

ALBANY CITY COUNCIL

AGENDA

Wednesday, July 08, 2026
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. Adoption of consent agenda

a. Recommendation(s) to OLCC [Page 3-6]

1) Approve OLCC Liquor License Applications Bulk

b. Adoption of resolution(s)

1) Right-of-Way Dedications for Expo Parkway and Timber Street as Conditions of Approval for Land Use Case SP-04-25, Knox Butte Self Storage– Aaron Hiemstra [Pages 7-20]

RES NO. _____

RES NO. _____

MOTION: _____

4. Public hearing(s)

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

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

- a. Public Hearing Regarding Albany Development Code (ADC) amendments to implement new state laws Senate Bill 974, House Bills 2005, 3560 and 4037,2138 (Planning File: DC-02-26) – Anne Catlin [Pages 21-255]

ORD NO. _____

ORD NO. _____

The staff contact for this public hearing is: cd.testimony@albanyoregon.gov

5. Public Comment

6. Action Items(s)

- a. **Ordinances** – An Ordinance Amending AMC Chapter 15.06 Private Construction of Public Improvements to Incorporate SB 974 Requirements - Staci Belcastro [Pages 256-270]

ORD NO. _____

- b. **Resolutions**- Approve agreement with ODOT accepting Local Bridge Program funding for 3rd Ave Calapooia River Bridge preliminary engineering– Staci Belcastro [Pages 271-291]

RES NO. _____

7. Informational Briefings/Staff Reports

- a. Report on automated license plate reader ALPR tech ordinance – Sean Kidd [Verbal]

8. Business from the Council

9. City Manager Reports

10. Next meeting dates

Monday, August 10, 2026; 4:00 p.m. work session

Wednesday, August 12, 2026; 6:00 p.m. meeting

11. 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: cityrecorder@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

FROM: Marcia Harnden, Chief of Police

DATE: June 23, 2026, for the July 8, 2026, City Council Meeting

SUBJECT: Retail On-Premises Sales and Consumption, Liquor License Application for Burger Queen, LLC., DBA Fay's Cafe, Located at 1002 Queen Avenue SW

Action Requested:

I recommend the retail on-premises sales and consumption liquor license application for Burger Queen, LLC., DBA Fay's Cafe, located at 1002 Queen Avenue SW, be approved.

Discussion:

Burger Queen, LLC., has applied for a retail on-premises sales and consumption liquor license. Based on the completed application and approval from the Albany Police Department, Burger Queen, LLC., should be approved for the license.

Budget Impact:

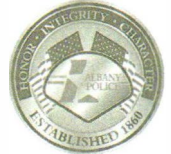
None

ML:rj





MEMO



TO: Albany City Council

VIA: Peter Troedsson, City Manager

A handwritten signature in blue ink, appearing to be "PT", located to the right of the "VIA" line.

FROM: Marcia Harnden, Chief of Police

A handwritten signature in black ink, appearing to be "MH", located to the right of the "FROM" line.

DATE: June 24, 2026, for the July 8, 2026, City Council Meeting

SUBJECT: Retail Off-Premises Sales, Liquor License Application for Discount Cigarette LLC, DBA Discount Cigarette LLC, Located at 2230 Santiam Highway SE

Action Requested:

I recommend the retail off-premises sales, liquor license application for Discount Cigarette LLC, DBA Discount Cigarette LLC, located at 2230 Santiam Hwy SE, be approved.

Discussion:

Discount Cigarette LLC has applied for a retail off-premises sales liquor license. Based on the completed application and approval from the Albany Police Department, Discount Cigarette LLC, should be approved for the license.

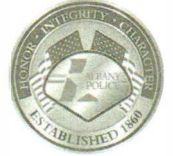
Budget Impact:

None

ML:rj



MEMO



TO: Albany City Council

VIA: Peter Troedsson, City Manager

FROM: Marcia Harnden, Chief of Police

DATE: June 24, 2026, for the July 8, 2026, City Council Meeting

SUBJECT: Retail Off-Premises Sales, Liquor License Application for L&D Retail Management LLC, DBA US Market, Located at 1005 Queen Avenue SW

Action Requested:

I recommend the retail off-premises sales, liquor license application for L&D Retail Management LLC, DBA US Market, located at 1005 Queen Ave SW, be approved.

Discussion:

L&D Retail Management LLC has applied for a retail off-premises sales liquor license. Based on the completed application and approval from the Albany Police Department, L&D Retail Management LLC, should be approved for the license.

Budget Impact:

None

ML:rj



MEMO



TO: Albany City Council

A handwritten signature in blue ink, appearing to be "PT", located to the right of the "TO:" line.

VIA: Peter Troedsson, City Manager

FROM: Marcia Harnden, Chief of Police

Handwritten initials in blue ink, possibly "MH", located to the right of the "FROM:" line.

DATE: June 24, 2026, for the July 8, 2026, City Council Meeting

SUBJECT: Retail Off-Premises Sales, Liquor License Application for L&D Retail Management LLC, DBA US Market, Located at 105 Clover Ridge Road NE

Action Requested:

I recommend the retail off-premises sales, liquor license application for L&D Retail Management LLC, DBA US Market, located at 105 Clover Ridge Rd NE, be approved.

Discussion:

L&D Retail Management LLC has applied for a retail off-premises sales liquor license. Based on the completed application and approval from the Albany Police Department, L&D Retail Management LLC, should be approved for the license.

Budget Impact:

None

ML:rj





TO: Albany City Council

VIA: Peter Troedsson, City Manager
Paul Trombino III, P.E. Public Works Director

FROM: Aaron Hiemstra, P.E. Assistant City Engineer

DATE: June 26, 2026, for the July 8, 2026, City Council Meeting

SUBJECT: Right-of-Way Dedications for Expo Parkway and Timber Street as Conditions of Approval for Land Use Case SP-04-25, Knox Butte Self Storage

Purpose:

Approve a resolution that authorizes the acceptance of right-of-way dedication deeds required to construct public improvements for land use case SP-04-25, Knox Butte Self Storage as required by Conditions 9 and 10 of the Land Use Case SP-04-25 Notice of Decision.

Background/Discussion:

The Knox Butte Self Storage is being developed at 215 Expo Parkway at the end of Expo Parkway. Prior to development, the property frontage was along an undeveloped portion of Expo Parkway with no access to an improved public street. A portion of the right-of-way on the west side of Expo Parkway was dedicated in a previous annexation land use case and the extension of Expo Parkway to the intersection of Dunlap Avenue is shown as project L17 in the 2010 Transportation System Plan. Additionally, towards the east side of the property a planned portion of Timber Street runs north-south within the property from Knox Butte Road to Dunlap Avenue. This planned portion of Timber Street is part of project L18 Timber Street to Somerset Avenue as identified in the 2010 Transportation System Plan.

For the development to occur, the portion of Expo Parkway along the property frontage was required to be improved to city standards under ADC 12.060 as Condition 9 of the land use Notice of Decision and the dedication of the Timber Street right-of-way was required under ADC 12.060 per condition 10 of the land use Notice of Decision. While public improvements were required for Expo Parkway as a condition of approval, it was determined by the city engineer that improvements to the dedicated Timber Street right-of-way were untimely. Therefore, the city is requiring a Petition for Improvement-Waiver of Remonstrance for participation in an assessment district for the improvement of Timber Street through the property as required per condition 13 of the land use Notice of Decision.

Execution of the Expo Parkway dedication deed included as Attachment 2 will provide the portion of right-of-way along the property frontage to develop and extend Expo Parkway per project L17. Execution of the Timber Street dedication deed included as Attachment 4 will provide the right-of-way width for project L18 Timber Street to Somerset Avenue.

Strategic Plan Impact:

Accepting the Expo Parkway right-of-way dedication meets the goals of effective government and providing an efficient transportation system with safe streets and alternative modes of transportation.

Budget/Staff Impact:

None.

Staff Recommendation:

Staff recommends council approve the resolution (Attachment 1) authorizing acceptance of the right-of-way dedication deed (Attachment 2) required to construct improvements for the land use case SP-04-25, Knox Butte Self Storage.

Alternatives:

1. Approve resolution accepting right-of-way dedication from Knox Butte RV Park, LLC.
2. Do not approve resolution accepting right-of-way dedication from Knox Butte RV Park, LLC. Staff notes that the right-of-way dedication and public improvements were a condition of approval of the land use case. Not accepting would halt development of this land use case.

Attachments:

1. Knox Butte RV Park, LLC Expo Parkway Resolution
2. Knox Butte RV Park, LLC Expo Parkway Dedication Deed
3. Knox Butte RV Park, LLC Timber Street Resolution
4. Knox Butte RV Park, LLC Timber Street Dedication Deed



A RESOLUTION ACCEPTING THE FOLLOWING RIGHT-OF-WAY DEDICATIONS

Grantor

Knox Butte RV Park, LLC

Purpose

Accepting a variable width right-of-way dedication as part of land use case SP-04-25, Knox Butte Self Storage.

Tax Lot 11S03W04-AC-00701

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 8TH DAY OF JULY 2026.

Mayor

ATTEST:

City Recorder

DEDICATION DEED

KNOW ALL MEN BY THESE PRESENTS, that KNOX BUTTE RV PARK LLC, 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 \$1.00, 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: KNOX BUTTE RV PARK LLC

Wayne Scheler
Wayne Scheler, Member

Wanda Scheler
Wanda Scheler, Member

STATE OF OREGON)

STATE OF OREGON)

County of Linn) ss.

County of Linn) ss.

City of Albany)

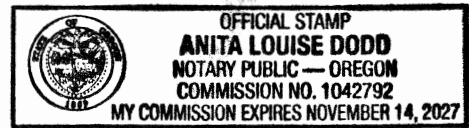
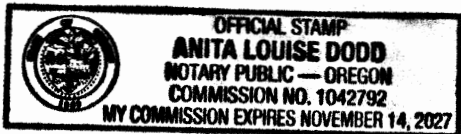
City of Albany)

The foregoing instrument was acknowledged before me this 18 day of June 2026, by Wayne Scheler, Member, as their voluntary act and deed.

The foregoing instrument was acknowledged before me this 18 day of June 2026, by Wanda Scheler, Member, as their voluntary act and deed.

Anita Louise Dodd
Notary Public for Oregon
My Commission Expires: 11-14-27

Anita Louise Dodd
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'

RIGHT OF WAY DEDICATION
TO EXPO PARKWAY

AN AREA OF LAND LOCATED IN THE NORTHEAST QUARTER OF SECTION 4, TOWNSHIP 11 SOUTH, RANGE 3 WEST OF THE WILLAMETTE MERIDIAN, IN LINN COUNTY, OREGON AND BEING MORE SPECIFICALLY DESCRIBED AS FOLLOWS:

COMMENCING AT A 1/2" IRON PIPE, SAID PIPE LIES SOUTH 1927.20 FEET AND WEST 3104.64 FEET OF THE NORTHEAST CORNER OF THE ROBERT HOUSTON DLC NO 38; THENCE SOUTH 89°48'00" EAST, 175.43 FEET TO A POINT MARKING THE SOUTHEAST CORNER OF A TRACT DESCRIBED IN LINN COUNTY DEED 2019-05884, SAID POINT BEING ON THE NORTHERLY RIGHT OF WAY OF EXPO PARKWAY; AND THE TRUE POINT OF BEGINNING;

THENCE SOUTH 89°48'00" EAST ALONG SAID RIGHT OF WAY 10.00 FEET; THENCE NORTHERLY ALONG A CURVE, WHOSE RADIUS IS 410.00 FEET, TO THE RIGHT THROUGH A CENTRAL ANGLE OF 20°47'27" AN ARC DISTANCE OF 148.78 FEET, AND WHOSE CHORD BEARS NORTH 10°22'29" EAST 147.96 FEET; THENCE NORTH 89°44'08" WEST, 37.00 FEET TO A POINT MARKING THE NORTHEAST CORNER OF A CERTAIN TRACT OF LAND DESCRIBED IN LINN COUNTY DEED 2019-05884; THENCE SOUTH 0°08'22" EAST, ALONG THE EAST LINE OF SAID TRACT 145.68 FEET TO THE POINT OF BEGINNING.

ALL THAT AREA CONTAINING 2,758 SQUARE FEET, MORE OR LESS.

REGISTERED
PROFESSIONAL
LAND SURVEYOR

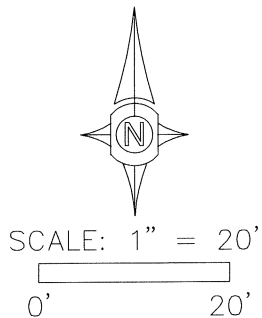
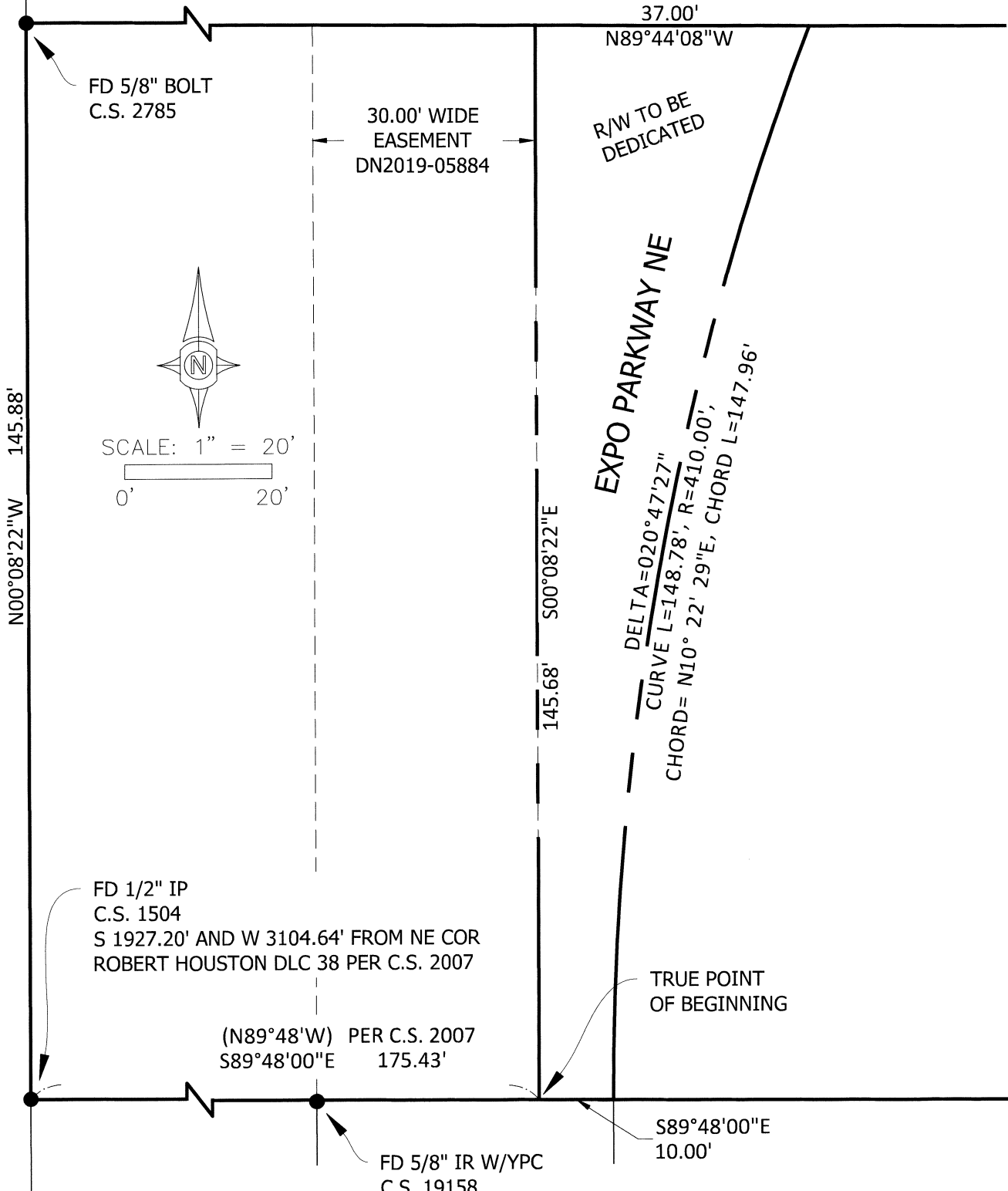
Digitally signed by Kyle Latimer
DN: E=kyle@udelleng.com, CN=Kyle
Latimer, O=Udell Engineering & Land
Surveying, LLC, L=Lebanon, S=Oregon,
SERIALNUMBER=MAS20240227386233,
C=US
Date: 2026.05.21 11:18:03-0700

OREGON
JUNE 12, 2013
KYLE W. LATIMER
80442

RENEWS: 12/31/2026

Udell Engineering & Land Surveying, LLC
63 East Ash Street, Lebanon, OR 97355
Ph: 541-451-5125 • Fax: 541-451-1366

EXHIBIT 'B'



LEGEND

- EXISTING EASEMENT
- - - - - R/W DEDICATION
- FOUND MONUMENT (AS NOTED)
- () RECORD DATA PER C.S. 19441 UNLESS OTHERWISE NOTED
- [] CALCULATED INFORMATION

CS
DLC
R/W
IR

COUNTY SURVEY INDEX NUMBER
DONATION LAND CLAIM
RIGHT OF WAY
IRON ROD



26-010 SCHELER

EXHIBIT C

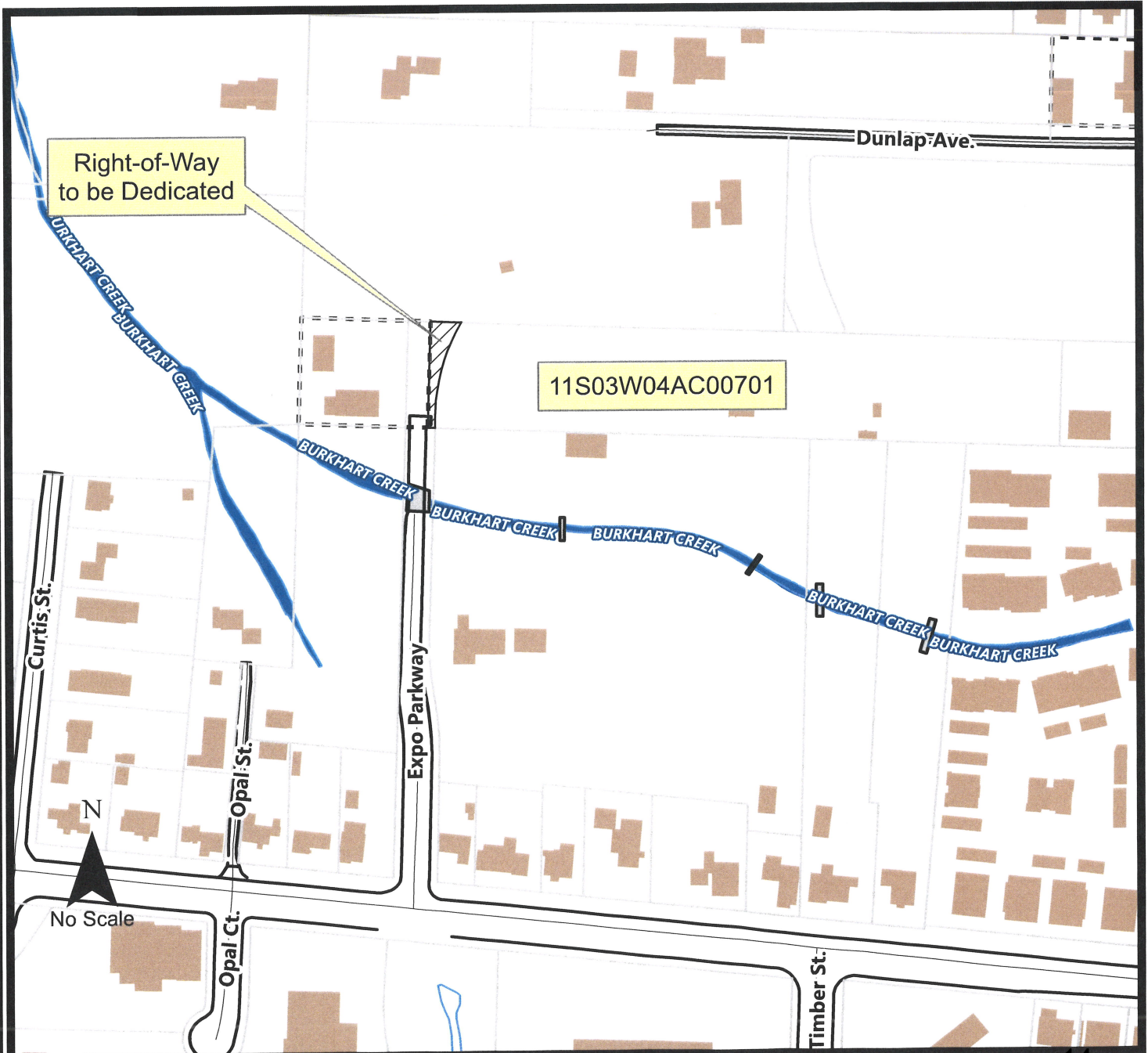
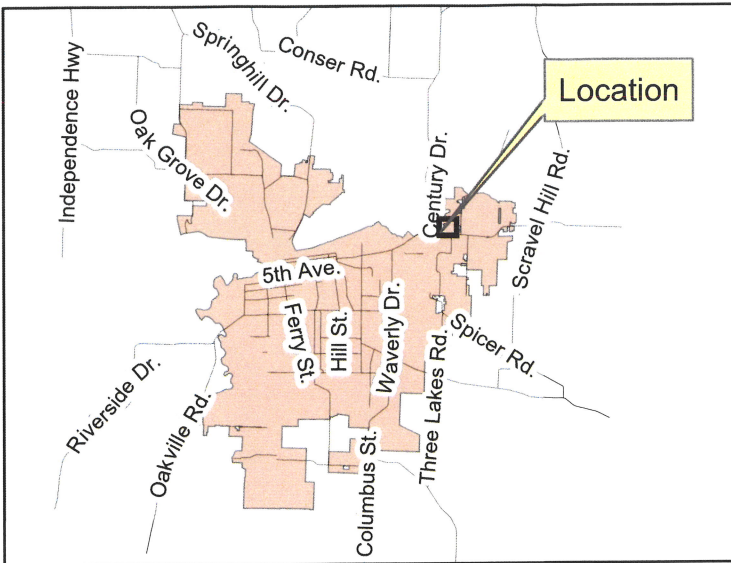
VICINITY MAP

11S03W04AC - 00701

A Right-of-Way Dedication
as part of Project SI-25-29
Knox Butte Self Storage



Geographic Information Services





A RESOLUTION ACCEPTING THE FOLLOWING RIGHT-OF-WAY DEDICATIONS

Grantor

Knox Butte RV Park, LLC

Purpose

Accepting a 60-foot-wide right-of-way dedication as part of land use case SP-04-25, Knox Butte Self Storage.

Tax Lot 11S03W04-AC-00701

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 8TH DAY OF JULY 2026.

Mayor

ATTEST:

City Recorder

DEDICATION DEED

KNOW ALL MEN BY THESE PRESENTS, that KNOX BUTTE RV PARK LLC, 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 \$1.00, 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.

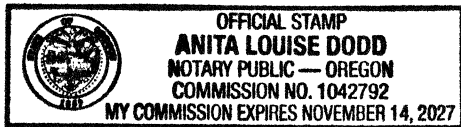
GRANTOR: KNOX BUTTE RV PARK LLC

Wayne Scheler
Wayne Scheler, Member

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

The foregoing instrument was acknowledged before me this 18 day of June 2026, by Wayne Scheler, Member, as their voluntary act and deed.

Anita Louise Dodd
Notary Public for Oregon
My Commission Expires: 11-14-27

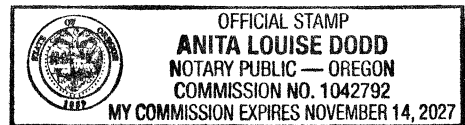


Wanda Scheler
Wanda Scheler, Member

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

The foregoing instrument was acknowledged before me this 18 day of June 2026, by Wanda Scheler, Member, as their voluntary act and deed.

Anita Louise Dodd
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'

RIGHT OF WAY DEDICATION
TO TIMBER STREET NE

AN AREA OF LAND LOCATED IN THE NORTHEAST QUARTER OF SECTION 4, TOWNSHIP 11 SOUTH, RANGE 3 WEST OF THE WILLAMETTE MERIDIAN, IN LINN COUNTY, OREGON AND BEING MORE SPECIFICALLY DESCRIBED AS FOLLOWS:

COMMENCING AT A 1/2" IRON PIPE, SAID PIPE LIES SOUTH 1927.20 FEET AND WEST 3104.64 FEET OF THE NORTHEAST CORNER OF THE ROBERT HOUSTON DLC NO 38; THENCE SOUTH 89°48'00" EAST, 701.87 FEET TO A POINT ON THE SOUTH LINE OF A TRACT DESCRIBED IN LINN COUNTY DEED INSTRUMENT 2012-06018; AND THE TRUE POINT OF BEGINNING;

THENCE SOUTH 89°48'00" EAST, ALONG THE SOUTH LINE OF SAID TRACT, 60.00 FEET; THENCE NORTH 0°05'45" WEST, 0.93 FEET; THENCE NORTHERLY ALONG A CURVE TO THE LEFT WHOSE RADIUS IS 430.00 FEET, THROUGH A CENTRAL ANGLE OF 19°36'00" AN ARC DISTANCE OF 147.10 FEET, AND A CHORD WHICH BEARS NORTH 09°53'45" WEST 146.38', TO A POINT ON THE SOUTHEAST-MOST CORNER OF TIMBER STREET NE RIGHT OF WAY DESCRIBED IN LINN COUNTY DEED INSTRUMENT 2015-01360; THENCE NORTH 89°44'16" WEST, 64.53 FEET ALONG SAID RIGHT OF WAY THE SOUTHWEST-MOST CORNER OF SAID RIGHT OF WAY; THENCE DEPARTING SAID RIGHT OF WAY SOUTHERLY ALONG SAID CURVE TO THE RIGHT, WHOSE RADIUS IS 370.00 FEET, THROUGH A CENTRAL ANGLE OF 23°00'47" AN ARC DISTANCE OF 148.61 FEET, AND A CHORD WHICH BEARS SOUTH 11°36'09" EAST 147.62 FEET; THENCE SOUTH 0°05'45" EAST, 0.62 FEET TO THE TRUE POINT OF BEGINNING;

SAID AREA CONTAINING 8,915 SQUARE FEET, MORE OR LESS.

REGISTERED
PROFESSIONAL
LAND SURVEYOR

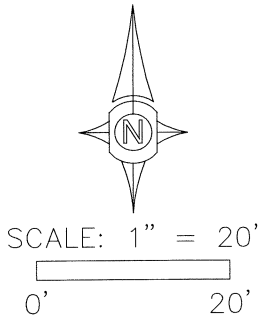
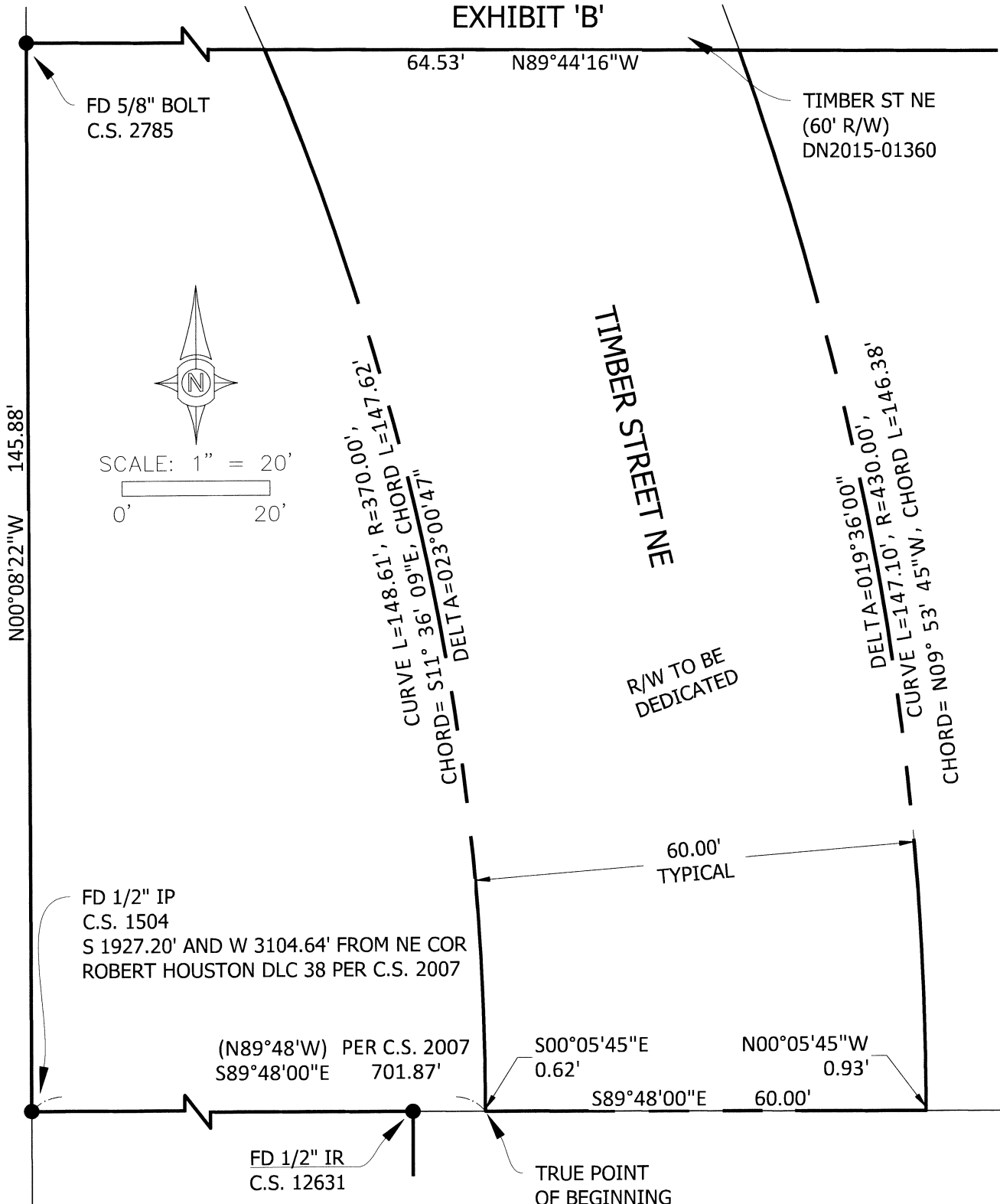
Kyle Latimer
Digitally signed by Kyle Latimer
DN: E=kyle@udelleng.com, CN=Kyle
Latimer, O=Udell Engineering & Land
Surveying, LLC, L=Lebanon, St=Oregon,
SERIALNUMBER=MAS20240227335233,
C=US
Date: 2026.05.21 11:16:25 -0700

OREGON
JUNE 12, 2013
KYLE W. LATIMER
80442

RENEWS: 12/31/2026

Udell Engineering & Land Surveying, LLC
63 East Ash Street, Lebanon, OR 97355
Ph: 541-451-5125 • Fax: 541-451-1366

EXHIBIT 'B'



N00°08'22"W 145.88'

64.53' N89°44'16"W

FD 5/8" BOLT
C.S. 2785

TIMBER ST NE
(60' R/W)
DN2015-01360

TIMBER STREET NE

R/W TO BE
DEDICATED

CURVE L=148.61', R=370.00',
CHORD L=147.62'
CHORD= 511° 36' 09"E, DELTA=023°00'47"

DELTA=019°36'00"
CURVE L=147.10', R=430.00',
CHORD L=146.38'
CHORD= N09° 53' 45"W

FD 1/2" IP
C.S. 1504
S 1927.20' AND W 3104.64' FROM NE COR
ROBERT HOUSTON DLC 38 PER C.S. 2007

60.00'
TYPICAL

(N89°48'W) PER C.S. 2007
S89°48'00"E 701.87'

S00°05'45"E
0.62'

N00°05'45"W
0.93'

S89°48'00"E 60.00'

FD 1/2" IR
C.S. 12631

TRUE POINT
OF BEGINNING

LEGEND

- EXISTING EASEMENT
- - - - - R/W DEDICATION
- FOUND MONUMENT (AS NOTED)
- () RECORD DATA PER C.S. 19441 UNLESS OTHERWISE NOTED
- [] CALCULATED INFORMATION

C.S. COUNTY SURVEY INDEX NUMBER
DLC DONATION LAND CLAIM
R/W RIGHT OF WAY
IR IRON ROD



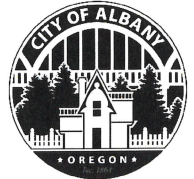
26-010 SCHELER

EXHIBIT C

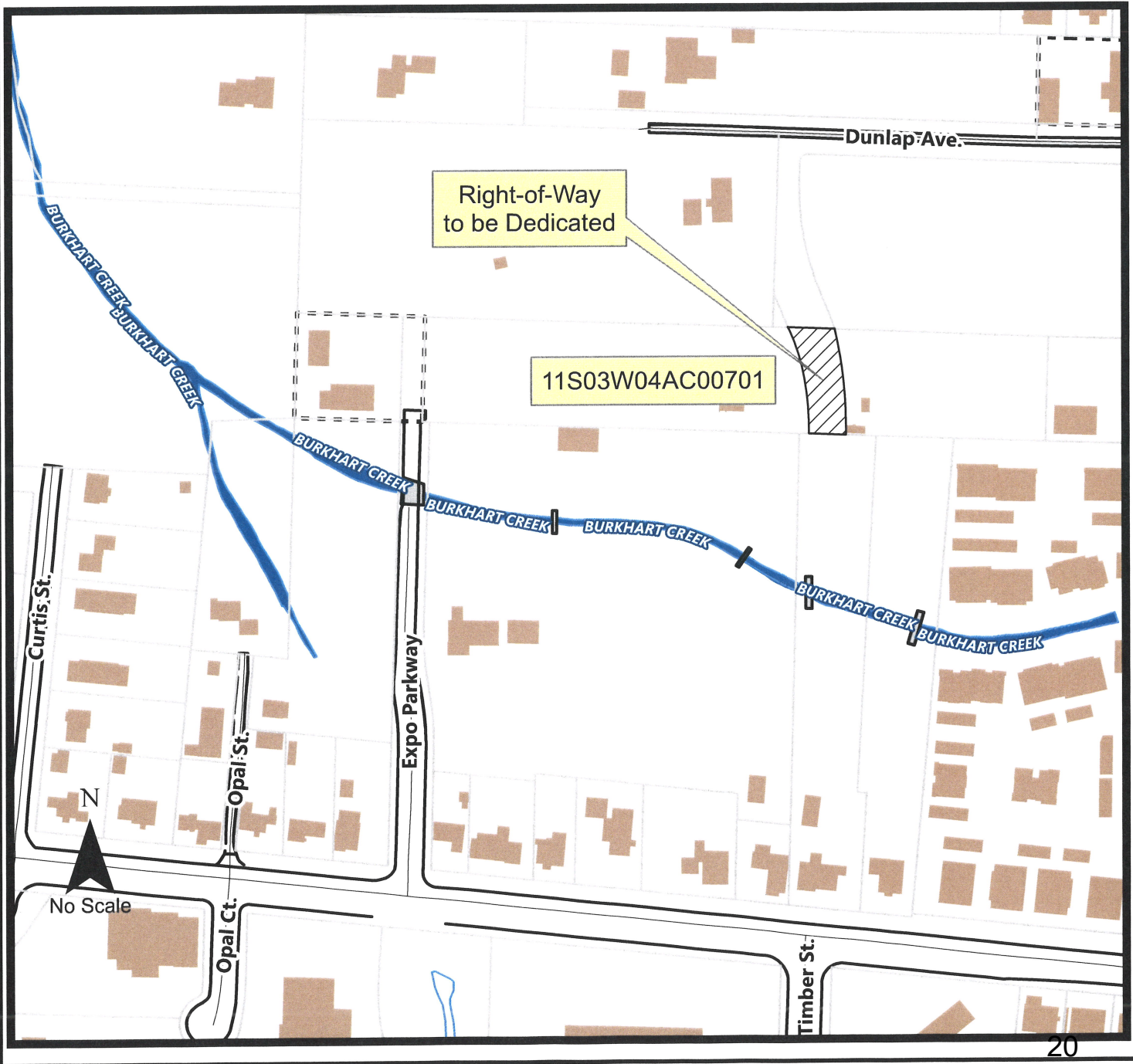
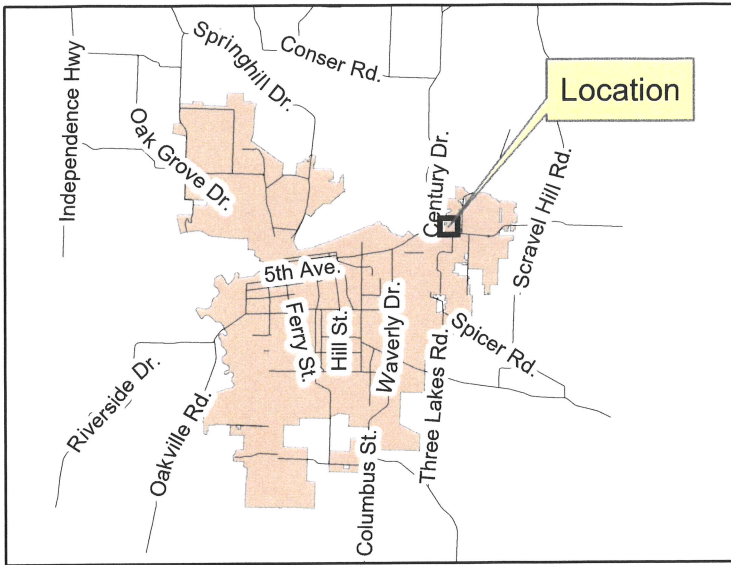
VICINITY MAP

11S03W04AC - 00701

A Right-of-Way Dedication
as part of Project SI-25-29
Knox Butte Self Storage



Geographic Information Services





TO: Albany City Council

VIA: Peter Troedsson, City Manager

FROM: Anne Catlin, Comprehensive Planning Manager
Matthew Ruetters, Community Development Director

DATE: June 26, 2026, for the July 8, 2026, City Council Meeting

SUBJECT: Public Hearing Regarding Albany Development Code (ADC) amendments to implement new state laws (Planning File: DC-02-26)

Purpose:

Staff request that the city council hold a public hearing, deliberate, and adopt the proposed legislative amendments to the ADC in the two attached ordinances as presented or modified by the council.

Background/Discussion:

On July 8, 2026, the city council will hold a public hearing regarding the legislative ADC amendments as described in Exhibit A of the two attached ordinances. The staff report findings and conclusions are found in the attached staff report, which is also Exhibit B to each ordinance.

Two ordinances are provided due to the later compliance deadline for House Bill 2138 (January 1, 2027), which is Ordinance #2.

Ordinance #1: Includes amendments to comply with Senate Bill 974, and House Bills 2005, 3560 and 4037, which are in effect or will be soon. Specifically, this ordinance would amend ADC Articles 1, 2, 3, 4, 5, 6, 8, 9, 11, 12, and 22 to:

- Modify the land use notice areas and process levels for residential developments;
- Allow residential care or treatment homes and facilities, licensed crisis stabilization centers and mental or psychiatric hospitals in more zones through a staff level Type I-L land use process; and
- Allow child care facilities in medium and higher density zones through a staff level Type I-L land use process.

Ordinance #2: Includes the following middle and infill housing related amendments to ADC Articles 3, 8, 11 and 22 to comply with House Bill 2138 by January 1, 2027:

- Amend the duplex, triplex, and fourplex definitions to allow both attached and detached units in any configuration;
- Allow middle housing on lots with existing single dwelling unit with an accessory dwelling unit (ADU) or a duplex and allow one ADU per middle housing development; and

- Allow middle housing bonus units when one or more middle housing unit is either accessible and/or affordable.

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

On June 15, 2026, the planning commission held an advertised public hearing. No testimony was provided. The planning commission recommended the city council approve the proposed amendments as presented in the two ordinance exhibits.

Strategic Plan Impact:

Effective Government

Budget/Staff Impact:

None.

Staff Recommendation:

Approve the proposed ADC amendments, as described in the attached ordinances.

Council Options:

City council has two options with respect to the proposed ordinances that would amend the ADC:

- Option 1: Approve the proposed ADC amendments as presented in the two ordinances; or
- Option 2: Approve the proposed ADC amendments in the one or both ordinances as modified.

If the city council accepts the planning commission recommendation, the following motion is suggested **for each ordinance**, following a first and second reading of each ordinance in title only.

Motion to Adopt Ordinance #1/Ordinance #2

I MOVE that the city council ADOPT [Ordinance #1 or Ordinance #2] to amend the Albany Development Code as detailed in ordinance Exhibit A and further described in the staff report findings and conclusions in ordinance Exhibit B for planning file DC-02-26. This motion is based on the findings and conclusions in the ordinance Exhibit B, and findings in support of the decision made by the city council during deliberations on this matter.

Attachments:

1. Exhibit B DC-02-26 Staff Report (Same for both Ordinances)
2. Ordinance #1
3. Ordinance #2



COMMUNITY DEVELOPMENT

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

Staff Report

Albany Comprehensive Plan Map, Zoning Map and Development Code Amendments

Planning File: DC-02-26

June 8, 2026

HEARING BODIES:	Planning Commission	City Council
HEARING DATES:	Monday, June 15, 2026	Wednesday, July 8, 2026
HEARING TIMES:	5:15 p.m.	6:00 p.m.
HEARING LOCATION:	Council Chambers, Albany City Hall, 333 Broadalbin Street SW	
VIRTUAL OPTIONS:	Instructions to attend the hearings and provide comments will be provided on the applicable agenda.	

STAFF REPORT PREPARED BY: Anne Catlin, Comprehensive Planning Manager

Application Information

- Proposal: The proposed legislative amendments would amend the Albany Development Code (ADC) Articles 1, 2, 3, 4, 5, 6, 8, 9, 11, 12 and 22 to comply with land use legislation adopted in the 2025 and 2026 Legislative sessions including Senate Bill 974 (SB 974), and House Bills (HB) 2005, 2138, 3560 and 4037 which relate to notice areas and review and appeals processes for most residential developments, changes to allow middle housing in any configuration and bonus units when accessible or affordable units are provided, and siting of residential treatment and child care centers, crisis stabilization centers, and mental or psychiatric hospitals. Minor clarifying amendments are also proposed.
- Applicant: Albany Community Development Department, 333 Broadalbin Street SW, Albany, OR 97321
- Location: Legislative amendments and other citywide changes that are not property specific

Overview

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



Summary of Proposed Changes (DC-02-26)

The City of Albany is proposing to amend the Albany Development Code (ADC) The proposed amendments are attached as Exhibits A and B and summarized below. In the exhibits, proposed new text is shown in blue underline print and proposed deleted text is in ~~black strike-out font~~.

Commentary boxes in the attached exhibits provide context for the proposed amendments. Should the proposed amendments be approved, the text boxes with the explanations will be removed and the approved amendments made part of the ADC.

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

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

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

- **Article 3, Residential Zoning Districts:** Changes to allow middle housing on lots with single dwelling unit with or without an accessory dwelling unit (ADU), or a duplex; allow one ADU per middle housing development; and allow middle housing bonus units when one or more middle housing unit is affordable or accessible.

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

Notice Information

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

- Notice was provided to the Oregon Department of Land Conservation and Development (DLCD) on May 11, 2026, 35 days before the first evidentiary hearing, in accordance with Oregon Administrative Rule (OAR) 660-018-0020 and the ADC.
- Notice of the proposed amendments was emailed on June 2, 2026, to Linn County, Benton County, and the North Albany Neighborhood Association.
- Notice of the public hearings was published in the *Albany Democrat-Herald* on May 30, 2026, at least two weeks before the first public hearing on June 15, 2026.

As of the date of this report, the Community Development Department has not received any written testimony.

Analysis of Development Code Criteria

The ADC includes the following review criteria in Section 2.290, which must be met for these legislative amendments to be approved. Code criteria are written in ***bold italics*** and are followed by findings and conclusions.

Development Code Amendments Review Criteria (ADC 2.290)

Criterion 1: The proposed amendments better achieve the goals and policies of the Comprehensive Plan than the existing language.

Findings of Fact

- 1.1 The Albany Development Code serves as the principal vehicle for implementing the Comprehensive Plan.
- 1.1 The Comprehensive Plan defines a goal as, “a general statement indicating a desired end, or the direction the city will follow to achieve that end.”
- 1.2 The Comprehensive Plan defines a policy as, “a statement identifying a course of action or City position.”
- 1.3 The Comprehensive Plan (Plan and CP) describes the City’s obligation regarding policies as follows: “The City must follow relevant policy statements in making a land use decision or show cause why the Comprehensive Plan should be amended consistent with statewide goals. Such an amendment must take place following prescribed procedures prior to taking a land use action that would otherwise violate a Plan policy. However, in instances where specific Plan policies appear to be conflicting, the City must seek solutions that maximize each applicable policy objective within the overall content of the Comprehensive Plan and in a manner consistent with statewide goals. In

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

- 1.4 The applicable Albany Comprehensive Plan and Statewide Planning goals and policies are provided in **bold** print are included in the “findings of fact” sections of the report.
- 1.5 The proposed legislative amendments would amend the Albany Comprehensive Plan Map, the Zoning Map and Albany Development Code to make minor amendments related to the recently adopted Climate Friendly Areas including reducing the noise corridor setbacks and providing exceptions in CFAs; adding maximum block and perimeter length as required by the Climate Friendly and Equitable Communities rules, adding a new review criterion for development to be compatible with the Comprehensive Plan and relevant adopted plans, and a few other minor amendments.

STATEWIDE PLANNING GOAL 1: CITIZEN INVOLVEMENT. To develop a citizen involvement program that ensures the opportunity for citizens to be involved in all phases of the planning process.

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

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

- 1.6 Community engagement around housing needs has been ongoing since the state passed House Bill 2001 in 2019 that required cities over 25,000 in population to allow middle housing. Engagement was initially focused on middle housing through the “Housing Options” project that was underway between 2020-2021. The city then sought engagement through development of the Housing Implementation Plan between 2021 and 2023 when the plan was adopted. Engagement around housing and commercial needs occurred through the identification and adoption of Albany’s climate friendly areas between 2023 and 2025.
- 1.7 Most of the legislative amendments contained in this packet are changes needed to comply with state laws, which have limited flexibility in how the city can choose to comply with the laws.
- 1.8 Public notice regarding the Planning Commission and City Council hearings was provided in accordance with ADC Section 1.260. Specifically, notice was sent to DLCD on May 11, 2026; notice was published in the Albany Democrat Herald on May 30, 2026; and the hearings notice was emailed to Linn County, Benton County and the North Albany Neighborhood Association on June 2, 2026.
- 1.9 Public hearings are part of the public involvement process. Two public hearings are scheduled – June 15, 2026 (planning commission), and July 8, 2026 (city council).
- 1.10 The proposed legislative amendments were posted on the city’s Planning Projects webpage on June 5, 2026.

STATEWIDE PLANNING GOAL 2: LAND USE PLANNING. To establish a land use planning process and policy framework as a basis for all decisions and actions related to the use of land and to assure an adequate factual basis for such decisions. (CP Chapter 9: Land Use Planning)

Goal: Undertake Periodic Review and Update of the Albany Comprehensive Plan to ensure the Plan:

- 1. Remains current and responsive to community needs.**
- 2. Retains long-range reliability.**
- 3. Incorporates the most recent and reliable information.**

4. Remains consistent with state laws and administrative rules.

Policy 2: Base approval of Comprehensive Plan amendments upon consideration of the following:

Conformance with goals and policies of the Plan,

Citizen review and comment,

Applicable Statewide Planning Goals,

Input from affected governmental units and other agencies,

Short - and long-term impacts of the proposed change,

Public need for the change, and

The amendments will best meet the identified public need versus other available alternatives.

- 1.11 The proposed amendments to the Albany Development Code are needed to comply with land use legislation adopted in the 2025 and 2026 Oregon Legislative sessions including Senate Bill 974, and House Bills 2005, 2138, 3560 and 4037.
- 1.12 Findings 1.6 through 1.10 relating to citizen review and input from affected governmental units and agencies are incorporated here.
- 1.13 The proposed ADC amendments are intended to remove barriers and process to needed housing to comply with Statewide Planning Goal 10.
- 1.14 The amendments to reduce the process and/or allow the childcare and mental and psychiatric care facilities in more places directly respond to a state-identified public need for the changes.
- 1.15 These legislative amendments will have little to no impact on development in the short or long term, as the changes are minor adjustments to allowed uses and standards.

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

- 1.16 The proposed amendments to comply with 2025 and 2026 state legislation will reduce the land use process for most housing developments, which support the following CP goals and policies related to meeting the city's housing needs:
- **Provide a variety of development and program opportunities that meet the housing needs of all Albany residents.**
 - **Create a city of diverse neighborhoods where residents can find and afford the values they seek.**
 - **Provide the opportunity for a wider range of rental and ownership housing choices and encourage innovation in housing types, densities, lot sizes and design to promote housing alternatives.**
 - **Encourage residential development on already serviced residential vacant lots or in areas where services are available or can be economically provided.**
 - **Encourage the development of accessible, affordable, and lower-cost housing in a range of types and appropriate sizes to meet Albany's housing needs.**
 - **Encourage senior housing developments and care facilities to locate in or near Village Centers for improved access to goods, services, and public transportation.**
- 1.17 Albany's [2020 Buildable Land Inventory \(BLI\)](#) and the [2020 Housing and Residential Land Needs Analysis \(HNA\)](#) were adopted November 2, 2020. The HNA reflects the coordinated population forecast prepared by the Oregon Population Forecast Program at the Population Research Center at Portland State University (PSU) in 2017 that projects Albany will experience an annual average growth rate (AAGR) of 1.27 percent to 2040. The HNA was based on the 20-year need assessment requirements of ORS and OAR 660 Division 8 for statewide planning Goal 10, Housing. It projected

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

- 1.18 Projected Housing Unit Need. The HNA found Albany is projected to add between 6,700 and 9,300 new households between 2020 and 2040. The analysis calculated Albany will need 1,328 acres to accommodate projections to 2040 in a mix of low-, medium- and high-density housing types and zoning districts. The 2020 BLI estimated the city had 1,397 buildable acres for residential development within the city limits and 1,278 acres in the urban growth boundary for residential development.
- 1.19 Since the 2020 HNA was adopted, the city has removed obstacles to housing development including removing density caps in the medium and high density zones and adding minimum densities in these zones, middle housing developments are increasing in former single dwelling unit zones, and the City adopted 6 CFAs where residential development is permitted where it may not have been previously and is projected to accommodate between 12,000 and almost 16,000 units at full build out and heights. These changes should need less land to accommodate housing projections in the 2020 HNA.
- 1.20 Reduced 2040 Population Forecast - a newer 2025 PSU population forecast reduced Albany's 2040 population from 71,985 to 68,636. Albany's 2050 population projection is 72,961, about the same as the 2017 2040 population projection. Assuming a similar household size, Albany may not need as many housing units as initially projected by 2040.
- 1.21 The ADC amendment proposals to comply with HB 2138 that will allow middle housing on single dwelling unit lots with an accessory dwelling unit (ADU) or a duplex; allow one ADU per middle housing development; and allow middle housing bonus units when one or more middle housing units is affordable or accessible may promote infill development on already serviced lots, provide more accessible and affordable housing and more alternative housing options to meet Albany's housing needs.
- 1.22 The proposed HB 2138 and amendments to allow residential treatment homes and facilities in more places to comply with HB 2005 may encourage these needed housing types and options.
- 1.23 Reducing the land use process for most residential developments may encourage more variety in housing types to address the city's housing needs and may promote the development of compact infill for the efficient use of land and infrastructure.

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

- 1.24 The proposed ADC changes to reduce the land use process to promote residential development and to encourage middle housing and infill development support the following CP urbanization goals and policies.
 - **Promote infill development and redevelopment throughout the city.**
 - **Encourage the use of already serviced vacant and underdeveloped land through adaptive reuse and redevelopment.**
 - **Encourage compact, mixed use, and multi-story developments that support walkability, reduce auto-dependency for access to goods and services, and promote efficient use of land and public infrastructure.**

Conclusions: Development Code Amendment Criterion 1

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

Criterion 2: The proposed amendments are consistent with Development Code policies on purpose and with the purpose statements for the base zone, special purpose districts, or development regulation where the amendment is proposed.

Findings of Fact

- 2.1 **Article 1, Administration and Procedures.** The purpose of this article is to establish a framework for reviewing and processing land use applications, legislative proposals, and ministerial (staff) actions. Amendments would modify the land use notice areas and process level for residential development types to comply with HB 4037 and SB 974. Changes to the neighborhood meeting process and procedures are proposed to match the land use application type.
- 2.2 **Article 2, Review Criteria.** This article provides the review criteria the city uses to evaluate land use proposals to ensure they comply with the city's development standards and city infrastructure plans. Amendments would reduce the land use process for residential up zonings, residential Planned Developments, and residential adjustment or variance applications to comply with SB 974.
- 2.3 **Article 3, Residential Zoning Districts.** This article establishes standards for development in Albany's residential zones. Changes to the Schedule of Permitted Uses are needed to comply with HB 2005 which requires cities to allow residential treatment homes and facilities and crisis stabilization center and mental or psychiatric hospitals without requiring a conditional use permit or zone change in certain areas. A few other minor amendments are proposed regarding the size of accessory buildings before triggering a land use review, and review level for certain home businesses.
- 2.4 **Article 4, Commercial and Industrial Zoning Districts.** This article establishes standards for development in Albany's commercial and industrial zones. Changes to the Schedule of Permitted Uses are needed to comply with HB 2005 and HB 3560 which requires cities to allow residential treatment homes and facilities and crisis stabilization center and mental or psychiatric hospitals and child care centers in commercial and industrial zones, excluding the HI zone, without requiring a conditional use permit or zone change. The Transit District (TD) zone, which was never applied within the city, is being removed from this article.
- 2.5 **Article 5, Mixed Use Zoning Districts.** This article establishes Albany's mixed-use zones originally concentrated in the downtown area, but that now exist in other areas of the city where compact mixed-use development is desired. Amendments are needed to comply with HB 2005 which requires cities to allow residential treatment homes and facilities and crisis stabilization center and mental or psychiatric hospitals without requiring a conditional use permit or zone change.
- 2.5 **Article 11, Land Divisions and Planned Developments.** The purpose of this article is to provide standards for land divisions. Changes would reduce the process for residential planned developments to comply with SB 974. Modify the Middle Housing Land Division (MHLD) process to allow MHLDs to be reviewed concurrently with the standard land division that creates the "parent"

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

- 2.6 **Article 22 Use Categories and Definitions.** Middle housing definitions are being modified to allow both attached and detached middle housing developments in any configuration and the density calculations for Single Room Occupancy developments are changing to comply with HB 2138.
- 2.7 Minor clarifying or consistency amendments are proposed in Articles 6, 8, 9 and 12 that do not affect existing development standards or policies.

Conclusions: Development Code Amendment Criterion 2

- 2.1 The proposed legislative amendments to comply with new laws are consistent with purposes of the ADC and where policy changes are proposed in Articles 1, 2, 3, 4, 5, 8, 11 and 22.
- 2.2 Based on the above analysis, this criterion is satisfied.

Overall Conclusions

Based on the analysis in this report, the proposed Development Code amendments meet the applicable review criteria.

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

Option 1: Recommend that the City Council approve the amendment requests as presented; or

Option 2: Recommend the City Council approve the proposed amendments as modified by the Planning Commission.

Recommended Motion

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

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

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

Attachments

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

Exhibit B: House Bill 2138 Middle Housing Development Code Amendments

Acronyms

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



ORDINANCE NO. _____

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

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

WHEREAS, in 2025 and 2026, the Oregon Legislature adopted Senate Bill 974 and House Bills 2005, 3560 and 4037 which modified the notice areas and the land use and appeals processes for most residential developments, and made changes to the siting of residential treatment, child care centers, crisis stabilization centers, and mental or psychiatric hospitals; and

WHEREAS, the proposed legislative amendments to the ADC are needed to comply with these new laws, many of which are effective July 1, 2026; and

WHEREAS, the Albany Planning Commission and Albany City Council held a work session on April 13, 2026 to review the proposed legislative amendments; and

WHEREAS, notice of the amendments were provided to the Oregon Department of Land Conservation and Development on May 11, 2026; and

WHEREAS, a notice of the planning commission and city council public hearings was published in the Albany Democrat-Herald on May 30, 2026; and

WHEREAS, a notice of public hearings was emailed to Benton County, Linn County, and the North Albany Neighborhood Association on June 2, 2026; and

WHEREAS, on June 15, 2026, the Albany Planning Commission held a public hearing regarding the proposed amendments, deliberated, and recommended approval based on findings of fact presented in the June 8, 2026 staff report; and

WHEREAS, on July 8, 2026, the Albany City Council held a public hearing on the proposed Development Code 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 Articles 1, 2, 3, 4, 5, 6, 8, 9, 11, 12, and 22 are to be amended as described in Exhibit A (planning file DC-02-26).

Section 2: The findings of fact and conclusions included in the June 8, 2026 staff report and attached as Exhibit B are hereby adopted in support of the decision.

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

Passed by the Council: _____

Approved by the Mayor: _____

Effective Date: _____

Mayor

ATTEST:

City Recorder

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

Staff Comments: The proposed changes to this article are to comply with House Bill 4037 (2026) and Senate Bill 974 (2025), which modify the land use notice areas and process level for residential development types. Related changes to the neighborhood meeting process and procedures are also proposed. The full Article and [Albany Development Code](#) are located online.

ARTICLE 1¹ 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 the General Administration Sections 1.010 through 1.095 so they are not shown.*****

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

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

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

LAND USE REVIEW PROCEDURES GENERALLY

1.100 Applicability of Review Procedures. Except for those activities and developments listed in Section 1.105, all land use and development permit decisions will be made by using the procedures contained in this Article. The procedure "type" assigned to each application governs the decision-

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

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

making process for that permit or application. There are six types of permit/application procedures as described in subsections (1) through (6) below. Table 1.100-1 lists the City's land use and development applications and corresponding review procedure(s).

- (1) Type I Procedure (Ministerial Staff Review). A Type I procedure is used in applying City land use standards and criteria that do not require the use of discretion, interpretation, or the exercise of policy or legal judgment (i.e., clear and objective standards). Type I decisions are made by the Director without public notice and without a public hearing. Appeals of Type I decisions are to Circuit Court under writ of review.
- (2) Type I-L Procedure (Staff Review with Notice). A Type I-L procedure is used for some tentative plats and when applying discretionary land use standards that regulate the physical characteristics of a use which is permitted outright. Type I-L decisions are made by the Director and require public notice and an opportunity for appeal to a local hearing body, except residential applications may only be appealed by the applicant. With the exception of Historic Resource decisions which are appealed to the Landmarks Commission, appeals of Type I-L decisions are heard by the Planning Commission.
- (3) Type II Procedure (Staff Review with Notice of Decision). A Type II procedure is used when the land use standards and criteria require some discretion, interpretation, or policy or legal judgment. The Director is the person designated in accordance with ORS 227.175 to make Type II decisions. Type II decisions require public notice and an opportunity for appeal to a local hearing body. With the exception of Historic Resource decisions which are appealed to the Landmarks Commission, appeals of Type II decisions are heard by the Planning Commission. Type II zoning map amendments to increase density, residential and mixed-use residential planned developments, and adjustments or variances to a residential standard are not subject to the hearing and notice requirements of ORS 197.797. The City is not required to provide a public hearing if the City provides a copy of the written notice of the application to the Department of Land Conservation and Development in the manner provided by ORS 197.610 and 197.615.
- (4) Type III Procedure (Quasi-Judicial Review—Public Hearing). A Type III procedure is used when the land use standards and criteria require discretion, interpretation, policy or legal judgment or for large projects. Quasi-Judicial decisions implement established policy but typically involve discretion. Type III decisions are made by the Planning Commission, Hearings Board or Landmarks Commission and require public notice and a public hearing, with an opportunity for appeal to the City Council.
- (5) Type IV-Q Procedure (Quasi-Judicial Review—City Council Public Hearing). The Type IV-Q procedure is used when the land use standards and criteria require discretion, interpretation, or policy or legal judgment and is the procedure used for site-specific land use actions initiated by an applicant. The application is heard by the Planning Commission, Hearings Board, or Landmarks Commission. If the recommending body makes a favorable recommendation, the City Council will hold a hearing and make a final decision. If the Planning Commission, Hearings Board, or Landmarks Commission recommends against a proposal, the City Council will only consider the proposal on appeal by the applicant. Appeal of the City Council's Type IV-Q decisions are heard by the state Land Use Board of Appeals.
- (6) Type IV-L Procedure (Legislative Review). Legislative review procedures are used to review proposals to amend the Albany Comprehensive Plan, the City's land use regulations, and large-scale changes to the Comprehensive Plan or Plan Maps, and involve the creation, revision, or implementation of broad public policy. Legislative proposals are first considered by the Planning Commission, which makes a recommendation to City Council. City Council makes

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

the final decision on a legislative proposal through the enactment of an ordinance. Appeals of legislative decisions are heard by the state Land Use Board of Appeals.

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

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

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

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

Table 1.100-1 – Procedure by Application Type

Application / Action	Procedure Type	Decision Body	Pre-App Conference Required	Neighborhood Mtg Req.	Applicable Section
<u>Adjustments</u>					
• Adjustments <u>Non-residential</u>	III	HB or PC	No	No	2.070
• <u>Residential</u>	<u>II</u>	CDD	<u>No</u>	<u>No</u>	<u>2.070</u>
Annexations					
• Annexations mandated by state law	I	CDD	No	No	2.095
• All other annexations	IV-Q and IV-L	See 2.095	Yes	No	2.095
Comprehensive Plan and Map Amendments					
• Quasi-Judicial	IV-Q	PC or CC	Yes	No	2.210
• Legislative	IV-L	CC	Yes*	No	2.210
• Corrections to Comp Plan map	I	CDD	No	No	2.225
Conditional Use	II or III	CDD HB or PC	Yes	See 1.140	2.240
Development Code Amendments					
• Corrections to Development Code	I	CDD	No	No	2.280
• All other amendments	IV-L	CC	Yes*	No	2.280

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Application / Action	Procedure Type	Decision Body	Pre-App Conference Required	Neighborhood Mtg Req.	Applicable Section
Interpretations	I, I-L, II, III <u>IV</u>	See 1.040	Yes*	No	1.040
Land Divisions and Planned Developments (PDs)					
• Cluster development	II	CDD	Yes	Yes	11.430
• Land division preliminary plat ○ Partition or ○ Subdivision	I-L	CDD	<u>Yes*</u> Yes	See 1.140 <u>No</u>	11.170
• Land division – final plat	I	CDD	No	No	11.170
<u>Preliminary PD Review:</u> • <u>Residential or Mixed Use PDs in the R-5, R-6.5, R-10, RM, RMA or MUR zones</u> anned development – preliminary review • <u>Non-Residential PDs and PDs in other zones</u>	<u>II</u> III	<u>CDD</u> PC	Yes	Yes	11.260
• Planned development – final approval	I	CDD	No	No	11.260
<u>Major Changes:</u> • <u>Residential PDs</u> anned development – major changes • <u>Non-Residential PDs</u>	<u>II</u> III	<u>CDD</u> PC	Yes	Yes*	11.350
• Planned development – minor changes	I	CDD	No	No	11.350
• Property line adjustment	I	CDD	No	No	11.110
• Expedited land divisions***	N/A (ORS 197.360)	CDD	No; Recommended	No	11.600
• Middle housing land division***	N/A (ORS 197.365)	CDD	No; Recommended	No	11.610
Manufactured Home Park (excluding Planned Developments)	I-L	CDD	Yes	See 1.140 <u>No</u>	10.210
Modifications					
• Modification of Approved Site Plan Review and Conditional Use Applications	Same procedure and decision body as original decision		Yes*	No	1.330
• Modification of Condition of Approval	Same procedure and decision body as original decision		Yes*	No	1.340
Nonconforming Use					
• Nonconforming use review –	I	CDD	No	No	2.350

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Application / Action	Procedure Type	Decision Body	Pre-App Conference Required	Neighborhood Mtg Req.	Applicable Section
change of use within same use category (see 2.345(1)(a) for criteria)					
<ul style="list-style-type: none"> Nonconforming use review – all other situations 	II	CDD	Yes	No	2.350
Recreational vehicle park	I-L or III	CDD or PC	Yes		10.530
Signs					
<ul style="list-style-type: none"> Standard Sign Permit 	I	CDD	No	No	13.610
<ul style="list-style-type: none"> Sign Variance 	II	CDD	Yes*	No	13.710
Site Plan Review	I or I-L	CDD	Yes*	See 1.140 No	2.415
Vacations	IV-Q or IV-L	CC	Yes*	No	2.620
Variance					
<ul style="list-style-type: none"> Major Variance 	II	CDD	Yes	No	2.670
<ul style="list-style-type: none"> Minor Variance 	I-L	CDD	Yes*	No	2.670, 2.694
Zoning Map Amendments					
<ul style="list-style-type: none"> <u>Quasi-judicial zoning map amendments to increase residential density****</u> 	<u>II</u>	<u>CDD</u>	<u>Yes</u>	<u>No</u>	<u>2.720</u>
<ul style="list-style-type: none"> <u>All other quasi-judicial zoning map amendments</u> 	IV-Q	PC or CC	Yes	No	2.720
<ul style="list-style-type: none"> Legislative zoning map amendments 	IV-L	CC	Yes*	No	2.720
OTHER APPLICATION TYPES					
Floodplain					
<ul style="list-style-type: none"> Floodplain Appeals 	II	See 6.091	Yes*	No	6.091
<ul style="list-style-type: none"> Floodplain Development Permit 	I, I-L, II, III	See 6.093	Yes*	See 1.140	6.093
<ul style="list-style-type: none"> Floodplain Variance 	II	CDD	Yes*	No	6.092
Hillside Development					
<ul style="list-style-type: none"> Hillside review for development that only requires a building permit 	I	CDD	No	No	6.190
<ul style="list-style-type: none"> Hillside review for all other 	I, I-L, II, III	See 6.190	No	See 1.140	6.190
Historic Resources**					
<ul style="list-style-type: none"> Designation of a resource or district 	IV-Q or IV-L	LC and CC	No	No	7.040
<ul style="list-style-type: none"> Amendments to Exist. 	IV-L	CC	No	No	7.040

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Application / Action	Procedure Type	Decision Body	Pre-App Conference Required	Neighborhood Mtg Req.	Applicable Section
Districts					
• Local Historic Inventory Removal (outside districts, not on National Register, demolished or removed resources)	I	CDD	Yes*	No	7.040
• Individual Property Re-Rating	III	LC	Yes*	No	7.040
• Historic review of Ext. Alterations – no change in character; not visible	I	CDD	No	No	7.120
• Historic review of Ext. Alterations – all other, including all non-residential	III	LC	Yes*	See 1.140 <u>No</u>	7.120
• Substitute materials	III	LC	Yes*	See 1.140 <u>No</u>	7.180
• New construction	I-L	CDD	Yes*	No	7.240
• Demolitions / Relocations – contributing structures	III	LC	Yes*	<u>Yes</u> See 1.140	7.310
Natural Resource Impact Review					
• Natural Resource review without concurrent land use review	I or I-L	CDD	No	No	6.300
• Natural Resource review for all other	I, I-L, II, III	See 6.300	Yes*	See 1.140	6.300
• Natural Resource minor variance	I-L	CDD	No	No	6.450
• Natural Resource major variance	II	CDD	Yes*	No	6.450
Special Use Permit	I	CDD	No	No	10.440 and 10.470
Tree Removal					
• Site Plan Review for tree removal (5 or more trees 8” in diameter on contiguously owned property 20,000 sf or greater)	I-L	CDD	Yes*	No	9.204 and 9.205
• Site Plan Review for tree removal associated with development of housing	I	CDD	No	No	9.206
Willamette River Greenway					
• Greenway development review	II	CDD	Yes	No	6.520

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Application / Action	Procedure Type	Decision Body	Pre-App Conference Required	Neighborhood Mtg Req.	Applicable Section
<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.</p> <p>** Additional application review procedures applicable to Historic Resources are found in Article 7. In cases of conflict with the procedures in Article 1, the procedures in Article 7 prevail. When a Type III land use application is submitted with a Type III Historic Resource review application, the Landmarks Commission will review the associated application(s).</p> <p>***Application review procedures for Expedited and Middle Housing Land Divisions are found in Article 11 Sections 11.600 through 11.630.</p> <p>****<u>Only applies to zoning map amendment applications for property that is zoned residential or Mixed Use Residential and has a Residential or Village Center Comprehensive Plan designation.</u></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; Ord. 6059, 3/14/25]

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

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

Activities and development on a site containing a nonconforming use may require a Nonconforming Use Review in accordance with Article 2.

- (1) Agricultural uses permitted outright in Articles 3, 4 and 5.
- (2) New single dwelling units, two primary units, accessory dwelling units, or middle housing dwelling units, additions to single and middle housing dwelling units, and parking areas for single and middle housing dwelling units, except where specifically identified as requiring land use review approval in Articles 3, 4 and 5.
- (3) Activities and development that are not identified as requiring a land use review as specified elsewhere in the Albany Development Code.
- (4) Expedited land divisions and middle housing land divisions are not a land use action per Oregon law; however, an application is required. See application review procedures in Article 11, Sections 11.600 through 11.630.
- (5) Routine property maintenance.
- (6) Restriping an existing parking lot in compliance with parking stall dimensions provided in Table 9.120-1 that does not include other site or circulation modifications that require Site Plan Review approval per Section 2.430.
- (7) A change internal to a building or structure when the use is permitted through a land use review and does not include other site or circulation modifications that require Site Plan Review approval per Section 2.430.

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- (8) An emergency measure necessary for the safety or protection of property when authorized by the City Manager with written notice to the City Council.
- (9) Any temporary use of land of up to a 30-day duration (such as a promotional event, festival, carnival, or outdoor sale) that conforms with all other requirements of this Code and other applicable City regulations, public health, and safety requirements, some of which may further limit such uses in terms of location, scope, and duration.
- (10) The establishment, construction, alteration, or maintenance of a public facility authorized by the Director of Public Works, including streets, highways, traffic control devices, drainage ways, sanitary and storm sewers, pump stations, water lines, electrical power or gas distribution lines, or telephone or television cable systems. This includes construction of staging areas of less than six months' duration but does not include major substations, treatment facilities, storage tanks, reservoirs, and towers.
- (11) Excavation and fill for foundations and all other excavation or filling of land involving 50 cubic yards or less that does not adversely affect drainage patterns and is not located in the special flood hazard area.
- (12) In middle housing zoning districts, new middle housing, including middle housing created through internal conversion of, or addition to, existing dwellings, and additions to existing middle housing.
[Ord. 5966, 11/12/21; Ord. 5968, 1/14/22; Ord 6004, 12/28/22; Ord. 6018, 6/30/23; Ord. 6024, 12/29/23; Ord. 6042, 7/12/24; Ord. 6062, 5/23/25]

1.110 Determination of Review Type.

- (1) Unless specified in Table 1.100-1 or elsewhere in this Code, the Director will determine whether a permit or application is processed as Type I, I-L, II, III, IV-Q, or IV-L based on the descriptions in ADC 1.100 and provisions in state law.
- (2) When there is a question as to the appropriate type of procedure, the Director shall determine the type of procedure to be used based upon the most similar land use application procedure specified by this Code or other established policy.
- (3) When a proposal involves more than one application for the same property, the applicant(s) may submit concurrent applications that shall be processed simultaneously in accordance with the highest numbered procedure specified. When concurrent applications are received and accepted as complete, the requirements of Section 1.120 shall apply as if a single application had been made.

1.120 Time to Process Complete Applications.

- (1) Time Limit—120-day Rule. The City must take final action on all Type I-L, Type II, Type III, and Type IV-Q land use applications, as provided by ORS 227.178, including resolution of all local appeals, within 120 days after the application has been deemed complete under ADC 1.170, unless the applicant provides written request or consent to an extension in compliance with ORS 227.178. (Note: The 120-day rule does not apply to Type IV-L decisions.)
- (2) Time Limit—100-day Rule. The City must take final action including resolution of all local appeals on qualifying applications under ORS 227.180 within 100 days after the application is deemed complete. An application qualifies if it is submitted under ORS 227.175 and meets the following criteria:
 - (a) The application is for development of a multiple-dwelling unit building ~~units~~ within the urban growth boundary;

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- (b) At least 50 percent of the residential units included in the development will be sold or rented as affordable housing. For the purposes of this section, "affordable housing" means housing that is affordable to households with incomes equal to or less than 60 percent of the median family income for the county in which the development is built or for the state, whichever is greater; and
 - (c) The development is subject to a covenant appurtenant that restricts the owner and each successive owner of the development or a residential unit within the development from selling or renting any residential unit described in paragraph (b) of this subsection as housing that is not affordable housing for a period of 60 years from the date of the certificate of occupancy.
- (3) Time Periods. "Days" means calendar days unless otherwise specified. In computing time periods prescribed or allowed by this Article, the day of the act or event from which the designated period of time begins is not included. The last day of the period is included, unless it is a Saturday, Sunday, or a federal holiday, in which case the period runs until the end of the next day that is not on a weekend or City recognized legal holiday.

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

Staff Comments: Neighborhood Meetings and Notice Areas in 1.140

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

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

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

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

PRE-APPLICATION CONFERENCES AND NEIGHBORHOOD MEETINGS

1.130 Pre-Application Conference.

- (1) Purpose of Pre-Application Conferences. Pre-application conferences are intended to familiarize applicants with the requirements of the ADC; to provide applicants with an opportunity to discuss proposed projects in detail with City staff; and to identify approval criteria, standards, and procedures prior to filing a land use application. The pre-application conference is intended to be a tool to assist applicants in navigating the land use process but is not intended to be an exhaustive review that identifies or resolves all potential issues and does not bind or preclude the City from enforcing any applicable regulations or from applying regulations in a manner differently than may have been indicated at the time of the pre-application conference.
- (2) When Mandatory. Pre-application conferences are mandatory for all land use actions identified as requiring a pre-application conference in Table 1.100-1. An applicant may

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voluntarily request a pre-application conference for any land use action even if it is not required.

- (3) Timing of Pre-Application Conference. When mandatory, a pre-application conference must be held with City staff before an applicant submits an application and before an applicant conducts a Neighborhood Meeting (if applicable).
- (4) Requesting a Pre-Application Conference.
 - (a) Request Form. Pre-application conference requests must be made on forms provided by the Director.
 - (b) Submittal Requirements. Pre-application conference requests must be made in writing and include:
 - i. A description of the development proposal along with a list of any questions the applicant has for staff related to the proposal.
 - ii. A sketch of the development plan. The sketch shall indicate the approximate location of the property boundaries, existing structures, and proposed improvements; and
 - iii. Any additional information the applicant deems necessary to demonstrate the nature and scope of the proposal in sufficient detail to allow City staff to review and comment.
- (5) Scheduling of Pre-Application Conference. Upon receipt of a complete pre-application request, the Director will schedule the pre-application conference. The Director will coordinate the involvement of City departments, as appropriate, in the pre-application conference. Pre-application conferences are not open to the general public.
- (6) Validity Period for Mandatory Pre-Application Conferences; Follow-Up Conferences. Unless waived by the Director, a follow-up conference is required for those mandatory pre-application conferences that have previously been held when:
 - (a) An application relating to the proposed development that was the subject of the pre-application conference has not been submitted within one year of the pre-application conference;
 - (b) The proposed use, layout, and/or design of the proposal have significantly changed; or
 - (c) The owner and/or developer of a project changes after the pre-application conference and prior to application submittal.
- (7) Written Summary. Upon the applicant's request, the Director shall provide the applicant with a written summary of the conference.

1.140 Neighborhood Meeting.

- (1) Purpose. The purpose of a neighborhood meeting is to ensure that applicants pursue early and effective public participation in conjunction with their applications, giving them the opportunity to understand and try to mitigate any real or perceived impacts their application may have on the neighborhood. The meeting is not intended to produce complete consensus on all applications. It is intended to encourage applicants to be good neighbors.
- (2) When Mandatory. Neighborhood meetings are required for Type III and Type IV quasi-judicial applications and some most Type II developments ~~for all land use actions identified as~~ indicated in Table 1.100-1 or below as requiring a neighborhood meeting. In addition, the applicant shall hold a neighborhood meeting before submitting the following types of land use applications:

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- (a) Type III Conditional Uses (CUs) in residential zoning districts and Type II CUs that result in new construction or parking in a residential zoning district. ~~Multiple-dwelling unit development that abuts a single-dwelling unit zoning district.~~
 - (b) Demolition or relocation of a building on the Local Historic Inventory ~~Commercial or industrial development that abuts any residential zoning district and the addition of outside seating areas to restaurants or bars/taverns/breweries/night clubs within 300 feet of a residence.~~
 - (c) Cluster Developments and Planned Developments. ~~Manufactured home park adjacent to any residential zoning district.~~
 - (d) ~~Subdivision with more than 10 lots, excluding expedited and middle housing land divisions.~~
 - (e) ~~Cluster and planned developments.~~
 - (f) ~~Retail Sales and Services Uses proposed in existing buildings in the Light Industrial zone that require Conditional Use approval per Section 4.060(11)(b).~~
 - (g) ~~For other non-residential applications or revisions to applications that the Director determines may have a neighborhood impact, such as conditional uses. In these cases, the Director shall determine the minimum notice area for the neighborhood meeting.~~
- (3) Time and Location. The applicant shall consult with City staff to determine an appropriate meeting date, time, and place given the location of the proposed development and availability of staff to attend. Meetings must start no sooner than 5 p.m. and no later than 7 p.m. All meetings must provide virtual attendance options and include the options on the meeting notice.
- (4) Notice. The applicant shall send mailed notice of the public meeting to the Director and all property owners and designated representative(s) of City Council-recognized neighborhood association(s) within the minimum notice area specified ~~below~~ by the land use process level. The broadest notice area applicable to a proposal shall apply.

