

**ALBANY DEVELOPMENT CODE  
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# ARTICLE 1

## ADMINISTRATION AND PROCEDURES

1.000 Overview. This Article establishes the framework for the review of land use applications. It explains the processes which the City follows for different types of reviews and how hearings and appeals are conducted. The list below is a summary of the topics covered in this chapter.

- General Administration
- Clarification of Land Use Decisions
- Administrative Process
- Limited Land Use Process
- Quasi-judicial Process
- Legislative Process

These headings precede subtopics which can assist the user in locating information. The table of contents contains a complete listing of the material covered in this Article.

### GENERAL ADMINISTRATION

#### INTRODUCTION

1.010 Official Name. The official name of this Title is “Title 20, Development Code and Zoning Map.” It may be referred to as “Development Code” or “this Code.”

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

- (1) Serve as the principal vehicle for implementation of the City’s Comprehensive Plan in a manner which protects the health, safety, and welfare of the citizens of Albany.
- (2) Satisfy relevant requirements of federal law, state law, statewide goals, and administrative rules.
- (3) Facilitate prompt review of development proposals and the application of clear and specific standards.
- (4) Provide for public information, review, and comment on development proposals which may have a significant impact on the community.
- (5) Guide public and private planning policies and actions to ensure provision of adequate water, sewerage, transportation, drainage, parks, open space and other public facilities and services for each development.
- (6) Establish procedures and standards requiring that the design of site improvements and building improvements are consistent with applicable standards and flexible design guidelines.
- (7) Provide for review and approval of the relationship between land uses and traffic circulation in order to minimize congestion, with particular emphasis on not exceeding the planned capacity of residential streets.
- (8) Require that permitted uses and development designs provide reasonable protection from fire, flood, landslide, erosion, or other natural hazards as well as prevent the spread of blight, and aid in the prevention of crime.
- (9) Protect and enhance the city’s aesthetic beauty and character.

(10) Protect constitutional property rights, provide due process of law, and give consideration in all matters to affected property owner interests in making land use decisions.

1.025 Legislative Intent. In addition to the purposes set forth above, subsequent amendments to this Code may be accompanied by staff reports, commentary sections, and/or additional findings which may be used to more accurately determine the purpose and legislative intent of specific provisions.

1.030 Scope and Compliance. A parcel of land or a structure may be used or developed only as this Code permits. The requirements of this Code apply to the property owner(s), the person(s) undertaking a development, the user(s) of a development, and to their successors in interest.

1.035 Severability. The provisions of this Code are severable. If any portion of this Code is declared by a court of law to be invalid or unconstitutional, the decision shall not affect the validity of the remaining portions.

1.040 Interpretation.

(1) Except as otherwise specified, the definitions included in Article 22 shall be used to interpret the provisions of this Code.

(2) The Director shall have the initial authority and responsibility to interpret all terms, provisions, and requirements of this ordinance. For quasi-judicial interpretations, the Type II procedure set forth in Section 1.240 shall be followed. For legislative interpretations, Type IV procedures as set forth in Section 1.260 shall be followed. A person requesting such an interpretation shall do so in writing to the Director.

(3) The terms of this ordinance shall be liberally construed to give maximum effect to the purposes set forth in Section 1.020.

(4) Where the conditions imposed by a provision of this Code are less restrictive than comparable conditions imposed by other provisions of this Code or other sections of the Albany Municipal Code, the more restrictive shall govern.

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

1.060 When Land Use Applications Are Required.

(1) Except as excluded by 1.070, no person shall engage in or cause to occur a development for which a land use application has not been approved.

(2) Whenever this Code requires a land use application, no other permit issued by the City shall be approved until the land use application has first been approved by the Director.

(3) Land use applications shall be approved by the Community Development Director, the Hearings Board, the Planning Commission, or the City Council pursuant to the provisions of this Code. The Director shall not approve a land use application for the division, improvement, or use of land that has

been previously divided in violation of state or local codes or otherwise developed in violation of this Code unless the violation is corrected prior to or concurrent with issuance of required permits.

- (4) No action may be taken in reliance upon a decision approving a land use application until all applicable appeal periods have expired or while an appeal to a City review body is pending. However the action allowed by the decision may be initiated if:
  - (a) There were no objections to the decision or if all objections were resolved at a hearing or in writing prior to the hearing; and
  - (b) The applicant has executed a release and indemnity agreement in a form satisfactory to the City Attorney which protects the City from all claims of the applicant resulting from the approval of the land use application or issuance of a building permit.
- (5) All land use approvals shall expire three years from the date of the approval, unless “substantial construction” of the project has been accomplished within that time. Substantial construction is defined in the “Definitions” section of this Code as “Any physical improvement of a property, the cost of which equals or exceeds fifty percent of the fair market value of the property before the improvement was started.”

If substantial construction has been accomplished, development may continue to completion without a limit on the time allowed. The Development Code standards for development within these time periods are those in effect at the time the original approval was granted. [Ord. 5475, 4/11/01]

1.070 When Land Use Applications Are Not Required. Activities and developments listed below are excluded from the requirement for a land use application but are nevertheless subject to the provisions of the Code where applicable:

- (1) Agricultural uses permitted outright in Articles 3, 4 and 5.
- (2) Detached single family dwellings and two unit dwellings.
- (3) Accessory buildings and building additions of less than 500 square feet which conform to the provisions of this Code and the Uniform Building Code.
- (4) Landscaping and routine property maintenance.
- (5) Improvement of parking areas containing less than 1,000 square feet and otherwise meeting the provisions of this Code.
- (6) A change internal to a building or other structure or usage of land that does not constitute a change of use as listed in Articles 3, 4 or 5.
- (7) Site Plan Review for a change in use within an existing structure when the following criteria are satisfied:
  - (a) No structural expansion in excess of 500 feet or additional exterior storage is proposed.
  - (b) The use will not create additional adverse affects for abutting properties or the neighborhood (e.g. visual, noise, or air pollution; increased parking requirements, or improvements to public facilities.)
  - (c) Any non-conformities with the provisions of this Code have been addressed, including compliance with sign, landscaping, and parking requirements except where restricted by building location or limiting site characteristics.

- (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) which conforms with all other requirements of this Code and other applicable City regulations and 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 a 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 which does not adversely affect drainage patterns and is not located within a floodplain or slope area. See also Article 6.
- 1.075 Fees. The City Council shall establish application and review fees and fee policies by separate resolution for the performance of the actions and reviews required by this Code.
- 1.080 Approval Runs With the Land. Approval of a land use decision runs with the land. The approval transfers to a new owner if the property is sold. [Ord. 5475, 4/11/01]
- 1.090 Official Action. All officials, departments, and employees of the City vested with authority to issue permits, certificates, or licenses shall adhere to and require conformance with the zoning regulations.
- 1.100 Certificate of Occupancy. It shall be unlawful to use or occupy any new building or premises until a certificate of occupancy has been issued by the designated building official stating that the proposed use of the building or land conforms to the requirements of the Uniform Building Code, this ordinance, and any other City conditions attached to the development or use of the building or land.

## ENFORCEMENT

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

- (3) Whether it is a routine or periodic inspection, an inspection initiated by complaint, other specific or general information, or observation concerning the property or premises or the area in which it is situated.

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

- 1.130 Abatement. The location, erection, construction, maintenance, repair, alteration or use of a building or other structure in violation of this ordinance shall be deemed a nuisance and may be abated as such.
- 1.140 Code Enforcement. The Director or his designee may enforce the provisions of this ordinance. The enactment of this ordinance shall not invalidate any prior, existing, or future prosecutions for violation of the Development Code regulations committed under a previous ordinance.
- 1.150 Legal Proceedings by City Attorney. In addition to the remedies prescribed herein, the City Attorney, upon request from the City Council or City Manager, shall cause to be instituted any civil action, suit, or other legal means considered to be appropriate to remedy violations of this ordinance.
- 1.160 Suits in Equity to Enjoin Violations. If any existing or proposed structure or use is in violation of this Code, the City Attorney or any affected person may sue to enjoin the violation.
- 1.170 Enforcement by Chief of Police. The Chief of Police or his designee(s) shall have the power to assist in the enforcement of the provisions of this ordinance.
- 1.180 Penalty. In addition to the remedies set forth above, the general penalties and procedures set forth in Chapter 1.04 of the Albany Municipal Code apply to any and all violations of this Development Code. The City may, at its option, elect to pursue such procedure in lieu of or in addition to any other remedy set forth above.
- 1.190 Violation of a Land Use Approval. Violation of any condition or requirement of any land use approval constitutes a civil infraction when such violation does not, in and of itself, constitute a separate violation of the Albany Municipal Code.

## **APPLICATION PROCEDURES**

- 1.200 Land Use Application Procedures.
  - (1) A land use application shall be processed under a Type I, I-L, II, III, or IV procedure, as described in this Article.
  - (2) Where there is a question as to the appropriate type of procedure, the Director shall determine the type of procedure to be utilized based upon the most similar land use application procedure specified by this Code or other established policy.
  - (3) Where a proposal involves more than one application for the same property, the applicant(s) may submit concurrent applications which shall be processed simultaneously in accordance with the highest numbered procedure specified. When concurrent applications are so received and accepted as complete, the 120-day requirement of Section 1.220(2) shall apply as if a single application had been made.
- 1.201 Coordination of Land Use Application Procedure. The Director shall be responsible for coordination of the land use application and decision-making procedure. The Director shall issue a land use approval for applications and proposed developments that are in compliance with the provisions of this Code. Before

issuing the approval, the Director shall be provided with the information required to determine full compliance with the requirements of this Code.

1.202 Preapplication Conference. The Director and the applicant or the applicant's authorized representative shall arrange a preapplication conference, unless the applicant and Director agree that the conference is not needed. The purpose of the conference is to acquaint the applicant with the substantive, and procedural requirements of this Code, and to identify any constraints on the proposed development. Depending on the nature and size of the proposed development, a rough sketch conceptual plan may be required for review in the preapplication conference. Upon the request of the applicant, the Director shall provide the applicant with a written summary of the conference including confirmation of the procedures to be used to process the application, a list of materials to be submitted, and the criteria and standards which may apply to the approval of the application.

1.203 Neighborhood Meeting. The purpose of a neighborhood meeting is to ensure that applicants pursue early and effective citizen 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. City staff will attend the neighborhood meeting in an advisory capacity to answer questions.

The applicant shall hold a neighborhood meeting prior to submittal of the following types of applications:

- (1) Multifamily development that abuts a single-family zoning district.
- (2) Commercial and industrial development that abuts any residential zoning district.
- (3) Manufactured home park.
- (4) Subdivision with more than 10 lots.
- (5) Any subdivision that is an infill development.
- (6) Cluster development of any size.

For other applications that may have a neighborhood impact, the City recommends that the applicant have a neighborhood meeting. [Ord.5445, 4/12/00, Ord. 5562, 10/10/03]

1.207 Application Contents. A land use application shall consist of the following:

- (1) Explanation of intent, nature and proposed use of the development, pertinent background information and other information that may have a bearing in determining the action to be taken, including submission of detailed findings where such are required by the provisions of this Code.
- (2) Signed statement indicating that the property affected by the application is in the exclusive ownership or control of the applicant, or that the applicant has the consent of all partners in ownership of the affected property.
- (3) Property description and assessor map parcel number(s).
- (4) Additional information required by other sections of this Code because of the type of development proposal or the area involved.
- (5) Duplicates of the above information as required by the Director.

- (6) Submission of application fees as established by the City Council.
- (7) A report documenting the results of any neighborhood meeting. 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) The number of people who attended the meeting or 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. 5445, 4/12/00]

1.210 Submission of Quasi-Judicial Land Use Applications.

- (1) Application materials shall be submitted to the Director who shall have the date of submission indicated on each copy of the materials submitted.
- (2) Within 30 calendar days the Director shall determine whether the application is complete. The Director shall notify the applicant when the application is found to be incomplete and identify what additional information is needed. An application which has been determined to be incomplete may be supplemented, amended or resubmitted, at the Director's discretion. The application shall be subject to another 30 calendar day completeness check beginning on the date additional information is submitted. If the applicant declines to submit the additional information, the application will be deemed complete on the 31st day after the application was first received. [Ord. 5475, 4/11/01]
- (3) The Director shall set the date of public hearing(s) for land use applications requiring a public hearing. When setting hearing dates, the Director may take into consideration the complexity of the development proposal, other scheduled agenda items and adequate review and preparation time for the staff report.
- (4) All documents or evidence relied upon by the applicant shall be submitted to the Planning Division and made available to the public at least 20 days prior to the evidentiary public hearing (or 10 days before the first evidentiary public hearing if two or more evidentiary public hearings are allowed). Any staff report used at the hearing shall be available at least seven days prior to the hearing.

If additional documents or evidence are provided by any party, the local government may allow a continuance or leave the record open to allow the parties a reasonable opportunity to respond.

- (5) Upon request, the application file shall be made available to the public for inspection at no cost and copies will be provided at reasonable cost. [Ord. 5446, 5/10/00]

1.215 Referral and Review of Quasi-Judicial Land Use Applications. Upon acceptance of an application, the Director shall do the following:

- (1) Send one copy of the project review sheet to each agency and city department identified by the Director as having possible interest in reviewing and commenting on the development proposal, including those agencies and departments responsible for determining compliance with state and federal requirements. If the agency or city department does not comment within 10 days from the date the Director mails or routes the project review sheet, the agency or city department is presumed to have no comments or objections. The Director may grant an extension of up to 14 days to a reviewing department or agency if the application involves unusual circumstances.



- (2) Send the project review sheet to other governmental bodies and private utilities as appropriate.
- (3) Provide for notices to be given and hearings to be established as required under Type I-L, II, III, and IV procedures established in this Article. [Ord. 5446, 5/10/00]

1.220 Land Use Decision for Quasi-Judicial Applications.

- (1) Within five days of final action on a land use application, the Director shall provide written notice of the decision to the applicant and any other parties entitled to notice. The notice shall state the effective date of the decision, describe the right of appeal, and summarize the reasons for the decision and any conditions of approval or indicate where such can be reviewed in detail.
- (2) The City shall take final action on all land use requests which are wholly within the authority and control of the City within 120 days from the date the application is deemed complete. However, by agreement with the applicant, this deadline may be extended for any reasonable length of time. The 120-day period set out in ORS 227.178, does not apply to an amendment to an acknowledged comprehensive plan or land use regulation or adoption of a new land use regulation that was forwarded to the Director of the Department of Land Conservation and Development under ORS 197.610 (for legislative amendments).
- (3) Development shall be completed as shown on the plans that were reviewed and approved through the land use process, subject to any modifications identified in the conditions of approval. Modifications to site plans and conditional uses may be made as described in ADC 1.226. [Ord. 5446, 5/10/00; Ord. 5475, 4/11/01]

1.225 Action on Resubmission of Denied Quasi-Judicial Application. An applicant may make appropriate alterations to a proposal which has previously been denied and resubmit it with a payment of any required fee. If a previously denied application is resubmitted within one year of the date denied, recommendations of advisory bodies, departments, and agencies need not be requested again unless the Director finds that changed conditions or changes in the proposal warrant such reconsideration. [Ord. 5446, 5/10/00]

1.226 Modification of Approved Site Plan Reviews and Conditional Uses. When a site plan review or a conditional use review results in an approved site plan, with or without conditions, and the property owner wants to make changes to the plan, the following procedures shall be used to review the proposed modifications.

- (1) Definitions: When “property owner” is used here, it means the property owner, or the property owner’s authorized agent. When “site plan” is used here, it means the site plan approved through either a site plan review or a review of a conditional use.
- (2) The property owner must submit to the Planning Division an application to modify the approved site plan.
- (3) The review body shall be the same body that granted the final approval for which modification is sought.
- (4) The modification shall be “consistent with” the approved site plan. If the review body determines that the modified site plan is consistent with the original approval, a modification to the site plan may be allowed. If the modified site plan is consistent with the approved site plan and meets the review criteria specified in 1.226(6) below, the modified plan shall be approved. If the review body determines that the modified site plan is not consistent with the original approval, then approval of the

site plan will be denied. If a new application is submitted, it will be subject to the Development Code standards in effect at the time the new application is submitted.

- (5) The determination on consistency by the review body shall be based on a comparison of the approved site plan and the modified site plan, taking into account:
  - (a) The land use category;
  - (b) The size and scale of the proposed building(s);
  - (c) The traffic impacts;
  - (d) Compatibility with surrounding development;
  - (e) Capacity of available infrastructure; and
  - (f) Unusual obstacles and opportunities associated with the property.

The modified site plan will be found to be consistent with the approved site plan if the review body determines that there are no greater adverse impacts, or, if additional adverse impacts are identified, they have been adequately mitigated.

- (6) The review body shall use the same procedure and review criteria as that used for the original approval. The Development Code regulations in effect at the time the application for the approved site plan was submitted are the regulations that will be used to review the proposed modification(s).
- (7) The entire site plan will be reviewed at the time the modified site plan is reviewed.
- (8) Conditions of approval:
  - (a) The application to approve a modified site plan will be denied if an applicant seeks to modify a prior land use decision merely to seek the reduction or elimination of a condition of approval, unless the applicant proposes an equivalent reduction in the scope, size, or scale of the part of the development that led to the condition of approval.
  - (b) When reviewing a modified site plan that has different impacts than the approved site plan, the decision-maker may modify conditions or impose new ones. Only conditions related to the impact of the modified site plan may be imposed on the modified site plan approval. Impact means characteristics of the development such as traffic, wastewater discharge, noise, etc.
  - (c) The review of the modified site plan shall not be used to allow an application to escape prior infrastructure commitments. A modification cannot be used to provide a new timeline for appealing a previously-accepted infrastructure obligation. The original conditions of approval imposed for the approved site plan may remain in effect or be increased as necessary to address additional impact. Conditions related to improving existing infrastructure or building new infrastructure (such as streets, sewers, etc.) may be reduced only if the modification substantially reduces the infrastructure burden created by the development.
- (9) The property owner may choose to either accept approval of the modified site plan or to retain the original approval. If the property owner accepts approval of the modified site plan and any conditions that may be imposed, the property owner must give notice to the Planning Division. Notice must be received by the Planning Division within 10 days of the date on the notice of decision for approval of the modified site plan. If the property owner accepts approval of the modified site plan, the new approval supercedes and voids the original approval.

