjust the meeting schedule in November 2025, to the first and third Monday and Wednesday. This alleviates a meeting set occurring with a federal holiday in the middle and having a council meeting adjacent to the Thanksgiving federal holiday.

Staff is also proposing to cancel the second work session, and second regular city council meeting in December 2025. This would provide a four-week winter recess.

If an urgent item of business prompts the need to have a meeting during the summer or winter break periods, staff will provide all the legally required notices to the public.

**Budget Impact:**

No fiscal impacts noted.

**Action Requested:**

Staff recommends that the City Council discuss the proposal and consider an approval, by motion.

Suggested Motion: **I move to approve the adjusted City Council meeting schedule for July 2025, November 2025 and December 2025, as shown in the staff memo.**