Proposals for:	Notice Area based on minimum distance from the boundaries of the subject property*
Non-residential development (including the non-residential portion of a mixed-use development)	300 feet**
Residential development proposing 50 or less dwelling units, lots or spaces	300 feet
Any development which proposes more than 50 dwelling units, lots or spaces	1,000 feet
<p><i>*Additional notice area requirements applicable to Historic Resources are found in Article 7. In cases of conflict with the procedures in Article 1, the procedures in Article 7 shall prevail.</i></p> <p><i>**For applications which include non-residential development, the Director may increase the notice area based on the project scale, land use and transportation patterns or anticipated public interest in the project, up to a maximum of 1,000 feet.</i></p>	

The property owner list shall be compiled from county tax assessor’s property owner lists from the most recent property tax assessment roll. The address for the designated

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representative(s) of the affected neighborhood association(s) shall be obtained from the City. The notice shall be sent a minimum of 10 days and no more than 30 days before the meeting, and shall include:

- (a) Date, time, and location of the public meeting.
- (b) A brief written description of the development proposal and proposed use(s) with enough specificity so that the project is easily discernible.
- (c) The location of the subject property(ies), including address (if applicable), nearest cross streets and any other easily understood geographical reference, and a map (such as a tax assessor's map) that depicts the subject property.

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

- (a) A map depicting the location of the subject property(ies) proposed for development.
- (b) A visual description of the project including a site plan, tentative subdivision plan and elevation drawings of any proposed structures, when applicable.
- (c) A description of the nature of the proposed use(s) including, but not limited to, sizes and heights of structures, proposed lot sizes, density, etc.
- (d) The expected or anticipated impacts from the proposed development (e.g., traffic, storm drainage, tree removal, etc.).
- (e) Mitigation proposed by the applicant to alleviate the expected/anticipated impacts.
- (f) An opportunity for the public to provide comments.

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

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

- (a) The dates and locations of all meetings where citizens were invited to discuss the applicant's proposal;
- (b) The method(s) by which each meeting was publicized;
- (c) Sign in sheet indicating the number of people who attended the meeting and a list of people who otherwise contacted the applicant;
- (d) A summary of the concerns, issues, and problems raised by neighbors;
- (e) A discussion of how the applicant has addressed or intends to address concerns, issues, and problems; and
- (f) A discussion of any concerns, issues, and problems the applicant is unable or unwilling to address and why.

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

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APPLICATION SUBMITTAL AND COMPLETENESS REVIEW

*****No changes are proposed to the Application Submittal and Completeness Review Sections 1.150 through 1.185 so they are not shown.*****

REVIEW TYPE PROCEDURES

- 1.210 Type I Procedure (Ministerial). The Director makes ministerial decisions through the Type I procedure without public notice and without a public hearing.
- (1) Submittal Requirements. Complete Type I applications must include the submittal information required by ADC 1.160.
 - (2) Notice of Application Submittal. No public notice of review is required, except for a Special Use Permit for Temporary Placements in 10.450 and 10.470, where a notice of 100 feet is required.
 - (3) Notice of Decision. Written notice of the decision must be provided to the applicant and property owner of record.
 - (4) Appeal of a Type I Decision. The decision of the Director on a Type I application shall be the final decision of the City. Appeal shall be to the Circuit Court under writ of review.
 - (5) Effective Date of a Type I Decision. A Type I decision is final on the date it is signed by the Director.

[Ord. 6024, 12/29/23]

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

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

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

- 1.220 Type I-L Procedure (Administrative Review with Notice). Type I-L decisions are made by the Director with public notice and an opportunity for review and comment.
- (1) Submittal Requirements. Type I-L applications must include the submittal information required by ADC 1.160.
 - (2) Determination of Completeness. After receiving an application for filing, the Director will review the application for completeness in accordance with ADC 1.170.
 - (3) Written Notice of Application and Opportunity to Comment. Once the application has been deemed complete, the City will mail notice of filing to the identified recipients in (a) no fewer than 14 days before making the Type I-L decision to allow interested people and agencies the opportunity to submit written comments on the application before the City issues the decision.
 - (a) Recipients:
 - i. All property owners and designated representative(s) of City Council-recognized neighborhood association(s) within the minimum notice area specified below. The broadest notice area applicable to a proposal shall apply.

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Proposals for:	Notice Area based on minimum distance from the boundaries of the subject property*
<ul style="list-style-type: none"> • Non-residential development subject to Site Plan Review (including the non-residential portion of a mixed-use development) 	300 feet**
<ul style="list-style-type: none"> • <u>Residential development proposing 20 or fewer dwelling units, lots or spaces</u> Subdivision, 50 lots or less • Manufactured home park, 50 spaces or less • <u>Multi-dwelling unit development, 50 units or less</u> 	3 100 feet*
<ul style="list-style-type: none"> • <u>Residential development proposing between 21 to 50 dwelling units, lots or spaces</u> 	<u>300 feet</u>
<ul style="list-style-type: none"> • Any development which <u>propos<u>es</u></u> more than 50 dwelling units, lots or spaces 	1,0 500 feet**
<ul style="list-style-type: none"> • All other Type I-L decisions not listed above, including, but not limited to, Site Plan Review of Residential Accessory Structures and Minor Variances 	100 feet**
<p><i>* Additional notice area requirements applicable to Historic Resources are found in Article 7. In cases of conflict with the procedures in Article 1, the procedures in Article 7 shall prevail.</i></p> <p><i>** For applications which include non-residential development, the Director may increase the notice area based on the project scale, land use and transportation patterns or anticipated public interest in the project, up to a maximum of 1,000 feet.</i></p>	

- ii. Any person who submits a written request to receive a notice;
 - iii. Any governmental agency that is entitled to notice under an intergovernmental agreement entered into with the City and any other affected agencies, including but not limited to: school districts; fire district; the Oregon Department of Transportation, where the project either adjoins or directly affects a state highway or a railway; the County, where the project site would access a County road or otherwise be subject to review by the County. The failure of another agency to respond with written comments on a pending application does not invalidate an action or permit approval made by the City under this Code; and
 - iv. Utility companies (as applicable).
- (b) The mailed notice of filing, at a minimum, must contain all of the following information:
- i. The names of the applicant(s), any representative(s) thereof, and the owner(s) of the subject property;
 - ii. The street address if assigned, if no street address has been assigned then Township, Range, Section, Tax Lot or Tax Lot ID or other easily understood geographic reference to the subject property;
 - iii. The proposed site plan;
 - iv. Statement noting if a railroad or highway grade crossing provides or will provide the only access to the subject property;
 - v. The type of application and a concise description of the nature of the land use action;

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- vi. A list of the approval criteria by ADC section for the decision and other ordinances or regulations that apply to the application at issue;
 - vii. Brief summary of the local decision-making process for the land use decision being made;
 - viii. The date, place, and time where comments are due and that comments are due no later than 5:00 p.m. on the 14th calendar day after the notice was mailed;
 - ix. A statement indicating that issues which may provide the basis for an appeal to the Land Use Board of Appeals must be raised in writing prior to the expiration of the comment period and with sufficient specificity to enable the applicant and local appeal body to respond to the issue;
 - x. A statement that after the comment period closes, the City will issue its decision and the decision will be mailed to the applicant, property owner, anyone who submitted written comments on the application, and to anyone else is otherwise legally entitled to notice;
 - xi. A statement that comments received after the close of the public comment period will not be considered;
 - xii. The name of a City representative to contact and the telephone number where additional information may be obtained; and
 - xiii. Statement that the application and all documents and evidence submitted by the applicant are available for review and that copies can be obtained at a reasonable cost from the City.
- (c) Failure of a person or agency identified in ADC 1.220(3)(a) to receive the notice required in ADC 1.220(3)(b) does not invalidate any proceeding in connection with the application provided the City can demonstrate by affidavit that notice was given in accordance with this section.
- (d) Written comments must be received by the City no later than 5:00 p.m. on the 14th calendar day after the notice was mailed in order for comments to be considered.
- (4) Decision. At the conclusion of the comment period, the Director must review the comments received and approve, approve with conditions, or deny the application. The decision must be in writing and include a statement that:
- (a) Explains the criteria and standards considered relevant to the decision;
 - (b) States the facts relied upon in issuing the decision; and
 - (c) Explains the justification for the decision based on the criteria, standards, and facts set forth.
- (5) Notice of Type I-L Decision. Notice of the decision must be provided to the property owner, applicant, and any person who submitted written comments in accordance with ADC 1.220(3)(d). The Type I-L Notice of Decision must contain all of the following information:
- (a) A description of the applicant's proposal and the City's decision on the proposal, which may be a summary, provided it references the specifics of the proposal and conditions of approval in the public record;
 - (b) The address or other geographic description of the property proposed for development, including a map of the property in relation to the surrounding area;
 - (c) A statement that the complete case file, including findings, conclusions, and conditions of approval, if any, is available for review and how copies can be obtained;
 - (d) The date the decision becomes final, unless an appeal is submitted; and

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

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

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

[Ord. 6004, 12/28/22]

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

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

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

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

(a) Recipients:

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

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

** Additional notice area requirements applicable to Historic Resources are found in Article 7. In cases of conflict with the procedures in Article 1, the procedures in Article 7 shall prevail.*

*** For applications which include non-residential development, the Director may increase the notice area based on the project scale, land use and*

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transportation patterns or anticipated public interest in the project, up to a maximum of 1,000 feet.

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

- ii. Any person who submits a written request to receive a notice;
 - iii. Any governmental agency that is entitled to notice under an intergovernmental agreement entered into with the City and any other affected agencies, including but not limited to: school districts; fire district; the Oregon Department of Transportation, where the project either adjoins or directly affects a state highway or railway; the County, where the project site would access a County road or otherwise be subject to review by the County. The failure of another agency to respond with written comments on a pending application does not invalidate an action or permit approval made by the City under this Code; and
 - iv. Utility companies (as applicable).
- (b) The mailed notice of filing, at a minimum, must contain all of the following information:
- i. The names of the applicant(s), any representative(s) thereof, and the owner(s) of the subject property;
 - ii. The street address if assigned, if no street address has been assigned then Township, Range, Section, Tax Lot or Tax Lot ID or other easily understood geographic reference to the subject property;
 - iii. The proposed site plan;
 - iv. Statement noting if a railroad-highway-grade crossing provides or will provide the only access to the subject property;
 - v. The type of application and a concise description of the nature of the land use action;
 - vi. A list of the approval criteria by ADC section for the decision and other ordinances or regulations that apply to the application at issue;
 - vii. Brief summary of the local decision-making process for the land use decision being made, including the process to appeal a decision;
 - viii. The date, place, and time where comments are due and that comments are due no later than 5:00 p.m. on the 14th calendar day after the notice was mailed;
 - ix. A statement that after the comment period closes, the City will issue its decision and the decision will be mailed to the applicant, property owner, anyone who submitted written comments on the application, and to anyone else who is legally entitled to notice;
 - x. A statement that comments received after the close of the public comment period will not be considered in the Director's decision;
 - xi. The name of a City representative to contact and the telephone number where additional information may be obtained; and
 - xii. Statement that the application and all documents and evidence submitted by the applicant are available for review and that copies can be obtained at a reasonable cost from the City.

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- (c) Failure of a person or agency identified in ADC 1.230(3)(a) to receive the notice required in ADC 1.230(3)(b) does not invalidate any proceeding in connection with the application provided the City can demonstrate by affidavit that notice was given in accordance with this section.
 - (d) Written comments must be received by the City no later than 5:00 p.m. on the 14th calendar day after the notice was mailed in order for comments to be considered.
 - (4) Decision. At the conclusion of the comment period, the Director must review the comments received and approve, approve with conditions, or deny the application. The decision must be in writing and include a statement that:
 - (a) Explains the criteria and standards considered relevant to the decision;
 - (b) States the facts relied upon in issuing the decision; and
 - (c) Explains the justification for the decision based on the criteria, standards and facts set forth.
 - (5) Notice of Type II Decision. Notice of the decision must be provided to the property owner, applicant, any person who submitted written comments in accordance with ADC 1.230(3)(d) and all persons and agencies entitled to notice pursuant to ADC 1.230(3)(a). The Type II Notice of Decision must contain all of the following information:
 - (a) A description of the applicant's proposal and the City's decision on the proposal, which may be a summary, provided it references the specifics of the proposal and conditions of approval in the public record;
 - (b) The address or other geographic description of the property proposed for development, including a map of the property in relation to the surrounding area;
 - (c) A statement that the complete case file, including findings, conclusions, and conditions of approval, if any, is available for review and how copies can be obtained;
 - (d) The date the decision becomes final, unless an appeal is submitted;
 - (e) A statement that all person entitled to notice of the decision may appeal the decision within 14 days in accordance with ADC 1.410 and that issues which may provide the basis for an appeal must be raised in writing and with sufficient specificity to enable the applicant and local appeal body to respond to the issue;
 - (f) A statement that a person who is mailed written notice of the decision cannot appeal the decision directly to the state Land Use Board of Appeals under ORS 197.830; and
 - (g) A statement that the decision will not become final until the period for filing a local appeal has expired.
 - (6) Appeal of a Type II Decision. Appeals may be made in accordance with ADC 1.410. A de novo appeal hearing is required for Type II decisions.
 - (7) Effective Date of Type II Decision. A Type II Decision becomes effective 14 days after the City mails the Notice of Decision, unless an appeal is submitted pursuant to ADC 1.410 or unless the conditions of approval specify otherwise.
- 1.240 Type III Procedure (Quasi-Judicial Review—Public Hearing). Type III decisions are made by the Planning Commission, Hearings Board, or the Landmarks Commission after a public hearing with an opportunity for appeal to the City Council. The decision body for each application type is specified in Table 1.100-1. A hearing under these procedures provides a forum to apply standards to a specific set of facts to determine whether the facts conform to the applicable criteria.
- (1) Submittal Requirements. Type III applications must include the submittal information required by ADC 1.160.

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- (2) Determination of Completeness. After receiving an application for filing, the Director will review the application for completeness in accordance with ADC 1.170.
- (3) Written Notice of Public Hearing—Type III. Once the application has been deemed complete, the City must mail by regular first-class mail Notice of a Public Hearing to the following individuals and agencies no fewer than 20 days before the hearing.
 - (a) Recipients:
 - i. All property owners and designated representative(s) of City Council-recognized neighborhood association(s) within the minimum notice area specified below. The broadest notice area applicable to a proposal shall apply.

Proposals for:	Minimum distance from the boundaries of the subject property*
Non-residential development (including the non-residential portion of a mixed-use development)	300 feet**
Residential development proposing 50 or <u>fewer</u> less dwelling units, lots or spaces, <u>excluding residential planned developments which follow the Type II procedure</u> ;	300 feet*
Any development which proposes <u>more than 50 dwelling units, lots or spaces, excluding residential planned developments which follow the Type II procedure</u>	1,000 feet
<p><i>* Additional notice area requirements applicable to Historic Resources are found in Article 7. In cases of conflict with the procedures in Article 1, the procedures in Article 7 shall prevail.</i></p> <p><i>** For applications which include non-residential development, the Director may increase the notice area based on the project scale, land use and transportation patterns or anticipated public interest in the project, up to a maximum of 1,000 feet.</i></p>	

- ii. Any person who submits a written request to receive a notice;
 - iii. Any governmental agency that is entitled to notice under an intergovernmental agreement entered into with the City and any other affected agencies, including but not limited to: school districts; fire district; the Oregon Department of Transportation, where the project either adjoins or directly affects a state highway or railway; the County, where the project site would access a County road or otherwise be subject to review by the County. The failure of another agency to respond with written comments on a pending application does not invalidate an action or permit approval made by the City under this Code; and
 - iv. Utility companies (as applicable).
- (b) The Notice of a Public Hearing, at a minimum, will contain all of the following information:
- i. The names of the applicant(s), any representative(s) thereof, and the owner(s) of the subject property;
 - ii. The street address if assigned, if no street address has been assigned then Township, Range, Section, Tax Lot or Tax Lot ID or other easily understood geographic reference to the subject property;

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- iii. The type of application and a concise description of the nature of the land use action;
 - iv. A list of the approval criteria for the decision and other ordinances or regulations that apply to the application at issue;
 - v. Brief summary of the local decision-making process for the land use decision being made and a general explanation of the requirements for submission of testimony and the procedure for conduct of hearings;
 - vi. The reviewing body, the date, time, and place of the hearing;
 - vii. Disclosure statement indicating that if any person fails to address the relevant approval criteria with enough detail, he or she may not be able to appeal to City Council or the state Land Use Board of Appeals on that issue, and that only comments on the relevant approval criteria are considered relevant evidence and that only those persons making an appearance of record, either in person or in writing, shall be entitled to appeal;
 - viii. The name of a City representative to contact and the telephone number where additional information may be obtained;
 - ix. Statement that the application and all documents and evidence submitted to the City are in the public record and available for review, and that copies can be obtained at a reasonable cost from the City; and
 - x. Statement that a copy of the staff report will be available for inspection at no cost at least seven days prior to the hearing and will be provided at a reasonable cost.
- (c) Failure of a person or agency identified in ADC 1.240(3)(a) to receive the notice required in ADC 1.240(3)(b) does not invalidate any proceeding in connection with the application, provided the City can demonstrate by affidavit that required notice was given.
- (4) Posted Notice. Development sites that are the subject of Type III public hearings shall be posted unless otherwise noted in this Code. Posted notice is deemed given on the day the sign is first posted. The applicant shall be responsible for providing a sign frame for the notice and also for posting the notice at the correct time and location. The actual notice to be posted on the sign shall be provided by the City. The posting shall meet the following requirements:
- (a) The notice shall be at least 2 feet by 3 feet.
 - (b) The notice shall be posted in a location visible from a traveled public road or street abutting the property. (If no public street abuts the property, the notice shall be placed so as to be generally visible to the public.)
 - (c) The notice shall be posted for at least seven consecutive days before any public hearing on the matter.
 - (d) If the subject property is a corner lot, then two signs are required in locations defined in (b) above.
 - (e) At least five days before any hearing (or decision made by the Director), an affidavit of posting shall be filed with the Director.
 - (f) If the subject property is not properly posted as set forth in this section, the Director may postpone the hearing until such provisions are met.
 - (g) The posted notice shall display the nature of the application and a telephone number for more information. The posted notice shall also include a photocopy of the original mailed notice sent to affected property owners.

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- (5) Hearings. Type III hearings shall be conducted in accordance with the procedures in ADC 1.510 through 1.590.
- (6) Notice of a Type III Decision. Notice of Decision must be provided to the property owner, applicant, and any person who provided testimony at the hearing or in writing. The Type III Notice of Decision must contain all of the following information:
 - (a) A description of the applicant's proposal and the City's decision on the proposal, which may be a summary, provided it references the specifics of the proposal and conditions of approval in the public record;
 - (b) The address or other geographic description of the property proposed for development, including a map of the property in relation to the surrounding area;
 - (c) A statement that a copy of the decision and complete case file, including findings, conclusions, and conditions of approval, if any, is available for review and how copies can be obtained;
 - (d) The date the decision becomes final, unless a request for appeal is submitted; and
 - (e) The notice must include an explanation of rights to appeal the decision to the City Council in accordance with ADC 1.410.
- (7) Appeal of a Type III Decision. Appeals may be made to the City Council in accordance with ADC 1.410.
- (8) Effective Date of a Type III Decision.
 - (a) Unless a local ordinance specifies that the decision becomes final at a later time than defined in this section, a Type III decision becomes final when it is reduced to writing and bears the necessary signatures of the decision maker.
 - (b) A final decision becomes effective when the appeal period expires unless:
 - i. A written appeal is received at the City offices within 10 calendar days of the date notice of the final decision is mailed; or
 - ii. The City Council requests a review of the decision within 10 calendar days of the date notice of the final decision is mailed.

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

- (1) Submittal Requirements. Type IV-Q applications must include the submittal information required by ADC 1.160.
- (2) Determination of Completeness. After receiving an application for filing, the Director will review the application for completeness in accordance with ADC 1.170.
- (3) Written Notice of Public Hearing—Type IV-Q. Once the application has been deemed complete, the City must mail by regular first-class mail Notice of a Public Hearing to the following individuals and agencies no fewer than 20 days before the initial hearing.
 - (a) Recipients:

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

Proposals for:	Minimum distance from the boundaries of the subject property*
Non-residential development(including the non-residential portion of a mixed-use development)	300 feet**
<u>Any Type IV-QResidential development development excluding residential zone changes to increase residential density which are a Type II procedure proposing 50 or less dwelling units, lots or spaces</u>	300 feet**
Any development which proposes more than 50 dwelling units, lots or spaces	1,000 feet
<p><i>* Additional notice area requirements applicable to Historic Resources are found in Article 7. In cases of conflict with the procedures in Article 1, the procedures in Article 7 shall prevail.</i></p> <p><i>** For applications which include non-residential development, t<u>With the exception of residential zone changes to increase density, the Director may increase the notice area based on the project scale, land use and transportation patterns or anticipated public interest in the project, up to a maximum of 1,000 feet.</u></i></p>	

- ii. Any person who submits a written request to receive a notice;
 - iii. Any governmental agency that is entitled to notice under an intergovernmental agreement entered into with the City and any other affected agencies, including but not limited to: school districts; fire district; the Oregon Department of Transportation, where the project either adjoins or directly affects a state highway or railway; the County, where the project site would access a County road or otherwise be subject to review by the County. The failure of another agency to respond with written comments on a pending application does not invalidate an action or permit approval made by the City under this Code; and
 - iv. Utility companies (as applicable).
- (b) The Notice of a Public Hearing, at a minimum, must contain all of the following information:
- i. The names of the applicant(s), any representative(s) thereof, and the owner(s) of the subject property;
 - ii. The street address if assigned, if no street address has been assigned then Township, Range, Section, Tax Lot, or Tax Lot ID or other easily understood geographic reference to the subject property;
 - iii. The type of application and a concise description of the nature of the land use action;
 - iv. A list of the approval criteria by ADC section for the decision and other ordinances or regulations that apply to the application at issue;

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- v. Brief summary of the local decision-making process for the land use decision being made and a general explanation of the requirements for submission of testimony and the procedure for conduct of hearings;
 - vi. The review body, date, time, and location of the hearing;
 - vii. Disclosure statement indicating that if any person fails to address the relevant approval criteria with enough detail, he or she may not be able to appeal to City Council or the state Land Use Board of Appeals on that issue, and that only comments on the relevant approval criteria are considered relevant evidence and that only those persons making an appearance of record, either in person or in writing, shall be entitled to appeal;
 - viii. The name of a City representative to contact and the telephone number where additional information may be obtained;
 - ix. Statement that the application and all documents and evidence submitted to the City are in the public record and available for review, and that copies can be obtained at a reasonable cost from the City; and
 - x. Statement that a copy of the staff report will be available for inspection at no cost at least seven days prior to the hearing and will be provided at a reasonable cost.
- (c) Failure of a person or agency to receive a notice does not invalidate any proceeding in connection with the application, provided the City can demonstrate by affidavit that required notice was given.
- (4) Additional Notice Requirements for Certain Type IV-Q Application Types. The following additional notice requirements apply to Type IV-Q Hearings where the City Council will be considering the application or removal of a Historic Landmark Designation or a Plan Text or Map Amendment for a particular property or discrete set of properties.
- (a) The Director will notify in writing the Oregon Department of Land Conservation and Development (DLCDC) in accordance with the minimum number of days required by ORS Chapter 197.
 - (b) At least 14 calendar days before the scheduled City Council public hearing date, the Director will provide public notice by publication in a newspaper of general circulation in the City.
 - (c) At least 14 calendar days before the scheduled City Council public hearing date, the Director will post public notice in two public and conspicuous places within the City.
- (5) Posted Notice. Development sites that are the subject of Type IV-Q quasi-judicial public hearings shall be posted unless otherwise noted in this Code. Posted notice is deemed given on the day the sign is first posted. The applicant shall be responsible for providing a sign frame for the notice and also for posting the notice at the correct time and location. The actual notice to be posted on the sign shall be provided by the City. The posting shall meet the following requirements:
- (a) The notice shall be at least 2 feet by 3 feet.
 - (b) The notice shall be posted in a location visible from a traveled public road or street abutting the property (If no public street abuts the property, the notice shall be placed so as to be generally visible to the public).
 - (c) The notice shall be posted for at least seven consecutive days before any public hearing on the matter.
 - (d) If the subject property is a corner lot, then two signs are required in locations defined in (b) above.

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- (e) At least five days before any hearing (or decision made by the Director), an affidavit of posting shall be filed with the Director.
 - (f) If the subject property is not properly posted as set forth in this section, the Director may postpone the hearing until such provisions are met.
 - (g) The posted notice shall display the nature of the application and a telephone number for more information. The posted notice shall also include a photocopy of the original mailed notice sent to affected property owners.
- (6) Hearings. Type IV-Q hearings shall be conducted in accordance with the procedures in ADC 1.510 through 1.590. The Hearings Board, Landmarks Commission, or Planning Commission as specified in Table 1.100-1 will hold an initial hearing.
- (a) For a proposal on which the Hearings Board, Landmarks Commission, or Planning Commission has made a favorable recommendation, the City Council shall hold a second public hearing and make a final decision.
 - (b) If the Planning Commission, Landmarks Commission, or Hearings Board decides against a proposal, the City Council will only consider the proposal on appeal by the applicant(s).
- (7) Notice of a Type IV-Q Decision. Notice of Decision must be provided to the property owner, applicant, and any person who provided testimony at the hearing or in writing. The Type IV-Q Notice of Decision must contain all of the following information:
- (a) A description of the applicant's proposal and the City's decision on the proposal, which may be a summary, provided it references the specifics of the proposal and conditions of approval in the public record;
 - (b) The address or other geographic description of the property proposed for development, including a map of the property in relation to the surrounding area;
 - (c) A statement that a copy of the decision and complete case file, including findings, conclusions, and conditions of approval, if any, is available for review and how copies can be obtained;
 - (d) The date the decision becomes final; and
 - (e) The notice must include an explanation of rights to appeal a Planning Commission, Landmarks Commission, or Hearings Board denial to the City Council or a City Council decision to the state Land Use Board of Appeals pursuant to ORS 197.805—197.860.
- (8) Appeal of a Type IV-Q Decision. A Planning Commission, Hearings Board, or Landmarks Commission Type IV-Q decision denying an application may be appealed to the City Council in accordance with ADC 1.410. A decision of the City Council may be appealed to the state Land Use Board of Appeals.
- (9) Effective Date of a Type IV-Q Decision.
- (a) Unless a local ordinance specifies that the decision becomes final at a later time than defined in this section, a Type IV-Q decision becomes final when it is reduced to writing and bears the necessary signatures of the decision maker.
 - (b) A final decision of the Planning Commission, Hearings Board, or the Landmarks Commission denying a proposal become effective when the appeal period expires unless:
 - i. A written appeal is received at the City offices within 10 calendar days of the date notice of the final decision is mailed; or
 - ii. A member of the City Council requests a review of the decision within 10 calendar days of the date notice of the final decision is mailed.

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

****No changes are proposed to the Sections 1.260 through 1.340 so they are not shown.****

APPEALS

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

Table 1.410-1 – Reviewing Bodies for Appeals

Decision	Decision Body	Reviewing Body
Type I	CDD	Circuit Court
Type I-L – Historic Resource Reviews	CDD	LC
Type I-L – All other review	CDD	PC*
Type II – Historic Resource Reviews	CDD	LC
Type II – All other review	CDD	PC
Type III – Historic Resource Reviews	LC	CC
Type III – All other review	PC or HB	CC
Type IV-Q	PC, HB, or LC	CC
Type IV-Q	CC	LUBA
Type IV-L	CC	LUBA
LEGEND: City Council (CC), Director (CDD), Hearings Board (HB), Landmarks Commission (LC), Planning Commission (PC).		
NOTES: Required timelines for filing appeals are identified under each review type.		
<u>*Type I-L applications for new residential development may only be appealed by the applicant. The first appeal is to a local body; any subsequent appeals are to the Land Use Board of Appeals.</u>		

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

- (1) Identification of the decision sought to be reviewed, including the date of the decision.
- (2) A statement of the interest of the person seeking review and that they were a party to the initial proceedings.
- (3) The specific policy or criteria relied upon for review.
- (4) If de novo review is requested or required, a statement summarizing the new evidence that will be offered and the criteria to which it will relate.
- (5) Decisions appealed to circuit court or LUBA must follow those body's appeal procedures and criteria.

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

- (1) Written Notice. Notice of a Planning Commission, Landmarks Commission or City Council appeal hearing must be provided to the property owner, applicant, and any person who provided testimony at the hearing or in writing at least 10 days prior to the hearing.
- (2) Posted Notice. A development site that is the subject of a Planning Commission, Landmarks Commission or City Council appeal hearing shall be posted unless otherwise noted in this Code. Posted notice is deemed given on the day the sign is first posted. The applicant shall be responsible for providing a sign frame for the notice and also for posting the notice at the correct time and location. The actual notice to be posted on the sign shall be provided by the City. The posting shall meet the following requirements:
 - (a) The notice shall be at least 2 feet by 3 feet.
 - (b) The notice shall be posted in a location visible from a traveled public road or street abutting the property. (If no public street abuts the property, the notice shall be placed so as to be generally visible to the public.)
 - (c) The notice shall be posted for at least seven consecutive days before any public hearing on the matter.
 - (d) If the subject property is a corner lot, then two signs are required in locations defined in (b) above.
 - (e) At least five days before any hearing (or decision made by the Director), an affidavit of posting shall be filed with the Director.
 - (f) If the subject property is not properly posted as set forth in this section, the Director may postpone the hearing until such provisions are met.
 - (g) The posted notice shall display the nature of the application and a telephone number for more information. The posted notice shall also include a photocopy of the original mailed notice sent to affected property owners.

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

- (1) Restricted to the record made on the decision being appealed.
- (2) Limited to such issues as the reviewing body determines necessary for a proper resolution of the matter.
- (3) A de novo hearing on the merits.
- (4) Decisions appealed to circuit court or LUBA will be subject to those body's review policies and procedures.

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

- (1) Review on the Record. Unless otherwise required by law, the reviewing body may hear the entire matter on the record.
 - (a) When the reviewing body requests a review on the record, the record shall include:
 - i. A factual report prepared by the Director.
 - ii. All exhibits, materials, pleadings, memoranda, stipulations, and motions submitted by any party and received or considered in reaching the decision under review.
 - iii. The minutes of the hearing.

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

- (2) De Novo Hearing. The reviewing body may hear the entire matter through a de novo hearing. “De novo hearing” shall mean a hearing by the review body as if the request had not been previously heard and as if no decision had been rendered, except that all testimony, evidence, and other material from the record of the previous consideration may be included in the record of the review.

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

1.470 Withdrawing an Appeal.

- (1) At any time before the close of an appeal hearing, any appellant may withdraw the appeal. The appellant must provide written notice of the withdrawal prior to 5:00 p.m. the day of the hearing, or orally at the hearing.
- (2) If the withdrawal is made before public notice of the hearing is sent, the City will refund the appeal fee.
- (3) Where multiple people or parties sign and file a single Notice of Appeal, all parties to the original filing must consent to the withdrawal of the appeal.
- (4) A withdrawn appeal cannot be refiled by any party subject to the original appeal.
- (5) If all appeals are withdrawn, the Director must issue a Notice of Appeal Withdrawal to the applicant, the appellant, and the parties who received a Notice of Final Decision.

*****No changes are proposed to the rest of Article 1, so the remaining sections are not provided.*****

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Staff Comments. Senate Bill 974 reduces the land use process for residential up-zonings, Planned Developments, and residential adjustment or variance applications. References to the newer Article 14, Climate Friendly Area Overlay Districts are being added where needed. The full Article and [Albany Development Code](#) are located online.

ARTICLE 2 REVIEW CRITERIA

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

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

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

2.020 Function of Review Criteria.

- (1) Review criteria describe the issues the applicant must address and that the City or affected parties may raise. A proposal that complies with all of the criteria will be approved. A proposal that can comply with the criteria with mitigation measures or limitations will be approved with conditions. A proposal that cannot comply with the criteria outright or with mitigation measures will be denied.
- (2) The review criteria are derived from the Comprehensive Plan. The proposal must conform to the goals and policies in the Comprehensive Plan and any adopted area plans in addition to satisfying the review criteria.
- (3) When review criteria require an application to meet a specific standard, such as adequate services or no negative offsite impacts, all proposed improvements and mitigation measures must be identified before the review body will make a final decision.

[Ord. 5720, 8/12/09; Ord. 6068, 11/8/25]

2.030 Burden of Proof. The applicant must show that the review criteria are met. The burden of proof is not on the City or other parties to show that the criteria have or have not been met.

2.040 Conditions of Approval. The City may attach conditions to the approval of a land use decision in order to ensure that the proposal will conform to the applicable review criteria.

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

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Staff Comments: The proposed changes are required by Senate Bill 974 to reduce the land use process for residential upzoning, Planned Developments, and residential adjustment or variance applications.

ADJUSTMENTS

- 2.060 Purpose. The Adjustment review allows the Director to approve modifications to the application of most design standards in Article 8 and buffering and screening standards in Article 9, as noted in those articles. The Adjustment review process provides a mechanism by which the standards in the ADC may be modified if the proposed development continues to meet the intended purpose of those regulations. Adjustment reviews provide flexibility for unusual situations. They also allow for alternative ways to meet the purposes of the Code.
- 2.070 Procedures. Adjustment applications to standards for residential developments are processed through the Type II procedure. All other adjustment applications are processed through a Type III procedure.
- 2.080 Review Criteria. For each standard for which an Adjustment is requested, the applicant must show that the following criteria have been met:
- (1) Granting the Adjustment will equally or better meet the purpose of the regulation to be modified; and
 - (2) The proposal will be consistent with the desired character of the base zone; and
 - (3) Any negative impacts resulting from the Adjustment are mitigated to the extent practical; and
 - (4) The proposal will not significantly detract from the livability or appearance of the surrounding area; and
 - (5) If more than one Adjustment is being requested, the cumulative effect of the Adjustments results in a project which still meets criteria (1) through (4), above.

[Ord. 5947, 1/1/21]

*****No changes are proposed to Sections 2.090 through 2.225 so these sections are not shown.*****

CONDITIONAL USES

- 2.230 Purpose. The City does not allow some uses outright, although they may have beneficial effects and serve important public interests. These uses are subject to the Conditional Use regulations because they may have adverse effects on the environment, overburden public services, change the desired character of an area, or create major nuisances. A review of these proposed uses is necessary due to the potential individual or cumulative impacts they may have on the surrounding area or neighborhood. The Conditional Use review process provides an opportunity to allow the use when it will have minimal impacts, to allow the use but impose conditions to address identified concerns, or to deny the use if the concerns cannot be resolved.

Uses identified as requiring Conditional Use approval may be permitted, enlarged or altered according to the provisions of this section. In addition, when a use is not authorized in any district or when it is unclear how to classify a particular use or development within the intent of this Code, the use or type of development may be established by a Conditional Use approval in accordance with this section.

[Ord. 5947, 1/1/21]

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2.240 Procedure. A Conditional Use application is reviewed as either a Type II or a Type III procedure, according to the Schedule of Permitted Uses. [Ord. 5446, 5/10/00, Ord. 5673, 6/27/07]

2.250 Review Criteria. Requests for Conditional Use will be approved if the review body finds that the application conforms with the Albany Development Code and all of the following criteria, either outright or with conditions that bring the proposal into compliance:

- (1) The application is consistent with the goals and policies of the Comprehensive Plan and any relevant plans adopted by the City Council.
- (2) The proposed use is consistent with the intended character of the base zone and the operating characteristics of the neighborhood.
- (3) The proposed use will be compatible with existing or anticipated uses in terms of size, building scale and style, intensity, setbacks, and landscaping or the proposal mitigates difference in appearance or scale through such means as setbacks, screening, landscaping or other design features.
- (4) The transportation system can support the proposed use in addition to the existing uses in the area. Evaluation factors include street capacity and level of service, on-street parking impacts, access requirements, neighborhood impacts and pedestrian safety.
- (5) Public services for water, sanitary and storm sewer, water management, and for fire and police protection, can serve the proposed use.
- (6) The proposal will not have significant adverse impacts on the livability of nearby residentially zoned lands due to:
 - (a) Noise, glare, odor, litter, or hours of operation.
 - (b) Privacy and safety issues.
- (7) Activities and developments within special purpose districts must comply with the regulations described in Articles 4 (Airport Approach), 6 (Natural Resources), ~~and 7 (Historic)~~, and 14 (Climate Friendly Areas) as applicable.

[Ord. 5265, 12/18/96; Ord. 5720, 8/12/09; Ord. 5764, 12/1/11; Ord. 5886, 1/6/17; Ord. 5947, 1/1/21; Ord. 6068, 11/8/25]

2.260 Conditions of Approval. The review body may attach conditions of approval to ensure that the proposal will conform to the applicable review criteria.

Some of the most frequently imposed conditions relate to the following: uses, special yards, and spaces; fences and walls; street dedications and improvement petitions (or bonds); site entry and exit; signs; building textures, colors, architectural features and height; landscaping, screening and buffering; noise, vibration, odors or other similar nuisances; hours for certain activities; time period within which the proposed use must be developed; duration of use; and preservation of natural vegetation and open space.

2.265 Application Contents. As applicable, application contents must be the same as those required for Site Plan Review in Section 2.490. [Ord. 5842, 1/1/15; Ord. 5947, 1/1/21]

DEVELOPMENT CODE AMENDMENTS

2.270 Purpose. The Development Code implements the goals and policies of the Comprehensive Plan, which reflects community values and needs. Because these values may change with time and because new techniques for implementing the Plan may become more appropriate, the Code must have some mechanism for response to those changes. Amendments to the Code

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should occur as needed to maintain a close relationship between it and the Comprehensive Plan.

2.280 Procedures. Code amendments shall be processed as a Type IV-L procedure in accordance with the legislative procedures of Section 1.260. Exception: The Director may initiate and approve amendments for the following types of corrections through a Type I procedure: typographical, grammatical, and cross-referencing errors.

[Ord. 5635, 1/11/06; Ord. 5947, 1/1/21]

2.290 Review Criteria. The request may be approved if the Council finds that the application meets the following criteria:

- (1) The proposed amendments better achieve the goals and policies of the Comprehensive Plan than the existing language.
- (2) The proposed amendments are consistent with Development Code policies on purpose and with the purpose statement for the base zone, special purpose district, Climate Friendly Areas, or development regulation where the amendment is proposed.

NONCONFORMING SITUATIONS

[The nonconforming situations section has been replaced in its entirety by Ordinance 5966, effective November 12, 2021. Prior modifications to the Nonconforming Situations standards can be found in Ordinances 5338 (1/28/98), 5555 (2/7/03), 5720 (8/12/09), 5832 (4/9/14), and 5947 (1/1/21)]

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

2.310 Nonconforming Situations, Generally.

- (1) Applicable Provisions. In addition to the general requirements in this section, properties are subject to the standards and procedures for the type (or types) of nonconforming situations applicable to the property.
 - (a) Non-conforming lots are subject to Section 2.320.
 - (b) Non-conforming developments are subject to Section 2.330.
 - (c) Non-conforming uses are subject to Sections 2.340 through 2.350.
- (2) Nonconforming Situations Must be Lawfully Established. Uses or developments that were not lawfully established do not have a legal right to continue as nonconforming situations as defined by this Code and must be removed.
- (3) Documentation that a Nonconforming Situation was Lawfully Established. The property owner or applicant must document that a nonconforming situation was legally established on its present site. Evidence that the situation was allowed depends on the type of nonconforming situation. For nonconforming lots, the property owner or applicant must document when the lot was lawfully created by providing land division records meeting the requirements of the State of Oregon. For development or uses, the property owner or applicant must provide building, land use, or development permits. For development or uses which did not require a permit when lawfully established, the property owner or applicant must provide other evidence which clearly shows the date the development or use was established such as dated aerial photographs. In addition, for nonconforming uses, the property owner or applicant must document that the use has

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been maintained over time. Evidence that a use was maintained over time might consist of building permits, utility hookups, tax records, business licenses, lease agreements, business receipts, or telephone directory listings.

- (4) Dangerous Buildings or Intentional Destruction. Except as provided in Subsection 2.330(2), any nonconforming use or development dependent upon a building or structure that has been declared a “dangerous building” and ordered demolished pursuant to the Albany Dangerous Building Code (AMC Title 18) will be considered terminated upon that declaration and order. Nonconforming uses or nonconforming developments that have been intentionally destroyed by the owner shall lose their legal nonconforming status.
- (5) Allowances That Apply to All Nonconforming Situations. The following allowances apply to all nonconforming situations.
 - (a) Their status is not affected by changes in ownership.
 - (b) Legal nonconforming uses may continue to operate.
 - (c) They may be changed to conforming situations by right or with an applicable land use approval. Once a conforming situation occupies a site, the nonconforming rights are lost, and a nonconforming situation may not be re-established.
 - (d) Normal maintenance and repair are allowed.
 - (e) Changes that conform to the base zone development standards of the site may be made.
 - (f) Except as specified herein, a nonconforming situation shall maintain compliance with any conditions of approval.

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

[Ord. 5968, 1/14/22]

Staff Comment: Regarding improvements required with Nonconforming Development in ADC 2.330(5)(b), staff proposes to move landscaping-related items from Category 2 to Category 1.

2.330 Nonconforming Development.

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

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development site do not move further out of conformance with the applicable standards.

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

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

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

Category 1

- Pedestrian facilities connecting the development to a public sidewalk (if a public sidewalk is abutting the property).
- Access to public streets in accordance with Section 12.100.
- Parking lot design and circulation standards in accordance with Sections 9.120 and 9.130.
- Required landscaping in accordance with Section 9.140 and parking lot landscaping in Section 9.150.
- Bicycle Parking standards in accordance with Section 9.030 and Electric Vehicle

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Charging Capacity in Section 9.050.

Category 2

- If the site is within the Willamette River Greenway, funds will be used to enhance the natural areas closest to the waterfront in accordance with the criteria in Section 6.540.
- ~~Front yard~~Other landscaping standards in accordance with Article 9 to the extent feasible, ~~unless there is not enough physical room, and a Minor Variance is approved;~~
- Buffering and screening standards in accordance with Article 9 to the extent feasible, ~~unless there is not enough physical room, and a Minor Variance is approved;~~
- ~~Parking lot landscaping improvement standards in accordance with Section 9.150;~~
- Screening of refuse containers.

(c) Area of required improvements.

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

[Ord. 6018, 6/30/23; Ord. 6042, 7/12/24]

2.340 Nonconforming Uses.

- (1) Continued Operation. Nonconforming uses may continue to operate on a site. Except as provided in Subsection (2), changes in operations, such as changes in ownership, hours of operation and the addition or subtraction of accessory uses, are allowed.
- (2) Hours of Operation in Residential Zones. Nonconforming uses in residential zones may not extend their hours of operation into the period of 10 p.m. to 7 a.m.
- (3) Discontinuation or Abandonment of Nonconforming Use. A nonconforming use that is discontinued for a period of more than three years in a residential zone (listed in Article 3) or five years in any other zone shall be deemed abandoned and shall no longer be allowed as a legal nonconforming use. For purposes of calculating the time period, a use is discontinued on a site when:
 - (a) The use no longer physically occupies the site;
 - (b) For nonresidential uses, the use ceases operation. For example, the site is no longer actively in use for the sale of merchandise, the manufacture or warehousing of products, or the provision of services; as evidenced by the removal of signs, goods, stock, or office equipment, or the disconnection of telephone or utility service or similar indications;
 - (c) Any lease or contract under which the nonconforming use has occupied the site is terminated;
 - (d) A request for final reading of water and power meters is made to the applicable utility or the utility bill account indicates inactivity;

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- (e) The use ceases operation as a result of damage or destruction by fire or other causes; and/or
 - (f) An event occurs similar to those listed in Subsections (a) – (e), above, as determined by the Director.
- (4) Application of Code Criteria and Standards to Nonconforming Use. Once the City deems a nonconforming use abandoned pursuant to Subsection (3), any subsequent use of the subject lot shall conform to the current standards and criteria of this Code applicable to the use. After the City has deemed a nonconforming use abandoned, the use shall not be allowed to resume, in whole or in part, under the same or different ownership or management; any such activity is a violation of this Code and subject to enforcement proceedings.

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

- (1) Type I Procedure. The following situations will be processed through a Type I procedure, as established in Section 1.210.
 - (a) Changes of use within the same use category. Changing to a different use within the same use category, such as a change from one type of Manufacturing and Production use to another type of Manufacturing and Production use, is permitted if all of the following criteria are met:
 - i. The nonconforming use was not created lawfully;
 - ii. The new use does not result in new construction or expansions in floor area to provide space for nonconforming uses or an expansion to outside storage areas;
 - iii. If hours of operation or staffing levels were specified in an earlier land use approval, the new use does not propose increases in hours of operation or staffing levels; and
 - iv. The new use is not within or abutting a residential zoning district.
- (2) Type II Land Use Review. The following changes to nonconforming uses will be processed through a Type II procedure as established in Section 1.230 and subject to the applicable review criteria in Section 2.350.
 - (a) A change to another use in the same use category that:
 - i. Is within or abutting a residential zoning district;
 - ii. Proposes to increase the hours of operation or staffing levels above levels that were specified in earlier land use approvals (if applicable); or
 - iii. Includes expansions to outside storage areas or new construction or expansions in floor area to provide space for nonconforming uses.
 - (b) Within an industrial zoning district, a change from a legal nonconforming use to a commercial use that is not otherwise permitted in the base zone.
- (3) A change to another nonconforming use in a different use category, such as changing from a Manufacturing and Production use to a Contractor and Industrial Service use, is prohibited except as specified in subsection (2)(b), above.

[Ord. 6042, 7/12/24]

2.350 Review Criteria for Type II Nonconforming Use Decisions. A request will be approved for nonconforming uses if the review body finds that the application meets all of the following

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criteria:

- (1) The nonconforming use was not created unlawfully. See Subsection 2.310(3).
- (2) With mitigation measures, there will not be a net increase in overall adverse impacts (over the impacts of the previous use) on the surrounding area taking into account factors such as:
 - (a) Noise, vibration, dust, odor, fumes, glare, and smoke;
 - (b) Potential for increased litter;
 - (c) The amount, location, and nature of any outside displays, storage, or activities;
 - (d) The appearance of the new use will not detract from the desired function and character of the zone;
 - (e) The operating characteristics of the proposed use are compatible with the existing and anticipated uses. The hours of operation in residential zones cannot be extended into the period of 10 p.m. to 7 a.m.
 - (f) If the proposed change to the nonconforming use will result in an increase in vehicular trips, the street system has adequate capacity to accommodate the use through the horizon year of the current Transportation System Plan;
 - (g) If the proposed change to the nonconforming use will result in an increase in vehicle parking demand, the site has adequate on-site parking to accommodate the development or adequate parking will be provided in accordance with Article 9;
 - (h) Parking areas and entrance-exit points are designed to facilitate traffic and pedestrian safety and avoid congestion;
 - (i) Public services for water, sanitary sewer, stormwater, water management, and for fire and police protection, can serve the proposed use;
 - (j) Activities and developments within overlay districts must comply with the regulations described in Article 4 (Airport Approach), 6 (Natural Resources), ~~and 7 (Historic), and 14 (Climate Friendly Areas)~~ as applicable;
 - (k) If a commercial use is proposed in an existing building in an industrial zone, the development shall not alter the existing building or site in a way that would discourage or preclude its later conversion back to an industrial use; and
 - (l) Any applicable criteria in (3) and (4) below.
- (3) Expansions in floor area to provide space for nonconforming uses do not exceed the following thresholds:

Existing Gross Floor Area	% of Expansion of Floor Area
Buildings under 4,000 sq. ft.	25%
Buildings between 4,000 and 10,000 sq. ft.	20%
Buildings larger than 10,000 sq. ft.	15%

- (a) Expansions in floor area for nonconforming uses may occur one time only and the expansion must comply with current development standards.
- (b) Expansion of a nonconforming use onto another site is prohibited, except when:
 - i. The expansion site abuts the site of the nonconforming use; and
 - ii. The expansion site was in the same ownership as the nonconforming site when it became nonconforming and the zoning regulations applicable to the expansion site

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at that time would have allowed the use.

- (b) Addition of new residential units to a nonconforming residential use is prohibited.
- (4) Nonconforming Use Expansions in Residential Areas. If the nonconforming use is in a residential zone or in a mixed-use zone with residential uses adjacent to the site, the appearance of the proposed expansion will not lessen the residential character of the area. This is based on taking into account factors such as:
 - (a) Building scale, placement, and facade;
 - (b) Parking area placement;
 - (c) Buffering and the potential loss of privacy to abutting residential uses; and
 - (d) Lighting and signs.

SITE PLAN REVIEW

- 2.400 Purpose. Site Plan Review is intended to promote functional, safe, and attractive developments that maximize compatibility with surrounding developments and uses and with the natural environment. It mitigates potential land use conflicts through specific conditions attached by the review body. The review focuses on the layout of a proposed development, including building placement, setbacks, parking areas, external storage areas, open areas, and landscaping.
[Ord. 5445, 4/12/00; Ord. 5767, 12/7/11]
- 2.415 Procedure. An application for Site Plan Review must be reviewed through either a Type I or Type I-L procedure, as indicated below.
- (1) Single dwelling unit detached, two primary detached units, and middle housing development: Type I procedure.
 - (2) Multiple-dwelling unit development, units above or attached to a business, and manufactured home parks: Type I-L procedure.
 - (3) Non-residential development: Type I-L procedure.
- [Ord. 5832, 4/9/14; Ord. 5947, 1/1/21; Ord. 5968, 1/14/22; Ord. 6004, 12/28/22; Ord. 6062, 5/23/25]
- 2.420 Relationship to Other Regulations. When a land use application is approved based on review criteria in this Code, the applicant must still comply with other applicable codes, ordinances, statutes, and regulations.
[Ord. 5445, 4/12/00]
- 2.430 Applicability. In general, Type I or Type I-L Site Plan Review is intended for all new development within the city that specifically requires Site Plan Review as listed in Articles 3, 4 and 5. It applies to new construction, additions or expansions, site modifications, and changes in land use categories. Sites that contain legal nonconforming situations will be processed in accordance with Section 2.300 through 2.350.
- (1) Any activity or development that requires Site Plan Review as indicated in Table 1.100-1, Procedure by Application Type in Article 1, and the Schedules of Permitted Uses and Special Conditions in Articles 3, 4 and 5, unless specifically exempt in Section 1.105.
 - (2) Expansions to existing development include new structures and additions whether attached or detached, totaling more than 2,000 square feet or more than 50 percent of existing building area, whichever is less.
 - (3) New parking or loading areas or expansions to existing parking or loading areas or site modifications (excluding buildings) greater than 1,000 square feet or that provide more than two new parking spaces. Parking areas for middle housing development are exempt from

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- this provision and will be reviewed for compliance with Articles 8 and 9 at time of building permit submittal.
- (4) Modifications that change site circulation or access as identified below and similar actions.
 - (a) Creation, modification, and/or removal of a driveway or pedestrian connection to the street system.
 - (b) Modification of allowable movements at a driveway connection to the street system.
 - (c) Creation, extension, closure, and/or alteration of the direction of a travel aisle or walkway.
 - (5) Conversion of existing off-street parking areas to uses other than bicycle parking or transit-oriented facilities.
 - (6) Temporary placement of a manufactured home or modular building for:
 - (a) Night watchman;
 - (b) Business office space during construction or remodeling;
 - (c) Building space for education, non-profit, and government agencies (See Section 10.490).
 - (7) Tree Felling as specified in Sections 9.205 and 9.206.
 - (8) A change in land use category, such as Commercial to Industrial, unless waived by the Director.

[Ord. 5445, 4/12/00; Ord. 5767, 12/7/11; Ord. 5832, 4/9/14; Ord. 5886, 1/6/17; Ord. 5947, 1/1/21; Ord. 5968, 1/14/22; Ord. 6018, 6/30/23; Ord. 6024, 12/29/23; Ord. 6042, 7/12/24; Ord. 6059, 3/14/25; Ord. 6062, 5/23/25]

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

- (1) The application is consistent with the goals and policies of the Comprehensive Plan and any relevant plans adopted by the City Council.
- (2) The application is complete in accordance with the applicable requirements.
- (3) The application complies with all applicable provisions of the underlying zoning district including, but not limited to, setbacks, lot dimensions, density, lot coverage, building height, and other applicable standards.
- (4) Activities and developments within special purpose districts comply with the regulations described in Articles 4 (Airport Approach), 6 (Natural Resources), ~~and~~ 7 (Historic), and 14 (Climate Friendly Areas) as applicable.
- (5) The application complies with all applicable Design Standards of Article 8.
- (6) The application complies with all applicable Design Standards of Article 10.
- (7) The application complies with all applicable On-Site Development and Environmental Standards of Article 9.
- (8) The Public Works Director has determined that public facilities and utilities are available to serve the proposed development in accordance with Article 12 or will be made available at the time of development.
- (9) The Public Works Director has determined that transportation improvements are available

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to serve the proposed development in accordance with Article 12 or will be available at the time of development.

- (10) The proposed post-construction stormwater quality facilities (private and/or public) can accommodate the proposed development, consistent with Title 12 of the Albany Municipal Code.
- (11) The proposal meets all existing conditions of approval for the site or use, as required by prior land use decision(s), as applicable.
- (12) Sites that have lost their nonconforming status must be brought into compliance and may be brought into compliance incrementally in accordance with Section 2.330.

[Ord. 5947, 1/1/21; Ord. 5966, 11/12/21; Ord. 6068, 11/8/25]

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

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

[Ord. 5947, 1/1/21]

*****No changes are proposed to Sections 2.460 through 2.696 so these sections are not shown.*****

Staff Comment: The proposed changes are required by Senate Bill 974 to reduce the land use process for residential upzoning, Planned Developments, and residential adjustment or variance applications.

ZONING MAP AMENDMENTS

2.700 Purpose. This section states the procedures and review criteria necessary to process an amendment to the base zones, special purpose districts, and other map symbols of the Zoning Map. The section differentiates between amendments that are processed in a quasi-judicial manner and those processed in a legislative manner.

2.710 Initiation.

- (1) Quasi-judicial zoning map amendments may be initiated by a property owner, a representative of the owner, the Director, the Planning Commission, or the City Council.
- (2) Legislative zoning map amendments may be initiated by the Director, Planning Commission or City Council. Citizens may request that the Planning Commission initiate a legislative amendment. This type of initiation is addressed in Section 1.260.
- (3) Initiations by a review body are made without prejudice towards the outcome.

[Ord. 5947, 1/1/21]

2.720 Procedure. ~~All~~ Zoning Map amendments except for map amendments to allow higher density development will be reviewed through the Type IV-Q procedures as outlined in Section 1.250 or by legislative action as provided for in Section 1.260. Zoning map amendments to allow more

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dense residential development for property zoned or designated for residential or mixed use will be reviewed through the Type II procedures as outlined in Section 1.230.

[Ord. 5947, 1/1/21]

2.730 Special Notice Requirements. If a zone change request would change the zone of property that includes all or part of a manufactured home park, the City must give written notice by first class mail to each existing mailing address for tenants of the manufactured home park at least 20 days but not more than 40 days before the date of the first hearing on the application. The failure of a tenant to receive a notice that was mailed must not invalidate any zone change.

2.740 Review Criteria. Zoning Map amendments will be approved if the Council finds that the applicant has shown that all of the following criteria are met:

- (1) The proposed base zone is consistent with the Comprehensive Plan map designation for the entire subject area unless a Plan map amendment has also been applied for.
- (2) Existing or anticipated transportation facilities are adequate for uses permitted under the proposed zone designation.
- (3) Existing or anticipated services (water, sanitary sewers, storm sewers, schools, police and fire protection) can accommodate potential development in the subject area without adverse impact on the affected service area.
- (4) The intent and purpose of the proposed zoning district best satisfies the goals and policies of the Comprehensive Plan.
- (5) The land use and transportation pattern recommended in any applicable City-contracted or funded land use or transportation plan or study has been followed, unless the applicant demonstrates good cause for the departure from the plan or study.
- (6) The proposed zoning map amendment is consistent with the adopted functions, capacities, and performance standards identified in the City of Albany Transportation System Plan or any other City-contracted or funded transportation plan or study. If the proposal is not consistent with City plans or studies, the applicant must provide sufficient data to demonstrate good cause for the departure from the specific plan or study, as approved by the City Engineer

[Ord. 5635, 1/11/06; Ord. 5764, 12/1/11; Ord. 6068, 11/8/25]

2.750 Corrections to the Zoning Map. The Director may initiate and approve a review following the Type I procedure for the types of corrections to the Zoning Map listed below:

- (1) A map line that was intended to follow a topographical feature does not do so. Topographical features include the tops and bottoms of hillsides, the banks of water bodies, and center lines of creeks or drainage ditches.
- (2) The line on the map does not match the legal description or the map shown or referenced in the ordinance that applied the designation.
- (3) There is a discrepancy between maps and there is clear legislative intent for where the line should be.
- (4) It can be clearly shown that a map line is based on the location of a reference item that has since been moved. Reference items are rights-of-way, tentative rights-of-way, utility easements and similar items. Map line changes in these cases must not be more than a trivial change to the map pattern and must not result in any significant impacts to abutting lots.

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

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

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

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

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

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

[Ord. 5555, 2/7/03; Ord. 5556, 2/21/03; Ord. 5673, 6/27/07; 10/12/17; Ord. 5947, 1/1/21; Ord. 6004, 12/28/22; Ord. 6010, 7/1/23; Ord. 6059, 3/14/25]

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Staff Comments. Changes are needed in this Article to comply with legislation that passed in 2025 and 2026 that is in effect or goes into effect July 1, 2026. References to the newer Article 14, Climate Friendly Area Overlay Districts are being added where needed. The full Article and [Albany Development Code](#) are located online.

ARTICLE 3 RESIDENTIAL ZONING DISTRICTS

3.010 **Overview.** The residential zones are intended to preserve land for housing. This Code preserves the character of neighborhoods by providing seven zones with different density standards. The site development standards allow for flexibility of development while maintaining compatibility within the City's various neighborhoods. These regulations provide certainty to property owners, developers, and neighbors by stating the allowed uses and development standards for the base zones. Sites within overlay districts are also subject to the regulations in Articles 6, 7 and 714.

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

- Zoning Districts
- Schedule of Permitted Use
- Development Standards

[Ord. 5673, 6/27/07]

ZONING DISTRICTS

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

- (1) RR - RESIDENTIAL RESERVE DISTRICT. The RR District is intended to recognize areas which, because of topography, level of services, or other natural or development factors are best served by a large lot designation. This district may be applied on an interim basis until urban services become available. The minimum lot size is five acres.
- (2) R-10 - RESIDENTIAL DISTRICT. The R-10 District is intended primarily for a lower density residential environment consisting of detached single-dwelling units and middle housing. The average standard lot size for single-dwelling units and duplexes is 10,000 square feet.
- (3) R-6.5 - RESIDENTIAL DISTRICT. The R-6.5 District is intended primarily for low-density urban residential development that includes single dwelling units, townhouses, and middle housing (duplexes, triplexes, fourplexes, and cottage clusters). The average standard lot size for single-dwelling units and duplexes is 6,500 square feet.
- (4) R-5 - RESIDENTIAL DISTRICT. The R-5 District is intended primarily for low- to moderate-density residential development. The average standard lot size for single-dwelling units and duplexes is 5,000 square feet.
- (5) RM - RESIDENTIAL MEDIUM DENSITY DISTRICT. The RM District is primarily intended for medium-density residential urban development that includes single-dwelling units, townhouses, duplexes, triplexes, fourplexes, cottage clusters, and apartments up to 45 feet tall. New RM districts should be located on a collector or arterial street or in Village Centers.
- (6) RMA - RESIDENTIAL MEDIUM DENSITY ATTACHED DISTRICT. The RMA District is intended primarily for medium- to high-density urban residential development consisting of

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attached housing types, including duplexes, triplexes, fourplexes, and apartments up to 60 feet tall. New RMA districts should be located on a collector or arterial street or in Village Centers.

- (7) HDR - HIGH DENSITY RESIDENTIAL DISTRICT. The HDR District is intended primarily for high-density urban residential multiple story development and other compatible uses. This district supports the highest residential density in the city and must be located on a collector or arterial street, and adjacent to mixed use, commercial, or industrial zoned land. Development in the HDR district must achieve a density of at least 25 units per gross acre.
- (8) HM - HACKLEMAN-MONTEITH DISTRICT. The HM district is intended primarily to preserve the historic character of the existing residential resources in the Hackleman and Monteith National Register Historic Districts. Low-density residential infill that is compatible with the historic character of the district is permitted.

[Ord. 5555, 2/7/03; Ord. 5673, 6/27/07; Ord. 5968, 1/14/22; Ord. 6004, 12/28/22; Ord. 6010, 7/1/23; Ord. 6024, 12/29/23; Ord. 6059, 3/14/25]

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

Special Purpose District	Applicable Articles
Airport Approach	Article 4
Floodplain	Article 6
Hillside Development	Article 6
Significant Wetlands	Article 6
Riparian Corridors	Article 6
Wildlife Habitat	Article 6
Willamette Greenway	Article 6
Historic Overlay	Article 7
<u>Climate Friendly Areas</u>	<u>Article 14</u>

[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.

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

- (2) When a development proposal involves a combination of uses other than accessory uses, the more restrictive provisions of this Code apply. For example, if a portion of a development is subject to Conditional Use approval and the balance is subject only to Site Plan Review, the entire development must be reviewed using the Conditional Use criteria if concurrent approval of all uses is requested.
- (3) A change in the use of a property is subject to review as specified by the schedule of permitted uses:
 - (a) When the change involves a change from one use category to another in the schedule of permitted uses and the Director has not waived review under the provisions of Section 1.105, or
 - (b) When a property that has been unoccupied for more than one year.

[Ord. 5673, 6/27/07; Ord. 5947, 1/1/21; Ord. 6059, 3/14/25; Ord. 6062, 5/23/25]

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

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

The abbreviations used in the schedule have the following meanings:

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

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

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

Staff Comments - Schedule of Permitted Uses:

Changes are needed to comply with HB 2005 which requires cities to allow residential treatment homes and facilities and crisis stabilization center and mental or psychiatric hospitals without requiring a conditional use permit or zone change in certain areas.

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

Uses Allowed in Residential Zoning Districts									
USE CATEGORIES (See Article 22 for use descriptions.)	Spec. Cond.	RR	R-10	R-6.5	HM	R-5	RM	RMA	HDR
RESIDENTIAL: Dwellings									
Single Dwelling Unit (SDU)	1, 22, 23	Y	Y	Y	Y	Y	Y	N	N
SDU with one Accessory Dwelling Unit or Single Room Occupancy Unit	4, 22	Y	Y	Y	Y	Y	Y	Y	N
Two Primary Units	2	N	PD/CD	PD/CD	S	PD/CD	Y	Y	N
Duplex, Triplex, and Fourplex	3, 22, 23, 25	Y	Y	Y	Y	Y	Y	Y	Y
Townhouse	22, 23	Y	Y	Y	Y	Y	Y	Y	Y
Cottage Cluster	3, 22	Y	Y	Y	Y	Y	Y	N	Y
Single Room Occupancy Development	20, 22, 23	Y	Y	Y	Y	Y	<u>Y/S</u>	<u>Y/S</u>	<u>Y/S</u>
Multiple-Dwelling Units	3, 22, 23, 25	N	N	N	N	N	S	S	S
RESIDENTIAL: Care or Treatment									
Assisted Living		CU	CU	CU	CU	CU	S	S	S
Child or Adult Care Home	6	Y	Y	Y	Y	Y	Y	Y	Y
Residential Care or Treatment Facility (6 or more residents)	<u>26</u>	<u>CU</u>	<u>CU</u>	<u>CU</u>	<u>CU</u>	<u>CU</u>	S	S	S
Residential or Group Care Home (5 or fewer residents)	<u>26</u>	Y	Y	Y	Y	Y	Y	Y	Y
RESIDENTIAL: Miscellaneous Uses									
Manufactured Home Parks	10, 22	N	N	S	N	S	S	S	S
Accessory Buildings	9	Y/S	Y/S	Y/S	Y/S	Y/S	Y/S	Y/S	Y/S
Bed & Breakfast	7	CUII	CUII	CUII	CUII	CUII	CUII	S	S
Home Businesses	21	Y/CU	Y/CU	Y/CU	Y/CU	Y/CU	Y/CU	Y/CU	Y/CU
Rooming or Boarding Houses		N	N	N	CU	N	S	S	Y
Subdivision Sales Office	1	N	Y	Y	N	Y	Y	Y	Y
Unit(s) Above or Attached to a Business	17, 22, 23	N	N	N	N	N	N/S-19	N/S-19	S
Temporary Residence	8	S	S	S	S	S	S	S	S
INSTITUTIONAL									
Basic Utilities		CU	CU	CU	CU	CU	CU	CU	CU
Community Services	24	CU	CU	CU	CU	CU	S-24/ CU	S-24/ CU	S-24/ CU
Daycare Facility <u>or Child Care Center</u>		CU	CU	CU	CU	CU	S	S	S
Educational Institutions	13	CU	CU	CU	CU	CU	CU/S- 13	CU/S- 13	CU/S- 13
Hospitals	<u>27</u>	N	N	N	N	N	CU	CU	CU
Jails & Detention Facilities		N	N	N	N	N	N	N	N
Parks, Open Areas, and Cemeteries	14	S/CU	S/CU	S/CU	CU	S/CU	S/CU	S/CU	S/CU
Religious Institutions	13	CU	CU	CU	CU	CU	CU	CU	CU
COMMERCIAL: Limited Use Types									
Entertainment and Recreation: Indoor Outdoor	18, 23	CU CU	CU CU	CU CU	CU N	CU CU	CU CU	CU CU	CU CU
Offices	17, 19, 23	PD/CD	PD/CD	PD/CD	PD/CD	PD/CD	S-19/ PD/CD	S-19/ PD/CD	S-19
Recreational Vehicle Parks (See Article 10)	5, 10	N	N	N	N	N	CU	CU	CU
Restaurants, no drive-thru	17, 19, 23	PD/CD	PD/CD	PD/CD	PD/CD	PD/CD	S-19 PD/CD	S-19 PD/CD	S-19
Retail Sales and Service	17, 19, 23	PD/CD	PD/CD	PD/CD	PD/CD	PD/CD	S-19 PD/CD	S-19 PD/CD	S-19
Self-Serve Storage	15, 23	N	N	N	N	N	S	N	N

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Uses Allowed in Residential Zoning Districts									
USE CATEGORIES (See Article 22 for use descriptions.)	Spec. Cond.	RR	R-10	R-6.5	HM	R-5	RM	RMA	HDR
Taverns, Bars, Brewpubs, Nightclubs		N	N	N	N	N	S-19	S-19	S-19
OTHER CATEGORIES									
Agriculture: Crop Production		Y	Y	Y	N	Y	Y	Y	Y
On-site Sales of Site-Produced Seasonal Goods		Y	S	CU	N	CU	CU	CU	CU
Plant Nurseries and Greenhouses		S	S	S	N	S	S	S	S
Antennas, owned and operated by FCC licensed member of Amateur Radio Service		Y	Y	Y	Y	Y	Y	Y	Y
Communication Facilities	16	N	N	N	N	N	N	N	N
Kennels	11	S	CU	CU	N	CU	CU	N	N
Satellite Dish and Other Antennas	12	Y	Y	Y	Y	Y	Y	Y	Y

Y = Yes, allowed, no Site Plan review required

N = No, not allowed

CD = Cluster Development, see Art. 11

PD = Planned Unit Development, see Art. 11

CU = Conditional Use approval required, Type III procedure

S = Site Plan Review required, Type I-L procedure

CUII = Conditional Use approval required, Type II procedure

[Ord. 5281, 3/26/97; Ord. 5555, 2/7/03; Ord. 5673, 6/27/07; Ord. 5742, 7/14/10; Ord. 5801, 2/13/13; Ord. 5832, 4/9/14; Ord. 5886, 1/6/17; Ord. 5947, 1/1/21; Ord. 5949, 1/1/21; Ord. 5968, 1/14/22; Ord. 6004, 12/28/22; Ord. 6008, 1/27/23; Ord. 6010, 7/1/23; Ord. 6024, 12/29/23; Ord. 6042, 7/12/24; Ord. 6059, 3/14/25; Ord. 6062, 5/23/25]

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

SPECIAL CONDITIONS

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

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

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- (h) The sales office permit may be renewed once up to a year.
- (2) When more than one single-dwelling unit is located on a property of record in a residential zoning district and the ~~buildings-dwellings~~ were legally constructed, the property may be divided in conformance with Article 11, even if the resulting lots do not meet the required minimum lot area and dimensional standards for the zoning district, if required setbacks and lot coverage can be met.
- (3) Duplexes, triplexes, fourplexes, cottage clusters, and multi-dwelling unit development may be divided so that each unit can be individually owned by doing a land division in conformance with Article 11. The total land area provided for the development as a whole must conform with the requirements of Article 3, Table 3.190-1, however, the amount of land on which each unit is located does not need to be split equally between the individual units - one may be larger and one smaller.
- (4) Single Dwelling Unit with One Accessory Dwelling Unit or Single Room Occupancy Unit. Where single-dwelling units are permitted outright, one Accessory Dwelling Unit (ADU) or one Single Room Occupancy (SRO) unit may be allowed on each lot that has one legally established single-dwelling unit, called the “primary dwelling unit”.
- (a) Accessory Dwelling Units. Accessory Dwelling Units must meet the following standards:
- i. The size of an ADU may not exceed 900 square feet. (Note: ADUs greater than 900 square feet that were legally constructed before July 1, 2007, may remain.) If the primary Dwelling Unit is less than or equal to 900 square feet, the ADU must be at least 25 square feet less than the primary Dwelling Unit.
 - ii. All required building permits have been obtained. If the primary dwelling unit is on the Local Historic Inventory, historic review may be required, per Article 7.
 - iii. The lot was legally established
 - iv. Detached ADUs must also meet the following development standards:
Front Setback: Greater than or equal to the location of the front wall of the primary residence;
Side and Rear Setbacks: 5 feet for one-story; 8 feet for two-story; and
Maximum Height: 24 feet to the ridge of the roof.
 - v. Conversion of an Existing Building: An existing accessory structure that was legally established prior to March 14, 2025, may be converted into an ADU, provided the conversion does not increase the nonconformity of the structure and complies with applicable building codes.
- (b) Single Room Occupancy (SRO) Unit. The SRO Unit must meet the following standards:
- i. The SRO Unit must be located interior to the primary Dwelling Unit.
 - ii. The SRO Unit must share a Kitchen with the primary Dwelling Unit and must not contain food preparation facilities.
 - iii. The SRO Unit must have an interior door connecting the primary Dwelling Unit and may have an exterior door located in the rear yard.
 - iv. The SRO Unit must not operate independently of the primary Dwelling Unit unless converted to an Accessory Dwelling Unit after all required building permits have been obtained.
- (5) In the RM, RMA, and HDR Districts, the following criteria must be met in addition to the Conditional Use criteria for permitting RV overnight parks:

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- (a) The entire site must be located within 750 feet of the Interstate 5 right-of-way.
- (b) ~~The~~ RV park access is limited to the Interstate 5 frontage road or streets servicing primarily industrial or commercial development.
- (6) “Child Care Homes” that include the day or nighttime care of no more than sixteen children, including the children of the provider or the care and treatment of adults for less than 24-hours are considered a residential use of the property and are allowed outright in zones that allow residential dwellings per the Oregon Revised Statutes (ORS). See ADC Section 22.200.
- (7) Bed and Breakfast facilities must:
 - (a) Be owner occupied.
 - (b) Be limited to a maximum of four guest bedrooms.
 - (c) Except for driveway spaces, not contain guest parking facilities in the front setback area or within 10 feet of any side or rear residential lot line.
- (8) Temporary residences in conjunction with construction, emergency repair, or a night watchman are permitted with a Special Use Permit subject to the standards in Sections 10.440 through 10.510.

Staff Comments – Accessory buildings exempt from land use review:

The code currently requires accessory buildings over 750 square feet and/or wall height taller than 12 feet in residential zones to go through a compatibility checklist to determine if a Site Plan land use review is required. The purpose is to ensure compatibility with adjacent development. Since the code allows accessory dwelling units to be up to 900 square feet staff propose to increase the size exempt from land use review from 750 to 900 square feet.

- (9) The definitions of “Accessory Building” and “Accessory Use” in Article 22 apply. The Director has the authority to initially interpret application of these terms to any proposed activity or structure. See also Table 3.230-1 for Accessory Structure Standards.

Accessory buildings in residential districts more than ~~750~~900 square feet and/or have walls taller than 12 feet that meet the following standards will be processed as Type I staff decision. Residential accessory buildings not meeting the standards in this section require Site Plan Review.

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

 - (a) The proposed building is not taller than the tallest building on any adjacent property. For this section, building height is measured at its highest point, usually the ridge of the roof, but excluding chimneys and other protrusions from the roof.
 - (b) The proposed building’s footprint is not more than the building footprint of the largest building on adjacent property.
 - (c) The maximum lot coverage by zone provided in Table 3.190-1 is not exceeded.
 - (d) The proposed building meets or exceeds the applicable setback requirements for the primary residence as listed in Table 3.230-1.

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- (e) The materials used on the proposed building must be similar to those used on the primary residential structure (e.g., cement board lap siding is similar to wood lap siding).
- (f) If the proposed building is located in any of the special purpose districts listed in Articles 6, and 7, and 14 of the Development Code, the building must also be reviewed for conformance with the requirements of the applicable district and may require a land use review application.

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

- (g) The structure will not preclude the use of the property for housing or other uses allowed in the zone;
 - (h) The structure is not used for a commercial purpose; and
 - (i) Exception in the RR zone: Buildings used for farm or agricultural production, or equipment storage are permitted.
- (10) Manufactured home and RV park standards are located in Article 10. Manufactured home parks, RV parks and manufactured homes on individual lots are not allowed within the National Register Historic Districts or on land within 100 feet of a historic district, or on land adjacent to a property on the Local Historic Inventory.
 - (11) Kennels in residential districts are restricted to properties containing a minimum of two acres. This restriction does not apply to indoor veterinary hospital kennels.
 - (12) Antennas and satellite dishes are subject to the following standards:
 - (a) Antenna or antenna supports may not be located within any front setback area or within any required landscape buffer yard.
 - (b) Antennas must not extend higher than fifteen feet above the peak of the roof.
 - (c) Dish antennas exceeding 12 feet in diameter are not permitted.
 - (d) Dish antennas exceeding 36 inches in diameter may not be roof mounted.
 - (e) Dish antennas must not exceed 15 feet in height from surrounding grade to the highest point of the structure or dish.
 - (f) Dish antennas located within ten feet of a residential lot line or located so as to be visible from a public street must be screened up to a height of six feet with a solid screen fence, wall, hedge, or other landscaping.
 - (g) Antenna used to display sign messages must conform to all district sign regulations in addition to the above.
 - (h) Antenna not in conformance with the above may be considered by Conditional Use review, Type II process.

Staff Comments – Education and Religious Institutions:

Staff propose to add the language regarding the need for schools to provide a driveway for dropping off and picking up children from school currently only in Article 5, Mixed Use Village Center Zoning Districts, to this Article.

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A few clarifications are also proposed regarding secondary uses associated with educational and religious institutions.

- (13) ~~Educational and Religious~~ Institutions within the Climate Friendly Area (CFA) overlay districts are allowed through Site Plan Review. New educational institutions outside of CFA overlay districts or and new religious institutions outside of CFA overlay districts require Conditional Use approval and include the following secondary uses: educational activities; sports and other recreational activities; religious activities; political activities; meals programs; before and after school or full-time childcare activities; fundraising activities; and cultural programs. ~~Such~~ The addition of secondary uses located within existing buildings will not be required to go through the land use process if all of the activities which constitute the use (~~excluding parking and travel to and from the site~~) take place on the site and there is no external noise audible or light visible between 10:30 p.m. and 7:00 a.m.

An education or religious institution serving students through high school and having a capacity greater than 25 students must have a driveway designed for the continuous forward flow of passenger vehicles for the purpose of loading and unloading children.

- Expansion of an education or religious institution includes the addition of building area, increase in parking lot coverage, or expansion of athletic facilities. Any expansion must be reviewed through the Conditional Use Type II process (CUII) when outside CFAs or Site Plan Review for institutions within CFAs.

- (14) Public park development in CFA overlay districts is permitted through Site Plan Review. Public Park development activity outside of CFA overlay district boundaries is subject to Conditional Use review includes major development; expansions of activities and development within parks which currently generate substantial traffic; or construction of major structures such as swimming pools, lighted ball fields, and community centers. Conditional Use review is not required, however, for construction of play equipment, tennis courts, bike paths, picnic shelters, restrooms, landscaping, and similar activities within existing improved parks.
- (15) Self-Serve Storage is subject to the following standards:
- (a) Freestanding facilities are limited to sites of one to three acres in size and maximum building coverage is limited to 50 percent of the parcel.
 - (b) Building setbacks are as follows: front- 25 feet, side and rear- 20 feet. No fencing is permitted in front setbacks, and a minimum ten-foot landscape buffer yard is required adjacent to all residential zones per the Buffering and Screening standards in Article 9. No barbed wire fencing is permitted in residential districts.
 - (c) The minimum driveway width between buildings is 20 feet for one-way drives and 24 feet for two-way drives.
 - (d) The maximum storage unit size is 500 square feet.
 - (e) All outdoor lighting must be shielded to prevent reflection on adjacent properties.
 - (f) Repair of autos, boats, motors and furniture, and the storage of flammable materials is prohibited on the premises and rental contracts must so specify.
 - (g) Outside storage of vehicles and materials is prohibited within this use category and no other business activity other than the rental of storage units may be conducted on the premises.
- (16) Public and Commercial Communication Facilities are not allowed in residential zoning districts, except when the applicant can provide supportive documentation or evidence, to

the satisfaction of the Community Development Director, that, if such a facility is not allowed, there will be a gap in service that denies service to an area within the community. (This decision is a Conditional Use, Type III land use decision.) Article 8 for telecommunication facility design standards also apply.