If the property owner does not provide the required written notice of acceptance, or if the approval of the modified site plan is not granted by the review body, the project shall continue to be subject to the original conditions of approval and time lines.

- (10) When first granted, a site plan or conditional approval is valid for three years [ADC 1.060(5)]. When a modified site plan is approved and accepted, the approval is valid for one year beyond the date that the original site plan approval would have expired. (For example, if the original approval would have expired on July 1, 2001, the approval of the modified site plan is extended to July 1, 2002.)

Only one one-year extension of the original approval will be allowed. Any subsequent modification of the site plan will be subject to the time limit established at the time the first modification was approved. The approval can be valid for only a total of four years including the first three-year period and the one-year extension.

Substantial construction of the development must take place within the four years. If substantial construction is accomplished, construction can continue to completion. If substantial construction is not accomplished, the approval is void. [Ord. 5475, 4/11/01]

## CLARIFICATION OF LAND USE DECISIONS

### ACTIONS INCLUDED AS LAND USE DECISIONS

- 1.230 Definition. A “land use decision” includes a final decision or determination made by the city that concerns the adoption, amendment, or application of:
- (1) The statewide planning goals.
  - (2) A comprehensive plan provision.
  - (3) An existing land use regulation.
  - (4) A new land use regulation.
- 1.240 Procedure. The procedure for applications which result in land use decisions are given in the subsequent provisions on the quasi-judicial and legislative processes.
- 1.250 Examples. Examples of applications which result in land use decisions include, but are not limited to – Comprehensive plan amendments, conditional uses, development code amendments, Type II modifications to non-conforming situations, vacations, variances, and zoning map amendments.

### ACTIONS NOT INCLUDED AS LAND USE DECISIONS

- 1.260 Definition. A “land use decision” does not include a decision of the city:
- (1) Which is made under land use standards which do not require interpretation or the exercise of policy or legal judgment;
  - (2) Which approves or denies a building permit issued under clear and objective land use standards;
  - (3) Which is a limited land use decision; or
  - (4) Which determines final engineering design, construction, operation, maintenance, repair or preservation of a transportation facility which is otherwise authorized by and consistent with the comprehensive plan and land use regulations.
- 1.270 Procedure. Land use applications which do not result in land use decisions are processed under the Type I procedure. The decision is made by the Director based on the stated review criteria without need for public hearing or notification.

1.280 Examples. Examples of land use applications which do not result in land use decisions include, but are not limited to--Lot line adjustments, Type I adjustments, Type I modifications to non-conforming situations, Type I historic review, preliminary planned development plans, final subdivision plats, manufactured home park plans, and site plan review involving a change in use or minor addition to existing use in a conforming building.

#### **ACTIONS INCLUDED AS LIMITED LAND USE DECISIONS**

1.290 Definition. A “limited land use decision” is a final decision or determination made by the city pertaining to a site within its urban growth boundary which concerns:

- (1) The approval or denial of a subdivision or partition, as described in ORS Chapter 92.
- (2) The approval or denial of an application based on discretionary standards designed to regulate the physical characteristics of a use permitted outright, including but not limited to site review and design review.

1.300 Procedure. Applications which result in limited land use decisions are not subject to the requirements of ORS and this Code relative to quasi-judicial public hearings. They are processed under the Type I-L procedure described in Section 1.330.

1.310 Examples. Examples of applications which result in limited land use decisions include, but are not limited to, Type I-L historic review, partitions, site plan review, and subdivisions with fewer than 20 lots. [Ord. 5562, 10/10/03]

#### **ADMINISTRATIVE PROCESS**

1.320 Type I Procedure.

- (1) The purpose of the Type I procedure is to provide for land use review based on standards specified in this Code which do not require interpretation or the exercise of policy or legal judgment. Approval of a Type I land use application is not a land use decision. (See definitions.)
- (2) Under the Type I procedure, an application shall be processed by the Director without need for public hearing or notification.
- (3) Examples of applications processed through a Type I procedure include, but are not limited to-- Lot line adjustments, Type I adjustments, Type I modifications to non-conforming situations, Type I historic review, preliminary planned development plans, final subdivision plats, manufactured home park plans, and site plan review involving a change in use or minor addition to existing use in a conforming building.

## LIMITED LAND USE PROCESS

### 1.330 Type I-L Procedure.

- (1) The purpose of the Type I-L procedure is to provide for land use review of partitions, subdivisions with fewer than 20 lots, and applications involving discretionary standards for design or site review of uses permitted outright.
- (2) In making a limited land use decision, the City will follow the applicable procedures contained within its acknowledged comprehensive plan and land use regulations and other applicable legal requirements.
- (3) For limited land use decisions, the City will provide written notice to owners of property within 100 feet of the entire contiguous site for which the application is made, except that written notice will be provided to owners of property within 300 feet of property on which applications are received for development of subdivisions, manufactured home parks, and multi-family development. The list will be compiled from the most recent property tax assessment roll. For purposes of review, this requirement shall be deemed met when the City can provide an affidavit or other certification that such notice was given. Notice shall also be provided to any neighborhood or community organization recognized by the governing body and whose boundaries include the site.
- (4) The notice and procedures used by the City will:
  - (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 shall 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;
  - (i) Briefly summarize the local decision making process for the limited land use decision being made, and
  - (j) Include such other information as the Director deems appropriate.
- (5) Decisions and Appeals. Standing to appeal a limited land use decision shall be limited to the applicant and/or any person who has provided written comments pursuant to Section 1.330 or who spoke at the public hearing, if one were held.
  - (a) For application types for which a neighborhood meeting is not required in Section 1.203, a limited land use decision made by the Director may be appealed to the Land Use Board of Appeals when a person with standing files a Notice of Intent to Appeal with LUBA not later than 21 days after the Director's notice of decision is mailed.
  - (b) For application types for which a neighborhood meeting is required in Section 1.203, a limited land use decision by the Director may be appealed to the Planning Commission when a person with standing files a Notice of Appeal with the City not later than 10 days after the Director's notice of decision is mailed.

- (c) At the Director's discretion, a limited land use decision may be referred to the Planning Commission for the local decision.
- (d) A limited land use decision made by the Planning Commission may be appealed to the Land Use Board of Appeals when a person with standing files a Notice of Intent to Appeal with LUBA not later than 21 days after the Planning Commission notice of decision is mailed. [Ord. 5338, 1/28/98; Ord. 5445, 4/12/00; Ord. 5562, 10/10/03]

1.340 Examples. Examples of applications which result in limited land use decisions include, but are not limited to--Type I-L historic review, partitions, site plan review, and subdivisions with fewer than 20 lots.[Ord. 5562, 10/10/03]

## QUASI-JUDICIAL PROCESS

### PROCEDURES

1.350 Type II Procedure.

- (1) The purpose of the Type II procedure is to provide for the review of certain applications by mailing notice of a tentative staff decision to the applicant and property owners within 100 feet of the property being reviewed. The decision of the Director shall be based on standards specified in this Code which are reasonably objective and may require limited discretion.
- (2) If the Director determines that the development proposal appears to meet the required standards, the Director shall mail notice of the tentative decision to all property owners within 100 feet of the subject site. The applicant shall supply a list of the names and addresses of the owners of property to receive the notice. The mailing list must be certified by the applicant as accurate and complete as found on the most recent property tax assessment roll where the subject property is located.

The Director's notice shall list the relevant criteria and any conditions of approval and invite persons to contact the Planning staff within 10 days of notification to request a public hearing. A public hearing may be requested if the person believes that the conditions of approval do not adequately address the established approval criteria or alleviate adverse impacts on the neighborhood. If no one requests a public hearing, the tentative decision becomes final 10 days after the Notice of Decision is mailed to affected parties.

- (3) The applicant, the Director, or any party entitled to notice or otherwise affected by the proposed action may initiate a public hearing on a Type II proposal. The Director shall, within 30 days of receiving a written request for a public hearing, set a date for a public hearing before either the Planning Commission, the Hearings Board or the Landmarks Advisory Commission and mail notice of such to those same persons specified in (2) above.
- (4) If a hearing is conducted, the Hearings Board, the Planning Commission or the Landmarks Advisory Commission shall review the request and any written comments and testimony; adopt findings based on the established criteria, and make a decision by approving, conditionally approving, or denying the application. Conditions and/or restrictions may be applied to the approval of any land use application granted under a Type II procedure in accordance with the relevant provisions of this Code.
- (5) Examples of applications processed through a Type II procedure include, but are not limited to: Variances, Type II modifications to non-conforming situations, Greenway district use permits, Type II Code interpretations, and final planned development plans. [Ord. 5446, 5/10/00]

1.360 Type III Procedure.

- (1) The purpose of the Type III procedure is to provide for the review of certain applications within the City by the Planning Commission, Hearings Board, or the Landmarks Advisory Commission at a public hearing. Such actions may be complex in nature, requiring the interpretation of Plan policies and the requirements of this Code.
- (2) Under the Type III procedure, an application is scheduled for public hearing at the Director's discretion before either the Hearings Board, the Planning Commission or the Landmarks Advisory Commission. If the request is quasi-judicial in nature, the Director shall notify all property owners within 100 feet of the subject property (or 300 feet if the application is for a subdivision, manufactured home park or multi-family development). The applicant shall supply a list of the names and addresses of the owners of property to receive the notice. The mailing list must be certified by the applicant and complete as found on the most recent property tax assessment roll where the subject property is located. The Director may require the applicant to post notices as set forth in Section 1.410.
- (3) The review body shall review the request and any written comments and testimony; adopt findings based on the established criteria, and make a decision by approving, conditionally approving, or denying the application. Conditions and/or restrictions may be applied to the approval of any land use application granted under a Type III procedure in accordance with the relevant provisions of this Code.
- (4) Examples of applications processed through a Type III procedure include, but are not limited to-- Interim planned unit development plans, future street plans, Type III Planned Industrial Developments, some Code interpretations, Conditional Uses, historic review of demolitions/moving, cluster development, and subdivisions with 20 or more lots. [Ord. 5446, 5/10/00, Ord. 5562, 10/10/03]

1.370 Type IV Procedure.

- (1) The purpose of the Type IV procedure is to provide for the review of certain land use applications by both the Planning Commission and the City Council at public hearings. These decisions are usually complex in nature, and require the interpretation of the Comprehensive Plan policies and the criteria of this Code.
- (2) Under the Type IV Procedure, an application is scheduled for public hearing before either the Hearings Board or the Planning Commission at the Director's discretion. If the application is quasi-judicial, the Director shall notify all property owners within 300 feet of the subject property. The applicant shall supply a list of the names and addresses of the owners of property to receive the notice. The mailing list must be certified by the applicant as accurate and complete as found on the most recent property tax assessment roll where the subject property is located. The Director may require the applicant to post notices as set forth in Section 1.410.
- (3) For a quasi-judicial proposal on which the Hearings Board or Planning Commission has made a favorable recommendation, the City Council shall hold a public hearing and make a final decision prior to expiration of the 120 day land use processing rule, if applicable. An applicant may request a review delay of up to six months and extend the 120-day timeframe.
- (4) If the Planning Commission or Hearings Board recommended against a proposal, the City Council will only consider the proposal on appeal by the applicant(s).
- (5) The review body shall:
  - (a) Review the request and any written comments and testimony;
  - (b) Adopt findings based on the established policies and criteria; and,
  - (c) Make a decision by approving, conditionally approving, or denying the application.

Conditions and/or restrictions may be applied to land use approval granted under a Type IV procedure in accordance with the relevant provisions of this Code.

- (6) Examples of applications processed through a Type IV procedure include, but are not limited to-- street vacations, quasi-judicial and legislative zone changes, development code amendments, and comprehensive plan amendments. [Ord. 5446, 5/10/00]

## **PUBLIC HEARINGS**

1.380 Responsibility for Hearings. The Director, or the City Recorder in case of City Council hearings, shall carry out the following duties pertaining to a hearing, all in accordance with other provisions of this Code:

- (1) Schedule and assign the matter for review and hearing.
- (2) Conduct the correspondence of the review body.
- (3) Provide notices of public hearings as required by this Code and state law.
- (4) Maintain a record and enter into the record relevant dates such as those of giving notice, hearings, postponement, and continuances and a summary of action taken by the review body.
- (5) Prepare minutes to include the decision on the matter heard and the reasons given for the decision.
- (6) Reduce the decisions of the review body to writing and maintain permanent record of such.
- (7) Provide advance notice of all hearings and written decisions to persons requesting the same and not entitled to such by this section provided that such persons pay the actual cost for the service provided as established by the City (applicants excepted).

1.390 Hearings Record. When practical, the secretary to the review body will be present at each hearing and shall cause the proceedings to be recorded either stenographically or electronically. Should the secretary not be present, proceedings will be recorded electronically and minutes will be taken from the tape.

- (1) Testimony shall be transcribed at the expense of the requesting party if required for judicial review or local appeal proceedings. The transcribing fee may include all actual costs up to \$500 plus one-half the actual costs over \$500 or as authorized by state law.
- (2) The review body shall, where practical, retain as part of the hearing record each item of physical or documentary evidence presented and shall have the items marked to show the identity of the person offering the same and whether presented on behalf of a proponent or opponent. Exhibits received into evidence shall be retained in the hearing file until after all appeal periods have expired, at which time the exhibits may be released. Any physical evidence presented at the public hearing shall be submitted to the review body secretary, distributed to members, returned to the secretary and shall become part of the record.
- (3) The staff report and recommendation shall be included in the record.
- (4) A person shall have access to the record of the proceedings at reasonable times, places, and circumstances. A person shall be entitled to make copies of the record at the person's own expense.

1.400 Mailed Notice.



- (1) Addresses for a mailed notice required by this Code shall be provided by the applicants for land use applications. The mailing list must be certified by the applicants as accurate and complete as found on the most recent property tax assessment roll where the subject property is located. A person whose name is not in the tax records at the time of filing of an application may receive notice if the person provides the Community Development Department with the necessary address(es). Any deficiency in the form of notice prescribed in this section or a failure of a property owner to receive notice shall not invalidate an action if a good faith attempt was made to comply with the requirements of this Code for notice.
- (2) The Director may provide notice to others that may be considered affected or otherwise represent an interest that may be affected by the proposed development.
- (3) The cost of notice mailings shall be included in the land use application fee.
- (4) Notice of a public hearing shall be sent by mail at least 20 days before the evidentiary public hearing (or, if more than one hearing is allowed, 10 days before the first evidentiary public hearing) and shall contain the following information:
  - (a) The reviewing body, the date, time, and place of the hearing.
  - (b) The street address or other easily understood geographic reference to the subject property.
  - (c) The nature of the application and the proposed use or uses which could be authorized.
  - (d) Where information may be examined and when and how written comments addressing findings required for a decision by the review body may be submitted.
  - (e) A list of the applicable criteria from the ordinance and/or the plan that apply to the application.
  - (f) A statement that failure to raise an issue in a hearing, in person or by letter, or failure to provide statements or evidence sufficient to afford the decision maker an opportunity to respond to the issue precludes appeal to the Land Use Board of Appeals based on that issue.
  - (g) The name of a City representative to contact and the telephone number where additional information may be obtained.
  - (h) A statement that a copy of the application, all documents and evidence relied upon by the applicant and applicable criteria are available for inspection at no cost and copies will be provided at reasonable cost.
  - (i) A 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 a copy will be provided at reasonable cost.
  - (j) A statement that all interested persons may appear and provide testimony and that only those making an appearance of record, either in person or in writing, shall be entitled to appeal.
  - (k) A general explanation of the procedure for the conduct of hearings. [Ord. 5446, 5/10/00]

1.410 Posted Notice. The sites that are the subject of quasi-judicial public hearings shall be posted. At the discretion of the Director, the applicant may be responsible for providing a sign frame for the notice and also responsible for posting the notice at the correct time and location. The actual notice shall be provided by the City. The posting shall comply with the following requirements:

- (1) The notice shall be a minimum of 2 feet by 3 feet.
- (2) The notice shall be posted in a location which is visible from a traveled public road or street abutting the property. (If no public street abuts the property, the notice shall be placed in such a manner to be generally visible to the public.)
- (3) The notice shall be posted for at least 7 consecutive days prior to the first scheduled public hearing on the matter.
- (4) If the subject property is a corner lot, then two signs are required in locations defined in (2) above.

- (5) At least 5 days prior to any hearing (or decision made by the Director), an affidavit of posting shall be filed with the Director.
- (11) If the subject property is not properly posted as set forth in Section 2 or this section, the hearing may be postponed by the Director until such provisions are met.
- (12) 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.

1.420 Compliance and Waiver of Notice.

- (1) Notice by mail shall be deemed given on the day the notice is deposited with the US Postal Service, first class postage, fully prepaid, for mailing to the addressee at the addressee's last known mailing address. Failure of the addressee to actually receive notice shall not invalidate the proceeding if the City can demonstrate by affidavit that notice was given. The notice provisions of this section shall not restrict the giving of notice by other means, including posting, newspaper publication, radio and television.
- (2) Posted notice is deemed given on the day the sign is first posted.
- (3) The requirement for notice shall be deemed satisfied as to any person who, in any manner, obtains actual knowledge of the time, place, and subject matter of the hearing prior thereto.
- (4) Appearance and testimony or comment on the merits of the proposed action by any person at a hearing, or submission by any person of written comment directed to the merits of the proposed action at or prior to the hearing and after the proceeding was initiated, shall be deemed a waiver of such person of any defect in notice. [Ord. 5446, 5/10/00]

1.430 Challenges to Impartiality. A party to a hearing or a member of a review body may challenge the qualifications of a member of the review body to participate in the hearing and decision regarding the matter. The challenge shall be incorporated into the record at the time of the hearing.

1.440 Disqualification. No member of a review body shall participate in a discussion of the proposal without removing himself or herself from the bench or shall vote on the proposal when any of the following conditions exist:

- (1) Any of the following have a direct or substantial financial interest in the proposal: the review body member or the member's spouse, brother, sister, child, parent, father-in-law, mother-in-law, any business in which the member is then serving or has served within the previous two years, or in which the member is negotiating for or has an arrangement or understanding concerning prospective partnership or employment or is otherwise in a position of conflict of interest as determined by state law.
- (2) The member has a direct private interest in the proposal.
- (3) Any other valid reason for which the member has determined that participation in the hearing and decision cannot be in an impartial manner.

1.450 Participation by Interested Officer or Employees. No officer or employee of the City who has a financial or other private interest in a proposal shall participate in discussion with or give an official opinion or staff report to the review body on the proposal without first declaring for the record the nature and extent of such interest.

- 1.460 Ex Parte Contacts. The general public has a right to have review body members free from prehearing or ex parte contacts on matters heard by them. It is recognized that a countervailing public right is free access to public officials on any matter. Should ex parte communication occur, at the beginning of the hearing, the review body member shall reveal the source and substance of any significant prehearing or ex parte contacts regarding any matter at the commencement of the public hearing on such and the Chair shall allow for rebuttal of any information received through such ex parte contact. If such contacts have not impaired the member's impartiality or ability to vote on the matter, the member shall so state and shall participate or abstain in accordance with the following section.
- 1.470 Abstention or Disqualification.
- (1) An abstaining or disqualified member of the review body may be counted for purposes of forming a quorum. A member who represents personal interest at a hearing may do so only by making full disclosure of his or her status and position at the time of addressing the review body and physically removing himself or herself from the proceedings.
  - (2) If a quorum of a review body abstains or is disqualified, all members present after stating their reasons for abstention or disqualification shall, by so doing, be requalified and proceed to resolve the issues.
  - (3) A member absent during the presentation of evidence in a hearing may not participate in the deliberations or final decision regarding the matter of the hearing unless the member has reviewed the evidence received and so states on the record.
- 1.480 Burden and Nature of Proof. The burden of proof is upon the proponent or appellant. The more drastic the change or the greater the impact of the proposal in the area, the greater is the burden upon the proponent. The proposal must be supported by proof that it conforms to the applicable provisions of this Code, especially the specific criteria set forth for the particular type of decision under consideration.
- 1.490 Hearing Procedures. Hearing procedures will depend in part on the nature of the hearing. The following may be supplemented by appropriate rules announced by the presiding officer:
- (1) The presiding officer will state the case and call the public hearing to order, informing those present that testimony and evidence is to be directed towards the applicable criteria for the case and that failure to raise an issue accompanied by statements of evidence sufficient to afford the decision-makers and other parties an opportunity to respond to the issue precludes appeal to the State Land Use Board of Appeals on that issue. The presiding officer may establish the time allowed for the presentation of information.
  - (2) Any objections on jurisdictional grounds shall be noted in the record.
  - (3) Any abstentions or disqualifications shall be determined. Members shall announce all conflicts of interest and shall disclose the time, place, and nature of any ex-parte contacts they have had. Parties to the case shall have the opportunity to rebut any information contained in the ex-parte contact.
  - (4) The review body may view the area under consideration for purposes of evaluating the proposal, but shall state the place, time, manner, and circumstances of such viewing in the record.
  - (5) The presiding officer at the hearing may take official notice of known information related to the issue, such as provisions of federal or state law, or of an ordinance, resolution, official policy or charter of the City.
  - (6) Matters officially noticed need not be established by evidence and may be considered by the review body in the determination of the matters. Parties requesting official notice shall do so on the record.

- (7) Presentation of staff report, including a list of the criteria applying to the issue(s) being heard. City staff may also present additional information whenever allowed by the presiding officer during the proceedings.
- (8) Presentation of information by the applicant or those representing the applicant.
- (9) Presentation of evidence or inquiries by those persons who support the proposed change.
- (10) Presentation of evidence or inquiries by those persons who oppose the proposed change.
- (11) Presentation of evidence or inquiries by those persons who do not necessarily support or oppose the proposed change.
- (12) If additional documents or evidence are provided in support of an application, any party shall, upon request, be entitled to a continuance of the hearing to allow for adequate preparation of rebuttal. Such a continuance shall not be subject to the limitations of ORS 227.178.
- (13) Only the applicant shall have the right to present rebuttal testimony. If the presiding officer allows rebuttal by an opponent, the proponent or applicant shall have a right to an additional and final rebuttal.
- (14) The presiding officer may approve or deny a request to ask a question from a person attending the hearing. Unless the presiding officer specifies otherwise, the presiding officer will direct the question to the person who has submitted testimony.
- (15) At the close of presentation of information the presiding officer shall declare that the hearing is closed unless prior to the conclusion of the initial evidentiary hearing any participant has requested an opportunity to present additional evidence, arguments or testimony regarding the application. The local hearings authority shall grant such request by continuing the public hearing pursuant to paragraph (a) of this subsection, or leaving the record open for additional written evidence, arguments or testimony pursuant to paragraph (b) of this subsection.
  - (a) If the hearings authority grants a continuance, the hearing shall be continued to a date, time and place certain at least seven days from the date of the initial evidentiary hearing. An opportunity shall be provided at the continued hearing for persons to present and rebut new evidence, arguments or testimony. If new written evidence is submitted at the continued hearing, any person may request, prior to the conclusion of the continued hearing, that the record be left open for at least seven days to submit additional written evidence, arguments or testimony for the purpose of responding to the new written evidence.
  - (b) If the hearings authority leaves the record open for additional written evidence, arguments or testimony, the records shall be left open for at least seven days. Any participant may file a written request with the local government for an opportunity to respond to new evidence submitted during the period the record was left open. If such a request is filed, the hearings authority shall reopen the record pursuant to subsection (e) of this section.
  - (c) A continuance or extension granted pursuant to this section shall be subject to the limitation of ORS 227.178, unless the continuance or extension is requested or agreed to by the applicant.
  - (d) Unless waived by the applicant, the hearings authority shall allow the applicant at least seven days after the record is closed to all other parties to submit final written arguments in support of the applicant. The applicant's final submittal shall be considered part of the record, but shall not include any new evidence. This seven-day period shall not be subject to the limitations of ORS 227.178.

- (e) When the hearings authority reopens a record to admit new evidence, arguments or testimony, any person may raise new issues which relate to the new evidence, arguments, testimony or criteria for decision-making which apply to the matter at issue.

(16) For the purposes of this section:

- (a) “Argument” means assertions and analysis regarding the satisfaction or violation of legal standards or policy believed relevant by the proponent to a decision. “Argument” does not include facts.
- (b) “Evidence” means facts, documents, data or other information offered to demonstrate compliance or noncompliance with the standards believed by the proponent to be relevant to the decision.

(17) When the hearing has ended, the review body may openly discuss the issue and may further question a person submitting information or the staff if opportunity for rebuttal is provided.

(18) If the hearing is closed, it shall be reopened only upon a majority vote of the review body. [Ord. 5446, 5/10/00]

## **DECISION**

1.500 Findings. The review body shall make a decision and adopt findings based upon the information accompanying the application, staff report, and/or evidence presented at the hearing. The findings shall address:

- (1) Applicable Development Code criteria.
- (2) For approval, a statement of the facts establishing compliance with each applicable policy or criteria. For denial, a statement of the facts establishing non-compliance with any required policy or criteria.
- (3) Concluding statement(s) to approve or deny.

1.505 Final Decision. Unless a local ordinance specifies that the decision becomes final at a later time than defined in this section, a decision becomes final (a) when it is reduced to writing, bears the necessary signatures of the decision maker, and (b) if written notice of the decision is required by law, when written notice of the decision is mailed to persons entitled to notice. [Ord. 5475, 4/11/01]

1.510 Notice of Decision.

- (1) Within five days of final action on a land use application, the Director shall provide written notice of the decision to the applicant and any other parties entitled to notice. The notice shall state the effective date of the decision, describe the right of appeal, and summarize the reasons for the decision and any conditions of approval or indicate where such can be reviewed in detail.
- (2) The City shall take final action on all land use requests which are wholly within the authority and control of the City within 120 days from the date the application is deemed complete. However, by agreement with the applicant, this deadline may be extended for any reasonable length of time. The 120-day period set out in ORS 227.178 does not apply to an amendment to an acknowledged comprehensive plan or land use regulation or adoption of a new land use regulation that was forwarded to the Director of the Department of Land Conservation and Development under ORS 197.610 (for legislative changes). [Ord. 5446, 5/10/00]

## APPEALS

### 1.520 Appeal Procedures.

- (1) See ADC 1.330(5) for appeals of Type I-L limited land use decisions.
- (2) An affected party may request a public hearing on a tentative land use decision made by staff under the Type II procedure. At the Director's discretion, this hearing will be before the Planning Commission, Hearings Board, or the Landmarks Advisory Commission.
- (3) A Type III decision of the Planning Commission, Hearings Board, or Landmarks Advisory Commission may be appealed to the City Council by an affected party by filing a "Notice of Appeal" within 10 days from the date the City mails the Notice of Decision. [Ord. 5475, 4/11/01]
- (4) Within the appeal period, the City Council, acting upon the recommended action of the City Manager or upon its own motion, may order a de novo review of any lower level decision. Such review shall be conducted in accordance with appeal procedures as specified herein.
- (5) For any appeal proceeding, the Director shall cause notice to be provided in the same manner as provided for the original decision, those testifying and any other parties to the proceedings who request notice in writing.
- (6) A decision of the City Council may be appealed to the Land Use Board of Appeals by filing a notice of intent to appeal not later than 21 days after the decision becomes final. [Ord. 5446, 5/10/00; Ord. 5475, 4/11/01]

### 1.530 Requirements of Notice of Appeal. A "Notice of Appeal" shall contain:

- (1) An 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 he/she was a party to the initial proceedings.
- (3) The specific policy or criteria relied upon for review.
- (4) If de novo review is requested, a statement summarizing the new evidence which will be offered and the criteria to which it will relate.

### 1.540 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.

### 1.550 Review on the Record.

- (1) The reviewing body may hear the entire matter on the record or it may admit additional testimony and other evidence in a de novo hearing.
- (2) When the reviewing body requests a review on the record, the record shall include:
  - (a) A factual report prepared by the Community Development Director.
  - (b) All exhibits, materials, pleadings, memoranda, stipulations, and motions submitted by any party and received or considered in reaching the decision under review.
  - (c) The minutes of the hearing.
- (3) The reviewing body may make its decision based only upon the record, or may grant the right of oral argument, to all affected parties but not the introduction of additional evidence.

1.560 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.

1.570 Review Body Decision. Upon review, the reviewing body may affirm, remand, reverse, or modify in whole or part a determination or requirement of the decision that is under review. When the reviewing body modifies or renders a decision that reverses a decision of the review body, the review 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.

## **LEGISLATIVE PROCESS**

1.580 Initiation.

- (1) The City Council may make changes in the Comprehensive Plan or Development Code provisions and designations by legislative act where such changes affect a large number of persons, properties, or situations and are applied over a large area.
- (2) The City Council, Planning Commission, Landmarks Advisory Commission, or the Community Development Director may initiate a review on any legislative matter.
- (3) Any property owner or resident of the City may request the Planning Commission to initiate a review of any legislative matter (such as an amendment to the Development Code text). The Planning Commission shall review the proposal and determine whether the proposal warrants processing as a legislative amendment.

1.590 Procedure. Legislative land use applications are processed as a legislative Type IV procedure.

1.600 Hearing Notice.

- (1) The Director may inform persons believed to have a particular interest and provide the general public with reasonable opportunity to be aware of the hearings on the proposal.
- (2) Notice shall be published in the Albany Democrat-Herald at least one week prior to the hearing and additionally as may be required by state law for a particular proceeding.
- (3) Published notice shall include the following information:

- (a) The reviewing body, the date, time, and place of the hearing.
- (b) The nature of the proposed amendment.
- (c) The name and telephone number of the staff member to contact for more information.

1.610 Hearing Procedures. Interested persons may submit written recommendations and comments in advance of the hearing and this information shall be available for public inspection. At the hearing, written recommendations and other information will be received and oral statements will be permitted. The presiding officer may establish a time limit for presentation of information.

1.620 Planning Commission Recommendation. In preparing its recommendation to the City Council, the Planning Commission shall do the following:

- (1) Evaluate the proposal based on the relevant Development Code criteria.
- (2) Prepare a recommendation and make findings in support of such recommendation.

1.630 City Council Action.

- (1) In reaching a decision on a legislative matter, the Council shall adopt findings applicable to the relevant policies and criteria in support of the decision.
- (2) The City Council may:
  - (a) Enact, amend or defeat all or part of the proposal under consideration, or
  - (b) Refer some or all of the proposal back to the Planning Commission for further consideration.

1.640 Notice to DLCDC on Legislative Matters.

- (1) The Director shall notify Department of Land Conservation and Development for adoption of or amendment to the Comprehensive Plan, the Development Code, or any other land use regulation. The notice shall be provided at least 45 days before the first evidentiary hearing on adoption and the notice shall contain information sufficient to inform the Department as to the effect of the proposal.
- (2) If the City determines that the statewide goals do not apply to a particular proposed amendment or new regulation, notice under subsection (1) of this section is not required. In addition, the City may consider an amendment or new regulation with less than 45 days notice if the City Council determines that there are emergency circumstances requiring expedited review. [Ord. 5446, 5/10/00]

1.650 Decision Notice Requirements.

- (1) Within five working days following adoption of an amendment or new land use regulation, the Director shall forward to the Department of Land Conservation and Development a copy of the adopted text and findings and notify the Department of any substantial changes which may have occurred in the proposal since any previous notification to the Department.
- (2) Within five working days, the Director shall also notify any person who participated in the proceedings leading to the decision. Such notice shall briefly describe the final action taken, state the date and effective date of the decision, and explain the requirements for appealing the action under ORS 197.830 to 197.845.

1.660 Appeal. A legislative land use decision may be appealed to the Land Use Board of Appeals.



## **ARTICLE 2 REVIEW CRITERIA**

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

- Adjustments
- Comprehensive Plan Amendments
- Conditional Uses
- Development Code Amendments
- Nonconforming Situations
- Site Plan Review
- Vacations
- Variances
- Zoning Map Amendments

[Ord. 5445, 4/12/00]

2.020 Function of Review Criteria.

- (1) Review criteria set the bounds for the issues that must be addressed by the applicant and which may be raised by the City or affected parties.
- (2) The review criteria have been derived from and are based on the Comprehensive Plan. Reviews against the goals and policies of the Comprehensive Plan are not required unless specifically stated. Fulfillment of all requirements and review criteria means the proposal is in conformance with the Comprehensive Plan.
- (3) When review criteria refer to the request's meeting a specific threshold, such as adequate services or no significant detrimental environmental impacts, the threshold includes any proposed improvements, mitigation measures, or limitations. All proposed improvements, mitigation measures, and limitations must be identified prior to a final decision by a review body.

2.030 Burden of Proof. The burden of proof is on the applicant to show that the review criteria are met. The burden is not on the City or other parties to show that the criteria 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. Approval of a land use application based on review criteria in this Code does not relieve the applicant of responsibility for compliance with other applicable codes, ordinances, statutes or regulations.

## **ADJUSTMENTS**

- 2.060 Purpose. The adjustment review process provides a mechanism by which the Director may make limited modifications to the application of regulations in the Development Code. Adjustment reviews provide limited flexibility for unusual situations, while continuing to provide certainty and rapid processing for land use applications. Requests for changes from a numerical development standard of 10 percent or less of the standard are processed as adjustments. Requests for changes to standards which are not numeric or which are for more than 10 percent of the standard are processed as variances.
- 2.070 Procedures. Adjustment requests are processed through a Type I procedure.
- 2.080 Review Criteria. Alternative setbacks in developed areas are addressed in Sections 3.240, 4.130, and 5.130. All other adjustment requests will be approved if the Director finds that the applicant has shown that the following criteria have been met:
- (1) The requested adjustment is for 10 percent or less of the numerical development standard.
  - (2) The need for the requested adjustment is created by the configuration of an existing or proposed structure on the site. [Ord. 5338, 1/28/98]

## COMPREHENSIVE PLAN AMENDMENTS

- 2.090 Purpose. The Comprehensive Plan is the official and controlling land use document of the City, providing guidance to both public and private activities which affect the growth, development, and livability of the community. The Plan is intended to be a flexible document, reflecting changing circumstances and community attitudes through occasional amendments. This section provides a process whereby the Comprehensive Plan may be amended without violating the integrity of the Plan or frustrating its basic purposes. This process applies to proposed changes to the Comprehensive Plan map designations, text and the Urban Growth Boundary.
- 2.200 Frequency of Plan Amendments. Applications for Comprehensive Plan amendments submitted by property owners shall be reviewed semi-annually in April and October by the Planning Commission. The City Council, Planning Commission, or Director may also initiate Plan amendments. Such initiations are made without prejudice towards the outcome.
- 2.210 Procedure. Requests for Plan amendments determined by the Director to be legislative in nature are reviewed through the legislative procedures stated in Section 1.590. Quasi-judicial requests are reviewed through the Type IV procedures of Section 1.370. Area specific amendments, including map amendments outside of the city limits, are processed in accordance with the City-County Urban Growth Management Agreement.
- 2.220 Review Criteria. Amendments to the Comprehensive Plan will be approved if the Council finds that the applicant has shown that the following applicable criteria are met:
- (1) A legislative amendment is consistent with the goals and policies of the Comprehensive Plan, the statewide planning goals, and any relevant area plans adopted by the City Council.
  - (2) A legislative amendment is needed to meet changing conditions or new laws.
  - (3) The requested designation for a quasi-judicial map amendment meets all of the following tests:
    - (a) The requested designation for the site has been evaluated against relevant Comprehensive Plan policies and on balance has been found to be more supportive of the Comprehensive Plan as a whole than the old designation.
    - (b) The requested designation is consistent with any relevant area plans adopted by the City Council.
    - (c) The requested designation is consistent with the Comprehensive Plan map pattern.
    - (d) The requested designation is consistent with the Statewide Planning Goals.
  - (4) The Director may initiate a review through the Type I procedure for the types of corrections to the Comprehensive Plan Map listed below:
    - (a) The correction may be made for mapping errors such as:
      - i. 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;
      - ii. The line on the map does not match the legal description or map shown or references in the ordinance which applied the designation; or
      - iii. When there is a discrepancy between maps and there is clear legislative intent for where the line should be.
    - (b) The correction may be made when 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 minor

change to the map pattern and must not result in any significant impacts to abutting lots.