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

- (a) The base of the antenna and any structures associated with the antenna must be set back from the property lines of the property on which they are sited a distance of not less than 30 feet.
 - (b) The land on which the facility is sited must be screened from adjacent land along its full perimeter, by providing screening, as defined in ADC Section 9.250.
- (17) Planned Developments allow for limited commercial uses to serve the residents within the development; see Section 11.270. Cluster Developments greater than 50 acres may develop up to 2 acres with neighborhood commercial and office uses through a Conditional Use review (See Section 11.510(2)).
- (18) In all residential zones, indoor entertainment and recreation uses are limited to athletic, exercise or health clubs, gyms or spas, and similar uses. Permitted outdoor entertainment and recreational uses include sports fields, clubhouses, tennis and golf facilities, swimming pools, and similar uses.
- (19) Office, restaurant, and retail sales/service uses and residential units above or attached to a business.
- (a) In the HDR zone outside of a Climate Friendly Area (CFA) overlay districts, office, restaurant, and retail sales/service uses with no drive-thru facilities are permitted subject to Site Plan Review provided they are limited to the ground floor of mixed-use buildings, with residential uses on the upper floors. Within a CFA overlay district, permitted non-residential uses are not required to be in mixed-use buildings. All other office, restaurant, and retail sales/service uses must be considered through Planned Development and Cluster Development review, pursuant to Section 3.080(17).
 - (b) In the RM and RMA zones within a CFA overlay district, offices, restaurants, and retail sales and service uses with no drive-thru facilities are permitted subject to Site Plan review and compliance with standards in Article 14.
 - (c) Retail sales and service uses in the RM, RMA, and HDR zones exclude auto-oriented uses as defined in Article 22.
 - (d) Taverns, bars, brewpubs and nightclubs in the RM, RMA, and HDR zones are permitted in CFA districts when the hours of operation (when the business is open) do not extend past 10 p.m. unless sound attenuation is provided in the walls and ceilings shared with residential units, then hours of operation may extend to 11 p.m.
- (20) One SRO development with no less than four and no more than six SRO units is permitted outright per property zoned to allow single dwelling units. SRO development is also permitted as multiple dwelling unit development through Site Plan Review, but each SRO unit is considered 0.5-33 dwelling units when calculating multiple dwelling unit density. Accessory Dwelling Units are not permitted with SRO developments.
- (21) See 3.090-3.160 to determine if CU review is required.
- (22) Affordable housing as defined below will be permitted through Site Plan Review when the following standards are met.

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- (a) The development is on property zoned for residential or commercial uses, religious assembly, is public land, OR is owned by one of the following:
 - i. A local, state, or special government body, as defined in ORS Chapter 174; or
 - ii. A nonprofit corporation that is organized as a religious corporation or is organized as a public benefit corporation whose primary purpose is the development of affordable housing; or
 - iii. A housing authority as defined in ORS 456.005; or
 - iv. A manufactured dwelling park nonprofit cooperative, as defined in ORS 62.803.
- (b) As used in this section, “affordable housing” means residential dwellings that are subject to an affordable housing covenant as provided in ORS 456.270 to 456.295 for a duration of no less than 30 years and meet either i, ii, or iii below.
 - i. Each unit on the property is made available to own or rent to households with incomes of 80 percent or less of the area median income (AMI); or
 - ii. All units on the property are made available to rent or own to households with incomes with a collective average of 60 percent or less of the AMI; or
 - iii. A manufactured dwelling park that serves only households with incomes of 120 percent or less of the AMI.
- (c) Does not apply on lands where:
 - i. The development cannot be adequately served by water, sewer, storm water drainage or streets; or
 - ii. The property contains a slope of 25 percent or greater; or
 - iii. The property is within a 100-year floodplain; or
 - iv. The development of the property is constrained by land use regulations based on statewide land use planning goals relating to: natural disasters and hazards; or natural resources, including air, water, land, or natural areas, but not including open spaces or historic resources.
- (d) Height and Area Bonuses. An affordable housing development proposal that meets the definition of affordable housing in (b) in this special condition and is located outside of a National Register historic district, will be granted additional height and area bonuses as applicable in Section 3.220(6)~~(c)~~ in Table 3.220-3.
- (23) The conversion of a building or a portion of a building from commercial to residential use may be permitted through Site Plan Review.
- (24) Government facilities that serve customers on-site are permitted through Site Plan Review. Facilities located in one of Albany’s Climate Friendly Area overlay districts are subject to standards in Article 14. Government offices are in the Office use category. Applications for emergency shelters sited under ORS 197.782 and ORS 197.783 are not a land use decision.
- (25) For the purposes of this code, “Non-Property Line Separated” Townhouses constructed under the Oregon Residential Specialty Code have the same meaning.

Staff Comments: The following special conditions are needed to comply with HB 2005 regarding the siting of Residential Care or Treatment Facilities or Homes, licensed crisis stabilization centers and mental or psychiatric hospitals.

- (26) Residential Care or Treatment Facilities or Homes. Facilities are permitted through Site Plan Review; however, a decision to permit a care or treatment home or facility is not a land use decision as defined in ORS 197.015 and is not subject to the jurisdiction of the Land Use

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Board of Appeals. A decision under this section may only be appealed by writ of review under ORS 34.010 to 34.100.

(27) Hospitals do not include mental or psychiatric hospitals licensed under ORS 441.025.

[Ord. 5281, 3/26/97; Ord. 5338, 1/28/98; Ord. 5445, 4/12/00; Ord. 5673, 6/27/07; Ord. 5742, 7/14/10; 5757, 12/4/11; Ord. 5673, 6/27/07; Ord. 5886, 1/6/17; Ord. 5947, 1/1/21; Ord. 5949, 1/1/21; Ord. 5966 11/12/21; Ord. 5968, 1/14/22; Ord. 6010, 7/1/23; Ord. 6042, 7/12/24; Ord. 6059, 3/14/25; Ord. 6062, 5/23/25]

SPECIAL STATUS

3.085 Existing Residential Uses in the HM and R-5 Zones Granted Special Status.

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

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

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

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

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

[Ord. 5673, 6/27/07; Ord. 5789, 10/10/12; Ord. 5886, 1/6/17; Ord. 5968, 1/14/22; Ord. 6004, 12/28/22; Ord. 6018, 6/30/23; Ord. 6059, 3/14/25]

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

Staff Comments: Staff get very few inquiries for home businesses that are not permitted outright because they do not meet one of the standards in Section 3.120. Staff propose to reduce the land

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use review process for businesses that do not qualify as those allowed outright from a Type III (public hearing required), to a Type II, staff-level decision that provides notice to neighbors within 300 feet and mails enables the option to appeal the staff decision to trigger a public hearing.

HOME BUSINESSES

3.090 Purpose. The home business provisions recognize the needs of many people who are engaged in small-scale business ventures which could not be sustained if it were necessary to lease commercial quarters, or which because of the nature of the activity would make it impractical to expand to a full-scale enterprise and that the business is incidental to the residential use. The purpose of these standards is to allow home businesses that can be compatible in scale and operating characteristics within a residential neighborhood without infringing on the right of neighboring residents to enjoy the peaceful occupancy of their homes. Home businesses do not include hobbies as defined in this Code. [Ord. 5832, 4/9/14]

3.092 Applicability. The provisions of this section apply to all home businesses except for the following:

- (1) Garage, yard, or estate sales from the site that comply with Albany Municipal Code Section 8.01.055.
- (2) Open houses and other events involving the sale of goods or services as long as they comply with the frequency of garage sales allowed in Albany Municipal Code Section 8.01.055.
- (3) Hobbies.
- (4) Registered or certified family child care homes per ORS 657A.440.

[Ord. 5832, 4/9/14]

3.094 Prohibited Uses. The following uses are prohibited as home businesses:

- (1) Storage and/or distribution of toxic or flammable materials, and spray painting or spray finishing operations that involve toxic or flammable materials which in the judgment of the Fire Marshal pose a dangerous risk to the residence, its occupants, and/or surrounding properties.
- (2) Junk and salvage operations.
- (3) Storage and/or sale of fireworks in quantities judged by the Fire Marshal to be dangerous.
- (4) Storage or display of more than one motor vehicle for sale.

[Ord. 5673, 6/27/07; Ord. 5832, 4/9/14]

3.094 (1) and (2) Repealed by Ord. 5832, 4/9/14.

3.100 Procedures.

- (1) Home Business Allowed Outright. Home businesses ~~must~~will be allowed outright as a permitted accessory use to a residence provided that the business or businesses cumulatively meet all of the standards in Section 3.110 and 3.120.
- (2) Home Business as a Conditional Use. Applications for a home business that cannot meet the standards in Section 3.120 will be processed as a Conditional Use Type III. The business must meet the standards in Section 3.110 and the Conditional Use review criteria in Article 2, Section 2.250.

[Ord. 5832, 4/9/14; Ord. 6059, 3/14/25]

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Staff Comment: Remove “Uniform” from Building and Fire Codes as they are no longer referred to as such.

3.110 Standards that Apply to All Home Businesses.

- (1) One window or wall sign is allowed, not larger than 12 inches by 18 inches.
- (2) There is no visible outside storage of materials or commodities other than plant materials.
- (3) There is no display, other than the allowed sign, which would indicate from the exterior that the building is being used for any purpose other than a residential use.
- (4) No customers or employees may enter the premises between the hours of 8:00 p.m. and 7:00 a.m.
- (5) All required building and other permits pertaining to the proposed business must be obtained. A home business that is classified as commercial or industrial occupancies by the building codes must comply with the applicable requirements of the ~~Uniform~~ Building Code and ~~Uniform~~ Fire Code.

[Ord. 5832, 4/9/14]

3.120 Standards for Home Businesses Allowed Outright. In order to be allowed outright, a home business must meet all of the following standards. If more than one business is proposed at the same residence, then all businesses must cumulatively meet these standards.

- (1) Employees. The business is carried out only by residents and not more than two outside employees or volunteers.
- (2) Offsite Impacts. The business operation results in no vibration, smoke, dust, odors, heat, glare or noise more than 60 decibels noticeable at or beyond the property line sustained for more than 10 minutes between the hours of 7:00 a.m. and 6:00 p.m.
- (3) Deliveries. The business will not average more than three deliveries and pickups by trucks or other commercial vehicles per day, excluding deliveries from the post office.
- (4) Customer Vehicles. No more than three customer or client vehicles are permitted on the property or in the right-of-way at one time.
- (5) Sales. On-site sales must be by appointment only.
- (6) Size and Scale. Home businesses located in accessory buildings may not exceed 1,000 square feet including storage.

[Ord. 5832, 4/9/14; Ord. 6059, 3/24/25]

3.125 Home Businesses Requiring Conditional Use Approval. In addition to home business that cannot meet the standards to be allowed outright per Section 3.100 (2), the following uses may only be considered through a Conditional Use review and approval:

- (1) Auto body repair and painting for compensation.
- (2) Mechanical repair conducted outside of an entirely enclosed building.
- (3) Headquarters or dispatch center where employees and/or vehicles come to the site and are dispatched to other locations.

[Ord. 5832, 4/9/14]

3.140 Initiation of Complaints. Complaints may be originated by the City of Albany or the public. Complaints from the public shall clearly state the objection to the home business based on the applicable standards in this Code.

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- 3.150 Review Procedures for Complaints. An investigation of the complaint will be performed accordingly:
- (1) If the Director finds that a home business allowed outright does not meet the standards in Sections 3.110 and 3.120, the Director will:
 - (a) Require the business be brought into compliance with the applicable standards; or
 - (b) Require the business be processed as a Conditional Use; or
 - (c) Order the business to be terminated.
 - (2) If the complaint is regarding a home business approved as a Conditional Use, the Director will review the complaint against the standards in Sections 2.250 and 3.110, and any conditions of approval in the notice of decision. If the Director determines the business is in violation of applicable standards or conditions of approval, the Director will:
 - (a) Require the business be brought into compliance with applicable standards and the conditions of approval; or
 - (b) Order the business to be terminated.
- [Ord. 5832, 4/9/14]

- 3.160 Penalties. Non-compliance with the orders of the Director, or his designee, Planning Commission, or Hearings Board, as referred to above, are an infraction punishable as per AMC Section 1.04.01. In addition, each violation of this Article shall bear an additional minimum civil penalty of \$50 per violation. The procedure for adjudication for infractions shall be as set forth at AMC Section 1.05.
- [Ord. 5673, 6/27/07; Ord. 5832, 4/9/14]

Staff Comments – Development Standards in Table 3.190(1):

Note (1): Minor updates to language.

Note (12): Multi-dwelling unit building separation - expand the 10-foot separation for one story buildings to buildings up to 30 feet tall. The current separation of 20- feet between multi-dwelling unit buildings would apply to buildings 30 feet or taller. Clarify that patios are allowed in these setback/separation areas.

DEVELOPMENT STANDARDS

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

TABLE 3.190-1

RESIDENTIAL DISTRICT DEVELOPMENT STANDARDS								
STANDARD	RR	R-10	R-6.5	HM	R-5	RM	RMA	HDR
Minimum Property Size or Land Requirements by Unit Type								
Single dwelling unit (SDU) or Duplex over 1,250 SF (1)(18)(23)	5 acres (15)	10,000 sf	6,500 sf	5,000 sf	5,000 sf	3,500 sf	N/A	N/A

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RESIDENTIAL DISTRICT DEVELOPMENT STANDARDS								
Small SDU or Duplex 800 – 1,250 SF (21)(24)	5 acres (15)	6,500 sf	4,000 sf	3,000 sf	3,000 sf	2,000 sf	N/A	N/A
Small SDU or Duplex Less than 800 SF (21)(24)	5 acres (15)	5,000 sf	3,000 sf	2,500 sf	2,500 sf	1,500 sf	N/A	N/A
Townhouse (1)(16)(19)(20)	1,500 sf	1,500 sf	1,500 sf	1,500 sf	1,500 sf	1,500 sf	1,500 sf	None (20)
Two primary units on one property (1)	N/A	N/A	N/A	7,000 sf	N/A	3,500 sf	3,500 sf	N/A
Triplex (1)(16)(18)(20)(23)	5 acres	10,000 sf	6,500 sf	5,000 sf	5,000 sf	5,000 sf	5,000 sf	None
Fourplex (1)(16)(18)(20)(23)	5 acres	10,000 sf	7,000 sf	7,000 sf	7,000 sf	7,000 sf	7,000 sf	None
Cottage Cluster (1)(16)(17)(18)(20)	5 acres	10,000 sf	7,000 sf	7,000 sf	7,000 sf	7,000 sf	7,000 sf	None
Multiple-dwelling units (23)	N/A	N/A	N/A	N/A	N/A	None	None	None
Single Room Occupancy Development	5 acres (15)	10,000 sf	6,500 sf	5,000 sf	5,000 sf	500 sf/unit <u>None</u>	500 sf/unit <u>None</u>	500 sf/unit <u>None</u>
Minimum Lot Widths: Townhouse All other uses (18) Small SDU or Duplex Lots	20 ft N/A N/A	20 ft 65 ft 50 ft	20 ft 50 ft 40 ft	20 ft 35 ft 30 ft	20 ft 35 ft 30 ft	20 ft 30 ft 20 ft	None None None	None None N/A
STANDARD	RR	R-10	R-6.5	HM	R-5	RM	RMA	HDR
Residential Density:								
Minimum Density (units per net acre) (20)	None	None	None	None	None	12 (20)	20 (20)	25
Maximum Density (20)	(20)	(20)	(20)	(20)	(20)	None	None	None
Setbacks :								
Minimum Front Setback (18)	15 ft	12 ft	10 ft	10 ft	10 ft	10 ft	10 ft	10 ft
Maximum Front Setback (18)	None	None	None	None	None	20 (14)	20 (14)	15 (14)
Minimum Side Setback (4)(18): • single-story • two or more stories	5 ft 8 ft	5 ft 8 ft	5 ft 8 ft	5 ft 6 ft	5 ft 6 ft	10 ft (5) 10 ft (5)(6)	10 ft (5) 10 ft (5)(6)	10 ft (5) 10 ft (5)(6)
Minimum Rear Setback (4)(18)(22)	15 ft	15 ft	12 ft	10 ft	10 ft	8 ft (6)	8 ft (6)	5 ft (6)
Minimum Building Separation	(12)	(12)	(12)	(12)	(12)	(12)	(12)	(12)
Min. <u>Front Setback for Garage or Carport Vehicle Entrance Front Setback</u> (7)(10)	20 ft	20 ft	20 ft (7)	20 ft (7)	20 ft (7)	20 ft (7)	20 ft (7)	20 ft (7)
Maximum Height (8)	30 ft	30 ft	30 ft	30 ft	30 ft	45 ft	60 ft	75 ft
Maximum Lot Coverage (9)(18)(1)	20% (11)	50%	60%	60%	60%	70%	75%	80%
Minimum Open Space	(13)	(13)	(13)	(13)	(13)	(13)	(13)	(13)

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RESIDENTIAL DISTRICT DEVELOPMENT STANDARDS								
Min. Landscaped Area (18)	None	(2)	(2)	(2)	(2)	(3)	(3)	(3)

N/A means not applicable.

- (1) Section 3.220 bonus provisions may reduce minimum lot size, maximum height and lot coverage and area requirements of units.
- (2) All yards adjacent to streets.
- (3) All yards adjacent to streets plus required open space.
- (4) The minimum side yard setbacks for small SDUs and Duplexes on reduced size lots is 3 feet for one-story dwellings and 5 feet for two or more story dwellings. For flag lots, all property lines are subject to side yard setbacks. Vision clearance standards provided in Section 12.180 must be met. Additional setbacks may be required or reduced setbacks may be permitted, see Sections 3.230-3.330 and the buffer matrix in Section 9.210. Townhouse setbacks are provided in Section 3.270. Setbacks for cottage clusters are in Section 3.192.
- (5) Except for single-dwelling units, SRO developments with up to 6 units, or middle housing, which have a minimum side yard setback of 3 feet for one-story dwellings and 5 feet for two-story dwellings. See Section 3.270 for Townhouse setbacks.
- (6) More than 3 stories = 10 feet plus 3 feet for each story over 3 stories. Multiple-dwelling unit (MDU) developments must also meet the setbacks in Section 3.350, except that MDUs that are detached and that are less than 25 feet tall must have a minimum side and rear setback of 3 feet for one-story dwellings and 5 feet for dwellings of two or more stories.
- (7) Garage front setback for non-vehicle-entrance on the front façade that faces the street is the same as the front yard setback for the zone ~~= 15 feet, except in RR and R-10 zoning districts where the setback must be 20 feet.~~
- (8) See exceptions to height restrictions; in Section 3.340; height transitions in Section 3.350; ~~M~~ maximum height for cottage clusters is in Section 3.192; and additional height allowances for development located in one of Albany’s Climate Friendly Area overlay districts in Article 14.
- (9) Lot coverage for single-dwelling units and middle housing development may only include the area of the lot covered by buildings or structures. Lot coverage for townhouses is calculated based on the overall townhouse project, rather than each townhouse lot. Cottage clusters are exempt from maximum lot coverage standards. Alley-and rear-loaded development may increase the maximum lot coverage by 10%.
- (10) See Table 3.230-1 for garages with alley or rear access.
- (11) Maximum lot coverage for parcels 20,000 square feet or less is 50%. The configuration of any development on a lot 20,000 square feet in size, or less, in an RR zoning district that covers more than 20 percent of the parcel on which it is proposed, should be located such that it does not preclude a later division of the parcel.
- (12) The minimum separation between multi-dwelling unit buildings on a single parcel must be 10 feet for ~~single-story buildings~~ less than 30-feet tall and 20 feet for ~~two-story or taller buildings~~ 30 feet or taller. Minimum building separation for cottage clusters is provided in Section 3.192. Patios less than 30 inches from the ground may encroach up to 5 feet into the space between buildings.
- (13) Open Space is required in multiple dwelling unit developments of 10 or more units (see Section 8.220) and residential land divisions of 20 or more lots (see Section 11.095).
- (14) See Sections 8.240 and 8.420 for standards and exceptions to the maximum setback.
- (15) A property line adjustment between two existing RR properties may be allowed as long as no new lots are created and the resulting properties are at least 20,000 square feet and approval of a septic system has been obtained by Benton County.
- (16) Triplexes, fourplexes, townhouses, and cottage clusters are not permitted on lots that are nonconforming with respect to the minimum lot size applicable to that housing type within the zoning

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district (see ADC 2.320) unless bonus provisions provided in Section 3.220 are applicable.

- (17) ~~See Section 5.092 for Cottage Cluster projects with six or fewer cottages.~~ When the total square feet floor area of each cottage is less than 800 square feet, the minimum lot size must be 1,000 square feet per cottage.
- (18) If a duplex, triplex, fourplex, or cottage cluster has been divided by a middle housing land division, the development standards that are applicable to the lot apply to the middle housing parent lot, not to the middle housing child lots.
- (19) The minimum property size for townhouses specified in Table 3.190-1 is the minimum allowable size for an individual townhouse lot; the number of units permitted on a given site (i.e., the maximum density) is established in accordance with subsection 3.191(1).
- (20) Minimum density in the primary Climate Friendly Area (CFA) overlay zone is 25 units per net acre and minimum density in secondary CFA overlay zones is 15 units a net acre. Maximum density is determined by minimum lot size requirements for housing types, maximum building height, and lot coverage by zone. See Section 3.191 for maximum townhouse density.
- (21) Garage size is not included of the square footage of the Dwelling Unit. The duplex size is the total for both units, excluding garage area.
- (22) Cottage Cluster rear setbacks are in Section 3.192. For all other developments, when a garage or on-site parking is accessed from a rear alley or rear shared access easement, the rear yard setback applies to the habitable space in the dwelling unit(s). When attached garages or carports are accessed from the alley, the garage or carport must be setback at least 5 feet. Detached garage and carport setbacks are provided in Table 3.230-1, Accessory Structure Standards.
- (23) For the purpose of this Code, Non-Property Line Separated Townhouses constructed under the Oregon Residential Specialty Code have the same meaning.
- (24) Legal lots created before March 14, 2025 in all residential zones except RMA and HDR may be developed with a single dwelling unit or a duplex of any size, subject to development standards.

[Ord. 5281, 3/26/97; Ord. 5338, 1/28/98; Ord. 5445, 4/12/00; Ord. 5555, 2/7/03; Ord. 5673, 6/27/07, Ord. 5768, 12/7/11; Ord. 5832, 4/9/14; Ord. 5947, 1/1/21; Ord. 5966, 11/12/21; Ord. 5968, 1/14/22; Ord. 6004, 12/28/22; Ord. 6008, 1/27/23; Ord. 6010, 7/1/23; Ord. 6024, 12/29/23; Ord. 6042, 7/12/24; Ord. 6059, 3/14/25; Ord. 6062 5/23/25]

Staff Comments: Staff propose to reduce the number of townhouses that may be attached in the RM, RMA, and HDR districts to reduce the scale and mass of townhouse buildings and allow more end units, which have more windows.

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

(1) Maximum Density.

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

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

(b) In the RM, RMA, and HDR districts, the maximum density of a townhouse project is not regulated.

(2) Number of Attached Dwelling Units.

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- (a) Minimum. A townhouse project must contain at least two attached units.
- (b) Maximum. The maximum number of townhouse units that may be attached together to form a group is specified below.
 - RR, R-10, R-6.5, and HM districts: maximum of 4 attached units per group
 - R-5 district: maximum of 6 attached units per group
 - RM and RMA districts: maximum of ~~10~~8 attached units per group
 - HDR district: ~~no maximum of 10 attached units per group~~

[Ord. 5968, 1/14/22; Ord. 6010, 7/1/23; Ord. 6042, 7/12/24; Ord. 6059, 3/14/25]

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

- (1) Definition. A cottage cluster is a grouping of ~~detached dwelling units (cottages)~~ that includes a common courtyard. All cottages within a single cottage cluster must share a common courtyard. A cottage cluster project may include more than one cluster and more than one common courtyard.
- (2) Minimum Density. The minimum density for a cottage cluster project is 4 units per gross acre.
- (3) Setbacks.
 - (a) Front Setback. The minimum front setback to cottages and all other structures is 10 feet.
 - (b) Building Separation. Cottages must be separated by a minimum distance of six (6) feet. The minimum distance between all other structures, including accessory structures, must be in accordance with building code requirements.
 - (c) Rear Setback. The minimum rear setback for cottages is 5 feet for one-story cottages and 8 feet for two-story cottages.
 - (d) All other setbacks, including setbacks to garage or carport entrances, are provided in Tables 3.190-1 and 3.320-1.
- (4) Building Height. The maximum building height for all structures is 25 feet.
- (5) Maximum Footprint. The maximum footprint of each cottage must be less than 900 square feet. Attached garages or carports up to 200 square feet are exempt from the maximum footprint for each cottage. Detached garages, carports, or accessory structures are not included in the maximum footprint of each cottage.

[Ord. 5968, 1/14/22; Ord. 6042, 7/12/24; Ord. 6059, 3/14/25]

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

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[Ord. 5673, 6/27/07; Ord. 5968, 1/14/22; Ord. 6004, 12/28/22; Ord. 6059, 3/14/25]

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

[Ord. 5673, 6/27/07; Ord. 5742, 7/14/10; Ord. 5968, 1/14/22; Ord. 6059, 3/14/25]

Staff Comments: The alley access bonus is being relocated to be under “Relationship to Transportation” section.

3.220 Area, Density, and Height Bonus Provisions. The following standards may be applied to development sites in residential and mixed-use zoning districts resulting in allowed reductions in the average minimum lot size, or increases in allowed building height or lot coverage, as indicated. In no instance may the combined total of all bonus provisions applied to a development result in an overall reduction of more than 30 percent in the standard site size, or more than 50 percent in the standard site size when housing is provided that is affordable to persons earning 50 percent or less of the area median income (AMI) per 3.220(6) and Table 3.220-2. Housing that meets the affordable housing definition and terms in Section 3.080(22)(b) is subject to the maximums provided in subsection (6)(c). Some bonuses are available for lot design only, with additional bonuses available due to building design or construction.

Relationship to Transportation.

- (1) For single-dwelling unit and middle housing developments, a 10 percent reduction in the average minimum lot size required in a zoning district is allowed for proposed lots that meet the following qualifications:
 - (a) At least 50 percent of the lot area is located within 200 feet of a designated collector or arterial street; and
 - (b) The lot will not have direct access to an arterial.

For example, if the average minimum lot size for the zone is 10,000 square feet, the average lot size may be 9,000 square feet for those properties within 200 feet of the collector or arterial. The remaining lots in the development must average 10,000 square feet.
- (2) For multiple-dwelling unit developments, when any portion of a building is located within 200 feet of a designated arterial, the maximum height may be increased by 10 percent or 5 feet, whichever is greater.
- (3) Lots with vehicular access only from an alley or shared access easement from the rear of the lot may be up to 10 percent smaller than the minimum lot size for the zone.

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

- (3) Development Density to Transfer from Overlay Districts. The land area from which density can be transferred excludes developed and unbuildable areas, such as water bodies, areas below ordinary high-water mark, floodways, the unbuildable portions of lands within the Significant Natural Resource Overlay Districts, and easements.

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- Residential Zoning – The applicant may choose to transfer up to 50 percent of the development density if the above standard is met. For example, if the base zoning would have allowed 8 single-dwelling units (net), 4 units can be transferred; if it would have allowed 20 multiple-dwelling units (net), 10 units can be transferred.
 - Open Space Zoning – If the lot was legally created prior to July 1, 1991, and the area is of sufficient size and dimension to comply with the development standards for a single-dwelling unit home, one single-dwelling unit can be transferred.
- (4) Development Density in Receiving Area. Up to a maximum 20 percent reduction in average minimum lot size is allowed in order to accommodate the density transfer.

Staff Comments: Staff propose minor updates to the Solar Access Protection language to increase clarity of the existing standards.

Energy Conservation:

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

TABLE 3.220-1

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

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Staff Comments - Bonus provisions for affordable housing: Staff propose a few clarifying amendments related to applicability of the bonus provisions and the organization of bonus provisions in 3.220. Staff also propose to allow a reduction to the separation requirements between multiple dwelling unit buildings for affordable housing developments.

Moderate-Cost and Affordable Housing

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

TABLE 3.220-2

AFFORDABLE HOUSING AREA & HEIGHT BONUS STANDARDS						
Affordability Level	Percent of units (including bonus units) set aside for persons whose household income is less than or equal to the affordability level (including bonus units)	Lot Area Reduction Lot Size Allowance Bonus Permitted*	Height bonus in historic districts, and HM, MUR, LE, ES	Height Bonus in RM, RMA, WF, CB, DMU, HD	Height Bonus in HDR & MUC	Reduced Separation between buildings 30 feet or taller
120% AMI	50 percent of units	5 percent	N/A	N/A	12 feet	<u>None</u>
100% AMI	50 percent of units	10 percent	N/A	N/A	12 feet	<u>None</u>
80% AMI	5 percent of units	10 percent	N/A	N/A	12 feet	<u>18 feet</u>
	10 percent of units	15 percent	N/A	N/A	12 feet	<u>16 feet</u>
	20 percent of units	25 percent	N/A	12 feet	24 feet	<u>16 feet</u>
60% AMI	5 percent of units	15 percent	N/A	12 feet	24 feet	<u>15 feet</u>
	10 percent of units	25 percent	12 feet	24 feet	36 feet	<u>14 feet</u>
	20 percent of units	35 percent	12 feet	24 feet	36 feet	<u>12 feet</u>

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*For Single-Dwelling Units and Middle Housing Types

- (c) Per ORS 197A.445, an affordable housing development subject to an affordable housing covenant as provided in ORS 456.270 to 456.295 of no less than 30 years and that meet the income standards below as defined in Section 3-080(22)(b) that is in a residential or mixed-use zone outside of a National Register historic district is permitted the following height and density bonuses* **in lieu of the bonuses provided in (b) of this section.**
- i. Each unit on the property is made available to own or rent to households with incomes of 80 percent or less of the area median income (AMI); or
 - ii. All units on the property are made available to rent or own to households with incomes with a collective average of 60 percent or less of the AMI; or
 - iii. A manufactured dwelling park that serves only households with incomes of 120 percent or less of the AMI.

TABLE 3.220-3: 30-Year Affordability Bonuses

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

* For Single-Dwelling Units and Middle Housing Types

Alley Access:

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

(7) Accessible and Adaptable Housing

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

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

TABLE 3.220-4

ACCESSIBLE & ADAPTABLE HOUSING BONUS STANDARDS					
Unit Type	Percent of Units that are Accessible or Type A (including bonus units)	Lot Coverage Bonus (Increase) Permitted	Height Bonus in LE, ES, DMU, HD, HM & MUR	Height Bonus in RM, RMA, WF, CB, PB & MS	Height Bonus in HDR & MUC
Accessible Unit	10 percent of units	10 percent	12 feet	12 feet	24 feet
	20 percent of units	20 percent	12 feet	24 feet	36 feet

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Type A Unit	20 percent of units	10 percent	12 feet	12 feet	24 feet
	50 percent of units	20 percent	12 feet	24 feet	36 feet

[Ord. 5338, 1/28/98; Ord. 5445, 4/12/00; Ord. 5764, 12/1/11; Ord. 5673, 6/27/07; Ord. 5947, 1/1/21; Ord. 5966, 11/12/21; Ord. 5968, 1/14/22; Ord. 6004, 12/28/22; Ord. 6059, 3/14/25]

SETBACKS

*****No changes are proposed to Sections 3.230 through 1.095 so they are not shown.*****

Staff Comments: Staff propose clarifying amendments to requirements for swimming pools for consistency with state building codes.

3.290 Setbacks and Fencing for Swimming Pools. Swimming pools are hereby defined as all in-ground and above-ground swimming pools, hot tubs and spas more than 24 inches deep. Swimming pools must conform to the setback regulations for main buildings, except that outdoor swimming pools must be set back not less than 105 feet from all side and rear property lines. Also, all swimming pools must be in an enclosed building, fully fenced or equipped with electric alarm systems in a manner that will prevent entry or trigger an alarm upon entry in accordance with the Oregon Residential Specialty Code. Required pool fencing must be at least 4 feet tall and be equipped with a self-locking gate that closes automatically. [Ord. 5673, 6/27/07; Ord. 6059, 3/14/25]

*****No changes are proposed to Sections 3.300 through 3.370270, so they are not shown.*****

OUTSIDE STORAGE

3.380 General. In any district, outside storage or display of materials, junk, parts, or merchandise shall not be permitted in the front yard between the dwelling and the street or in required front setbacks or buffer areas.

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

[Ord. 5673, 6/27/07; Ord. 5968, 1/14/22; Ord. 6042, 7/12/24; Ord. 6059, 3/14/25]

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Staff Comments: Changes are needed in this Article to comply with legislation that passed in 2025 and 2026 that is in effect or goes into effect July 1, 2026. References to the newer Article 14, Climate Friendly Area Overlay Districts are being added where needed. Staff also propose to remove the Transit District (TD), which was created when the city developed the Central Albany Land Use and Transportation Plan (CALUTs), but the zone was never applied within the city. Only sections proposed to be amended are provided. The full Article and [Albany Development Code](#) are located online.

ARTICLE 4 COMMERCIAL AND INDUSTRIAL ZONING DISTRICTS

4.010 Overview. The zones created in this article are intended to provide land for commercial, office and industrial uses, and mixed-use developments. The differences among the zones, in the permitted uses and development standards, reflect the existing and potential intensities of commercial and industrial development. The site development standards allow for flexibility of development while minimizing impacts on surrounding uses. The regulations in this article promote uses and development that will enhance the economic viability of specific commercial and industrial areas and the city. Development may be subject to the provisions in Article 8, Design Standards, Article 9, On-Site Development and Environmental Standards, and Article 12, Public Improvements. Sites within overlay districts are also subject to the provisions in Article 6, Natural Resource Districts; ~~and Article 7, Historic Overlay Districts; and Article 14, Climate Friendly Area Overlay District.~~

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

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

[Ord. 5555, 2/7/03; Ord. 6042, 7/12/24; Ord. 6062, 5/23/25]

ZONING DISTRICTS

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

(1) OP – OFFICE PROFESSIONAL DISTRICT. The OP district is intended to provide a vertical or horizontal mix of professional offices, personal services, live-work, residential and limited related commercial uses in close proximity to residential and commercial districts. The limited uses allowed in this district are selected for their compatibility with residential uses and the desired character of the neighborhood. OP is typically appropriate along arterial or collector streets as a transitional or buffer zone between residential and more intense commercial or industrial districts.

(2) NC – NEIGHBORHOOD COMMERCIAL DISTRICT. The NC district is intended primarily for small areas of retail establishments serving nearby residents’ frequent needs in convenient locations. The NC District is typically appropriate for small clusters or service centers located at intersections within residential neighborhoods. Businesses should fit into the residential pattern of development and not create land use, architectural or traffic conflicts. Generally, uses located within NC Districts should have as their primary market area the population within a one-half mile radius.

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- (3) CC – COMMUNITY COMMERCIAL DISTRICT. The CC district recognizes the diversity of small to medium-scale businesses, services and sites mostly located on arterial streets and highways. Design guidelines, building location and front-yard landscaping will provide a coordinated and enhanced community image along these major transportation corridors as they develop or redevelop. Sound and visual buffers should be used to mitigate impacts on nearby residential areas.
- (4) RC – REGIONAL COMMERCIAL DISTRICT. The RC district is intended primarily for developments that serve the wider Albany region. RC allows a wide range of retail sales and service uses and is typically appropriate for developments that require large sites near Interstate 5. Design guidelines, building location and front-yard landscaping will provide an enhanced community image along major transportation corridors. These uses often have significant impacts on the transportation system. Sound and visual buffers may be required to protect nearby residential areas. RC districts may not be appropriate in all locations.
- ~~(5) TD – TRANSIT DISTRICT. The TD district is intended primarily for regional transit facilities and related uses. This district is suitable as a major office employment center because of easy access to mass transit. Mixed-use development including a multi-modal transportation facility, a park-and-ride facility, and office space should be developed within this district.~~
- ~~(6)~~(5) EMP – EMPLOYMENT DISTRICT. The EMP district is intended primarily for a range of office uses, limited manufacturing, and high-tech/research activities and uses. Uses in this district complement or support more intensive industrial activities and uses while providing a transition between industrial areas and general commercial or residential areas. The limited industrial and manufacturing activity allowed in the EMP district is intended to minimize hazardous impacts from heavier industrial uses while providing a buffer between other industrial areas and nearby residential or commercial uses.
- ~~(6)~~7) IP – INDUSTRIAL PARK DISTRICT. The IP district is intended primarily for light manufacturing, high-tech, research and development, institutions and offices in a quality environment. Uses are characterized by attractive building architecture and landscaped yards and streetscapes, and the absence of objectionable external effects. The district is designed for industrial and business parks containing offices together with clean, non-polluting industries. IP is located along or near highly visible corridors to provide a positive image and a transition to residential or natural areas from heavier industrial uses.
- ~~(7)~~8) LI – LIGHT INDUSTRIAL DISTRICT. The LI district is intended primarily for a wide range of manufacturing, warehousing, processing, assembling, wholesaling, specialty contractors and related establishments. Uses will have limited impacts on surrounding properties. This district is particularly suited to areas having good access to highways and perhaps to rail. LI may serve as a buffer around the HI district and may be compatible with nearby residential zones or uses.
- ~~(8)~~9) HI – HEAVY INDUSTRIAL DISTRICT. The HI district is intended primarily for industrial uses and support activities that are potentially incompatible with most other uses and which are characterized by large amounts of traffic, extensive shipping of goods, outside storage or stockpiling of raw materials, by-products, or finished goods, and a controlled but higher level of noise and/or pollution. This district is located away from residential areas and has easy access to highways and perhaps to rail.

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[Ord. 5555, 2/7/03; [Ord. 6010, 7/1/23; Ord. 6062, 5/23/25]

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

<u>Special Purpose District</u>	<u>Applicable Articles</u>
Floodplain	Article 6
Wetlands	Article 6
Willamette Greenway	Article 6
Airport Approach	Article 4
Hillside Development	Article 6
Historic Overlay	Article 7
<u>Climate Friendly Areas Overlay</u>	Article 14

[Ord. 5555, 2/7/03; Ord. 6024, 12/29/23; Ord. 6062, 5/23/25]

4.035 Relationship to State, Federal and Other Local Regulations. In addition to the regulations of this Code, each use, activity, or operation in the City of Albany must comply with applicable state and federal standards. Other local regulations include those in Articles 4, 6, and 7 Special Purpose Districts, and those of the Building Division and Fire Department.

[Ord. 5555, 2/7/03; Ord. 6024, 12/29/23]

Staff Comments –The following changes to the Schedule of Permitted Uses are needed to comply with 1) HB 2005 regarding the siting of Residential Care or Treatment Facilities or Homes, licensed crisis stabilization centers and mental or psychiatric hospitals without requiring a conditional use permit; and 2) HB 3560 to allow child care centers in commercial and industrial zones.

SCHEDULE OF PERMITTED USES

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

- (1) The schedule of permitted uses cannot anticipate all uses that may be located within the city. There are situations where proposed uses may relate to more than one type of use. In both instances, the Director will determine the appropriate use category based on operating characteristics and land use impacts. Where ambiguity exists concerning the appropriate classification of a particular use, the use may be reviewed as a Conditional Use where the Director determines that the proposed use is consistent with other uses allowable within the subject district due to similar characteristics.
- (2) Where a development proposal involves a combination of uses other than accessory uses, the more restrictive provisions of this Code apply. For example, if a portion of a development is subject to Conditional Use approval and the balance is subject only to Site

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Plan Review, the entire development must be reviewed utilizing the Conditional Use criteria if concurrent approval of all uses is sought.

- (3) A change in the use of a property is subject to review as specified by the schedules of permitted uses:
 - (a) When the change involves a change from one use category to another in the schedule of permitted uses and the Director has not waived review under the provisions of Section 1.105, OR
 - (b) When a property that has been unoccupied for more than one year and is non-conforming under the provisions of Article 2 is proposed to be occupied.

[Ord. 5555, 2/7/03; Ord. 5947, 1/1/21, Ord. 6059, 3/14/25; Ord. 6062, 5/23/25]

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

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

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

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

Commercial, Office and Industrial Zoning Districts										
Use Categories (See Article 22 for use category descriptions.)	Spec. Cond.	OP	NC	CC	RC	FD	EMP	IP	LI	HI
INDUSTRIAL USE CATEGORIES										
Contractors and Industrial Services		N	N	S-1	N	S-1	S-1	S-1	S-1	S
Manufacturing and Production	2	S/CU	N	S/CU-3	N	S/CU	S/CU-26	S/CU	S/CU	S
Small-scale Manufacturing	2	S/CU	N	S/CU	S/CU	S/CU	S/CU-26	S/CU	S/CU	S/CU
Railroad Yard		N	N	N	N	S	N	N	S	S
Warehousing and Distribution		N	N	N	N	N	CU	CU	S	S
Waste and Recycling Related	4	N	N	CU	N	N	N	N	S/CU	S/CU

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Commercial, Office and Industrial Zoning Districts										
Use Categories (See Article 22 for use category descriptions.)	Spec. Cond.	OP	NC	CC	RC	FD	EMP	IP	LI	HI
Wholesale Sales		N	N	N	N	N	S-5	S-5	S	N
COMMERCIAL USE CATEGORIES										
Adult Entertainment		N	N	S-6	N	N	N	N	CU-6	N
Entertainment and Recreation: Indoor Outdoor	7	N N	N N	S-7 S	S-7 S	S N	S/CU-7 N	S/CU-7 N	CUII-7/ CU-7, 11 N-7	CU-7 CU
Offices: Traditional Industrial		S S	S N	S S	S N	S N	S S	CUII-8 S-8	N S-9	N S
Parking		N	N	S	S	S	S	S	S	S
Recreational Vehicle Park		N	N	CU	N	S	N	N	S	N
Restaurants, no drive-thru with drive-thru or mostly deli 31 very	25	S N	S CU-10	S S	S S	S N	S CU	S CU	N N	N N
Retail Sales and Service		S-11	S-11	S	S	S	S-11	S-11	S/CU/N-11	N
Self-Serve Storage	12	N	N	S	S	N	N	CU	S	S-13
Taverns, Bars, Brewpubs, Nightclubs	25	CUII	CUII	S	S	S	CU	CUII	CUII	CUII
Vehicle Repair		N	N	S	S	N	N	N	S	N
Vehicle Service, Quick gas/oil/wash		N	N	S	S	N	N	CU	N-14	N
INSTITUTIONAL USE CATEGORIES										
Basic Utilities		CU	CU	CU	CU	CU	CU	S	S	S
Community Services	15	S/CU-15	S/CU-15	S	S	S	S/CU-15	S/CU-15	S	N
<u>Crisis Stabilization Centers</u>	<u>31</u>	<u>S-31</u>	<u>S-31</u>	<u>S-31</u>	<u>S-31</u>		<u>S-31</u>	<u>S-31</u>	<u>S-31</u>	<u>S-31</u>
Daycare Facility <u>or Child Care Center</u>		CU/S-30	CU/S-30	S	N/S-30	N	S	S	CU/S	N
Educational Institutions	16	N/S-30	N/S-30	CU/S-30	N/S-30	CU	S/CU	S/CU	S/CU	N
Hospitals		CU	N	<u>N/S-32</u>	<u>N/S-32</u>	N	<u>CU/S-32</u>	<u>CU/S-32</u>	<u>CU/S-32</u>	<u>N/S-32</u>
Jails and Detention Facilities		N	N	N	N	N	N	N	CU	N
Parks, Open Areas and Cemeteries	17	CU/S-30	CU/S-30	CU/S-30	N/S-30	CU	CU	CU	CU	N
Religious Institutions	16	CU	CU	S	N	N	CU	CU	CU	N
RESIDENTIAL USE CATEGORIES										
Assisted Living Facility		CU	CU	CU	N	N	N	N	N	N
Home Businesses (See 3.090-3.180 to determine if CU.)		Y/CU	Y/CU	Y/CU	Y/CU	Y/CU	Y/CU	Y/CU	Y/CU	Y/CU
Residential Care or Treatment Facility	<u>33</u>	S	S	S	N-S	N	NS-33	NS-33	NS-33	N
Single Dwelling Unit (SDU)	20, 27, 29	Y-19	S-19	N	N	N	N	N	N	N
Middle Housing	20, 28, 30	CU-19	S-19/N	N	N	N	N	N	N	N
Multiple-Dwelling Unit	27, 28, 30	CU / S-28, 29	N / S-28, 29	N / S-28, 29	N / S-28, 29, 30	N	N / S-28	N / S-28	N / S-28	N
Units Above or Attached to a Business	27, 28	S-29	S-29	S-29	CU / S-29, 30	S	S	S	S	N

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Commercial, Office and Industrial Zoning Districts										
Use Categories (See Article 22 for use category descriptions.)	Spec. Cond.	OP	NC	CC	RC	FD	EMP	IP	LI	HI
Residential Accessory Buildings	21	Y/S	Y/S	N	N	N	N	N	N	N
OTHER USE CATEGORIES										
Agriculture (on Vacant Land)	22	N	N	N	Y	N	Y	Y	Y	Y
Satellite Dish, Other Antennas, & Communication Facilities <50 ft.	23	Y	Y	Y	Y	Y	Y	Y	Y	Y
Communication Facilities >= 50 ft.	23	N	N	CU	S	CU	CU	CU	S	Y
Kennels	24	N	N	N	CU	N	N	N	S	N
Non-Residential Accessory Buildings	18	Y/S	Y/S	Y/S	Y/S	Y/S	Y/S	Y/S	Y/S	Y
Passenger Terminals		N	N	S	CU	S	CU	CU	CU	N
Rail And Utility Corridors		CU	CU	CU	CU	S	CU	CU	S	S

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

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

[Ord. 5555, 2/7/03; Ord. 5728, 1/27/10; Ord. 5742, 7/14/10, Ord. 5767, 12/7/11; Ord. 5832, 4/9/14, Ord. 5886, 1/6/17; Ord. 5947, 1/1/21; Ord. 5949, 1/1/21; Ord. 5968, 1/14/22; Ord. 6010, 7/1/23; Ord. 6024, 12/29/23; Ord. 6042, 7/12/24; Ord. 6059, 3/14/25; Ord. 6062, 5/23/25]

SPECIAL CONDITIONS

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

- (1) Contractors and Industrial Services in the CC, FD, IP, EMP, and LI zones.
 - (a) Limited Prohibited Uses. Salvage or wrecking operations and yards are prohibited in the CC, FD, IP, EMP, and LI zones. See Section 4.290 for outside storage standards.
 - (b) Prohibited Uses in EMP. ~~The following Contractors and Industrial Services uses are prohibited in the EMP zone: s~~Salvage or wrecking operations and yards of heavy machinery, metal, and building materials; towing and vehicle storage; overnight or long-term equipment storage; heavy truck servicing and repair; tire retreading or recapping; and solid fuel yards.
- (2) Manufacturing and Production. The environmental performance standards of Article 9 may limit the placement of certain uses in some districts. If the site is located within 300 feet of residentially zoned land, the use may require Conditional Use approval.
- (3) Manufacturing in the CC zone. Manufacturing uses in CC must have a retail storefront and sell their products to the public on site.
- (4) Waste and Recycling Related Uses in the CC, LI, and HI zones.
 - (a) Limited uses in CC. Only processing and sorting operations conducted within enclosed structures less than 5,000 sq. ft. in total area are considered with a Conditional Use review.
 - (b) Limited uses in LI. Processing and sorting operations conducted within enclosed structures less than 5,000 sq. ft. in total area are allowed with Site Plan Review.

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Salvage yards, junkyards, and refuse transfer stations are not permitted. All other material and recycling operations are considered through a Conditional Use review.

- (c) Limited uses in HI. Processing and sorting operations conducted within enclosed structures less than 5,000 sq. ft. in total area and all other material and recycling operations, excluding salvage yards and junkyards, are allowed with Site Plan Review. Salvage yards, junkyards, sanitary landfills, and refuse transfer stations require a Conditional Use review.
- (5) Wholesale Sales in the IP and EMP zone. This use is allowed in IP and EMP only if all operations and storage are conducted entirely within enclosed buildings.
- (6) Adult Entertainment. Where allowed, Adult Entertainment uses must meet the following standards:
 - (a) An adult entertainment use may not be established or expanded within 300 feet of the district boundary line of any residential zoning district.
 - (b) An adult entertainment use may not be established or expanded within 300 feet of any other adult entertainment use.
 - (c) An adult entertainment use may not be established or expanded within 300 feet of the property line of a church, school, or public park.
 - (d) Exceptions to the above may be considered by the Major Variance procedures.
- (7) Indoor Entertainment and Recreation in the CC, RC, IP, EMP, LI and HI zones.
 - (a) Limited uses in CC. Indoor firing ranges or gun clubs, coliseums, and stadiums are not permitted.
 - (b) Limited uses in RC. Indoor firing ranges or gun clubs are not permitted.
 - (c) Limited uses in IP and EMP. Exercise and health clubs or gyms are permitted through Site Plan Review. Convention centers, coliseums and stadiums are considered through a Conditional Use Type III review. All other indoor entertainment uses are not permitted.
 - (d) Limited uses in LI. Indoor firing ranges or gun clubs, pool halls, paint gun facilities, cheerleading, tumbling, gymnastics, fairgrounds, coliseums and stadiums are considered through a Conditional Use Type II review. Exercise and health clubs or gyms are considered through a Conditional Use Type III review and must meet the additional criteria in Special Condition (11)(b). All other indoor entertainment uses are not permitted.
 - (e) Limited uses in HI. Indoor firing ranges or gun clubs, pool halls, paint gun facilities, motor racetrack, coliseums and stadiums are considered through a Conditional Use review. All other indoor entertainment uses are not permitted.
- (8) Offices in the IP zone. Traditional Offices intended to serve customers on site are considered through the Conditional Use Type II review. Industrial Offices are permitted through Site Plan Review. See Article 22 for Office examples.
- (9) Offices in the LI zone. Traditional Offices intended to serve customers on site are not allowed. Industrial Offices are permitted through Site Plan Review. See Article 22 for Office examples.
- (10) Restaurants in the NC zone. Drive-through restaurants are allowed in NC provided there are no more than two drive-through windows, and there is no speaker service (for

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ordering).

(11) Retail Sales and Services in the OP, NC, EMP, IP and LI zones.

- (a) Limited uses in OP, NC, EMP, and IP. The only retail uses allowed are convenience-oriented retail and personal services-oriented retail intended to serve nearby residences and employees. Businesses are limited to a 5,000-square-foot maximum business footprint, except for businesses located within buildings in the OP and NC zones constructed prior to February 7, 2003, there is no business footprint limit. See Article 22 for examples of convenience-oriented and personal service-oriented businesses. Vehicle repair-oriented services, motor vehicle sales, large equipment sales, and bulk sales are prohibited.
- (b) Retail Sales and Service Uses in Existing Buildings in the LI zone. To encourage the reuse of buildings constructed prior to April 9, 2014, in the LI zone, Repair-Oriented Retail Sales and Service uses as described in Section 22.140 will be permitted through Site Plan Review. Personal Service-Oriented uses and Sales and Service-Oriented Retail Sales uses as described in Section 22.140 may be permitted through a Conditional Use review. Retail Sales and Service uses permitted in accordance with this subsection are subject to the following additional review criteria:
 - i. The street system has adequate capacity to accommodate the use through the horizon year of the current Transportation Systems Plan; and
 - ii. The development will not alter the existing building or site in a way that would discourage or preclude its later conversion back to an industrial use; and
 - iii. The new commercial user must acknowledge that industrial uses have a right to operate free from the new use complaining about externalities typical of industrial uses.

(12) Self-Serve Storage. These facilities are subject to the following standards:

- (a) The minimum driveway width between buildings is 20 feet for one-way drives and 24 feet for two-way drives.
- (b) The maximum storage unit size is 1,000 square feet.
- (c) All outdoor lighting must be shielded to prevent glare and reflection on adjacent properties.
- (d) Repair of autos, boats, motors, and furniture and the storage of flammable materials are prohibited on the premises, and rental contracts must specify.

(13) Self-Serve Storage in the HI zone. Self-Serve storage units are allowed in HI only on sites less than 3 acres.

(14) Truck Stops/Fuel Sales in the LI zone. This use is classified as Contractors and Industrial Services, rather than Vehicle Service, Quick.

(15) Community Service Uses. Community Service uses that may have significant off-site impacts, such as public swimming pools, public safety facilities, and homeless shelters, may be considered through the Conditional Use process. Applications for emergency shelters sited under ORS 197.782 and ORS 197.783 are not a land use decision.

Staff Comments – Educational and Religious Institutions:

- Clarifying the land use process by zone for educational and religious institutions.
- Adding requirement for schools to provide a driveway for dropping off and picking up students

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from school currently only in Article 5, Mixed Use Village Center Zoning Districts.

(16) Educational and Religious Institutions.

- (a) Vocational or trade schools in EMP, IP, LI and HI are allowed through Site Plan Review. Educational and religious institutions in Climate Friendly Areas (CFAs) are permitted through Site Plan Review. ~~All other~~ Educational and religious institutions outside of CFAs are reviewed as a Conditional Use.
- (b) The Conditional Use or Site Plan Review approval for educational and religious institutions includes the following secondary uses: educational activities; sports and other recreational activities; religious activities; political activities; meals programs; before- and after-school childcare activities; fund raising activities; and cultural programs. Such uses will not be required to go through the land use process if all of the activities that constitute the use (excluding parking and travel to and from the site) take place on the site and no external noise is audible or light visible between 10:30 p.m. and 8:00 a.m.

An educational institution having a capacity greater than 25 students must have a driveway designed for the continuous forward flow of passenger vehicles for the purpose of loading and unloading children.

Any expansion to an existing educational or religious institution must be reviewed through the Conditional Use Type II process. Expansion of a school or church includes addition of building area, increase in parking lot coverage, or expansion of athletic facilities.

Note: There are special setbacks for educational institutions in 4.210 and loading standards in 9.060(2).

- (17) Park Development. Park activity subject to Conditional Use review includes major development; expansions of activities and development in parks that currently generate substantial traffic; or construction of major structures such as swimming pools, lighted ball fields, and community centers. Conditional use review is not required, however, for construction of play equipment, tennis courts, bike paths, picnic shelters, restrooms, landscaping, and similar activities in existing improved parks.

- (18) Non-Residential Accessory Buildings over ~~750~~900 square feet in the OP zone and over 2,000 square feet in all other zones except HI require Site Plan Review.

(19) Single-Dwelling Units and Middle Housing.

- (a) In the OP zone, single-dwelling units are allowed outright. Middle housing requires a Conditional Use review. One accessory dwelling unit (ADU) may be allowed per legally established single-dwelling unit, called the “primary dwelling unit”. The ADU must comply with the standards for ADUs in ADC 5.070 (15).
- (b) In the NC zone, single-dwelling units, ~~individual SRO dwellings,~~ duplexes, and townhouses require Site Plan Review. All other middle housing is prohibited. One accessory dwelling unit (ADU) may be allowed per legally established single-dwelling unit, called the “primary dwelling unit”. The ADU must comply with the standards for ADUs in ADC 5.070(15).

(20) Single-Dwelling Units and Middle Housing.

- (a) Townhouses are not permitted unless allowed in the zoning district, as a nonconforming use per Section 4.075, or on property located within a Climate Friendly Area overlay district subject to minimum density requirements and standards in

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Article 14.

- (b) New single-dwelling units are not permitted unless allowed in the zoning district or per Section 4.075.
- (c) Cottage Cluster projects must comply with the standards in sections 5.092 and 8.175.
- (21) Residential Accessory Buildings, excluding Accessory Dwelling Units, are permitted outright with residential uses if they meet the following conditions:
 - (a) Detached accessory buildings, garages and carports are less than 750 square feet and have walls equal to or less than 12 feet tall.
 - (b) All other residential accessory buildings require a Site Plan Review.
- (22) Agriculture. All agricultural uses established before January 8, 2003, are allowed to remain. New agriculture uses are limited to the raising of crops and plants on vacant land. The raising of livestock as a new use is not permitted. Regulations governing the keeping of animals/livestock are found in the Albany Municipal Code Title 6.
- (23) Communication Facility Placement Standards. Where allowed Communication Towers and Poles over 50 feet in height when measured from the ground or over 15 feet above a rooftop are not permitted in front yard setbacks and must meet the standards in Section 8.500.

Placement of antennas, satellite dish antennas, and monopoles less than 50 feet tall when measured from the ground; or when located on a rooftop, within 15 feet of a rooftop, is permitted outright in all districts subject to the following standards:

 - (a) Antennas or antenna supports. Satellite dishes and monopoles must not be located within any front yard setback area or within any required landscape buffer yard.
 - (b) Dish antennas larger than three feet in diameter and located within ten feet of a residential lot line or visible from a public street must be screened with a six-foot solid screen fence, wall, hedge, or other landscaping.
 - (c) Antennas used to display sign messages must conform to all district sign regulations in addition to the above.
 - (d) Antennas, satellite dishes, monopoles and other communication structures less than 50 feet in height when measured from the ground or over 15 feet above a rooftop, and not in conformance with the above may be considered by Conditional Use review, Type II process.
 - (e) See Section 8.500 for additional design standards for all telecommunications facilities.
- (24) Kennels adjacent to residential districts are restricted to sites containing a minimum of two acres. This restriction does not apply to care and boarding provided indoors by veterinary hospitals.
- (25) Hours of Operation. Hours of operation for establishments or outdoor seating areas within 300 feet of a residence may be restricted through conditions of approval to be compatible with neighbors.
- (26) Manufacturing Production and Small-Scale Manufacturing in the EMP zone.
 - (a) Uses that require state or federal air quality discharge permits are prohibited.
- (27) One SRO development with no less than four and no more than six SRO units is permitted

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outright per property zoned to allow single dwelling units. Additionally, SRO development is permitted through Site Plan Review as a multiple dwelling unit development, but each individual SRO unit is considered 0.5 dwelling units when calculating density. Accessory Dwelling Units are not permitted with SRO developments.

(28) Affordable Housing. Affordable housing ~~and conversion of buildings or portion of buildings in commercial use to housing~~ as defined in this section will be permitted through Site Plan Review when the following standards are met.

- (a) ~~Affordable housing as defined in (b) is permitted on~~The property is zoned for commercial uses, religious assembly, or public lands OR is owned by one of the following:
 - i. A local, state, or special government body, as defined in ORS Chapter 174; or
 - ii. A nonprofit corporation that is organized as a religious corporation or is organized as a public benefit corporation whose primary purpose is the development of affordable housing; or
 - iii. A housing authority as defined in ORS 456.005; or
 - iv. A manufactured dwelling park nonprofit cooperative, as defined in ORS 62.803.
- (b) As used in this section, “affordable housing” means residential dwellings that are subject to an affordable housing covenant as provided in ORS 456.270 to 456.295 for a duration of no less than 30 years and meet either i, ii, or iii below.
 - i. Each unit on the property is made available to own or rent to households with incomes of 80 percent or less of the area median income (AMI); or
 - ii. All units on the property are made available to rent or own to households with incomes with a collective average of 60 percent or less of the AMI; or
 - iii. A manufactured dwelling park that serves only households with incomes of 120 percent or less of the AMI.
- (c) A building or portion of a building in commercial use may be converted to a residential use in the OP, NC, CC and RC zones.
- (d) Affordable housing as defined and used in this Section is permitted on property zoned EMP, IP or LI only if the property is:
 - i. Publicly owned; and
 - ii. Adjacent to lands zoned for residential uses or schools.
- (e) The above provisions do not apply on lands zoned HI or where:
 - i. The development cannot be adequately served by water, sewer, storm water drainage or streets; or
 - ii. The property contains a slope of 25 percent or greater; or
 - iii. The property is within a 100-year floodplain; or
 - iv. The development of the property is constrained by land use regulations based on statewide land use planning goals relating to natural disasters and hazards, or natural resources, including air, water, land, or natural areas, but not including open spaces or historic resources.
- (f) Height Bonus. An affordable housing development proposal that meets the standards in this special condition and is located outside of a National Register historic district, will be granted the following height bonuses as applicable.

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

- (29) Commercial Land for Affordable and Moderate- Income Housing. Per ORS 197A.460, affordable housing development subject to an affordable housing covenant as provided in ORS 456.270 to 456.295 is permitted through Site Plan Review in the OP, NC, CC and RC zones when the following standards are met.
- (a) Each unit is affordable to a household with income less than or equal to 60 percent of the area median income (AMI) as defined in ORS 456.270; or
 - (b) In mixed use structures with ground floor commercial units, all residential units are made affordable to moderate income households with incomes between 80 and 120 percent of the AMI, as defined in ORS 456.270.
 - (c) Affordable housing per this section is only permitted on land that has been in the city’s Urban Growth Boundary for at least 15 years and does not apply on vacant land or on lands where the city determines:
 - i. The development cannot be adequately served by water, sewer, storm water drainage or streets;
 - ii. The property contains a slope of 25 percent or greater;
 - iii. The property is within a 100-year floodplain; or
 - iv. The development of the property is constrained by land use regulations based on statewide land use planning goals relating to: Natural disasters and hazards; or Natural resources, including air, water, land or natural areas, but not including open spaces.
- (30) Uses Permitted in Climate Friendly Area Overlay Districts. These uses are permitted through Site Plan Review on property located within one of Albany’s Climate Friendly Area overlay districts in conformance with Article 14.

Staff Comments: The following new special conditions are needed to comply with HB 2005 regarding the siting of Residential Care or Treatment Facilities or Homes, licensed crisis stabilization centers and mental or psychiatric hospitals without requiring a conditional use permit.

- (31) A Crisis Stabilization Center as defined in ORS 430.626 and licensed under ORS 430.627 is permitted only on property that is owned by a public body, as defined in ORS 174.109, but excluding park land and the property is adjacent to where a mental or psychiatric hospital licensed under ORS 441.025 is or will be located as established by a pending development application. A decision made to permit a crisis stabilization center is not a land use decision as defined in ORS 197.015. A decision issued for these uses may only be appealed by writ of review under ORS 34.010 to 34.100.
- (32) Mental or Psychiatric Hospitals are permitted through Site Plan Review in these zones and on public lands excluding park land when adjacent to where a crisis stabilization center as defined in ORS 430.626 and licensed under ORS 430.627 is or will be located as established by a pending development application. A decision made to allow a mental or psychiatric hospital is not a land use decision as defined in ORS 197.015 and is not subject to the jurisdiction of the Land Use Board of Appeals. A decision under this section may only be appealed by writ of review under ORS 34.010 to 34.100.
- (33) Residential Care or Treatment Homes and Facilities are permitted on land zone for

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commercial and employment uses, including public lands but excluding park land, and in industrial zones when the property is publicly owned or owned by a public benefit corporation as defined in ORS 65.001 and within 250 feet of lands zoned for residential use. Homes are permitted outright but only in zones that allow single dwelling units. Facilities are permitted through Site Plan Review; however, a decision made under this section is not a land use decision as defined in ORS 197.015 and is not subject to the jurisdiction of the Land Use Board of Appeals. A decision under this section may only be appealed by writ of review under ORS 34.010 to 34.100.

[Ord. 5445, 4/12/00; Ord. 5555, 2/7/03; Ord. 5728, 1/27/10; Ord. 5742, 7/14/10; Ord. 5767, 12/7/11; Ord. 5832, 4/9/14; Ord. 5886, 1/6/17; Ord. 5923, 2/8/19; Ord. 5947, 1/1/21; Ord. 5949, 1/1/21; Ord. 5968, 1/14/22; Ord. 6010, 7/1/23; Ord. 6018, 6/30/23; Ord. 6042, 7/12/24; Ord. 6059, 3/14/25; Ord. 6062, 5/23/25]

SPECIAL STATUS FOR SINGLE DWELLING RESIDENCES

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

[Ord. 5789, 10/10/12; Ord. 5555, 2/7/03; Ord. 5947, 1/1/21; Ord. 5968, 1/14/22; Ord. 6059, 3/14/25; Ord. 6062, 5/23/25]

DEVELOPMENT STANDARDS

4.090 Purpose. Development standards are intended to promote site planning and design that consider the natural environment, site intensity, building mass, and open space. The standards also promote energy conservation, needed privacy, and improve the general living environment and economic life of a development. Table 4.090-1, on the following page, summarizes the basic development standards. It should be used in conjunction with the sections immediately succeeding the table, which addresses special circumstances and exceptions. See Article 8 for design standards for single-dwelling, middle housing, and multiple-dwelling developments.

TABLE 4.090-1 COMMERCIAL AND INDUSTRIAL DISTRICT DEVELOPMENT STANDARDS

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

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

N/A means not applicable.

- (1) The minimum lot size for residential units is 1,600 sq. ft. per unit. No minimum lot size is required for non-residential development.
- (2) New NC zones may be no more than 50,000 sq. ft. of contiguous land.
- (3) All yards adjacent to streets. Approved vegetated post-construction stormwater quality facilities are allowed in landscaped areas.
- (4) The minimum lot size for supporting commercial uses may be smaller than 3 acres.
- (5) Structures on property abutting the R-5, R-6.5, R-10, RR, HM, and MUR districts require 1 foot of setback for each foot of finished wall height with a minimum setback of 10 feet and a maximum setback of 25 feet. Garages or vehicle parking accessed from the rear by an alley or shared access easement only need to be setback 5 feet from the rear property line.
- (6) No setbacks are required for buildings abutting railroad rights-of-way.
- (7) Lot coverage for single dwelling units and middle housing development only includes the area of the lot covered by buildings or structures. Lot coverage may be increased by up to 10 percent for residential or mixed-use development in the OP and NC zones that have no garages or driveways, or all garages or parking areas are accessed from the rear by an alley or shared access easement.
- (8) Heights may be reduced in the Airport Approach Overlay District; see Sections 4.400 to 4.440. Heights may be exceeded for developments located in a Climate Friendly Area overlay district. See Article 14.
- (9) Ten or more multiple-dwelling units require common open space. See Section 8.220.
- (10) The maximum business footprint for supporting commercial uses allowed in IP is 5,000 square feet. The maximum business footprint for convenience-oriented and personal service-oriented retail uses in NC and OP is 5,000 square feet. Convenience-oriented and personal service-oriented retail uses in buildings constructed prior to February 7, 2003, in the NC and OP districts are exempt from the maximum business footprint.
- (11) When adjacent to or across the street from residentially zoned land, the setback must be 1 foot for each foot of building height over 30 ft. Buildings may increase in height (“step” up) as the setback increases. For example, at the minimum setback in LI, a building may be 30 feet tall but may increase

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in height up to 50 feet when set back 50 feet from the property line.

(12) ~~Higher-Taller~~ structures permitted by Conditional Use approval.

[Ord. 5445, 4/12/00; Ord. 5555, 2/7/03; Ord. 5556, 2/21/03; Ord. 5742, 7/14/10; Ord. 5768, 12/7/11; Ord. 5842, 1/1/15; Ord. 5923, 2/8/19; Ord. 5947, 1/1/21; Ord. 5968, 1/14/22; Ord. 6010, 7/1/23; Ord. 6059, 3/14/25; Ord. 6062, 5/23/25]

SETBACKS

*****No changes are proposed to Sections 4.100 through 4.160 and 4.180 through 4.280 so these sections are not provided.*****

Staff Comments: Changes are proposed to standards related to swimming pools for consistency with state building codes.

4.170 Setbacks and Fencing for Swimming Pools. Swimming pools are defined as all in-ground and above-ground swimming pools, hot tubs and spas more than 24 inches deep must conform to the setback regulations for main buildings, except that outdoor swimming pools must be set back at least ~~40~~5 feet from all side and rear property lines. All swimming pools must be fenced or equipped with electric alarm systems that prevent entry or alarm upon entry in compliance with the applicable building code. Required pool fencing must be at least four feet tall and have a self-locking gate that closes automatically.

[Ord. 6059, 3/14/25; Ord. 6062, 5/23/25]

Staff Comments – Outside Storage: The proposed changes clarify existing standards.

OUTSIDE STORAGE

4.290 General.

- (1) In the NC, ~~and~~ OP, ~~FD~~, EMP, and IP zoning districts, outside storage or display of materials, junk, parts, fleet vehicles, or merchandise is not permitted, except for automobile and plant sales (where allowed).
- (2) In the CC zone, outside storage or display of materials, parts, merchandise and fleet vehicles is only allowed in the side and rear yards outside of all required setbacks and buffer areas if screened from the public rights-of-way with a sight-obscuring fence, wall, hedge, or berm, which must be constructed of non-combustible material. The display of goods in the front yard(s) is not permitted, except for ~~This provision excludes automobile and plant sales. Display of goods is not permitted.~~
- (3) In the RC zone:
 - (a) Exterior display of goods is permitted except in the required front setback or buffer yard. Display is limited to a sample of goods offered for sale by the establishment. Display areas may not be used for storage. Display areas may not expand beyond 25 percent of the primary street frontage and must be designated on the site plan. Display areas adjacent to residential districts or uses must be set back at least 10 feet and must be screened from view with a sight-obscuring fence, wall, hedge, or berm, which must be constructed of non-combustible material.
 - (b) Exterior storage is permitted in side and rear yards, except in required buffer yards and setbacks. Storage areas adjacent to residential districts or uses must be screened from view with a sight-obscuring fence, wall, hedge, or berm, which must

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be constructed of non-combustible material. This enclosure must be located on the property at the required setback line as if the berm, fence, wall, or hedge were a building.

(4) In the LI and HI zones, outside storage is permitted in side and rear yards outside of the required setback. Outside storage is allowed in front yards outside the front setback provided that it is enclosed with a sight-obscuring fence, wall, hedge, or berm, which must be constructed of non-combustible material. This enclosure must be located on the property at the required setback line as if the berm, fence, wall, or hedge was a building.

(5) Where outside storage is permitted.

(a) Materials and equipment stored as permitted in this subsection may be no more than 14 feet above the elevation of the storage area.

(b) Outside storage over six feet tall must be screened in accordance with 9.250.

~~(b)~~(c) Outside storage on gravel areas must be treated for stormwater detention and provide perimeter curbing. Perimeter curbing must be secured to the ground.

[Ord. 5555, 2/7/03; Ord. 5742, 7/14/10; Ord. 5886, 1/6/17; Ord. 6010, 7/1/23; Ord. 6059, 3/14/25]

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

[Ord. 5968, 1/14/22; Ord. 6059, 3/14/25]

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

*****No changes are proposed to the Airport Approach standards in Sections 4.400 through 4.440 so these sections are not provided.*****

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Staff Comments: Changes are needed in this Article to comply with legislation (HB 2005 and HB 3560) that passed in 2025 and 2026 that is in effect or goes into effect July 1, 2026. References to the newer Article 14, Climate Friendly Area Overlay Districts are being added where needed.

ARTICLE 5 MIXED USE ZONING DISTRICTS

5.000 Purpose. This article is intended to define the character of Albany’s mixed-use zoning districts. The mixed-use zones implement the concepts identified in the Balanced Development Patterns Project (2001) and the Town Center Plan (Central Albany Land Use and Transportation Study, CALUTS, 1996), and Albany’s Climate Friendly Areas (2025). These zoning districts are compatible with the Village Center Comprehensive Plan designation applied in the Central Albany area, North Albany, east of Interstate 5, and south of Oak Creek near Highway 99E (Pacific Boulevard). The mixed-use zones may be applied outside of the Village Center plan designation.

[Ord. 5555, 2/7/03; Ord. 6010, 7/1/23; Ord. 6062, 5/23/25]

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

Development may be subject to the provisions in Article 8, Design Standards; Article 9, On-Site Development and Environmental Standards; and Article 12, Public Improvements. Sites within overlay districts are also subject to the provisions of Article 6, Special Purpose Districts, and Article 7, Historic Overlay Districts, and Article 14, Climate Friendly Area Overlay Districts.

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

- Zoning Districts
- Schedule of Permitted Uses
- Development Standards

[Ord. 5673, 6/27/07; Ord. 5894, 10/14/17; Ord. 6062, 5/23/25]

ZONING DISTRICTS

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

- (1) HD – HISTORIC DOWNTOWN DISTRICT. The HD district is intended for a dense mixture of uses with an emphasis on entertainment, theaters, restaurants, nightlife and specialty shops. High-density residential infill on upper floors is encouraged, as is the continued presence of the government center and supporting uses.
- (2) DMU – DOWNTOWN MIXED-USE DISTRICT. The DMU district is intended for a mix of retail, services, institutions, offices, and housing that supports businesses in and around the Historic Downtown District. Mixed uses are encouraged both horizontally and vertically. High-density residential infill and office employment are both encouraged.

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

[Ord. 5556, 2/21/03; Ord. 5577, 7/28/04; Ord. 5555, 2/7/03; Ord. 5635, 1/11/06; Ord. 5673, 6/27/07; Ord. 5832, 4/9/14; Ord. 5894, 10/14/17; Ord. 6018, 6/30/23; Ord. 6062, 5/23/25]

5.040 Establishment of Special-Purpose Districts. Special-purpose districts are overlay districts that

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

<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
<u>Climate Friendly Area Overlay Districts</u>	<u>Article 14</u>

[Ord. 5555, 2/7/03; Ord. 6059, 3/14/25; Ord. 6062, 5/23/25]

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

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

SCHEDULE OF PERMITTED USES

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

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

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

[Ord. 6062, 5/23/25]

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

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

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

Staff Comments: Changes proposed to the Schedule of Permitted Uses needed to 1) comply with HB 2005 – siting of residential treatment homes and facilities without requiring a conditional use permit; and 2) to comply with HB 3560 - siting of child care centers, which must be allowed in all zones that allow commercial and industrial uses and residential densities over 12 units an acre.

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

Use Categories (See Article 22 for use category descriptions.)	Spec. Cond.	MUC	WF	HD	DMU	CB	LE	PB	MS	ES	MUR
INDUSTRIAL USE CATEGORIES											
Contractors and Industrial Services	1	N	N/ CU-24	N	N	CU	S	S	N	N	N
Manufacturing and Production	2	N	N/ CU-24	CU-3	N	CU-3	S/CU	N	N	N	N
Small-scale Manufacturing - less than 5,000 sq. ft. -5,000 to 10,000 sq. ft.	2	S/CU CU	S/CU CU	S/CU CU	S/CU CU	S/CU CU	S/CU CU	S/CU CU	S/CU CU	N N	N N
Warehousing and Distribution		N	N/ CU-24	N	N	N	N	N	N	N	N
Waste and Recycling		N	N	N	N	N	N	N	N	N	N

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Use Categories (See Article 22 for use category descriptions.)	Spec. Cond.	MUC	WF	HD	DMU	CB	LE	PB	MS	ES	MUR
Wholesale Sales		N	N/ CU-24	N	N	CU	N	N	N	N	N
COMMERCIAL USE CATEGORIES											
Adult Entertainment	4	N	N	S	S	S	N	N	N	N	N
Entertainment and Recreation Indoor Outdoor		S-5 CU	S-5/CU-24 CU-6	S N	S N	S CU-6	S N	S-5 S	S-5 N	S-5 N	CU-26 N
Offices: Traditional Industrial		S CU	S S	S S	S S	S S	S S	S S	S S	S N	S-26 N
Parking		S	CU	CU	CU	CU	S	S	S	CU-7	CU
Recreational Vehicle Park		N	N	N	N	N	N	N	N	N	N
Restaurants, no drive-thru Restaurants with drive-thru or mostly delivery	23	S CU	S N	S N	S N	S N	S S	S S	S N	CUII N	S-26 N
Retail Sales and Service		S-8	S-8/ CU-24	S-8	S-8	S	S	S	S-8	S-8	S-8/26
Self-Serve Storage	9	N	N	N	N	N	N	N	N	N	N
Taverns, Bars, Brewpubs, Nightclubs	23	CUII	CUII	S	S/ CUII - 25	S/ CUII - 25	S	S	CUII	CU	CUII-26
Vehicle Repair		N	N/ CU-24	N	N	CU	N	S	N	N	N
Vehicle Service, Quick (gas/oil/wash)		S	N	N	N	N	N	S	S	S	N
INSTITUTIONAL USE CATEGORIES											
Basic Utilities	10	CU	CU	CU	CU	CU	CU	CU	CU	CU	CU
Daycare Facility <u>or Child Care Center</u>		S	S	S	S	S	NS	CU	S	S	S
Community Services	11	CU/S-11	CU	S-11	S-11	S-11	S-11	S-11	S-11	S-11	CU
<u>Crisis Stabilization Center</u>	<u>31</u>	<u>S-31</u>	<u>S-31</u>	<u>S-31</u>	<u>S-31</u>	<u>S-31</u>	<u>S-31</u>	<u>S-31</u>	<u>S-31</u>	<u>S-31</u>	<u>S-31</u>
Educational Institutions	12	S-12	CU	S	CU	S	S	N	CU	CU	CU
Hospitals	<u>32</u>	<u>N/S-32</u>	<u>CU/S-32</u>	<u>CU/ S-32</u>	<u>CU/ S-32</u>	S	S	<u>CU/ S-32</u>	<u>N/ S-32</u>	<u>CU/ S-32</u>	<u>CU/ S-32</u>
Jails & Detention Facilities		N	N	N	N	N	N	N	N	N	N
Parks, Open Areas, and Cemeteries	13	CU/S	CU	S	CU	S	S	CU	CU	CU	CU
Religious Institutions	12	CU	CU	CU	CU	S	S	CU	CU	CU	CU
RESIDENTIAL USES											
Residential Care or Treatment Facility	14	S	CU	S	S	S	S	N	S	S	S
Assisted Living Facility		S	CU	CU	CU	CU	CU	CU	CU	CU	S
Single-Dwelling Unit (SDU)	15, 27	Y-17	N	N/Y-16	N/Y-16	N/Y-16	N/Y-16	N	N	N/Y-16	Y

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

Y = Yes, allowed, no Site Plan Review required

N = No, not allowed

CU = Conditional Use review required, Type III procedure

S = Site Plan Review required

CUII = Conditional Use review required, Type II procedure

[Ord. 5555, 2/7/03; Ord. 5556, 2/21/03; Ord. 5635, 1/11/06; Ord. 5673, 6/27/07; Ord. 5728, 1/27/10, Ord. 5742, 7/14/10; Ord. 5767, 12/7/11; Ord. 5832, 4/9/14; Ord. 5886, 1/6/17; Ord. 5894, 10/14/17; Ord. 5947, 1/1/21; Ord. 5968, 1/14/22; Ord. 2010, 7/1/23; Ord. 6024, 12/29/23; Ord. 6042, 7/12/24; Ord. 6059, 3/14/25; Ord. 6062, 5/23/25; Ord. 6068, 11/8/25]

SPECIAL CONDITIONS

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

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

- (1) Contractors and Industrial Service Uses in CB, LE and PB zones.
 - (a) Limited Uses in CB, LE and PB zones. Salvage or wrecking operations are prohibited. See Section 5.360 for outside storage standards by zone.
- (2) Manufacturing and Production. The environmental performance standards of Article 9 may further limit the placement of certain uses in some districts. Developments on sites located within 300 feet of residential zoned land may require Conditional Use approval.
- (3) Manufacturing and Production in the CB and HD zones.
 - (a) Limited uses in the CB zone. The following manufacturing and production uses are prohibited in the CB zone: slaughterhouses, meat packing, and concrete and asphalt production.
 - (b) Limited uses in the HD zone. Expansion of existing Small-Scale Manufacturing uses into more than 10,000 square feet of floor area is allowed with Conditional Use approval, subject to the following limitations. All other manufacturing and production uses are prohibited.
 - i. Retail must be included as an accessory use.
 - ii. The Small-Scale Manufacturing Use must have occupied the space for at least 12 months prior to applying to expand.
 - iii. The use must occupy no more than 30,000 square feet of floor area on the first story.
- (4) Adult Entertainment.
 - (a) An adult entertainment use or store may not be established or expanded within 300 feet of the district boundary line of any residential zoning district.
 - (b) An adult entertainment use may not be established or expanded within 300 feet of any other adult entertainment use.
 - (c) An adult entertainment use may not be established or expanded within 300 feet of the property line of a church, school, or public park.
 - (d) Exceptions to the above may be considered by the Major Variance procedures.
- (5) Indoor Entertainment and Recreation in the WF, PB, MS, ES and MUC zones.
 - (a) Limited Uses in PB and MUC. The following indoor entertainment and recreation uses are prohibited in PB and MUC: movie theaters, indoor firing ranges, paint gun, coliseums, stadiums, and similar facilities.
 - (b) Limited Uses in MS and ES. Only the following indoor entertainment and recreation uses are allowed in MS and ES: athletic or exercise facilities, bowling alleys, skating rinks, pool halls, games, amusements, arcades and uses with similar impacts. All other indoor entertainment and recreation uses are prohibited.
 - (c) Limited Uses in WF. The following indoor entertainment and recreation uses are prohibited in WF, except as specified for Special Status sites pursuant to ADC Section 5.085: indoor firing ranges, coliseums, stadiums and similar facilities.
- (6) Outdoor Entertainment and Recreation in the CB zone.
 - (a) Conditional Uses in CB and WF. The following Outdoor Entertainment and Recreation uses are allowed with Conditional Use approval: tennis courts, miniature golf, skateboard parks and similar uses. All other uses in the Outdoor Entertainment and Recreation use category are prohibited.