## CONDITIONAL USES

2.230 Purpose. Certain uses are conditional uses instead of being allowed outright, although they may have beneficial effects and serve important public interests. They are subject to the conditional use regulations because they may, but not necessarily do, have significant 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 process provides an opportunity to allow the use when there are 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 in Article 5 as requiring Conditional Use approvals may be permitted, enlarged or altered in accordance with the provisions of this Section. In addition, where a use is not authorized in any district or where ambiguity exists concerning the appropriate classification of a particular use or type of 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.

2.240 Procedure. Conditional Use applications are reviewed as a Type III procedure. [Ord. 5446, 5/10/00]

2.250 Review Criteria. Requests for Conditional Uses will be approved if the review body finds that the applicant has shown that all of the following criteria have been met, either outright, or with conditions that bring the proposal into compliance:

- (1) The proposed use is consistent with the intended character of the base zone and the operating characteristics of the neighborhood.
- (2) 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 calls for mitigation of difference in appearance or scale through such means as setbacks, screening, landscaping or other design features.
- (3) The transportation system is capable of supporting 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.
- (4) Public services for water, sanitary and storm sewer, water management and for fire and police protection are capable of servicing the proposed use.
- (5) The proposal will not have significant adverse impacts on the livability of nearby residentially zoned lands due to:
  - (a) Noise, glare, odor, litter, and hours of operation.
  - (b) Privacy and safety issues.
- (6) Any special features of the site (such as topography, floodplains, wetlands, vegetation, historic sites) have been adequately considered and utilized. [Ord. 5265, 12/18/96]

2.260 Conditions of Approval. The review body may attach conditions to a conditional use 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); ingress and egress; 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 shall be developed; duration of use; and preservation of natural vegetative growth and open

space.

## DEVELOPMENT CODE AMENDMENTS

- 2.270 Purpose. The Development Code is designed to implement the goals and policies of the Comprehensive Plan, which is a reflection of community values and needs. Because these values may change with time and because new techniques for implementing the Plan may be appropriate, the Code must have some mechanism for response to those changes. Amendments to the Code should occur as needed in order to maintain a close relationship between the Development Code and the Comprehensive Plan.
- 2.280 Procedures. Code amendments shall be processed in accordance with the legislative procedures of Sections 1.580-1.660.
- 2.290 Review Criteria. The request may be approved if the Council finds that the applicant has shown that all of the following criteria are met:
- (1) The proposed amendments better achieve the goals and policies of the Comprehensive Plan than the existing regulatory language.
  - (2) The proposed amendments are consistent with Development Code policies on purpose and with the purpose statement for the base zone, special purpose district, or development regulation where the amendment is proposed.

## NONCONFORMING SITUATIONS

- 2.300 Purpose. Within the City there are lots, developments, and uses which were lawful before this Code was adopted or amended, but which would no longer be allowed under the current terms of this Code. It is the intent of these provisions to permit such nonconformities to continue, but not to encourage their perpetuation. All nonconformities are referred to as “nonconforming situations.”
- 2.310 Status and Documentation of a Nonconforming Situation. The nonconforming situation regulations apply only to those situations which were allowed when established or which were approved through a land use review. Nonconforming situations which were not allowed when established have no grandfather rights and must be removed. The burden of proof is on the property owner or applicant to document that a nonconforming situation was allowed when established and was maintained over time. Satisfactory evidence of the nonconforming situation must be provided by the applicant. Evidence might consist of building permits, utility hookups, tax records, business licenses, or telephone directory listings.
- 2.320 Types of Nonconforming Situations. A lot of record may be nonconforming because it does not meet the dimensional or area standards currently required in a particular zoning district. A specific site may be nonconforming because it contains either a nonconforming use, an allowed residential use that exceeds the allowed density, a nonconforming development, or a combination of these. [Ord. 5338, 1/28/98]
- 2.325 Certain Residential Uses Granted Special Status. Special status has been granted to existing single-family dwellings in commercial, office and industrial zones. Special status has been granted for two or more units constructed prior to November 20, 1996, in the Hackleman Monteith zoning district. Notwithstanding the restrictions or terms of any other section of the Albany Development Code (ADC), these properties shall be deemed to be conforming with the base zoning district. See Sections 3.060, 4.075 and 5.080. [Ord. 5555, 2/7/03]
- 2.330 Regulations That Apply to All Nonconforming Situations.
- (1) The status of a nonconforming situation is not affected by changes in ownership.
  - (2) A nonconforming situation may be changed to a conforming situation by right. Once a conforming situation occupies the site, the nonconforming rights are lost and a nonconforming situation may not be re-established.
  - (3) A nonconforming use may change to a conditional use if approved through a conditional use review. Once a conditional use occupies the site, the nonconforming rights are lost and a nonconforming use may not be re-established.
  - (4) Normal maintenance and repair of nonconforming situations is allowed.
- 2.340 Loss of Nonconforming Status.
- (1) The nonconforming use of a building, structure, or land shall be deemed to have terminated if the building, structure, or land ceases to be occupied by a permitted or legally nonconforming use for any reason for a continuous period of one year. Extensions of up to two additional years may be granted under the Type II procedure if the Director finds that:
    - (a) Conversion to any conforming use will result in a substantial economic loss and that the proposed use will result in greater conformance with the development standards of the zone
    - OR
    - (b) Immediately surrounding land uses are similarly nonconforming and proposed use will be compatible with both the nonconforming and conforming uses in the review area.



- (2) Nonconformance with any development standard or condition other than building setback, coverage, or height shall be deemed terminated if the building, structure, or land ceases for any reason to be occupied by a permitted or legally nonconforming use for a continuous period of one year.
- (3) Any nonconforming use or development dependent upon a building or structure which is substantially damaged or becomes deteriorated to the extent that it has been declared a “dangerous building” and ordered demolished pursuant to the Albany Dangerous Building Code (AMC Chapter 18.16) shall be deemed terminated upon such destruction or declaration and order.
- (4) Any nonconforming use or development dependent upon a building or structure which is substantially damaged or destroyed by any cause to the extent that the cost of repair or restoration of the building or structure would exceed 70 percent of its fair market value shall be deemed terminated.
  - (a) Cost of repair or restoration shall be determined by the Building Official. Fair market value shall be determined by independent professional appraisal in a form satisfactory to the City. Such determinations of value and cost are appealable to the Building Board of Appeals. Exceptions to this standard may be applied for under the Type II procedure.
  - (b) The Director may allow additional degrees of reconstruction upon finding that:
    - i. Conversion to any conforming use will result in a substantial economic loss, and
    - ii. The proposed use will result in greater conformance with the development standards of the zone, or
    - iii. Immediately surrounding land uses are similarly nonconforming and the reconstructed use will be compatible with both the nonconforming and conforming uses in the review area.
- (5) Rebuilding of structures which have been intentionally destroyed and which contained nonconforming uses is prohibited.

2.345 Nonconforming Lots of Record. Lots of record that do not meet the dimensional or area requirements of the zoning district in which they are located may be developed. Any new structure built on the lot must conform with the development standards for the zoning district in which the lot is located (such as setbacks, lot coverage, etc.). [Ord. 5338, 1/28/98]

2.350 Nonconforming Uses.

- (1) Nonconforming uses may continue to operate. Changes in operations are allowed. However, nonconforming uses in residential zones may not extend their hours of operation into the period of 11 p.m. to 6 a.m.
- (2) A change to another use in the same use category is allowed by right. A change to a use in a different use category which is prohibited by the base zone may be allowed through a nonconforming use review.
- (3) Structural expansions shall be limited to the following:

<u>Existing Gross Floor Area</u>	<u>% of Expansion Allowed</u>
Building under 4,000 sq. ft.	25%
Building under 10,000 sq. ft.	20%
Building larger than 10,000 sq. ft.	15%

- (4) Nonconforming uses and buildings may expand one time only.

- (5) Expansion of the nonconforming use onto another site is prohibited, except in the following situation:
  - (a) The site is abutting the site of the nonconforming use; and
  - (b) The site was in the same ownership as the nonconforming site when it became nonconforming; and
  - (c) The prior zoning regulations on the expansion site would have allowed the use; and
  - (d) The expansion is approved through a nonconforming use review.
- (6) The addition of new residential units to a nonconforming residential use is prohibited.

2.360 Nonconforming Residential Densities.

- (1) Existing dwelling units may continue, may be removed or enlarged, and amenities may be added to the site. There may not be a net increase in the number of dwelling units and the building may not move further out of compliance with the base zone development standards.

2.370 Nonconforming Development. This section is primarily aimed at upgrading nonconforming development elements that affect the appearance and impacts of a site. Nonconforming developments may continue unless specifically limited by Subsection (2) below or other regulations in this Title.

- (1) Changes may be made to the site which are in conformance with the base zone development standards.
- (2) Development not complying with the following standards must be brought into compliance with the base zone standards to an extent commensurate with the proposed changes.
  - (a) Landscaped setbacks for surface parking and exterior development areas;
  - (b) Interior parking lot landscaping;
  - (c) Landscaping in existing building setbacks;
  - (d) Minimum landscaped area (where land is not used for structures, parking, or exterior improvements);
  - (e) Screening; and
  - (f) Paving of surface parking and exterior storage and display areas.

2.380 Sites That Are Nonconforming in Parking Spaces. When a site is nonconforming in the number of required parking spaces and changes to a use or building are made that increase the number of required parking spaces, only the number of spaces relating to the increase need to be provided.

2.390 Procedure. A nonconforming situation is reviewed through a Type II procedure.

2.400 Review Criteria. The request will be approved if the review body finds that the applicant has shown that all of the following criteria are met:

- (1) The nonconforming situation was not created unlawfully. See Section 2.310.
- (2) With mitigation measures, there will be a net decrease in overall detrimental impacts (over the impacts of the previous use or development) on the surrounding area taking into account factors such as:
  - (a) The hours of operation;
  - (b) Vehicle trips to the site and impact on surrounding on-street parking;
  - (c) Noise, vibration, dust, odor, fumes, glare, and smoke;
  - (d) Potential for increased litter; and
  - (e) The amount, location, and nature of any outside displays, storage, or activities; and either (3) or (4) below.

- (3) If the nonconforming use is in a residential zone, and if any changes are proposed to the site, the appearance of the new use or development 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.
  
- (4) If the nonconforming use is in a commercial or industrial zone, and if any changes are proposed to the site, the appearance of the new use or development will not detract from the desired function and character of the zone.

## VACATIONS

- 2.410 Purpose. This section states the procedures and review criteria for the vacation of an easement, right-of-way, or plat.
- 2.420 Initiation. A vacation proposal may be initiated by the City Council or by petition of adjoining and area owners in accordance with ORS 271.080.
- 2.430 Procedure. Type IV procedures as outlined in Section 1.370 shall be used as supplemented by the provisions of ORS Chapter 271. State law defines the affected area and mandates notice requirements that are more stringent than the City's Type IV procedure.
- 2.440 Review Criteria. A vacation request may be approved if the review body finds that the applicant has shown that all of the following review criteria are met:
- (1) The requested vacation is consistent with relevant Comprehensive Plan policies and with any street plan city transportation or public facility plan.
  - (2) The requested vacation will not have a negative effect on access between public rights-of-way or to existing properties, potential lots, public facilities or utilities.
  - (3) The requested vacation will not have a negative effect on traffic circulation or emergency service protection.
  - (4) The portion of the right-of-way that is to be vacated will be brought into compliance with Code requirements, such as landscaping, driveway access, and reconstruction of access for fire safety.
  - (5) The public interest, present and future, will be best served by approval of the proposed vacation.
- 2.450 Zoning of Vacated Right-of-Way. Except as otherwise provided within the vacation ordinance or where the official City zoning map is not clear as to the zoning of vacated right-of-way, the zoning of each parcel of vacated territory shall be the same as the adjoining property to which the ownership of the parcel automatically reverts.
- 2.460 Conditions of Approval. The City may attach conditions to the approval of a vacation request to ensure that the proposal will conform to the review criteria.

## VARIANCES

- 2.470 Purpose. Variances provide flexibility for unusual situations, while continuing to provide certainty and rapid processing for land use applications. Variances are necessary when the applicant requests a deviation from numerical standards of more than 10 percent, or a variation from non-numerical development standards. Requests for changes of less than 10 percent of a numerical standard are processed as adjustments.
- 2.480 Procedure. A variance requests shall be reviewed as a Type II procedure.
- 2.490 Regulations Which May and May Not Be Varied.
- (1) Unless listed in Subsection (2) below, all regulations in this Title may be modified using the variance process.
  - (2) Variances are prohibited for the following items:
    - (a) To allow a primary or accessory use that is not allowed by the regulations.
    - (b) As an exception to any restrictions on uses or development which contain the word “prohibited”.
    - (c) As an exception to a threshold for a review, such as the size of accessory structures.
    - (d) As an exception to a definition or classification.
    - (e) As an exception to the procedural steps of a procedure or to change assigned procedures.
- 2.500 Review Criteria. The review criteria for sign variances are stated in Section 13.710, Sign Code. All other variance requests will be approved if the review body finds that the applicant has shown that all of the following criteria have been met:
- (1) The proposal will be consistent with the desired character of the area; and
  - (2) If more than one variance is being requested, the cumulative effect of the variances results in a project which is still consistent with the overall purpose of the zone; and
  - (3) The requested variance is the minimum necessary to allow the proposed use of the site; and
  - (4) Any impacts resulting from the variance are mitigated to the extent practical; or
  - (5) Application of the regulation in question would preclude all reasonable economic use of the site.

## ZONING MAP AMENDMENTS

- 2.510 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 which are processed in a quasi-judicial manner and those processed in a legislative manner.
- 2.520 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 1.580.
  - (3) Initiations by a review body are made without prejudice towards the outcome.
- 2.530 Procedure. Zoning map amendments will be reviewed through the Type IV procedures as outlined in Section 1.370 or by legislative action as provided for in Sections 1.580 - 1.660.
- 2.540 Special Notice Requirements. If a zone change request would change the zone of property which includes all or part of a manufactured home park, the City shall 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 which was mailed shall not invalidate any zone change.
- 2.550 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 in accordance with Section 2.080.
  - (2) Existing or anticipated transportation facilities are adequate for uses that are 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 within the subject area without adverse impact on the affected service area.
  - (4) Any unique natural features or special areas involved such as floodplains, slopes, significant natural vegetation, historic district will not be jeopardized as a result of the proposed rezoning.
  - (5) The intent and purpose of the proposed zoning district best satisfies the goals and policies of the Comprehensive Plan.
- 2.560 Corrections to the Official Zoning Map. The Director may initiate and approve a review following the Type I procedure for the types of corrections to the Official 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 map shown or referenced in the ordinance which 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 type 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.

2.570 Zoning. Upon annexation, the zoning of annexed property shall be compatible with the Comprehensive Plan designation as provided on the annexation zoning matrix. The particular zoning district will be determined in an Annexation Agreement between the City and the property owner. Zoning other than shown on the matrix requires approval of a Comprehensive Plan map and/or zoning map amendment. [Ord. 5555, 2/7/03]

**ANNEXATION ZONING MATRIX**

Plan Designation	Compatible Zoning Districts
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)
Light Commercial	Neighborhood Commercial (NC), Office Professional (OP)
Village Center	Historic Downtown (HD), Central Business (CB), Lyon-Ellsworth (LE), Pacific Boulevard (PB), Elm Street (ES), Main Street (MS), Waterfront (WF), Mixed Use Commercial (MUC), Residential Limited Multiple Family (RM-5), Mixed Use Residential (MUR), Office Professional (OP), Community Commercial (CC)
High Density Residential	Residential Multiple Family (RM-3), Waterfront (WF), Office Professional (OP), Neighborhood Commercial (NC)
Medium Density Residential	Residential Single Family (RS-5), Residential Limited Multiple Family (RM-5), Mixed Use Residential (MUR), Waterfront (WF), Office Professional (OP), Neighborhood Commercial (NC)
Low Density Residential	Residential Single Family (RS-10, RS-6.5, RS-5), Hackleman-Monteith (HM), Residential Reserve (RR), Office Professional (OP), Neighborhood Commercial (NC)
Urban Residential Reserve	Residential Single Family (RS-10, RS-6.5, RS-5), Urban Residential Reserve (RR), Residential Multiple Family (RM-3), Residential Limited Multiple Family (RM-5), Mixed Use Residential (MUR), Neighborhood Commercial (NC), Office Professional (OP)
Public and Semi-Public	All zones
Open Space	Open Space (OS)

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

## SITE PLAN REVIEW

- 2.600 Purpose. Site Plan Review is intended to promote functional, safe, and attractive developments, which maximize compatibility with surrounding developments and uses and with the natural environment. Site Plan Review mitigates potential land use conflicts resulting from proposed development through specific conditions attached by the review body. Site Plan Review is not intended to evaluate the proposed use or the structural design of the proposal. Rather, 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]
- 2.610 Levels of Review. These sections establish three levels of Site Plan Review, with the degree of detail required for submittal and review criteria based on the projected land use impacts. Option A review is primarily for new development and is subject to the greatest scrutiny. Option B is primarily for review of those projects which are expansions of existing development and which will generally result in fewer impacts on the surrounding area than a new development. Option C review is used when the proposal is for a change in use or another modification to a developed site which will not result in a greater impact on the neighborhood or on public facilities. [Ord. 5445, 4/12/00]
- 2.620 Relationship to Other Regulations. Approval of a land use application based on review criteria in this Code does not relieve the applicant of responsibility for compliance with other applicable codes, ordinances, statutes or regulations. [Ord. 5445, 4/12/00]
- 2.630 When Site Plan Review is Required. In general, a Site Plan Review covers all proposed exterior alterations included in the development proposal, but does not cover portions of the existing development that are not being modified. An exception to this is parking areas, where any proposed change to the parking lot will result in the entire parking area being reviewed. Site Plan Review is required in all of the following instances:
- (1) New development.
  - (2) Building expansions of 500 square feet or more, or any expansion that results in a reduction of parking spaces.
  - (3) Parking area expansions of 1,000 square feet or more.
  - (4) Any development listed in Articles 3, 4, and 5 that specifically requires Site Plan Review. [Ord. 5445, 4/12/00]
- 2.640 When Site Plan Review is not Required. Activities and developments listed below are excluded from the requirement for a Site Plan Review land use application but are nevertheless subject to the provisions of the Code where applicable:
- (1) Agricultural uses permitted outright in any zone.
  - (2) Detached single family dwellings and two unit dwellings.
  - (3) Accessory buildings and building additions of less than 500 square feet which conform to the provisions of this Code and the Uniform Building Code.
  - (4) Accessory buildings in residential districts that meet the following standards. (Information must be submitted that shows the standards are met. The information shall be submitted at the time 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 does not exceed the height of the tallest building on adjacent property. Height here means the height of the building at its highest point.
- (b) The square footage of the area enclosed by the foundation of the proposed building does not exceed the square footage of the area enclosed by the foundation of the largest building on adjacent property.
- (c) The amount of land that will be covered by buildings if the proposed building is constructed does not exceed the applicable lot coverage restrictions of the Development Code.
- (d) The proposed building meets or exceeds the applicable setback requirements for the primary residential structure listed in the Development Code.
- (e) The materials that will be used on the proposed building (e.g. siding and roofing), and the color of those materials, are the same as those used on the primary residential structure on the subject property.
- (f) If the proposed building is located in any of the special purpose districts listed in Articles 6 and 7 of the Development Code, the building must also be reviewed for conformance with the requirements of the applicable district.

Accessory buildings in floodplain districts are subject to the floodplain regulations of Article 6.

- (5) Landscaping and routine property maintenance.
- (6) Improvement of parking areas containing less than 1,000 square feet and otherwise meeting the provisions of this Code.
- (7) A change internal to a building or other structure or usage of land that does not constitute a change of use as listed in Article 5.
- (8) Site Plan Review for a change in use within an existing structure when the following criteria are satisfied:
  - (a) No structural expansion in excess of 500 feet or additional exterior storage is proposed.
  - (b) The use will not create additional adverse affects for abutting properties or the neighborhood (e.g. visual, noise, or air pollution, increased parking requirements, or improvements to public facilities.)
  - (c) Any non-conformity with the provisions of this Code has been addressed, including compliance with sign, landscaping, and parking requirements except where restricted by building location or limiting site characteristics.
- (9) An emergency measure necessary for the safety or protection of property when authorized by the City Manager with written notice to the City Council.
- (10) Any temporary use of land of up to a 30-day duration (such as a promotional event, festival, carnival, or outdoor sale) which conforms with all other requirements of this Code and other applicable City regulations and public health and safety requirements, some of which may further limit such uses in terms of location, scope, and duration.
- (11) The establishment, construction, alteration, or maintenance of a public facility authorized by the Public Works Director 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 a six months duration but does not include major substations, treatment facilities, storage tanks, reservoirs, and towers.
- (12) Excavation and fill for foundations and all other excavation or filling of land involving 50 cubic yards

or less which does not adversely affect drainage patterns and is not located within a floodplain or slope area. [Ord. 5381, 3/26/97; Ord. 5445, 4/12/00]

2.650 Review Criteria. A site plan approval will be granted if the review body finds that the applicant has met all of the following criteria that are applicable to the proposed development.

- (1) Public facilities can accommodate the proposed development.
- (2) Any special features of the site (such as topography, hazards, vegetation, wildlife habitat, archaeological sites, historic sites, etc.) have been adequately considered and utilized.
- (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.
- (4) Parking areas and entrance-exit points are designed to facilitate traffic and pedestrian safety and avoid congestion. [Ord. 5445, 4/12/00]

2.660 Conditions of Approval. The City may attach conditions to the approval of a Site Plan Review application in order to ensure that the proposal will conform to the applicable review criteria. [Ord. 5445, 4/12/00]

#### **OPTION A REVIEW**

2.670 Applicability. This level of review is intended for new development within the City. Any proposal that is not appropriately reviewed under Options B or C will be reviewed under Option A. [Ord. 5445, 4/12/00]

2.680 Procedure. A Type I-L limited land use procedure is followed for an Option A Site Plan Review with the Director acting as the review body. [Ord. 5445, 4/12/00]

2.690 Application Contents. An application for Option A Site Plan Review consists of the following:

- (1) A completed application form.
- (2) A mailing list of property owners within 100 feet of the entire contiguous site, except that a mailing list of property owners within 300 feet must be provided when a subdivision, manufactured home park, or multi-family development is proposed. The list will be compiled from the most recent property tax assessment roll. Notice shall also be provided to any neighborhood or community organization recognized by the governing body and whose boundaries include the site.
- (3) One set of conceptual drawings, including floor plans and building elevations.
- (4) A conceptual landscape plan (2 copies) showing the type and location of proposed landscaping and screening.
- (5) A site plan (10 copies) showing the following:
  - (a) Assessor's map and tax lot number and lot and block description or other legal description.
  - (b) Lot dimensions and total lot area.
  - (c) North arrow.
  - (d) Location of all existing and proposed structures, including minimum distances from all structures to lot lines.
  - (e) Percentage of the lot covered by any and all structures.
  - (f) Adjacent zoning designations and adjacent land uses including approximate location of buildings, accesses, streets, sidewalks, curbs, easements, and utilities.

- (g) Locations and dimensions of rights-of-way of all abutting streets (whether public or private) and existing and proposed driveways.
- (h) Size and location of all utilities.
- (i) Locations, dimensions, and nature of any easements.
- (j) Location of any non-access strips.
- (k) Natural drainage patterns (existing contour lines at two-foot intervals if required by Director.)
- (l) Location, size, and capacity of the existing and proposed drainage system including pipe size and slope. Show existing and proposed finished grade elevations at collection points and property lines. Include the location, size, and capacity of facilities identified in the Drainage Master Plan that would serve the proposed development.
- (m) Proposed cuts and fills of more than two feet and any changes in elevations proposed at property lines.
- (n) Location and species of trees greater than 25 inches in circumference when measured at 4-1/2 feet above mean ground level from the base of the trunk.
- (o) Location and dimensions of delivery and loading areas.
- (p) Location and dimensions of parking and circulation areas.
- (q) Location and dimensions of trash disposal areas.
- (r) Location of proposed signs. [Ord. 5338, 1/28/98; Ord. 5445, 4/12/00]

2.700 Appeals. An Option A Site Plan Review decision is a limited land use decision and may be appealed in accordance with Section 1.330. [Ord. 5445, 4/12/00]

## **OPTION B REVIEW**

2.710 Applicability. This level of review is intended for expansion of existing structures or development, which will have a minimal impact on the surrounding area. An Option B Site Plan Review must be filed when the following developmental activities are proposed:

- (1) An addition (exceeding 500 square feet) to an existing structure.
- (2) Parking lot additions of over 1000 square feet.
- (3) A change in occupancy to a more intensive use in an existing building.
- (4) Reduction in the number of parking spaces. Any development consistent in scope and impact with those listed here may also be reviewed under an Option B review, at the Director's discretion. [Ord. 5265, 12/18/96; Ord. 5445, 4/12/00]

2.720 Procedure. A Type I-L limited land use procedure is followed for the Option B Site Plan Review with the Director acting as the review body. [Ord. 5445, 4/12/00]

2.730 Application Contents. The Director may require any of the information listed for Option A Site Plan Review in Section 2.690. In many cases, not all of this information will be required due to lack of applicability. [Ord. 5445, 4/12/00]

2.740 Appeals. An Option B Site Plan Review decision is a limited land use decision and may be appealed in accordance with Section 1.330. [Ord. 5445, 4/12/00]

## **OPTION C REVIEW**

2.750 Applicability. An Option C Site Plan Review is intended for review of development in existing buildings. It is appropriate for the following types of development proposals:

- (1) A change in occupancy to a use which is not more intense in off-site impacts.

(2) Resurfacing of nonconforming parking lots.

(3) Other development with similar impacts. [Ord. 5445, 4/12/00]

2.760 Procedure. A Type I procedure is followed for the Option C Site Plan Review. [Ord. 5445, 4/12/00]

2.770 Application Contents. An Option C Site Plan Review requires submittal of only the completed application form. [Ord. 5445, 4/12/00]

2.780 Review Criteria. The following criteria must be met in order for the Director to approve the proposed development.

(1) Off-street parking is adequate to serve the proposed use.

(2) The proposed use will not generate more traffic than the previous use.

(3) The site is in, or can be brought into, compliance with the spirit of the Code regarding landscaping, screening and buffering.

Any applicable criteria from Section 2.650. [Ord. 5445, 4/12/00]

## **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 Article 11.

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

- Zoning Districts
- Schedule of Permitted Uses
- Development Standards

#### **ZONING DISTRICTS**

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

- (1) RR – RESIDENTIAL RESERVE DISTRICT. The RR District is intended to recognize areas which, because of topography, level of services, or other natural or development factors are best served by a large lot designation. This district may be applied on an interim basis until urban services become available. The minimum lot size is five acres.
- (2) RS-10 – RESIDENTIAL SINGLE FAMILY DISTRICT. The RS-10 District is intended primarily for lower density single family residential environment. Development should occur at an overall average density of four units per acre.
- (3) RS-6.5 – RESIDENTIAL SINGLE FAMILY DISTRICT. The RS-6.5 District is intended primarily for low density urban single family residential development. Development should occur at 6-8 units per acre.
- (4) RS-5 – RESIDENTIAL SINGLE FAMILY DISTRICT. The RS-5 District is intended primarily for low to moderate density single family development. Development should occur at 8-10 units per acre.
- (5) RM-5 – RESIDENTIAL LIMITED MULTIPLE FAMILY DISTRICT. The RM-5 District is primarily intended for low to medium density multiple family residential urban development. Development should occur at 10-20 units per acre.
- (6) RM-3 – RESIDENTIAL MULTIPLE FAMILY DISTRICT. The RM-3 District is intended primarily for medium to high density urban residential development. Development should occur at 20-40 units per acre.
- (7) RM-H – RESIDENTIAL MULTIPLE FAMILY HIGH DENSITY DISTRICT. A site will be designated RM-H upon the request of the property owner or representative of the owner, and only in conjunction with a site plan or conditional use review for uses permitted in the district. Density is not regulated by a maximum number of units per acre. Instead, the maximum building size and intensity of use is regulated by site development standards. The major types of new housing development will be medium and high rise apartments and condominiums. Generally, RM-H zones will be located near the center of the city where transit is readily available and where commercial and employment

opportunities are nearby. At a minimum, sites designated RM-H will develop at 40 units per acre.

- (8) **HM – HACKLEMAN-MONTEITH DISTRICT.** The HM district is intended primarily to preserve the existing single-family residential character of the Hackleman and Monteith Historic Districts. Conversion of single-family residential structures to other uses, including multi-family residential, is not allowed. Accessory apartments are allowed.

The intent of the HM district is to preserve existing single-family residences for that use, but not make existing multi-family development non-conforming. Existing multi-family developments within the HM district that were constructed for that purpose will remain conforming uses, as will other duplex and multi-family developments. A list of these specific existing developments is included in Section 3.060. The duplex and multi-family developments on this list are allowed uses, and are not subject to the restrictions that would otherwise apply if they were non-conforming uses. The requirements of any applicable overlay district do apply. [Ord. 5555, 2/7/03]

3.025 Establishment of the Open Space District. The OS District is intended for the establishment, continuation, and preservation of agricultural uses, park and recreation areas, wildlife habitats, wetlands, natural areas, and other uses that do not involve the construction of structures other than minor facilities that might be required to conduct the principal use. Uses that are allowed in the OS district are listed following the Schedule of Permitted Uses and do not appear in the Schedule.

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

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

[Ord. 5555, 2/7/03]

### **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 which may be located within the city. There are also situations where proposed uses may relate to more than one type of use. In both instances, the Director will determine the appropriate use category based on operating characteristics and land use impacts. Where ambiguity exists concerning the appropriate classification of a particular use, the use may be reviewed as a conditional use where the Director determines that the proposed use is consistent with other uses allowable within the subject district due to similar characteristics.
- (2) Where a development proposal involves a combination of uses other than accessory uses, the more restrictive provisions of this Code shall apply. For example, if a portion of a development is subject to conditional use approval and the balance is subject only to Site Plan Review, the entire development

shall be reviewed utilizing the conditional use criteria if concurrent approval of all uses is sought.

- (3) A change in the use of a property is subject to review as specified by the schedule of permitted uses:
  - (a) When the change involves a change from one use category to another in the schedule of permitted uses and the Director has not waived review under the provisions of Section 1.070,  
OR
  - (b) When a property that has been unoccupied for more than one year and is non-conforming under the provisions of Article 2 is proposed to be occupied.

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. The abbreviations used in the schedule have the following meanings:

- A 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.
- C Use permitted conditionally under the provisions of Sections 2.230-2.260.
- PD Use permitted only through Planned Development approval.
- \* Use not permitted in the major zoning district indicated.

A number appearing opposite a use in the “special conditions” column indicates that special provisions apply to the use. These conditions are found following the schedule, in Section 3.080.

Summary of Major Headings in the Schedule.

- |                                       |  |
|---------------------------------------|--|
| 1.0 Residential                       | 6.0 Parking Lots                               |
| 2.0 Accessory Buildings and Uses      | 7.0 Public and Semi-Public Uses                |
| 3.0 Agriculture and Natural Resources | 8.0 Recreation, Entertainment, Public Assembly |
| 4.0 Antennas and Towers               | 9.0 Storage and Warehousing                    |
| 5.0 Educational and Religious         |  |

[Ord. 5445, 4/12/00]

## RESIDENTIAL ZONING DISTRICTS

	USE DESCRIPTIONS	Spec Cond	RR	RS 10	RS 6.5	HM	RS 5	RM 5	RM 3	RH
<b>1.000</b>	<b>RESIDENTIAL</b>									
<b>1.100</b>	<b>Single-Family Residences:</b>									
1.110	Single family detached, one dwelling per lot		A	A	A	A	A	A	A	*
1.120	Single family detached, more than one dwelling per lot [Ord. 5338, 1/28/98]	17	*	PD	PD	S	PD	S	S	*
1.130	Two units attached at common wall property line	1,2,3	*	C	C	*	S	S	S	*
1.140	Multiple single family attached units (condominiums)		*	PD	PD	*	S	S	S	S
1.145	Two or more single-family attached (townhouses) [Ord.5445, 4/12/00]		*	*	*	*	A	A	A	*
1.150	Conversion of multiple family to single family attached (Condominiums)		*	C	C	C	C	C	C	C
1.160	Manufactured homes on individual lots-except for lots located within the National Register Historic Districts or residential land adjacent to a historic landmark. [Ord. 5446, 5/10/00]		A	A	A	A	A	A	A	*
1.170	Manufactured home parks and subdivisions (See Article 10)		*	*	S	*	S	S	S	*
1.180	Home occupations (See Article 3)		A	A	A	A	A	A	A	A
<b>1.200</b>	<b>Two-Family Residences:</b>									
1.210	Duplexes [Ord. 5445, 4/12/00]	1,2,3	*	A	A	*	A	A	A	*
1.220	Primary residence with accessory apartment	4	A	A	A	A	A	A	A	*
<b>1.300</b>	<b>Multiple Family Residences:</b>									
1.310	Located within Willamette River Greenway Boundary		*	*	*	*	*	C	C	C
1.320	Quad or quint apartment dwellings		*	*	*	*	*	S	S	*
1.330	All other multiple family dwellings		*	*	*	*	*	S	S	S
1.340	Conversion of multiple family to attached single family on individual lots	3								
1.400	Overnight Recreational Vehicle Parks (See Article 10)	5	*	*	*	*	*	C	C	*



	USE DESCRIPTIONS	Spec Cond	RR	RS 10	RS 6.5	HM	RS 5	RM 5	RM 3	RH
<b>1.500</b>	<b>Homes and Institutions Providing Special Services, Treatment, or Supervision:</b>									
1.510	Group care home		A	A	A	A	A	A	A	A
1.520	Hospital		*	*	*	*	*	C	C	*
1.530	Child care home	6	A	A	A	A	A	A	A	S
1.540	Child care institution		C	C	C	C	C	C	S	S
<b>1.600</b>	<b>Miscellaneous Rooms for Rent:</b>									
1.610	Rooming houses, boarding houses		*	*	*	C	*	S	S	*
1.620	Bed & breakfast	7	C	C	C	C	C	C	S	*
1.700	Temporary Residence in Conjunction with New Construction, Emergency Repair, or Night Watchman Use	8	S	S	S	S	S	S	S	S
<b>2.000</b>	<b>ACCESSORY BUILDINGS AND USES</b>									
2.110	Accessory buildings, garages, carports meeting the standards in Special Condition 9. [Ord. 5281, 3/26/97]	9	A	A	A	A	A	A	A	A
2.120	Detached accessory buildings, garages, carports totaling less than 750 sq. ft. & having walls not greater than 11' in height.		A	A	A	A	A	A	A	A
2.130	Accessory buildings, garages, carports not meeting the standards in Special Condition 9. [Ord. 5281, 3/26/97]	9	S	S	S	S	S	S	S	S
2.200	Non-Residential Accessory Buildings and Uses	9	S	*	*	*	*	*	*	*
<b>3.000</b>	<b>AGRICULTURE AND NATURAL RESOURCES</b>									
3.100	Crop Production Generally		A	A	A	*	A	A	A	*
3.200	On-site Retail Sales of Site-produced Seasonal Goods Exceeding 30 Days Duration		A	S	C	*	C	C	C	*
3.300	Plant Nurseries and Greenhouses		S	S	S	*	S	S	S	*
3.400	Temporary Staging Areas for Public Works Construction Projects in Excess of 6 Months Duration		C	C	C	C	C	C	C	*
<b>3.500</b>	<b>Tree Felling:</b>									
3.510	Felling of 5 or more trees larger than 25 inches in circumference (approximately 8 inches in diameter) [Ord. 5445, 4/12/00]	10	S	S	S	S	S	S	S	S