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- (7) Parking Facility in the ES zone.
 - (a) Limited Uses. Parking that is provided for a primary use on the same or adjacent property is allowed. Fee parking for people not connected to the primary use is limited to parking structures.
- (8) Retail Sales and Service in the MS, ES, HD, WF, DMU, MUC and MUR zones.
 - (a) Limited Uses in MS, ES, and MUR. The following retail uses are permitted: convenience and personal service-oriented commercial intended to serve nearby residents and employees; specialty retail stores and studios; small appliance rental and repair, shoe repair, and tailoring. All other retail uses are prohibited. See Article 22 for descriptions of convenience-oriented and personal service-oriented commercial uses.
 - (b) Limited Uses in MUC. The following retail uses are prohibited: sale, leasing, and rental of vehicles and trucks; hotels and motels.
 - (c) Limited Uses in HD, WF, and DMU zones. The following retail uses are prohibited, except as specified for Special Status sites pursuant to ADC Section 5.085: sale, leasing, and rental of vehicles and trucks.
- (9) Self-Serve Storage. These facilities are subject to the following standards:
 - (a) The minimum driveway width between buildings is 20 feet for one-way drives and 24 feet for two-way drives.
 - (b) The maximum storage unit size is 1,000 square feet.
 - (c) All outdoor lighting must be shielded to prevent glare and reflection on adjacent properties.
 - (d) Repair of autos, boats, motors and furniture and storage of flammable materials are prohibited on the premises, and rental contracts must so specify.
- (10) Basic Utilities. In all mixed-use village center zones, new regional/community utilities including treatment plants, major power generation and storage facilities, major overhead power lines requiring tower support structures, and utilities with potential visual or off-site impacts are prohibited. All other Basic Utilities are considered through the Conditional Use review.
- (11) Community Services. Government facilities that provide direct public services on site (examples: libraries, city hall) are permitted through Site Plan Review in Albany's Climate Friendly Area overlay districts when indicated by base zone. Community Service uses that may have significant off-site impacts like noise or traffic, such as public swimming pools, public safety facilities, and homeless shelters may be considered through the Conditional Use process. Applications for emergency shelters sited under ORS 197.782 and ORS 197.783 are not a land use decision.

Staff Comments – minor clarifying updates are proposed and adding the required driveway for dropping off and picking up children from school only applies to students through high school.

- (12) Educational Institutions are permitted through Site Plan review on property located in one of Albany's Climate Friendly Area (CFA) overlay districts. New educational or religious institutions outside of CFA overlay districts require Conditional Use (CU) approval unless permitted through Site Plan Review. Land Use approval includes the following secondary uses: educational activities; sports and other recreational activities; religious activities; political activities; meals programs; before- and after-school childcare activities;

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fundraising activities; and cultural programs. The addition of secondary ~~Such~~ uses within existing buildings will not be required to go through the land use process if all of the activities that constitute the use (~~excluding parking and travel to and from the site~~) take place on the site and no external noise is audible or light visible between 10:30 p.m. and 8:00 a.m.

Expansion of an educational or religious institution must be reviewed through either the Site Plan Review process or when these uses require CU approval, through the Conditional Use Type II procedure. An expansion includes the addition of building area, increase in parking lot coverage, or expansion of athletic facilities.

An educational ~~or religious~~ institution servicing students through high school and having a capacity greater than 25 students must have a driveway designed for the continuous forward flow of passenger vehicles for the purpose of loading and unloading children.

- (13) Public park development in Climate Friendly Area (CFA) overlay districts is permitted through Site Plan review. Public park development activity outside of CFA overlay districts that is subject to Conditional Use review includes major development; expansions of activities and development within parks which currently generate or will generate substantial traffic; or construction of major structures and facilities such as swimming pools, lighted ball fields, and community centers. Conditional use review is not required, however, for construction of play equipment, tennis courts, bike paths, picnic shelters, restrooms, landscaping, and similar activities within existing improved parks.
- (14) Residential Care or Treatment Facility and Homes. A residential care facility (six or more residents) requires a Site Plan Review. A “residential home” (as defined in ORS Chapter 443) or group home that includes five or fewer residents is permitted outright in any zone that allows single-dwelling unit residences. Residential Care or Treatment Facilities are permitted through Site Plan Review; however, a decision made to allow either a care or treatment home or facility is not a land use decision as defined in ORS 197.015 and is not subject to the jurisdiction of the Land Use Board of Appeals. A decision under this section may only be appealed by writ of review under ORS 34.010 to 34.100.
- (15) Single-Dwelling Units, Townhouses, Triplexes, Fourplexes, and Duplexes.
- (a) Single-dwelling, townhouse, triplex, fourplex, and duplex units that were legally constructed before December 11, 2002, may remain a permitted use in any zone without being nonconforming. See Section 5.080.
 - (b) In CB, ES, HD, DMU, and LE: Buildings originally built as a single-dwelling unit, house, or church may be converted to a single dwelling unit without requiring a land use application.
 - (c) In HD, all other single dwelling units and middle housing, except townhouses that comply with the standards in Article 14, are prohibited.
- (16) Single Dwelling Unit with One Accessory Dwelling Unit or Single Room Occupancy Unit. Where single-dwelling units are permitted outright, one accessory dwelling unit (ADU) or one Single Room Occupancy (SRO) Unit may be allowed on each lot that has one legally established single-dwelling unit, called the “primary residence”.
- (a) Accessory Dwelling Units. Accessory dwelling units must meet the following standards:
 - i. The size of an ADU may not exceed 900 square feet. (Note: ADUs greater than 900

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square feet that were legally constructed before July 1, 2007, may remain.) If the primary Dwelling Unit is less than or equal to 900 square feet, the ADU must be at least 25 square feet less than the primary dwelling unit.

- ii. The lot was legally established.
- iii. The front door of an ADU may not be located on the same façade as the front door of the primary dwelling unless the door already exists or the wall that contains the ADU front door is set back at least five feet from the front facade of the primary dwelling unit.
- iv. Exterior additions must substantially match the existing materials, colors, and finish of the primary dwelling unit.
- v. All required building permits must be obtained. If the primary dwelling unit is on the Local Historic Inventory, historic review may be required per Article 7.
- vi. The front setback must be greater than or equal to the location of the front wall of the primary dwelling unit. All other setbacks must meet the requirements of the zone.
- vii. Conversion of an Existing Building to an ADU. An existing accessory structure that was legally established prior to March 14, 2025, may be converted into an ADU, provided the conversion does not increase the nonconformity of the structure and complies with applicable building codes.

(b) Single Room Occupancy (SRO) Unit. The SRO Unit must meet the following standards:

- i. The SRO Unit must be located interior to the primary dwelling-unit.
- ii. The SRO Unit must share a kitchen with the primary dwelling unit and must not contain food preparation facilities.
- iii. The SRO Unit must have an interior door connecting to the primary dwelling unit and may have an exterior door located in the rear yard.
- iv. The SRO Unit must not operate independently of the primary dwelling unit unless converted to an accessory dwelling unit after all required building permits have been obtained.

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

- (a) In MUC, residential development must develop at a minimum net density of 10 units an acre; however, development in a Climate Friendly Area (CFA) overlay district must meet the minimum density standards specified in Article 14. Residences above a business or office are exempt from meeting the minimum density. In MUC districts located east of interstate 5, new development of Residential Use Categories is only permitted in conjunction with a primary use from the Commercial or Institutional Use Categories unless located in a CFA overlay district. The new residential use must be in the same building or on the same property as the primary non-residential use.
- (b) HD and LE properties in the Downtown Climate Friendly Area (CFA) overlay district. Townhouses are permitted only when vehicular access to garages or parking, if provided, is from the rear of the dwelling unit and minimum density standards in Article 14 are met. Multiple dwelling units are permitted above or attached to a business subject to the standards in Article 14. For the purposes of this section, the non-residential portion of a live/work dwelling unit is regulated as part of the dwelling unit and subject to all the standards below.

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- i. Units above a business: Dwelling units on the second story or above are permitted.
 - ii. Units behind a business: Dwelling units on the first story that are separated from the front lot line by a non-residential use are permitted. In the CFA overlay district, the non-residential use may be located within the same building or in another building on the same property.
 - iii. Units attached to a business on a multiple frontage lot: On a lot with three or more street frontages, dwelling units are permitted on the first story facing a front lot line but may not face onto First or Second Avenue. Street-facing first-story dwelling units must meet all applicable setbacks and design standards in Articles 5 and 8 as if the street line that the units are facing were a front lot line.
- (c) In CB, development is subject to minimum density and siting standards in Article 14.
- (d) In WF, and DMU, triplexes, fourplexes, and multiple dwelling units with individual driveways that meet the standards of 8.150(1) are permitted subject to Site Plan Review.

Staff Comments – Accessory buildings exempt from land use review: Since the code allows accessory dwelling units to be up to 900 square feet staff propose to increase the size exempt from land use review from 750 to 900 square feet.

- (18) Residential Accessory Buildings. Accessory buildings are permitted outright in MUC, MUR, WF, HD, DMU, CB, ES, LE, and MS if they meet the following conditions:
- (a) Detached accessory buildings, garages, and carports are less than ~~750~~900 square feet and have walls equal to or less than 12 feet tall.
 - (b) All other residential accessory buildings require a Site Plan Review in MUC, MUR, HD, DMU, CB, and WF, and are considered through a Conditional Use Type II review in ES, LE, and MS. [This is indicated by the use of a “/” in the matrix. For example, “Y/S” means accessory uses that don’t meet the standards in (a) above require a Site Plan Review.]
 - (c) Accessory buildings over 100 square feet proposed on property in a National Register of Historic District or on the National Register of Historic Places require historic review. See Article 7 for the review process and criteria.

Accessory dwelling units: See Special Condition 16.

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

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- (c) Antennas used to display sign messages must conform to all district sign regulations in addition to the above.
- (d) Antennas, satellite dishes, monopoles, and other communication structures less than 50 feet in height, when measured from the ground or over 15 feet above a rooftop, and not in conformance with the above, may be considered through a Conditional Use review, Type II process.
- (21) Communication towers and poles at least 50 feet in height when measured from the ground or over 15 feet above a rooftop, may be considered through a Conditional Use review, Type II process No communication structure is allowed in any front setback. Article 8 for telecommunication facility design standards apply.
- (22) Kennels. Kennels do not include indoor veterinary hospital kennels.
- (23) Hours of Operation. Hours of operation for establishments or outdoor seating areas within 300 feet of a residence may be restricted through conditions of approval to be compatible with neighbors.
- (24) Additional uses for Special Status List sites in the WF zone. Limited additional uses may be considered through the Conditional Use process for Special Status List sites, pursuant to ADC Section 5.085.
- (25) Development on sites located within 300 feet of residentially zoned land requires a Type II Conditional Use approval.
- (26) Non-residential uses in MUR. In MUR districts located east of Interstate 5, new development of uses in nonresidential Use Categories is only permitted in conjunction with a primary use from the Residential Use Categories. The new non-residential use must be in the same building or on the same property as the primary Residential Use.
- (27) One Single Room Occupancy (SRO) Development with no less than four and no more than six individual SRO units is permitted outright per property zoned to allow single dwelling units. SRO development is also permitted through Site Plan Review as a multiple dwelling unit development, but each individual SRO unit is considered 0.5 dwelling units when calculating density.
- (28) Affordable Housing. Affordable housing as defined in this section and ~~conversion of buildings or portion of buildings in commercial use to housing~~ will be permitted through Site Plan Review when the following standards are met.
 - (a) ~~Affordable housing as defined in (b) is permitted on property~~ The property is zoned for commercial uses, religious assembly, or public lands OR is owned by one of the following:
 - i. A local, state, or special government or public body, as defined in ORS Chapter 174; or
 - ii. A nonprofit corporation that is organized as a religious corporation or is organized as a public benefit corporation whose primary purpose is the development of affordable housing; or
 - iii. A housing authority as defined in ORS 456.005; or
 - iv. A manufactured dwelling park nonprofit cooperative, as defined in ORS 62.803.
 - (b) As used in this section, “affordable housing” means residential dwellings that are subject to an affordable housing covenant as provided in ORS 456.270 to 456.295 for

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a duration of no less than 30 years and meet either i, ii, or iii below.

- i. Each unit on the property is made available to own or rent to households with incomes of 80 percent or less of the area median income (AMI); or
 - ii. All units on the property are made available to rent or own to households with incomes with a collective average of 60 percent or less of the AMI; or
 - iii. A manufactured dwelling park that serves only households with incomes of 120 percent or less of the AMI.
- (c) A building or portion of a building in commercial use may be converted to a residential use.
- (d) The residential uses described in (a) through (c) above are permitted on property zoned EMP, IP or LI only if the property is:
- i. Publicly owned; and
 - ii. Adjacent to lands zoned for residential uses or schools.
- (e) Does not apply on lands zoned HI or where:
- i. The development cannot be adequately served by water, sewer, storm water drainage or streets; or
 - ii. The property contains a slope of 25 percent or greater; or
 - iii. The property is within a 100-year floodplain; or
 - iv. The development of the property is constrained by land use regulations based on statewide land use planning goals relating to natural disasters and hazards; or natural resources, including air, water, land, or natural areas, but not including open spaces or historic resources.
- (f) Height Bonus. An affordable housing development proposal that meets the standards in this special condition and is located outside of a National Register historic district, will be granted the following height bonuses as applicable.

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

- (29) Commercial Land for Affordable and Moderate-Income Housing. Per ORS 197A.460, affordable housing development subject to an affordable housing covenant as provided in ORS 456.270 to 456.295 is permitted through Site Plan Review when the following standards are met.
- (a) Each unit is affordable to a household with income less than or equal to 60 percent of the area median income (AMI) as defined in ORS 456.270; or
 - (b) Mixed use structures with ground floor commercial units. All residential units are made affordable to moderate income households with incomes between 80 and 120 percent of the AMI, as defined in ORS 456.270.
 - (c) Affordable housing per this section is only permitted on land that has been in the city's Urban Growth Boundary for at least 15 years and does not apply on vacant land or on lands where the city determines:
 - i. The development cannot be adequately served by water, sewer, storm water drainage or streets;

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- ii. The property contains a slope of 25 percent or greater;
- iii. The property is within a 100-year floodplain; or
- iv. The development of the property is constrained by land use regulations based on statewide land use planning goals relating to: Natural disasters and hazards; or Natural resources, including air, water, land or natural areas, but not including open spaces.

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

Staff Comments: These new special conditions are needed to comply with HB 2005 regarding the siting of Residential Care or Treatment Facilities or Homes, licensed crisis stabilization centers and mental or psychiatric hospitals without requiring a conditional use permit.

(31) A Crisis Stabilization Center as defined in ORS 430.626 and licensed under ORS 430.627 is permitted only on property that is owned by a public body, as defined in ORS 174.109, but excluding park land and the property is adjacent to where a mental or psychiatric hospital licensed under ORS 441.025 is or will be located as established by a pending development application. A decision made to permit a crisis stabilization center is not a land use decision as defined in ORS 197.015. A decision issued for these uses may only be appealed by writ of review under ORS 34.010 to 34.100.

(32) Mental or psychiatric hospitals licensed under ORS 441.025 are permitted through Site Plan Review on property adjacent to a where a crisis stabilization center as defined in ORS 430.626 and licensed under ORS 430.627 is or will be located as established by a pending development application. A decision made to permit either a mental or psychiatric hospital is not a land use decision as defined in ORS 197.015. A decision issued for these uses may only be appealed by writ of review under ORS 34.010 to 34.100.

[Ord. 5445, 4/12/00; Ord. 5555, 2/7/03; Ord. 5556, 2/21/03; Ord. 5635, 1/11/06; Ord. 5673, 6/27/07; Ord. 5742, 7/14/10; Ord. 5728, 1/27/10; Ord. 5767, 12/7/11; Ord. 5886, 1/6/17; Ord. 5894, 10/14/17; Ord. 5947, 1/1/21; Ord. 5949, 1/1/21; Ord. 5966, 11/12/21; Ord. 5968, 1/14/22; Ord. 6010, 7/1/23; Ord. 6018, 6/30/23; Ord. 6042, 7/12/24; Ord. 6059, 3/14/25; Ord. 6062, 5/23/25; Ord. 6068, 11/8/25]

*****No changes are proposed to the Special Status standards in Sections 5.080 through 5.085 so these sections are not provided.*****

HOME BUSINESS STANDARDS

5.087 Home Businesses. For businesses operated out of a dwelling unit. See Article 3, Residential Zoning Districts, Sections 3.090 to 3.160, ~~for home business standards.~~ [Ord. 5555, 2/7/03; Ord. 5894, 10/14/17; Ord. 5947, 1/1/21]

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DEVELOPMENT STANDARDS

5.090 Purpose. Development standards are intended to promote site planning and design that consider the natural environment; site intensity, building mass and open space. The standards also promote energy conservation, needed privacy, and safe and efficient parking areas for new development; and improve the general living environment and economic life of a development. Table 5.090-1 summarizes the basic development standards. It should be used with the sections immediately following the table, which addresses special circumstances and exceptions. Additional design and development standards are located in Article 8 and Article 14.

Staff Comments – Development Standards Table 5.090-1:

- Staff propose removing the minimum area requirements per multiple dwelling unit because lot coverage and height determine the development capacity. This change was made to Article 3 with prior amendments and was not made in this Article.
- Garages and parking are not allowed on front facades in Climate Friendly Areas, and the DMU and WF zoning districts so updating table note (7). Also changing the minimum setbacks for the garage/vehicle entrances in other zones to be either 5 feet or 20 feet so that vehicles will either not parking in front of the garage (5 feet setback), or will have room to parking in the driveway with a 20' setback.
- Reducing the front setbacks in the MUR zone to 5 feet to be more consistent with other mixed-use zones where compact and walkable development is desired.
- Modifying standards for outdoor swimming pools to be consistent with the building code.

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

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

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

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- (1) Single-dwelling unit detached homes, townhouses, and duplexes, where permitted, may have a 3-foot side setback for single-story buildings, and a five-foot side setback for two-or more story buildings. See Sections 5.150 and 5.160 for zero lot line options and townhouses.
- (2) All yards adjacent to streets. Approved vegetated post-construction stormwater quality facilities are allowed in landscaped areas.
- (3) Lots with alley access may be up to 10 percent smaller than the minimum lot size for the zone.
- (4) See ADC Section 5.115 for special setback standards abutting residential zones and uses.
- (5) Minimum front, side, and rear setbacks are not required for buildings abutting railroad rights-of-way. Setbacks for cottage clusters are in Section 5.092.
- (6) Achievement of maximum lot coverage is subject to meeting all other standards of the ADC, including, but not limited to, landscaping, buffering and setback requirements. Lot coverage for single-dwelling unit detached and middle housing development must only include the area of the lot covered by buildings or structures. Lot coverage for townhouses is calculated based on the overall townhouse project, which includes the townhouse structure(s) together with the development site, including any commonly owned property. Cottage clusters are exempt from maximum lot coverage standards.
- (7) To prevent parked vehicles from intruding in the right-of-way when front-facing garages are permitted, garage entrances must be set back either five feet or at least 20 feet. A setback of more than 5 feet and less than 20 feet is not permitted. Garage entrances may not be located closer to the front lot line than the front façade of the building. See Section 8.150 and 8.160 for parking and vehicle access standards for single and middle housing.
- (8) Garage setbacks for non-vehicle entrance must conform to the requirements for side and rear setbacks. Garages with alley access, see Table 5.100-1 for setbacks. Alleys must be constructed to city standards.
- (9) ~~For garages with alley access, see Table 5.100-1.~~ Minimum density standards apply to development located within a Climate Friendly Area overlay zoning district per Article 14.
- (10) The maximum setback may be increased with the condition that 100 percent of the increased setback is used for pedestrian amenities associated with the building use, such as patio dining for a restaurant, sidewalk café, plaza, or courtyard; or to accommodate changes in elevation due to road and site grading or natural slopes. See ADC Section 5.120 for additional exceptions and calculation methodology for the HD, CB, DMU, and WF zoning districts.
- (11) In MUC and MUR, single-dwelling unit detached homes and middle housing may have a 3-foot side setback for single-story buildings, and a five-foot side setback for two-story buildings. See Section 5.150 and 5.160 for zero lot line options and attached dwellings units.
- (12) Ten or more residential multiple-dwelling units require common open space. See Section 8.220.
- (13) The building footprint maximum is 80,000 square feet if a grocery store occupies at least fifty percent (50 percent) of the total square footage. This footprint may include one or more businesses or attached buildings. For purposes of this section, a grocery store is defined as a business that sells primarily food and household supplies. Ancillary grocery uses include uses such as pharmacy, bakery, and florist.
- (14) Properties adjacent to the Willamette River see the Willamette Greenway standards in Sections 5.200 - 5.207 and Sections 6.500-6.560.
- (15) Except for residential development, which has a maximum setback of 25 feet. See Sections 8.200 – 8.305 for multiple dwelling residential design standards.
- (16) The maximum building footprint may be exceeded for educational institutions. “Footprint” refers to the amount of area covered by the first floor. Development is permitted and encouraged on

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upper floors.

- (17) The maximum setback for non-residential and mixed-use development is five feet. The maximum setback for residential development is 15 feet. See ADC Section 5.120 for exceptions and calculation methodology.
- (18) To maintain compatibility with existing historic structures and the character of designated historic districts, maximum building heights in the HD and DMU zones are limited within designated historic districts. Within the Downtown Commercial National Register Historic District (see Article 7, Figure 7.010-1), the maximum building height in the HD and DMU zones is 65 feet. Within the Hackleman and Monteith National Register Historic Districts (see Article 7, Figure 7.010-1), the maximum building height in the HD and DMU zones is 45 feet.
- (19) Where new single-dwelling unit detached housing is not permitted in a given Mixed Use zone, minimum lot size for single-dwelling unit refers to legally established existing single-dwelling unit uses with special status.
- (20) Section 3.220 bonus provisions may reduce minimum area requirements for residential developments.
- (21) In MUR, in no case may the minimum lot size required for a triplex exceed 5,000 square feet, or for a fourplex exceed 7,000 square feet.
- (22) Maximum height for cottage clusters is in Section 5.092.
- (23) In MUC and MUR, if a duplex, triplex, fourplex, or cottage cluster has been divided by a middle housing land division, the development standards that are applicable to the lot apply to the middle housing parent lot, not to the middle housing child lots.
- (24) For the purposes of this code, Non-Property Line Separated Townhouses constructed from the Oregon Residential Specialty Code have the same meaning.

[Ord. 5338, 1/28/98; Ord. 5445, 4/12/00; Ord. 5555, 2/7/03; Ord. 5556, 2/21/2003; Ord. 5627, 7/27/05; Ord. 5673, 6/27/07; Ord. 5768, 12/7/2011; Ord. 5842, 1/1/15; Ord. 5894, 10/14/17; Ord. 5947, 1/1/21; Ord. 5966, 11/12/21; Ord. 5968, 1/14/22; Ord. 6010, 7/1/23; Ord. 6024, 12/29/23; Ord. 6059, 3/14/25; Ord. 6062, 5/23/25]

5.091 Standards for Townhouses. Where permitted, townhouses must meet the standards below. Townhouses must also meet the applicable design standards in ADC Sections 8.110 through 8.160.

(1) Number of Attached Dwelling Units.

- (a) Minimum. A townhouse project must contain at least two attached units.
- (b) Maximum. The maximum number of townhouse units that may be attached together to form a group is specified below.
 - MUC and MUR districts: maximum of 10 attached units per group.
 - Other mixed-use districts: no limit.

[Ord. 5968, 1/14/22; Ord. 6059, 3/14/25]

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

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

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- (2) Minimum Density. The minimum density for a cottage cluster project is 4 units per gross acre, unless a higher minimum density is required in the zoning district.
- (3) Setbacks.
 - (a) Front Setback. In zoning districts where the minimum front setback exceeds 10 feet, the minimum front setback to cottages and all other structures is 10 feet.
 - (b) Building Separation. Cottages must be separated by a minimum distance of six (6) feet. The minimum distance between all other structures, including accessory structures, must be in accordance with building code requirements.
 - (c) All other setbacks, including to garage or carport entrances, are provided in Tables 5.190-1 and 5.100-1.
- (4) Building Height. The maximum building height for all structures is 25 feet.
- (5) Maximum Footprint. The maximum footprint of each cottage must be less than 900 square feet. Attached garages or carports up to 200 square feet are exempt from the maximum building footprint for each cottage. Detached garages, carports, or accessory structures are not included in the maximum footprint of each cottage.

[Ord. 5968, 1/14/22; Ord. 6059, 3/14/25; Ord. 6062, 5/23/25]

SETBACKS

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

The Accessory Structure Standards (Table 5.100-1) apply to residential accessory structures in the MUR, WF, MS, ES, and MUC districts.

[Ord. 5555, 2/7/03; Ord. 5556, 2/21/03; Ord. 5947, 1/1/21]

**TABLE 5.100-1
ACCESSORY STRUCTURE STANDARDS**

STRUCTURE	SETBACK STANDARD
All Accessory Structures	See Table 5.090-1 for minimum front setbacks.
Detached, walls less than or equal to 8 ft. tall	Side and rear setback = 3 feet (1)
Detached, walls greater than 8 ft. tall	Side and rear setback = 5 feet
Attached structure	Side and rear setback = 5 feet
Garage with vehicular access from an alley	Alley setback = 20 feet, less the width of the alley right-of-way, but at least 3 feet Other setbacks, see Table 5.090-1
Structures, including fences, intended for housing animals	See AMC 6.10.020
Fences more than 8 feet tall <i>All fences, see 9.360 through 9.380</i>	Fences over 8 feet tall must meet setbacks in Table 5.090-1 by zone, except when permitted along property lines in Sections 9.370(4)(d).
Outdoor swimming pools with depths greater than or equal to 24 inches	Side and rear setback = 40 <u>5</u> feet
Decks less than 30 in. off grade, no rails, covers	No setback from property line
Decks greater than or equal to 30 in. off grade	Side and rear setback = 3 feet

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- (1) Residential Accessory Structures that are exempt from building permit requirements in the Oregon building codes and not habitable may have a reduced side and rear setback of 2 feet with a roof overhang no more than 12 inches.

[Ord. 5445, 4/12/00; Ord. 5673, 6/27/07; Ord. 5894, 10/14/17; Ord. 5947, 1/1/21; Ord. 6042, 7/12/24; Ord. 6059, 3/14/25; Ord. 6062, 5/23/25]

*****No changes are proposed to the Special Status standards in Sections 5.110 through 5.120 and the Setback standards in Sections 5.140 through 5.170 so these sections are not provided.*****

Staff Comments: The alternative setbacks in developed areas are no longer needed because setbacks have been reduced over time, so these exceptions are no longer used or needed.

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

- ~~(1) The front setback of the structure is not less than the average of the setbacks for the same uses on the abutting properties on either side facing the same street. If the same use is only on one abutting property, the proposed front setback may be no less than the setback of the abutting structures facing the same street.~~
- ~~(2) Addition of a garage or carport. The front setback for a garage or carport meets the current front setback standard, and the driveway to it is paved.~~
- ~~(3) Additions to the side or rear of a dwelling. The proposed structure does not encroach any further into the setback than the existing structure.~~
- ~~(4) No wall of one dwelling unit is closer than 10 feet to a window of another dwelling unit.~~
- ~~(5) All other provisions of this Code must be met.~~

[Ord. 5446, 5/10/00; Ord. 5742, 7/14/10; Ord. 5947, 1/1/21; Ord. 5968, 1/14/22; Ord. 6059, 3/24/24]

Staff Comments: Changes are proposed to standards related to swimming pools for consistency with state building codes.

5.180 Setback and Fencing for Swimming Pools. Swimming pools are hereby defined as all in-ground and above-ground swimming pools, hot tubs and spas more than 24 inches deep. Swimming pools must conform to the setback regulations for main buildings, except that outdoor swimming pools must be set back at least 10-5 feet from all side and rear property lines. All swimming pools must be in an enclosed building, or fully 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. [Ord. 6059, 3/14/25]

*****No changes are proposed to the Setback and Height standards in Sections 5.190 through 5.290 so these sections are not provided.*****

Staff Comments – Outside Storage: The proposed changes clarify existing standards.

OUTSIDE STORAGE

5.360 General.

- (1) Outside Storage and Display in the LE, MS, ES, PB, and MUC districts.

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- (a) Outside storage or display of materials, junk, parts, fleet vehicles, or merchandise is not permitted within ~~required front yards setbacks~~ or required buffer areas, except for automobile and plant sales, where allowed.
 - (b) Open storage is permitted in yards not listed in (a) above, provided that it is enclosed with a sight-obscuring fence, wall, hedge, or berm, which must be constructed of non-combustible material. This enclosure must be located on the property at the required setback line as if the berm, fence, wall, or hedge was a building.
 - i. Materials and equipment stored as permitted in this subsection may be no more than 14 feet above the elevation of the storage area.
 - ii. Open storage over 6 feet tall must be screened by landscaping.
- (2) Outside Storage and Display in the MUR, HD, DMU, CB, and WF districts.
- (a) Merchandise ~~for sale~~ may be displayed in front yards during business hours, except vehicles, equipment, or machinery ~~for sale, lease, or rental~~.
 - (b) Outside display of items not for sale, and outdoor storage of materials, equipment, or other items are not permitted within required setback or buffer areas. In addition, a minimum five-foot front setback is required for outside storage or display areas not covered by (a), above.
 - (c) Open storage is permitted in yards not listed in (b) above, provided that it meets the following standards:
 - i. The storage area must be enclosed with a sight-obscuring fence, wall, or hedge.
 - ii. Fence and wall enclosures must be located outside the areas specified in (b) above as if they were buildings; however, a hedge enclosure may extend into areas specified in (b), above, provided that the storage area itself does not extend into such areas.
 - iii. Materials and equipment stored as permitted in this subsection may be no more than 14 feet tall, ~~relative to~~ above the grade of the storage area.
 - iv. Open storage of materials and equipment over 6 feet tall relative to the grade of the storage area must also be screened by a landscaping buffer area in accordance with Section 9.240.
 - v. Front setbacks for open storage areas under (b), above, shall be landscaped in accordance with Article 9. Hedges used for enclosure may be counted towards required landscaping under Article 9.
 - vi. Outside storage on gravel areas must be treated for stormwater detention and provide perimeter curbing. Perimeter curbing must be secured to the ground.

[Ord. 5555, 2/7/03; Ord. 5556, 2/21/03; Ord. 5894, 10/14/17]

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

[Ord. 5555, 2/7/03; Ord. 5968, 1/14/22; Ord. 6059, 3/14/25]

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Staff Comments: A few minor changes are proposed to clarify existing standards. Only sections where changes are proposed are needed for context are provided. The full Article and [Albany Development Code](#) are located online.

ARTICLE 6 NATURAL RESOURCE DISTRICTS

6.010 Overview. The natural resource districts are intended to protect valuable natural resources within the City of Albany while allowing reasonable economic use of property.

The Open Space zoning district is a base zone that specifies allowed land uses adjacent to some water resources in Albany.

The Natural Resource overlay districts address development activities within specific natural resource areas and are applied over a base zone. The overlay district requirements are in addition to the requirements of the base zone and other City of Albany ordinances.

The following zoning and overlay districts are included in this article:

- Open Space Zoning District (OS)
- Floodplain Overlay District (/FP)
- Hillside Development Overlay District (/HD)
- Significant Natural Resource Overlay Districts
 - Riparian Corridor Overlay (/RC)
 - Significant Wetland Overlay (/SW)
 - Habitat Assessment Overlay (/HA)
- Willamette River Greenway Overlay District (/WG)

[Ord. 5562, 10/10/03; Ord. 5668, 4/11/07; Ord. 5764, 12/1/11]

OPEN SPACE ZONING DISTRICT (OS)

6.020 Purpose and Intent. The Open Space zoning district is intended for the continuation and preservation of existing agricultural uses, park and recreation areas, wildlife habitats, wetlands, natural areas, flood conveyance, and uses that do not involve the construction of structures other than minor accessory facilities required to conduct the principal use. [Ord. 5764, 12/1/11]

*****No changes are proposed to Section 6.030 through 6.060, so those sections are not provided.*****

Staff Comments: Clarifying when the OS zoning district boundary may be modified to reflect new data.

6.065 District Boundary Refinements. An amendment to reduce the boundary of the OS zoning district may be requested for land that does not include any of the following: the Significant Wetland (/SW), Riparian Corridor (/RC), Habitat Assessment (/HA), Willamette River Greenway (/WG), or Floodplain (/FP) overlay districts; waterways; or shown as wetlands on the Local Wetland Inventory. Wetlands or floodplain areas that were unlawfully filled or filled after December 1, 2011, are not eligible. The city may modify or increase the OS zoning district boundary to include significant wetland, riparian corridors, habitat, floodplain, or waterways when based on approved wetland delineations, new floodplain maps or other professional data or analysis prepared by a qualified professional.

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District boundary refinements will be processed administratively; no formal variance or plan amendment is needed.

**** No changes are proposed to the Floodplain or Hillside standards, so they are not provided.****

SIGNIFICANT NATURAL RESOURCE OVERLAY DISTRICTS

6.260 Overview. The Significant Natural Resource overlay districts include Riparian Corridors (/RC) and Significant Wetlands (/SW) and fish-bearing waterways throughout the city, and a Habitat Assessment area (/HA) designated specifically for turtle habitat in and around Thornton Lakes in North Albany.

- Purpose and Intent (6.270)
- Land to which these Regulations Apply (6.280)
- Exempt Activities (6.290)
- Activities Subject to Natural Resource Impact Review (6.300)
- Natural Resource Impact Review Standards (6.310)
- Mitigation Standards (6.400)
- Local Mitigation Plans (6.410)
- Albany Native Plant List (6.420)
- District Boundary Corrections and Refinements (6.430)
- District Amendments (6.440)
- Minor and Major Variances (6.450)
- Compliance with State and Federal Regulations (6.460)
- Violations (6.470)

Per OAR 660-023-0040, two studies were conducted that analyze the Economic, Social, Environmental, and Energy (ESEE) consequences of allowing, limiting, or prohibiting conflicting uses within the three resource areas. The protection programs for the three significant resources are informed by these two ESEE Analyses.

[Ord. 5947, 1/01/21]

6.270 Purpose and Intent. The intent of these supplemental Significant Natural Resource overlay districts is to protect significant natural resources within the City of Albany as designated under Statewide Planning Goal 5 and the provisions of the Goal 5 administrative rule (OAR 660, Division 23), while ensuring reasonable economic use of property.

More specifically, the purpose and intent of each Significant Natural Resource overlay district is as follows:

- A. Riparian Corridor overlay district (/RC): To protect and enhance Albany's riparian areas, thereby protecting and restoring the hydrologic, ecological, and land conservation functions these areas provide. Significant riparian corridors support valuable fish and wildlife habitat; improve water quality by regulating stream temperatures, trapping sediment, and stabilizing streambanks; and reduce the effects of flooding.

A healthy riparian corridor is comprised of a multi-storied forest of native species of trees, shrubs, and ground cover. Many riparian corridors in Albany have the potential to be restored to higher function and value.

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- B. Significant Wetland overlay district (/SW): To protect and enhance the integrity, function and value of Albany’s significant wetlands and fish-bearing waterways. Wetlands and waterways provide hydrologic and ecologic functions; and reduce adverse effects of flooding. The vast majority of significant wetlands are in riparian areas. There are a small number of isolated significant wetlands. The higher quality isolated wetlands will be regulated locally (as identified in the Citywide ESEE Analysis); and the lower quality isolated wetlands will not be regulated locally but must comply with state and federal wetland regulations.
- C. Habitat Assessment overlay district (/HA): To protect habitat for northwestern pond and western painted turtles in and around Thornton Lakes by reviewing and limiting the impacts of development activities on their habitat. This was the only area in Albany where there is a documented presence of a species listed by either the federal government or the State of Oregon. The State lists the species as "sensitive, critical." The overlay identifies an area of high likelihood of turtle nesting, foraging, or migration routes. The overlay district regulations provide a limited level of protection (as identified in the Thornton Lakes ESEE Analysis). Voluntary methods of turtle habitat protection and enhancement are encouraged and essential.

6.280 Lands to Which These Regulations Apply. The procedures and requirements of this section apply only to property that is within a Significant Natural Resource overlay district.

- A. Riparian Corridor overlay district (/RC): The Riparian Corridor overlay district extends 50 feet upland from the Ordinary High Water mark, measured horizontally.

If the Riparian Corridor overlay district area includes all or portions of a significant wetland, the district extends upland 50 feet, measured horizontally from the edge of the significant wetland. Fish-bearing waterways, and the significant wetlands associated with such waterways, are included in the Significant Wetland overlay district.

- (1) The Riparian Corridor boundary applies to the following Albany water resources (and in-stream lakes):
 - o Calapooia River
 - o Burkhart Creek
 - o Cathey Creek
 - o Cox Creek
 - o Crocker Creek
 - o Horseshoe Creek
 - o Oak Creek
 - o Periwinkle Creek
 - o Thornton Lakes
 - o Truax Creek
- (2) The Willamette River Riparian Corridor is located within the Willamette River Greenway District boundary. All development on properties within the Willamette River Greenway District is subject to the regulations beginning in Section 6.500 but is not subject to the riparian corridor overlay regulations.

Staff Comments: Clarifying when wetland delineations are required.

- B. Significant Wetland overlay district (/SW): The Significant Wetland overlay district is

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comprised of fish-bearing waterways below the Ordinary High Water Mark, the wetlands associated with riparian corridors, and higher quality isolated significant wetlands, in the City's Local Wetland Inventory (LWI), and as amended through wetland delineations approved by the DSL and the ACE, if applicable. Notice to, and potentially permits from, DSL and ACE are still required for potential impact to all wetlands regulated by DSL or ACE.

Wetland Delineations Required. Development proposed on properties with hydric soils, or within 50 feet from a mapped wetland (Local, Oregon Statewide or National Wetland Inventories) or 50 feet from the upland edge of a Riparian Corridor when associated with riparian corridors must get a wetland delineation.

- C. Habitat Assessment overlay district (/HA): This overlay district extends 75 feet from the Ordinary High Water mark upland from East and West Thornton Lakes.

6.290 Exempt Activities. The following activities are exempt from Natural Resource Impact Review as would otherwise be required within the Significant Natural Resource overlay districts. Many of these exemptions are provided in recognition of the Albany ESEE analyses and pre-existing uses. Land use reviews as required by other sections of this Code and compliance with other local (floodplain, fill, encroachment, etc.), state, and federal regulations are still required. As a result, these activities should still be conducted in a manner that minimizes impact to Albany's significant natural resources.

- (1) Emergency procedures necessary for the immediate safety or protection of life or property, including removing hazardous trees and stream bank stabilization.
- (2) Removal of refuse or any fill that is in violation of local, state or federal regulations or in-channel erosion or flood control measures approved by City of Albany Public Works, DSL, ACE and any other applicable state or federal regulatory agency. Removal or placement of material in waters of the State must be consistent with State of Oregon Removal-Fill regulations (ORS 196.795-990) and the ACE fill regulations.
- (3) City construction of public infrastructure, such as transportation, stormwater, sewer, and water utilities. This exemption requires unimproved but disturbed areas to be replanted with native vegetation.
- (4) Private construction of public infrastructure. The location and construction of public transportation and utility facilities and structures as identified in a City-adopted master plan. This exemption requires that unimproved but disturbed areas are replanted with native vegetation.
- (5) The use of pre-existing right-of-way or easements for public infrastructure, franchise utilities, and railroads. Planting and maintaining native vegetation is encouraged.
- (6) Implementation of erosion prevention or flood control measures provided the measures have received any required approvals and permits from local, state or federal regulatory agencies with jurisdiction over the proposed activity.
- (7) Farming practices such as grazing, plowing, planting, cultivating and harvesting, that either existed on the property prior to the date of adoption of these provisions or do not include new or expanded structures, roads, or other facilities involving grading, excavation, fill, native vegetation removal, or new drainage measures.
- (8) Maintenance of existing structures, impervious surfaces, and landscaped areas as described below:

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- (a) Ongoing maintenance of pre-existing landscaped areas, including perimeter mowing, as long as natural vegetation is not disturbed and there is no excavation, filling or reduction of natural resource area. Use of integrated pest management methods is encouraged.
 - (b) Ongoing maintenance of existing development, such as repair, replacement, and use of existing buildings, roads, paths, utilities, bridges, culverts, fences, flood control structures, drainageways or facilities, detention facilities, water quality facilities, and other structures and impervious surfaces, provided that such practices avoid sedimentation and other discharges into streams, lakes, or wetlands and do not add impervious surface or remove additional vegetation.
- (9) Removal of live vegetation for the following purposes:
- (a) Restoration and enhancement projects that have received required approvals from the appropriate local, state, or federal agency.
 - (b) Removal of non-native and invasive plants, including noxious weeds if consistent with local, state, and federal regulations, and replanted with species on the City's native plant list.
 - (c) Planting native vegetation on the City's native plant list.
 - (d) Felling of trees planted as Christmas trees or orchard trees.
- (10) Residential development activities, such as construction of home additions, decks, patios, sheds, gardens, landscaping, etc., that impact no more than 2,000 square feet (cumulatively), or 20 percent of the Habitat Assessment overlay district area within a property, whichever is less. Development activities will be reviewed at the time of application for building permits when applicable.
- Regardless of the exemption to the local Natural Resource Impact Review requirements, protection of the turtle species is regulated by the State of Oregon.
- This exemption only applies to the Habitat Assessment overlay district. If the proposed activity is also located within other Significant Natural Resource overlay districts the requirements of those districts still apply.
- (1) Construction of an approved, vegetated post-construction stormwater quality facility (e.g. swale), located in a portion of the Riparian Corridor that is in Degraded Quality condition and planted with native plants.

[Ord. 5842, 1/01/15]

6.300 Activities Subject to Natural Resource Impact Review. A Natural Resource Impact Review will be required for proposed development activities in the Significant Natural Resource overlay districts that are not specifically exempted from review. The review will take place concurrent with any land use application or building permit. In instances when neither is required, the Natural Resource Impact Review will be conducted independently through either a Type I or I-L process as designated below. The standards for reviewing proposed development activities in the Significant Natural Resource overlay districts are found in Section 6.305 and Section 6.310. [Ord. 5947, 1/01/21]

A. Activities subject to review include:

- (1) Land divisions;
- (2) New structures, or exterior expansion of the footprint of any structure or driveways (Type

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- I);
 - (3) Increases in impervious surfaces (Type I-L);
 - (4) Site modifications, including grading, excavation, fill or native vegetation removal (Type I-L);
 - (5) Private construction of public and privately owned transportation facilities and utilities not exempt through 6.290(4) or 6.290(11) (Type I-L); and
 - (6) Activities within the Habitat Assessment overlay district not exempt under ADC 6.290 (Type I).
- B. When a proposed use or activity requires a Natural Resource Impact Review, in addition to what is required for any concurrent land use applications or building permits, the applicant shall submit a ~~sealed-site plan~~ to scale and additional plans to the City that that shows:
- (1) Topographic contours at two-foot intervals;
 - (2) Ordinary high water (OHW) mark of all lakes, streams, or other waterways;
 - (3) Location of Riparian Corridor and Habitat Assessment overlay districts based on OHW;
 - (4) Locations of Significant Wetland overlay district based on the LWI or DSL-approved delineation or determination on the subject property and on all properties within 50-feet of property boundary;
 - (5) The 100-year flood boundary and elevation;
 - (6) Existing vegetative cover and species composition;
 - (7) Existing and proposed site improvements;
 - (8) How the requirements of the applicable review standards in ADC 6.310 will be met; and
 - (9) A mitigation plan if required per ADC 6.400-6.410.
- C. Wetland Site Plan and Aerial Photo. The applicant must submit a Wetland site plan and aerial photo when any development is proposed on property that is within 100 feet of a mapped wetland (Albany Local Wetland Inventory, National and State Wetland inventory) or a wetland delineation less than 5 years old approved by the Department of State Lands. The map must identify both locally protected significant wetlands, non-locally protected wetlands, and proximate wetlands.

6.305 through 6.420

6.430 District Boundary Corrections and Refinements. The boundaries for the Significant Natural overlay districts are approximate.

The boundaries of the Significant Wetland overlay district are based on the locations of the significant wetlands identified in the City's Local Wetland Inventory, as reflected in Plate 6 of the Comprehensive Plan. The Riparian Corridor overlay and Habitat Assessment overlay districts were estimated by measuring from the edge of the water, which is based on an aerial photograph.

District boundary corrections and refinements will be processed administratively. District corrections will be made to correct map errors, such as when the map does not properly reflect the Local Wetland Inventory data. A district boundary refinement is an alteration made, based on

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professional analyses, to refine the boundary of the Significant Natural Resource overlay districts based on state methodology. District refinements must be made in accordance with the provisions in this code to determine the location and extent of the following: [Ord. 5947, 1/01/21]

- Riparian Corridor overlay districts as measured from the Ordinary High Water (OHW) mark of rivers, lakes, and streams, and from the upland edge of adjacent significant wetlands. If a DSL-approved wetland delineation or determination results in a change to the boundary of the significant wetland adjacent to the riparian corridor, the Riparian Corridor overlay boundary will be adjusted accordingly.
- Habitat Assessment overlay districts as measured from the OHW mark of East and West Thornton Lakes. If an ODFW-approved habitat assessment results in a change to the boundary of the habitat area, the habitat assessment overlay boundary will be adjusted accordingly.
- Ordinary High Water Mark: Changes to the Riparian Corridor or Habitat Assessment overlay boundaries must be based on the location of the OHW that includes supporting information submitted by a qualified professional hydrologist or professional land surveyor.
- Significant Wetlands overlay district by delineations of significant wetlands that are approved by the DSL or by onsite wetland determinations by DSL when delineations are not needed for other purposes. DSL-approved delineations or determinations shall be required when development is proposed within 30 feet of the overlay district and will supersede the LWI mapping.

*****No changes are proposed to Section 6.440 through 6.470, so they are not provided.*****

Staff Comments: Minor updates to the Willamette River Greenway standards for consistency with state laws.

WILLAMETTE RIVER GREENWAY

- 6.500 Purpose. The Willamette River Greenway district is intended to guide development along the Willamette River so as to preserve the existing scenic, use and natural features. The procedures and criteria of this district implement the requirements of Goal 15 and ORS 390.314. Pursuant to ORS 174.020(2), the requirements of ORS 390.314 (and by extension Goal 15) take precedence over the requirement for clear and objective standards for housing in ORS 197.307. [Ord. 5947, 1/01/21]
- 6.510 Applicability. The area of the City within the Willamette River Greenway District is the area so designated by the boundary shown on Figure 6.510-1 [Ord. 5947, 1/01/21]

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FIGURE 6.510-1. Willamette River Greenway.

[Ord. 5947, 1/01/21]

6.520 Procedure. Except for land use developments and uses exempted in Section 6.530 below, an application for development ~~approval~~ in the Willamette River Greenway District will be approved under the Type II procedure. Approval of a Willamette River Greenway use application will be granted only if the proposal complies with all applicable sections of this Code. In case of conflict between the provisions of this Article and the provisions of any other Article of this ordinance, the more restrictive provisions shall apply.

6.530 Willamette River Greenway Use Permit Exceptions. The following developments and uses are not subject to the provisions of this Article but shall comply with other applicable provisions of this Code:

- (1) Customary dredging and channel maintenance conducted under a permit from the State of Oregon.
- (2) Gravel removal from the bed of the Willamette River conducted under a permit from the State of Oregon or a seasonal increase in gravel operations.
- (3) The placing by a public agency of signs, markers, aids, to serve the public.
- (4) Activities to protect, conserve, enhance, and maintain public recreational, scenic, historical, and natural uses of public lands; except that a substantial increase in the level of development of existing public recreational, scenic, historical, or natural uses on public lands shall require review as provided by this Article.
- (5) Agriculture as allowed within the subject major zoning district.
- (6) Reasonable emergency procedures necessary for the safety or protection of property and not in conflict with the provisions of this Code.
- (7) Maintenance and repair usual and necessary for the continuance of an existing use.
- (8) Landscaping, construction of driveways, repair or maintenance of existing structures, and the construction or placement of accessory structures ~~less than 250 square feet~~, provided that such activities are conducted in conjunction with uses already existing on the same property and that they are accomplished in a manner compatible with the purpose of this Article.
- ~~(8)~~ (9) A change of use of a building or other structure which does not substantially alter or affect the land or water upon which it is situated.

6.540 Criteria. An application for a Willamette River Greenway use ~~permitted~~ development will be granted if the review body finds that the proposal conforms to the following applicable criteria:

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- (1) Lands designated on the Comprehensive Plan as Open Space are preserved and maintained in open space use.
- (2) Significant air, water and land resources including but not limited to natural and scenic areas, viewpoints, vistas, fish and wildlife habitats, etc. in and adjacent to the Willamette River Greenway are protected, preserved, restored, or enhanced to the maximum extent possible.
- (3) Areas of annual flooding, floodplains, and wetlands are preserved in their natural state to the maximum possible extent to protect water retention, overflow, and other natural functions.
- (4) The natural vegetative fringe along the river is maintained to the maximum extent that is practical in order to assure scenic quality, protection of wildlife, and protection from erosion.
- (5) The harvesting of timber will be done in a manner which ensures that wildlife habitat and the natural scenic qualities of the Willamette River Greenway are maintained or will be restored.
- (6) The proposed development, change, or intensification of use is compatible with existing uses on the site and the surrounding area and provides the maximum possible landscaped area, open space, or vegetation between the activity and the river.
- (7) Extraction of aggregate deposits shall be conducted in a manner designed to minimize adverse effects on water quality, fish and wildlife, vegetation, bank stabilization, stream flow, visual quality, noise and safety, and necessary reclamation will be guaranteed.
- (8) Any public recreational use of facility will be developed, maintained, and operated in such a way as to minimize adverse effects on adjacent properties.
- (9) Building setbacks from the floodway line shall be determined by the setback and height plane as defined in Sections 5.200 through 5.207 of this Code. [Ord. 5947, 1/01/21]
- (10) Public access will be provided to and along the Willamette River by appropriate legal means for all development in conformance with plans approved by the City.

6.550 Conditions of Approval. The review body has the power to impose conditions, restriction, or limitations upon any use proposed in the Willamette River Greenway District if such conditions, restrictions, or limitations are found to be necessary in order to satisfy the criteria of Section 6.540.

6.560 Special Notification. Notification regarding requests for Willamette River Greenway Use Permits will be sent to the Oregon Parks and Recreation Department. Notification ~~of to~~ the Oregon Parks and Recreation Department will be given by certified mail (return receipt requested) and sent within seven days of the receipt of the application for the ~~conditional~~ use. Notice of the decision on the Willamette River Greenway use permit application will be mailed to the Oregon Parks and Recreation Department within ten days of such decision.

CLUSTER DEVELOPMENT

6.570 Cluster Development. See Article 11, Land Divisions and Planned Developments, Sections 11.400 to 11.530, for Cluster Development standards. [Ord. 5668, 4/11/07; Ord. 5947, 1/01/21]

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Staff Comments: A few clarifying amendments are proposed and adding that alleys and shared access be approved to city standards. Only sections where changes are proposed are provided. The full Article and Albany Development Code are located online.

ARTICLE 8 DESIGN STANDARDS

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

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

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

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

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

SINGLE DWELLING UNITS ~~HOMES~~ AND MIDDLE HOUSING

8.110 Applicability.

- (1) The standards of ADC Sections 8.110 through 8.160 apply to all new single-dwelling units, manufactured homes, duplexes, two primary units, townhouses, triplexes, and fourplexes in all zones that allow these housing types, except as otherwise noted.
- (2) In addition, except as otherwise noted, the standards of ADC Sections 8.110 through 8.160 apply to multiple-dwelling units with individual driveways permitted pursuant to ADC 12.100(2) that are in the WF or DMU zones, or in one of Albany's Climate Friendly Area (CFA) overlay districts in a building where ground-floor residential use is permitted pursuant to ADC 5.070(17) and ADC Article 14.
- (3) These standards do not apply to detached accessory dwelling units, existing structures, new additions to existing structures, or to homes in manufactured home parks.
- (4) Development on flag lots or on lots that slope up or down from the street with an average slope of 20 percent or more is exempt from the standards in Sections 8.130 through 8.160.
- (5) New cottage cluster development must meet the standards in Sections 8.175 in all zoning districts where permitted.
- (6) If a duplex, triplex, fourplex, or cottage cluster has been divided by a middle housing land division, the design standards in ADC 8.130 through 8.175 that are applicable to the lot or

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applicable on a per-lot basis must apply to the middle housing parent lot, not to the middle housing child lots.

[Ord. 5445, 4/12/00; Ord. 5894, 10/14/17; Ord. 5947, 1/1/21; Ord. 5949, 1/1/21; Ord. 5968, 1/14/22; Ord. 6004, 12/28/22; Ord. 6059, 3/14/25; Ord. 6062]

8.120 Relationship to Historic Overlay Districts. For property inside the Historic Overlay Districts and properties designated as Historic Landmarks, the provisions in Article 7 also apply. For development subject to historic review under Article 7, the review body may grant flexibility in meeting any of the design standards where necessary to achieve historic compatibility.

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

8.125 Egress Paths. Where the Building Official determines that the Oregon Building Code requires ingress or egress from a structure to the public way, and the ingress or egress will utilize part of an adjacent property, an access easement meeting the applicable Oregon Building Code requirements must be recorded with the county recorder prior to applying for building permits.

[Ord. 6042, 7/12/24]

BUILDING FACADE STANDARDS FOR SINGLE DWELLING UNITS & MIDDLE HOUSING, except Cottage Cluster Developments

***** No changes are proposed to Sections 8.130 and 8.140, so they are not provided. *****

PARKING AND VEHICLE ACCESS

8.145 Purpose. These standards are intended to support a pedestrian-friendly street environment by minimizing the visual and safety impacts of driveways, provided parking, and garages; and to preserve on-street parking and opportunities for front yard landscaping. See Article 12 for additional standards. Ord. 6062, 5/23/25]

8.150 Parking and Access in Climate Friendly Area (CFA) Overlay Districts and the DMU and WF Zoning Districts. These standards are intended to support a pedestrian-friendly street environment by minimizing the visual and safety impacts of driveways, provided parking, and garages; and to preserve on-street parking. See Article 12 for additional access standards.

(1) ~~Driveway standards~~Garages, Parking and Vehicle Access Location.

(a) Development sites abutting an alley or on sites of one or more acres: Garages, vehicle parking, and driveways~~Vehicle access~~ must be from the back or side of the dwelling via the alley or when no alley is present a new alley or a shared public-access easement approved by the City Engineer rather than the public street. Alleys must be approved to city standards.

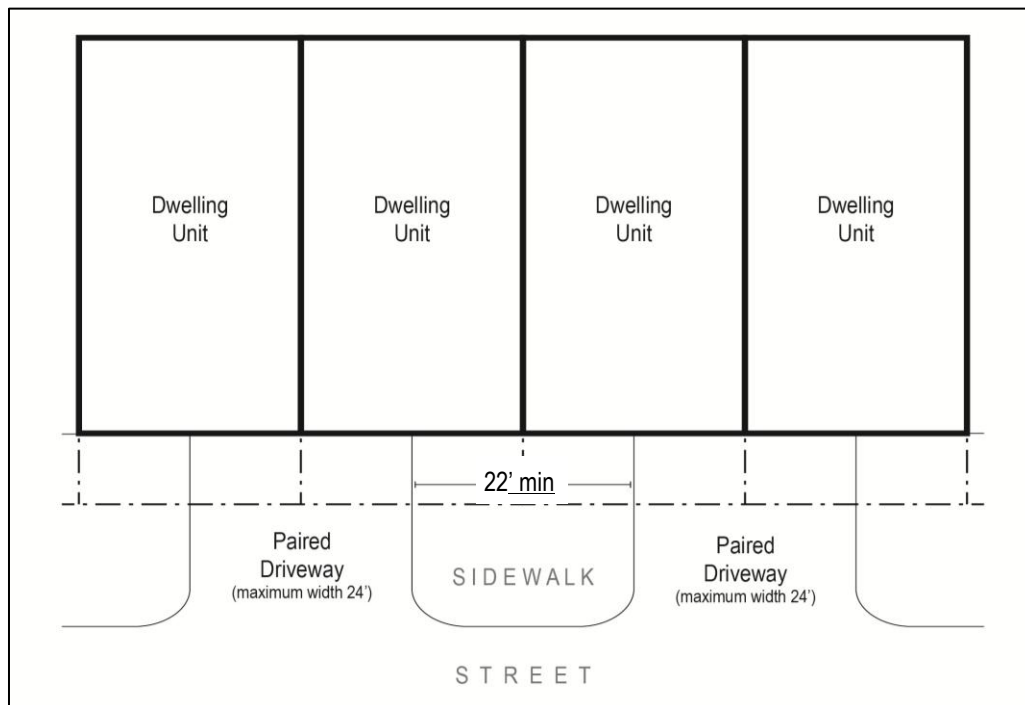
(b) Development sites that do not abut an alley or that are infill sites less than one acres in size or where a shared access easement is not feasible: Vehicle access must meet i or ii, below.

i. Provide vehicle access from not more than one driveway to each public street abutting the development site.

ii. Provide vehicle access to properties within the development site from shared or paired driveways with a minimum spacing between driveways of 22 feet (see Figure 8.150-1). The distance between driveways is measured along the front property line.

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FIGURE 8.150-1. Paired driveway example.



- (2) Garages Facing the Street. When garages are permitted on a street-facing facade and garage doors face a street or are within a 45-degree angle of a front lot line, the following standards must be met.
 - (a) No more than one street-facing garage door up to 12 feet wide is permitted per dwelling unit.
 - (b) See ADC Table 5.090-1 for garage setback standards.
- (3) The standards of ADC Section 12.230 regarding design requirements abutting arterials do not apply. However, the standards of ADC 12.100 regarding limiting the location, width, and number of accesses to arterials do apply.

[Ord. 5894, 10/14/17; Ord. 5947, 1/1/21; Ord. 5968, 1/14/22; Ord. 6018, 6/30/23; Ord. 6062, 5/23/25]

8.160 Parking and Access for development outside of CFA overlay Districts and the DMU and WF zones.

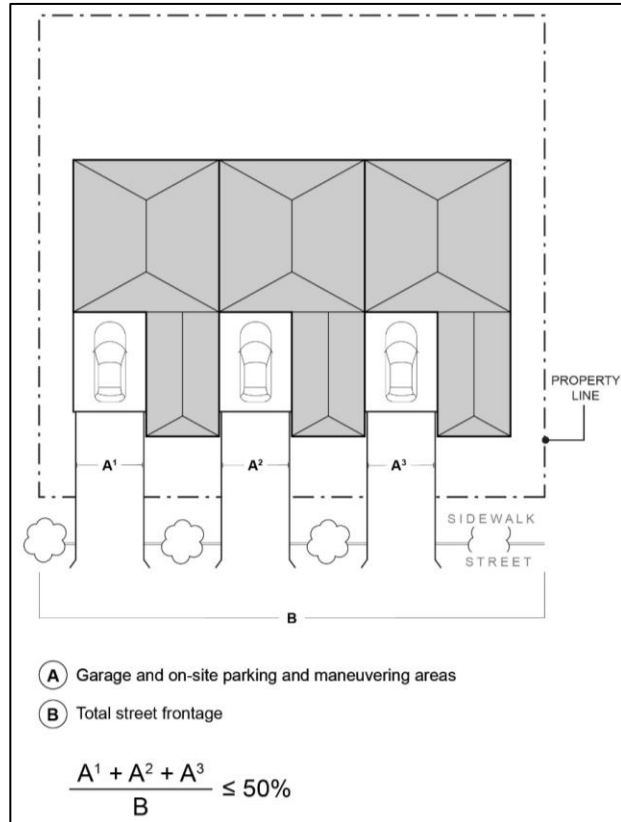
- (1) Driveway Spacing. The following standards apply to all lots for which street driveway access is provided to individual units from the street to the front facade, except for flag lots, and lots where parking is accessed via an alley. Spacing between driveways is measured along the front property line. Each lot must meet one of the following:
 - (a) Two off-street parking spaces per unit are provided and the driveway(s) meets the minimum separation standard in ADC Subsection 12.100(2); or
 - (b) A minimum of 22 feet of contiguous street frontage (uninterrupted by driveways) is provided; or
 - (c) The driveway(s) are spaced a minimum of 22 feet from adjacent driveways. Driveways may be shared by two abutting lots. See Figure 8.150-1.
- (2) Alley Access. When a development site abuts an alley, vehicle access must be from the alley rather than the public street. Alleys must be approved to city standards.

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(3) Triplex and Fourplex Garages, Off-Street Parking Areas, and Driveways. New triplex and fourplex developments must meet these standards.

(a) The combined width of all garages, driveways, and on-site parking and maneuvering areas must not exceed 50 percent of the street frontage (see Figure 8.160-1).

FIGURE 8.160-1. Triplex and Fourplex: Width of Garages and Parking Areas

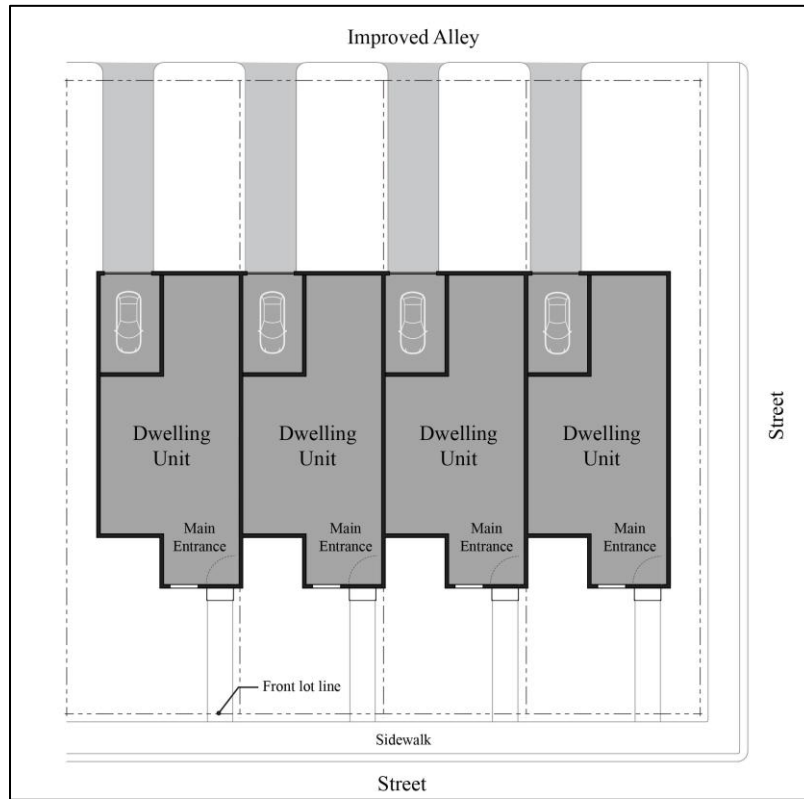


(b) Driveway Approaches. The total width of all driveway approaches to streets must not exceed 48 feet per frontage, as measured at the property line (see Figure 8.160-1). Lots with more than one frontage must comply with the following:

- i. Lots must access the street with the lowest transportation classification for vehicle traffic unless access to a higher traffic street is approved by the City Engineer.
- ii. Lots with two frontages may have either:
 - Two driveway approaches not exceeding 48 feet in total width on one frontage; or
 - One maximum 24-foot-wide driveway approach per frontage (see Figure 8.160-3).
- iii. Driveway approaches for triplexes and fourplexes must also meet the standards of ADC Section 12.100.

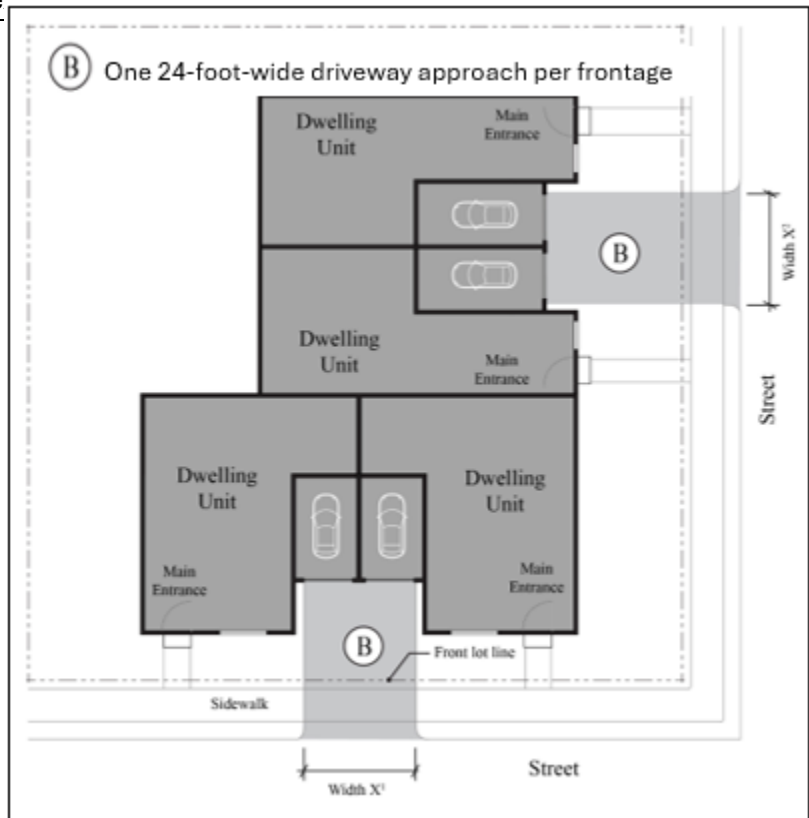
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FIGURE 8.160-2. Alley Access Example



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FIGURE 8.160-3. Triplex and Fourplex: Driveway Approach Options for Multiple Street Frontages – Driveways on Both Frontages

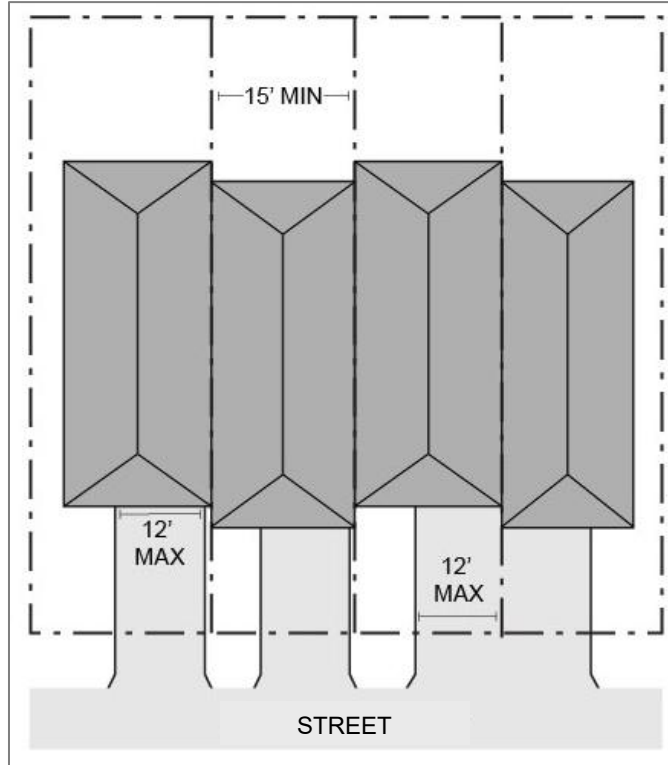


- (4) Townhouse Driveway Access and Parking. See Article 12 for additional access standards.
- (a) Parking and garage access. For development sites abutting an alley that is improved according to the standards of Article 12, vehicle access must be via the alley improved to city standards or an approved shared access easement, rather than the public street (see Figure 8.160-2).
 - (b) Garages on the front façade of a townhouse, off-street parking areas in the front yard, and driveways in front of a townhouse are only permitted when allowed if they meet the following standards (see Figure 8.160-4).
 - i. A maximum of one (1) driveway is allowed for every townhouse unit. Driveway approaches and/or driveways may be shared.
 - ii. Outdoor on-site parking and maneuvering areas and driveways do not exceed 12 feet in width on any lot.
 - iii. No more than one (1) street-facing garage door for motor vehicle ingress/egress is permitted per townhouse unit. Each street-facing garage door ~~for motor vehicle ingress/egress~~ may not exceed 12 feet in width.
 - (c) The following standards apply to driveways and parking areas for townhouse projects that do not meet all of the standards in subsection (a) or (b).
 - i. Off-street parking areas must be accessed on the back façade or located in the rear yard. No off-street parking is allowed in the front yard or side yard of a townhouse.
 - ii. A townhouse project that includes a corner lot must take access from a single driveway approach on the side of the corner lot. See Figure 8.160-2. Shared driveways serving four (4) or more townhouses must be public alleys, or a private access created through a Planned Development.
 - iii. Townhouse projects that do not include a corner lot must consolidate access for all

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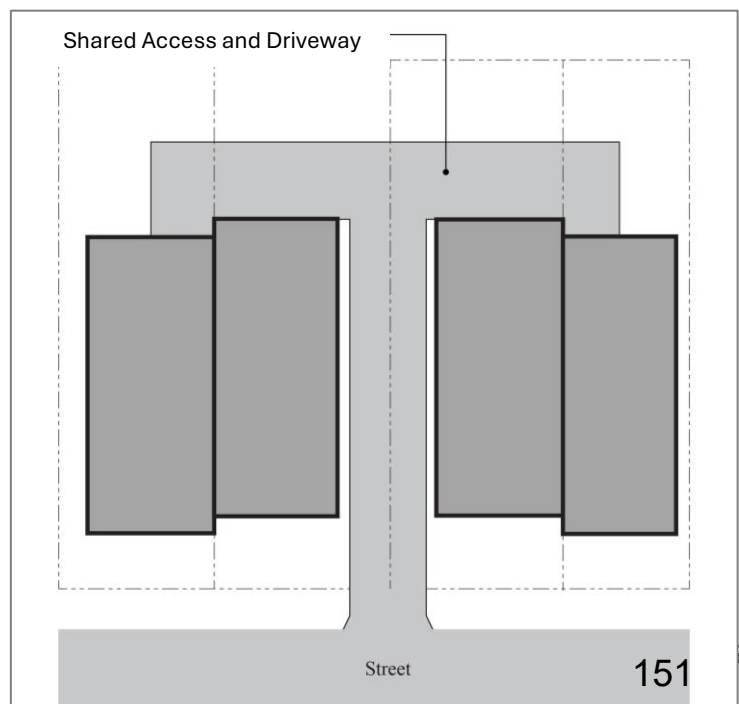
lots into a single driveway. The driveway and approach are not allowed in the area directly between the front façade and front lot line of any of the townhouses. See Figure 8.160-5. Shared driveways serving four (4) or more townhouses must be public alleys, or a private access created through a Planned Development.

FIGURE 8.160-4. Driveway example for Townhouses



- (d) A townhouse project that includes consolidated access or shared driveways shall grant access easements to allow normal vehicular access and emergency access(s). The standards of ADC Section 12.230 regarding design requirements abutting arterials do not apply. However, the standards of ADC 12.100 regarding limiting the location, width, and number of accesses to arterials do apply.

FIGURE 8.160-5. Townhouses with Consolidated Access (created through Planned Development)



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[Ord. 5968, 1/14/22; Ord. 6008, 1/27/23; Ord. 6062, 5/23/25]

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

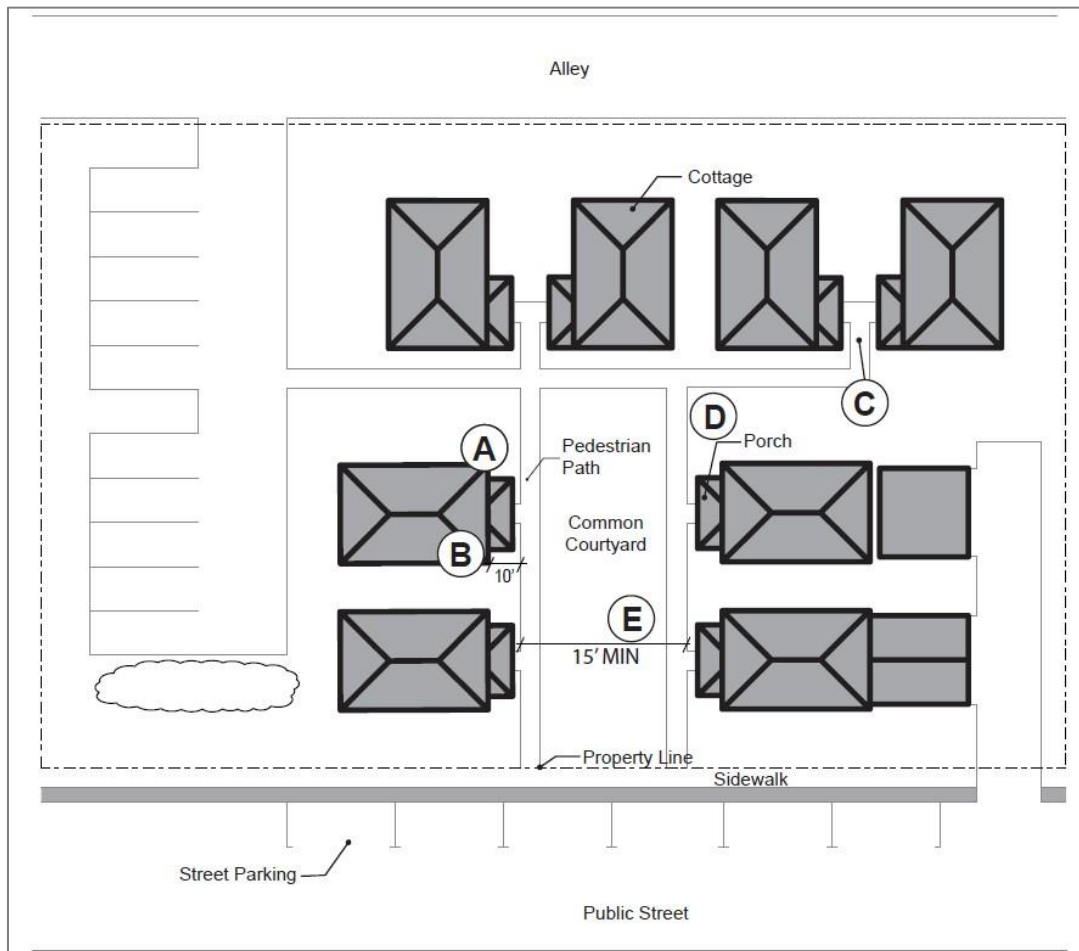
- (1) Number of Dwellings. The purpose of these standards is to place appropriate limits on the scale of cottage clusters, and to limit the number of cottages that can be developed on an individual lot. ~~For the purposes of these standards, all cottages that share the same common courtyard constitute a single cottage cluster.~~
 - (a) Except as provided in subsection (c), a single cottage cluster must contain a minimum of three (3) and a maximum of eight (8) cottages.
 - (b) Except as provided in subsection (c), a lot must contain no more than eight (8) cottages, arranged in one or more cottage clusters.
 - (c) When all cottages on a lot are less than 800 square feet in floor area, the maximum number of cottages permitted on one lot is as follows:
 - R-10, R-6.5, and HM districts: 10 cottages
 - R-5 district: 12 cottages
 - RM and MUR districts: 16 cottages
- (2) Floor Area. The purpose of these standards is to ensure that cottages are limited in size while providing flexibility for a range of unit sizes within a cottage cluster. Limiting unit size promotes lower-cost housing choices and promotes accessibility for residents of various ages and abilities.
 - (a) “Floor area” is defined in ADC Section 22.400; however, for the purpose of this section, “floor area” includes stairwells, ramps, shafts, chases, and the area devoted to garages. Floor area does not include porches, exterior balconies, or other similar areas, unless they are enclosed. Floor area is measured for each floor from the exterior faces of a building or structure.
 - (b) Floor Area. The maximum permitted floor area of an individual cottage is 1,400 square feet.
 - (c) Average Floor Area. The maximum average floor area permitted for all cottages in a cottage cluster project is 1,100 square feet.
- (3) Cottage Orientation. The purpose of these standards is to provide a sense of community within a cottage cluster, and to ensure that each dwelling has access to a common courtyard. Cottages must be clustered around a common courtyard and must meet the following standards (see Figure 8.175-1):
 - (a) Each cottage within a cluster must either abut the common courtyard or must be directly connected to it by a pedestrian path.
 - (b) A minimum of 50 percent of cottages within a cluster must be oriented to the common courtyard and must:
 - i. Have a main entrance facing the common courtyard;
 - ii. Be within 10 feet from the common courtyard, measured from the façade of the cottage to the nearest edge of the common courtyard; and

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

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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.