	<b>USE DESCRIPTIONS</b>	<b>Spec Cond</b>	<b>RR</b>	<b>RS 10</b>	<b>RS 6.5</b>	<b>HM</b>	<b>RS 5</b>	<b>RM 5</b>	<b>RM 3</b>	<b>RH</b>
3.600	Raising of Animals, Livestock (subject also to Albany Municipal Code Section 6.10)		A	A	A	*	A	A	A	*
3.700	Kennels	11	S	C	C	*	C	C	*	*
3.800	Animal Arenas, Commercial Stables, Equestrian Center		S	C	C	*	*	*	*	*
3.900	Development Within a Wetland as Designated on Plate 6 of the Comprehensive Plan		C	C	C	C	C	C	C	C
<b>4.000</b>	<b>ANTENNAS AND TOWERS</b>									
4.100	Antennas, Regardless of Size, Owned & Operated by FCC Licenses Member of Amateur Radio Service		A	A	A	*	A	A	A	A
4.110	Private and public communication towers and antennas over 50 feet in height [Ord. 5281, 3/26/97]	16	*	*	*	A	*	*	*	*
4.200	Satellite Dish & All Other Antennas	12	A	A	A	A	A	A	A	A
<b>5.000</b>	<b>EDUCATIONAL AND RELIGIOUS</b>									
<b>5.100</b>	<b>Private or Public Schools:</b>									
5.110	Primary, elementary, & secondary school (includes associated grounds, facilities & administrative offices)	13	C	C	C	C	C	C	C	*
5.120	Colleges, universities, community colleges (including associated facilities like dorms, offices, athletic fields, stadiums, research facilities, etc.)		C	C	C	C	C	C	C	*
5.200	Churches, Synagogues, & Temples (includes associated structures for religious personnel, accessory uses like day nurseries; excludes elementary/secondary schools that require other permits)	13	C	C	C	C	C	C	C	*
<b>6.000</b>	<b>PARKING LOTS</b>									
<b>6.100</b>	<b>Vehicle and Equipment Parking not Incidental or Accessory to Another Use Located on the Same Property:</b>									
6.120	Commercial parking, garages, pay lots		*	*	*	*	*	*	*	C
6.130	Off-site parking lots for commercial, education, religious, & institutional uses		*	*	*	*	*	C	C	*
6.200	All Other On-Site Parking Lots for Approved Uses		C	C	C	S	S	S	S	S
<b>7.000</b>	<b>PUBLIC AND SEMI-PUBLIC USES</b>									
7.100	Emergency Services (e.g. police & fire stations, ambulance & rescue services)		C	C	C	C	C	C	C	*

	<b>USE DESCRIPTIONS</b>	<b>Spec Cond</b>	<b>RR</b>	<b>RS 10</b>	<b>RS 6.5</b>	<b>HM</b>	<b>RS 5</b>	<b>RM 5</b>	<b>RM 3</b>	<b>RH</b>
7.200	Alleys, Streets, Highways, Bridges, Sidewalks, Bikepaths, & Related Transportation Facilities Subject Only to Special District Regulations of Article 11.		A	A	A	A	A	A	A	A
<b>7.300</b>	<b>Utility Facilities:</b>									
7.310	Neighborhood utilities including pump stations, electric substations less than 5,000 sq. ft. & all local utility lines		A	A	A	A	A	A	A	*
7.320	Regional/community utilities including treatment plants, storage facilities, regional transmission facilities, overhead power lines requiring tower support structures, etc.		C	C	C	C	C	C	C	*
7.400	Cemeteries, Crematoriums, & Mausoleums		S	S	S	C	S	S	S	*
<b>8.000</b>	<b>RECREATION, ENTERTAINMENT, PUBLIC ASSEMBLY</b>									
<b>8.100</b>	<b>Activities Conducted Primarily within Structures:</b>									
8.110	Indoor racquet sports clubs; spas; athletic, exercise, & health clubs; and similar facilities not constructed as part of planned residential development [Ord. 5446, 5/10/00]		C	C	C	C	C	C	C	*
8.120	Youth clubs, senior centers, community centers [Ord. 5446, 5/10/00]		C	C	C	C	C	C	C	C
<b>8.200</b>	<b>Activities Conducted Primarily Outside Enclosed Buildings:</b>									
8.210	Outdoor recreational facilities (e.g. golf & country clubs, driving ranges, swimming or tennis clubs, not constructed as part of planned residential development, equestrian trails.)		C	C	C	*	C	S	S	*
8.220	Public parks & recreational facilities located therein	14	C	C	C	C	C	C	C	*
8.230	Fairgrounds		C	C	C	*	C	C	*	*
<b>9.000</b>	<b>STORAGE AND WAREHOUSING</b>									
<b>9.100</b>	<b>Warehousing or Storage of Goods Not Including Sale or Use of Those Goods on the Same Property Where They are Stored Except as Accessory Use Activity:</b>									
9.110	Mini-warehouses	15	*	*	*	*	*	S	S	*

[Ord. 5555, 2/7/03]

## SPECIAL STATUS

### 3.060 Existing Residential Uses Granted Special Status in the HM, Hackleman Monteith, District

Notwithstanding the restrictions or terms of any other section of the Albany Development Code (ADC), properties listed below shall be deemed to be conforming with the base HM zoning district. If any building

on these properties is substantially destroyed, as defined in ADC Section 2.340(4), it can be rebuilt to the same density as existed on the property at the time ADC Article 14 was first adopted on May 22, 1996, but will be subject to the regulations of any applicable overlay zone.

If any of the listed buildings are converted to single-family 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 and multi-family development, in areas previously zoned RM-3, RM-5, and OP only, that exists in the HM district at the time of adoption of Article 14 be listed here. Should an existing use not be listed here, the property owner may have the property listed upon showing that the use was legally established at the time of adoption of Article 14. Satisfactory evidence must be provided by the property owner or applicant to document that the use existed. Such evidence may consist of building permits, utility hookups, tax records, or telephone directory listings, for example.

- (1) 837/838/829/827 11th Avenue SW: 1-story fourplex
- (2) 1015 5th Avenue SW: two 2-story buildings: east building, 12 units; west building, 6 units
- (3) 640 7th Avenue SW/707 Vine Street SW: 1-story duplex
- (4) 628 Ferry Street SW: 2-story 10-unit apartment complex
- (5) 707/719 Washington Street SW: 1-story duplex
- (6) 908 Ferry Street SW: 1-story 12-unit apartment building
- (7) 928 Ferry Street SW: 7 units in house
- (8) 926/978 Ferry Street SW and 405/407 11th Avenue SW: 7 units
- (9) 827/829/837/838 11th Avenue SW: 1-story fourplex
- (10) 1030 11th Avenue SW: duplex
- (11) 625/635 Vine Street SW: duplex
- (12) 1241/1245 Vine Street SW: duplex
- (13) 505 3rd Avenue SE: 2-story fourplex
- (14) 526 3rd Avenue SE: 2-story fourplex
- (15) 627 3rd Avenue SE: 2-story, 6 units
- (16) 527 4th Avenue SE: 2-story duplex
- (17) 538 4th Avenue SE: 2-story duplex
- (18) 140 4th Avenue SE: 2-story duplex
- (19) 306 Baker Street SE: 2-story 8 units
- (20) 434 Baker Street SE: 2-story duplex
- (21) 140 5th Avenue SE: 2-story duplex
- (22) 208 5th Avenue SE: 2-story 8 units
- (23) 238/225/311 5th Avenue SE: 2-story, 3 units
- (24) 317 5th Avenue SE, A and B: 2-story duplex
- (25) 404 5th Avenue SE: two-story triplex
- (26) 505/526/540/423 5th Avenue SE: 2-story, 4 units
- (27) 423/425 and 614/616 5th Avenue SE: two 2-story each 2 units = 4 units
- (28) 637 5th Avenue SE: 2-story, 3 units
- (29) 540 6th Avenue SE: 2-1/2 story, 5 units
- (30) 509/519 and 521/524 6th Avenue SE: two 1-story buildings, 4 units
- (31) 625 Jefferson Street SE, A and B: 2-story, 2 units
- (32) 697 Jefferson Street SE: two-story, 6 units
- (33) 826/828 and 726/728 3rd Avenue SE: 2 one-story duplexes
- (34) 807A/807B and 805/805-1/2 3rd Avenue SW two 1-story duplexes
- (35) 728 4th Avenue SE: 2-story, 2 units
- (36) 420/422 4th Avenue SE: 1-story duplex
- (37) 617/619 Lafayette Street SE: 1-story duplex

- (38) 589 A/B/C Lafayette Street SE: 1-story triplex
- (39) 730 5th Avenue SE: 2-story triplex
- (40) 315 Montgomery Street SE: triplex
- (41) 513 7th Avenue SE: 1-story duplex
- (42) 430 6th Avenue SW: two-story, 12 units

[Ord. 5241, 5/22/96, Ord. 5555, 2/7/03]

## **OPEN SPACE DISTRICT USES**

3.065 Uses Allowed Outright. The following uses are permitted outright in the OS district:

- (1) Crop production generally.
- (2) Alleys, streets, highways, bridges, sidewalks, bikepaths, and related transportation facilities, subject only to the Special District regulations of Article 6.
- (3) Neighborhood utilities, including pump stations, electric substations less than 5,000 square feet and all local utility lines.
- (4) Raising of animals and livestock, subject also to Albany Municipal Code Section 6.10.
- (5) One single family dwelling on a legally created lot that existed prior to July 1, 1991, and where the floodplain standards of Article 6 can be met. No additional land divisions will be approved.

3.070 Uses Permitted Conditionally. The following uses are permitted conditionally under Section 2.170:

- (1) Detached residential accessory buildings, garages and carports.
- (2) Non-residential accessory buildings and uses.
- (3) On-site retail sales of site-produced seasonal goods exceeding 30 days duration.
- (4) Plant nurseries and greenhouses.
- (5) Mining, quarrying, oil and gas extraction and asphalt-concrete batch plants including on-site sales of products.
- (6) Temporary staging areas for Public Works construction projects in excess of 6 months duration.
- (7) Removal of 5 or more trees in excess of 10 inches in diameter (see special condition 10.)
- (8) Development within a wetland, as designated on Plate 6 of the Comprehensive Plan.
- (9) Outdoor recreational facilities (e.g. golf and country clubs, driving ranges, swimming or tennis clubs, equestrian trails, etc. not constructed as a part of planned residential development).
- (10) Public parks and recreational facilities located in a public park. See special condition 14.
- (11) Fairgrounds.
- (12) On-site parking lots for approved uses (parking lots not listed as permitted in other categories.)
- (13) Regional/community utilities including treatment plants, major power generation, major storage

facilities, regional transmission facilities, major overhead power lines requiring tower support structures, etc.

## SPECIAL CONDITIONS

- 3.080 General. Where numbers appear in the column “special conditions” in the Schedule of Permitted Uses, the corresponding numbered conditions below shall apply to the particular use category as additional clarification or restriction:
- (1) In the RS-6.5, RS-5, and RS-10 Districts, duplexes are permitted outright on corner lots that meet the minimum lot size for duplexes in the zone, and as infill development only on other lots that are at least 1.5 times the single-family minimum lot size in the zone. [Ord. 5445, 4/12/00]
  - (2) In the RM-5 and RM-3 Districts, duplexes are permitted outright on any lot. [Ord. 5445, 4/12/00]
  - (3) Duplexes and multi-family developments may be divided so that each can be individually owned by doing a land division in conformance with Article 11. The total land area provided for the development as a whole must conform with the requirements of Article 3, Table 1, however, the amount of land on which each unit is located need not be the amount shown in Table 1. For example, the land area for a duplex to be divided in an RS-6.5 zoning district must be 8,000 square feet, but that area need not be split equally between the individual lots (one may be larger than 4,000 square feet and one smaller.)
  - (4) Accessory apartments are permitted as additions to or within single family residences when:
    - (a) One residence on the site is owner occupied.
    - (b) The apartment remains incidental to the primary residence in size and appearance.
    - (c) At least three off-street parking spaces are available on the property for use. [Ord. 5338, 1/28/98]
    - (d) All required building permits have been obtained.
    - (e) For detached accessory apartments, the parcel on which the apartment will be built meets the minimum lot area requirements for the zoning district in which the lot is located. [Ord. 5338, 1/28/98]
  - (5) In the RM-5 District, the following criteria shall be considered in addition to the conditional use criteria for permitting RV overnight parks:
    - (a) The entire site must be located within 750 feet of the Interstate 5 right of way.
    - (b) The RV park access is limited to the Interstate 5 frontage road or streets servicing primarily industrial or commercial development.
  - (6) “Child Care Home” includes daytime care of less than thirteen children including the children of the provider. These homes may require a license by the State of Oregon Children’s Services Division.
  - (7) In the HM, RS-6.5, RS-5 and RM-5 residential districts, Bed and Breakfast facilities shall:
    - (a) Be owner occupied.
    - (b) Be limited to a maximum of four guest bedrooms.
    - (c) Except for driveway spaces, not contain guest parking facilities in the front yard setback area or within 10 feet of any interior residential lot line.
    - (d) Provide at least one off-street parking space for each rental room.  
[Ord. 5555, 2/7/03]
  - (8) Temporary residences are limited to one year in duration.

- (9) Beyond the standards provided herein for establishment of accessory buildings and uses, the definitions of “Accessory Building” and “Accessory Use” in Section 1.070 and Article 22 shall apply. The Director shall have authority to initially interpret application of these terms to any proposed activity. See also Table 2 for Accessory Structure Standards.

Accessory buildings in residential districts that meet the following standards are not subject to Site Plan Review. They will be processed as Type I staff decisions. Information must be submitted that shows the standards are met. The information shall be submitted at the time the applicant applies for building permits. The determination of whether the standards are met will be made by the Community Development Director or his/her designee.)

- (a) The proposed building does not exceed the height of the tallest building on adjacent property. Height here means the height of the building at its highest point.
- (b) The square footage of the area enclosed by the foundation of the proposed building does not exceed the square footage of the area enclosed by the foundation of the largest building on adjacent property.
- (c) The amount of land that will be covered by buildings if the proposed building is constructed does not exceed the applicable lot coverage restrictions of the Development Code.
- (d) The proposed building meets or exceeds the applicable setback requirements for the primary residential structure listed in the Development Code.
- (e) The materials that will be used on the proposed building (e.g. siding and roofing), and the color of those materials, are the same as those used on the primary residential structure on the subject property.
- (f) If the proposed building is located in any of the special purpose districts listed in Articles 6 and 7 of the Development Code, the building must also be reviewed for conformance with the requirements of the applicable district.

Accessory buildings in floodplain districts are subject to the floodplain regulations of Article 6. [Ord. 5281, 3/26/97]

- (10) Site plan review approval is required for the felling of five or more trees larger than 25 inches in circumference (approximately 8 inches in diameter) on a lot or property in contiguous single ownership in excess of 20,000 square feet. For review criteria, see Section 9.208.

The following activities are exempt from site plan review:

- (a) The action of any City official or of any public utility necessary to remove or alleviate an immediate danger to life or property; to restore utility service or to reopen a public street to traffic.
- (b) Felling of any tree that is defined as a nuisance under the Albany Municipal Code.
- (c) Any felling necessary to maintain streets or public or private utilities within a public right-of-way or utility easement provided the Tree Commission or City Forester approves the proposed tree felling. [Ord. 5445, 4/12/00]

- (11) Kennels in residential districts shall be restricted to sites containing a minimum of two acres. This restriction does not apply to indoor veterinary hospital kennels.

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

- (a) No antenna or antenna supports shall be located within any front yard setback area or within any required landscape buffer yard.
- (b) Antennas shall not extend higher than fifteen feet above the peak of the roof.
- (c) Dish antennas exceeding 12 feet in diameter shall not be permitted.
- (d) Dish antennas exceeding 36 inches in diameter shall not be roof mounted.

- (e) Dish antennas shall not exceed 15 feet in height from surrounding grade to the highest point of the structure or dish.
  - (f) Dish antennas located within ten feet of a residential lot line or located so as to be visible from a public street shall be screened up to a height of six feet with a solid screen fence, wall, hedge, or other landscaping.
  - (g) Antenna used to display sign messages shall conform to all district sign regulations in addition to the above.
  - (h) Antenna not in conformance with the above may be considered by Conditional Use review.
- (13) Original conditional use approval for schools and churches includes the following secondary uses: educational activities; sports and other recreational activities; religious activities; political activities; meals programs; before and after school child care 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 which constitute the use (excluding parking and travel to and from the site) take place on the site and there is no external noise audible or light visible between 10:30 p.m. and 7:00 a.m.

Expansion of a school or church includes addition of building area, increase in parking lot coverage, or expansion of athletic facilities. Any expansion must be reviewed through the conditional use process.