- (5) Community Buildings. The purpose of these standards is to allow development of community buildings for the shared use of residents that provide space for accessory uses such as community meeting rooms, guest housing, exercise rooms, daycare, or community eating areas. The purpose is also to ensure that community buildings are compatible in scale with dwellings in a cottage cluster. Community buildings must meet the following standards:
- (a) Each cottage cluster is permitted one community building.
 - (b) The community building must have a maximum floor area of 1,400 square feet.

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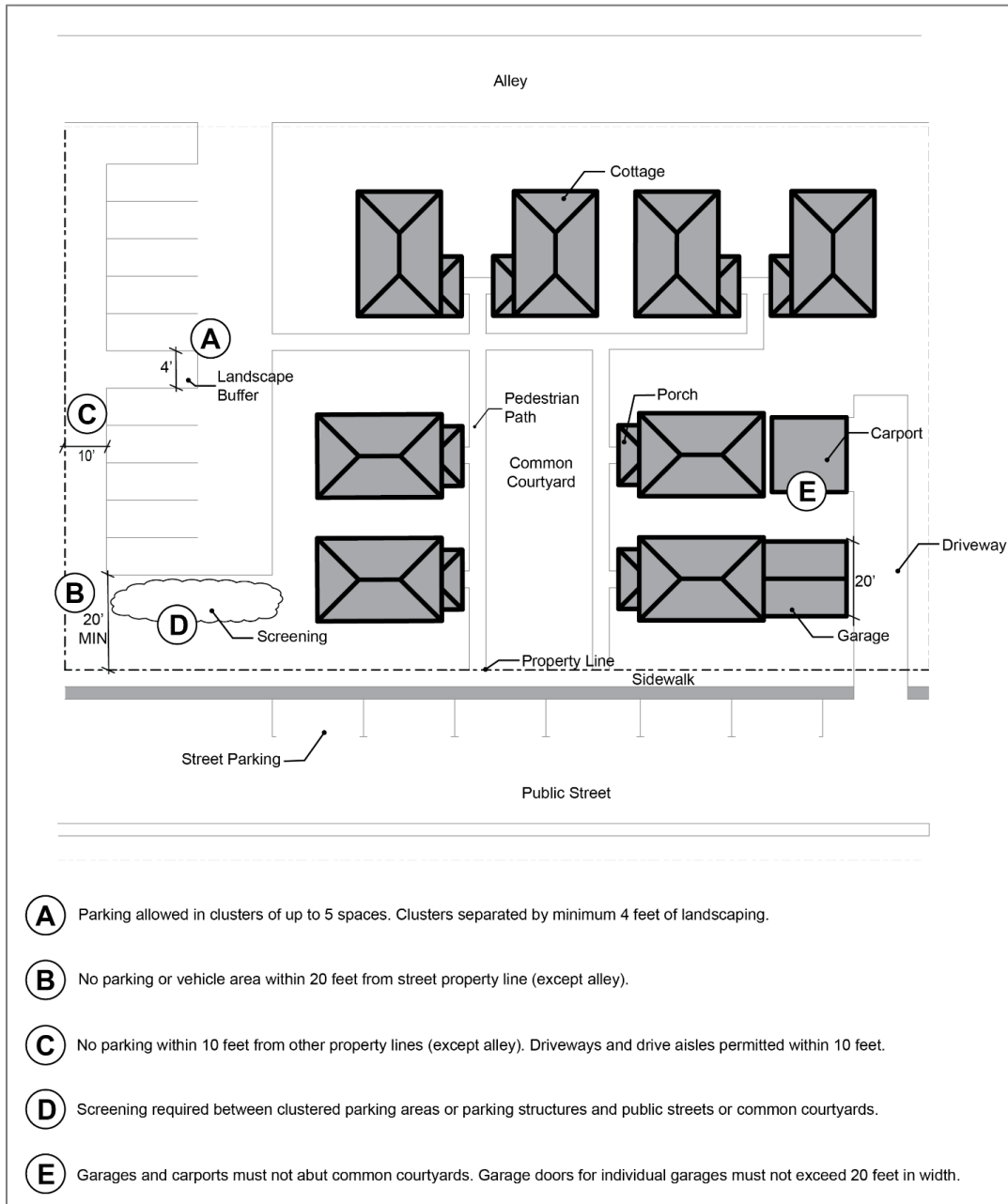
- (c) Community buildings must not be used for long-term residential occupancy. For the purposes of this standard, long-term residential occupancy means the continued use by the same occupant for longer than 14 days in any 60-day timeframe or for more than 30 days in a calendar year.
- (6) Pedestrian Access. The purpose of these standards is to ensure that pedestrian circulation systems are designed to provide safe and convenient connections within a cottage cluster development and to adjacent public streets/sidewalks.
- (a) An accessible pedestrian path must be provided that connects the main entrance of each cottage to the following:
- i. The common courtyard;
 - iv. Shared parking areas, if provided;
 - v. Community buildings; and
 - vi. Sidewalks in public rights-of-way abutting the site or rights-of-way if there are no sidewalks.
- (b) The pedestrian path must be hard-surfaced and a minimum of four (4) feet wide.
- (7) Windows. Cottages within 20 feet of a street property line must meet the Street-Facing Windows requirements of ADC Section 8.133.
- (8) Parking Design. The purpose of these standards is to support a pedestrian-friendly street environment and to support livability for cottage cluster residents by minimizing the impacts of parking areas and garages (see Figure 8.175-2).
- (a) Off-street parking may be provided with individual cottages or arranged in clusters (shared parking lots).
- (b) Clustered parking. If clustered parking is proposed, it must meet the following standards:
- i. A parking cluster must not exceed five (5) contiguous spaces.
 - ii. Parking clusters must be separated from other spaces by at least four (4) feet of landscaping.
 - iii. Clustered parking areas may be covered.
 - iv. Common parking areas must also meet the standards in ADC Section 9.100. Parking areas that exceed 5 parking spaces must also meet the standards in ADC Sections 9.120 and 9.150, except where they conflict with the standards in this subsection.
- (c) Parking location and access.
- i. Off-street parking spaces and vehicle maneuvering areas may not be located:
 - Within 20 feet from any street property line, except alley property lines;
 - Between a street property line and the front façade of cottages located closest to the street property line. This standard does not apply to alleys.
 - ii. Off-street parking spaces may not be located within 5 feet of any other property line, except alley property lines. Driveways and drive aisles are permitted within 10 feet of other property lines.
 - iii. Driveways must meet the access standards in ADC Section 12.100.
- (d) Screening. Landscaping, fencing, or walls at least three feet tall must separate clustered parking areas and parking structures from common courtyards and public streets.
- (e) Garages and carports.

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- i. Garages and carports (whether shared or individual) must not abut common courtyards.
 - ii. Individual detached garages must not exceed 400 square feet in floor area.
 - iii. Garage doors for attached and detached individual garages must not exceed 20 feet in width.
 - iv. Garages must not be converted into living space.
- (9) Accessory Structures. The purpose of this standard is to ensure that accessory structures are appropriately sized relative to the scale of cottage cluster dwellings.
 - (a) Accessory structures must not exceed 400 square feet in floor area.
- (10) Existing Structures. An existing single-dwelling unit on a lot or parcel to be used for a cottage cluster project may remain within the cottage cluster project area under the following conditions:
 - (a) The existing dwelling may be nonconforming with respect to the requirements of this Section 8.175.
 - (b) The existing dwelling may be expanded up to the maximum height (ADC 3.192(4) or 5.092(4), as applicable) or the maximum building footprint (ADC 3.192(5) or 5.092(5) as applicable); however, existing dwellings that exceed the maximum height and/or footprint standards may not be expanded.
 - (c) The floor area of the existing dwelling must be excluded from the calculation of average floor area for the cottage cluster, per subsection 8.175(2)(c).
 - (d) The existing dwelling must be excluded from the calculation of orientation toward the common courtyard, per subsection 8.175(3)(b).

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Figure 8.175-2. Cottage Cluster Parking Design Standards



[Ord. 5968, 1/14/22; Ord. 6004, 12/28/22; Ord. 6018, 6/30/23; Ord. 6059, 3/14/25; Ord. 6062, 5/23/25]

MULTIPLE-DWELLING UNIT DEVELOPMENT

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

8.205 Applicability.

(1) Except as specified in ADC Section 8.110(2), the standards of ADC Sections 8.220 through

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8.300 apply to the development of new Multiple-Dwelling Unit residential buildings (accessory buildings are exempt), additions to existing structures that create additional multiple-dwelling units, and to the residential components of new buildings with Units Above or Attached to a Business (see ADC Section 22.310). Non-residential components of mixed-use development are subject to the Commercial and Institutional Site Design Standards of Sections 8.330 through 8.390.

- (2) Except as required to meet building code, fire code, or other regulations, expansions and modifications to existing buildings and sites must not decrease conformance with these standards.
- (3) Unless otherwise specified, these standards apply in all zoning districts.

[Ord. 5894, 10/14/17; Ord. 5947, 1/1/21; Ord. 6004, 12/28/22; Ord. 6059, 3/14/25]

8.210 Relationship to Historic Overlay Districts. For property inside the Historic Overlay Districts and properties designated as Historic Landmarks, the provisions of Article 7 also apply. For development subject to historic review under Article 7, the review body may grant flexibility in meeting any of the design standards where necessary to achieve historic compatibility. [Ord. 5445, 4/12/00; Ord. 5894, 10/14/17]

Staff Comments: Clarify that the minimum common open space is calculated based on a site's buildable land, as defined in Article 22.

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

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

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

Open Space	CB, HD, DMU, LE, WF, MUC, MUR, OP, NC, CC, and RC Zoning Districts	All Other Zoning Districts
Common Open Space		
<ul style="list-style-type: none"> • Developments with fewer than 10 units 	Not required	Not required
<ul style="list-style-type: none"> • Developments with 10 or more units as part of a multiple-dwelling unit development or 10 or more units above or attached to a business 	250 square feet (useable area) subject to ADC 8.220(1)	15% of the total development site's <u>buildable land area</u> , and subject to the standards in ADC 8.220(2)
Children's Play Areas		
<ul style="list-style-type: none"> • Developments with fewer than 20 units 	Not required	Not required
<ul style="list-style-type: none"> • Developments with 20 or more units, excluding developments for seniors, senior living facilities, and housing for 	Not required	Required and subject to the standards in ADC 8.220(3)(c)

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persons with mental or physical disabilities		
Private Open Space	Not required	Required for at least 80% of units and subject to the standards in ADC 8.220(4)

- (1) ~~Common Open Space~~Multi-Use Paths in All Zoning Districts. A multi-use path must be provided if identified in the Parks Master Plan, the Transportation System Plan, an adopted area plan, or any other plan adopted by the City of Albany. The path must be at least 10 feet wide, centered within a 20-foot-wide easement, and constructed to city standards as approved by the City Engineer. If the path is not provided at the time of development, a development agreement may be entered into for future construction and/or financial assurance thereof.
- (2) Common Open Space in the CB, HD, DMU, WF, LE, MUC, MUR, OP, NC, CC, and RC Zoning Districts. When required by Table 8.220-1, common open space must provide a minimum of one indoor or outdoor common area amenity with no dimension less than 15 feet. Common area amenities must include fixed or movable seating.
- (3) Common Open Space in All Other Zoning Districts. When required by Table 8.220-1, in all zoning districts except the CB, HD, DMU, WF, LE, MUC, MUR, OP, NC, CC, and RC Zoning Districts, the following standards apply.
 - (a) Minimum Usable Common Open Space. For developments with 20 or more units, usable common area must be provided as specified below with no horizontal dimension less than 20 feet. The usable common open space counts towards the minimum common open space requirement of 15 percent of the site area.
 - i. 10 to 20 units: 400 square feet
 - ii. 21 or more units: 400 square feet plus 20 square feet/unit over 20 units
 - (b) Required Usable Common Open Space must be entirely improved with one or more of the following amenities:
 - i. Inground permanent swimming pools with a minimum area of 400 square feet, or inground spas or hot tubs. Common patios and decks or pavement abutting and within 50 feet of the swimming pool, spa, or hot tub may be included.
 - ii. Regulation sized and equipped sports courts for tennis, handball, volleyball, pickleball, and/or basketball.
 - iii. Community gardens for use by residents to grow food and other vegetation. Gardens must have irrigation available for use by the residents.
 - iv. Rooftop terrace or ground level courtyard accessible to residents. A terrace or courtyard must include barbecues, tables, and seating that are available for use by residents.
 - v. Indoor community room.
 - vi. Multi-use path at least 10 feet wide, including those identified in an adopted city plan, centered within a 20-foot-wide easement constructed to city standards as approved by the City Engineer. The path must connect to a nearby proposed or existing trail, if when applicable.

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- vii. Children’s Play Areas that meet the standards in Section 8.220(3)(c).
- (c) Children’s Play Areas. Each children’s play area must include a play structure or play equipment at least 100 square feet in area, and at least two (2) different children’s play amenities/equipment approved for use in a public playground. Equipment must be manufactured to American Society for Testing and Materials (ASTM) F1487-11 standards or other comparable standards applicable to public playground equipment. The play area and open space located within 25 feet of the play structure(s) or equipment may count towards the required usable common open space requirement in 8.220(2)(b). Each children’s play area must be fenced along any perimeter that is within 10 feet of a street, alley, property line, parking area, or abutting the RR, R-10, R-6.5, R-5, and HM zoning districts.
- (d) Remaining Required Common Open Space. The remaining common open space needed to meet 15 percent of the project site may consist of the following:
 - i. Areas within Significant Natural Resource overlay districts excluding floodway and water bodies, per ADC 6.260, or stands of mature trees greater than or equal to six inches diameter at breast height that form a contiguous tree canopy (including areas within 10 feet of the drip line). These amenities may not account for more than 50 percent of the required common open space. Areas used for cluster development density transfers are not eligible for meeting common open space requirements.
 - ii. Approved vegetated post-construction stormwater quality facilities. This amenity may not account for more than 20 percent of the required common open space.
 - iii. Lawn, ornamental gardens, and landscaped areas including trees and shrubs. Areas may include picnic tables, benches, drinking fountains, paths, garden art, or structures. This amenity may not account for more than 50 percent of the remaining requirement for open space after usable open space requirements are met. If this amenity accounts for more than 25 percent of the required common open space, at least one accessible bench or picnic table and trees that provide a mature canopy of at least 25 percent of the landscaped area must be provided. Pathways, decks, or other hard surface areas or covered areas may be included but may not exceed 30 percent of the landscaped area.
- (e) Limitations to Common Open Space Areas.
 - i. Streets, driveways, refuse containers, and parking areas, including areas required to satisfy parking lot landscape standards, must not be applied toward the minimum usable open space requirement.
 - ii. Required setback areas may be applied toward the minimum usable common open space requirement of 15 percent, except that sport courts, swimming pools and spas, children’s play areas, and common courtyards or covered areas are not allowed in any required setbacks.
 - iii. No more than 20 percent of the common open space requirement must be on land with slopes greater than 20 percent.
- (f) Common Open Space Area Credit.
 - i. A credit, not to exceed 25 percent of the required common open space area, may be granted if there is direct access by an ADA accessible pedestrian path or sidewalk, not exceeding ¼ mile, from the proposed multiple-dwelling unit development to an improved public park, multi-use path, ~~and~~ recreation area, or publicly accessible

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school playground.

- ii. A credit toward the minimum common open space area required by Table 8.220-1 may be granted to development projects providing high value outdoor recreation amenities. Provision of high value amenities is determined by the dollar amount spent on the amenities as a proportion of the overall project cost (including all construction costs except land cost). The credit is calculated as follows: if one percent (1%) of the overall project development cost is spent on outdoor recreation facilities, the minimum amount of required common open space must be reduced by 10 percent. Further reductions in the minimum required common open space area must be proportional to spending. For example, if 1.5 percent of a project's cost is spent on outdoor recreation facilities, the minimum required common open space area must be reduced by 15 percent. The total reduction must not exceed 20 percent of the minimum required open space area. It is the responsibility of the applicant to document the overall project cost and the cost of the recreation amenities by providing cost estimates at the time of land use application.

- (4) Private Open Space. When required by Table 8.220-1, private open space must be provided to meet the standards of this section. Development in the CB, HD, DMU, WF, LE, MUC MUR, OP, NC, CC, and RC Zoning Districts and developments for seniors, senior living facilities, and housing for persons with mental or physical disabilities in all zoning districts are exempt from these requirements.
 - (a) Each dwelling unit providing required private open space must have at least 48 square feet of private open space.
 - (b) No dimension of the required private open space may be less than four feet. Accessible units must meet ADA standards.
 - (c) All required private open space must be directly accessible from the dwelling unit through a doorway.
 - (d) Except for front porches, required private open space must be physically and/or visually separated from common open space.
 - (e) Except for front porches, required private open space for at-grade dwellings must be screened in accordance with ADC 9.250.
 - (f) Private open space that is provided at-grade may be within interior courtyards created within a single building or cluster of buildings.
 - (g) Private open space that is above grade may be provided individually, as with a balcony or collectively by combining into a larger area that serves multiple units. [Ord. 5947, 1/1/21]
 - (h) Private Open Space Transfers and Credit.
 - i. Up to 50 percent of the total required private open space may be transferred to usable common open space. All transferred private open space is in addition to the required usable common open space.
 - ii. Affordable Housing Credit. Up to 75% of the required private open space may be transferred to usable common open space. All transferred private open space is in addition to the required usable common open space.
- (5) Open Space Designated on Site Plan. Areas provided to satisfy the minimum open space requirements must be designated on the development site plan and must be reserved as common or private space, as applicable.

[Ord. 5947, 1/1/21; Ord. 6004, 12/28/22; Ord. 6042, 7/12/24; Ord. 6059, 3/14/25; Ord. 6062, 5/23/25]

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8.240 Setbacks and Building Orientation.

- (1) **Purpose.** The purpose of the standards in this section is to create and maintain street frontages that are attractive, create an environment that is conducive to walking, and provide natural surveillance of public spaces. The standards are also intended to promote building and site design that contribute positively to a sense of neighborhood and to the overall streetscape by carefully relating building mass, entries, and yards to public streets.
- (2) **Applicability.** In all zoning districts except HD, CB, DMU, and WF, new multiple dwelling unit developments must meet the maximum setback and building orientation standards of this section. New multiple dwelling unit development in the HD, CB, DMU and WF zoning districts is subject to maximum setback standards in ADC Section 5.120 and building orientation standards in ADC Section 8.265.
- (3) **Standards.** Buildings on sites with frontage on a collector or arterial public street, must either meet all of the standards of section (a) or all the standards of section (b) below. Buildings on sites with frontage on a local street must meet the standards of section (a).

A summary of the two options for meeting the Setback and Building Orientation standards, and references to applicable Code sections, are provided in Table 8.240-1. This table only summarizes standards in ADC Section 8.240; other standards in the Code related to setbacks, landscaping, and parking also apply, such as Special Noise Corridor Setbacks in ADC Sections 3.320 and 4.200.

TABLE 8.240-1: Summary of Street Orientation and Enhanced Landscaping Options

	(a) Street Orientation Option	(b) Enhanced Landscaping Option
Frontage	Buildings must occupy at least 40% or 50% of site frontage, depending on site width in accordance with ADC 8.240(3)(a)(i)-(ii).	No additional requirements in Section 8.240.
Minimum Front Setback	No additional requirements in Section 8.240.	Amount needed to provide landscaping in accordance with ADC 8.240(3)(b) and Table 8.240-2.
Maximum Front Setback	Buildings must be setback no more than 20 feet in accordance with ADC 8.240(3)(a)(i) except in the HDR zone, the maximum setback is 15 feet.	Maximum Setbacks in Table 3.190-1 may be exceeded except in the HDR zone, the maximum setback is 15 feet.
Entries	At least 50% of front doors of units within 25 feet of collector or local public street must face the street and be recessed or have covered porches in accordance with ADC 8.240(3)(a)(iii)-(iv).	No additional requirements in Section 8.240.
Parking Location	No parking is allowed between the building and street in accordance with ADC 8.240(3)(a)(v).	Parking allowed between building and street for up to 25% of building frontage in accordance with ADC 8.240(3)(b)(ii).
Landscaping	No additional requirements in Section 8.240.	Enhanced landscaping required within the setback in accordance

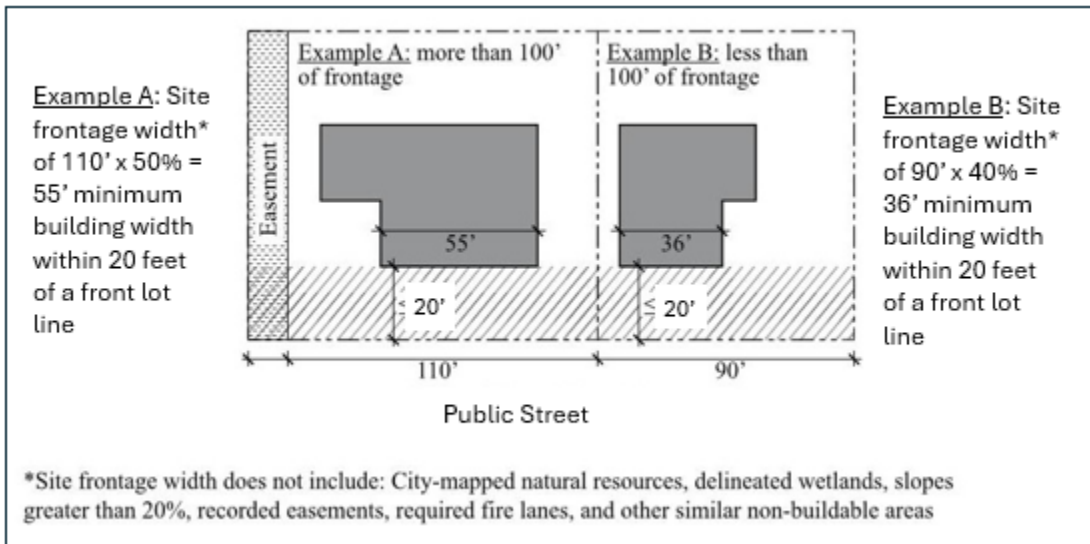
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	(a) Street Orientation Option	(b) Enhanced Landscaping Option
		with Table 8.240-2.

(a) Street Orientation Option.

- i. The applicable maximum building setback requirement is based on the site frontage width, as follows:
 - On sites with 100 feet or more of frontage on a public street, at least 50 percent of the site width must be occupied by a building(s) placed no farther than 20 feet from the front lot line, or 15 feet in the HDR zone. See Figure 8.240-1, Example A.
 - On sites with less than 100 feet of frontage on a public street, at least 40 percent of the site width must be occupied by a building(s) placed no farther than 20 feet from the front lot line or 15 feet in the HDR zone. See Figure 8.240-1, Example B. Permitted flag lots are exempt from meeting this standard.

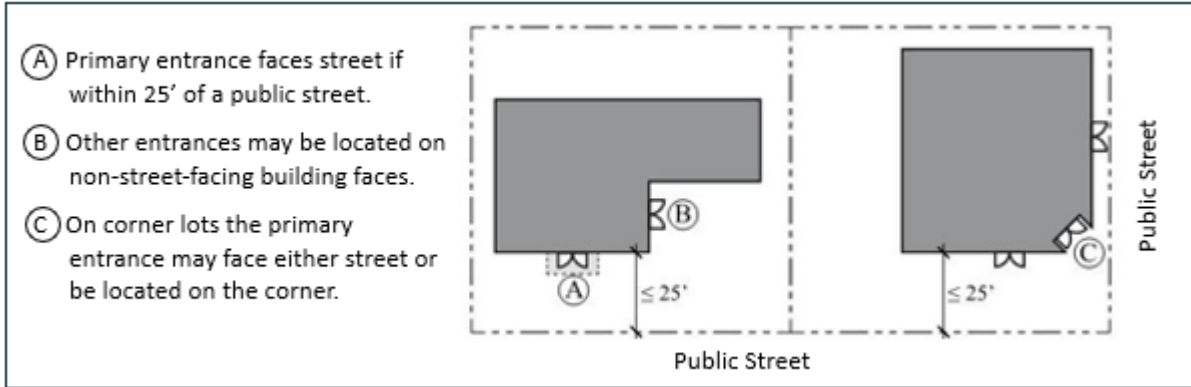
FIGURE 8.240-1: Maximum Building Setback - Street Orientation Option



- ii. As used in these standards, “site width” does not include significant natural resources as mapped by the City, delineated wetlands, slopes greater than 20 percent, recorded easements, required fire lanes and other similar non-buildable areas as determined by the City.
- iii. The primary entrance(s) of at least 50 percent of ground floor units of residential building(s) located within 25 feet of a public street must face the street. Primary entrances must provide access to individual units, clusters of units, courtyard dwellings, or common lobbies. The following exceptions to this standard are allowed:
 - On corner lots, the main building entrance(s) may face either of the streets or be oriented to the corner.
 - For buildings that have more than one entrance serving multiple units, only one entrance must meet this requirement. (See Figure 8.240-2.)

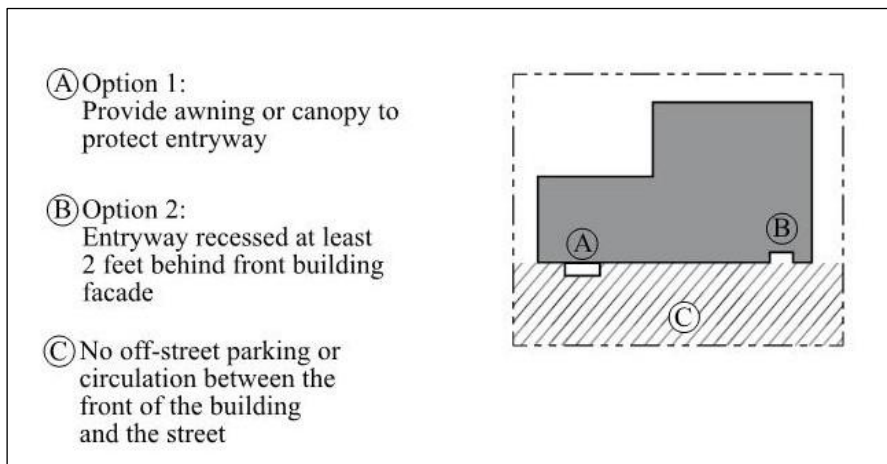
FIGURE 8.240-2: Primary Entrance Orientation - Street Orientation Option

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- iv. Ground floor entries to individual units must provide a covered front porch, or a front entry that is recessed a minimum of two feet behind the front building facade. Primary building entries (including shared entries to residential units) must provide an awning or canopy or be recessed a minimum of two feet behind the front building facade.
- v. No off-street parking or circulation may be located between the front of the building and the street. (See Figure 8.240-3.)

FIGURE 8.240-3: Entryway Treatment and Parking Location - Street Orientation Option



- (b) Enhanced Landscaping Option. The following standards apply to the lot line(s) abutting a collector or local public street.
 - i. The entire front setback area must be landscaped to meet the minimum standards in Table 8.240-2 (see Figures 8.240-4 and 8.240-5). There is no maximum setback except in the HDR zone, the maximum setback of 15' applies to the enhanced landscape option.

TABLE 8.240-2: Minimum Landscaping Required in Setback

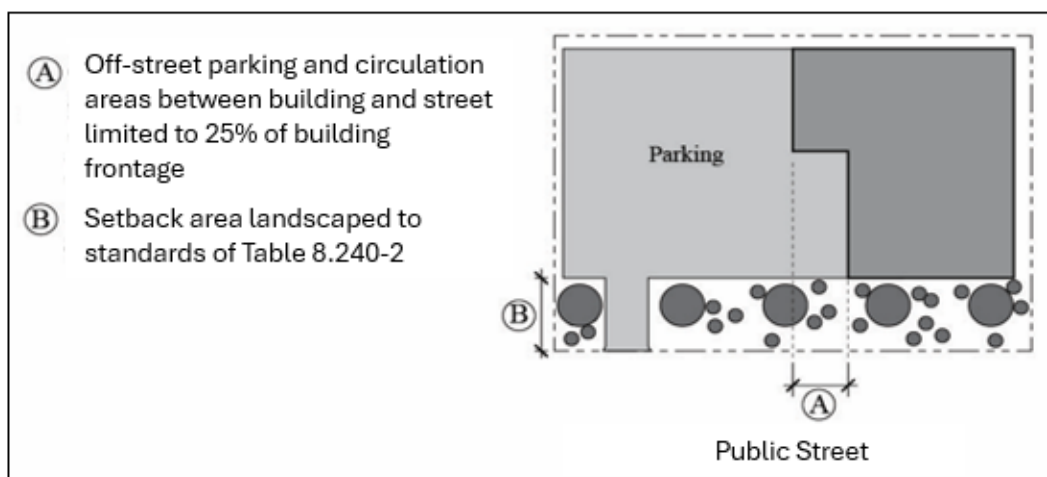
Trees	<ul style="list-style-type: none"> • Must be at least 6 feet tall at the time of planting • Trees must maintain a minimum spacing of 10 feet on center (see Note 1) • The tree canopy of mature trees must be maintained at 6 feet or higher above ground
Street Frontages with Street Trees in Planter Strip (see	<ul style="list-style-type: none"> • 1 tree for every 30 linear feet of street frontage

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Figure 8.240-5)	
Street Frontages without Street Trees or Planter Strip (see Figure 8.240-5)	<ul style="list-style-type: none"> Planted in at least two rows Each row must have a minimum of 1 tree for every 40 linear feet of street frontage Maximum spacing of 30 feet on center for trees within different rows Maximum spacing of 40 feet on center for trees within same row
Shrubs	<ul style="list-style-type: none"> 4 three-gallon shrubs or accent plants for every 10 linear feet of street frontage. Mature height of planted shrubs and ground cover must not exceed 3 feet. Required shrubs may be clustered
Ground Cover	<ul style="list-style-type: none"> The remaining area must be planted with vegetative ground cover plantings except that rock, bark, or similar landscape cover materials may be used for up to 25 percent of the required landscape area
(Note 1) Adjustments to the tree spacing standards, which would result in trees being planted closer than 10 feet on center, must receive a Crime Prevention Through Environmental Design (CPTED) review from the City of Albany Police Department.	

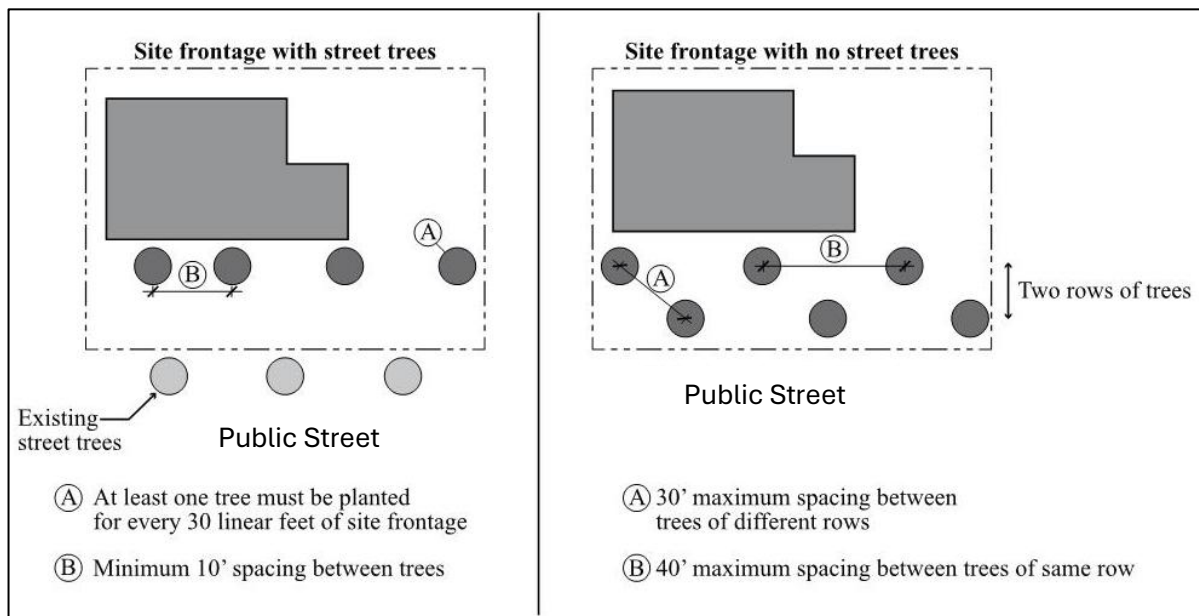
- ii. Off-street parking and circulation areas may be located between the building and the street for a maximum of 25 percent of the building's frontage (see Figure 8.240-4).

FIGURE 8.240-4: Parking and Circulation Location – Enhanced Landscaping Option



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FIGURE 8.240-5: Required Tree Planting – Enhanced Landscaping Option



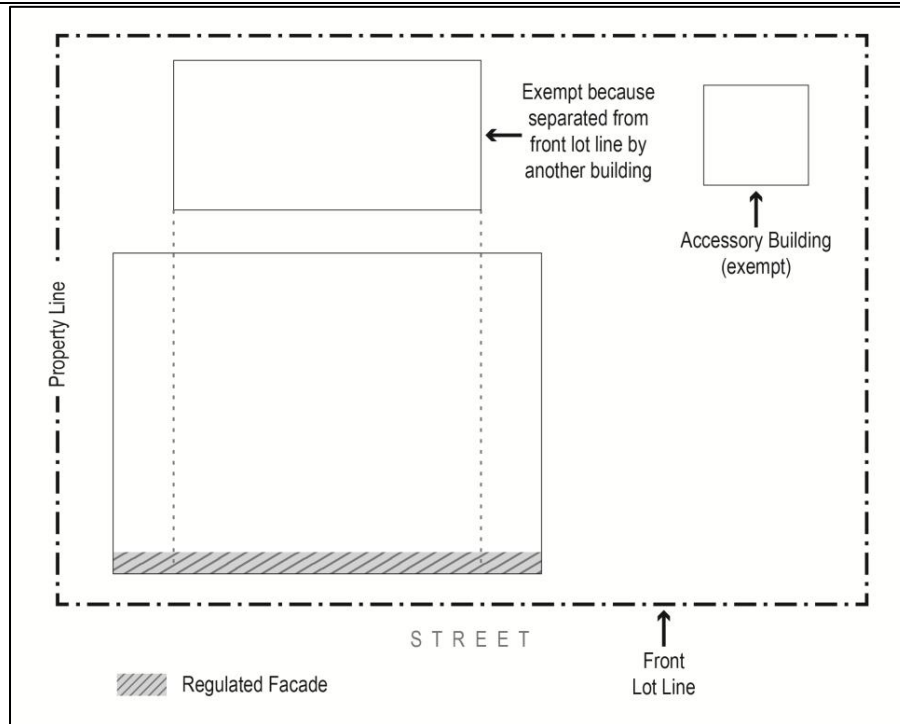
[Ord. 5894, 10/14/17; Ord. 5947, 1/1/21; Ord. 6004, 12/28/22; Ord. 6062, 5/23/25; Ord. 6068, 11/8/25]

8.255 Multiple Dwelling Unit Façade Design. The purpose of the standards in this section is to promote functional design and building details in new construction that provide visual interest, contribute to a high-quality living environment for residents, give a sense of quality and permanence, and enhance compatibility with the surrounding community.

- (1) Regulated façades. These standards apply to any façade that faces toward or within 45 degrees of a front lot line, except as otherwise specified below.
 - (a) On multiple frontage lots, only one front façade must meet these standards. A Willamette River setback line established pursuant to ADC 5.200 through 5.207 may be considered a front lot line for purposes of these standards. For lots with frontage on First or Second Avenue, the front façade facing First or Second Avenue must meet these standards.
 - (b) Where there is more than one building on the site, these standards do not apply to any portion of a building that is separated from the front lot line by another building, based on a line perpendicular to the front lot line (see Figure 8.255-1).
 - (c) Accessory buildings less than 750 square feet are exempt from these standards.

FIGURE 8.255-1. Regulated façades for Façade Design, Articulation and Window Standards.

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- (2) Façade design and articulation. Regulated façades must include a minimum of two different of the architectural features listed below. (e.g. Two building offsets does not constitute two different architectural features.)
- (a) Recessed entrance(s): three to six feet deep (relative to building façade).
 - (b) Eaves: overhang of not less than 12 inches.
 - (c) Offset: offset in facade or roof of at least two feet that extends for at least four feet.
 - (d) Bay window: projects from front elevation by 12 to 24 inches.
 - (e) Balcony: one per dwelling unit facing the street, with a minimum depth of ~~three~~four feet.
 - (f) Decorative top: e.g., cornice or pediment with flat roof or brackets with a pitched roof.
 - (g) Other: feature not listed but providing visual relief or contextually appropriate design similar to options a-f.
- (3) Street-Facing Windows. In the HD, DMU, CB, and WF zoning districts, at least 25 percent of the portion of the regulated façade between two and eight feet above grade and at least 25 percent of the total area of each regulated façade must contain windows or doors that meet all of the criteria in (a) through (c), below. In all other zoning districts, at least 15 percent of the total area of each regulated façade must contain windows or doors that meet all of the criteria in (a) through (c), below.
- (a) Made of transparent material with a minimum visible transmittance of 0.4. (Only the transparent portion of doors may be counted towards required window areas.) Windows with a visible transmittance rating less than 0.4 and windows that are frosted, fritted, patterned, or obscure may be counted towards up to half of the required window area provided that the windows in total allow views from the building to the street.
 - (b) Located in any part of the building except garages and parking areas.
 - (c) Face towards or within 45 degrees of the front lot line.

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- (4) In the DMU, CB, WF, and HD zoning districts, to provide privacy for ground floor residential uses, for residential buildings within five feet of the front lot line, street-facing ground floor windows must be separated from the front lot line with a landscaped buffer at least three feet deep extending for at least the width of the window(s). The landscaped buffer must meet at least one of the following standards.
- (a) For every three linear feet of width, provide at least one three-gallon shrub, with the remaining area treated with suitable living ground cover, lawn, or decorative treatment of bark, rock, or other attractive ground cover.
 - (b) For every two linear feet of width, provide at least one one-gallon shrub or perennial that typically achieves a mature height of at least three feet, with the remaining area treated with suitable living ground cover, lawn, or decorative treatment of bark, rock, or other attractive ground cover.
 - (c) Other suitable landscaping that provides both privacy and visual interest and includes living plants, shrubs, and/or trees.
- [Ord. 5894, 10/14/17; Ord. 5947, 1/1/21; Ord. 6062, 5/23/25]

8.265 Building Orientation and Entries in the HD, DMU, CB, and WF Zoning Districts. These standards are intended to promote building and site design that contribute positively to the overall streetscape by balancing connection to the street, transitions between public space and private space, and privacy. Providing appropriate transitions and privacy can make building occupants feel comfortable having windows uncovered and using outside space, which strengthens connections to the street and can help deter crime and vandalism.

- (1) The main entrance to individual dwelling units on the ground floor and to ~~lobbies for buildings~~ shared access to ~~with~~ internally accessed units must face a street, courtyard, or plaza and ~~(not a parking lot)~~. For corner lots, the main entrance may face either street.
- (2) To provide a transition between public space (the sidewalk) and private space (the dwelling) while maintaining a visual and physical connection to the street, entrances to individual dwelling units on the first story must be set back at least five feet from the front lot line and must be covered for a depth of at least three feet.

[Ord. 5894, 10/14/17; Ord. 6062, 5/23/25]

**** No changes are proposed to Sections 8.280 through 8.305, so they are not provided.****

COMMERCIAL AND INSTITUTIONAL SITE DESIGN

8.310 Purpose. These sections are intended to set threshold standards for quality design in commercial and institutional development, and in the non-residential components of mixed-use development. Good design results in buildings that are visually compatible with one another and adjacent neighborhoods and contribute to an attractive, active, and safe built environment that facilitates easy pedestrian movement and a rich mixture of land uses. [Ord. 5832, 4/9/14; Ord. 5947, 1/1/21]

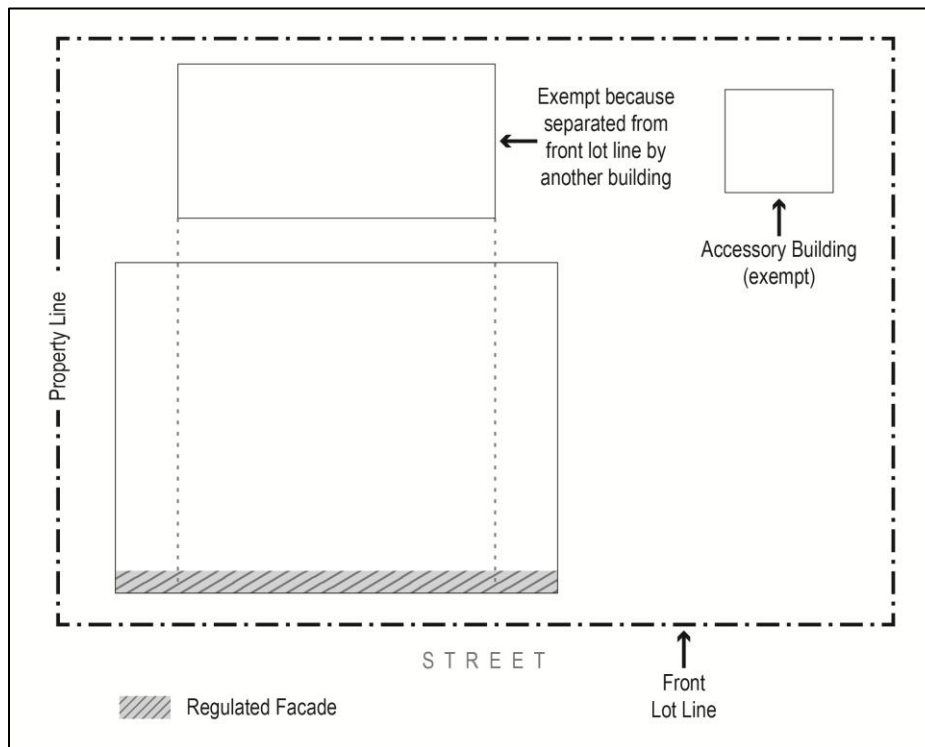
**** No changes are proposed to Sections 8.315 through 8.330, so they are not provided.****

8.345 Façade design, articulation, and windows. The following standards are intended to provide architectural relief and interest and to promote pedestrian-oriented design. These standards apply to new buildings (excluding accessory buildings). Except as required to meet building code, fire code, or other regulations, expansions and modifications to existing buildings and sites must not decrease conformance with these standards.

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

- (1) Regulated façades. The following standards apply to any façade that faces toward or within 45 degrees of a front lot line, with the exceptions below. See definition of front lot line in Article 22 for application on lots with multiple frontages; however, a lot line abutting First or Second Avenue must always be considered a front lot line for purposes of these standards. A Willamette River setback line established pursuant to ADC 5.200 through 5.207 may be considered a front lot line for purposes of these standards.
 - (a) Where there is more than one building on the site, these standards do not apply to any portion of a building that is separated from the front lot line by another building, based on a line perpendicular to the front lot line (see Figure 8.345-1).
 - (b) Accessory buildings less than 750 square feet are exempt from these standards.

FIGURE 8.345-1. Regulated façades for Façade Design, Articulation, and Window Standards.



- (2) Façade design and articulation. To promote buildings that provide visual interest and façade details that give a sense of quality and permanence, regulated façades must include a minimum of two different types of architectural features from the list below. (e.g. Two building offsets does not constitute two different architectural features.) Buildings that include units above or attached to a business may use features listed in ADC 8.255(2) to meet this standard as well as those listed below; however, features included in both lists may only be counted once.
 - (a) Recessed entrance(s): three to six feet deep.
 - (b) Inset windows: windows inset 4 inches to 18 inches from the adjacent building façade.
 - (c) Weather protection: awnings or other weather protection constructed of durable materials that extend at least four feet in horizontal distance from the building wall over all public entrances.
 - (d) Decorative top: e.g., cornice, pediment, or parapet with a flat roof.

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

- (e) Other: features not listed but providing visual relief or contextually appropriate design similar to options (a)-(d).
- (3) Ground Floor Windows. Ground floor windows or entrance doors must be provided along regulated façades at the pedestrian level in accordance with the standards below.
 - (a) The minimum required percentage of the ground floor façade that must contain windows is specified in Table 8.345-1 by zoning district. The ground floor façade subject to this standard must be the area measured between two and eight feet above grade.

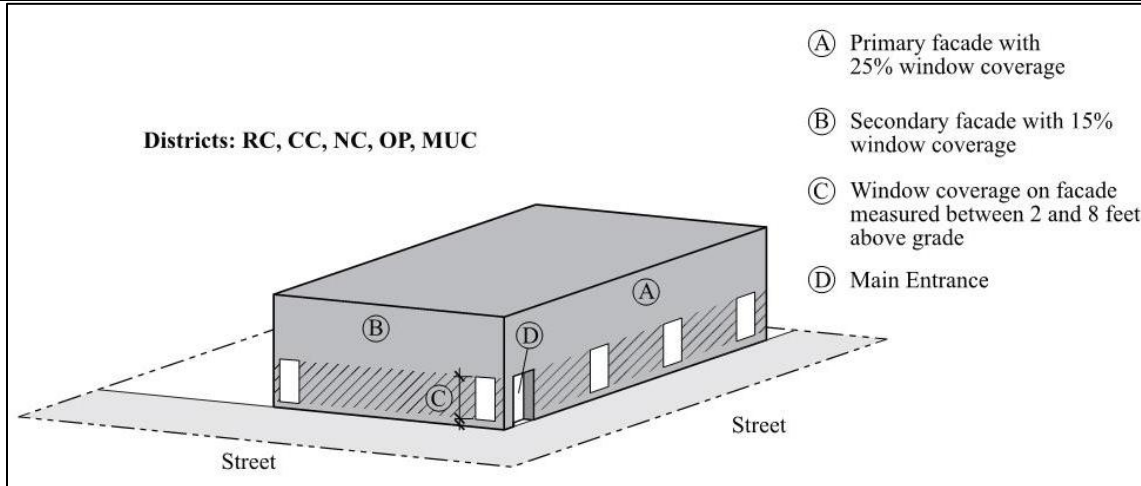
TABLE 8.345-1. Required ground-floor window percentages by district.

District	Percent Windows
RC, CC, NC, OP, MUC (see 8.345(3)(b)) (see Figure 8.345-2)	25 percent - one primary façade 15 percent - one secondary façade
MS, LE, PB, ES, MUR (see 8.345(3)(b))	50 percent - one primary façade 25 percent - one secondary façade
WF (see 8.345(3)(c))	50 percent
CB, DMU (see 8.345(3)(c))	60 percent
HD (see 8.345(3)(c))	75 percent

- (b) For the ground floor window requirements in the RC, CC, NC, OP, MUC, MS, LE, PB, ES, and MUR zones, “primary façade” means a regulated façade that includes a main entrance pursuant to ADC 8.330. “Secondary façade” means a regulated façade on a lot with two or more frontages that is not the primary façade. If there is no façade which meets the definition of “primary façade,” the primary façade must be the longest regulated façade. If more than one façade meets the definition of “primary façade,” then the applicant can choose which regulated façade is subject to the primary façade standard and which regulated façade is subject to the secondary façade standard or they can distribute the required windows across both façades. (See Figure 8.345-2, which illustrates minimum ground-floor window coverage on primary and secondary façades in the RC, CC, NC, OP, and MUC zoning districts.) No minimum ground-floor windows are required for secondary façades if an applicant demonstrates that one or more of the situations applies:
 - i. The façade is more than 50 feet from the street.
 - ii. More than 70 percent of the façade contains loading bays or docks.
 - iii. The façade is screened from the street by another structure or by a sight-obscuring hedge, wall, or fence with a minimum height of six feet.

FIGURE 8.345-2. Minimum Ground-Floor Window Standards in the RC, CC, NC, OP, and MUC Zoning Districts.

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



- (a) In the CB, DMU, and HD zoning districts, building elevations that are separated from the street by a rail line require at least 50 percent windows.
- (d) To count towards the required window area, windows must meet all of the criteria in (i) through (iii), below.
 - i. Made of transparent material with a minimum visible transmittance of 0.5. (The transparent portion of doors may count towards required window areas.) Windows with a visible transmittance rating less than 0.5 and windows that are frosted, fritted, patterned, or obscure may be counted towards up to half of the required window area provided that the ground-floor windows in total allow views from the building to the street.
 - ii. Located in any part of the building except garages and parking areas.
 - iii. Face towards or within 45 degrees of the front lot line.
- (4) Windows on upper stories. In the HD, CB, DMU, and WF zoning districts, buildings with two or more stories must provide windows occupying at least 25 percent of the regulated façade on the upper stories. Windows on upper stories must meet all of the criteria in (a) through (c), below.
 - (a) Made of transparent material with a minimum visible transmittance of 0.4. (The transparent portion of doors may count towards required window areas.) Windows with a visible transmittance rating less than 0.4 and windows that are frosted, fritted, patterned, or obscure may be counted towards up to half of the required window area provided that the windows in total allow views from the building to the street.
 - (b) Located in any part of the building except garages and parking areas.
 - (c) Face towards or within 45 degrees of the front lot line.

[Ord. 5894; 10/14/17; Ord. 5947, 1/1/21; Ord. 6062, 5/23/25]

**** No changes are proposed to the rest of this article, so Section 8.360 to the end 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, to provide safe accessible pedestrian routes and connectivity, and to minimize adverse effects on surrounding property owners or the general public. These standards are intended to create an urban environment that is safe, provides connectivity, furthers energy conservation, and enhances the environment for walking, cycling, and mass transit use. This article contains the following standards:

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

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

[Ord. 5764, 12/1/11; Ord. 5445, 4/12/00; Ord. 5947, 1/01/21; Ord. 6018, 6/30/23; Ord. 6062, 5/23/25]

Staff Comments: Minor clarifying and consistency amendments are proposed to the parking area improvement standards. Only sections where amendments are proposed are provided. The full Article and Albany Development Code are located online.

OFF STREET PARKING AND LOADING

*****No changes are proposed to the parking and loading space requirements in 9.020 through 9.080 so these sections are not provided.*****

9.100 Parking Area Improvement Standards. All public or private parking areas, loading areas and outdoor vehicle sales areas must be improved based on the following standards. When the total surface parking area for the development site exceeds 10,890 square feet, parking area improvements must also comply with the standards in Section 9.130.

- (1) General. All parking spaces must be improved in accordance with these standards and available for use at the time of project completion.
- (2) Other Requirements. All parking areas shall conform to the setback, clear vision, landscaping, and buffering/screening provisions of this Code.
- (3) Surfacing. All provided parking, including travel aisles and access, shall have a durable, dust-free surface of asphalt, cement concrete, or other materials approved by the Director. Parking lot surfacing shall not encroach upon the public right-of-way except when it abuts a concrete public sidewalk or has been otherwise approved by the Director of Public Works. Pervious pavements, such as pervious asphalt or pervious concrete, may be allowed by the Director of Public Works.
- (4) Drainage. All parking lots must provide a drainage system to dispose of the runoff generated by the impervious surface. Post-construction stormwater quality facilities are required per Title 12 of the Albany Municipal Code when applicable. Provisions shall be made for the on-site collection of drainage water to eliminate sheet flow of such water onto

sidewalks, public rights-of-way, and abutting private property. All drainage systems must be approved by the Director of Public Works.

- (5) Perimeter Curb. Perimeter curbing is required for protection of landscaped areas and pedestrian walkways, and to prevent runoff onto adjacent properties. All parking areas over 1,000 square feet (contiguous) for residential dwellings, parking areas of any size for all other uses, or approved overflow parking areas shall provide a curb at least 6 inches high along the perimeter of all parking areas. Exceptions may be allowed for connections to approved vegetated post-construction stormwater quality facilities.
- (6) Wheel Bumper. In parking areas over 1,000 square feet (contiguous) for residential dwellings, or parking areas of any size for all other uses, all parking stalls fronting a sidewalk, alleyway, street or property line shall provide a secured wheel bumper at least six inches high and at least six feet long, set back from the front of the stall at least 2-1/2 feet, but no more than three feet. If the sidewalk is widened to seven feet six inches to allow for vehicle encroachment, no wheel bumpers are required.
- (7) Turnaround. For parking areas that meet one of the thresholds in subsections (a) or (b), parking spaces must be located and served by an aisle or turnaround so that their use will require no backing movements or other maneuvering in a street right-of-way other than an alley.
 - (a) Residential dwellings: Parking areas over 1,000 square feet (contiguous). Driveways that could provide additional tandem parking spaces are not included in this calculation.
 - (b) All other development: Two or more parking spaces.
- (8) Striping. Lots containing more than two parking spaces must have all spaces permanently and clearly striped. Stripes must be at least four inches wide. When motorcycle parking, compact, or handicapped parking spaces are provided, they ~~shall~~ must be designated within the stall.
- (9) Connecting to Adjacent Parking Areas. To promote connectivity and efficient circulation between properties, ~~Where~~ an existing or proposed parking area is adjacent to a developed or undeveloped site within the same zoning district, ~~any modifications to the parking areas must be configured designed to connect to the existing adjacent property or future adjacent parking area~~. This requirement may be waived by the Director when it is deemed impractical or inappropriate due to the nature of the adjoining uses.
- (10) Parking Lot Landscaping. Parking lots over 1,000 square feet (contiguous) shall be landscaped according to the standards in Section 9.150.
- (11) Compact Car Parking. No more than 40 percent of parking spaces provided may be designated for compact cars. Compact spaces must be signed and/or the space painted with the words "Compact Car Only."
- (12) Accessible Parking. All parking areas must provide accessible parking spaces in conformance with the Oregon Structural Specialty Code.
- (13) Lighting. Any lights provided to illuminate any public or private parking area or vehicle sales area must be arranged to reflect the light away from any abutting or adjacent properties. Any light source or lamp that emits more than 900 lumens (15-watt fluorescent / LED or 60-watt incandescent) shall be concealed or shielded with an Illumination Engineering Society of North America (IESNA) full cut-off style fixture with an angle not exceeding 90 degrees to minimize the potential for glare and unnecessary diffusion on adjacent property. Examples

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

of shielded light fixtures are shown in figure 9.100-1.

FIGURE 9.100-1: Examples of Shielded Light Fixtures



- (14) Pedestrian Access. Walkways and accessways shall be provided in all new off-street parking lots and additions to connect sidewalks adjacent to new development to the entrances of new buildings. All new public walkways and handicapped accessible parking spaces must meet the minimum requirements of the Oregon Structural Specialty Code.

[Ord. 5720, 8/12/09; Ord. 5832, 4/9/14; Ord. 5842, 1/01/15; Ord. 5947, 1/01/21; Ord. 5968, 1/14/22; Ord. 6018, 6/30/23; Ord. 6042, 7/12/24]

9.110 Occasional Overflow Parking Needs. The Director may approve the use of gravel surfacing for parking above the maximum parking requirements intended for occasional needs. As used in this section, "occasional" means limited to a unique or an annually occurring event or condition or infrequent use. The construction plans for the unpaved parking area must be approved by the Public Works Director or their designees. The application must demonstrate how the site and owners will meet the following minimum standards:

- (1) The overflow parking area must conform to the dimensional standards in Table 9.130-1 - Parking Lot Design, applicable Americans with Disabilities Act (ADA) requirements, and storm drainage requirements.
- (2) Overflow parking areas ~~may~~must not exceed 15,000 square feet per property, site, or use.
- (3) Wheel stops ~~shall~~must be provided to designate and protect each parking space.
- (4) Gravel parking and loading areas shall be screened from all adjacent uses by a sight-obscuring fence, wall, or hedge.
- (5) A buffer area at least five feet in depth, which may include the required screening, shall be provided along the perimeter of each gravel parking area and be landscaped in accordance with Section 9.240.
- (6) The overflow parking area must be at least 20 feet from a public right-of-way and have at least 20 feet of pavement travel distance to the right-of-way. Gravel is not permitted in or within 500 ft of the HD, DMU, LE, ES, CB, or any residential zone or use unless allowed through Conditional Use approval.

[Ord. 5832, 4/9/14; Ord. 5894, 10/14/17; Ord. 5947, 1/1/21; Ord. 6018, 6/30/23]

9.115 Conversion of Off-Street Parking and Loading Areas to Other Uses.

- (1) When new development, including expansions to existing structures, results in the conversion or elimination of existing off-street surface parking and loading areas, including travel aisles, for a use other than bicycle-oriented and transit-oriented facilities (bicycle parking, bus stops and pullouts, bus shelters, park and ride stations, and similar facilities), all existing parking areas that are physically impacted by the development must be improved to the standards in Article 9. For this section, physically impacted ~~shall~~includes the removal of surfacing, surface striping, or landscaping in association with the new development. Re-striping of existing parking with no change to layout and internal remodels or changes of use

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to an existing approved development that do not extend a structure or associated facility into the existing parking area are exempt from this standard.

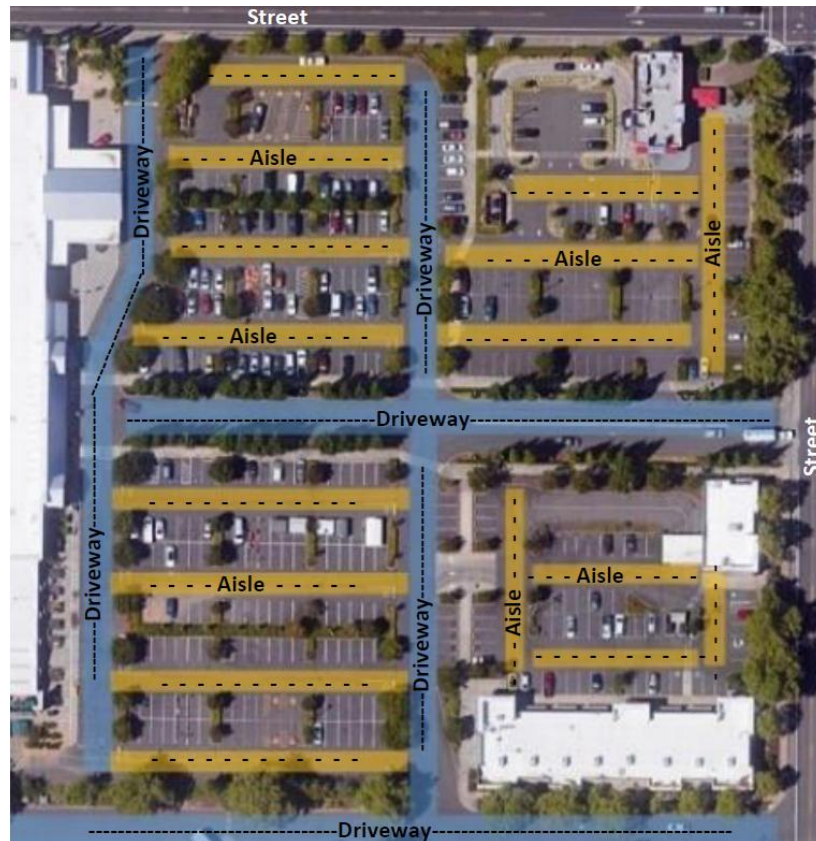
- (2) Conversion or elimination of off-street parking and loading areas, including travel aisles, to uses other than bicycle- and transit-oriented facilities is subject to Site Plan review in accordance with ADC 2.430(4).
- (3) Conversion of off-street parking and loading areas to other uses on nonconforming sites are subject to incremental improvements in accordance with ADC 2.330.
- (4) Access for emergency vehicles must be retained, and adequate parking for truck loading should be considered.

[Ord. 6018, 6/30/23; Ord. 6042, 7/12/24]

9.120 Off-Street Parking Lot Design and Circulation. The standards of this section are intended to ensure that on-site vehicle circulation is clearly identifiable, safe, and pedestrian-friendly.

- (1) Applicability. All off-street parking lots over 1,000 square feet (contiguous) must be designed in accordance with the standards in this Article and the City standards for parking stalls and drive aisles as set forth in Table 9.120-1: Parking Lot Design, and supplemental drawings in Figures 1 and 2. Parking lots larger than 10,890 square feet (0.25 acres) must also comply with standards in ADC 9.130.
- (2) Driveways and Drive Aisles. As used in this Article, driveways are major travel routes through a site that provide access to and from surrounding streets and connections through the site to buildings and parking lot drive aisles. Drive aisles primarily provide vehicular access to bordering parking spaces. See Figure 9.120-1.

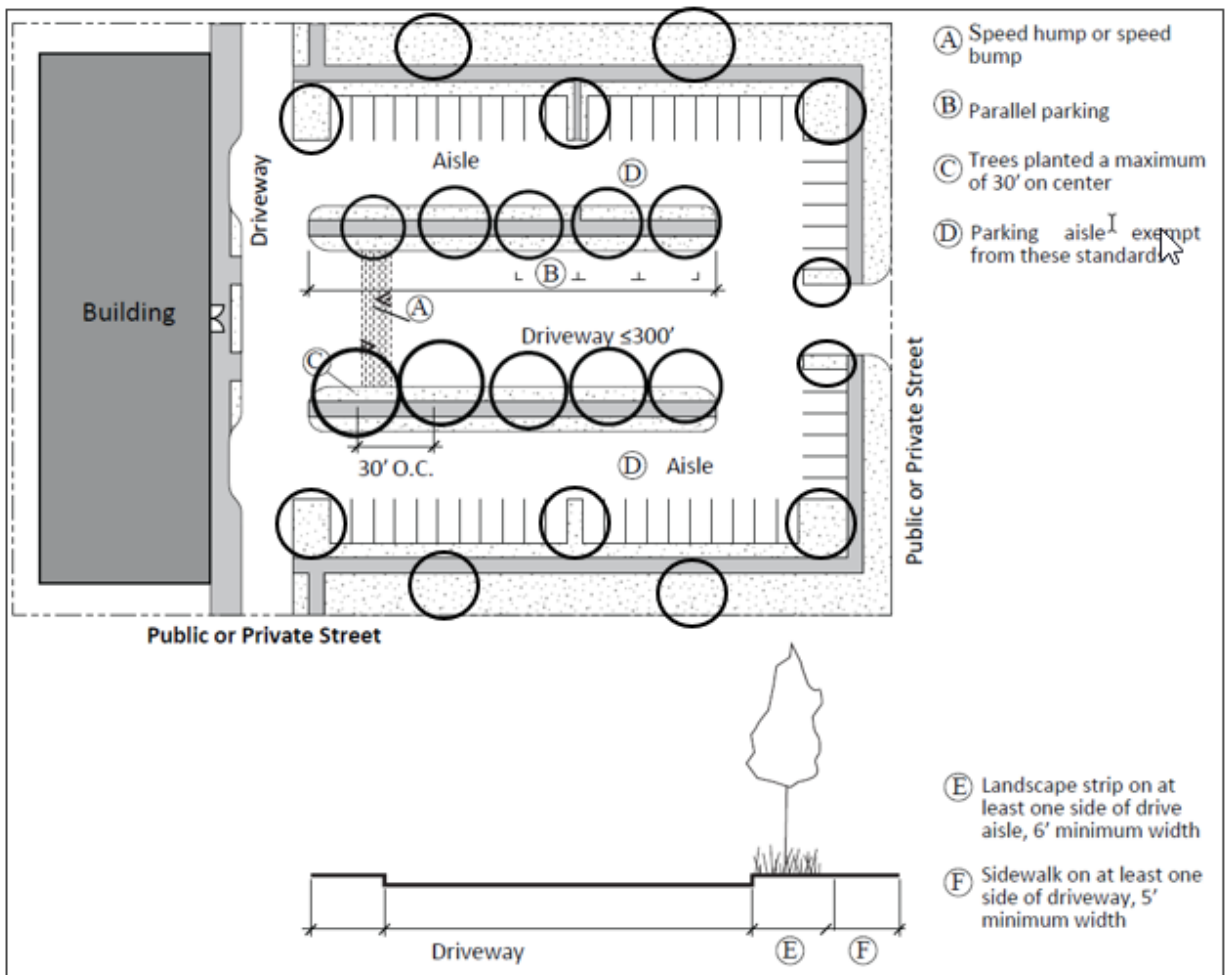
FIGURE 9.120-1: Parking Lot Driveways (blue) and Drive Aisles (orange)



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- (3) Internal Circulation System. Interior driveways must meet the standards below unless the driveway is lined with angled or perpendicular parking stalls. Developments must provide street-like design and features along driveways including curbs, pedestrian facilities, and buildings built up to pedestrian facilities, including the following:
 - (a) Driveways must continue the adjacent public street pattern wherever possible.
 - (b) Driveways must have raised curbs and a pedestrian facility with a minimum 5-foot-wide walkway on at least one side the entire length of the driveway, which is unobstructed by obstacles that would impede pedestrians, including overhanging cars. Wider walkways may be required per ADC Sections 9.130(5) and (6).

FIGURE 9.120-2. Interior Driveways



- (c) ~~Trees must be provided along driveways in accordance with Section 9.130 (3) and (4).~~ Driveways must have a minimum 6-foot-wide landscape strip (excluding curbs) planted with trees in accordance with Section 9.130(3) and (4) on at least one side of the driveway. For the purposes of this standard, the portions of the linear length driveways that provide direct access to parking stalls are exempt from this standard but must meet other landscape island and tree planting requirements of the Development Code.
- (d) Traffic calming must be provided through at least one of the following techniques:
 - i. Installing speed bumps or speed humps at a minimum interval of one every 300 feet

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- of driveway. A minimum of one speed hump or speed bump must be provided if the driveway is less than 300 feet long.
- ii. Providing parallel parking on at least one side for at least 50 percent of the length of the driveways.
 - iii. Planting trees on both sides along the full length of the driveway in accordance with the standards in ADC 9.240130(13) and (4) to visually narrow the driveway.
- (e) Walkways at intersections with drive aisles and other driveways must be demarcated by a raised surface that slows vehicular travel, or by different surface materials and textures such as contrasting paving materials (such as pavers, light-color concrete inlay between asphalt, or similar contrasting material) and/or reflective striping that emphasizes the crossing under low light and inclement weather conditions. Crossings demarcated only by painted striping are not permitted.
- (f) Driveways must not be located between the building(s) and the sidewalk(s), except as provided in (i) or (ii) below:
- i. Where drive-through windows are permitted, sites are constrained by natural resources or are infill sites less than one acre.
 - ii. Where drop-off facilities are provided that have been designed to meet the requirements of the Americans with Disabilities Act but that still provide for direct pedestrian circulation.
- (g) Buildings must be located along a pedestrian facility in the public right-of-way. Where a building cannot be located along a public right-of-way, it must be built up to a pedestrian facility along an on-site driveway.
- (4) Minimum Driveway and Drive Aisle Widths. Driveways for two-way traffic and emergency vehicle operations must be at least 24 feet wide. One-way driveways and one-way emergency vehicle access must be at least 20 feet wide. Drive aisle dimensions must comply with the standards in Table 9.120-1.
- (5) Parking Lot Design. Parking stall and aisle dimensions must comply with Table 9.120-1. Stall dimensions are measured from inside the stripes. The design of driveways and on-site maneuvering and loading areas for commercial and industrial developments must include 20 feet of storage length for entering and exiting vehicles to prevent vehicles from backing into the flow of traffic on the public street or causing unsafe conflicts with on-site circulation. See Figures 9.120-1 and 9.120-2.
- (6) Compact spaces must be at least 8 feet wide by 16 feet long.
- (7) Accessible spaces must be a minimum of 9 feet wide and 17 feet long and designed in accordance with the Oregon Structural Specialty Code (OSSC). An adjacent access aisle must be provided that is at least eight feet wide and 17 feet long for a van-accessible space, and six feet wide for a standard accessible space.
- (8) Stall Dimensions~~Width.~~ ~~Long-term parking spaces must be at least 8.5 feet wide. Parking stalls must meet the following minimum dimensions as measured from inside the stripes. for grocery stores or Stalls adjacent to planter islands must be at least 9.5 feet wide. Stall dimensions are measured from inside the stripes.~~

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TABLE 9.120-1: PARKING LOT DESIGN (in feet)

A Parking Angle	B Stall Width	C Curb Width	D Aisle Width	E Stall Depth	F Bumper Overhang	G Dead-end Backup
(Parallel)	8.0 feet	8 <u>24.0</u> feet	N/A	24 <u>5.0</u> feet	N/A	N/A
45°	8.5	12.0	13.0	17.5	2.0	5.0
	9.0	12.7	12.0	17.5	2.0	5.0
	9.5	13.4	11.0	17.5	2.0	5.0
	10.0	14.1	11.0	17.5	2.0	5.0
60°	8.5	9.8	18.0	19.0	2.5	5.0
	9.0	10.4	16.0	19.0	2.5	5.0
	9.5	11.0	15.0	19.0	2.5	5.0
	10.0	11.6	14.0	19.0	2.5	5.0
<u>90° Compact</u>	8.0 C	8.0 C	26.0 C	16.0 C	3.0	5.0
90°	8.5	8.5	26.0	18.5	3.0	5.0
	9.0	9.0	26.0	18.5	3.0	5.0
	9.5	9.5	26.0	18.5	3.0	5.0
	10.0	10.0	24.0	18.5	3.0	5.0

NOTES:

- (1) For one row of stalls, use “D” plus “E” as the minimum width.
- (2) When appropriate bumper overhang area is provided (extruded curbs), “F” can be subtracted from “E” to determine stall depth.
- (3) Backup areas identified as “G” must be at least five feet from the property line and are excluded from required setback areas or buffer yards.
- (4) Long-term parking stalls for vehicles to park for 24 hours or more typically in a paid lot such as those at airports or train stations, must be at least 8.5 feet wide and comply with the other dimensional standards for stalls of the same width as provided in Table 9.120-1. When a parking lot is also used by vehicles for less than 24 hours, long-term stalls must be signed or labeled.

FIGURE 9.120-3: Parking Lot Dimensions

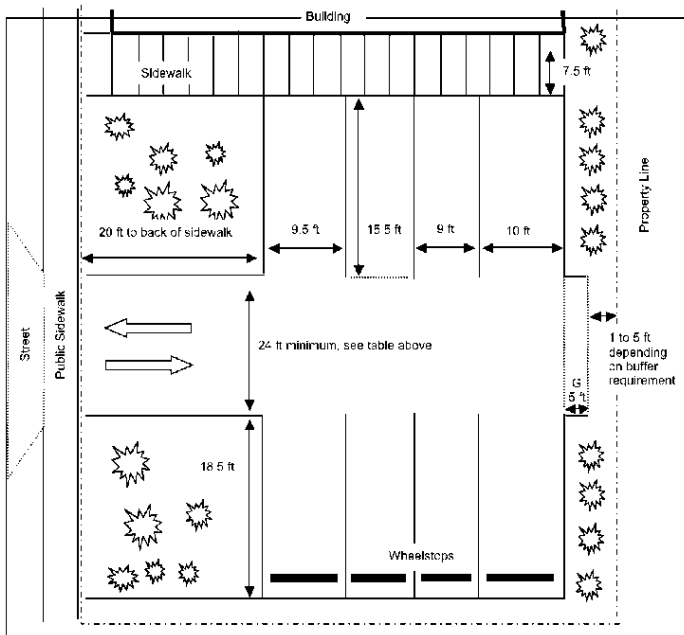
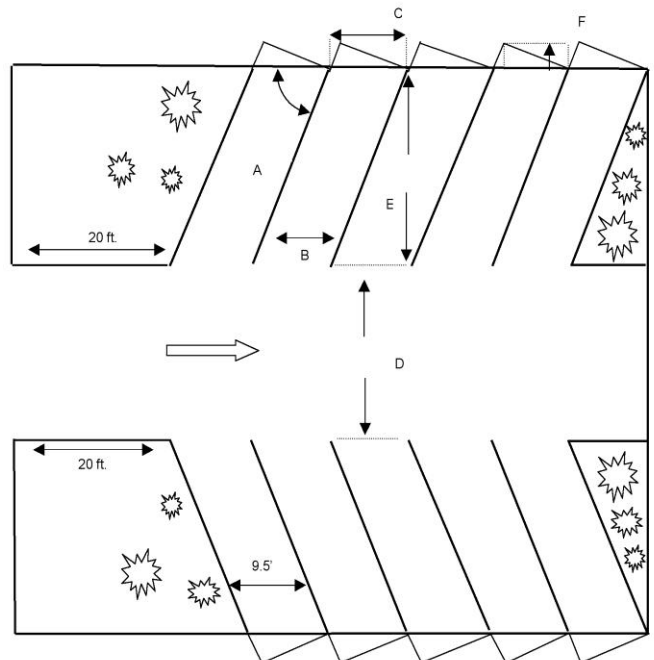


FIGURE 9.120-4: Parking Lot Dimensions



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[Ord. 5720, 8/12/09; Ord. 5832, 4/9/14; Ord. 5947, 1/1/21; Ord. 5968, 1/14/22; Ord. 6004, 12/28/22; Ord. 6018, 6/30/23; Ord. 6062, 5/23/25]

Staff Comments: Clarifying that driveways that lead to parking areas are not included in the calculation of total surface parking area.

- 9.130 Surface Parking Areas. The purpose of these standards is to ensure safe and accessible pedestrian routes within large parking lots by incorporating walkways and landscaping into parking lot design in a manner that is both attractive and easy to maintain, that minimizes the visual impact of surface parking, and that improves environmental and climate impacts (Figure 9.130-1).
- (1) Applicability. In addition to other provisions of Article 9, the following standards apply to new or improved surface parking areas of more than 0.25 acres (10,890 square feet), and to parking lot additions of 5,000 square feet or more when existing parking areas are enlarged to more than 10,890 square feet, and when re-construction of a surface parking area of more than 0.25 acres is proposed (i.e., when pavement, curbs, and planter bays are completely replaced). Total surface parking areas are calculated by measuring around the perimeter of all parking spaces, drive aisles, driveways, maneuvering areas, and interior landscaping but excluding the portion of driveways that lead to parking areas but do not about a parking area or associated parking lot landscaping.
 - (2) Comply with one of the following standards in (a) through (c) below.
 - (a) Solar Panels. Installation of solar panels with a generation capacity of at least 0.5 kilowatt per new parking space on the property. Panels may be located anywhere on the property.
 - (b) Public Buildings. Construction, reconstruction, or major renovation of a public building, as defined by ORS 270c.527 that complies with Oregon Administrative Rule 330-135-0010.
 - (c) Tree Canopy. Trees must be planted and maintained throughout new or improved parking areas to ensure that at least 40 percent of all parking surface areas will be covered within fifteen years after planting (or 20 years old). Tree canopy must be calculated from a plan view of the tree planting plan and expected crown diameter at fifteen years from planting or 20 years old. Existing mature trees that are preserved may be included in the canopy calculation using the current canopy size. An area under the canopy that is either paved surface or parking lot landscaping (interior or perimeter) is subject to canopy calculations unless specifically exempt per below. Canopy that covers structures may not be included in the calculation; however, canopy that covers unenclosed carports over parking spaces may be included. The full canopy area based on the 20-year crown diameter may be counted for tree coverage where there is an overlap of 5 feet or less (measurement to be the length of a line segment within the overlap area of a line between tree trunk/canopy centers).

The following surfaced areas are exempt from canopy requirements or are permitted reductions to the canopy requirements:

 - i. Truck loading area in front of overhead doors.
 - ii. Truck maneuvering, storage, and parking areas unconnected to and exclusive of any vehicle parking.
 - iii. Tree canopy or solar panel requirements may be reduced by 50 percent for surface lots provided at automobile dealerships for display/sales/service/vehicle storage

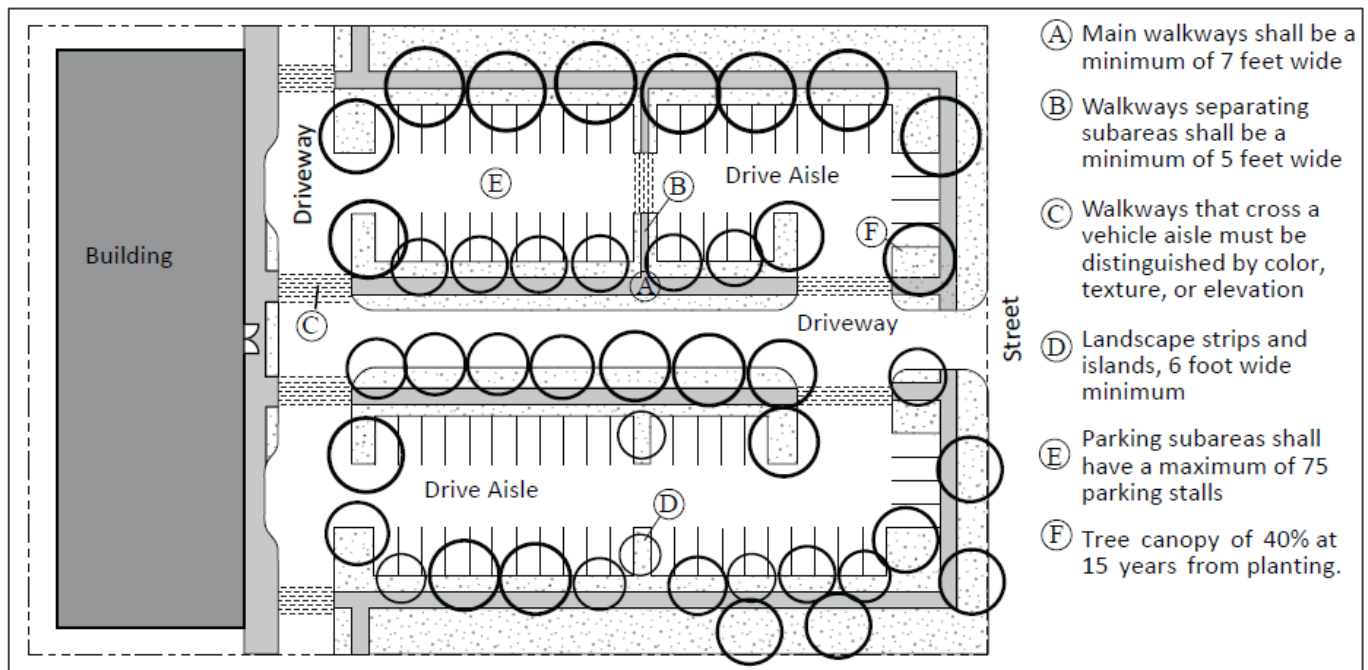
areas and provided employee and visitor parking.

- (d) Combination. A combination of options (a) or (c) in this section.
- (3) Trees. Trees must be provided along all driveways but are not required along drive aisles. (See Figures 9.120-1 and 9.120-2.) Trees must be at least 10 feet tall at the time of planting. The tree spacing and species planted must be designed to maintain a continuous canopy, except when interrupted by driveways, drive aisles and other site design considerations. A continuous canopy has no less than three trees and breaks of no more than 3 feet, excluding permitted interruptions.
- (4) Development of a tree canopy plan under this section must be done in coordination with the local electric utility and other utility providers, including pre-design, design, building and maintenance phases and meet the following standards.
- (a) The tree spacing and species planted must be designed to achieve the minimum tree canopy of 40 percent using the expected diameter of the tree crown at 15 years from planting (or 20 years old).
- Trees must be planted and maintained to maximize their root health and chances for survival, including having ample high-quality soil, space for root growth, and reliable irrigation according to the needs of the species.
- (b) Trees should be planted in continuous trenches with a minimum soil depth of 3 feet and width of 5 feet where possible.
- (c) The minimum standards for planting and tree care must be no lower than the 2021 American National Standards Institute (ANSI) A300 standards.
- (d) The property owner is responsible for maintaining all required vegetation. Compliance with these standards will be enforced through the City's code enforcement process.
- (5) Walkways. For the safety of pedestrians, parking lots and development sites must be designed to separate pedestrians from vehicles and include protected pedestrian walkways that provide a direct and convenient route from parking areas to building entrances, existing or planned pedestrian facilities in the adjacent public rights-of-way, accessible parking spaces, and transit stops.
- (a) Walkways must be hard surfaced and at least five feet in unobstructed width or eight feet if abutting parking stalls with wheel stops or curbs that enable cars to encroach into the walkway.
- (b) Walkways must be protected by landscaping, curbs, or wheel stops.
- (c) When a walkway crosses a vehicle aisle, driveway, or loading area, it must be clearly demarcated by materials, textures or elevation different from the parking and driving areas per ADC Section 9.120(3)(e).
- (d) Walkways may not share a vehicle aisle or driveway.
- (e) Walkways longer than 100 feet must incorporate a mix of shade, landscaping, benches, and drop-off bays for at least 50 percent of the length of the walkway.
- (f) At least one connection must be made to each adjacent street and sidewalk for every 200 linear feet of street frontage or fraction thereof.
- (g) A direct and accessible walkway must be provided between the street and a customer entrance that complies with the following standards.
- i. The walkway must be at least seven feet wide and must meet standards for an accessible path of travel in accordance with the Americans with Disabilities Act (ADA).

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

- ii. The walkway must be direct and convenient as defined in ADC Section 9.133(2).
 - iii. For sites with frontage on a street with transit service a pedestrian connection must be made to the street with transit, and to the transit stop when present.
- (6) Parking Lots with More Than 75 Spaces. Parking lots with 75 or more spaces must comply with the following additional standards to improve pedestrian safety, to improve vehicle circulation, and reduce visual impacts of large expanses of pavement.
- (a) When pedestrian walkways connecting a main building entrance to the street are required per this Article and must cross a large surface parking area with more than 75 spaces, standards (i) and (ii) below shall apply.
 - i. The walkway shall be at least seven feet wide and must meet standards for an accessible path of travel in accordance with the Americans with Disabilities Act (ADA).
 - ii. The walkway shall incorporate a mix of landscaping, benches, and drop-off bays for at least 50 percent of the length of the walkway.
 - (b) Parking Subareas. Parking areas must be divided into subareas of no more than 75 parking spaces each. Parking subareas must be separated from each other with physical breaks by providing one or more of the following: building pads, landscape strips, landscaped pedestrian walkways, interior streets or driveways with trees as defined in 9.120(2). Landscape strips or landscaped pedestrian walkways used for subarea separation must meet the following standards.
 - i. Landscape strips must have a minimum width of six feet that is unobstructed by obstacles that would impede landscape viability, including overhanging cars.
 - ii. Landscaped pedestrian walkways must have a minimum unobstructed walkway width of five feet. Landscaping may be on one or both sides of a pedestrian walkway, with a minimum landscape strip width of six feet when provided.

FIGURE 9.130-1. Sample Layout for Large Parking Area



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

[Ord. 5886, 1/6/17; Ord. 5947, 1/1/21; Ord. 6018, 7/1/23; Ord. 6024, 12/29/23; Ord. 6042, 7/12/24; Ord. 6062, 5/23/25]

- 9.133 Connectivity. The purpose of these standards is to promote efficient and convenient pedestrian and bicycle access and circulation between properties, adjacent uses, key destinations, and transit stops, and improve safety for both drivers and pedestrians, cyclists, and rollers. These standards are intended to comply with the Transportation Planning Rule (OAR 660-012).
- (1) Applicability. The standards apply to development in all zoning districts except HD, DMU, CB, and WF.
 - (2) Definitions. The following definitions apply for the purposes of this section:
 - (a) “Direct and convenient” means the length of the route is not more than 120 percent of the straight-line distance. The length may be increased to no more than 200 percent of the straight-line distance when necessary to accommodate existing trees at least 12 inches in diameter at breast height, slopes, natural resources or hazards.
 - (b) “Major transit stop” means transit transfer stations and any additional stops designated as “major transit stops” in the Transportation System Plan.
 - (c) “Impractical” means where one or more of the following conditions exist:
 - i. Physical or topographic conditions make a connection impracticable. Such conditions include but are not limited to freeways, railroads, steep slopes, wetlands or other bodies of water where a connection could not reasonably be provided;
 - ii. Buildings or other existing development physically preclude a connection; or
 - iii. Where streets or accessways would violate provisions of leases, easements, covenants, restrictions or other agreements existing as of May 1, 1995, which preclude a required street or accessway connection.
 - (3) Connectivity between sites. To promote connectivity and dispersal of traffic and efficient circulation between properties, new development ~~may~~will be required to provide street or driveway stubs and reciprocal access easements to, and for, adjacent properties.
 - (4) Pedestrian and bicycle connections required. Except where impractical, pedestrian, and bicycle connections must be provided in the following locations:
 - (a) Between an existing or planned transit stop and new development that is at, or within, 200 feet of the existing or planned transit stop. Development sites at major transit stops are also subject to subsection (5).
 - (b) A direct and convenient pedestrian route must be provided between the building’s main entrance(s) and the nearest sidewalk abutting the site or roadway where there is no sidewalk. A direct and convenient bicycle route must be provided between the bicycle parking and the nearest bicycle path abutting the site or roadway where there is no bicycle path.
 - (c) Between the development site and abutting properties: Pedestrian and bicycle connections must connect the onsite circulation system to existing or proposed walkways and bicycle routes, respectively, that abut the property. When abutting properties are undeveloped or have the potential to be redeveloped, accessways and walkways on site must be laid out or stubbed to allow for an extension to the abutting property.
 - (d) Between development sites and neighborhood activity centers, CFA overlay districts, employment centers, civic uses, and other key destinations as defined in Article 22.

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- (5) Major Transit Stops. Except where impractical, development sites abutting or including a major transit stop must provide the following:
 - (a) Either locate buildings within 20 feet of the transit stop, a transit street or an intersecting street or provide a pedestrian plaza as defined in ADC 8.415(6) at the transit stop or a street intersection;
 - (b) A direct and convenient pedestrian connection between the transit stop and building entrances on the site;
 - (c) A transit passenger landing that is ADA compliant.
 - (d) An easement or dedication for a passenger shelter, if requested by the transit provider; and
 - (e) Lighting at the transit stop.
- (6) Pedestrian and bicycle connections standard. Pedestrian and bicycle accessways must be clearly marked and constructed of concrete, asphalt, brick or masonry pavers, or other hard surface, and not less than five feet wide.

[Ord. 5281, 3/26/97; Ord. 5445, 4/12/00; Ord. 5886, 1/6/17; Ord. 5947, 1/1/21; Ord. 6018, 6/30/23; Ord. 6062, 5/23/25]

9.134 Additional On-Site Standards. Additional design standards related to site layout and design are in Article 8. [Ord. 6018, 6/30/23]

Staff Comment: Clarifying the landscaping standards and locations.

LANDSCAPING

9.135 Purpose. These regulations are intended to enhance aesthetic value in new developments and the community as a whole; minimize erosion; slow the rate of surface water runoff and improve water quality; cool buildings and parking lots in summer months with shade; enhance ecological functions; and provide access to nature. [Ord. 5947, 1/01/21]

9.140 General Requirements. Landscaping requirements by type of use are listed below:

- (1) Landscaping Required – Residential. All front setbacks (exclusive of accessways and other permitted intrusions) must be landscaped or have landscaping guaranteed in accordance with ADC 9.190 before an occupancy permit will be issued or final building permit approved. In the case of middle housing land divisions, the minimum landscaping standard below applies to the parent lot, not the child lots. In all residential districts except Rural Residential (RR), the minimum landscaping acceptable for every 50 lineal feet of street frontage (or portion thereof, deducting the width of the driveway) is:
 - (a) One tree at least six feet tall.
 - (b) Four one-gallon shrubs or accent plants.
 - (c) The remaining area treated with ground cover (e.g., lawn, bark, rock, ivy, and evergreen shrubs).
- (2) Landscaping Required – Non-Residential. All required front, side, and rear setbacks (exclusive of accessways and other permitted intrusions) must be landscaped or have landscaping guaranteed in accordance with ADC 9.190 before an occupancy permit will be issued. Minimum landscaping acceptable for every 1,000 square feet of required setbacks as follows:
 - (a) One tree at least six feet tall for every 30 feet of street frontage.

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- (b) Five 5-gallon or eight 1-gallon shrubs, trees or accent plants.
 - (c) The remaining area treated with suitable living ground cover, lawn, or decorative treatment of bark, rock, or other attractive ground cover.
 - (d) When the yard adjacent to a street of an industrially zoned property is across a right-of-way from other industrially or commercially zoned property, only 30 percent of such setback area must be landscaped.
- (3) Alternate Plan – Non-Residential. The Director may approve placement of the required setback landscaping in public right-of-way when the following conditions are met:
- (a) The site contains existing development that includes substantial building(s), and is subject to ADC improvement requirements due to a change of use or vacancy; and
 - (b) The appropriate government agency grants written permission for use of the right-of-way; and
 - (c) The applicant provides written assurance that on-site setback landscaping will be installed within 90 days in the event permission to use the right-of-way is revoked; and
 - (d) The Director finds that the required setback landscaping can feasibly be installed on the property without creating other violations of this Code; and
 - (e) The Director finds that providing the landscaping in the public right-of-way in the interim fulfills the intent of this Code for high-quality development (9.010) and the minimum landscaping requirements in Section 9.140(2)(a) through (c).

- (4) Landscaping Adjacent to Easements. Landscaping, buffering or screening required by this code must be installed outside of and directly adjacent to any easement on abutting property.

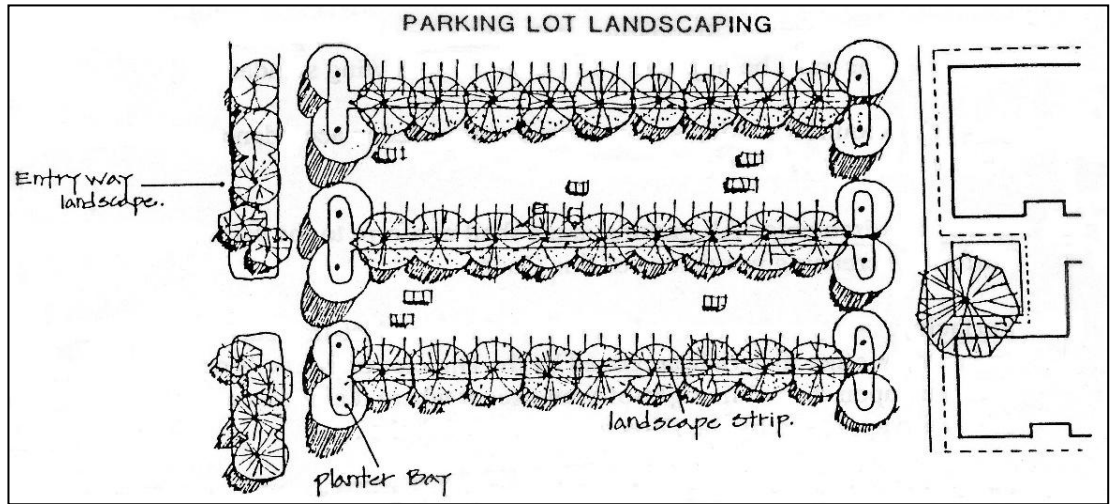
[Ord. 5752, 3/9/11; Ord. 5886, 1/6/17; Ord. 5968, 1/14/22; Ord. 6062, 5/23/25]

9.150 Parking Lot Landscaping. The purpose of landscaping in parking lots is to provide shade, reduce stormwater runoff, and direct traffic. Incorporation of approved vegetated post-construction stormwater quality facilities in landscaped areas is encouraged. Parking lots over 1,000 square feet (contiguous) must be landscaped in accordance with the following minimum standards. Parking lots over 10,890 square feet must also comply with the standards in 9.130.

- (1) Planter Bays. Parking areas must be divided into bays of not more than 12 parking spaces. At both ends of each parking bay, there must be curbed planters at least six feet wide, excluding the curb. Gaps in the curb may be allowed for connections to approved post-construction stormwater quality facilities. Each planter must contain one canopy tree at least 10 feet high and a decorative ground cover containing at least two shrubs for every 100 square feet of landscape area. Neither planter bays nor their contents may impede access on required public sidewalks or paths, or handicapped-accessible parking spaces.
- (2) Entryway Landscaping. Both sides of a parking lot entrance must be bordered by a minimum five-foot-wide and ten-foot-long landscape planter strip meeting the same landscaping provisions as planter bays, except that no sight-obscuring trees or shrubs are permitted. The parking lot entrance does not include the driveway leading to the parking lot when it does not abut the parking lot.
- (3) Parking Space Buffers. Parking areas must be separated from the exterior wall of a structure by pedestrian walkways or loading areas or by a five-foot strip of landscaping materials.

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FIGURE 9.150-1. Parking lot landscaping example.



- (4) Stormwater Collection System. Vegetated post-construction stormwater quality facilities must be considered as the initial stormwater collection system.
- (5) Landscape Protection. Required landscaped areas adjacent to graveled areas must be protected, either by railroad ties secured by rebar driven 18 inches into the ground, by large boulders, or by another acceptable means of protection.

[Ord. 5720, 8/12/09; Ord. 5842, 1/1/15; Ord. 5947, 1/1/21; Ord. 5968, 1/14/22; Ord. 6018, 6/30/23; Ord. 6062, 5/23/25]

9.160 Parking Area Perimeter Landscaping in Village Centers.

Purpose. These provisions are in addition to parking standards in this code and are intended to ~~give provided parking a low profile to~~ improve the pedestrian experience and ~~the overall aesthetic quality of the street.~~ They will minimize the ~~expansive~~ appearance of parking lots, increase the sense of neighborhood scale, and improve the character of a village center. Perimeter landscaping will create an attractive, shaded environment along streets that gives visual relief from continuous hard street edges; buffer automobile traffic and focus views for both pedestrians and motorists.

Applicability. These standards apply to properties with an Albany Comprehensive Plan designation of Village Center.

Standards.

- (1) All parking areas (excluding ~~entry~~ one ways) adjacent to a public street must be screened and the setbacks planted according to one of the following options in (a) through (d) below:
 - (a) A low continuous hedge of evergreen shrubs, ~~trees,~~ and plantings that are at least three feet tall within two years and grow to provide an evergreen screen of at least 70 percent and deciduous trees spaced no less than 30 feet apart to provide a continuous canopy at maturity;
 - (b) A berm three feet tall with a maximum slope of 3:1, in combination with coniferous and deciduous trees and evergreen shrubs;
 - (c) A low decorative masonry wall at least three feet tall but not more than four feet tall in combination with a combination of evergreen shrubs and deciduous trees ~~landscaping between the wall and the property line;~~ or

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(d) A combination of any of these methods.

(2) The landscape plan must be prepared by a licensed landscape architect.

[Ord. 5556, 2/21/03, Ord. 6018, 6/30/23; Ord. 6062, 5/23/25]

*****No changes are proposed in Sections 9.165 through 9.206 so these sections are not provided.*****

Staff Comment: Clarifying that driveways that lead to parking areas are not included in the calculation of total surface parking area.

BUFFERING AND SCREENING

9.208 Purpose. These regulations provide screening and buffering between uses to reduce the potential objectionable impacts of higher intensity uses on adjacent lower intensity uses. These impacts include, but are not limited to, light pollution and glare, noise, visual impacts, and loss of privacy.

9.210 General Requirements/Matrix. Buffering and screening are required in accordance with the matrix provided in Table 9.210-1. The property owner of each proposed development is responsible for the installation and maintenance of such buffers and screens. The Director may approve an Adjustment to waive the buffering/screening requirements of this section where such has been provided on the abutting property in conformance with this Code. Where a use would be abutting another use except for separation by right-of-way, buffering (but not screening) is required as specified in the matrix. Where a proposed use abuts undeveloped property, only one-half of the buffer width is required. [Ord. 5445, 4/12/00; Ord. 5947, 1/1/21]

9.220 Delineation of Area. A buffer yard or area consists of an area within a required setback or specified distance from the side and rear property lines. When a utility easement runs along property lines the buffer area landscaping must be located outside of the utility easement, which may result in a larger distance between the use and the property line. It has a depth equal to the amount specified in the buffer matrix and contains a length equal to the length of the property line of the abutting use or uses. [Ord. 6062, 5/23/25]

9.230 Occupancy. A buffer area may only be occupied by utilities, screening, sidewalks, bikeways, landscaping, and approved vegetated post-construction stormwater quality facilities. No buildings, vehicular access ways or parking areas are allowed in a buffer area except where vehicular access way has been approved by the City. [Ord. 5842, 1/1/15; Ord. 5947, 1/1/21]

9.240 Buffering. The minimum improvements within a buffer area consist of the following:

- (1) At least one row of trees. These trees will be not less than 10 feet high at the time of planting for deciduous trees and spaced not more than 30 feet apart and five feet high at the time of planting for evergreen trees and spaced not more than 15 feet apart. This requirement may be waived by the Director when it can be demonstrated that such trees would conflict with other purposes of this Code (e.g., solar access).
- (2) At least 5 five-gallon shrubs or 10 one-gallon shrubs for each 1,000 square feet of required buffer area.
- (3) The remaining area treated with attractive ground cover (e.g., lawn, bark, rock, ivy, evergreen shrubs).

9.250 Screening. Where screening is required or provided, the following standards apply in addition to conditions (1) and (3) ~~above~~ in 9.240:

- (1) One row of evergreen shrubs that will grow to form a continuous hedge at least four feet tall within two years of planting, or

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- (2) A fence or masonry wall at least five feet tall constructed to provide a uniform sight-obscuring screen, or
- (3) An earth berm combined with evergreen plantings or a fence that forms a sight and noise buffer at least six feet tall within two years of installation.

- 9.255 Screening of Refuse Containers. The following standards apply to all developments except for refuse containers or disposal areas serving four or fewer dwellings. Any refuse container or disposal area that would otherwise be visible from a public street, customer or resident parking area, any public facility, or any residential area, must be screened from view by placement of a sight-obscuring fence, wall, or hedge at least 6 feet tall. Refuse disposal areas may not be in required setback areas or buffer yards and must be contained within the screened area. All refuse materials must be contained within the screened areas and the disposal area must be covered. The cover must be at least 8 feet in height. No refuse container may be placed within 15 feet of a dwelling window or between a multiple dwelling unit building and a single dwelling unit.
[Ord. 6018, 6/30/23; Ord. 6042, 7/12/24; Ord. 6059, 3/14/25; Ord. 6062, 5/23/25]
- 9.260 Clear Vision. Buffering and screening provisions are superseded by the clear vision requirements of Section 12.180 and by the fence and wall height restrictions of the zone when applicable.
[Ord. 5445, 4/12/00]
- 9.270 Landscape Plan. In lieu of these standards a detailed landscape plan, which provides the same degree of desired buffering utilizing alternative designs, may be submitted for approval.

Table 9.210-1. Buffer and Screening Matrix

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

BUFFER MATRIX	PROPOSED USE								
	Detached <u>Single-dwelling unit or Duplex</u>	Middle housing	Multiple dwelling unit	Manufactured home park or subdivision	Commercial, professional, mixed-use, and <u>and</u> institutional	Industrial Park use	Light Industrial use	Heavy Industrial use	Parking lot with at least 5 spaces
Dwellings in RR, RS-10, RS-6.5, RS-5, HM, RM, HDR, MUR and RMA districts	0'	0'	10' (3)	0'	10' S (3)	30' S	30' S	40' S	10' S
Manufactured home park or subdivision in any district	0'	0'	0'	0'	10'S	30'S	30'S	40'S	10'S
Any arterial street (2)	10'	10' (4)	10' (4)	10' S (1)	10' (4)	10'	10'	10'	10'
Commercial, professional, mixed-use, and institutional	10'	10' (4)	10' (4)	10' S	0'	20'	0'	20' S	0'
Industrial Park District	20'	20'	20'	20'S	0'	0'	0'	5'	0'
Light Industrial District	30' S	30' S	30' S	30' S	0'	20'	0'	0'	0'
Heavy Industrial District	40' S	40' S	40' S	40' S	20'	20'	0'	0'	0'
Any parking lot with at least 5 spaces	10' S	5' S	5' S	5' S	0'	0'	0'	0'	0'

“S” indicates screening required. (1) See Section 10.270(3)(c) for buffering and screening along arterials and collectors. (2) The buffer/screening standard does not apply along arterial streets where it conflicts with other provisions of this code. (3) The required buffer does not apply abutting the MUR district and the buffer and screening do not apply abutting the HDR district. (4) Does not apply in the HD, CB, DMU, and WF zoning districts.

[Ord. 5445, 4/12/00; Ord. 5886, 1/6/17; Ord. 5894, 10/14/17; Ord. 5947, 1/01/21; Ord. 5968, 1/14/22; Ord. 6004,

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12/28/22; Ord. 6024, 12/29/23]

FENCES

*****No changes are proposed in Sections 9.360 and 9.370 so these sections are not provided.*****

Staff Comment: Moving the standards for all fences to the beginning of this section.

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

Standards for All Fences:

- (~~71~~) In no instance may a fence extend beyond the property line.
- (~~82~~) All fences must meet the Clear Vision Area standards in Section 12.180.
- (~~63~~) In no instance or zone may a fence exceed 8 feet except when permitted in 9.370. Fences over 8 feet tall must meet building setbacks, except when permitted along property lines in Sections 9.370(4)(d) or permitted in required setbacks in 9.380(~~38~~).
- (~~94~~) Measuring Fence Height. Fence height 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 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.
- (~~105~~) 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.

Standards in Residential, MUR and MUC zones:

- (6) Fences in front setbacks. Fences 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.
- (7) Fences on ~~C~~corner properties, which 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 3 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.
- (8) Fences n sSide and Rear rear Setbackssetbacks. Fences in a residential zone in Article 3 or in the MUR or MUC zone may have fences up to 8 feet tall in the side and rear setbacks.

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

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

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

- (10) Fences in front setbacks. Fences 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 4 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 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 have two front yards, may have a fence no taller than 6 feet within 10 feet of the front lot line that does not contain the main door entrance provided the fence does not extend in front of the building.

[Ord. 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; Ord. 6059, 3/14/25]

*****No changes are proposed for the rest of Article 9. All ADC articles may be viewed online at www.albanyoregon.gov/?Itemid=2035.*****

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Staff Comments: The proposed changes to Middle Housing Land Divisions to comply with HB 2138 begin in Section 11.610. Other minor amendments are proposed throughout the article.

ARTICLE 11 LAND DIVISIONS AND PLANNED DEVELOPMENTS

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

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

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

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

GENERAL PROVISIONS

***** No changes are proposed to the General Provisions in Sections 11.010 through 11.080, so they are not provided.*****

Staff Comments regarding Flag Lots in 11.090(5):

The code currently requires the “pole” of each “flag lot” to be at least 22 feet wide, unless two flag lots are being proposed, then the width is 12 feet for each pole for a combined minimum width of 24 feet.

Most cities have a narrower “pole” width, which better supports infill development. Staff propose to reduce the minimum width of the “pole” to 10 feet, which is wide enough for utilities needed to serve each development. However, developments must still provide necessary utility easements, comply with fire access requirements, and other applicable code standards.

LOT AND BLOCK ARRANGEMENT

11.090 Lot and Block Arrangements. Land divisions must conform to the following standards in this Article and other applicable provisions of this Code. Land divisions proposed within a Climate Friendly Area overlay zone must meet the maximum block length standards in Article 14.

- (1) Lot Arrangement. The following lot and block arrangement standards apply to land divisions for single-dwelling unit and middle housing development.

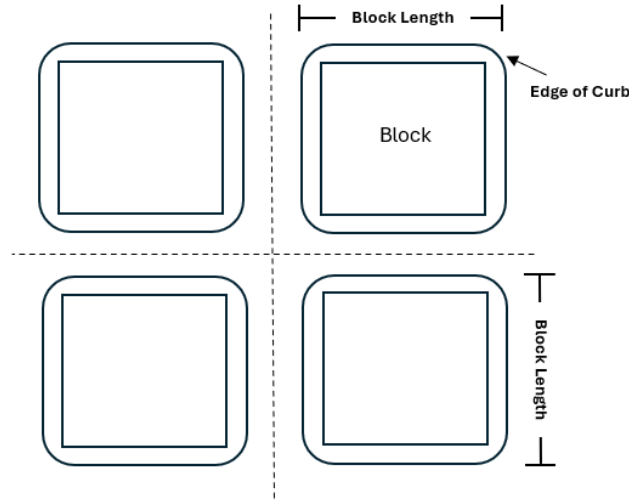
- (a) Lot arrangement must be such that there will be no foreseeable difficulties, for reason of topography or other condition, in securing building permits to build on all lots in compliance with the requirements of this Code except for lots designated Open Space.
 - (b) Lot dimensions must comply with the minimum standards of this Code. When lots are more than double the minimum area designated by the zoning district, those lots must be arranged so as to allow further subdivision and the opening of future streets where it would be necessary to serve potential lots. An urban conversion plan is required in conjunction with submittal of tentative subdivision or partition plat.
 - (c) Double frontage lots must be avoided except when necessary to provide separation of residential developments from collector and arterial streets or to overcome specific disadvantages of topography and/or orientation. When driveway access from arterials is necessary for several adjoining lots, those lots must be served by a combined access driveway to limit possible traffic hazards on such streets. The driveway must be designed and arranged to avoid requiring vehicles to back into traffic on arterials. An access control strip must be placed along all lots abutting arterial streets requiring access onto the lesser class streets where possible.
 - (d) Side property lines must run at right angles to the street the property faces through the front setback line or 10 feet except that on a curved street frontage, the side property line must be radial to the curve through the front setback line or 10 feet, whichever is greater.
- (2) Block Length and Perimeter. Land divisions in residential zones must provide a system of streets, accessways, and blocks meeting the block length and perimeter standards in this section to facilitate safe and convenient pedestrian and bicycle connectivity.
- (a) Block Length (Figure 11.090-1). The maximum block length is 800 feet. Where block length exceeds 500 feet, a public through-block accessway must be provided in conformance with the standards in ADC 12.355. Accessways must be located no more than 500 feet from the edge of the street pavement.
 - (b) Block Perimeter.
 - i. Pedestrian Block Perimeter: The maximum pedestrian block perimeter is 1,600 feet. Pedestrian blocks may be bound by sidewalks along streets or a combination of sidewalks, bicycle and pedestrian accessways/connectors, and multiuse paths and trails.
 - ii. Vehicle Block Perimeter: The maximum vehicle block perimeter is 2,200 feet. Vehicle blocks must be bounded on all sides by streets.
 - (c) Exceptions. The City Engineer may grant an exception to the average and maximum block length standards when one or more of the conditions in subsections (a) through (c) below exist on a development site as part of a discretionary review process.
 - i. Topography or natural features including but not limited to steep slopes, rivers, mature tree groves, riparian corridors, wetlands or other resource under protection by local, State or Federal law;
 - ii. Railroads, highways, or other permanent barriers;
 - iii. Lot or parcel size, orientation, or shape;
 - iv. Available access;
 - v. Existing or nonconforming development;

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- vi. To provide accessibility for people with disabilities; or
- vii. Other similar permanent site constraints.

When approving an exception, the City Engineer may require pedestrian and/or bicycle connectivity through the development, when warranted.

FIGURE 11.090-1. Block Length



- (3) Pedestrian/Bicycle Connectivity. When approving an exception in (2)(c) above, the City Engineer may require off-street pedestrian pathways that connect to the street network to provide pedestrian and bicycle access in situations where a public street connection is not feasible.
- (4) With the exception of townhouse development, the minimum frontage of a lot on a cul-de-sac must be 22 feet as measured perpendicular to the radius.
- (5) Flag lots are allowed only when the City Engineer has determined that the dedication and improvement of a public street is not feasible or not practical. The minimum width for a flag lot is 22-10 feet, ~~except when access is shared by an access and maintenance agreement in which case each lot must have a minimum width of 12 feet and a combined minimum of 24 feet.~~ Developments must provide adequate width for utility easements and access to public streets to comply with standards in Article 12 and applicable fire and building code.
- (6) At all street intersections, an arc along the property lines must be established so that construction of the street at maximum allowable width, centered in the right-of-way, must require of the curb line not less than the table below:

Intersection	Curb Radius
Residential - Residential	15 feet
Residential – Collector or Arterial	20 feet
Collector – Collector or Arterial	30 feet
Arterial - Arterial	30 feet

[Ord. 5445, 4/12/00; Ord. 5886, 1/6/17; Ord. 5912, 7/11/18; Ord. 5947, 1/1/21; Ord. 5968, 1/14/22; Ord. 6004, 12/28/22; Ord. 6042, 7/12/24; Ord. 6062, 5/23/25; Ord. 6068, 11/8/25]

OPEN SPACE IN RESIDENTIAL LAND DIVISIONS

- 11.095 Purpose. The purpose of requiring open space in residential land divisions is to provide access to green space, recreation, gathering space, and relaxation. These standards are intended to ensure that a land division’s open space is an integral part of the overall development.
- (1) Applicability. For residential subdivisions of 20 or more lots in the R-10, R-6.5, R-5, HM, RM, RMA, and MUR zoning districts, at least 50 square feet of open space per lot must be provided.
- (2) Improvement Standards
- (a) Usable Open Space. At least one area on the land to be divided must be improved as usable open space of at least 400 square feet with a minimum dimension of 15 feet. The usable open space must consist of a small accessible park and contain seating, trees, and landscaping.
- (b) Remaining Open Space. The remaining open space may consist of:
- i. A larger usable open space as described above, and could include, but is not limited to a multi-use path at least 10 feet wide constructed to city standards, trails, sidewalks, passive landscaping and trees, water features, garden(s), swale(s) or natural area may be considered part of the remaining open space.
 - ii. Up to 50 percent of a vegetated post-construction storm water quality facility (e.g. swale) or natural area may be considered part of the usable open space if an accessible sidewalk or path at least 5 feet wide provides access to the facility and surrounds at least 75 percent of it. Exemption. Open space is not required if a portion of the subdivision is within ¼ mile (measured in walking distance) of a publicly accessible park or elementary school.
- (3) A multi-use path must be provided if identified in the Parks Master Plan, the Transportation System Plan, an adopted area plan, or any other plan adopted by the City of Albany. The path must be at least 10 feet wide, centered within a 20-foot-wide easement and constructed to city standards as approved by the City Engineer. If the path is not provided at the time of development, a development agreement may be entered into for future construction and/or financial assurance thereof.

[Ord. 6059, 3/14/25]

PROPERTY LINE ADJUSTMENTS

***** No changes are proposed to the Property Line Adjustment standards in Sections 11.100 through 11.140, so they are not provided.*****

SUBDIVISIONS AND PARTITIONS

- 11.150 Difference Between Partitions and Subdivisions. A subdivision relates to the division of land into four or more lots within a calendar year. A partition relates to the division of land into two or three parcels within a calendar year. A partition does not include the three exclusions set forth in ORS 92.010 (7), including property line adjustments as described in Section 11.100 of this article.
- 11.160 Explanation of Process. Partitions and subdivisions are reviewed at two stages. A tentative plat is reviewed primarily for design aspects, such as connections to existing and future streets, preservation of natural features, drainage and floodplain considerations, and compliance with requirements of other portions of this Code. The tentative plat need not be prepared by a

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surveyor. The final plat is reviewed for conformance to the tentative plat as approved (with or without conditions) and applicable state or county laws or rules. The final plat must be prepared by a licensed land surveyor and is the instrument by which the land division is recorded.

11.170 Procedure.

- (1) Except as provided in subsection (2), a tentative subdivision or partition plat is reviewed through the Type I-L procedure.
- (2) A tentative subdivision plat that is reviewed concurrently with a Planned Development or a Cluster Development is subject to the Type II or III procedure.
- (3) A final subdivision or partition plat is reviewed through the Type I procedure.

[Ord. 5562, 10/10/03; Ord. 5968, 1/14/22; Ord. 6059, 3/14/25]

11.180 Tentative Plat Review Criteria. Approval of a tentative subdivision or partition plat, including for Planned Development, will be granted if the review body finds that the applicant has met all of the following criteria which apply to the development:

- (1) The application is consistent with the goals and policies of the Comprehensive Plan and any relevant plans adopted by the City Council.
- (2) The proposal meets the development standards of the underlying zoning district, applicable lot and block standards, and open space requirements of this Article.
- (3) Development of any remainder of property under the same ownership can be accomplished in accordance with this Code.
- (4) Adjoining land can be developed or is provided access that will allow its development in accordance with this Code.
- (5) The Public Works Director has determined that transportation improvements are available to serve the proposed subdivision or partition in accordance with Article 12 or will be made available at the time of development.
- (6) The Public Works Director has determined that public facilities and utilities are available to serve the proposed subdivision or partition in accordance with Article 12 or will be made available at the time of development.
- (7) Activities and developments within special purpose districts must comply with the regulations described in Articles 4 (Airport Approach), 6 (Natural Resources), ~~and 7 (Historic)~~, and 14 (Climate Friendly Areas) as applicable.

[Ord. 5764, 12/1/11; Ord. 5886, 1/6/17; Ord. 5968, 1/14/22; Ord. 6059, 3/14/25; Ord. 6068, 11/8/25]

***** No changes are proposed to Sections 11.190 through 11.230, so they are not provided.*****

Staff Comments – Residential Planned Development Process:

SB 974 reduces the land use process for residential planned developments from a Type III (public hearing) process to a staff level review with the option for a hearing on appeal (Type II process).

PLANNED DEVELOPMENTS

11.240 Definition. A planned development is a master planned environment intended for a variety of related activities. It promotes an integrated, coordinated development of land, normally involving increased flexibility in use and design standards, with special incentives or restrictions on

development. A planned development may be primarily residential uses with associated commercial uses, a mixed-use development, or it may be a commercial or industrial development.

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

- (1) Encourage more innovative planning that results in more desirable or sustainable environments or neighborhoods, improved protection of open spaces, transportation options, and site phasing of developments through the application of flexible and diversified land development standards than would otherwise occur under conventional land development procedures; and
- (2) Facilitate the efficient use of land and resources in regard to land uses, buildings, circulation systems, natural features, energy conservations, open space and utilities.

[Ord. 5832, 4/9/14]

11.260 Procedures. A planned development (PD) is processed in two steps and is typically accompanied by a partition or subdivision application, and the applications are processed concurrently. The first step is review of the planned development (PD) project design and land uses for conformance with the purposes of planned developments and the Code. The final PD is reviewed for conformance to the tentative PD as approved and applicable state or local laws and rules.

- (1) Residential and Mixed-Use Residential PDs are reviewed by the Director through the Type II procedure.
- (2) Non-Residential PDs are reviewed by the Planning Commission under the Type III procedure.
- (3) The final PD plan approval is reviewed by the Director through the Type I procedure.

[Ord. 5832, 4/9/14]

11.270 Permitted Buildings and Uses. The following buildings and uses are permitted individually or in combination in a planned development:

- (1) Residential areas:
 - (a) Accessory buildings and uses (permitted in combination with principal uses only);
 - (b) Dwellings, multiple-dwelling units;
 - (c) Dwellings, single-dwelling unit;
 - (d) Middle housing;
 - (e) Open space;
 - (f) Parks, playgrounds, golf courses, driving ranges, community centers, or recreation facilities supported by the planned development; and
 - (g) Commercial services that primarily serve the Residential Planned Development.
- (2) Industrial areas:
 - (a) Any use allowed outright through Site Plan Review, or by Conditional Use approval in the underlying zone is permitted. Uses specified as Conditional Uses in the underlying zone are limited to 25 percent of the site except that additional amounts may be approved through the Conditional Use process.
 - (b) Up to 25 percent of the total site area may be occupied by retail and service establishments not otherwise permitted within industrial districts provided that at least

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an equal area of the development has been previously or simultaneously developed for other permitted uses.

- (c) Up to 25 percent of the total site area may be occupied by office uses not pertinent to industrial uses within the development or otherwise permitted within the underlying zoning district.
- (d) Office uses, services, and other accessory uses totally supported by other permitted uses are allowed in addition to the percentage amounts specified above.

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

11.280 Standards That May Be Modified. The following standards may be modified in order to create developments that are superior to those that could be developed through the conventional development and design standards:

- (1) Development Standards. Except as noted in Table 11.330-1, minimum lot area, width and frontage, height, setbacks and yard requirements (and for manufactured home parks, the manufactured home park standards in Article 10) will not be used to dictate the development but will act as general guidelines that may be adjusted to provide for higher quality development.
- (2) Design Standards. Except as noted herein, design standards in Article 8 may be modified through a planned development if the Adjustment criteria in ADC 2.080 are met. Design standards identified in ADC 8.000 as not being eligible for Adjustments are also not eligible for modification through a Planned Development.
- (3) Streets. Private streets may be constructed in a planned development. These streets may be narrower than usual where on-street parking is prohibited and where access is limited to pre-approved locations. Any private street in an industrial planned development must be constructed to public standards. All lots must be provided with direct access to a public or private street.
- (4) Cottage Clusters. A cottage cluster project may be developed as a planned development (with a concurrent standard land division application) in order to provide the developer with flexibility in the number and configuration of units and lots. This is an alternative to the middle housing land division process under ADC 11.600-11.630. Cottage clusters that are divided as provided herein must continue to be classified as Middle Housing.

[Ord. 5968, 1/14/22; Ord 6018, 6/30/23]

**** No changes are proposed to Sections 11.290 through 11.325, so they are not provided.****

Staff Comments: Adding existing minimum densities to the Planned Development Density Table 11.330-1 and updating maximum density figures to reflect net density (density is determined by minimum lot sizes) for consistency within this code and state law.

11.330 Planned Development Standards. In conjunction with standard requirements for setbacks and landscaped areas, the following standards apply to planned developments:

- (1) Open Space and Common Areas in Residential, Mixed-Use and other Non-Industrial Planned Developments. Open space or common areas must be provided for common enjoyment. In all residential developments and mixed-use developments, except as provided in subsections (b) and (h), 25 percent of the gross land area must be devoted to open space, outdoor living area or common areas as follows.
 - (a) Land that may be counted towards the open space requirement includes:
 - Natural resources accessible to the public;

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

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Table 11.330-1

	R-10	R-6.5	R-5 & HM	RM	RMA	HDR	OS
Maximum dwelling units per <u>net</u> acre*	<u>45</u>	<u>67</u>	<u>89</u>	None	None	None	1**
<u>Minimum dwelling units per acre***</u>	<u>None</u>	<u>None</u>	<u>None</u>	<u>12</u>	<u>20</u>	<u>25</u>	<u>None</u>
Small SDU or Duplex 800-1,250 SF per net acre	<u>67</u>	<u>911</u>	<u>152</u>	None	None	None	1**
Small SDU or Duplex less than 800 SF per net acre	<u>89</u>	<u>152</u>	<u>176</u>	None	None	None	1**

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

** Allows 1 residential unit per existing lot.

*****See Article 14 for additional density minimums in Climate Friendly Area Overlay Districts.**

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

[Ord. 5801, 2/13/13; Ord. 5832, 4/9/14; Ord. 5842, 1/1/15; Ord. 5947, 1/1/21; Ord. 5968, 1/14/22; Ord. 6059, 3/14/25]

**** No changes are proposed to Sections 11.340 through 11.390, so they are not provided.****

CLUSTER DEVELOPMENT

11.400 Purpose. A 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]

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- 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.
 - (21) Natural and Other Special Features. The site must contain one or more of the features listed in Section 11.460.
 - (32) Professional Designer. An applicant for cluster development approval must certify in writing that a certified landscape architect, site planner, or landscape designer, approved by the Director, will be used in the planning and design process for the proposed development. [Ord. 5668, 4/11/07]
- 11.420 Relationship to Other Regulations. If the applicant chooses the cluster development option, and the site is deemed eligible by the City, these standards will supplement other provisions of this Code. For example, a subdivision proposed as a cluster development is also subject to other provisions of Article 11 of the Development Code. Other types of residential development are subject to Site Plan Review or Conditional Use review. These provisions apply to issuance of building permits in a cluster development and to ongoing uses and activities in a cluster development. [Ord. 5562, 10/10/03; Ord. 5668, 4/11/07; Ord. 5947, 1/1/21]
- 11.430 Procedure. Cluster development proposals are reviewed as a Type II procedure. [Ord. 5562, 10/10/03; Ord. 5668, 4/11/07; Ord. 6059, 3/14/25]
- 11.440 Review Criteria. The review criteria for a cluster development are those that apply to a particular type of development. For example, the tentative plat criteria in Article 11 apply to cluster land divisions. (See Section 11.420 for relation to the other requirements.) Also, the review body must find that the application meets the following additional criteria:
- (1) The application is consistent with the goals and policies of the Comprehensive Plan and any relevant plans adopted by the City Council.
 - (2) The proposed development meets all of the requirements for cluster development.
 - (3) The proposed development preserves or restores natural or other special features as identified and prioritized in ADC 11.460.
- [Ord. 5562, 10/10/03; Ord. 5668, 4/11/07; Ord. 5764, 12/1/11; Ord. 5923, 2/8/19; Ord. 5968, 1/14/22; Ord. 6068, 11/8/25]
- 11.450 Natural Area Requirements. Cluster developments must provide a minimum of 20 percent of the site as permanent natural areas. Land designated as Open Space on the Comprehensive Plan or Zoning maps may not be used to fulfill this requirement. [Ord. 5562, 10/10/03; Ord. 5668, 4/11/07; Ord. 5764, 12/1/11]
- 11.460 Designation of Permanent Natural Area. The required natural area may be public or private. The minimum 20 percent of the gross acreage of the development site set aside as natural area in a cluster development must be designated in the following priority order:
- (1) The first priority for natural area designation is significant tree groves identified on the South Albany Area Plan Organizational Framework map in the Comprehensive Plan (Figure 1), and Oregon White Oak (*Quercus garryana*) trees citywide equal to or greater than six five and

- one-quarter~~half~~ feet in circumference (approximately ~~20~~20.5 inches in diameter) measured as defined in Article 9.203(4). For individual trees, the natural area boundary is defined as the critical root zone (as defined in Article 9.203 (1)) plus a 10-foot buffer.
- (2) The second priority for natural area designation is natural resources within the Significant Natural Resource overlay districts that are of degraded or marginal quality and subsequently restored to good quality in accordance with the quality levels in ADC Section 6.410(5). This priority must be satisfied in the following order:
- (a) Habitat for western painted and northwestern pond turtles within the Habitat Assessment Overlay (/HA), as identified by a turtle habitat assessment, that is restored to good quality.
 - (b) Wetland within the Significant Wetland overlay district (/SW) that is restored to good quality.
 - (c) Riparian area within the Riparian Corridor overlay district (/RC) that is restored to good quality.
- (3) The third priority for natural area designation is protection of other environmentally sensitive areas, or natural and scenic features of the site. This priority must be satisfied in the following order:
- (a) Good quality habitat for western painted and northwestern pond turtles near Thornton Lakes within the Habitat Assessment overlay (/HA) as identified by a turtle habitat assessment.
 - (b) Good quality wetland within the Significant Wetland overlay district (/SW).
 - (c) Good quality riparian area within the Riparian Corridor overlay district (/RC).
 - (d) Other wetlands not within the Significant Wetland overlay district, as shown on the City’s Local Wetland Inventories, or by a delineation approved by the Oregon Department of State Lands.
 - (e) Existing channels identified in the most current version of the City of Albany Storm Water Master Plan.
 - (f) Springs.
 - (g) Land with natural slopes 12 percent or greater as designated by the Hillside Development overlay district (/HD).
 - (h) Wooded area with five or more healthy trees over 25 inches in circumference (approximately eight inches in diameter) measured as defined in Article 9.203(4), if approved by the City Forester.
 - (i) Land that provides bike or walking trails that connect to existing or proposed parks or trails, inventoried natural features, or areas zoned Open Space; or areas otherwise protected as permanent natural areas.
 - (j) Incorporate public parks, trails, trailheads or open space designated in the Parks, Recreation and Open Space Plan, the North Albany Refinement Plan, and the South Albany Area Plan.
 - (k) Other features of the site unique to Albany, if approved by the Director.
- (4) The fourth priority for natural area designation is to create “open spaces” in and around neighborhoods. This priority is satisfied by any of the following:
- (a) Continuity of adjacent open space corridors or parkways.
 - (b) A network of interconnected open space corridors.

(c) A buffer between neighborhoods.

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

11.470 Creation of Permanent Natural Areas.

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

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

11.480 Protection of Permanent Natural Areas.

- (1) If any applicable overlay districts allow it, the development may encroach into permanent natural areas, only under the following circumstances:
 - (a) The development meets the requirements of all overlay districts in Articles 4, 6 and 7; and
 - (b) The encroachment is necessary to meet transportation, utility infrastructure requirements, or post construction stormwater quality requirements; or
 - (c) The encroachment is necessary to provide bike or walking trails that connect to existing or proposed parks or trails, inventoried natural features, or areas zoned Open Space or otherwise protected as permanent natural areas.
- (2) Permanent alteration by grading may be authorized for the purpose of natural resource enhancement, such as wetland, riparian, or wildlife habitat restoration.
- (3) Significant wetlands, riparian corridors, and intermittent streams preserved as natural areas in a cluster development may be used for conveyance of storm waters only when the applicant has demonstrated that the discharge is compatible with the protection of the natural resource. These natural features must not be used for drainage improvements, such as detention or retention ponds, or any other utility improvement necessary for development of the lots.
- (4) Areas set aside for permanent natural areas in a cluster development cannot be further subdivided.
- (5) Fences are permitted in and around the natural areas if consistent with the expressed purpose of the natural areas.
- (6) Provisions must be established to ensure the continued maintenance of areas designated

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as natural areas through Cluster Development. See Section 11.470.

[Ord. 5562, 10/10/03; Ord. 5668, 4/11/07; Ord. 5801, 2/13/13; Ord. 5842, 1/1/15; Ord. 6068, 11/8/25]

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

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

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

Staff Comments: Cluster Development Standards. In exchange for protecting natural resources, flexibility to development standards is provided. The standards below are intended to be more flexible than those in Article 3. A few changes to this table were missed with prior updates to other sections of the ADC.

~Adding existing minimum densities to the Table 11.495-1 and updating maximum density figures to reflect net density (density is determined by minimum lot sizes).

~Front yard setbacks were reduced with the Climate Friendly Area Amendments and minimum backyard setbacks were increased. Consequently, most of the front yard setbacks below are no longer less than those required for regular development. Therefore, staff propose to slightly reduce the minimum front setbacks and add minimum backyard setbacks.

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

TABLE 11.495-1. Allowable density ranges and standards per zone for residential zones.

Standard	R-10	R-6.5	R-5 & HM	RM	RMA	HDR	OS
Density Maximums (units per net acre (1)):							
Single Dwelling Units (SDU) <u>over 1250 SF (1)</u>	<u>45</u>	<u>67</u>	<u>8-9</u>	None	None	None	1 (5)
Small SDU or Duplex <u>800 – 1,250 SF (1)</u>	<u>67</u>	<u>911</u>	<u>152</u>	None	None	None	1 (5)
Small SDU or Duplex <u>Less than 800 SF (1)</u>	<u>89</u>	<u>152</u>	<u>176</u>	None	None	None	1 (5)
<u>Density Minimums (units per net acre (1)):</u>	<u>None</u>	<u>None</u>	<u>None</u>	<u>12</u>	<u>20</u>	<u>25</u>	<u>N/A</u>
Minimum Lot Size (2)	None	None	None	None	None	None	N/A
Minimum Lot Width	None	None	None	None	None	None	N/A
Minimum front setback (3)	<u>12-10 ft.</u>	<u>10-8 ft.</u>	<u>10-8 ft.</u>	<u>10-8 ft.</u>	<u>10-8 ft.</u>	<u>10-8 ft.</u>	N/A
<u>Minimum rear setback</u>	<u>5 ft.</u>	<u>5 ft.</u>	<u>5 ft.</u>	<u>5 ft.</u>	<u>5 ft.</u>	<u>5 ft.</u>	<u>N/A</u>
Maximum Lot Coverage (4)	70%	70%	70%	75%	80%	85%	N/A

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

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

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

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

[Ord. 5801, 2/13/13; Ord. 5923, 2/8/19; Ord. 5947, 1/1/21; Ord. 5968, 1/14/22; Ord. 6059, 3/14/25]

**** No changes are proposed to Sections 11.500 through 11.530, so they are not provided. ****

EXPEDITED AND MIDDLE HOUSING LAND DIVISIONS

11.600 Expedited Land Divisions. Expedited land divisions are defined by ORS 197.360(1).

- (1) Eligibility Criteria. For an expedited land division application to be considered, the application must demonstrate how the proposed division complies with each of the following provisions:
 - (a) The land is zoned for residential use and is within the urban growth boundary.
 - (b) The land is solely for the purpose of residential use, including recreational or open space uses accessory to residential use.
 - (c) The land division will not provide for dwellings or accessory buildings to be located on land that is specifically mapped and designated in the comprehensive plan and land use regulations for full or partial protection of natural features under the statewide planning goals that protect:
 - i. Open spaces, scenic and historic areas, and natural resources; or
 - ii. The Willamette River Greenway.
 - (d) The land division satisfies minimum street or other right-of-way connectivity standards established by the City’s Transportation System Plan, Engineering Design Standards, Standard Construction Specifications, and Albany Development Code.
 - (e) The land division will result in development that either:
 - i. Creates enough lots or parcels to allow building residential units at 80 percent or more of the maximum net density permitted by the zoning designation of the site; or
 - ii. Will be sold or rented to households with incomes below 120 percent of the median family income for the county in which the project is built.
- (2) Tentative Plat Submittal. In addition to the items listed in ADC 11.210, an application for an expedited land division shall describe the manner in which the proposed division complies with each of the provisions in subsection (1) of this section.
- (3) Review Criteria. Approval of an expedited land division shall be based on the tentative plat review criteria in ADC 11.180.
- (4) Tentative Plat Conditions of Approval. Expedited land division shall be subject to the same conditions of approval as a subdivision or partition (ADC 11.190).

[Ord. 5968, 1/14/22]

Staff Comments – Middle Housing Land Division Amendments to comply with HB 2138:

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

- MHLDs (to create the child lots) must be allowed concurrently with an initial subdivision to create new parent lots.
- Adding eligibility, applicability, timing, and Clarification regarding further land division of child lots.
- Existing standards are being reorganized to better align with the state model code.

11.610 Middle Housing Land Division. A middle housing land division (MHLD) is a partition or subdivision of a lot or parcel (the parent lot) within a middle housing zoning district ~~on which a~~where the development of middle housing is permitted under ORS 197A.420 and where project middle housing is ~~has been developed or proposed approved for development under the provisions of this Code and ORS 197.758. Middle housing land division~~MHLDs are regulated by this Code and ORS Chapter 92, Section 92.031. The purpose of a MHLD is to provide a simplified and expedited process for subdividing or partitioning lots with existing or proposed middle housing so that each unit is on a separate property, which enables the units to be sold and owned individually

- (1) Eligibility. Any lot (parent lot) developed, or proposed to be developed, with middle housing pursuant to ORS 197A.420(2) is eligible for an MHLD. The following types of middle housing are eligible for a MHLD:
 - (a) A single duplex, triple, quadplex, cottage cluster, or a single structure containing townhouses;
 - (b) Additional bonus units as permitted by Section 3.220 and House Bill 2138 (2025 Session), as applicable; and
 - (c) Any retained ore rehabilitated existing single dwelling unit with or without one accessory dwelling unit or one duplex.
- (2) Applicability of Middle Housing Regulations. An MHLD creates two or more lots from a single parent lot on which middle housing is developed or proposed. After an MHLD is completed, the resulting lots are “child lots.” The development is still subject to the requirements and standards that applied to the parent lot prior to the MHLD. In other words, the middle housing development is still defined and regulated as the original middle housing type after an MHLD is completed. For example, an attached triplex that undergoes an MHLD does not become a townhouse development; the structure and property are still subject to requirements/standards for a triplex.
- (3) Application Timing and Sequencing.
 - (a) An application for a tentative plat for an MHLD may be submitted before, after, or at the same time as a submission of an application for building permits for the middle housing.
 - (b) An application for an MHLD may be submitted at the same time as an application for a standard subdivision or partition. The standard lad division would create the parent lot(s), and the MHLD would further subdivide the lot(s) into middle housing child lots.
 - (c) An application for one or more MHLDs submitted at the same time as an application for a standard subdivision or partition will be consolidated into a single application subject to the procedural requirements for the standard subdivision or partition.
 - (d) Within the same calendar year as an original partition that was not an MHLD, one or more of the resulting vacant parcels may be further partitioned into not more than 3 parcels through an MHLD.
- (4) Further Division of Child Lots. Middle housing child lots may be further divided by a subsequent MHLD if at least one of the following conditions is met”

- (a) The child lot is two or more times larger than the minimum lot size of the zone, meaning that it could be divided through a standard land division into two or more lots that meet the minimum lot size; or
 - (b) Further division of the child lot would enable the applicable minimum density requirements to be met.
- (15) Review Criteria. Approval of a tentative plat for a middle housing land division will be granted if the Director finds that the applicant has met all of the following criteria:
- (a) The middle housing development will comply with the Oregon ~~Residential Specialty Code~~ and the applicable ADC middle housing regulations, including but not limited to, the provisions in the base zone and in Sections 8.110-8.175. Exception: any retained or rehabilitated existing units on the lot as permitted under ORS 197A.420(4), as applicable, are not required to comply with the siting and design standards applicable to the parent lot. ~~The applicant shall submit approved building permits demonstrating that existing structures comply with the Oregon Residential Specialty Code and ADC middle housing regulations when the parent parcel contains one or more structures that a proposed property line intersects or bisects the building, or the parent parcel contains one or more structures that the roof overhang or exterior walls will be located within 3 feet of the proposed property lines.~~
 - (b) Separate utility service connections for public water, sewer, and stormwater will be provided for each dwelling unit. When stormwater services are shared, a shared maintenance easement and agreement is recorded outlining the obligations of individual owners.
 - (c) Easements will be provided as necessary for each dwelling unit on the site for:
 - i. Locating, accessing, replacing, and servicing all utilities;
 - ii. Pedestrian access from each dwelling unit to a private or public road;
 - iii. Any common use areas or shared building elements;
 - iv. Any dedicated driveways or parking; and
 - v. Any dedicated common area.
 - (d) Exactly one dwelling unit will be located on each resulting lot (referred to as middle housing child lots), except for:
 - i. Lots or tracts used as common areas, on which no dwelling units will be permitted.
 - ii. Lots containing one existing retained single dwelling unit with or without an accessory dwelling unit or one duplex as permitted under ORS 197A.420(4). Such retained units shall be considered a single middle housing unit for the purposes of the MHLD.
 - iii. Lots containing one middle housing dwelling unit plus the one accessory dwelling unit (ADU) permitted for each duplex, triplex, fourplex or townhouse when the development creates housing that is at or above the minimum density for the zone when applicable. For example, a triplex is permitted one (ADU); the one ADU will be located on a child lot with one of the triplex units resulting from an MHLD. Each townhouse may have one accessory dwelling unit.
 - (e) Buildings or structures on a resulting child lot will comply with applicable building codes provisions relating to new property lines.
 - (f) Notwithstanding the creation of new child lots, structures or buildings located on the newly created lots will comply with the Oregon Residential Specialty Code.

(g) Where a resulting child lot abuts a street that does not meet City standards, street frontage improvements will be constructed and, if necessary, additional right-of-way will be dedicated, pursuant to ADC 12.140 and 12.200.

(26) Tentative Plat Submittal. In addition to the items listed in ADC 11.210, an application for a middle housing land division shall include the following:

(a) A description of the manner in which the proposed division complies with each of the provisions of subsection (1) of this section, including copies of approved building permits and other evidence necessary to demonstrate:

- i. How existing or proposed buildings or structures on a resulting child lot will comply with applicable building codes provisions related to new property lines; and
- ii. Notwithstanding the creation of new lots, how structures or buildings located on the newly created child lots will comply with the Oregon Residential Specialty Code.

(b) In addition to the items listed in ADC 11.210(1) – (21), copies of a plat showing the following details:

- i. Separate utility connections for each dwelling unit, demonstrating compliance with approval criterion 11.610(~~4~~)(b).
- ii. Existing or proposed easements necessary for each dwelling unit on the plan, demonstrating compliance with the criterion 11.610(~~4~~)(c).

(c) Copies of all required easements in a form approved by the City Attorney.

(67) Tentative Plat Conditions of Approval.

~~(a)~~—The City may attach conditions of approval of a tentative plat for a middle housing land division to:

~~(a)i-~~ Prohibit further division of the resulting child lots. However, further division of the child lots may be permitted as provided in subsection (3) of this section.

~~(b)ii-~~ Require that a notation appear on the final plat indicating:

- i. The approval was given under ORS Chapter 92.031.
- ii. The type of middle housing approved on the subject site and noting that this middle housing type shall not be altered by the middle housing land division.
 - A. Accessory dwelling units are not permitted on child lots resulting from a middle housing land division.

~~(c)iii-~~ Ensure that improvements associated with review criteria in ADC 11.610 (5) are provided.

~~(d)b~~ In accordance with ORS Chapter 92, the City shall not attach conditions of approval requiring that a child lot require driveways, vehicle access, parking, or minimum or maximum street frontage.

~~(e)~~ The tentative approval of a middle housing land division is void if and only if a final middle housing land division plat is not approved within three years of the tentative approval.

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

11.620 Tentative Plat Procedures for Expedited and Middle Housing Land Divisions. Unless the applicant requests to use the standard land division procedures set forth in ADC 11.170, the City shall use the following procedure for an expedited land division, as described in ORS 197.360, or a middle housing land division. An expedited or middle housing land division is not a land use decision or a limited land use decision under ORS 197.015 or a permit under ORS 215.402 or 227.160.

- (1) Concurrent Review Option. An application of one or more than one MHLD submitted at the same time as an application for a standard subdivision or partition will be consolidated into a single application subject to the procedural requirements for the standard land division.
- (24) Completeness Review.
 - (a) If the application for an expedited or middle housing land division is incomplete, the City shall notify the applicant of exactly what information is missing within 30 days of receipt of the application and allow the applicant to submit the missing information. For purposes of computation of time, the application shall be deemed complete on the date the applicant submits the requested information or refuses in writing to submit it.
 - (b) If the application was complete when first submitted or the applicant submits the requested additional information within 180 days of the date the application was first submitted, approval or denial of the application shall be based upon the standards and criteria that were applicable at the time the application was first submitted.
- (23) Notice of Application.
 - (a) On receipt of a complete application, written notice shall be provided to owners of property within 100 feet of the entire contiguous site for which the application is made and to any City Council-recognized neighborhood association(s) whose boundaries include the site. Notice ~~shall~~ must also be provided to any agency responsible for providing public services or facilities to the subject site. The notification list shall be compiled from the most recent property tax assessment roll. For purposes of appeal to the referee under ORS 197.375, this requirement shall be deemed met when the City can provide an affidavit or other certification that such notice was given.
 - (b) The notice shall include the following information:
 - i. The deadline for submitting written comments;
 - ii. A statement that issues that may provide the basis for an appeal to the referee must be raised in writing prior to the expiration of the comment period; and
 - iii. A statement that issues must be raised with sufficient specificity to enable the City to respond to the issue.
 - iv. The applicable criteria for the decision.
 - v. The place, date, and time that comments are due.
 - vi. A time and place where copies of all evidence submitted by the applicant will be available for review.
 - vii. The street address or other easily understood geographical reference to the subject property.
 - viii. The name and telephone number of a City contact person.
 - ix. A brief summary of the local decision-making process for the land division decision being made.
- (34) There shall be a 14-day period to allow for submission of written comments prior to the Director's decision.
- (45) There shall be no public hearing on the application.
- (56) The Director shall make a decision to approve or deny the application based on compliance or noncompliance with the applicable review criteria within 63 days of receiving a completed application as described in ORS 227.178.

- (67) The Director's decision shall be based on applicable elements of the Albany Development Code and Comprehensive Plan. An approval may include conditions of approval pursuant to section 11.610(7) to ensure that the application meets the applicable land use regulations.
- (78) Notice of the decision shall be provided to the applicant and to those who received notice under subsection (2) within 63 days of the date of a completed application. The notice of decision shall include:
 - (a) A summary statement explaining the determination; and
 - (b) An explanation of appeal rights under ORS 197.375.
- (89) Failure to approve or deny application within specified time.
 - (a) Except as provided in subsection (b), if the City does not make a decision on an expedited or middle housing land division within 63 days after the application is deemed complete, the applicant may apply in the circuit court for the county in which the application was filed for a writ of mandamus to compel the City to issue the approval. The writ shall be issued unless the City shows that the approval would violate a substantive provision of the applicable land use regulations or the requirements of ORS 197.360. A decision of the circuit court under this section may be appealed only to the Court of Appeals.
 - (b) After seven days' notice to the applicant, the City Council may, at a regularly scheduled public meeting, take action to extend the 63-day time period to a date certain for one or more applications for an expedited or middle housing land division prior to the expiration of the 63-day period, based on a determination that an unexpected or extraordinary increase in applications makes action within 63 days impracticable. In no case shall an extension be to a date more than 120 days after the application was deemed complete. Upon approval of an extension, the provisions of ORS 197.360 to 197.380, including the mandamus remedy provided by subsection (a); shall remain applicable to the expedited or middle housing land division, except that the extended period shall be substituted for the 63-day period wherever applicable.
- (910) The applicant, or any person or organization that files written comments in the comment period established under subsection (3), may appeal the Director's decision within 14 days of the mailing of the decision notice and the appeal shall be based solely on allegations as listed in ORS 197.375(1)(c)(A) through (1)(c)(D) and shall be accompanied by a \$300 deposit for costs which is refundable if the appellant prevails.
- (110) The Director shall appoint a referee to decide the appeal decision and the appointed referee shall comply with ORS 197.375(3) through (6) when issuing a decision. The referee may not be a City employee or official.

[Ord. 5968, 1/14/22]

11.630 Final Plat Requirements for Expedited and Middle Housing Land Division

- (1) Expedited Land Division - Final Plan Review Criteria. Approval of a final plat for an expedited land division shall be consistent with the review criteria for subdivisions and partitions (ADC 11.220).
- (2) Middle Housing Land Division - Final Plan Review Criteria. Approval of a final plat for a middle housing land division will be granted if the review body finds that the applicant has met the following criteria:

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

- (a) The final plat is in substantial conformance with the tentative plat.
 - (b) Conditions of approval attached to the tentative plat have been satisfied.
 - (c) All proposed improvements required to satisfy applicable standards of the ADC have been constructed.
 - (d) All existing and proposed buildings comply with applicable building codes.
- (3) Final Plat Submittal. An application for an expedited or middle housing land division final plat shall include the items listed in ADC 11.230.

[Ord. 5968, 1/14/22]

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

Staff Comments: A minor change is proposed to fix the minimum stormwater easement required to match city construction standards. No other changes are proposed in this Article.

ARTICLE 12 PUBLIC IMPROVEMENTS

12.000 Overview. This article provides public improvement standards to address the City’s concerns related to public health, safety, and welfare as it relates to the management of public transportation systems and utilities. These standards are used with the procedural and design requirements contained in other articles of the Albany Development Code. [Ord. 5947, 1/01/21]

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

- General Provisions
- Streets
- Sidewalks
- Street Trees
- Bikeways
- Utilities—General
- Water
- Sanitary Sewer
- Storm Drainage
- Improvement Assurances
- Addresses and Street Names

[Ord. 5673, 6/27/07; Ord. 6062, 5/23/25]

***** No changes are proposed to Section 12.010 through 12.350 or after 12.405, so these sections are not provided. *****

UTILITIES—GENERAL

12.360 Utility Easements. The developer shall make arrangements with the City of Albany and each utility franchise for the provision and dedication of utility easements necessary to provide full services to the development. All utility easements must be public easements.

12.370 Utility Easement Width. The standard width for public utility easements adjacent to street rights-of-way is 7 feet. The minimum width for all other public utility easements shall be 15 feet for water, 20 feet for sewer, and ~~15~~20 feet for piped storm drainage unless otherwise specified by the utility provider. [Ord. 5947, 1/01/21]

12.380 Information on Development Plans. The developer must show easements for all utilities. Plans showing the location of all utilities shall be submitted to the City as part of the Site Plan Review or land division process. [Ord. 5947, 1/01/21]

12.390 Requirement for Underground Utilities. Except as exempted in Section 12.400, all utility lines, cables, or wires (including but not limited to those used for electricity, communication, street lighting, and cable television) constructed upon, adjacent to, or within land subdivided or prepared for development after the effective date of this Code, must be placed underground. The intent of the City is that no poles, towers, or other structures associated with utility facilities shall be permitted on any street or lot within such a subdivision or development.

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

12.400 Exceptions. Overhead facilities are only permitted in the following instances:

- (1) Emergency installations, electric transmission lines, or through feeders operating at distribution voltages which act as a main source of supply to primary laterals and to direct connected distribution transformers and primary loads.

Should it be necessary to increase the capacity of major power transmission facilities for service to the area, new or revised installations shall be made only on rights-of-way or easements on which overhead facilities exist at the time of the capacity increase.

- (2) Appurtenances and associated equipment such as surface-mounted transformers, pedestal-mounted terminal boxes, meter cabinets, telephone cable closures, and connection boxes, which cannot feasibly be located underground.
- (3) Structures without overhead wires, used exclusively for fire alarm boxes, street lights, or municipal equipment installed under the supervision and with the approval of the City Engineer.
- (4) Power substations, pumping plants, and similar facilities which are necessary for transmission or distribution of utility services and which cannot feasibly be located underground.
- (5) Television antennas and satellite dishes [see Section 3.080 (12)].
- (6) Onsite improvement for industrial developments.
- (7) Certain industries requiring exceptionally large power supplies may request direct overhead power as a condition of site plan approval.
- (8) New development on existing individual lots of record in areas where service is currently by overhead utilities.

[Ord. 5947, 1/01/21]

12.405 Property Monuments. Upon completion of a utility project and before acceptance by the City, all property corners and other monuments disturbed or removed by the project shall be reestablished and protected by an Oregon-licensed surveyor retained by the developer.

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

Staff Comments: Changes to definitions and use categories are needed to comply with HB 2005 that requires cities to permit crisis stabilization centers and mental or psychiatric hospitals. A few definitions are proposed to be added or clarified. The full Article and [Albany Development Code](#) are located online.

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

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

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

RESIDENTIAL USE CATEGORIES

- 22.260 Residential Care or Treatment Facility
- 22.270 Assisted Living Facility
- 22.280 Single-Dwelling Units and Two Primary Units
- 22.285 Middle Housing
- 22.300 Multiple Dwelling Unit Development: Five or More Units
- 22.310 Unit(s) Above or Attached to a Business
- 22.320 Residential Accessory Buildings

OTHER USE CATEGORIES

- 22.325 Accessory Buildings, Non-Residential
- 22.330 Agriculture
- 22.340 Communication Facility
- 22.350 Kennels
- 22.360 Passenger Terminals
- 22.370 Rail and Utility Corridors

[Ord. 5742, 7/14/10; Ord. 5968, 1/14/22; Ord. 6004, 12/28/22, Ord. 6042, 7/12/24]

22.020 Description of Use Categories.

- (1) Considerations. Uses are assigned to the category whose description most closely describes the nature of the primary use. Each use category is described and defined. Developments may have more than one primary use. Developments may also have one or more accessory uses. The following are considered in determining what category the use is in, and whether the activities constitute primary uses or accessory uses:
 - The description of the activity(ies) in relationship to the characteristics of each use category;
 - The relative amount of site or floor space and equipment devoted to the activity;
 - Relative amounts of sales from each activity;
 - The customer type for each activity;
 - The relative number of employees in each activity;
 - Hours of operation;
 - Building and site arrangement;
 - Vehicles used with the activity;
 - The relative number of vehicle trips generated by the activity;
 - Signs;
 - How the use advertises itself; and
 - Whether the activity would be likely to be found independent of other activities on the site.

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

- (2) Developments with multiple primary uses. When all of the primary uses of a development fall into one use category, the development is assigned to that use category. For example, a development that contains a retail bakery and a café would be classified in the Retail Sales and Service category because all of the primary uses are in that category. When the primary uses of a development fall into different use categories, each primary use is classified in the applicable category and is subject to the regulations for that category.
- (3) Accessory Uses. Accessory uses are incidental to the primary use category and may contribute to the comfort, convenience, or necessity of the principal use. Examples of accessory uses include but are not limited to storage, employee and customer parking, and employee facilities. These uses are allowed by right in conjunction with the use unless stated otherwise in the regulations. Unless otherwise stated, they are subject to the same regulations as the primary use. [Ord. 5742, 7/14/10]

Lists of accessory uses were deleted from the use categories in Sections 22.030 to 22.370 by Ord. 5742, adopted 7/14/10].

- (4) Use Examples. The “Use Examples” subsection of each use category provides a list of examples of uses that are included in the category. The names of uses on the lists are generic. They are based on the common meaning of the terms and not on what a specific use may call itself. For example, a use whose business name is “Wholesale Liquidation” but that sells mostly to consumers would be included in the Retail Sales and Service category rather than the Wholesale Sales category. This is because the actual activity on the site matches the description of the Retail Sales and Service category.

****Only the use categories where changes are proposed are provided here.****

INSTITUTIONAL USE CATEGORIES

22.180 Basic Utilities.

- (1) Basic Utilities uses provide community infrastructure, including water and sewer systems, telephone exchanges, power substations and transit. Utility uses generally do not have regular employees at the site. Services may be public or privately provided.
- (2) Use Examples. Types of uses include but are not limited to: water and sewer pump stations; sewage disposal and conveyance systems; electrical substations; water towers and reservoirs; water quality and flow control facilities; water conveyance systems; stormwater facilities and conveyance systems; telephone exchanges; mass transit stops, transit centers, park-and-ride facilities for mass transit; and emergency communication broadcast facilities.
- (3) Exceptions.
 - (a) Public Works projects, such as streets, utility lines, and pump stations.
 - (b) Services, where people are generally present, other than transit stops and park-and-ride facilities, are classified as Community Services or Offices.
 - (c) Utility offices where employees or customers are generally present are classified as Offices.
 - (d) Bus and light-rail barns are classified as Warehousing and Distribution.

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

- (e) Public or private passageways, including easements, for the express purpose of transmitting or transporting electricity, gas, oil, water, sewage, communication signals, or other similar services on a regional level are classified as Rail and Utility Corridors.
- (f) Energy production facilities are classified as Manufacturing uses; see Section 22.040.

[Ord. 5742, 7/14/10]

22.190 Community Services.

Community Services are operated by the government, a nonprofit, or charitable organization to provide a local service to people of the community. Generally, the services and employees are provided on a regular on-going basis at the site. The use may provide emergency shelter or short-term housing where tenancy may be arranged for periods of generally less than one month when operated by a public or non-profit agency.

- (1) Use Examples. Types of uses include, but are not limited to: libraries, museums, senior centers, community centers, publicly owned swimming pools and athletic courts or facilities, youth club facilities, public safety facilities including fire and police stations, drug and alcohol centers, vocational training for the physically or mentally disabled, social service facilities, emergency shelters or short-term housing when operated by a public or non-profit agency, soup kitchens, and food distribution centers.
- (2) Exceptions.
 - (a) Private lodges, clubs, and private or commercial athletic or health clubs or centers are classified as Indoor Entertainment and Recreation.
 - (b) Parks and cemeteries are classified as Parks, Open Areas, and Cemeteries.
 - (c) Uses where tenancy is arranged on a month-to-month basis (except at hotels/motels) or for a longer period are residential and are classified under Residential use categories.
 - (d) Applications for emergency shelters sited under ORS 197.782 and ORS 197.783 are not a land use decision.

[Ord. 5742, 7/14/10; Ord. 6042, 7/12/24; Ord. 6059, 3/14/25]

22.195 Crisis Stabilization Center.

- (1) A crisis stabilization center is a facility licensed by the Oregon Health Authority that meets the requirements adopted by the authority by rule under ORS 430.627 (Statewide coordinated crisis system). Crisis stabilization services include diagnosis, stabilization, observation and follow-up referral services provided to individuals in a community-based, developmentally appropriate homelike environment to the extent practicable.
- (3) Exception. A “peer respite center” is a voluntary, nonclinical short-term residential peer supported home or facility and further defined in ORS 430.626, is considered a Residential Care or Treatment Facility or Home.

22.200 Daycare Facility or Child Care Center.

- (1) A daycare or child care facility center is defined in Oregon Revised Statutes (ORS) as a “child care² facility” certified under ORS 329A.280(3), a preschool recorded program or school age recorded program recorded under ORS 329A.255, or a parent cooperative as defined in ORS 329A.250, or “adult care” facility. These centers that provides regular care, supervision and guidance in a place other than the child’s or adult’s home, is operated with or without compensation, and is certified by the state for the care of children (ORS

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329A.280). An “adult” daycare facility ;provides similar care to teenagers or adults who need assistance or supervision for a portion of the day.

- (1) Use Examples. Types of uses include but are not limited to: day nurseries or daycare centers, nursery schools, preschools, before- and after-school care facilities, child development centers and adult care programs that do not provide 24-hour care.
- (2) Exceptions.
 - (a) Daycare Facility or Child Care Center use does not include home based care given by the parents, guardians, ~~or relatives of the children,~~ or by babysitters; or by a person who cares for children from only one family other than the person’s own family; or by a person who cares for no more than three children other than the person’s own children; ~~or as noted in ORS 657A.250.~~
 - (b) A Daycare Facility or Child Care Center use ~~also~~ does not include care given by a “registered or certified family child care home” provider as defined by ORS ~~657A.440~~ if the care is given to no more than 16 children at any one time, including the children of the provider and the provider is either certified under ORS 329A.280(2) or registered under ORS 329A.330. These homes may require a license from the State of Oregon Children's Services Division.
 - (c) Daycare Facility or Child Care Center use does not include these uses when they are located in a facility that primarily provides education to a pre-school child or that is operated by a school district. In these cases, the centers would be accessory uses.
 - (d) Residential care, treatment, or training facilities for six or more individuals on a 24-hour basis are classified as a Residential Care or Treatment Facility. Care for five or fewer individuals are group or residential care homes, which are considered residential dwellings. Refer to ORS ~~443.400 to 443.455.~~

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

22.210 Educational Institutions.

- (1) Educational Institutions provide educational instruction to students. This category includes schools, colleges and other institutions of higher learning that offer courses of general or specialized study leading to a degree, and public and private schools at the primary, elementary, middle, junior high, or high school level that provide state-mandated basic education. This category also includes trade schools and vocational schools that provide on-site training of trade skills.
- (2) Use Examples. Types of uses include, but are not limited to: universities, liberal arts colleges, community colleges, nursing and medical schools not accessory to a hospital, seminaries, public and private daytime schools, boarding schools, military academies, and trade/vocational schools.
- (3) Exceptions.
 - (a) Preschools not operated by a school district are classified as a Daycare Facility.

[Ord. 5742, 7/14/10]

22.220 Hospitals.

- (1) Hospitals provide medical or surgical diagnosis and care to patients or may provide mental or psychiatric treatment and care and may offer overnight care. Hospitals tend to be on multiple blocks or in campus settings.

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- (2) Use Examples. Examples include hospitals and medical complexes that include hospitals or emergency care facilities and mental or psychiatric hospitals licensed under ORS 441.025.
 - (3) Exceptions.
 - (a) Uses that provide exclusive care and planned treatment or training for psychiatric, alcohol, or drug problems, where patients are residents of the program, are classified in the Group Living Residential Care or Treatment use category, but excluding mental or psychiatric hospitals licensed under ORS 441.025, which are in the Hospital use category.
 - (b) Medical clinics and urgent medical care clinics that provide care where patients are generally not kept overnight are classified as an Office use in 22.110.
 - (c) ~~Urgent medical care clinics are classified as an Office use in 22.110.~~
- [Ord. 5742, 7/14/10]

22.230 Jails and Detention Facilities.

- (1) Jail and Detention Facilities detain or incarcerate persons while being processed for arrest or detention by law enforcement. Inmates and detainees are under 24-hour supervision by sworn officers, except when on approved leave.
 - (2) Use Examples. Types of uses include, but are not limited to: prisons, jails, probation centers, and juvenile detention homes.
 - (3) Exceptions. Programs that provide care and training or treatment for psychiatric, alcohol, or drug problems, where patients are residents of the program, but where patients are not supervised by sworn officers, are classified as Group or Assisted Living. Programs that provide transitional living experience for former offenders, such as halfway houses, where sworn officers do not supervise residents, are also classified as Group or Assisted Living.
- [Ord. 5742, 7/14/10]

22.240 Parks, Open Areas, and Cemeteries.

- (1) Parks, Open Areas, and Cemeteries uses are natural areas or land consisting mostly of vegetative landscaping or outdoor recreation, community gardens, or public squares. Land tends to have few structures.
 - (2) Use Examples. Types of uses include, but are not limited to parks, golf courses, cemeteries or mausoleums, public squares, plazas, recreational trails, botanical gardens, boat launching areas, nature preserves, and land used for grazing that is not part of a farm or ranch.
- [Ord. 5742, 7/14/10]

22.250 Religious Institutions.

- (1) Religious Institutions primarily provide meeting areas for religious worship and activities.
 - (2) Use Examples. Churches, temples, synagogues, and mosques.
- [Ord. 5742, 7/14/10]

RESIDENTIAL USE CATEGORIES

22.260 Residential Care or Treatment Facility.

- (1) A Residential Care or Treatment Facility is a public or private facility for six or more

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unrelated persons who reside on site and who are physically, mentally, or socially handicapped, delinquent, or drug- or alcohol-dependent; with a person residing on site who is not related by blood, marriage, legal adoption or guardianship to the residents, and who may be responsible for supervising, managing, monitoring them and/or providing care, training or treatment to them. Larger facilities may offer shared facilities for eating, hygiene and/or recreation. Tenancy is for longer than one month. ~~Group or Residential Care or Treatment~~ Facilities include the state definition of residential care, training or treatment facility in ORS 443.400.