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

- (15) Mini-warehouses are subject to the following standards:

- (a) Freestanding facilities shall be limited to sites of one to three acres in size and maximum building coverage shall be limited to 50% of the parcel.
- (b) Building setbacks shall be as follows: front yards - 25 feet, interior yards - 20 feet. No fencing is permitted in front yard setbacks and a minimum ten-foot landscape buffer yard is required adjacent to all residential zones. No barbed wire fencing is permitted in residential districts.
- (c) The minimum driveway width between buildings shall be 20 feet for one-way drives and 24 feet for two-way drives.
- (d) The maximum storage unit size shall be 500 square feet.
- (e) All outdoor lighting shall be shielded to prevent reflection on adjacent properties.
- (f) Repair of autos, boats, motors and furniture, and the storage of flammable materials shall be prohibited on the premises and rental contracts shall so specify.
- (g) Outside storage of vehicles and materials is prohibited within this use category and no other business activity other than the rental of storage units shall be conducted on the premises.

- (16) Public and Commercial Communication Facilities Over 50 Feet in Height 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 tower is not allowed, there will be a gap in service that denies service to an area within the community. (This decision is a Type II land use decision.) See Section 8.400 for design standards for telecommunications facilities.

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

- (a) The base of the antenna and any structures associated with the antenna shall be set back from the property lines of the property on which they are sited a distance of not less than 30 feet.
- (b) The land on which the facility is sited shall be screened from adjacent land along its full



perimeter, by providing screening, as defined in ADC Section 9.250. [Ord. 5281, 3/26/97; Ord. 5445, 4/12/00]

(17) Where more than one single family residence is located on a lot of record in an RR, RS-10, RS-6.5, HM, or RS-5 zoning district, the lot may be split even if it does not meet the required minimum lot area and dimensional standards for the zoning district, if required setbacks and lot coverage can be met. [Ord. 5338, 1/28/98, Ord. 5555, 2/7/03]

(18) The minimum separation between multi-family buildings on a single parcel shall be 10 feet for single-story buildings and 20 feet from two-story or taller buildings. [Ord. 5338, 1/28/98]

## HOME OCCUPATIONS

3.090 Purpose. The home occupation provisions recognize the needs of many persons who are engaged in small scale business ventures or personal hobbies, whether conducted for profit or not, which could not be sustained if it were necessary to lease commercial quarters, or because the nature of the activity would make it impractical to expand to a full scale enterprise.

3.100 Standards. A home occupation shall be allowed as a permitted accessory use to a residence provided that all of the following conditions are met:

- (1) The use is carried on only by members of the family residing on the premises and not more than one outside employee or volunteer who shall work a maximum of 20 hours per week.
- (2) There is no offensive noise, vibration, smoke, dust odors, heat or glare resulting from the operation noticeable at or beyond the property line.
- (3) One window or wall sign is allowed, not larger than 12 inches by 18 inches.
- (4) 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 dwelling.
- (5) There is no visible outside storage of materials other than plant materials.
- (6) The use does not adversely affect the residential character of the neighborhood, nor infringe upon the right of neighboring residents to enjoy the peaceful occupancy of their homes.
- (7) There is not excessive generation of traffic created by the home occupation, including frequent deliveries and pickups by trucks or other vehicles.
- (8) The rental of separate living quarters within a single family residence is limited to not more than one bedroom which does not contain separate cooking facilities and which has a maximum occupancy of two persons.

3.110 Prohibited Uses. The following uses are prohibited as home occupations:

- (1) Auto body repair and painting.
- (2) Ongoing mechanical repair conducted outside of an entirely enclosed building.
- (3) 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 judgement of the Fire Marshal pose a dangerous risk to the residence, its occupants, and/or surrounding properties.

- (4) Junk and salvage operations.
- (5) Storage and/or sale of fireworks in quantities judged by the Fire Marshal to be dangerous.
- 3.120 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 Occupation based on the standards listed above.
- 3.130 Review Procedures. The Director shall make an initial determination of whether the alleged violation requires discretionary review. If the Director determines that review of the complaint is discretionary, the complaint will be reviewed by the Hearings Board. All other complaints will be reviewed by staff. An investigation of the complaint will be performed and the use will either be approved as it exists, ordered terminated, or brought into compliance with the standards.
- 3.140 Cessation of Home Occupation Pending Review. If it is determined by the Director, or his designee, that the Home Occupation in question will affect public health and safety, the use may be ordered to cease pending Hearings Board review and/or exhaustion of all appeals. Violation of an order to cease shall be an infraction subject to the penalties set forth in Section 3.180 below.
- 3.150 Notice of Hearing. Written notice of the hearing, including its date, time, and place shall be given to the property owner and the person undertaking the use, if other than the property owner, as well as property owners within 100 feet of the use, and any complainant(s).
- 3.160 Hearings Board Review. The Hearings Board shall either approve the use as it exists, order it to be terminated, or restrict and/or condition the use in order to ensure compatibility with the neighborhood.
- 3.170 Notice of Decision and Appeal. Written notice of the Hearings Board's decision and associated findings shall be sent to the person undertaking the activity, the property owner(s) if different than the above, and persons participating in the above proceedings.
- 3.180 Penalties. Non-compliance with the orders of the Director, or his designee, or Hearings Board, as referred to above, are an infraction punishable as per AMC Section 1.04.01, which provides for a maximum civil penalty of \$500 per offense. In addition, each violation of this Article shall bear a minimum civil penalty of \$50 per violation. The procedure for adjudication for infractions shall be as set forth at AMC Section 1.05.

## **DEVELOPMENT STANDARDS**

- 3.190 Purpose. Development standards are intended to promote site planning and design which consider the natural environment, maintain the required dimensional standards while promoting 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 1, on the following page, summarizes the basic development standards. It should be used in conjunction with the sections immediately succeeding the table, which address special circumstances and exceptions. See Article 8 for design standards for single-family and multiple family developments. [Ord. 5445, 4/12/00]

**TABLE 1**

<b>RESIDENTIAL DISTRICT DEVELOPMENT STANDARDS*</b>								
<b>STANDARD</b>	<b>RR</b>	<b>RS-10</b>	<b>RS-6.5</b>	<b>HM</b>	<b>RS-5</b>	<b>RM-5</b>	<b>RM-3</b>	<b>RM-H</b>
<b>Minimum Lot Size (1)</b>								
Single-family	5 acres	10,000 sf	6,500 sf	5,000 sf	5,000 sf	5,000 sf	None	None
Duplexes	N/A	14,000 sf	8,000 sf	N/A	7,000 sf	7,000 sf	3,600 sf	None
2 or more attached single family	N/A	N/A	N/A	N/A	3,500 sf/unit	3,500 sf/unit	1,800 sf/unit	N/A
3 or more 1-bedr. Units	N/A	N/A	N/A	N/A	N/A	2,400 sf/unit	1,600 sf/unit	None
3 or more 2-bedr. Units	N/A	N/A	N/A	N/A	N/A	3,300 sf/unit	1,800 sf/unit	None
Minimum Lot Width	N/A	65 ft	50 ft	35 ft	40 ft	25 ft	None	None
Minimum Lot Depth	N/A	100 ft	80 ft	65 ft	70 ft	65 ft	None	None
Minimum Open Space	N/A	N/A	N/A	N/A	N/A	(13)	(13)	(13)
Min. Landscaped Area	N/A	(2)	(2)	(2)	(2)	(3)	(3)	(3)
<b>Minimum Setbacks (4)</b>								
Front	20 ft	20 ft	15 ft	15 ft	15 ft	15 ft	12 ft	15 ft
Interior: single-story	5 ft	5 ft	5 ft	10 ft (5)	5 ft	10 ft (5)	10 ft (5)	10 ft (6)
Interior: two or more stories	8 ft	8 ft	8 ft	6 ft	6 ft	(15) (5)	(15) (5)	10 ft
Garage vehicle entrance (10)	20 ft	20 ft	20 ft (7)	20 ft (7)	20 ft (7)	20 ft (7)	20 ft (7)	20 ft (7)
Maximum Front Setback	N/A	N/A	N/A	None	N/A	(14)	(14)	(14)
Maximum: Height (8)	30 ft	30 ft	30 ft	30 ft	30 ft	30 ft	45 ft	75 ft
Lot Coverage	20%(11)	50%	60%	60%	60%	60% (9)	70% (9)	85% (9)
Building Separation					(12)	(12)	(12)	(12)

N/A means not applicable.

(1) Section 3.220 bonus provisions may reduce minimum lot size and area, such as alley access.

(2) All yards adjacent to streets.

(3) All yards adjacent to street plus open space.

(4) Additional setbacks may be required, see Sections 3.080-3.160.

(5) Except for single family homes or duplexes which must meet the same setbacks as required for RS-5.

(6) More than 3 stories = 10' plus 3' for each story over 3 per unit requirements.

(7) Garage front setback for non-vehicle-entrance = 15 feet, except in RR and RS-10 zoning districts where the setback shall be 20 feet.

(8) See exceptions to height restrictions, Section 3.310.

(9) Lot coverage includes buildings, parking, private streets and drives.

- (10) See Table 2 for garage with alley access.
- (11) Maximum lot coverage for parcels 20,000 sf. 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-family buildings on a single parcel shall be 10 feet for single-story buildings and 20 feet from two-story or taller buildings.
- (13) Ten or more units require open space. See Section 8.220.
- (14) See Section 8.240 for standards.
- (15) See Section 8.270(1).

[Table and footnotes amended by Ord. 5281, 3/26/97; Ord. 5338, 1/28/98; Ord. 5445, 4/12/00, Ord. 5555, 2/7/03]

- 3.200 Lot Size Variation Within a Land Division. Up to 50% of the total number of lots in a land division may have lot sizes up to 30 percent smaller than the standard 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 application of all density bonuses. In such cases, the recorded plat or plan map shall indicate that the larger lots may not be further divided or deed restrictions shall be established indicating the same.
- 3.210 Lot Size Variation Within Cluster and Condominium Developments. In the RS-6.5, RS-5, RM-5, RM-3, and OP districts; lot area, lot coverage, and yard requirements may be reduced for individual lot or building sites created by filed and recorded subdivision of the "cluster" type or condominiums developed in accordance with ORS 91.505 to 91.675; 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.
- 3.220 Bonus Provisions for Reduction in Standard Lot Size Requirements. The following standards may be applied to development sites resulting in allowed reductions in standard lot size and area per unit requirements as indicated. In no instance shall the combined total of all bonus provisions applied to a development result in an overall reduction of more than 40% in the standard site size or lot area per unit requirements, or result in a density which exceeds the allowed density in the zone. Some bonuses are available for lot design only, with additional bonuses available due to building design or construction. [Ord. 5338, 1/28/98]

#### Relationship to Transportation

- (1) 10% reduction in standard lot sizes when at least 50% of any such lot is located within 200 feet of a designated collector or arterial street and such lot does not have direct access to an arterial.
- (2) For multi-family developments, condominiums, and townhouses; area per unit requirements can be reduced by 10% if the area in question is within 200 feet of a designated arterial.

#### Design Factors

- (1) Protection of Natural Features. A density bonus of up to 5% can be granted when it is shown that minimal disturbance will be made to existing features. The amount of bonus is related to both the amount of protection and the importance of features on the site.

#### Energy

- (1) Solar Access Protection. If buildings are sited (either by site design or defining buildable areas) and covenants or other mechanisms are established which protect solar access of south building walls from shading by structures and vegetation, a bonus of up to 10% may be allowed. The amount of bonus depends on the restrictiveness of the covenant and the percentage of units affected. In subdivisions, a covenant or other mechanism which provides and protects solar access for the southerly building area of 80% or more of the lots from 9:30 a.m. to 2:30 p.m. on December 21 shall be given the full 10%

bonus. In multiple unit developments, if 80% or more of the units receive this same protection for south facing walls, and south facing glass of those units totals at least 7% of the conditioned area, the full bonus may be allowed. (South facing is defined as being within 25o of true south.)

Moderate-Cost Housing

- (1) Provision of Moderate-Cost Housing. If 50% of the units meet the following performance standards, a density bonus may be permitted as follows:
  - (a) Affordable for persons whose income is 1.2 times the median income for Linn County - 5% density increase.
  - (b) For projects affordable for persons whose income is equal to the median income for Linn County - 10% density increase.
  - (c) For projects which are affordable for persons whose income is equal to, or less than, .8 times the median income for Linn County - 15% density increase.

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

Alley Access

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

**SETBACKS**

3.230 Setback Measurements. All setbacks shall meet the minimum standards as set forth in Table 1, Development Standards. Setback distances shall be measured perpendicular to all portions of a lot line. In addition to the setbacks in this article, all development must comply with Section 12.180-- Clear Vision Area. See also Table 2, Accessory Structure Standards.

**TABLE 2**

<b>ACCESSORY STRUCTURE STANDARDS</b>	
<b>STRUCTURE</b>	<b>STANDARD</b>
Detached Structure walls <8 feet height	Interior setback = 3 feet
Attached structure	Interior setback = 5 feet
Detached structure walls >8 feet height	Interior setback = 5 feet
Garage with access to an alley	Alley setback = 20 feet, less the width of the alley right-of-way, but at least 3 feet. Other interior setbacks=see Table 1
Structures, including fences, intended for housing animals	Interior setback = 10 feet
Fences >6 feet high	District setback standard; building permit required.
Outdoor swimming pools	Interior setback = 10 feet

<b>ACCESSORY STRUCTURE STANDARDS</b>	
Decks <30 inches off grade no rails, covers	No setback from property line
Decks >30 inches off grade	Interior setback = 5 feet

NOTE: Residential Accessory Structures with walls greater than 11 feet in height require a Conditional Use approval. [Ord. 5445, 4/12/00]

3.240 Alternative Setbacks for Additions in Developed Areas. When an addition is proposed to be made on a building that is located in an area containing the same type of uses that have been developed to a previous setback standard, the Director may approve setbacks which are the same as those for the existing buildings on the site for additions, or the same as those for buildings on adjoining parcels for new development. (See Section 8.140 for new infill development.) Approval of an alternative setback request shall be based upon the following criteria:

- (1) Additions to the front of a dwelling. The front yard setback of the dwelling does not exceed the average of the setbacks for the same uses on the abutting properties.
- (2) Addition of a garage or carport. The front yard setback for a garage or carport shall meet the current front yard setback standard and the driveway to it shall be paved.
- (3) Additions to the side or rear of a dwelling. The existing structure does not encroach any further into the setback.
- (4) No wall of one dwelling unit is closer than 10 feet from a window of another dwelling unit, including attached garages.
- (5) All other provisions of this Code must be met. [Ord. 5446, 5/10/00]

3.250 Parking Restrictions in Setback Areas.

- (1) Vehicles in daily use may not park in the front yard setback. Trailers, boats, campers, and other vehicles not in daily use may not park in the front yard setback for more than 48 consecutive hours.
- (2) Required parking spaces shall not be located in a required front or side yard except that driveways providing access to garages and carports for any residential development may be used to fulfill the requirements.

3.260 General Exceptions to Setback Requirements. The following intrusions may project into required yards provided that the conditions and limitations indicated are adhered to:

- (1) Depressed Areas. In any district, open work fences, berms, hedges, guard railings, or other landscaping or architectural devices for safety protection around depressed areas, ramps, stairs, or retaining walls, may be located in required yards, provided that such devices are not more than 3-1/2 feet in height.
- (2) Projecting Building Features. The following building features may project into the required front yard no more than five feet and into the required interior yards no more than two feet:
  - (a) Awnings, eaves, buttresses, architectural appendages (such as, but not limited to, bay windows, planters, cantilevered stairways.)

- (b) Chimneys and fireplaces, provided they do not exceed eight feet in width.
- (c) Porches, steps, platforms or landings, raised patios or decks (applies only to structures above 30 inches in height; structures under 30 inches are not subject to setback provisions).
- (d) Signs conforming to applicable ordinance requirements.

3.270 Zero Lot Line. Any residential structure or accessory building may be located on the property line where:

- (1) There are no openings or windows in the lot line wall. Additionally, a 10-foot setback and maintenance easement must be recorded on the adjoining property deed or plat. This easement is not revocable without City approval.
- or
- (2) Two or more units are attached at the property line and are approved for such in accordance with other provisions of this Code.

3.275 Setbacks for Properties Abutting Designated Farmlands. New residential development, for properties bordering designated and zoned productive farmland outside the Urban Growth Boundary, shall be designed, where physically possible, to achieve a minimum 125 foot separation between residential and farm activities. This requirement does not apply to those properties bordering golf courses, wetlands, or residential land uses on 5 acres or less, or where the separation cannot be achieved due to lot size constraints or other physical factors beyond the control of the property owner. Screening and buffering are encouraged to be incorporated into the site design in addition to the 125 foot separation. Road and right-of-way widths may be included in the required separation distance where appropriate.

3.280 Setbacks for Attached Single Family Dwellings. The interior yard requirements for attached single family dwellings shall be 0 where the units adjoin; however, all other setbacks shall conform to of this Code.

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

3.300 Setbacks for Properties Abutting Future Street Rights-of-Way. Where the adopted Comprehensive Plan and future Street Plans include the widening or connecting of existing streets, or the establishment of new streets, the placement of all buildings and the establishment of all required yards shall be in relation to the proposed street right-of-way boundaries. Also, no building shall be erected on a lot which abuts a proposed street right-of-way unless the lot will contain the width and depth needed to complete the street width plus the width and depth of the yards required on the lot.

3.310 Special Willamette River Setback and Height Restrictions. Except for water-related and water-dependent uses (see definitions Article 22), all construction must be located outside the floodway line as defined for a 100-year storm. Development structure heights and setbacks south of the Willamette River shall not extend above a plane which begins at the floodway line and extends directly south. The angle of this plane shall be as follows:

- (1) For water-oriented uses, the angle shall be 30°.
- (2) For non water-oriented uses, the angle shall be 15°.

For the following properties, the above language in this section shall not apply. Greenway setback provisions for these properties shall be as set forth below.