- (2) Use Examples. Types of uses include but are not limited to: group ~~care homes facilities~~ (for six or more residents); residential programs for drug and alcohol treatment; and alternative or post-incarceration facilities.
- (3) Exceptions.
 - (a) “Residential Care or Treatment Homes” providing care for or housing five or fewer physically, mentally or socially handicapped, delinquent persons or persons in need of treatment by a person who is not the parent or guardian of, and who is not related by blood, marriage, or legal adoption of, such persons are allowed in zones that allow residential dwellings per ORS 197.665.
 - (b) A registered or certified family child care home or adult foster care or treatment home, where residential care is provided in a homelike environment for five or fewer non-related individuals are considered a residential use of property and shall be permitted in areas zoned for residential or commercial purposes (per ORS 197.665 and ORS 657A.440).
 - (c) A place providing care and treatment on less than a 24-hour basis is classified as a Daycare Facility.
 - (d) Hospitals, including mental or psychiatric hospitals, and medical treatment facilities with overnight care are classified as Hospitals.
 - (e) Nursing homes and hospice care facilities for elderly or disabled persons are classified as Assisted Living.
 - (f) Lodging where tenancy may be arranged on a short-term basis may be classified as a Community Service use (such as short-term housing or mass shelters).
 - (g) Lodging where the residents meet the definition of a household, and where tenancy is arranged on a month-to-month basis, or for a longer period, is classified as Single-Dwelling Unit Detached, Two Detached Units, Middle Housing, or Multiple Dwelling Unit Housing.
 - (h) Correctional or detention facilities for people who are under judicial detainment and are under the supervision of sworn officers are included in the Jails and Detention Facilities category.
 - ~~(h)~~(i) Crisis Stabilization Centers as defined in ORS 430.626 and licensed under ORS 430.627 is its own use category.

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

22.270 Assisted Living Facility.

Assisted Living facilities are places that provide housing, personal care or assistance to unrelated residents that need help with activities of daily living, who are usually elderly or disabled persons. At least one person responsible for providing daytime care, protection, supervision, monitoring and/or training or treatment of residents is present on the site at all times. Larger group-living facilities may offer shared facilities for eating, hygiene and/or recreation. Tenancy is for longer than one month.

- (1) Use Examples. Types of uses include but are not limited to: nursing and convalescent homes; life care or continuing care services, hospice care facility, dementia care and assisted living facilities.
 - (a) Retirement housing units that are separate units and are owner-occupied or rented are classified as Single-Dwelling Unit Detached, Two Detached Units, Middle Housing, or Multiple Dwelling Unit Housing.
 - (b) Lodging where tenancy may be arranged for periods of less than one month is considered a hotel or motel use and is classified in the Retail Sales and Service category. However, in certain situations, lodging where tenancy may be arranged on a short-term basis may be classified as a Community Service use (such as short-term housing or homeless shelters).

[Ord. 5742, 7/14/10, Ord. 5886, 1/6/17; Ord. 5968, 1/14/22; Ord. 6004, 12/28/22]

22.280 Single-Dwelling Unit and Two Primary Units.

- (1) Single Dwelling Units are one dwelling unit on one lot, with or without one accessory dwelling unit or Single Room Occupancy (SRO) Unit. Two primary units are two primary detached dwellings on one lot.
- (2) Use Examples. Single detached units, a single dwelling unit with one Accessory Dwelling Unit, a Single Dwelling Unit with one SRO Unit, two detached primary dwelling units, one SRO Development with a minimum of four and no more than six SRO units, manufactured homes, prefabricated dwellings, and child and adult care or treatment homes for five or fewer individuals.
- (3) Exceptions.
 - (a) In certain situations, lodging where tenancy may be arranged for periods less than one month, such as short-term housing or homeless shelter, may be classified as Community Service uses.
 - (b) Dwellings and SRO developments where care or treatment are provided and that typically provide common dining are classified as a Group or Residential Care Home or Residential Care or Treatment Facility.
 - (c) Attached primary dwelling units are classified as Middle Housing (either a duplex, triplex, fourplex, or townhouse) or Multiple Dwelling Unit Development.
 - (d) Dwelling units located above, behind, or contiguous to a business or office on the ground floor(s) or that meet the definition of live/work dwelling units are classified as Units Above or Attached to a Business.

[Ord. 5742, 7/14/10, Ord. 5894, 10/14/17, Ord. 5968, 1/14/22; Ord. 6004, 12/28/22; Ord. 6008, 1/27/23; Ord. 6042, 7/12/2024; Ord. 6059, 3/14/25]

22.285 Middle Housing.

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

- (1) Middle housing includes the following housing types as defined in Section 22.400: duplexes, triplexes, fourplexes, townhouses, and cottage clusters.
- (2) Use Examples. Duplexes, triplexes, fourplexes, townhouses, and cottage clusters. See Figures 22.285-1 through 22.285-6 for examples of possible configurations for duplexes, triplexes, and fourplexes.
- (3) Exceptions.
 - (a) In certain situations, lodging where tenancy may be arranged for periods less than one month, such as short-term housing or homeless shelter, may be classified as Community Service uses.
 - (b) Dwelling units located above, behind, or contiguous to a business or office on the ground floor(s) are classified as Units Above or Attached to a Business or that meet the definition of live/work dwelling unit.
 - (c) With the exception of a cottage cluster, any lot with five or more dwelling units is classified as Multiple Dwelling Unit Housing.

Figure 22.285-1. Stacked Duplex

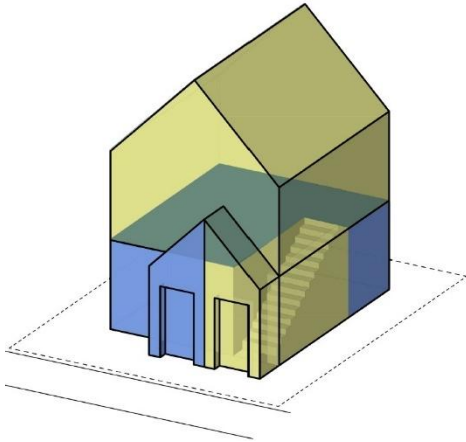


Figure 22.285-2. Side-by-Side Duplex

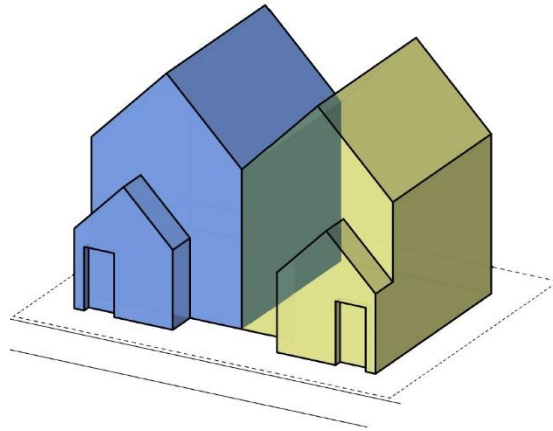
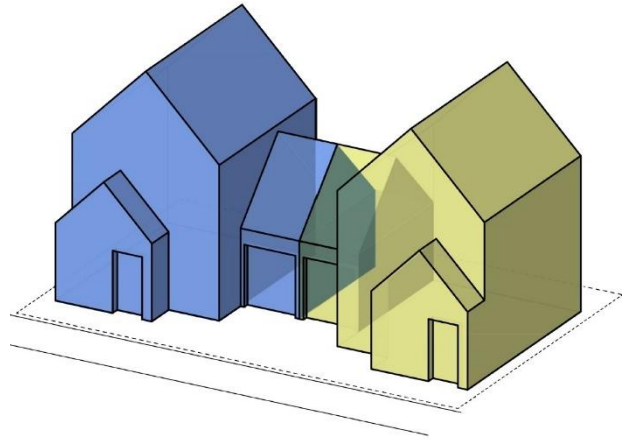


Figure 22.285-3. Duplex Attached by Breezeway



Figure 22.285-4. Duplex Attached by Garage Wall



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Figure 22.285-5. Triplex Front and Back

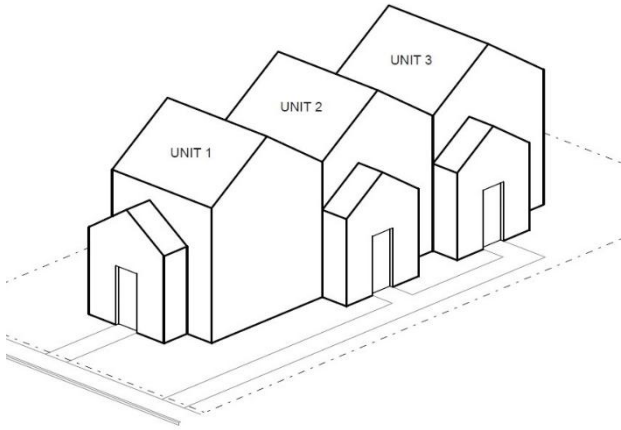
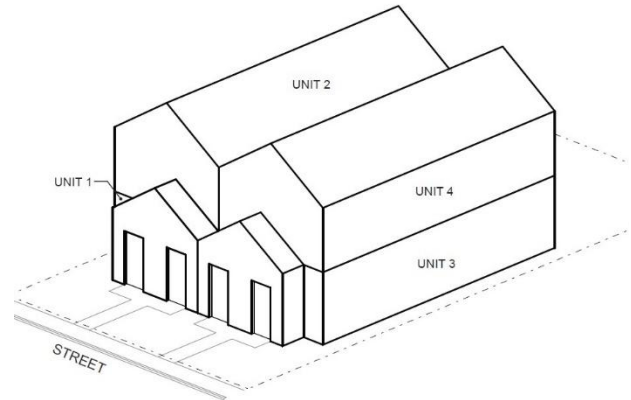


Figure 22.285-6. Stacked Fourplex



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

22.290 ~~Deleted per Ord. 5742, adopted on July 14, 2010.~~

22.300 Multiple Dwelling Unit Development: Five or More Units.

- (1) A Multiple Dwelling Unit development contains five or more dwelling units on one property or development site, attached or detached, including a building or collection of buildings, and excluding Middle Housing. Residential developments of three to four units are also classified as Multiple Dwelling Unit Housing if the development cannot otherwise be classified as Middle Housing.
- (2) Use Examples. Five or more detached dwelling units on one property (excluding cottage clusters), single room occupancy (SRO) development, a building containing five or more dwelling units in any vertical or horizontal arrangement often called an apartment building, condominiums, and any other similar configuration of five or more units on one property or development site.
- (3) Accessory Uses. Accessory uses commonly found are recreational activities, raising of pets, hobbies, and parking of the occupants' vehicles. Home occupations and bed and breakfast facilities are accessory uses that are subject to additional regulations.
- (4) Exceptions.
 - (a) Lodging in a dwelling unit or Single Room Occupancy (SRO) unit where less than two-thirds of the units are rented on a monthly basis is considered a hotel or motel use and is classified in the Retail Sales and Service category.
 - (b) Developments where care is provided regularly on-site are classified as a Group or Residential Care Home or Residential Care or Treatment Facility.
 - (c) Dwelling units located above, behind or contiguous to a business or office on the ground floor(s) are classified as Units Above or Attached to a Business.
 - (d) Cottage clusters are a type of Middle Housing and are not considered Multiple Dwelling Unit development.

[Ord. 5742, 7/14/10; Ord. 5801, 2/13/13; Ord. 5894, 10/14/17; Ord. 5968, 1/14/22; Ord.

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6004, 12/28/22; Ord. 6042, 7/12/24]

22.310 Unit(s) Above or Attached to a Business.

- (1) One or more residential dwelling units located above, behind or contiguous to a business or office on the ground floor(s), where the business has street frontage.
- (2) Use Examples. Apartments, condominiums, retirement center apartments, live/work dwelling units and other structures with self-contained dwelling units located above or attached to a business.
- (3) Exceptions.
 - (a) Lodging in a dwelling unit or Single Room Occupancy (SRO) unit where less than two-thirds of the units are rented on a monthly basis is considered a hotel or motel use and is classified in the Retail Sales and Service category.
 - (b) SRO developments or other dwellings where care or treatment is provided and that typically provide common dining are classified as a Group or Residential Care Home or Residential Care or Treatment Facility.
 - (c) ~~Live/work dwelling units in which the dwelling unit and the business are internally connected without passing through a common area are considered to have multiple primary uses, with the residential and non-residential uses each subject to the regulations for their respective use categories.~~

[Ord. 5742, 7/14/10; Ord. 5894, 10/14/17; Ord. 6042, 7/12/24]

22.320 Residential Accessory Buildings.

- (1) A detached building that is subordinate to and consistent with the primary residential use of the property and located on the same property as the primary dwelling. The use of a residential accessory building must be incidental to the primary dwelling and must not contain sleeping rooms or kitchens, unless approved as part of a permitted Accessory Dwelling Unit. Residential accessory buildings are permitted in residential and mixed-use zones when they meet the standards in Articles 3, 4, and 5.

[Ord. 5742, 7/14/10; Ord. 5947, 1/01/21; Ord. 5949, 1/01/21; Ord. 6042, 7/12/24; Ord. 6059, 3/14/25]

Staff Comments: Some definitions are being revised to be consistent with changes to state law. *Only the definitions where changes are proposed are that provide context are included.*

DEFINITIONS

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

Accessible: Complying with the American with Disabilities Act.

Accessible Unit: A dwelling unit that complies with the Oregon Structural Specialty Code (OSCC) and the provisions for Accessible units set forth in the Standard for Accessible and Usable Buildings and Facilities published by in the International Code Council (ICC, Section-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~~ OSCC and the provisions for Type A units in the ICC A117.1.

Accessory Dwelling Unit: A self-contained dwelling unit that is on the same lot as the primary single

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dwelling unit and is smaller than, and subordinate to the primary dwelling unit. The accessory dwelling unit may be attached to or interior to the primary single-dwelling unit, a detached structure, or in a portion of a detached accessory structure (e.g., above a garage or workshop).

Accessory Building: A detached building(s) ~~or set of buildings~~ that is subordinate in purpose and typically size to the principal structure on the same property or development site under the same ownership. The use of the accessory building serves an incidental purpose to the permitted principal use in the main building(s).

Adaptable Unit: A dwelling unit that complies with the “Type B” requirements applicable to units as set forth in the Standards for Accessible and Usable Buildings and Facilities published by the International Code Council and as referenced by the state building code.

Affordable Housing: Housing for which ownership costs (mortgage loan principal, interest, property taxes, and insurance) or rental costs (unit rent and utilities) require no more than 30 percent of the gross monthly income of a household that has income at or below ~~120-80~~ percent of the Albany area median income (AMI) as determined annually by the Oregon Housing and Community Services Department, adjusted for household size, and is subject to an affordable housing covenant as provided in ORS 456.270 to 456.295. See definition for Moderate Income Housing

Alley: A public accessway not over 30 feet wide that provides a means of access to private property. Alleys may be privately owned when approved by the City Engineer. An alley is not considered a “street” as used in this Code.

Apartment Building~~House~~: See Dwelling, Multiple Dwelling Unit Housing.

Area Median Income or AMI: the median income for the Albany Metropolitan Statistical Area as determined by the Housing and Community Services Department and adjusted for household size based on information from the United States Department of Housing and Urban Development (HUD).

Attached Housing: Residential structures designed to contain two or more dwellings separated from each other by a fire wall and each unit having separate entrances from grade level. Units must share one or more vertical walls that exceed 25 percent of the length of the shared wall with one or more adjacent dwellings either on the same property or adjacent properties but are not categorized as a condominium. Examples include attached duplexes, triplexes, fourplexes, and townhouses.

Attached Structure: A structure that is attached to another structure by a common wall, by a roof, or by a breezeway ~~structural connections that allows pedestrian access ingress or egress by to both~~ between structures on the same lot. A garage may be attached to another structure by sharing a wall or by a covered breezeway. Structures connected by an uncovered, “I” beam or similar connections are not considered attached. This definition does not apply to structures that share a common wall that exceeds 25 percent of the adjacent wall but not less than 12 feet, or that share an integrated roof system of not less than 12 feet.

Breezeway: A covered walkway providing ingress or egress from a primary structure to another primary structure or accessory structure on the same lot that has at least one (1) side entirely open. A breezeway shall be a minimum of six feet in width measured between the eaves of the breezeway and be visually integrated into the connecting structures exterior wall cladding or roof system.

Child Care Home: A residence within which care is provided for children (including the children of

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the provider) under the age of fifteen years as permitted by ORS Chapter ~~657~~329A and may require a license from the State of Oregon Children’s Services Division.

Child Care Center Facility: An institution, establishment, or place in which care or supervision is regularly given to children apart from their parents or guardians per ORS Chapter ~~657A~~329A. See Section 22.200 for a description of this use category.

Crime Prevention Through Environmental Design (CPTED): The proper design and effective use of the built environment ~~which~~that can lead to a reduction in the fear and incidence of crime, and an improvement in the quality of life. The four basic elements of CPTED are natural surveillance, natural access control, territorial reinforcement, and image.

Crisis Stabilization Center: means a facility licensed by the Oregon Health Authority that meets the requirements adopted by the authority by rule under the Statewide coordinated crisis system) per ORS 430.627.

Daycare: See Child Care Center definition and Daycare Facility or Child Care Center use category in, Section 22.200.

Density, Gross: The number of living units or jobs per gross acre of land (for example, units/acre or jobs/acre). Any computation that yields a fraction of less than 0.5 shall be rounded down to the nearest whole number and any computation that yields a fraction of 0.5 or greater shall be rounded up to the nearest whole number.

Density, Net: The average number of dwelling units per net acre of land, which is calculated by taking the total gross acreage and subtracting the area in the right-of-way for streets and roads and any undevelopable areas such as water bodies and open space. Any computation that yields a fraction of less than 0.5 shall be rounded down to the nearest whole number and any computation that yields a fraction of 0.5 or greater shall be rounded up to the nearest whole number.

Height of Building: The vertical distance above “Grade” as defined herein to the highest point of the coping of a flat roof or to the deck line of a mansard roof or to the average height of the highest gable of a pitched or hipped roof (Figure 22.400-1). The “grade” measurement is taken from the highest adjoining sidewalk to ground surface within a 5-foot horizontal distance of the exterior wall of the building when such sidewalk or ground surface is not more than 10 feet above grade. When the sidewalk or ground surface is more than 10 feet above the lowest grade, the “grade” measurement is taken 10 feet above the lowest grade (Figure 22.400-2). The height of a stepped or terraced building is the maximum height of any segment of the building.

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FIGURE 22.400-1. Measure building height by roof types.

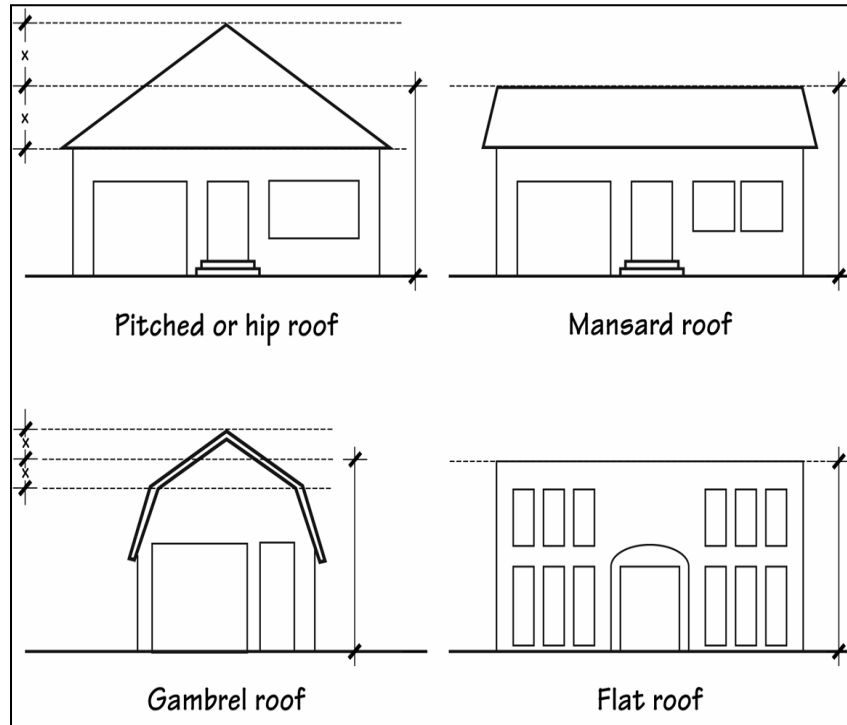
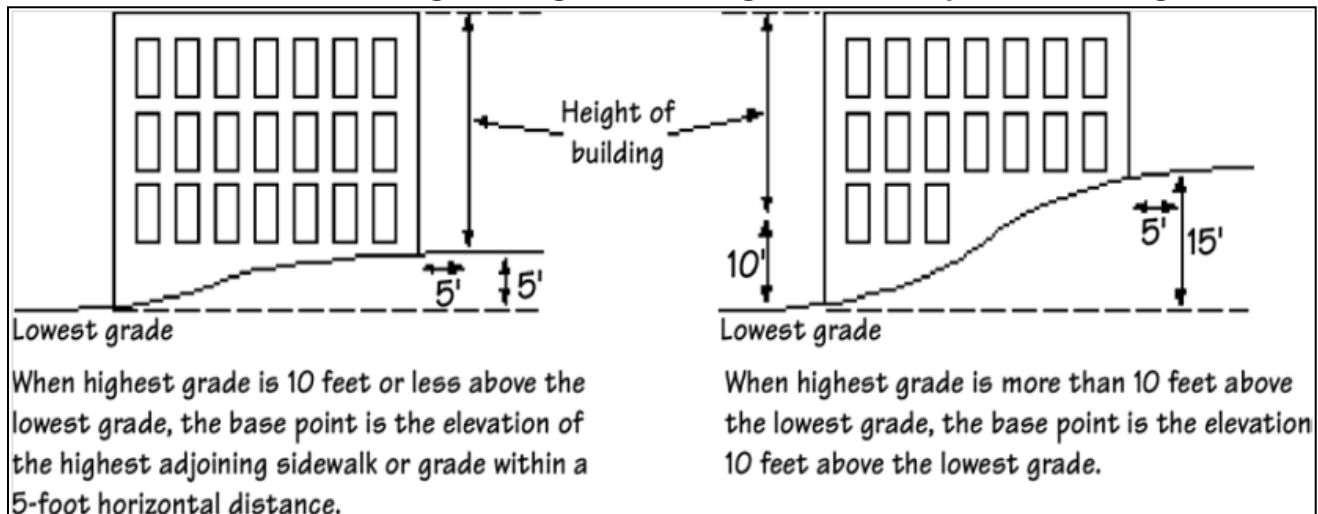


FIGURE 22.400-2. Measuring the height of buildings that have a portion below grade.



Hospitals: Institutions devoted primarily to the rendering of healing, curing, and/or nursing care which maintain and operate facilities for the diagnosis, treatment, and care of two or more nonrelated individuals suffering from illness, injury, or deformity, or where other healing, curing, and/or nursing care is rendered and may include overnight or longer care over a period exceeding 24 hours. Mental or psychiatric hospitals are licensed under ORS 441.025.

Live/work dwelling unit: A dwelling unit in which a portion of the unit is designed for a non-residential use. The space designed for non-residential use is internally connected to the dwelling unit without passing through a common area shared by other units or businesses and is generally located on the ground floor. The non-residential use is operated by the same household that

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occupies the dwelling unit but needs not meet the definition of a home business. ~~Live/work dwelling units are considered to have multiple primary uses, with the residential and non-residential uses each subject to the regulations for their respective use categories; both the residential and the non-residential use must be permitted in the zone.~~

Main Entrance: The entrance to a building that most pedestrians, occupants, or customers are expected to use, typically the door faces the street or is visible from the street or right-of-way. Generally, each building has one main entrance, but if design features make it difficult to discern which entrance is the main entrance, all similar entrances will be treated as main entrances.

Sliding glass doors are not considered a main entrance.

Middle Housing: A class of housing types that includes duplexes, triplexes, fourplexes, townhouses, and cottage clusters.

Middle Housing Child Lot: A unit of land created from the division of a middle housing parent lot through a middle housing land division.

Middle Housing Land Division: A partition or subdivision of a lot or parcel on which the development of middle housing is allowed under ORS 197.758 (2) and the partition or subdivision is processed in accordance with the provisions of ORS Chapter 92 and ADC 11.610 – 11.630. The lot or parcel that is the subject of the land division is referred to as the middle housing parent lot; a lot created by the division is referred to as a middle housing child lot.

Middle Housing Parent Lot: A lot or parcel that is developed, or proposed to be developed, with middle housing, and which may therefore be further divided through a middle housing land division to create middle housing child lots.

Staff Comments: The middle housing bill (HB 2001) did not require all zones that allow single dwelling units to be considered a middle housing zoning district, only zones that are mostly residential. Since the MUC, Mixed Use Commercial, zone is primarily intended to provide for commercial uses, and higher density residential development, staff propose removing the zone from the definition of a middle housing zoning district.

Middle Housing Zoning District: A zoning district in which residential dwellings are the primary use and single-dwelling units are permitted, and which implements a residential comprehensive plan map designation in accordance with OAR 660-046-0020. In the City of Albany that includes the following zoning districts:

- RR Residential Reserve District
- R-10 Residential District
- R-6.5 Residential District
- R-5 Residential District
- HM Hackleman-Monteith District
- RM Residential Medium Density District
- MUR Mixed Use Residential District
- MUC Mixed Use Commercial District

Mobile Home: See “Manufactured Home.”

Moderate Income Housing: Housing for households with income less than or equal to 120 percent and greater than 80 percent of the area median income for Albany as determined annually by the Oregon Housing and Community Services Department, adjusted for household size.

Multiple Dwelling Unit Development: Five or more dwelling units on one property or development

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

site, attached or detached, including a building or collection of buildings, and excluding Middle Housing. Residential developments of three to four units are also defined as Multiple Dwelling Unit Housing if the development cannot otherwise meet the definition of Middle Housing. For the purposes of this code, a Non-Property Line Separated Townhouse constructed under the Oregon Residential Specialty Code has the same meaning.

Planned Development (PD): A tract of land developed under provisions of this Code that provides for flexibility and innovation in design and placement of structures. The terms Planned Development (PD) and Planned Unit Development (PUD) may be used interchangeably. See Article 11 for Planned Development Standards.

Qualified Professional: A person with extensive knowledge in the relevant subject matter, and whose combination of training, education, certification, and experience ~~qualify~~qualifies him/her to perform services of a professional nature and to make credible findings and recommendations. The Director has the authority to accept or reject the qualifications of a professional if they are not deemed suitable to the relevant subject matter.

Residential Care Facility: Any private or public institution or facility maintained and operated for the care, boarding, housing, training, or rehabilitation of six or more physically, mentally, or socially handicapped or delinquent, elderly, or drug or alcohol dependent persons in one or more buildings on contiguous properties. See Section 22.260, Residential Care or Treatment Facility and ORS Chapter 443.

Single-Dwelling Unit (SDU): A single detached building containing one dwelling unit on a lot. Where [Ord. 5281, 3/26/97; Ord. 5338, 1/28/98; Ord. 5742, 7/14/10; Ord. 5764, 12/1/11; Ord. 5768, 12/7/11; Ord. 5801, 2/13/13; Ord. 5831, 2/26/14; Ord. 5832, 4/9/14; Ord. 5842, 1/01/15; Ord. 5894, 10/14/17; Ord. 5945, 9/25/20; Ord. 5947, 1/01/21; Ord. 5949, 1/01/21; Ord. 5966, 11/12/21; Ord. 5968, 1/14/22; Ord. 6004, 12/28/22; Ord. 6018, 6/30/23; Ord. 6024, 12/29/23; Ord. 6042, 7/12/24; Ord. 6059, 3/14/25; Ord. 6062, 5/23/25; Ord. 6068, 11/8/25]

*****No changes are proposed to the Natural Resource Overlay District Definitions, so these are not included.*****



ORDINANCE NO. _____

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

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

WHEREAS, in 2025, the Oregon Legislature adopted House Bill 2138 which modifies the state's middle and infill housing definitions and standards, and middle housing land division process and notices; and

WHEREAS, the proposed legislative amendments to the ADC are needed to comply with House Bill 2138 by January 1, 2027; and

WHEREAS, the Albany Planning Commission and Albany City Council held a work session on April 13, 2026 to review the legislative amendments; and

WHEREAS, notice of the proposed amendments were provided to the Oregon Department of Land Conservation and Development on May 11, 2026; and

WHEREAS, a notice of the planning commission and city council public hearings was published in the Albany Democrat-Herald on May 30, 2026; and

WHEREAS, a notice of public hearing was emailed to Benton County, Linn County, and the North Albany Neighborhood Association on June 2, 2026; and

WHEREAS, on June 15, 2026, the Albany Planning Commission held a public hearing regarding the proposed amendments, deliberated, and recommended approval based on findings of fact presented in the June 8, 2026 staff report; and

WHEREAS, on July 8, 2026, the Albany City Council held a public hearing on the proposed Development Code 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 Articles 3, 8, 11, and 22 are to be amended as described in Exhibit A (planning file DC-02-26) effective January 1, 2027.

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

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

Passed by the Council: _____

Approved by the Mayor: _____

Effective Date: January 1, 2027

Mayor

ATTEST:

City Recorder

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Staff Comments: Middle and Infill Housing Amendments to Comply with House Bill 2138. Below is a summary of the proposed changes that will go into effect January 1, 2027. Changes related to middle housing land divisions are included in the amendment package going into effect in July, 2026.

Article 3: Residential Zoning Districts

- Must allow middle housing on lots that have an existing single dwelling unit, accessory dwelling unit (ADU), single dwelling unit and ADU, or a duplex
- Middle housing bonus units must be permitted when no less than one accessible or affordable middle housing unit (incomes up to 120% of area median) is provided. Within a duplex or triplex, one additional unit is permitted creating a triplex or fourplex; for townhouses, fourplexes, and cottage cluster units, up to two additional units must be permitted.
- Accessory Dwelling Units for Middle Housing - City will permit one accessory dwelling unit (ADUs) with middle housing or subsequent middle housing land division (MHL) provided the “child” lot created by a MHL is at or above the minimum density for the zone.

Article 8, Design Standards. Amendments refer to the new bonus unit provisions when at least one accessible or affordable middle housing unit is provided.

Article 11, Land Divisions. Changes are also needed to the Middle Housing Land Division process to allow MHLs concurrently with standard land divisions that create the parent lots, and notices of MHLs are limited to the applicant; third parties may not intervene in MHLs.

Article 22, Definitions:

- Middle Housing Definitions – change the definitions for duplexes, triplexes, and quadplex units to allow as detached or attached dwellings in any configuration.
- Single Room Occupancy (SRO) Developments Density –must be allowed at three times the maximum density applied to multi-dwelling housing. Currently each individual SRO unit is considered 0.5 units for calculating minimum density but will change to 0.33 units.

Only sections of the ADC where changes are proposed are included. The full Albany Development Code is located online.

ARTICLE 3

RESIDENTIAL ZONING DISTRICTS

3.010 Overview. The residential zones are intended to preserve land for housing. This Code preserves the character of neighborhoods by providing seven zones with different density standards. The site development standards allow for flexibility of development while maintaining compatibility within the City's various neighborhoods. These regulations provide certainty to property owners, developers, and neighbors by stating the allowed uses and development standards for the base zones. Sites within overlay districts are also subject to the regulations in Articles 4, 6, 7 and 14.

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

- Zoning Districts
- Schedule of Permitted Use
- Development Standards

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ZONING DISTRICTS

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

- (1) RR - RESIDENTIAL RESERVE DISTRICT. The RR District is intended to recognize areas which, because of topography, level of services, or other natural or development factors are best served by a large lot designation. This district may be applied on an interim basis until urban services become available. The minimum lot size is five acres.
- (2) R-10 - RESIDENTIAL DISTRICT. The R-10 District is intended primarily for a lower density residential environment consisting of detached single-dwelling units and middle housing. The average standard lot size for single-dwelling units and duplexes is 10,000 square feet.
- (3) R-6.5 - RESIDENTIAL DISTRICT. The R-6.5 District is intended primarily for low-density urban residential development that includes single dwelling units, townhouses, and middle housing (duplexes, triplexes, fourplexes, and cottage clusters). The average standard lot size for single-dwelling units and duplexes is 6,500 square feet.
- (4) R-5 - RESIDENTIAL DISTRICT. The R-5 District is intended primarily for low- to moderate-density residential development. The average standard lot size for single-dwelling units and duplexes is 5,000 square feet.
- (5) RM - RESIDENTIAL MEDIUM DENSITY DISTRICT. The RM District is primarily intended for medium-density residential urban development that includes single-dwelling units, townhouses, duplexes, triplexes, fourplexes, cottage clusters, and apartments up to 45 feet tall. New RM districts should be located on a collector or arterial street or in Village Centers.
- (6) RMA - RESIDENTIAL MEDIUM DENSITY ATTACHED DISTRICT. The RMA District is intended primarily for medium- to high-density urban residential development consisting of attached housing types, including duplexes, triplexes, fourplexes, and apartments up to 60 feet tall. New RMA districts should be located on a collector or arterial street or in Village Centers.
- (7) HDR - HIGH DENSITY RESIDENTIAL DISTRICT. The HDR District is intended primarily for high-density urban residential multiple story development and other compatible uses. This district supports the highest residential density in the city and must be located on a collector or arterial street, and adjacent to mixed use, commercial, or industrial zoned land. Development in the HDR district must achieve a density of at least 25 units per gross acre.
- (8) HM - HACKLEMAN-MONTEITH DISTRICT. The HM district is intended primarily to preserve the historic character of the existing residential resources in the Hackleman and Monteith National Register Historic Districts. Low-density residential infill that is compatible with the historic character of the district is permitted.

[Ord. 5555, 2/7/03; Ord. 5673, 6/27/07; Ord. 5968, 1/14/22; Ord. 6004, 12/28/22; Ord. 6010, 7/1/23; Ord. 6024, 12/29/23; Ord. 6059, 3/14/25]

3.030 Establishment of Special Purpose Districts. Special purpose districts are overlay districts that may be combined with a major zoning district. The regulations of a special purpose district are

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

Special Purpose District	Applicable Articles
Airport Approach	Article 4
Floodplain	Article 6
Hillside Development	Article 6
Significant Wetlands	Article 6
Riparian Corridors	Article 6
Wildlife Habitat	Article 6
Willamette Greenway	Article 6
Historic Overlay	Article 7
Climate Friendly Areas	Article 14

[Ord. 5764, 12/1/11]

SCHEDULE OF PERMITTED USES

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

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

[Ord. 5673, 6/27/07; Ord. 5947, 1/1/21; Ord. 6059, 3/14/25; Ord. 6062, 5/23/25]

3.050 Schedule of Permitted Uses. The specific uses listed in the following schedule are permitted in the zones as indicated, subject to the general provisions, special conditions, additional

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restrictions, and exceptions set forth in this Code. A description of each use category is in Article 22, Use Categories and Definitions.

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

The abbreviations used in the schedule have the following meanings:

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

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

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

Staff Comments: Now that middle housing can be attached or detached, “Two Primary (detached) Units” is not needed and is being removed.

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

Uses Allowed in Residential Zoning Districts									
USE CATEGORIES (See Article 22 for use descriptions.)	Spec. Cond.	RR	R-10	R-6.5	HM	R-5	RM	RMA	HDR
RESIDENTIAL: Dwellings									
Single Dwelling Unit (SDU)	1, 2, 22, 23	Y	Y	Y	Y	Y	Y	N	N
SDU with one Accessory Dwelling Unit (ADU) or Single Room Occupancy Unit	4, 22	Y	Y	Y	Y	Y	Y	Y	N
Duplex, Triplex, and Fourplex with or without one ADU	3, 4, 22, 23, 25	Y	Y	Y	Y	Y	Y	Y	Y
Townhouse with or without one ADU	4, 22, 23	Y	Y	Y	Y	Y	Y	Y	Y
Cottage Cluster	3, 22	Y	Y	Y	Y	Y	Y	N	Y
Single Room Occupancy Development	20, 22, 23	Y	Y	Y	Y	Y	Y/S	Y/S	Y/S
Multiple-Dwelling Units	3, 22, 23, 25	N	N	N	N	N	S	S	S
RESIDENTIAL: Care or Treatment									
Assisted Living		CU	CU	CU	CU	CU	S	S	S

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Uses Allowed in Residential Zoning Districts									
USE CATEGORIES (See Article 22 for use descriptions.)	Spec. Cond.	RR	R-10	R-6.5	HM	R-5	RM	RMA	HDR
Child or Adult Care Home	6	Y	Y	Y	Y	Y	Y	Y	Y
Residential Care or Treatment Facility	26	S	S	S	S	S	S	S	S
Residential or Group Care Home (5 or fewer residents)	26	Y	Y	Y	Y	Y	Y	Y	Y
RESIDENTIAL: Miscellaneous Uses									
Manufactured Home Parks	10, 22	N	N	S	N	S	S	S	S
Accessory Buildings	9	Y/S	Y/S	Y/S	Y/S	Y/S	Y/S	Y/S	Y/S
Bed & Breakfast	7	CUII	CUII	CUII	CUII	CUII	CUII	S	S
Home Businesses	21	Y/CU	Y/CU	Y/CU	Y/CU	Y/CU	Y/CU	Y/CU	Y/CU
Rooming or Boarding Houses		N	N	N	CU	N	S	S	Y
Subdivision Sales Office	1	N	Y	Y	N	Y	Y	Y	Y
Unit(s) Above or Attached to a Business	17, 22, 23	N	N	N	N	N	N/S-19	N/S-19	S
Temporary Residence	8	S	S	S	S	S	S	S	S
INSTITUTIONAL									
Basic Utilities		CU	CU	CU	CU	CU	CU	CU	CU
Community Services	24	CU	CU	CU	CU	CU	S-24/ CU	S-24/ CU	S-24/ CU
Daycare Facility or Child Care Center		CU	CU	CU	CU	CU	S	S	S
Educational Institutions	13	CU	CU	CU	CU	CU	CU/S-13	CU/S-13	CU/S-13
Hospitals	27	N	N	N	N	N	CU/S-27	CU/S-27	CU/S-27
Jails & Detention Facilities		N	N	N	N	N	N	N	N
Parks, Open Areas, and Cemeteries	14	S/CU	S/CU	S/CU	CU	S/CU	S/CU	S/CU	S/CU
Religious Institutions	13	CU	CU	CU	CU	CU	CU	CU	CU
COMMERCIAL: Limited Use Types									
Entertainment and Recreation: Indoor Outdoor	18, 23	CU CU	CU CU	CU CU	CU N	CU CU	CU CU	CU CU	CU CU
Offices	17, 19, 23	PD/CD	PD/CD	PD/CD	PD/CD	PD/CD	S-19/ PD/CD	S-19/ PD/CD	S-19
Recreational Vehicle Parks (See Article 10)	5, 10	N	N	N	N	N	CU	CU	CU
Restaurants, no drive-thru	17, 19, 23	PD/CD	PD/CD	PD/CD	PD/CD	PD/CD	S-19 PD/CD	S-19 PD/CD	S-19
Retail Sales and Service	17, 19, 23	PD/CD	PD/CD	PD/CD	PD/CD	PD/CD	S-19 PD/CD	S-19 PD/CD	S-19
Self-Serve Storage	15, 23	N	N	N	N	N	S	N	N
Taverns, Bars, Brewpubs, Nightclubs		N	N	N	N	N	S-19	S-19	S-19
OTHER CATEGORIES									
Agriculture: Crop Production		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

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[Ord. 5281, 3/26/97; Ord. 5555, 2/7/03; Ord. 5673, 6/27/07; Ord. 5742, 7/14/10; Ord. 5801, 2/13/13; Ord. 5832, 4/9/14; Ord. 5886, 1/6/17; Ord. 5947, 1/1/21; Ord. 5949, 1/1/21; Ord. 5968, 1/14/22; Ord. 6004, 12/28/22; Ord. 6008, 1/27/23; Ord. 6010, 7/1/23; Ord. 6024, 12/29/23; Ord. 6042, 7/12/24; Ord. 6059, 3/14/25; Ord. 6062, 5/23/25]

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

SPECIAL CONDITIONS

- 3.080 General. Where numbers appear in the column labeled “special conditions” or in a cell in the Schedule of Permitted Uses, the corresponding numbered conditions below apply to the particular use category as additional clarification or restriction.
- (1) One subdivision sales office is allowed in a subdivision for two years from the date it opens if the following requirements are met:
 - (a) The purpose of the office must be to sell lots or houses in the subdivision.
 - (b) The sales office must be placed on one or more of the lots in the subdivision.
 - (c) The sales office must be established within one year of the date the final subdivision plat is signed.
 - (d) At the time an application for the sales office is submitted, the owner of the subdivision must own all of the lots within 100 feet of the lot where the sales office will be located. The “owner of the subdivision” is the owner of more than 50 percent of the lots in the subdivision.
 - (e) The building must be placed in accordance with Section 3.190, Table 3.190-1 Development Standards.
 - (f) A manufactured building, a modular building, or a building constructed on the site is allowed for office use. If a manufactured building is used, it must be placed in accordance with the standards for “Placement on Individual Lots” listed in Article 10. If a modular building is used, it must be removed from the property within two years of the date a building permit is issued for the sales office. If a manufactured or site-built building is used, the building does not have to be removed from the lot.
 - (g) Building permits must be obtained for the building. Manufactured and modular buildings must have the appropriate State of Oregon insignia that shows the appropriate construction standards are met.
 - (h) The sales office permit may be renewed once up to a year.
 - (2) When more than one single-dwelling unit is located on a property of record in a residential zoning district and the dwellings were legally constructed, the property may be divided in conformance with Article 11 resulting in one unit per lot, even if the resulting lots do not meet the required minimum lot area and dimensional standards for the zoning district, if required setbacks and lot coverage can be met.
 - (3) Duplexes, triplexes, fourplexes, cottage clusters, and multi-dwelling unit development may be divided so that each unit can be individually owned by doing a land division in conformance with Article 11. The total land area provided for the development as a whole must conform with the requirements of Article 3, Table 3.190-1, however, the amount of land on which each unit is located does not need to be split equally between the individual units - one may be larger and one smaller.

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- (4) One Accessory Dwelling Unit or Single Room Occupancy Unit. Where single-dwelling units and middle housing units are permitted outright, one Accessory Dwelling Unit (ADU) may be permitted on each legally established lot or parent lot for middle housing if the standards in subsection (a) below are met. In addition, existing legally established single-dwelling units may have one Single Room Occupancy (SRO) unit in lieu of the ADU when the standards in (b) are met. Existing legally established single-dwelling units or middle housing units are referred to the “primary dwelling unit(s)” for the purposes of this section.
- (a) Accessory Dwelling Units. Accessory Dwelling Units must meet the following standards:
- i. The size of an ADU may not exceed 900 square feet. (Note: ADUs greater than 900 square feet that were legally constructed before July 1, 2007, may remain.) If the primary dwelling unit is or primary middle housing units are less than or equal to 900 square feet, the ADU must be at least 25 square feet smaller than the primary dwelling unit(s).
 - ii. All required building permits have been obtained. If the primary dwelling unit(s) is/are on the Local Historic Inventory, historic review may be required, per Article 7.
 - iii. The lot was legally established and primary dwellings were legally established.
 - iv. Detached ADUs must also meet the following development standards:
 - Front Setback: Greater than or equal to the location of the front wall of the primary residence;
 - Side and Rear Setbacks: 5 feet for one-story; 8 feet for two-story; and
 - Maximum Height: 24 feet to the ridge of the roof.
 - v. Conversion of an Existing Building: An existing accessory structure that was legally established prior to March 14, 2025, may be converted into an ADU, provided the conversion does not increase the nonconformity of the structure and complies with applicable building codes.
- (b) Single Room Occupancy (SRO) Unit. The SRO Unit must meet the following standards:
- i. The SRO Unit must be located interior to the primary 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.

*****No further changes are proposed to the remaining special conditions in 3.080 or to 3.085 through 3.090, so these sections are not shown.*****

- 3.191 Development Standards for Townhouses. Townhouses must meet the standards in subsections (1) and (2) below . Townhouses must also meet the applicable design standards in ADC Sections 8.110 through 8.170. Townhouse projects may be eligible for bonus provisions in 3.220.

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(1) Maximum Density.

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

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

(b) In the RM, RMA, and HDR districts, the maximum density of a townhouse project is not regulated.

(2) Number of Attached Dwelling Units.

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

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

- RR, R-10, R-6.5, and HM districts: maximum of 4 attached units per group
- R-5 district: maximum of 6 attached units per group
- RM and RMA districts: maximum of 8 attached units per group
- HDR district: maximum of 10 attached units per group

[Ord. 5968, 1/14/22; Ord. 6010, 7/1/23; Ord. 6042, 7/12/24; Ord. 6059, 3/14/25]

3.192 Development Standards for Cottage Clusters. Cottage clusters must meet the standards in subsections (1) through (5) below. Cottage clusters must also meet all of the design standards in ADC Section 8.175. Cottage Cluster developments are eligible for bonus provisions in Section 3.220.

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

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

(3) Setbacks.

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

(b) Building Separation. Individual cottages or attached cottage buildings must be separated by a minimum distance of six (6) feet. The minimum distance between all other structures, including accessory structures, must be in accordance with building code requirements.

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

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

(4) Building Height. The maximum building height for all structures is 25 feet.

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

- (5) Maximum Footprint. The maximum footprint of each cottage must be less than 900 square feet. Attached garages or carports up to 200 square feet are exempt from the maximum footprint for each cottage. Detached garages, carports, or accessory structures are not included in the maximum footprint of each cottage.

*****No changes are proposed to 3.195 through 3.210, so these sections are not shown.*****

3.220 Area, Density, and Height Bonus Provisions. The following standards may be applied to development sites in residential and mixed-use zoning districts resulting in allowed reductions in the average minimum lot size, or increases in allowed building height or lot coverage, as indicated. In no instance may the combined total of all bonus provisions applied to a development result in an overall reduction of more than 30 percent in the standard site size, or more than 50 percent in the standard site size when housing is provided that is affordable to persons earning 50 percent or less of the area median income (AMI) per 3.220(6) and Table 3.220-2. Housing that meets the affordable housing definition and terms in Section 3.080(22)(b) is subject to the maximums provided in subsection (6)(c). Some bonuses are available for lot design only, with additional bonuses available due to building design or construction.

Relationship to Transportation.

- (1) For single-dwelling unit and middle housing developments, a 10 percent reduction in the average minimum lot size required in a zoning district is allowed for proposed lots that meet the following qualifications:
 - (a) At least 50 percent of the lot area is located within 200 feet of a designated collector or arterial street; and
 - (b) The lot will not have direct access to an arterial.

For example, if the average minimum lot size for the zone is 10,000 square feet, the average lot size may be 9,000 square feet for those properties within 200 feet of the collector or arterial. The remaining lots in the development must average 10,000 square feet.
- (2) For multiple-dwelling unit developments, when any portion of a building is located within 200 feet of a designated arterial, the maximum height may be increased by 10 percent or 5 feet, whichever is greater.
- (3) Lots with vehicular access only from an alley or shared access easement from the rear of the lot may be up to 10 percent smaller than the minimum lot size for the zone.

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

- (3) Development Density to Transfer from Overlay Districts. The land area from which density can be transferred excludes developed and unbuildable areas, such as water bodies, areas below ordinary high-water mark, floodways, the unbuildable portions of lands within the Significant Natural Resource Overlay Districts, and easements.
 - Residential Zoning – The applicant may choose to transfer up to 50 percent of the development density if the above standard is met. For example, if the base zoning

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would have allowed 8 single-dwelling units (net), 4 units can be transferred; if it would have allowed 20 multiple-dwelling units (net), 10 units can be transferred.

- Open Space Zoning – If the lot was legally created prior to July 1, 1991, and the area is of sufficient size and dimension to comply with the development standards for a single-dwelling unit home, one single- dwelling unit can be transferred.
- (4) Development Density in Receiving Area. Up to a maximum 20 percent reduction in average minimum lot size is allowed in order to accommodate the density transfer.
- (5) Solar Access Protection. If buildings are sited (either by site design or defining buildable areas) and covenants or other mechanisms are established that protect solar access of south building walls from shading by structures and vegetation, energy conservation bonuses may be allowed per Table 3.220-1. For subdivisions to receive a bonus, a covenant or other mechanism must be established that provides and protects solar access for the southerly building area of protected lots from 9:30 a.m. to 2:30 p.m. on December 21. For middle housing or multiple-dwelling unit developments to receive a bonus, protected units must receive this same solar access protection for south facing walls, and the south facing glass of those units must total at least 7 percent of the conditioned area. (South facing is defined as being within 25 degrees of true south.)

TABLE 3.220-1

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

Staff Comments: HB 2138 requires cities to allow bonus units to middle housing developments when at least one middle housing unit is either accessible or affordable to low- or moderate-income households.

Moderate-Cost and Affordable Housing

- (6) Provision of Moderate Cost and Affordable Housing. For the provision of housing that is affordable to low- and moderate-income households earning 120 percent or less of the area median income (AMI), a density bonus through reductions in lot size or increase in height is permitted for all units within the development or development phase for phased developments, as provided in Table 3.220-2. See subsection (7) for Bonus Units for Affordable or Accessible Middle Housing.
- (a) For the purpose of this section, “AMI” means the area median income for the county in which the project is located.
- (b) “Affordable” as used in Table 3.220-2 means that the sales price or rental amount is

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within the means of a household that may occupy moderate- and low-income housing. In the case of dwelling units for sale, affordable means housing in which the mortgage, amortization, taxes, insurance, and condominium or association fees, if any, constitute no more than 30 percent of such gross annual household income for a household of the size that are most likely to or intended to occupy the unit in question. In the case of dwelling units for rent, affordable means housing for which the rent and utilities constitute no more than 30 percent of such gross annual household income for a household of the size that are most likely to or intended to occupy the unit in question. Projects must be subject to an affordable housing covenant as provided in ORS 456.220 to 456.295 for continued availability to low- and moderate-income persons for a period of at least 30 years for rental housing and 10 years for owned-housing.

TABLE 3.220-2

AFFORDABLE HOUSING AREA & HEIGHT BONUS STANDARDS						
Affordability Level	Percent of units (including bonus units) set aside for persons whose household income is less than or equal to the affordability level	Reduced Lot Size Allowance *	Height bonus in historic districts, HM, MUR, LE, ES	Height Bonus in RM, RMA, WF, CB, DMU, HD	Height Bonus in HDR & MUC	Reduced Separation between buildings 30 feet or taller
120% AMI	50 percent of units	5 percent	N/A	N/A	12 feet	None
100% AMI	50 percent of units	10 percent	N/A	N/A	12 feet	None
80% AMI	5 percent of units	10 percent	N/A	N/A	12 feet	18 feet
	10 percent of units	15 percent	N/A	N/A	12 feet	16 feet
	20 percent of units	25 percent	N/A	12 feet	24 feet	16 feet
60% AMI	5 percent of units	15 percent	N/A	12 feet	24 feet	15 feet
	10 percent of units	25 percent	5 feet	24 feet	36 feet	14 feet
	20 percent of units	35 percent	7 feet	24 feet	36 feet	12 feet

*For Single-Dwelling Units and Middle Housing Types

- (c) Per ORS 197A.445, an affordable housing development subject to an affordable housing covenant as provided in ORS 456.270 to 456.295 of no less than 30 years and that meet the income standards below in a residential or mixed-use zone outside of a National Register historic district is permitted the following height and density bonuses* **in lieu of the bonuses provided in (b) of this section.**
 - i. Each unit on the property is made available to own or rent to households with incomes of 80 percent or less of the area median income (AMI); or
 - ii. All units on the property are made available to rent or own to households with incomes with a collective average of 60 percent or less of the AMI; or
 - iii. A manufactured dwelling park that serves only households with incomes of 120 percent or less of the AMI.

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TABLE 3.220-3: 30-Year Affordability Bonuses

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

* For Single-Dwelling Units and Middle Housing Types

- (7) Accessible and Adaptable Housing, Excluding Middle Housing. For the provision of housing that is accessible to people with disabilities, or that can be adapted to be fully accessible, a density bonus through increase in lot coverage and heights. The terms “Accessible Unit” and “Type A Unit” are defined below. See subsection (8) Bonus Units for Affordable and Accessible Middle Housing.
- (a) “Accessible Unit” means a dwelling unit that complies with the Oregon Structural Specialty Code and the provisions for Accessible units in ICC A117.1.
- (b) “Type A Unit” (i.e., partially accessible unit) means a dwelling unit that is designed and constructed for accessibility in accordance with the Oregon Structural Specialty Code and the provisions for Type A units in ICC A117.1.

TABLE 3.220-4

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

[Ord. 5338, 1/28/98; Ord. 5445, 4/12/00; Ord. 5764, 12/1/11; Ord. 5673, 6/27/07; Ord. 5947, 1/1/21; Ord. 5966, 11/12/21; Ord. 5968, 1/14/22; Ord. 6004, 12/28/22; Ord. 6059, 3/14/25]

- (8) Bonus Units for Affordable and Accessible Middle Housing. In lieu of the bonus standards provided in (6) and (7) above, the following bonus units and standards will be permitted for eligible middle housing developments sited or proposed on any eligible lot or parcel.
- (a) Bonus Eligibility. In order to qualify for bonus units outlined in (b) below, no less than one unit in a duplex, triplex, fourplex, townhouse project with up to six townhouses or cottage cluster up to six cottages must be accessible and/or affordable as defined below.

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- i. Accessible units are those that are fully accessible or “Type A” units as described in (7).
 - ii. Affordable units are those available to purchase for a maximum sales price affordable to households with an income below 120 percent of the area median income, with the maximum price and income threshold as published per region on annual basis by the division of Oregon Department of Administrative Services. Affordable dwellings are subject to an enforceable affordable housing covenant as described in ORS 456.270 to 456.295 for no less than 10 years.
- (b) Bonus Units by Housing Type. The following bonus units are permitted by housing type. A middle housing development may qualify for more than one category provided that each individual bonus unit may only count toward meeting one affordability and one accessibility category. All bonuses earned may be used individually or in combination.
- i. Duplex or triplex, one additional dwelling unit is permitted resulting in a triplex or fourplex.
 - ii. Fourplex, up to two additional dwelling units are permitted resulting in a five- or six-unit development.
 - iii. Townhouse project of up to six units, up to two additional dwelling units are permitted, resulting in additional townhouses. A townhouse project may qualify for more than one bonus provided that each bonus unit may only count toward meeting one affordability and one accessibility category for every six townhouses regardless of the number of townhouses in the project. For example, a 12-unit townhouse project can earn separate bonus units for two groups of 6 townhouses.
 - iv. Cottage cluster development of up to six units, up to two additional dwelling units are permitted, resulting in additional townhouses or cottages. A cottage cluster development of more than six units may qualify for more than one bonus provided that each bonus unit may only count toward meeting one affordability and one accessibility category for every six cottages when no less than one unit in every six cottages is either accessible or affordable as defined above. Allowable bonus units do not count towards the maximum number of cottages per cluster.
- (b) Development Standards Bonuses. Additional bonus units permitted under this section are subject to the middle housing regulations under ORS 197A.520(5) and applicable standards by zone except the city shall permit the following standards in order to accommodate the bonus units:
- i. an increase to the maximum height of up to five feet,
 - ii. and an increase in the maximum lot coverage by up to ten percent of the current maximum.
 - iii. Cottage cluster projects are also permitted an additional 100 square feet to the maximum cottage size and 100 square feet to the maximum average size for all cottages in a cluster. The minimum common courtyard area per cottage may be reduced by 25 feet.

ARTICLE 8 DESIGN STANDARDS

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

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

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

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

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

*****No changes are proposed until 8.175 so the earlier sections are not provided.*****

8.175 Cottage Cluster Design Standards. Cottage clusters are clusters of small dwelling units (cottages) that are oriented around a common courtyard. Cottage clusters typically share amenities such as open space. The purpose of this section is to provide standards that promote quality development; create a sense of openness and community; and enhance the livability, walkability, and safety of the community. When bonus units are permitted in Section 3.220, then the maximum number of cottages may increase by the number of permitted bonus units and the maximum floor area and average floor area may increase as permitted in 3.220.

- (1) Number of Dwellings. The purpose of these standards is to place appropriate limits on the scale of cottage clusters, and to limit the number of cottages that can be developed on an individual lot.
 - (a) Except as provided in subsection (c), a single cottage cluster must contain a minimum of three (3) and a maximum of eight (8) cottages.
 - (b) Except as provided in subsection (c), a lot must contain no more than eight (8) cottages, arranged in one or more cottage clusters.
 - (c) When all cottages on a lot are less than 800 square feet in floor area, the maximum number of cottages permitted on one lot is as follows
 - R-10, R-6.5, and HM districts: 10 cottages
 - R-5 district: 12 cottages
 - RM and MUR districts: 16 cottages
- (2) Floor Area. The purpose of these standards is to ensure that cottages are limited in size while providing flexibility for a range of unit sizes within a cottage cluster. Limiting unit size promotes lower-cost housing choices and promotes accessibility for residents of various ages and abilities.

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- (a) “Floor area” is defined in ADC Section 22.400; however, for the purpose of this section, “floor area” includes stairwells, ramps, shafts, chases, and the area devoted to garages. Floor area does not include porches, exterior balconies, or other similar areas, unless they are enclosed. Floor area is measured for each floor from the exterior faces of a building or structure.
- (b) Floor Area. The maximum permitted floor area of an individual cottage is 1,400 square feet.
- (c) Average Floor Area. The maximum average floor area permitted for all cottages in a cottage cluster project is 1,100 square feet.

ARTICLE 11

LAND DIVISIONS AND PLANNED DEVELOPMENTS

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

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

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

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

******Changes are only proposed in sections 11.610 and 11.620 related to Middle Housing Land Divisions. The full Albany Development Code is located online.*****

Staff Comments – Middle Housing Land Division Amendments to comply with HB 2138:

- Third parties may not intervene in MHLDs, so notice will not be required for stand along MHLDs.
- Notice of decision is only issued to the applicant and only the applicant may appeal a decision.

11.610 Middle Housing Land Division. A middle housing land division (MHL) is a partition or subdivision of a lot or parcel (the parent lot) within a middle housing zoning district where the development of middle housing is permitted under ORS 197A.420 and where middle housing is developed or proposed. MHLs are regulated by this Code and ORS Chapter 92, Section 92.031. The purpose of a MHL is to provide a simplified and expedited process for subdividing or partitioning lots with existing or proposed middle housing so that each unit is on a separate property, which enables the units to be sold and owned individually

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- (1) Eligibility. Any lot (parent lot) developed, or proposed to be developed, with middle housing pursuant to ORS 197A.420(2) is eligible for an MHLD. The following types of middle housing are eligible for a MHLD:
 - (a) A single duplex, triple, quadplex, cottage cluster, or a single structure containing townhouses;
 - (b) Additional bonus units as permitted by Sections 3.220 and House Bill 2138 (2025 Session), as applicable; and
 - (c) Any retained ore rehabilitated existing single dwelling unit with or without one accessory dwelling unit or one duplex.
- (2) Applicability of Middle Housing Regulations. An MHLD creates two or more lots from a single parent lot on which middle housing is developed or proposed. After an MHLD is completed, the resulting lots are “child lots.” The development is still subject to the requirements and standards that applied to the parent lot prior to the MHLD. In other words, the middle housing development is still defined and regulated as the original middle housing type after an MHLD is completed. For example, an attached triplex that undergoes an MHLD does not become a townhouse development; the structure and property are still subject to requirements/standards for a triplex.
- (3) Application Timing and Sequencing.
 - (a) An application for a tentative plat for an MHLD may be submitted before, after, or at the same time as a submission of an application for building permits for the middle housing.
 - (b) An application for an MHLD may be submitted at the same time as an application for a standard subdivision or partition. The standard lad division would create the parent lot(s), and the MHLD would further subdivide the lot(s) into middle housing child lots.
 - (c) An application for one or more MHLDs submitted at the same time as an application for a standard subdivision or partition will be consolidated into a single application subject to the procedural requirements for the standard subdivision or partition.
 - (d) Within the same calendar year as an original partition that was not an MHLD, one or more of the resulting vacant parcels may be further partitioned into not more than 3 parcels through an MHLD.
- (4) Further Division of Child Lots. Middle housing child lots may be further divided by a subsequent MHLD if at least one of the following conditions is met”
 - (a) The child lot is two or more times larger than the minimum lot size of the zone, meaning that it could be divided through a standard land division into two or more lots that meet the minimum lot size; or
 - (b) Further division of the child lot would enable the applicable minimum density requirements to be met.
- (5) Review Criteria. Approval of a tentative plat for a middle housing land division will be granted if the Director finds that the applicant has met all of the following criteria:
 - (a) The middle housing development will comply with the Oregon Residential Specialty Code and the applicable ADC middle housing regulations, including but not limited to, the provisions in the base zone and in Sections 8.110-8.175. Exception: any retained or rehabilitated existing units on the lot as permitted under ORS 197A.420(4), as

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- applicable, are not required to comply with the siting and design standards applicable to the parent lot.
- (b) Separate utility service connections for public water, sewer, and stormwater will be provided for each dwelling unit. When stormwater services are shared, a shared maintenance easement and agreement is recorded outlining the obligations of individual owners.
 - (c) Easements will be provided as necessary for each dwelling unit on the site for:
 - i. Locating, accessing, replacing, and servicing all utilities;
 - ii. Pedestrian access from each dwelling unit to a private or public road;
 - iii. Any common use areas or shared building elements;
 - iv. Any dedicated driveways or parking; and
 - v. Any dedicated common area.
 - (d) Exactly one dwelling unit will be located on each resulting lot (referred to as middle housing child lots), except for:
 - i. Lots or tracts used as common areas, on which no dwelling units will be permitted.
 - ii. Lots containing one existing retained single dwelling unit with or without an accessory dwelling unit or one duplex as permitted under ORS 197A.420(4). Such retained units shall be considered a single middle housing unit for the purposes of the MHLD.
 - iii. Lots containing one middle housing dwelling unit plus the one accessory dwelling unit (ADU) permitted for each duplex, triplex, fourplex or townhouse when the development creates housing that is at or above the minimum density for the zone when applicable. For example, a triplex is permitted one (ADU); the one ADU will be located on a child lot with one of the triplex units resulting from an MHLD. Each townhouse may have one accessory dwelling unit.
 - (e) Buildings or structures on a resulting child lot will comply with applicable building codes provisions relating to new property lines.
 - (f) Notwithstanding the creation of new child lots, structures or buildings located on the newly created lots will comply with the Oregon Residential Specialty Code.
 - (g) Where a resulting child lot abuts a street that does not meet City standards, street frontage improvements will be constructed and, if necessary, additional right-of-way will be dedicated, pursuant to ADC 12.140 and 12.200.
- (6) Tentative Plat Submittal. In addition to the items listed in ADC 11.210, an application for a middle housing land division shall include the following:
- (a) A description of the manner in which the proposed division complies with each of the provisions of subsection (1) of this section, including copies of approved building permits and other evidence necessary to demonstrate:
 - i. How existing or proposed buildings or structures on a resulting child lot will comply with applicable building codes provisions related to new property lines; and
 - ii. Notwithstanding the creation of new lots, how structures or buildings located on the newly created child lots will comply with the Oregon Residential Specialty Code.
 - (b) In addition to the items listed in ADC 11.210(1) – (21), copies of a plat showing the following details:

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- i. Separate utility connections for each dwelling unit, demonstrating compliance with approval criterion 11.610(4)(b).
 - ii. Existing or proposed easements necessary for each dwelling unit on the plan, demonstrating compliance with the criterion 11.610(4)(c).
 - (c) Copies of all required easements in a form approved by the City Attorney.
- (7) Tentative Plat Conditions of Approval. The City may attach conditions of approval of a tentative plat for a middle housing land division to:
 - (a) Prohibit further division of the resulting child lots. However, further division of the child lots may be permitted as provided in subsection (3) of this section.
 - (b) Require that a notation appear on the final plat indicating:
 - i. The approval was given under ORS Chapter 92.031.
 - ii. The type of middle housing approved on the subject site and noting that this middle housing type shall not altered by the middle housing land division.
 - iii. Accessory dwelling units are not permitted on child lots resulting from a middle housing land division except as provided below.
 - A. The child lots are used to create housing that is at or above the applicable minimum density standard and only one ADU is provided on one child lot for each duplex, triplex, fourplex or townhouse; or
 - B. The accessory dwelling unit is provided as a bonus unit under Section 3.220 (7) and (8).
 - (c) Ensure that improvements associated with review criteria in ADC 11.610 (5) are provided.
 - (d) In accordance with ORS Chapter 92, the City shall not attach conditions of approval requiring that a child lot require driveways, vehicle access, parking, or minimum or maximum street frontage.
 - (e) The tentative approval of a middle housing land division is void if and only if a final middle housing land division plat is not approved within three years of the tentative approval.

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

11.620 Tentative Plat Procedures for Expedited and Middle Housing Land Divisions. Unless the applicant requests to use the standard land division procedures set forth in ADC 11.170, the City shall use the following procedure for an expedited land division, as described in ORS 197.360, or a middle housing land division. An expedited or middle housing land division is not a land use decision or a limited land use decision under ORS 197.015 or a permit under ORS 215.402 or 227.160.

- (1) Concurrent Review Option. An application of one or more than one MHLD submitted at the same time as an application for a standard subdivision or partition will be consolidated into a single application subject to the procedural requirements for the standard land division.
- (2) Completeness Review.
 - (a) If the application for an expedited or middle housing land division is incomplete, the City shall notify the applicant of exactly what information is missing within 30 days of receipt of the application and allow the applicant to submit the missing information.

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For purposes of computation of time, the application shall be deemed complete on the date the applicant submits the requested information or refuses in writing to submit it.

- (b) If the application was complete when first submitted or the applicant submits the requested additional information within 180 days of the date the application was first submitted, approval or denial of the application shall be based upon the standards and criteria that were applicable at the time the application was first submitted.
- (3) There shall be no written notice or a public hearing on the application. The city will not accept written comments from third parties on the application.
- (4) The Director shall make a decision to approve or deny the application based on compliance or noncompliance with the applicable review criteria within 63 days of receiving a completed application as described in ORS 227.178.
- (5) The Director's decision shall be based on applicable elements of the Albany Development Code and Comprehensive Plan. An approval may include conditions of approval pursuant to section 11.610(7) to ensure that the application meets the applicable land use regulations.
- (6) Notice of the decision shall be provided to the applicant within 63 days of the date of a completed application. The notice of decision shall include:
 - (a) A summary statement explaining the determination; and
 - (b) An explanation of appeal rights under ORS 197.375.
- (7) Failure to approve or deny application within specified time.
 - (a) Except as provided in subsection (b), if the City does not make a decision on an expedited or middle housing land division within 63 days after the application is deemed complete, the applicant may apply in the circuit court for the county in which the application was filed for a writ of mandamus to compel the City to issue the approval. The writ shall be issued unless the City shows that the approval would violate a substantive provision of the applicable land use regulations or the requirements of ORS 197.360. A decision of the circuit court under this section may be appealed only to the Court of Appeals.
 - (b) After seven days' notice to the applicant, the City Council may, at a regularly scheduled public meeting, take action to extend the 63-day time period to a date certain for one or more applications for an expedited or middle housing land division prior to the expiration of the 63-day period, based on a determination that an unexpected or extraordinary increase in applications makes action within 63 days impracticable. In no case shall an extension be to a date more than 120 days after the application was deemed complete. Upon approval of an extension, the provisions of ORS 197.360 to 197.380, including the mandamus remedy provided by subsection (a), shall remain applicable to the expedited or middle housing land division, except that the extended period shall be substituted for the 63-day period wherever applicable.
- (8) Only the applicant may appeal the Director's decision for an MHLD as an expedited land division made under this section within 14 days of the mailing of the decision notice and the appeal shall be based solely on allegations as listed in ORS 197.375(1)(c)(A) through

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(1)(c)(D) and shall be accompanied by a \$300 deposit for costs which is refundable if the appellant prevails.

- (9) The Director shall appoint a referee to decide the appeal decision and the appointed referee shall comply with ORS 197.375(3) through (6) when issuing a decision. The referee may not be a City employee or official.

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ARTICLE 22 USE CATEGORIES AND DEFINITIONS

The following is a list of content in this article.

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

*****No changes are proposed to the other use categories, so they are not shown.*****

RESIDENTIAL USE CATEGORIES

22.280 Single-Dwelling Units.

- (1) Single Dwelling Units are one dwelling unit on one lot, with or without one accessory dwelling unit or Single Room Occupancy (SRO) Unit.
- (2) Use Examples. Single detached units, a single dwelling unit with one Accessory Dwelling Unit, a Single Dwelling Unit with one SRO Unit, one SRO Development with a minimum of four and no more than six SRO units, manufactured homes, prefabricated dwellings, and child and adult care or treatment homes for five or fewer individuals.
- (3) Exceptions.
 - (a) In certain situations, lodging where tenancy may be arranged for periods less than one month, such as short-term housing or homeless shelter, may be classified as Community Service uses.
 - (b) Dwellings and SRO developments where care or treatment are provided and that typically provide common dining are classified as a Group or Residential Care Home or Residential Care or Treatment Facility.
 - (c) Attached primary dwelling units are classified as Middle Housing (either a duplex, triplex, fourplex, or townhouse) or Multiple Dwelling Unit Development.
 - (d) Dwelling units located above, behind, or contiguous to a business or office on the ground floor(s) or that meet the definition of live/work dwelling units are classified as Units Above or Attached to a Business.

22.285 Middle Housing.

- (1) Middle housing includes the following housing types as defined in Section 22.400: duplexes, triplexes, fourplexes, townhouses, and cottage clusters. One accessory dwelling unit is permitted for each duplex, triplex, fourplex or townhouse and middle housing includes bonus units for affordable and accessible units when permitted per Section 3.220(8).
- (2) Use Examples. Duplexes, triplexes, fourplexes, townhouses, and cottage clusters, with or without one accessory dwelling unit, with or without any bonus units permitted per Section 3.220(8). See Figures 22.285-1 through 22.285-8 for examples of possible configurations for duplexes, triplexes, and fourplexes.
- (3) Exceptions.
 - (a) In certain situations, lodging where tenancy may be arranged for periods less than one

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

month, such as short-term housing or homeless shelter, may be classified as Community Service uses.

- (b) Dwelling units located above, behind, or contiguous to a business or office on the ground floor(s) or that meet the definition of live/work dwelling unit are classified as Units Above or Attached to a Business.
- (c) With the exception of a cottage cluster, any lot with five or more dwelling units is classified as Multiple Dwelling Unit Housing.

Figure 22.285-1. Stacked Duplex

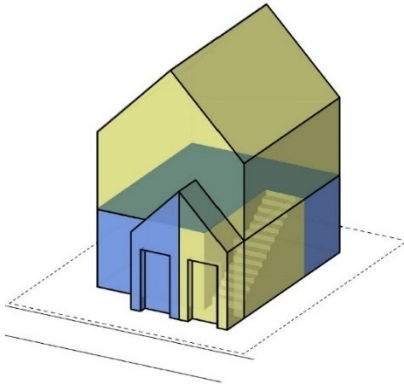


Figure 22.285-2. Side-by-Side Duplex

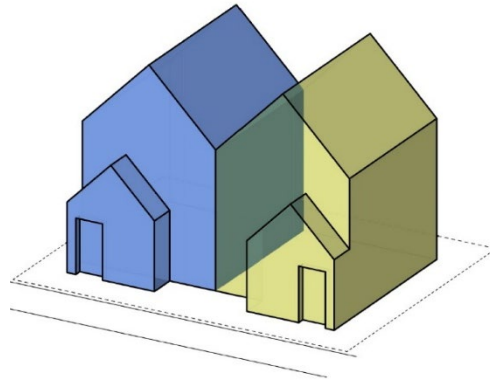


Figure 22.285-3. Duplex Attached by Breezeway Wall

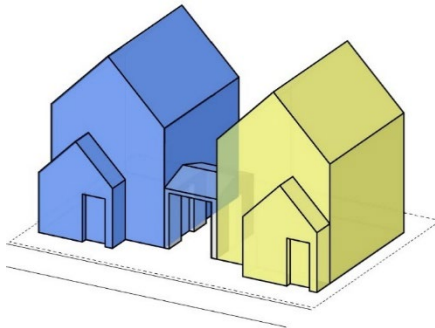


Figure 22.285-4. Duplex Attached by Garage Wall

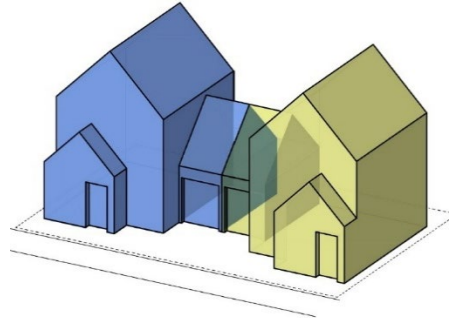


Figure 22.285-5. Detached Duplex Unit Examples

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

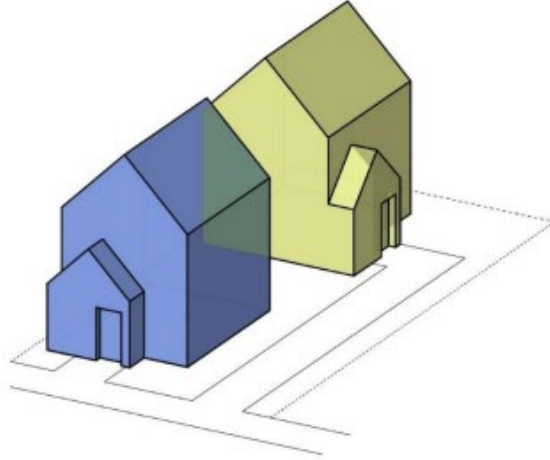
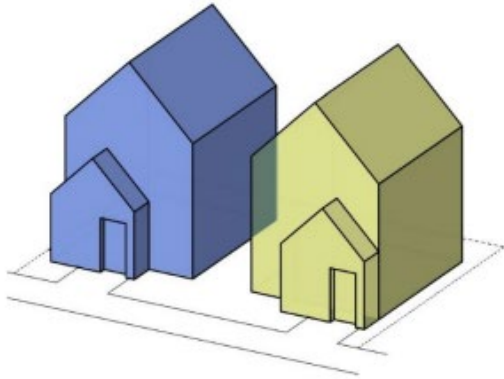


Figure 22.285-6. Triplex Front and Back

Figure 22.285-7. Stacked Fourplex

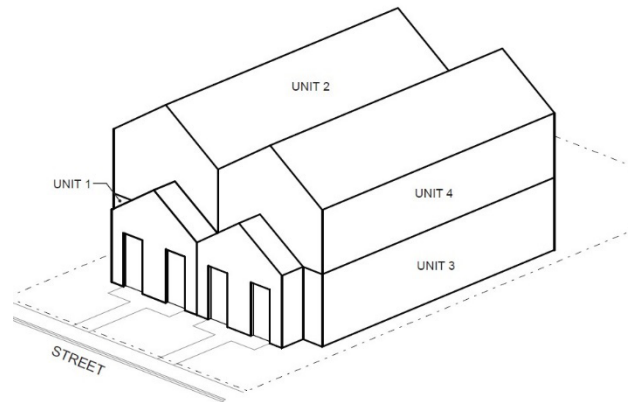
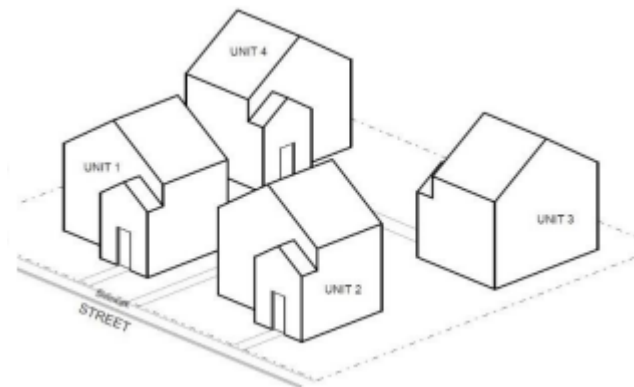


Figure 22.285-8 Detached Fourplex



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

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

22.280 Single-Dwelling Units.

- (4) Single Dwelling Units are one dwelling unit on one lot, with or without one accessory dwelling unit or Single Room Occupancy (SRO) Unit.
- (5) Use Examples. Single detached units, a single dwelling unit with one Accessory Dwelling Unit, a Single Dwelling Unit with one SRO Unit, one SRO Development with a minimum of four and no more than six SRO units, manufactured homes, prefabricated dwellings, and child and adult care or treatment homes for five or fewer individuals.
- (6) Exceptions.
 - (e) In certain situations, lodging where tenancy may be arranged for periods less than one month, such as short-term housing or homeless shelter, may be classified as Community Service uses.
 - (f) Dwellings and SRO developments where care or treatment are provided and that typically provide common dining are classified as a Group or Residential Care Home or Residential Care or Treatment Facility.
 - (g) Attached primary dwelling units are classified as Middle Housing (either a duplex, triplex, fourplex, or townhouse) or Multiple Dwelling Unit Development.
 - (h) Dwelling units located above, behind, or contiguous to a business or office on the ground floor(s) are classified as Units Above or Attached to a Business or that meet the definition of Live/work dwelling units

DEFINITIONS

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

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

Cottage Cluster: A grouping of detached dwelling units (cottages) with a density of at least four dwellings per gross acre, a footprint of less than 900 square feet each, and that includes a common courtyard. Cottage clusters are considered a type of middle housing and are not considered multiple dwelling units or single-dwelling unit detached dwellings. Cottage clusters typically have multiple cottages sharing a single lot; however, cottage clusters can also be divided so that cottages are on individual lots.

Cottage Cluster Project: A development site with one or more cottage clusters. Each cottage cluster as part of a cottage cluster project must have its own common courtyard.

Duplex: Two attached or detached dwelling units in any configuration on a lot or parcel other than a lot or parcel created by a Middle Housing Land Division. Both dwelling units are located on a single lot, except where a middle housing land division has been approved. For the purposes of this Code, a Non-Property Line Separated Townhouse constructed under the Oregon Residential Specialty Code has the same meaning.

Fourplex: Four dwelling units that are attached or detached in any configuration on a lot or parcel

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

other than a lot or parcel created by a Middle Housing Land Division. All dwelling units are located on a single lot, except where a middle housing land division has been approved. For the purposes of this Code, a non-property line separated townhouse constructed under the Oregon Residential Special Code has the same meaning.

Single Room Occupancy (SRO) Development: A detached building or buildings with no less than four attached but separate Single Room Occupancy Units and a shared Kitchen. Sanitary facilities (bathrooms) may be shared or may be provided within or between SRO units. For purposes of this Code, density must be calculated as one dwelling for every three SRO units or fraction thereof, except that one SRO development with a minimum of four and no more than six SRO units sited on a property zoned to allow single dwelling units is considered one dwelling unit. See definition for a Single Room Occupancy Unit.

Townhouse: A dwelling unit that is part a grouping of two or more common wall dwelling units, each unit of which is built upon an individual subdivided or partitioned lot or parcel. Townhouses are also called single-dwelling unit attached houses, rowhouses, and zero-lot-line houses. “Non-property line” townhouses are not considered townhouses.

Triplex: Three dwelling units that are attached or detached in any configuration on a lot or parcel other than a lot or parcel created by a Middle Housing Land Division . All dwelling units are located on a single lot, except where a middle housing land division has been approved. For the purposes of this code, a non-property line separated townhouse constructed under the Oregon Residential Specialty Code has the same meaning.



TO: Albany City Council

VIA: Peter Troedsson, City Manager
Paul Trombino, Public Works Director

FROM: Staci Belcastro, P.E., City Engineer
Aaron Hiemstra, P.E., Engineering Manager

DATE: June 25, 2026 for the July 08, 2026 City Council Meeting

SUBJECT: An Ordinance Amending AMC Chapter 15.06 Private Construction of Public Improvements to Incorporate SB 974 Requirements

Purpose:

Update Albany Municipal Code Chapter 15.06 to meet requirements of Oregon State Senate Bill 974, which implements a “chess clock” for review times. Staff felt it was timely to review all of Chapter 15 at this time to ensure Chapter 15 is consistent with current practices and policies.

Background/Discussion:

Oregon Legislature approved Senate Bill SB 974 and signed into law June 16, 2026. This SB requires that local governments implement a limited review process for approval of permits for “final engineering plans” for design or construction of public and private infrastructure improvements including grading, water, sewer, stormwater, transportation systems, and utilities. This new limited review process is set up to be similar to land use review timelines and is a tolled review. The limited review process requires that local governments implement a 30-day completeness review and have a 120-day tolled review timeline with an option for the applicant to request an extension. This requirement is specifically required for residential developments and authorizes award of attorney fees to applicants if final engineering plans or land use applications for residential development are not processed timely. SB 974 also had specific language for application documents required for completeness review.

Staff reviewed all of Article 15 at this time to incorporate required updates from SB 974 and to make general updates to Article 15 to meet internal policies since the last update in 1993. Staff made updates to all of Article 15 in lieu of creating a new process specifically for residential development. The new Article 15 update modifies the current plan approval extension that we currently have down to 120-days or 245-days with an approved extension. Current Article allows for a Public Improvement by Private Developer Permit to expire after 1-year with the option of up to two additional 1-year extensions.

Public Works staff reviews of public and private infrastructure improvements currently are within the 120-day tolled period. Our current permitting software, Accela, is able to time stamp when applicants submit or resubmit plans for review. Staff will evaluate the review times for projects when multiple revisions are submitted for review.

Staff felt it was timely to review all of Article 15 that is related to all aspects of the Public Improvement by Private Developer Permit. Staff reviewed all of Article 15 and provided updates to be consistent with Public Works policies for preconstruction conferences, permit conditions, and permit fees.

Strategic Plan Impact:

High-Performing Government – no impacts

Budget/Staff Impact:

There is not anticipated to be any additional staff time needed to implement the new limited review process.

Staff Recommendation:

Staff is recommending Council adopt the attached ordinance to update AMC chapter 15.06 to be in compliance with SB 974 and general updates to the code.

Alternatives:

1. Adopt the ordinance
2. Do not adopt the ordinance

Attachments:

1. Ordinance
2. Senate Bill 974



AN ORDINANCE AMENDING ALBANY MUNICIPAL CODE (AMC) CHAPTER 15.06 PRIVATE CONSTRUCTION OF PUBLIC IMPROVEMENTS TO INCORPORATE SB 974 REQUIREMENTS AND GENERAL CODE UPDATES

WHEREAS, on June 5th, 2025, the Oregon Legislature approved SB 974, and the legislation was signed into law June 16, 2025; and

WHEREAS, SB 974 Section 1 to 3 requires local governments to implement a limited review process for approval of permits for “final engineering plans” for design or construction of public and private infrastructure improvements including grading, water, sewer, stormwater, transportation systems and utilities; and

WHEREAS, clarifying the permit limited review process to be in compliance with SB 974 and updates to permit requirements; and

WHEREAS, the adjustment provisions in SB 974 are in effect as of July 1, 2026.

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

Section 1: The Albany Municipal Code Chapter 15.06 is hereby amended as provided in Exhibit A.

Section 2: This ordinance will be effective 30 days after adoption.

Passed by the Council: _____

Approved by the Mayor: _____

Effective Date: _____

Mayor

ATTEST:

City Recorder

Exhibit A

(*Unless otherwise specified, new language is shown in red, and text to be removed is depicted with strikethrough.)

15.06.030 Approval of drawings and specifications required.

Construction drawings and specifications for public improvements shall be submitted to the City for drawing review and approval. Written approval, on the drawings, of the City Engineer or his/her designated representative is required prior to issuance of the permit.

(1) Drawings and specifications submitted for approval shall be subject to the standards, specifications, policies and procedures, and drawing review fees of the City in effect at the time of application or reapplication for drawing review. Additionally, said drawings shall be consistent with the City's facility plan for the type of facility being constructed.

(2) Unless specifically waived in writing by the City Engineer, all drawings and specifications must be stamped by a registered professional engineer who has possession of a set of the City of Albany Standard Construction Specifications.

(3) Drawing and specification approval shall be void upon expiration of ~~one year~~ **120 days** from the date of ~~written approval~~ **the application has been deemed complete. Review time is tolled during the time period beginning on the date on which the City sends a direction to the applicant to correct or supplement the application and ending on the date on which the amended application is received by the City.** Drawing approval extensions may be granted by the City for a maximum of two extensions of one year (or portions thereof) each upon the finding by the City Engineer that the facts upon which the approval was based have not changed to an extent sufficient to require resubmittal of drawings for review **upon request of the applicant, provided that the total of the extension does not exceed 245 days.**

(4) Only those drawings marked with the written approval of the City Engineer are valid for the purposes and requirements of this chapter. (Ord. 5044 § 1, 1993; Ord. 4924 § 1, 1990).

15.06.040 Drawing review application and fee.

An application for drawing review is required and shall be accompanied by a drawing review fee. The application shall include an itemized ~~construction~~ **engineer's estimate, construction plans, reports,** and such other information as may be required by the City Engineer. The fee for drawing review shall be as established by the Albany City Council by resolution. The construction estimate shall meet the approval of the City Engineer or his/her authorized representative. Unapproved drawings returned to the private engineer may be resubmitted a maximum of two additional times before a second (new) drawing review fee is charged. **After the review fee has been paid, the City shall review the application and within 30 days deem the application complete or specify all additional materials that must be included for the application to be considered complete.** (Ord. 5044 § 1, 1993; Ord. 4924 § 1, 1990).

15.06.060 Permit issuance.

After the City has completed final review of the final engineering plans, the applicant shall provide applicable permit fees, forms, and bonds as required below within the 120-day timeline as listed in AMC 15.06.030. The timeline is not tolled after plans have been approved. Issuance of a permit to construct public facilities shall be subject to all of the following:

- (1) Approval of the plans and specifications as specified in this chapter.
 - (2) Payment of a permit fee as established in Section 15.06.080 herein.
 - (3) Submittal of evidence of public liability and property damage insurance in the amounts listed in the City of Albany Standard Construction Specifications. This insurance shall cover the contractor, all subcontractors, and the City of Albany and its employees.
 - (4) Dedication of all needed rights-of-way and easements, as determined by the City Engineer. The City may delay acceptance and recording of the dedications until the construction is completed.
 - (5) Submittal of a signed contract with a private engineer to provide construction (including survey and staking where appropriate) and inspection services on the project, and to provide reproducible record drawings (as-builts) of the completed improvements.
 - (6) Submittal of a performance and payment guarantee as specified in Section 15.06.090.
 - ~~(7) Submittal of a warranty guarantee as specified in Section 15.06.100.~~
 - ~~(8)~~ Submittal of evidence that all contractors are licensed by the State of Oregon.
 - ~~(9) Submittal of evidence that the contractor has purchased a set of the City of Albany Standard Construction Specifications.~~
 - ~~(810)~~ Compliance with the City of Albany Standard Construction Specifications, except as specifically amended by the conditions of permit issuance or this chapter.
 - ~~(911)~~ The applicant's signature on the permit form constituting acknowledgment of and agreement to abide by all conditions of permit approval.
 - ~~(1012)~~ The requirement that the permittee maintain an approved permit, including drawings, on the construction site for the entire period of construction.
- The applicant is responsible for providing or otherwise complying with all items listed in this section. (Ord. 5044 § 1, 1993; Ord. 4924 § 1, 1990).

15.06.080 Permit fee.

Permit fees shall be charged to offset City costs. The fees for **transportation, stormwater, water,** and sewer projects shall be credited to the City's **transportation, stormwater, water,** and sewer enterprise funds respectively. ~~Fees for other projects shall be credited to the General Fund.~~

- (1) The permit fee, exclusive of the drawing review fee, shall be established by resolution of the Albany City Council.
- (2) The itemized **engineer's** estimated construction cost used to calculate the permit fee shall be developed by the private engineer based upon the approved plans. The itemized estimated construction cost shall be comparable with current bid prices for City contract projects and must meet the approval of the City Engineer.

~~(3) For storm drain and sanitary sewer lines an additional cost as set by City Council resolution shall also be charged to cover the City's cost of television inspection of the line. (Ord. 5044 § 1, 1993; Ord. 4924 § 1, 1990).~~

15.06.110 Preconstruction conference.

Prior to construction, the permittee shall ~~conduct~~ **coordinate** a preconstruction conference **with the City** to discuss the schedule, coordination, and specifics of the project. **City representative, the** ~~The~~ private engineer and the contractor shall **must** attend the preconstruction conference. In addition, ~~representatives of the City and~~ affected utilities shall be given an opportunity to attend. The requirement for a preconstruction conference may be waived in writing by the City Engineer. (Ord. 5044 § 1, 1993; Ord. 4924 § 1, 1990).

15.06.140 Construction in accordance with permit conditions.

All construction of public facilities shall be performed in accordance with the approved plans, specifications, and other requirements and conditions of a permit to construct public facilities. **There will be no connection to, or use of, the public improvements prior to acceptance of same by the City.** Any deviations shall require written approval of the City Engineer or his/her authorized representative. (Ord. 5044 § 1, 1993; Ord. 4924 § 1, 1990).

Enrolled Senate Bill 974

Sponsored by Senators ANDERSON, JAMA, BROADMAN, MEEK; Senators PATTERSON, PHAM
K, SMITH DB, Representatives ANDERSEN, CHOTZEN, FAHEY, JAVADI, MARSH, TRAN

CHAPTER

AN ACT

Relating to the timeline for reviewing land use applications for housing; creating new provisions; amending ORS 197.830 and 197.835; and prescribing an effective date.

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

SECTION 1. (1) As used in this section, “final engineering plans” means the detailed engineering plans and reports for the design or construction of public and private infrastructure improvements that require review and approval following tentative plat approval by a local government before issuing site development permits, including plans and reports for the construction of public and private infrastructure improvements such as grading, water, sewer, stormwater, transportation systems and utilities.

(2) After receiving an application for final engineering plans for residential development within an urban growth boundary, a local government shall:

(a) Within 30 days, confirm that the application was complete when submitted or specify all additional materials that must be included for the application to be considered complete.

(b) Complete the final review of the final engineering plans and, following the receipt of applicable fees, forms and bonds, approve or deny site development permits for construction of all public and private infrastructure improvements, within 120 days after the date on which:

(A) The application is deemed complete under paragraph (a) of this subsection;

(B) The applicant has provided all materials specified under paragraph (a) of this subsection; or

(C) The applicant states that no additional materials are forthcoming.

(3) The review period for a local government to complete its review under subsection (2)(b) of this section:

(a) Is tolled during the time period beginning on the date on which a local government sends a direction to the applicant to correct or supplement the application and ending on the date on which the amended application is received by the local government.

(b) May be extended one or more times for a specified period at the written request of the applicant, provided that the total of all extensions does not exceed 245 days.

(4)(a) If the local government does not take final action on the application within the deadline provided under subsection (2)(b) of this section, including any extension under this section, the applicant may file a petition for a writ of mandamus under ORS 34.130 in the circuit court of the county where the application was submitted.

(b) The local government shall retain jurisdiction to make a decision until a petition for a writ of mandamus is filed.

(c) Upon receiving a petition filed under ORS 34.130, the circuit court has jurisdiction for all decisions regarding the application, including settlement.

(d) The court shall issue a peremptory writ unless the local government or any intervenor shows that the approval of final engineering plans would violate a substantive provision of the local government's regulations.

SECTION 2. Section 3 of this 2025 Act is added to and made a part of ORS chapter 197A.

SECTION 3. (1) This section applies only to a land use decision for residential development based on an application for:

(a) A zone change to allow for a denser residential use designation;

(b) A planned unit development; or

(c) A variance from a residential approval standard.

(2) This section applies only to an application for land that is, at the time of the application:

(a) Inside the urban growth boundary; and

(b) Zoned primarily for residential use or mixed residential use or planned for residential use.

(3) This section does not apply to an application:

(a) That would reduce the minimum residential density of land.

(b) For a final subdivision or partition plat.

(c) For a residential construction permit under the state building code.

(d) For final engineering plans under section 1 of this 2025 Act.

(e) Subject to a ministerial or other expedited approval procedure, including a residential use allowed outright.

(4) An application under this section:

(a) Is not subject to the requirements of ORS 197.797.

(b) Must be reviewed under the procedures described in a local government's land use regulations, except as provided in this section.

(5)(a) The local government shall provide written notice of an application under this section to owners of property within 100 feet of the site for which the application is made and to any neighborhood or community organization recognized by the governing body and whose boundaries include the site. The list of owners must be compiled from the most recent property tax assessment roll.

(b) A local government is not required to provide a hearing, as described in ORS 197.610 to 197.625, on an application made under this section if the local government provides a copy of the notice required under this subsection to the Department of Land Conservation and Development in the manner provided by ORS 197.610 and 197.615.

(c) The notice must:

(A) Provide a 14-day period for submission of written comments prior to the decision;

(B) State that issues which may provide the basis for an appeal to the Land Use Board of Appeals must be raised in writing prior to the expiration of the comment period. Issues shall be raised with sufficient specificity to enable the decision maker to respond to the issue;

(C) List, by commonly used citation, the applicable criteria for the decision;

(D) Set forth the street address or other easily understood geographical reference to the subject property;

(E) State the place, date and time that comments are due;

(F) State that copies of all evidence relied upon by the applicant are available for review and that copies can be obtained at cost;

(G) Include the name and phone number of a local government contact person;

(H) Provide notice of the decision to the applicant and any person who submits comments under subparagraph (A) of this paragraph. The notice of decision must include an explanation of appeal rights; and

(I) Briefly summarize the local process for reaching a final decision on the application.

(d) The local government shall provide an affidavit or other certification describing the notice given under this subsection.

(6) Approval or denial of the application must be based upon and accompanied by a brief statement that explains the criteria and standards considered relevant to the decision, states the facts relied upon in rendering the decision and explains the justification for the decision based on the criteria, standards and facts set forth.

(7) The initial decision on the application must be made without a hearing. A local government may provide for a hearing on appeal of the initial decision. The hearing may be limited to the record developed for the initial decision under subsection (5) of this section or may allow for the introduction of additional testimony or evidence. A hearing on appeal that allows the introduction of additional testimony or evidence must comply with the requirements of ORS 197.797. Written notice of the local government's final decision must be given to all parties who participated in the decision and must include an explanation of a party's right to appeal the decision.

SECTION 4. ORS 197.830 is amended to read:

197.830. (1) Review of land use decisions or limited land use decisions under ORS 197.830 to 197.845 shall be commenced by filing a notice of intent to appeal with the Land Use Board of Appeals.

(2) Except as provided in ORS 197.620, a person may petition the board for review of a land use decision or limited land use decision if the person:

(a) Filed a notice of intent to appeal the decision as provided in subsection (1) of this section; and

(b) Appeared before the local government, special district or state agency orally or in writing.

(3) If a local government makes a land use decision without providing a hearing, except as provided under ORS 215.416 (11) or 227.175 (10), or the local government makes a land use decision that is different from the proposal described in the notice of hearing to such a degree that the notice of the proposed action did not reasonably describe the local government's final actions, a person adversely affected by the decision may appeal the decision to the board under this section:

(a) Within 21 days of actual notice where notice is required; or

(b) Within 21 days of the date a person knew or should have known of the decision where no notice is required.

(4) If a local government makes a land use decision without a hearing pursuant to ORS 215.416 (11) or 227.175 (10):

(a) A person who was not provided notice of the decision as required under ORS 215.416 (11)(c) or 227.175 (10)(c) may appeal the decision to the board under this section within 21 days of receiving actual notice of the decision.

(b) A person who is not entitled to notice under ORS 215.416 (11)(c) or 227.175 (10)(c) but who is adversely affected or aggrieved by the decision may appeal the decision to the board under this section within 21 days after the expiration of the period for filing a local appeal of the decision established by the local government under ORS 215.416 (11)(a) or 227.175 (10)(a).

(c) A person who receives notice of a decision made without a hearing under ORS 215.416 (11) or 227.175 (10) may appeal the decision to the board under this section within 21 days of receiving actual notice of the nature of the decision, if the notice of the decision did not reasonably describe the nature of the decision.

(d) Except as provided in paragraph (c) of this subsection, a person who receives notice of a decision made without a hearing under ORS 215.416 (11) or 227.175 (10) may not appeal the decision to the board under this section.

(5) If a local government makes a limited land use decision which is different from the proposal described in the notice to such a degree that the notice of the proposed action did not reasonably describe the local government's final actions, a person adversely affected by the decision may appeal the decision to the board under this section:

(a) Within 21 days of actual notice where notice is required; or

(b) Within 21 days of the date a person knew or should have known of the decision where no notice is required.

(6) The appeal periods described in subsections (3), (4) and (5) of this section:

(a) May not exceed three years after the date of the decision, except as provided in paragraph (b) of this subsection.

(b) May not exceed 10 years after the date of the decision if notice of a hearing or an administrative decision made pursuant to ORS 197.195 or 197.797 **or section 3 of this 2025 Act** is required but has not been provided.

(7)(a) Within 21 days after a notice of intent to appeal has been filed with the board under subsection (1) of this section, any person described in paragraph (b) of this subsection may intervene in and be made a party to the review proceeding by filing a motion to intervene and by paying a filing fee of \$100.

(b) Persons who may intervene in and be made a party to the review proceedings, as set forth in subsection (1) of this section, are:

(A) The applicant who initiated the action before the local government, special district or state agency; or

(B) Persons who appeared before the local government, special district or state agency, orally or in writing.

(c) Failure to comply with the deadline or to pay the filing fee set forth in paragraph (a) of this subsection shall result in denial of a motion to intervene.

(8) If a state agency whose order, rule, ruling, policy or other action is at issue is not a party to the proceeding, it may file a brief with the board as if it were a party. The brief shall be due on the same date the respondent's brief is due and shall be accompanied by a filing fee of \$100.

(9) A notice of intent to appeal a land use decision or limited land use decision shall be filed not later than 21 days after the date the decision sought to be reviewed becomes final. A notice of intent to appeal plan and land use regulation amendments processed pursuant to ORS 197.610 to 197.625 shall be filed not later than 21 days after notice of the decision sought to be reviewed is mailed or otherwise submitted to parties entitled to notice under ORS 197.615. Failure to include a statement identifying when, how and to whom notice was provided under ORS 197.615 does not render the notice defective. Copies of the notice of intent to appeal shall be served upon the local government, special district or state agency and the applicant of record, if any, in the local government, special district or state agency proceeding. The notice shall be served and filed in the form and manner prescribed by rule of the board and shall be accompanied by a filing fee of \$300. If a petition for review is not filed with the board as required in subsections (10) and (11) of this section, the board shall award the filing fee to the local government, special district or state agency.

(10)(a) Within 21 days after service of the notice of intent to appeal, the local government, special district or state agency shall transmit to the board the original or a certified copy of the entire record of the proceeding under review. By stipulation of all parties to the review proceeding the record may be shortened. The board may require or permit subsequent corrections to the record; however, the board shall issue an order on a motion objecting to the record within 60 days of receiving the motion. If the board denies a petitioner's objection to the record, the board may establish a new deadline for the petition for review to be filed that may not be less than 14 days from the later of the original deadline for the brief or the date of denial of the petitioner's record objection.

(b) Within 10 days after service of a notice of intent to appeal, the board shall provide notice to the petitioner and the respondent of their option to enter into mediation pursuant to ORS 197.860. Any person moving to intervene shall be provided such notice within seven days after a motion to

intervene is filed. The notice required by this paragraph shall be accompanied by a statement that mediation information or assistance may be obtained from the Department of Land Conservation and Development.

(11) A petition for review of the land use decision or limited land use decision and supporting brief shall be filed with the board as required by the board under subsection (13) of this section.

(12) The petition shall include a copy of the decision sought to be reviewed and shall state:

(a) The facts that establish that the petitioner has standing.

(b) The date of the decision.

(c) The issues the petitioner seeks to have reviewed.

(13)(a) The board shall adopt rules establishing deadlines for filing petitions and briefs and for oral argument.

(b) The local government or state agency may withdraw its decision for purposes of reconsideration at any time:

(A) Subsequent to the filing of a notice of intent; and

(B) Prior to:

(i) The date set for filing the record; or

(ii) On appeal of a decision under ORS 197.610 to 197.625 or relating to the development of a residential structure, the filing of the respondent's brief.

(c) If a local government or state agency withdraws an order for purposes of reconsideration, it shall, within such time as the board may allow, affirm, modify or reverse its decision. If the petitioner is dissatisfied with the local government or agency action after withdrawal for purposes of reconsideration, the petitioner may refile the notice of intent and the review shall proceed upon the revised order. An amended notice of intent is not required if the local government or state agency, on reconsideration, affirms the order or modifies the order with only minor changes.

(14) The board shall issue a final order within 77 days after the date of transmittal of the record. If the order is not issued within 77 days the applicant may apply in Marion County or the circuit court of the county where the application was filed for a writ of mandamus to compel the board to issue a final order.

(15) Upon entry of its final order, the board:

(a) May, in its discretion, award costs to the prevailing party including the cost of preparation of the record if the prevailing party is the local government, special district or state agency whose decision is under review.

(b) Shall award reasonable attorney fees and expenses to the prevailing party against any other party who the board finds presented a position or filed any motion without probable cause to believe the position or motion was well-founded in law or on factually supported information.

(c) Shall award costs and attorney fees to a party as provided in ORS 197.843.

(16) Orders issued under this section may be enforced in appropriate judicial proceedings.

(17)(a) The board shall provide for the publication of its orders that are of general public interest in the form it deems best adapted for public convenience. The publications shall constitute the official reports of the board.

(b) Any moneys collected or received from sales by the board shall be paid into the Board Publications Account established by ORS 197.832.

(18) Except for any sums collected for publication of board opinions, all fees collected by the board under this section that are not awarded as costs shall be paid over to the State Treasurer to be credited to the General Fund.

(19) The board shall track and report on its website:

(a) The number of reviews commenced, as described in subsection (1) of this section, the number of reviews commenced for which a petition is filed under subsection (2) of this section and, in relation to each of those numbers, the rate at which the reviews result in a decision of the board to uphold, reverse or remand the land use decision or limited land use decision. The board shall track and report reviews under this paragraph in categories established by the board.

(b) A list of petitioners, the number of reviews commenced and the rate at which the petitioner's reviews have resulted in decisions of the board to uphold, reverse or remand the land use decision or limited land use decision.

(c) A list of respondents, the number of reviews involving each respondent and the rate at which reviews involving the respondent have resulted in decisions of the board to uphold, reverse or remand the land use decision or limited land use decision. Additionally, when a respondent is the local government that made the land use decision or limited land use decision, the board shall track whether the local government appears before the board.

(d) A list of reviews, and a brief summary of the circumstances in each review, under which the board exercises its discretion to require a losing party to pay the attorney fees of the prevailing party.

SECTION 5. ORS 197.835 is amended to read:

197.835. (1)(a) The Land Use Board of Appeals shall review the land use decision or limited land use decision and prepare a final order affirming, reversing or remanding the land use decision or limited land use decision.

(b) If a local government demonstrates that a land use decision adopting a change to an acknowledged comprehensive plan or land use regulation contains a severability clause and specifically challenged portions of the changes may be reasonably severable from the remainder of the changes, the board may affirm in part. Reasonably severable means the remaining parts, standing alone, are complete and capable of being executed with the legislative intent. The affirmed parts are not affected by the reversal or remand, continue in effect and are considered acknowledged as described in ORS 197.625.

(c) The board shall adopt rules defining the circumstances in which it will reverse rather than remand a land use decision or limited land use decision or part of a decision that is not affirmed.

(2)(a) Review of a decision under ORS 197.830 to 197.845 shall be confined to the record.

(b) In the case of disputed allegations of standing, unconstitutionality of the decision, ex parte contacts, actions described in subsection (10)(a)(B) of this section or other procedural irregularities not shown in the record that, if proved, would warrant reversal or remand, the board may take evidence and make findings of fact on those allegations. The board shall be bound by any finding of fact of the local government, special district or state agency for which there is substantial evidence in the whole record.

(3) The board may only review issues raised by any participant before the local hearings body as provided by ORS 197.195, 197.622 or 197.797 **or section 3 of this 2025 Act**, whichever is applicable.

(4) A petitioner may raise new issues to the board regarding a quasi-judicial decision made under ORS 197.195 or 197.797 **or section 3 of this 2025 Act** only if:

(a) The local government failed to list the applicable criteria for a decision under ORS 197.195 (3)(c) or 197.797 (3)(b) **or section 3 (5)(c) of this 2025 Act**, in which case a petitioner may raise new issues based upon applicable criteria that were omitted from the notice. However, the board may refuse to allow new issues to be raised if it finds that the issue could have been raised before the local government; or

(b) The local government made a land use decision or limited land use decision which is different from the proposal described in the notice to such a degree that the notice of the proposed action did not reasonably describe the local government's final action.

(5) The board shall reverse or remand a land use decision not subject to an acknowledged comprehensive plan and land use regulations if the decision does not comply with the goals. The board shall reverse or remand a land use decision or limited land use decision subject to an acknowledged comprehensive plan or land use regulation if the decision does not comply with the goals and the Land Conservation and Development Commission has issued an order under ORS 197.320 or adopted a new or amended goal under ORS 197.245 requiring the local government to apply the goals to the type of decision being challenged.

(6) The board shall reverse or remand an amendment to a comprehensive plan if the amendment is not in compliance with the goals.

(7) The board shall reverse or remand an amendment to a land use regulation or the adoption of a new land use regulation if:

(a) The regulation is not in compliance with the comprehensive plan; or

(b) The comprehensive plan does not contain specific policies or other provisions which provide the basis for the regulation, and the regulation is not in compliance with the statewide planning goals.

(8) The board shall reverse or remand a decision involving the application of a plan or land use regulation provision if the decision is not in compliance with applicable provisions of the comprehensive plan or land use regulations.

(9) In addition to the review under subsections (1) to (8) of this section, the board shall reverse or remand the land use decision under review if the board finds:

(a) The local government or special district:

(A) Exceeded its jurisdiction;

(B) Failed to follow the procedures applicable to the matter before it in a manner that prejudiced the substantial rights of the petitioner;

(C) Made a decision not supported by substantial evidence in the whole record;

(D) Improperly construed the applicable law; or

(E) Made an unconstitutional decision; or

(b) The state agency made a decision that violated the goals.

(10)(a) The board shall reverse a local government decision and order the local government to grant approval of an application for development denied by the local government if the board finds:

(A) Based on the evidence in the record, that the local government decision is outside the range of discretion allowed the local government under its comprehensive plan and implementing ordinances; or

(B) That the local government's action was for the purpose of avoiding the requirements of ORS 215.427 or 227.178.

(b) If the board does reverse the decision and orders the local government to grant approval of the application, the board shall award attorney fees to the applicant and against the local government.

(11)(a) Whenever the findings, order and record are sufficient to allow review, and to the extent possible consistent with the time requirements of ORS 197.830 (14), the board shall decide all issues presented to it when reversing or remanding a land use decision described in subsections (2) to (9) of this section or limited land use decision described in ORS 197.828 and 197.195.

(b) Whenever the findings are defective because of failure to recite adequate facts or legal conclusions or failure to adequately identify the standards or their relation to the facts, but the parties identify relevant evidence in the record which clearly supports the decision or a part of the decision, the board shall affirm the decision or the part of the decision supported by the record and remand the remainder to the local government, with direction indicating appropriate remedial action.

(12) The board may reverse or remand a land use decision under review due to ex parte contacts or bias resulting from ex parte contacts with a member of the decision-making body, only if the member of the decision-making body did not comply with ORS 215.422 (3) or 227.180 (3), whichever is applicable.

(13) Subsection (12) of this section does not apply to reverse or remand of a land use decision due to ex parte contact or bias resulting from ex parte contact with a hearings officer.

(14) The board shall reverse or remand a land use decision or limited land use decision which violates a commission order issued under ORS 197.328.

(15) In cases in which a local government provides a quasi-judicial land use hearing on a limited land use decision, the requirements of subsections (12) and (13) of this section apply.

(16) The board may decide cases before it by means of memorandum decisions and shall prepare full opinions only in such cases as it deems proper.

SECTION 6. Sections 1 and 3 of this 2025 Act and the amendments to ORS 197.830 and 197.835 by sections 4 and 5 of this 2025 Act become operative July 1, 2026.

SECTION 7. Section 8 of this 2025 Act is added to and made a part of ORS chapter 197A.

SECTION 8. (1) A local government may not apply residential design standards to an application for the development of housing within an urban growth boundary unless the application is for the development of a multifamily structure as defined in ORS 197A.465 or fewer than 20 residential units.

(2) This section does not apply to land use regulations or requirements that are related to setbacks, building height, accessibility, fire ingress or egress, public health or safety, state or federal water quality standards, hazardous or contaminated site cleanup or wildlife protection or that implement statewide land use planning goals relating to natural resources, natural hazards, the Willamette River Greenway, estuarine resources, coastal shorelands, beaches and dunes or ocean resources.

(3) As used in this section:

(a) “Residential design standards” means standards intended to preserve the desired character, architectural expression, decoration or aesthetic quality of new homes, including standards regulating:

- (A) Facade materials, colors or patterns;
- (B) Roof decoration, form or materials;
- (C) Accessories, materials or finishes for entry doors or garages;
- (D) Window elements such as trim, shutters or grids;
- (E) Fence type, design or finishes;
- (F) Architectural details, such as ornaments, railings, cornices and columns;
- (G) Size and design of porches or balconies;
- (H) Variety of design or floorplan; or
- (I) Front or back yard area landscaping materials or vegetation.

(b) “Residential units” means any new single-unit dwellings, manufactured dwellings and units of middle housing, as defined in ORS 197A.420.

SECTION 9. Section 8 of this 2025 Act is repealed January 2, 2033.

SECTION 10. This 2025 Act takes effect on the 91st day after the date on which the 2025 regular session of the Eighty-third Legislative Assembly adjourns sine die.

Passed by Senate April 28, 2025

Repassed by Senate June 5, 2025

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Obadiah Rutledge, Secretary of Senate

.....
Rob Wagner, President of Senate

Passed by House June 3, 2025

.....
Julie Fahey, Speaker of House

Received by Governor:

.....M.,....., 2025

Approved:

.....M.,....., 2025

.....
Tina Kotek, Governor

Filed in Office of Secretary of State:

.....M.,....., 2025

.....
Tobias Read, Secretary of State



TO: Albany City Council

VIA: Peter Troedsson, City Manager
Paul Trombino III, P.E. Public Works Director

FROM: Staci Belcastro, P.E., City Engineer
Nolan Nelson, P.E., Civil Engineer III

DATE: June 23, 2026, for the July 8, 2026 City Council Meeting

SUBJECT: Local Bridge Program Funding for the 3rd Avenue: Calapooia River Bridge

Purpose:

Approve, by resolution (Attachment 1), an agreement with the Oregon Department of Transportation (Attachment 2) accepting Local Bridge Program funding to complete preliminary engineering for the 3rd Avenue: Calapooia River Bridge.

Background/Discussion:

The Oregon Department of Transportation (ODOT) administers the Local Bridge Program (LBP) which is modeled after the former Federal Highway Bridge Replacement and Rehabilitation Program. To qualify for LBP funding, bridges must be listed in the National Bridge Inventory, with priority given to projects that support freight corridors. In 2023, the City submitted two applications for LBP funding for the 2027-2030 cycle met the minimum criteria and had the potential to score well in the technical ranking:

- 9th Avenue: Santiam-Albany Canal bridge
- 3rd Avenue: Calapooia River bridge

While both applications were initially unsuccessful, the City was notified in October 2025 that additional funding was available, and the 3rd Avenue: Calapooia River bridge received an award of \$1,640,000 (including 10.27% local match) to complete Preliminary Engineering.

The 3rd Avenue Bridge is Albany’s main access to Bryant Park and also provides bicycle access to the Willamette Valley Scenic Bikeway (Albany to Highway 34 Section). However, the bridge is narrow and does not have adequate bicycle or pedestrian facilities. Inspections have identified concerns with the condition of the bridge’s support bents, including scouring around their bases. As a result, the bridge is currently subject to a 30-ton load restriction and has a sufficiency rating of 3 out of 100. If the 3rd Avenue Bridge were closed or restricted, access from Albany to Bryant Park would be via a 5+ mile detour via Queen Avenue, Riverside Drive, and Bryant Drive SW. A vicinity map is provided as Attachment 3.

The Third Avenue bridge consists of two distinct sections. The eastern section, built in 1960 includes two reinforced concrete deck girder spans supported by concrete piers and spread footings. The Santiam-Albany Canal discharges onto a spillway built integrally to the east abutment. The western section has been reconstructed multiple times, most recently in 2008 when the wood structure of the bridge was replaced with steel. The western end of the bridge is

constrained by a railroad trestle. These differing construction types, combined with the constraints imposed by the railroad trestle, and in water work create a complex challenge. As part of preliminary engineering, ODOT will evaluate both replacement and rehabilitation options. Completing preliminary engineering will position the City to pursue future LBP funding or other grant opportunities for final design and construction.

Strategic Plan Impact:

Accepting Local Bridge Program funding aligns with the 2026-2030 Strategic Plan under the Vision Area Reliable and Sustainable Infrastructure, supporting the goal to Ensure safe, reliable, and well-maintained infrastructure.

Budget/Staff Impact:

The Local Bridge Program requires a 10.27 percent local match. The estimated project cost is \$1,640,000. LBP funds shall be limited to \$1,471,572; the 10.27 percent local math is \$168,428 and will be funded from street capital and restoration dollars.

Staff Recommendation:

1. Approve, by motion, the attached resolution authorizing the Public Works Director to sign the Agreement with ODOT accepting Local Bridge Program funding to complete preliminary engineering on the 3rd Avenue: Calapooia River bridge.

Alternatives:

1. Accept the Local Bridge Program funding.
2. Do not accept the Local Bridge Program funding.

Attachments:

1. Resolution
2. Agreement
3. Vicinity Map



RESOLUTION NO. _____

A RESOLUTION AUTHORIZING THE PUBLIC WORKS DIRECTOR TO EXECUTE AN AGREEMENT WITH THE OREGON DEPARTMENT OF TRANSPORTATION ACCEPTING LOCAL BRIDGE PROGRAM FUNDING FOR PRELIMINARY ENGINEERING OF THE 3RD AVENUE: CALAPOOIA RIVER BRIDGE

WHEREAS, the Oregon Department of Transportation (ODOT) administers the Local Bridge Program, which provides funding for the repair and replacement of locally owned bridges listed in the National Bridge Inventory; and

WHEREAS, in 2023 the City of Albany submitted applications for Local Bridge Program funding for the 2027–2030 cycle, including the 3rd Avenue: Calapooia River Bridge; and

WHEREAS, in October 2025, ODOT notified the City that additional Local Bridge Program funds were available and awarded the 3rd Avenue: Calapooia River Bridge project \$1,640,000, which includes the required 10.27 percent local match, to complete preliminary engineering; and

WHEREAS, the 3rd Avenue Bridge is the primary access route to Bryant Park, provides bicycle access to the Willamette Valley Scenic Bikeway, and currently faces structural concerns including inadequate pedestrian and bicycle facilities, scour at bridge bents, a 30-ton load restriction, and a sufficiency rating of 3 out of 100; and

WHEREAS, completing preliminary engineering will allow evaluation of both replacement and rehabilitation options and will position the City to pursue future Local Bridge Program or other grant funding for final design and construction; and

WHEREAS, acceptance of Local Bridge Program funding supports the City’s 2026–2030 Strategic Plan under the Vision Area Reliable and Sustainable Infrastructure by contributing to safe, well-maintained public infrastructure; and

WHEREAS, the total preliminary engineering cost is \$1,640,000, with ODOT contributing up to \$1,471,572 and the City providing a local match of \$168,428 from street capital and restoration funds;

NOW, THEREFORE, BE IT RESOLVED by the Albany City Council that the Public Works Director is authorized to sign the Agreement with the Oregon Department of Transportation accepting Local Bridge Program funding for preliminary engineering of the 3rd Avenue: Calapooia River Bridge.

DATED AND EFFECTIVE THIS 8th DAY OF JULY 2026.

Mayor

ATTEST:

City Recorder

**ODOT Delivered Federal Project
On Behalf of City of Albany**

Project Name: 3rd Avenue: Calapooia River Bridge (Albany) Bridge No. 43C09
Key Number: 24374

THIS AGREEMENT ("Agreement") is made and entered into by and between the STATE OF OREGON, acting by and through its Department of Transportation, hereinafter referred to as "State" or "ODOT," and the **CITY OF ALBANY**, acting by and through its elected officials, hereinafter referred to as "Agency," both herein referred to individually as "Party" and collectively as "Parties."

RECITALS

1. By the authority granted in Oregon Revised Statute (ORS) 190.110, 366.572 and 366.576, state agencies may enter into cooperative agreements with counties, cities and units of local governments for the performance of any or all functions and activities that a party to the Agreement, its officers, or agents have the authority to perform.
2. 3rd Avenue and Calapooia River Bridge No. 43C09 are part of the city street system under the jurisdiction and control of Agency.
3. Agency has agreed that State will deliver this project on behalf of the Agency.
4. The Project was selected as a part of the Local Bridge Program and may include a combination of federal and state funds. "Project" is defined under Terms of Agreement, paragraph 1 of this Agreement.
5. The Stewardship and Oversight Agreement On Project Assumption and Program Oversight By and Between Federal Highway Administration, Oregon Division and the State of Oregon Department of Transportation ("Stewardship Agreement") documents the roles and responsibilities of the State with respect to project approvals and responsibilities regarding delivery of the Federal Aid Highway Program. This includes the State's oversight and reporting requirements related to locally administered projects. The provisions of that agreement are hereby incorporated and included by reference.

NOW THEREFORE the premises being in general as stated in the foregoing Recitals, it is agreed by and between the Parties hereto as follows:

TERMS OF AGREEMENT

1. Under such authority, Agency and State agree to State delivering the 3rd Avenue: Calapooia River Bridge (Albany) project to design for future construction to repair or replace the bridge on behalf of Agency, hereinafter referred to as "Project." The Project is anticipated to include the preliminary engineering and construction phases.. The location of the Project is approximately as shown on the map attached hereto, marked

"Exhibit A," and by this reference made a part hereof.

2. The work to be performed under this Agreement is limited to the preliminary engineering phase which is the only phase currently programmed in the Statewide Transportation Improvement Program (STIP). When additional phases are funded and the STIP is amended, the Parties will amend this Agreement to include the construction phase, including all cost associated with that phase.
3. Agency agrees that, if State hires a consultant to design the Project, State will serve as the lead contracting agency and contract administrator for the consultant contract related to the work under this Agreement.
4. Project Costs and Funding.
 - a. The Programmed Project cost is estimated at \$1,640,000.00, which is subject to change. Federal funds for this Project shall be limited to \$1,471,572.00. Agency shall be responsible for all remaining costs, including any non-participating costs, all costs in excess of the federal funds, and the 10.27 percent match for all eligible costs. Any unused funds obligated to this Project will not be paid out by State, and will not be available for use by Agency for this Agreement or any other projects. "Programmed Project Cost" means the estimated cost to complete all phases of the Project currently funded in the STIP, and includes any federal funds, state funds, local matching funds, and any other funds.
 - b. With the exception of Americans with Disabilities Act of 1990-related design standards and exceptions, State shall consult with Agency on Project decisions that impact Total Project Cost involving the application of design standards, design exceptions, risks, schedule, and preliminary engineering charges, for work performed on roadways under local jurisdiction. State will allow Agency to participate in regular meetings and will use all reasonable efforts to obtain Agency's concurrence on plans. State shall consult with Agency prior to making changes to Project scope, schedule, or budget. However, State may award a construction contract up to ten (10) percent (%) over engineer's estimate without prior approval of Agency.
 - c. Federal funds under this Agreement are provided under Title 23, United States Code.
 - d. ODOT does not consider Agency to be a subrecipient or contractor under this Agreement for purposes of federal funds. The Assistance Listing Number (ALN) for this Project is 20.205, title Highway Planning and Construction.
 - e. State will submit the requests for federal funding to the Federal Highway Administration (FHWA). The federal funding for this Project is contingent upon approval of each funding request by FHWA. Any work performed outside the period of performance or scope of work approved by FHWA will be considered nonparticipating and paid for at Agency expense.

- f. Agency guarantees the availability of Agency funding in an amount required to fully fund Agency's share of the Project.
5. The term of this Agreement shall begin on the date all required signatures are obtained and shall terminate upon completion of the Project and final payment or ten (10) calendar years following the date all required signatures are obtained, whichever is sooner.
 6. Termination.
 - a. This Agreement may be terminated by mutual written consent of both Parties.
 - b. State may terminate this Agreement upon 30 days' written notice to Agency.
 - c. State may terminate this Agreement effective upon delivery of written notice to Agency, or at such later date as may be established by State, under any of the following conditions:
 - i. If Agency fails to provide services called for by this Agreement within the time specified herein or any extension thereof.
 - ii. If Agency fails to perform any of the other provisions of this Agreement, or so fails to pursue the work as to endanger performance of this Agreement in accordance with its terms, and after receipt of written notice from State fails to correct such failures within ten (10) days or such longer period as State may authorize.
 - iii. If Agency fails to provide payment of its share of the cost of the Project.
 - iv. If State fails to receive funding, appropriations, limitations or other expenditure authority sufficient to allow State, in the exercise of its reasonable administrative discretion, to continue to make payments for performance of this Agreement.
 - v. If federal or state laws, regulations or guidelines are modified or interpreted in such a way that either the work under this Agreement is prohibited or if State is prohibited from paying for such work from the planned funding source.
 - d. Any termination of this Agreement shall not prejudice any rights or obligations accrued to the Parties prior to termination.
 7. **Americans with Disabilities Act Compliance:**
 - a. When the Project scope includes work on sidewalks, curb ramps, or pedestrian-activated signals or triggers an obligation to address curb ramps or pedestrian signals, the Parties shall:
 - i. Utilize ODOT standards to assess and ensure Project compliance with Section 504 of the Rehabilitation Act of 1973 and the Americans with Disabilities Act of 1990 as amended (together, "ADA"), including ensuring that all sidewalks, curb

ramps, and pedestrian-activated signals meet current ODOT Highway Design Manual standards;

- ii. Follow ODOT's processes for design, construction, or alteration of sidewalks, curb ramps, and pedestrian-activated signals, including using the ODOT Highway Design Manual, ODOT Design Exception process, ODOT Standard Drawings, ODOT Construction Specifications, providing a temporary pedestrian accessible route plan and current ODOT Curb Ramp Inspection form;
- iii. At Project completion, send a completed ODOT Curb Ramp Inspection Form 734-5020 to the address on the form as well as to State's Project Manager for each curb ramp constructed or altered as part of the Project. The completed form is the documentation required to show that each curb ramp meets ODOT standards and is ADA compliant. ODOT's fillable Curb Ramp Inspection Form and instructions are available at the following address:

<https://www.oregon.gov/ODOT/Engineering/Pages/Accessibility.aspx>; and

- b. Agency shall ensure that any portions of the Project under Agency's maintenance jurisdiction are maintained in compliance with the ADA throughout the useful life of the Project. This includes, but is not limited to, Agency ensuring that:
 - i. Pedestrian access is maintained as required by the ADA,
 - ii. Any complaints received by Agency identifying sidewalk, curb ramp, or pedestrian-activated signal safety or access issues are promptly evaluated and addressed,
 - iii. Agency, or abutting property owner, pursuant to local code provisions, performs any repair or removal of obstructions needed to maintain the facility in compliance with the ADA requirements that were in effect at the time the facility was constructed or altered,
 - iv. Any future alteration work on Project or Project features during the useful life of the Project complies with the ADA requirements in effect at the time the future alteration work is performed, and
 - v. Applicable permitting and regulatory actions are consistent with ADA requirements.
 - c. Maintenance obligations in this section shall survive termination of this Agreement.
8. State shall ensure compliance with the Cargo Preference Act and implementing regulations (46 CFR Part 381) for use of United States-flag ocean vessels transporting materials or equipment acquired specifically for the Project. Strict compliance is required, including but not limited to the clauses in 46 CFR 381.7(a) and (b) which are

incorporated by reference. State shall also include this requirement in all contracts and ensure that contractors include the requirement in their subcontracts.

9. Agency grants State the right to enter onto Agency right of way and real property for the performance of duties as set forth in this Agreement.
10. The Parties acknowledge and agree that State, the Oregon Secretary of State's Office, the federal government, and their duly authorized representatives shall have access to the books, documents, papers, and records of the Parties which are directly pertinent to the specific Agreement for the purpose of making audit, examination, excerpts, and transcripts for a period of six (6) years after completion of the Project and final payment. Copies of applicable records shall be made available upon request. Payment for costs of copies is reimbursable by the requesting party.
11. The Special and Standard Provisions attached hereto, marked Attachments 1 and 2, respectively, are incorporated by this reference and made a part hereof. The Standard Provisions apply to all federal-aid projects and may be modified only by the Special Provisions. The Parties hereto mutually agree to the terms and conditions set forth in Attachments 1 and 2. In the event of a conflict, this Agreement shall control over the attachments, and Attachment 1 shall control over Attachment 2.
12. Agency shall assume sole liability for Agency's breach of any federal statutes, rules, program requirements and grant provisions applicable to the federal funds, and shall, upon Agency's breach of any such conditions that requires the State to return funds to FHWA, hold harmless and indemnify the State for an amount equal to the funds received under this Agreement.
13. Agency and State 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 unless such third persons are individually identified by name herein and expressly described as intended beneficiaries of the terms of this Agreement.
14. State and Agency hereto agree that if any term or provision of this Agreement is declared by a court of competent jurisdiction to be invalid, unenforceable, 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.
15. Notwithstanding anything in this Agreement or implied to the contrary, the rights and obligations set out in the following paragraphs of this Agreement shall survive Agreement expiration or termination, as well as any provisions of this Agreement that by their context are intended to survive: Terms of Agreement Paragraphs 4.e (Funding), 6.d (Termination), 7.b (ADA maintenance), 10-15, 18 (Integration, Merger; Waiver); and Attachment 2, paragraphs 1 (Project Administration), 7, 9, 11, 13 (Finance), and 37-41 (Maintenance and Contribution).

16. Agency certifies and represents that the individual(s) signing this Agreement has been authorized to enter into and execute this Agreement on behalf of Agency, under the direction or approval of its governing body, commission, board, officers, members or representatives, and to legally bind Agency.
17. This Agreement 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 this Agreement so executed shall constitute an original.
18. This Agreement and attached exhibits constitute the entire agreement between the Parties on the subject matter hereof. In the event of conflict, the body of this Agreement and the attached exhibits will control over Project application and documents provided by Agency to State. There are no understandings, agreements, or representations, oral or written, not specified herein regarding this Agreement. No waiver, consent, modification or change of terms of this Agreement shall bind either party unless in writing and signed by both Parties and all necessary approvals have been obtained. Such waiver, consent, modification or change, if made, shall be effective only in the specific instance and for the specific purpose given. The failure of State to enforce any provision of this Agreement shall not constitute a waiver by State of that or any other provision. Notwithstanding this provision, the Parties may enter into a Right Of Way Services Agreement in furtherance of the Project.
19. State's Contract Administrator for this Agreement is Jim Doll, Transportation Project Manager, Region 2, Area 4, 3700 SW Philomath Blvd., Corvallis, Oregon 97333; telephone: (541) 268-8358; email: james.p.doll@odot.oregon.gov, or assigned designee upon individual's absence. State shall notify the other Party in writing of any contact information changes during the term of this Agreement.
20. Agency's Contract Administrator for this Agreement is Staci Belcastro, City Engineer, City of Albany, 333 Broadalbin Street SW, Albany, Oregon 97321; telephone: (541) 917-7645; email: staci.belcastro@albanyoregon.gov, or assigned designee upon individual's absence. Agency shall notify the other Party in writing of any contact information changes during the term of this Agreement.

THE PARTIES, by execution of this Agreement, hereby acknowledge that their signing representatives have read this Agreement, understand it, and agree to be bound by its terms and conditions.

This Project is in the 2024-2027 Statewide Transportation Improvement Program (STIP), (Key # 24374) that was adopted by the Oregon Transportation Commission on July 13, 2023 (or subsequently by amendment to the STIP).

Signature Page Follows

CITY OF ALBANY, by and through its
elected officials

By _____

Title _____

Date _____

By _____

Title _____

Date _____

**LEGAL REVIEW APPROVAL (If required
in Agency's process)**

By _____

Agency Counsel

Date _____

Agency Contact:

Staci Belcastro, City Engineer
City of Albany
333 Broadalbin Street SW
Albany, Oregon 97321
(541) 917-7645
staci.belcastro@albanyoregon.gov

State Contact:

James P. Doll
Transportation Project Manager
ODOT Region 2, Area 4
3700 SW Philomath Boulevard
Corvallis, Oregon 97444
(541) 268-8358
james.p.doll@odot.oregon.gov

STATE OF OREGON, by and through
its Department of Transportation

By _____

Region 2 Manager

Date _____

APPROVAL RECOMMENDED

By _____

State Traffic Roadway Engineer

Date _____

**APPROVED AS TO LEGAL
SUFFICIENCY**

By Serena Hewitt, via email

Assistant Attorney General

Date 03/24/2026 email retained in file

EXHIBIT A – Project Location Map



ATTACHMENT NO. 1 to AGREEMENT No. 73000-00057352
SPECIAL PROVISIONS

1. State through its own forces or State's consultant shall conduct all work components necessary to complete the Project as referenced below, except for those responsibilities specifically assigned to Agency in this Agreement. Any work components performed by State's consultant shall be overseen by the State.
 - a. State shall conduct preliminary engineering and design work required to produce final plans, specifications, and cost estimates in accordance with current state and federal laws and regulations; obtain all required permits; acquire necessary right of way and easements; and arrange for all utility relocations and adjustments.
 - b. State will advertise, bid, and award the construction contract. Upon State's award of the construction contract, State shall be responsible for contract administration and construction engineering & inspection, including all required materials testing and quality documentation. State shall make all contractor payments.
 - c. State will perform project management and oversight activities throughout the duration of the Project. The cost of such activities will be billed to the Project.
2. State and Agency agree that the useful life of this Project is defined as 75 years.
3. If Agency fails to meet the requirements of this Agreement or the underlying federal regulations, State may withhold the Agency's proportional share of Highway Fund distribution necessary to reimburse State for costs incurred by such Agency breach.
4. Agency agrees to State acquiring all right of way needed for construction of the Project. Upon Project completion, State will transfer to Agency any real property interest that the State acquired for the Project that is no longer needed for the construction of the Project; however, all property transferred by the State to Agency shall include a reversionary interest by which the property automatically reverts back to the State if the Agency ceases to use the property for a public transportation purpose. Agency agrees to accept an instrument prepared by the State transferring the real property interest and waives any objection to the form of the instrument or the type of property interest transferred so long as the property interest transferred is equal to or less than the interest the State acquired for the Project.
5. To reflect the changes made to 23 U.S.C. 102 by the Infrastructure Investment and Jobs Act of 2021 (Public Law 117-58), Paragraph 11.b. of Attachment No. 2 Federal Standard Provisions is deleted in its entirety.

ATTACHMENT NO. 2 FEDERAL STANDARD PROVISIONS

PROJECT ADMINISTRATION

1. State (ODOT) is acting to fulfill its responsibility to the Federal Highway Administration (FHWA) by the administration of this Project, and Agency (i.e. county, city, unit of local government, or other state agency) hereby agrees that State shall have full authority to carry out this administration. If requested by Agency or if deemed necessary by State in order to meet its obligations to FHWA, State will act for Agency in other matters pertaining to the Project. Prior to taking such action, State will confer with Agency concerning actions necessary to meet federal obligations. State and Agency shall each assign a person in responsible charge "liaison" to coordinate activities and assure that the interests of both Parties are considered during all phases of the Project.
2. Any project that uses federal funds in project development is subject to plans, specifications and estimates (PS&E) review and approval by FHWA or State acting on behalf of FHWA prior to advertisement for bid proposals, regardless of the source of funding for construction.
3. State will provide or secure services to perform plans, specifications and estimates (PS&E), construction contract advertisement, bid, award, contractor payments and contract administration. A State-approved consultant may be used to perform preliminary engineering, right of way and construction engineering services.
4. Agency may perform only those elements of the Project identified in the special provisions.

PROJECT FUNDING REQUEST

5. State shall submit a separate written Project funding request to FHWA requesting approval of federal-aid participation for each project phase including a) Program Development (Planning), b) Preliminary Engineering (National Environmental Policy Act - NEPA, Permitting and Project Design), c) Right of Way Acquisition, d) Utilities, and e) Construction (Construction Advertising, Bid and Award). Any work performed prior to FHWA's approval of each funding request will be considered nonparticipating and paid for at Agency expense. State, its consultant or Agency shall not proceed on any activity in which federal-aid participation is desired until such written approval for each corresponding phase is obtained by State. State shall notify Agency in writing when authorization to proceed has been received from FHWA. All work and records of such work shall be in conformance with FHWA rules and regulations.

FINANCE

6. Federal funds shall be applied toward Project costs at the current federal-aid matching ratio, unless otherwise agreed and allowable by law. Agency shall be responsible for the entire match amount for the federal funds and any portion of the Project, which is not covered by federal funding, unless otherwise agreed to and specified in the intergovernmental Agreement (Project Agreement). Agency must obtain written approval from State to use in-kind contributions rather than cash to satisfy all or part of the matching funds requirement. If federal funds are used, State will specify the Catalog of Federal Domestic Assistance (CFDA) number in the Project Agreement. State will also determine and clearly state in the Project Agreement if recipient is a subrecipient or contractor, using the criteria in 2 CFR 200.331.

7. If the estimated cost exceeds the total matched federal funds available, Agency shall deposit its share of the required matching funds, plus 100 percent of all costs in excess of the total matched federal funds. Agency shall pay one hundred (100) percent of the cost of any item in which FHWA will not participate. If Agency has not repaid any non-participating cost, future allocations of federal funds or allocations of State Highway Trust Funds to Agency may be withheld to pay the non-participating costs. If State approves processes, procedures, or contract administration that result in items being declared non-participating by FHWA, such items deemed non-participating will be negotiated between Agency and State. Agency agrees that costs incurred by State and Agency for services performed in connection with any phase of the Project shall be charged to the Project, unless otherwise mutually agreed upon by the Parties.
8. Agency's estimated share and advance deposit.
 - a) Agency shall, prior to commencement of the preliminary engineering and/or right of way acquisition phases, deposit with State its estimated share of each phase. Exception may be made in the case of projects where Agency has written approval from State to use in-kind contributions rather than cash to satisfy all or part of the matching funds requirement.
 - b) Agency's construction phase deposit shall be one hundred ten (110) percent of Agency's share of the engineer's estimate and shall be received prior to award of the construction contract. Any additional balance of the deposit, based on the actual bid, must be received within forty-five (45) days of receipt of written notification by State of the final amount due, unless the contract is cancelled. Any balance of a cash deposit in excess of amount needed, based on the actual bid, will be refunded within forty-five (45) days of receipt by State of the Project sponsor's written request.
 - c) Pursuant to Oregon Revised Statutes (ORS) 366.425, the advance deposit may be in the form of 1) money deposited in the State Treasury (an option where a deposit is made in the Local Government Investment Pool), and an Irrevocable Limited Power of Attorney is sent to State's Active Transportation Section, Funding and Program Services Unit, or 2) an Irrevocable Letter of Credit issued by a local bank in the name of State, or 3) cash or check submitted to the Oregon Department of Transportation.
9. If Agency makes a written request for the cancellation of a federal-aid project; Agency shall bear one hundred (100) percent of all costs incurred as of the date of cancellation. If State was the sole cause of the cancellation, State shall bear one hundred (100) percent of all costs incurred. If it is determined that the cancellation was caused by third parties or circumstances beyond the control of State or Agency, Agency shall bear all costs, whether incurred by State or Agency, either directly or through contract services, and State shall bear any State administrative costs incurred. After settlement of payments, State shall deliver surveys, maps, field notes, and all other data to Agency.
10. Agency shall make additional deposits, as needed, upon request from State. Requests for additional deposits shall be accompanied by an itemized statement of expenditures and an estimated cost to complete the Project.
11. Agency shall, upon State's written request for reimbursement in accordance with Title 23, CFR part 630.112(c) 1 and 2, as directed by FHWA, reimburse State for federal-aid funds distributed to Agency if any of the following events occur:

- a) Right of way acquisition is not undertaken or actual construction is not started by the close of the twentieth federal fiscal year following the federal fiscal year in which the federal-aid funds were authorized for right of way acquisition. Agency may submit a written request to State's Liaison for a time extension beyond the twenty (20) year limit with no repayment of federal funds and State will forward the request to FHWA. FHWA may approve this request if it is considered reasonable.
 - b) Right of way acquisition or actual construction of the facility for which preliminary engineering is undertaken is not started by the close of the tenth federal fiscal year following the federal fiscal year in which the federal-aid funds were authorized. Agency may submit a written request to State's Liaison for a time extension beyond the ten (10) year limit with no repayment of federal funds and State will forward the request to FHWA. FHWA may approve this request if it is considered reasonable.
12. State shall, on behalf of Agency, maintain all Project documentation in keeping with State and FHWA standards and specifications. This shall include, but is not limited to, daily work records, quantity documentation, material invoices and quality documentation, certificates of origin, process control records, test results, and inspection records to ensure that the Project is completed in conformance with approved plans and specifications.
 13. State shall submit all claims for federal-aid participation to FHWA in the normal manner and compile accurate cost accounting records. State shall pay all reimbursable costs of the Project. Agency may request a statement of costs-to-date at any time by submitting a written request. When the final total cost of the Project has been computed, State shall furnish Agency with an itemized statement. Agency shall pay an amount which, when added to said advance deposit and federal reimbursement payment, will equal one hundred (100) percent of the final total cost of the Project. Any portion of deposits made in excess of the final total cost of the Project, minus federal reimbursement, shall be released to Agency. The actual cost of services provided by State will be charged to the Project expenditure account(s) and will be included in the final total cost of the Project.

DESIGN STANDARDS

14. Agency and State agree that minimum design standards on all local agency jurisdictional roadway or street projects on the National Highway System (NHS) and projects on the non-NHS shall be the American Association of State Highway and Transportation Officials (AASHTO) standards and be in accordance with State's Oregon Bicycle & Pedestrian Design Guide (current version). State or its consultant shall use either AASHTO's A Policy on Geometric Design of Highways and Streets (current version) or State's Resurfacing, Restoration and Rehabilitation (3R) design standards for 3R projects. State or its consultant may use AASHTO for vertical clearance requirements on Agency's jurisdictional roadways or streets.
15. Agency agrees that if the Project is on the Oregon State Highway System or a State-owned facility, that design standards shall be in compliance with standards specified in the current ODOT Highway Design Manual and related references. Construction plans for such projects shall be in conformance with standard practices of State and all specifications shall be in substantial compliance with the most current Oregon Standard Specifications for Highway Construction and current Contract Plans Development Guide.
16. State and Agency agree that for all projects on the Oregon State Highway System or a State-owned facility, any design element that does not meet ODOT Highway Design Manual design standards must be justified and documented by means of a design exception. State and Agency further agree that for all projects on the NHS, regardless of funding source; any design element that does not

meet AASHTO standards must be justified and documented by means of a design exception. State shall review any design exceptions on the Oregon State Highway System and retain authority for said approval. FHWA shall review any design exceptions for projects subject to Project of Division Interest and retains authority for their approval.

17. ODOT agrees all traffic control devices and traffic management plans shall meet the requirements of the current edition of the Manual on Uniform Traffic Control Devices and Oregon Supplement as adopted in Oregon Administrative Rule (OAR) 734-020-0005. State or its consultant shall, on behalf of Agency, obtain the approval of the State Traffic Engineer prior to the design and construction of any traffic signal, or illumination to be installed on a state highway pursuant to OAR 734-020-0430.

PRELIMINARY & CONSTRUCTION ENGINEERING

18. Preliminary engineering and construction engineering may be performed by either a) State, or b) a State-approved consultant. Engineering work will be monitored by State to ensure conformance with FHWA rules and regulations. Project plans, specifications and cost estimates shall be performed by either a) State, or b) a State-approved consultant. State shall review and approve Project plans, specifications and cost estimates. State shall, at project expense, review, process and approve, or submit for approval to the federal regulators, all environmental statements. State shall offer Agency the opportunity to review the documents prior to advertising for bids.
19. Architectural, engineering, photogrammetry, transportation planning, land surveying and related services (A&E Services) as needed for federal-aid transportation projects must follow the State's processes to ensure federal reimbursement. State will award, execute, and administer the contracts. State's personal services contracting process and resulting contract document will follow Title 23 CFR part 172, 2 CFR part 1201, ORS 279A.055, 279C.110, 279C.125, OAR 731-148-0130, OAR 731-148-0220(3), OAR 731-148-0260 and State Personal Services Contracting Procedures, as applicable and as approved by the FHWA. Such personal services contract(s) shall contain a description of the work to be performed, a project schedule, and the method of payment. No reimbursement shall be made using federal-aid funds for any costs incurred by Agency or the state approved consultant prior to receiving authorization from State to proceed.
20. The State or its consultant responsible for performing preliminary engineering for the Project shall, as part of its preliminary engineering costs, obtain all Project related permits necessary for the construction of said Project. Said permits shall include, but are not limited to, access, utility, environmental, construction, and approach permits. All pre-construction permits will be obtained prior to advertisement for construction.
21. State shall prepare construction contract and bidding documents, advertise for bid proposals, award all construction contracts, and administer the construction contracts.
22. Upon State's award of a construction contract, State shall perform quality assurance and independent assurance testing in accordance with the FHWA-approved Quality Assurance Program found in State's Manual of Field Test Procedures, process and pay all contractor progress estimates, check final quantities and costs, and oversee and provide intermittent inspection services during the construction phase of the Project.
23. State shall, as a Project expense, assign a liaison to provide Project monitoring as needed throughout all phases of Project activities (preliminary engineering, right-of-way acquisition, and construction). State's liaison shall process reimbursement for federal participation costs.

Disadvantaged Business Enterprises (DBE) Obligations

24. State and Agency agree to incorporate by reference the requirements of 49 CFR part 26 and State's DBE Program Plan, as required by 49 CFR part 26 and as approved by USDOT, into all contracts entered into under this Project Agreement. The following required DBE assurance shall be included in all contracts:

"The contractor or subcontractor shall not discriminate on the basis of race, color, national origin, or sex in the performance of this contract. The contractor shall carry out applicable requirements of Title 49 CFR part 26 in the award and administration of federal-aid contracts. Failure by the contractor to carry out these requirements is a material breach of this contract, which may result in the termination of this contract or such other remedy as Agency deems appropriate. Each subcontract the contractor signs with a subcontractor must include the assurance in this paragraph (see 49 CFR 26.13(b))."

25. State and Agency agree to comply with all applicable civil rights laws, rules and regulations, including Title V and Section 504 of the Rehabilitation Act of 1973, the Americans with Disabilities Act of 1990 (ADA), and Titles VI and VII of the Civil Rights Act of 1964.
26. The Parties hereto agree and understand that they will comply with all applicable federal, state, and local laws, regulations, executive orders and ordinances applicable to the work including, but not limited to, the provisions of ORS 279C.505, 279C.515, 279C.520, 279C.530 and 279B.270, incorporated herein by reference and made a part hereof; Title 23 CFR parts 1.11, 140, 635, 710, and 771; Title 49 CFR parts 24 and 26; , 2 CFR 1201; Title 23, USC, Federal-Aid Highway Act; Title 41, Chapter 1, USC 51-58, Anti-Kickback Act; Title 42 USC; Uniform Relocation Assistance and Real Property Acquisition Policy Act of 1970, as amended, the provisions of the FAPG and *FHWA Contract Administration Core Curriculum Participants Manual & Reference Guide*. State and Agency agree that FHWA-1273 Required Contract Provisions shall be included in all contracts and subcontracts verbatim and not by reference.

RIGHT OF WAY

27. Right of Way activities shall be conducted in accordance with the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, as amended, ORS Chapter 35, FAPG, CFR, and the *ODOT Right of Way Manual*, Title 23 CFR part 710 and Title 49 CFR part 24.
28. State is responsible for proper acquisition of the necessary right of way and easements for construction and maintenance of projects. State or its consultant may perform acquisition of the necessary right of way and easements for construction and maintenance of the Project in accordance with the *ODOT Right of Way Manual*, and with the prior approval from State's Region Right of Way office.
29. If the Project has the potential of needing right of way, to ensure compliance in the event that right of way is unexpectedly needed, a right of way services agreement will be required. State, at Project expense, shall be responsible for requesting the obligation of project funding from FHWA. State, at Project expense, shall be entirely responsible for project acquisition and coordination of the right of way certification.
30. State or its consultant shall ensure that all project right of way monumentation will be conducted in conformance with ORS 209.155.

31. State and Agency grant each other authority to enter onto the other's right of way for the performance of non-construction activities such as surveying and inspection of the Project.

RAILROADS

32. State shall follow State established policy and procedures when impacts occur on railroad property. The policy and procedures are available through the State's Liaison, who will contact State's Railroad Liaison on behalf of Agency. Only those costs allowable under Title 23 CFR part 140 subpart I, and Title 23 part 646 subpart B shall be included in the total Project costs; all other costs associated with railroad work will be at the sole expense of Agency, or others.

UTILITIES

33. State or its consultant shall follow State established statutes, policies and procedures when impacts occur to privately or publicly-owned utilities. Policy, procedures and forms are available through the State Utility Liaison or State's Liaison. State or its consultant shall provide copies of all signed utility notifications, agreements and Utility Certification to the State Utility & Railroad Liaison. Only those utility relocations, which are eligible for reimbursement under the FAPG, Title 23 CFR part 645 subparts A and B, shall be included in the total Project costs; all other utility relocations shall be at the sole expense of Agency, or others. Agency may send a written request to State, at Project expense, to arrange for utility relocations/adjustments lying within Agency jurisdiction. This request must be submitted no later than twenty-one (21) weeks prior to bid let date. Agency shall not perform any utility work on state highway right of way without first receiving written authorization from State.

GRADE CHANGE LIABILITY

34. Agency, if a County, acknowledges the effect and scope of ORS 105.755 and agrees that all acts necessary to complete construction of the Project which may alter or change the grade of existing county roads are being accomplished at the direct request of the County.
35. Agency, if a City, hereby accepts responsibility for all claims for damages from grade changes. Approval of plans by State shall not subject State to liability under ORS 105.760 for change of grade.
36. Agency, if a City, by execution of the Project Agreement, gives its consent as required by ORS 373.030(2) to any and all changes of grade within the City limits, and gives its consent as required by ORS 373.050(1) to any and all closure of streets intersecting the highway, in connection with or arising out of the Project covered by the Project Agreement.

MAINTENANCE RESPONSIBILITIES

37. Agency shall, at its own expense, maintain operate, and provide power as needed upon Project completion at a minimum level that is consistent with normal depreciation and/or service demand and throughout the useful life of the Project. The useful life of the Project is defined in the Special Provisions. State may conduct periodic inspections during the life of the Project to verify that the Project is properly maintained and continues to serve the purpose for which federal funds were provided. Maintenance and power responsibilities shall survive any termination of the Project Agreement. In the event the Project will include or affect a state highway, this provision does not address maintenance of that state highway.

CONTRIBUTION

38. If any third party makes any claim or brings any action, suit or proceeding alleging a tort as now or hereafter defined in ORS 30.260 ("Third Party Claim") against State or Agency with respect to which the other Party may have liability, the notified Party must promptly notify the other Party in writing of the Third Party Claim and deliver to the other Party a copy of the claim, process, and all legal pleadings with respect to the Third Party Claim. Each Party is entitled to participate in the defense of a Third Party Claim, and to defend a Third Party Claim with counsel of its own choosing. Receipt by a Party of the notice and copies required in this paragraph and meaningful opportunity for the Party to participate in the investigation, defense and settlement of the Third Party Claim with counsel of its own choosing are conditions precedent to that Party's liability with respect to the Third Party Claim.
39. With respect to a Third Party Claim for which State is jointly liable with Agency (or would be if joined in the Third Party Claim), State shall contribute to the amount of expenses (including attorneys' fees), judgments, fines and amounts paid in settlement actually and reasonably incurred and paid or payable by Agency in such proportion as is appropriate to reflect the relative fault of State on the one hand and of Agency on the other hand in connection with the events which resulted in such expenses, judgments, fines or settlement amounts, as well as any other relevant equitable considerations. The relative fault of State on the one hand and of Agency on the other hand shall be determined by reference to, among other things, the Parties' relative intent, knowledge, access to information and opportunity to correct or prevent the circumstances resulting in such expenses, judgments, fines or settlement amounts. State's contribution amount in any instance is capped to the same extent it would have been capped under Oregon law, including the Oregon Tort Claims Act, ORS 30.260 to 30.300, if State had sole liability in the proceeding.
40. With respect to a Third Party Claim for which Agency is jointly liable with State (or would be if joined in the Third Party Claim), Agency shall contribute to the amount of expenses (including attorneys' fees), judgments, fines and amounts paid in settlement actually and reasonably incurred and paid or payable by State in such proportion as is appropriate to reflect the relative fault of Agency on the one hand and of State on the other hand in connection with the events which resulted in such expenses, judgments, fines or settlement amounts, as well as any other relevant equitable considerations. The relative fault of Agency on the one hand and of State on the other hand shall be determined by reference to, among other things, the Parties' relative intent, knowledge, access to information and opportunity to correct or prevent the circumstances resulting in such expenses, judgments, fines or settlement amounts. Agency's contribution amount in any instance is capped to the same extent it would have been capped under Oregon law, including the Oregon Tort Claims Act, ORS 30.260 to 30.300, if it had sole liability in the proceeding.

ALTERNATIVE DISPUTE RESOLUTION

41. The Parties shall attempt in good faith to resolve any dispute arising out of this Project 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.

WORKERS' COMPENSATION COVERAGE

42. All employers, including Agency, that employ subject workers who work under this Project Agreement in the State of Oregon shall comply with ORS 656.017 and provide the required Workers' Compensation coverage unless such employers are exempt under ORS 656.126. Employers Liability Insurance with coverage limits of not less than five hundred thousand (\$500,000) must be

included. State and Agency shall ensure that each of its contractors complies with these requirements.

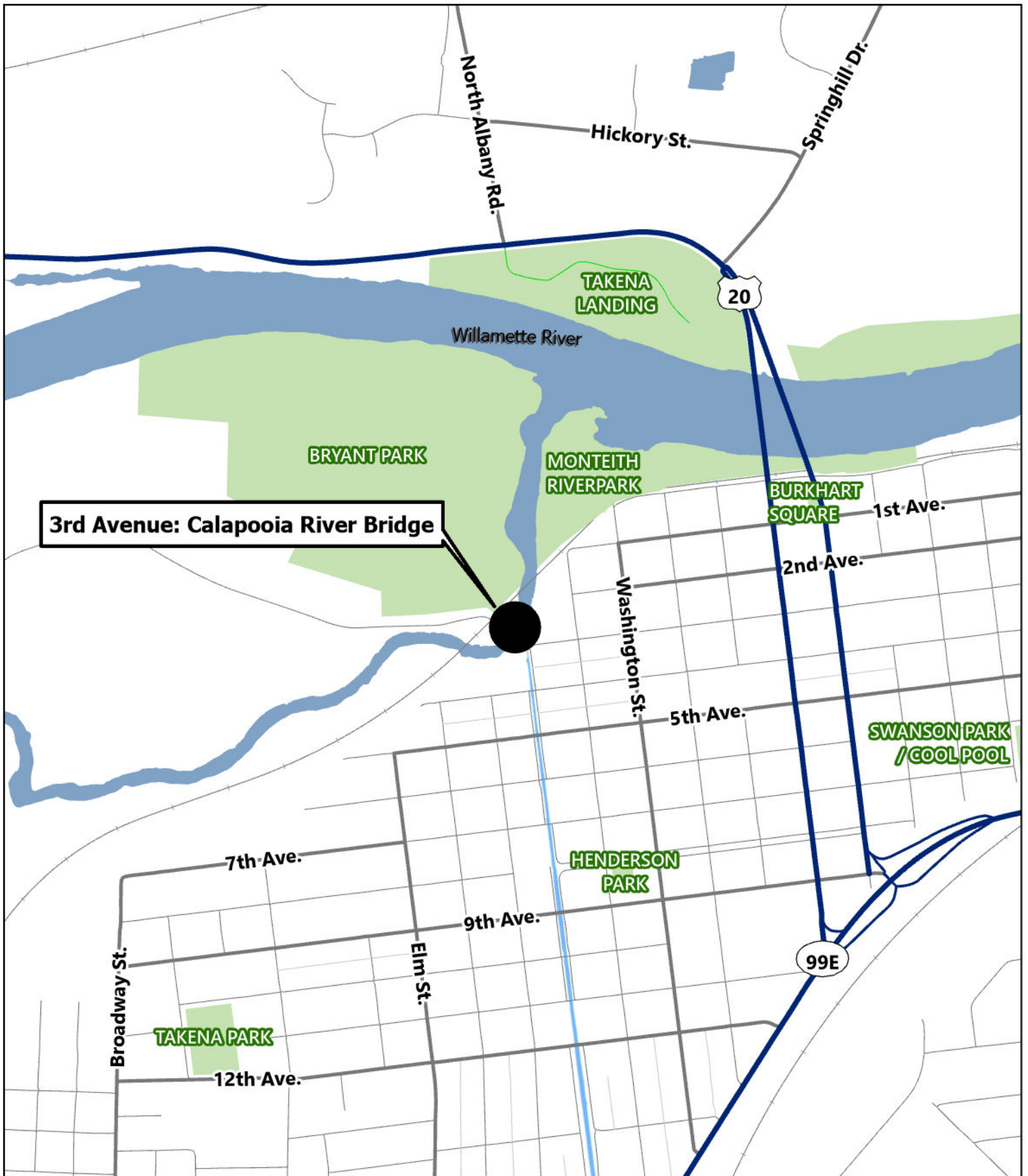
LOBBYING RESTRICTIONS

43. Agency certifies by signing the Agreement that:

- a) No federal appropriated funds have been paid or will be paid, by or on behalf of the undersigned, to any person for influencing or attempting to influence an officer or employee of any federal agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of any federal contract, the making of any federal grant, the making of any federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any federal contract, grant, loan, or cooperative agreement.
- b) If any funds other than federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any federal agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this federal contract, grant, loan, or cooperative agreement, the undersigned shall complete and submit Standard Form-LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions.
- c) The undersigned shall require that the language of this certification be included in the award documents for all subawards at all tiers (including subgrants, and contracts and subcontracts under grants, subgrants, loans, and cooperative agreements) which exceed one hundred thousand dollars (\$100,000), and that all such subrecipients shall certify and disclose accordingly.
- d) This certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into. Submission of this certification is a prerequisite for making or entering into this transaction imposed by Title 31, USC Section 1352.
- e) Any person who fails to file the required certification shall be subject to a civil penalty of not less than ten thousand dollars (\$10,000) and not more than one hundred thousand dollars (\$100,000) for each such failure.

CERTIFICATION REGARDING DEBARMENT, SUSPENSION, INELIGIBILITY, AND VOLUNTARY EXCLUSION – LOWER TIER COVERED TRANSACTIONS

By signing this Agreement, Agency agrees to fulfill the responsibility imposed by 2 CFR Subpart C, including 2 CFR 180.300, 180.355, 180.360, and 180.365, regarding debarment, suspension, and other responsibility matters. For the purpose of this provision only, Agency is considered a participant in a covered transaction. Furthermore, by signing this Agreement, Agency is providing the certification for its principals required in Appendix to 2 CFR part 180 – Covered Transactions.



3rd Avenue: Calapooia River Bridge



ATTACHMENT 3: VICINITY MAP
3rd Avenue: Calapooia River Bridge