<u>Common Name</u>	<u>Assessor's Property Identification Number</u>
Willamette Seed Site	11S-03W-6DC #100

Permawood Site

11S-03W-5BD #200, #300 and  
11S-03W-5CA #1001, #1100, #6805

The minimum setback for buildings and parking on the river side of property along the river is:

<u>Area</u>	<u>Minimum Setback</u>
West of Lafayette	5 feet
East of Lafayette	15 feet

For the purpose of establishing setbacks on property along the Willamette River, the river will be treated as a front lot line. The minimum setback for buildings and parking on the river side of property along the river will be measured from the most inland of the:

- (1) Property line along the river, or
- (2) City multi-use path easement, or
- (3) Top of the river embankment.

Fences on the river side of property along the river will be located south of the most inland of the:

- (1) Property line along the river, or
- (2) City multi-use path easement, or
- (3) Top of the river embankment.

[Ord. 5559, 3/26/03]

3.320 Special Noise Corridor Setbacks. Residential developments adjacent to the following listed streets and highways shall maintain the setbacks listed from the designated right-of-way in addition to the required setbacks for the Zoning District:

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

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

3.330 Special Setbacks for Schools, Churches, Public and Semi-Public Buildings. Any new construction of a school, church, or public or semi-public building shall be set back at least 25 feet from any property line adjoining or directly across public right-of-way from any residential district. No required front or interior yard of the lot on which such building or use is located shall be used for stockpiling or storage of materials or equipment. All other setbacks of the district within the property is located continue to apply.

**HEIGHT**

3.340 Height Exceptions. Height limitations are shown in Table 1, Development Standards. See also Table 2, Accessory Structure Standards.

- (1) Roof Structures and Architectural Features. Roof structures for the housing of elevators, stairways,



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

- (2) Churches and Public and Semi-Public Buildings. In districts where churches and certain public and semi-public buildings require Conditional Use Permits, the height restrictions may be waived as a part of the Conditional Use proceedings provided that a request for such has been noted in the public hearing notice.

**OFF-STREET PARKING**

3.350 Minimum Space Requirements. Off-street parking shall be provided for all residential development in the amounts indicated in Table 3 below. For uses not listed in this Table, see the parking standards of the Commercial or Industrial Districts. All parking lots in residential districts must comply with applicable requirements in Article 9. Fractional space requirements shall be counted to the nearest whole space; half spaces will be rounded up. Compact spaces may make up no more than 40% of the total number of parking spaces. [Ord. 5445, 4/12/00]

**TABLE 3**

<b>RESIDENTIAL DISTRICT PARKING STANDARDS</b>	
<b>USE</b>	<b>STANDARD</b>
Single Family Dwellings	2.0 spaces
Multiple Family Dwellings	
Studio and 1-bedroom units	1.0 space per unit, plus 1 visitor space every 4 units
2-bedroom units	1.5 spaces per unit, plus 1 visitor space every 4 units
3- and 4-bedroom units	2.25 spaces per unit, plus 1 visitor space every 4 units
Quad and quint units	.75 space per unit
Senior citizen apartments	1.0 space per each 2 bedrooms
Student housing	1.0 per each 2 students at capacity
Boarding and rooming houses	1.0 space per 2 occupants at capacity
Group care homes	1.0 space per employee plus 1 space per each 5 beds

**LANDSCAPING**

3.360 Requirements. All front yards exclusive of accessways and other permitted intrusions are required to be landscaped within one year of building occupancy. In all residential districts except RR, minimum landscaping acceptable per 1,000 square feet of required yard area shall be as follows:

- (1) One tree at least six feet in height.
- (2) Four 1-gallon shrubs or accent plants.

- (3) The remaining area treated with attractive ground cover (e.g., lawn, bark, rock, ivy, and evergreen shrubs).

## **BUFFERING AND SCREENING**

General. Buffering and screening may be required to offset the impact of development. See Section 9.210. [Ord. 5445, 4/12/00]

## **OUTSIDE STORAGE**

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

## **FENCES**

- 3.400 Materials. Fences and walls shall not be constructed of or contain any material which will do bodily harm, such as barbed wire, broken glass, spikes, or any other hazardous or dangerous materials. Electric and barbed wire fences are not permitted except those intended to contain or restrict cattle, sheep, horses or other livestock, and existing prior to annexation to the City may remain. [Ord. 5446, 5/10/00]
- 3.410 Standards. Every fence shall be maintained in a condition of reasonable repair and shall not be allowed to become and remain in a condition of disrepair including noticeable leaning toward an adjoining property or sidewalk, missing sections or slats, broken supports, non-uniform height, and overgrowth of weeds or vines.
  - (1) Fences shall not exceed 6 feet in height in interior yards, 4 feet in height in front yards and 2 feet in the vision clearance areas (see Section 12.180). Exception: A single-family use or zone that shares an interior property line with a multiple family use or zone may have a fence up to 8 feet in height along that property line.
  - (2) Corner lots, which by definition have two front yards, may have a fence of up to 6 feet in height in the front yard adjacent to the street which does not contain the dwelling's main door entrance when one of the following conditions is met:
    - (a) If the adjoining street is improved with sidewalks, the fence is located a minimum of three feet from the sidewalk.
    - (b) 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.
    - (c) If the adjoining street is unimproved, the fence is no closer than 3 feet from the property line.
  - (3) Fences more than 6 feet in height require a building permit prior to construction. Except where a taller fence is permitted at the lot line (see subsection (1) above), fences more than 6 feet in height shall meet building setback requirements.
  - (4) In no instance shall a fence extend beyond the property line.

- (5) All fencing shall comply with the requirements of the clear vision area (Section 12.180) for streets and driveways.
- (6) Fence height shall 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, the height shall be measured from the bottom of the berm. [Ord. 5446, 5/10/00]

## ARTICLE 4 COMMERCIAL AND INDUSTRIAL ZONING DISTRICTS

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

[Ord. 5555, 2/7/03]

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

- Zoning Districts
- Schedule of Permitted Uses
- Development Standards

### ZONING DISTRICTS

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

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

community image along major transportation corridors. These uses often have significant impacts on the transportation system. Sound and visual buffers may be required to protect nearby residential areas. RC districts may not be appropriate in all locations.

- (5) TD – TRANSIT DISTRICT. The TD district is intended primarily for regional transit facilities and related uses. This district is suitable as a major office employment center because of easy access to mass transit. Mixed-use development including a multi-modal transportation facility, a park-and-ride facility, and office space should be developed within this district.
- (6) IP – INDUSTRIAL PARK DISTRICT. The IP district is intended primarily for light manufacturing, high-tech, research and development, institutions and offices in a quality environment. Uses are characterized by attractive building architecture and landscaped yards and streetscapes, and the absence of objectionable external effects. The district is designed for industrial and business parks containing offices together with clean, non-polluting industries. IP is located along or near highly visible corridors to provide a positive image and a transition to residential or natural areas from heavier industrial uses.
- (7) LI – LIGHT INDUSTRIAL DISTRICT. The LI district is intended primarily for a wide range of manufacturing, warehousing, processing, assembling, wholesaling, specialty contractors and related establishments. Uses will have limited impacts on surrounding properties. This district is particularly suited to areas having good access to highways and perhaps to rail. LI may serve as a buffer around the HI district and may be compatible with nearby residential zones or uses.
- (8) HI – HEAVY INDUSTRIAL DISTRICT. The HI district is intended primarily for industrial uses and support activities that are potentially incompatible with most other uses and which are characterized by large amounts of traffic, extensive shipping of goods, outside storage or stockpiling of raw materials, by-products, or finished goods, and a controlled but higher level of noise and/or pollution. This district is located away from residential areas and has easy access to highways and perhaps to rail.

[Ord. 5555, 2/7/03]

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

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

[Ord. 5555, 2/7/03]

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

**SCHEDULE OF PERMITTED USES**

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

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

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

- Y Yes; use allowed without review procedures but may be subject to special conditions.
- S Use permitted that requires a site plan approval prior to the development or occupancy of the site or building.
- CU Use considered conditionally under the provisions of Sections 2.230-2.260.
- PD Use permitted only through Planned Development approval.
- N No; use not allowed in the zoning district indicated.

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

A number opposite a use in the “special conditions” column indicates that special provisions apply to the use in all zones. A number in a cell particular to a use and zone(s) indicates that special provisions apply to the use category for that zone(s). The conditions are found following the schedule, in Section 4.060. [Ord. 5555, 2/7/03]

## **SCHEDULE OF PERMITTED USES**

Commercial, Office and Industrial Uses									
Use Categories (See Article 22 for use category descriptions.)	Spec. Cond.	OP	NC	CC	RC	TD	IP	LI	HI
<b>INDUSTRIAL</b>									
Contractors and Industrial Services		N	N	S-1	N	S-1	S-1	S-1	S
Manufacturing and Production	2	S/CU	N	S/CU-3	N	S/CU	S/CU	S/CU	S
Railroad Yard		N	N	N	N	S	N	S	S
Warehousing and Distribution		N	N	N	N	N	CU	S	S
Waste and Recycling Related	4	N	N	CU	N	N	N	S/CU	S/CU
Wholesale Sales		N	N	N	N	N	S-5	S	N
<b>COMMERCIAL</b>									
Adult Entertainment		N	N	S-6	N	N	N	CU-6	N
Entertainment and Recreation		N	N	S-7	S-7	S	CU-7	CU-7	CU-7
-Indoor		N	N	S	S	N	N	CU	CU
-Outdoor		N	N	S	S	N	N	CU	CU
Offices		S	S	S	S	S	S-8	S-9	N
Parking		N	N	S	S	S	S	S	S
Restaurants, no drive-thru w/ drive-thru or mostly delivery		CU N	S CU-10	S S	S S	S N	S CU	N N	N N
Retail Sales and Service		S-11	S-11	S	S	S	S-11	N	N
Self-Serve Storage	12	N	N	S	S	N	CU	S	S-13
Vehicle Repair		N	N	S	S	N	N	S	N
Vehicle Service, Quick-gas/oil/wash		N	N	S	S	N	CU	N-14	N
<b>INSTITUTIONAL</b>									
Basic Utilities		CU	CU	CU	CU	CU	S	S	S
Community Services	15	S/CU	S/CU	S/CU	S/CU	S/CU	CU	CU	N
Daycare		CU	CU	S	N	N	S	CU	N
Educational Institutions	16, 17	N	N	CU	N	CU	CU	CU	N
Hospitals		CU	N	N	N	N	CU	CU	N
Jails and Detention Facilities		N	N	N	N	N	N	CU	N
Parks, Open Areas and Cemeteries	17	CU	CU	CU	N	CU	CU	CU	N
Religious Institutions	16	CU	CU	S	N	N	CU	CU	N
<b>RESIDENTIAL</b>									
Group or Residential Care Facilities	18	Y/S	Y/S	S	N	N	N	N	N
Assisted Living		CU	CU	CU	N	N	N	N	N
Single and Two Family Homes	20	Y/CU-19	S	N	N	N	N	N	N
Live Work		S	S	N	N	S	S	S	N
Three or More Units		CU	N	N	N	N	N	N	N
Units Above a Business		S	S	S	CU	S	S	S	N
Residential Accessory Buildings	21	Y/S	Y/S	N	N	N	N	N	N
<b>OTHER CATEGORIES</b>									
Agriculture (on Vacant Land)	22	N	N	N	Y	N	Y	Y	Y
Communication Facilities >= 50 ft.	23	N	N	CU	S	CU	CU	S	Y
Kennels	24	N	N	N	CU	N	N	S	N
Passenger Terminals		N	N	S	CU	S	CU	CU	N
Rail And Utility Corridors		CU	CU	CU	CU	S	CU	S	S

Y = Yes, allowed, no Site Plan review required

N = No, not allowed

CU = Conditional Use review required

S = Site Plan review required

[Ord. 5555, 2/7/03]

**SPECIAL CONDITIONS**

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

- (1) Contractors and Industrial Services in the CC, TD, IP and LI zones.
  - (a) Limited Uses. Salvage or wrecking operations are prohibited in the CC, TD, IP and LI zones. See Section 4.290 for outside storage standards.
- (2) Manufacturing and Production. The environmental performance standards of Article 9 may limit the placement of certain uses in some districts. If the site is located within 300 feet of residentially zoned land, the use may require a Conditional Use approval.
- (3) Manufacturing in the CC zone. Manufacturing uses in CC must have a retail storefront and sell their products to the public on site.
- (4) Waste and Recycling Related Uses in the CC, LI and HI zones.
  - (a) Limited uses in CC. Only processing and sorting operations conducted within enclosed structures less than 5,000 sq. ft. in total area are considered with a Conditional Use review.
  - (b) Limited uses in LI. Processing and sorting operations conducted within enclosed structures less than 5,000 sq. ft. in total area are allowed with Site Plan review. Salvage yards, junkyards and refuse transfer stations are not permitted. All other material and recycling operations are considered through a Conditional Use review.
  - (c) Limited uses in HI. Processing and sorting operations conducted within enclosed structures less than 5,000 sq. ft. in total area and all other material and recycling operations, excluding salvage yards and junkyards, are allowed with Site Plan review. Salvage yards, junkyards, sanitary landfills and refuse transfer stations require a Conditional Use review.
- (5) Wholesale Sales in the IP zone. This use is allowed in IP only if all operations and storage are conducted entirely within enclosed buildings.
- (6) Adult Entertainment. Where allowed, Adult Entertainment uses shall meet the following standards:
  - (a) An adult entertainment use shall not be established or expanded within 300 feet of the district boundary line of any residential zoning district.
  - (b) An adult entertainment use shall not be established or expanded within 300 feet of any other adult entertainment use.
  - (c) An adult entertainment use shall 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 Variance procedures.
- (7) Indoor Entertainment and Recreation in the CC, IP, 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. Exercise and health clubs or gyms are permitted through Site Plan review. Convention centers, coliseums and stadiums are considered through a Conditional Use review. All other indoor entertainment uses are not permitted.



- (d) Limited uses in LI. Indoor firing ranges or gun clubs, pool halls, paint gun, fairgrounds, coliseums and stadiums are considered through a Conditional Use review. All other indoor entertainment uses are not permitted.
  - (e) Limited uses in HI. Indoor firing ranges or gun clubs, pool halls, paint gun, 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. Offices intended to serve customers on site are considered through the Conditional Use review. Offices with limited customer traffic are permitted through Site Plan review. See Article 22 for Office examples.
  - (9) Offices in the LI zone. Offices intended to serve customers on site are not allowed. Offices with limited customer traffic are permitted through Site Plan review. See Article 22 for Office examples.
  - (10) Restaurants in the NC zone. Drive-through restaurants are allowed in NC provided there are no more than two drive-through windows, and there is no speaker service (for ordering).
  - (11) Retail Sales and Services in the OP, NC and IP zones.
    - (a) Limited uses in OP, NC 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 building footprint. 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.
  - (12) Self-Serve Storage. These facilities are subject to the following standards:
    - (a) The minimum driveway width between buildings is 20 feet for one-way drives and 24 feet for two-way drives.
    - (b) The maximum storage unit size is 1,000 square feet.
    - (c) All outdoor lighting shall be shielded to prevent glare and reflection on adjacent properties.
    - (d) Repair of autos, boats, motors and furniture and the storage of flammable materials are prohibited on the premises, and rental contracts shall so specify.
  - (13) Self-Serve Storage in the HI zone. Self-Serve storage units are allowed in HI only on sites less than 3 acres.
  - (14) Truck Stops/Fuel Sales in the LI zone. This use is classified as Contractors and Industrial Services, rather than Vehicle Service, Quick.
  - (15) Community Service Uses. Community Service uses that may have significant off-site impacts, such as public swimming pools, public safety facilities and homeless shelters, may be considered through the Conditional Use process.
  - (16) Educational and Religious Institutions. The Conditional Use approval for educational and religious institutions includes the following secondary uses: educational activities; sports and other recreational activities; religious activities; political activities; meals programs; before- and after-school childcare activities; fund raising activities; and cultural programs. Such uses will not be required to go through the land use process if all of the activities that constitute the use (excluding parking and travel to and from the site) take place on the site and no external noise is audible or light visible between 10:30 p.m. and 8:00 a.m.

Any expansion must be reviewed through the conditional use process. Expansion of a school or church includes addition of building area, increase in parking lot coverage, or expansion of athletic facilities.

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

- (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) Group or Residential Care Facilities. Group care homes or “residential homes” (as defined in ORS) that include five or fewer residents are permitted outright in any zone that allows single-family residences. (This is indicated by a Y in the schedule.) Group or Residential Care Facilities (6 or more residents) require a Site Plan review.
- (19) Single and Two Family Homes in the OP zone. Single-family residences are allowed outright. Attached single-family units are allowed through the Planned Development process. Two-family residences require a Conditional Use review. See Special Condition 21 for accessory apartments.
- (20) Existing Single Family Homes. Single-family homes built before December 11, 2002, in any commercial or industrial zone may remain as a permitted use without being nonconforming. New single-family homes are not permitted unless allowed in the zoning district. See Section 4.075. Single-family includes attached units, one unit per lot.
- (21) Residential Accessory Buildings 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 no more than eleven feet in height.
  - (b) Attached accessory buildings, garages or carports are less than 1,000 square feet.
  - (c) All other residential district accessory buildings, garages or carports 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.
- (23) Communication Tower and Pole Placement Standards. Where allowed, Communication Towers and Poles over 50 feet in height when measured from the ground are not permitted in front yard setbacks and must meet the standards in Section 8.400.

Placement of antennas, satellite dish antennas, and monopoles less than 50 feet in height 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 shall not be located within any front yard setback area or

within any required landscape buffer yard.

- (b) Dish antennas larger than three feet in diameter, and located within ten feet of a residential lot line or visible from a public street shall be screened with a six-foot solid screen fence, wall, hedge, or other landscaping.
- (c) Antennas used to display sign messages shall conform to all district sign regulations in addition to the above.
- (d) Antennas less than 50 feet in height and not in conformance with the above may be considered by Conditional Use review.
- (e) See Section 8.400 for additional design standards for all telecommunications facilities. [Ord. 5445, 4/12/00]

(24) Kennels adjacent to residential districts are restricted to sites containing a minimum of two acres. This restriction does not apply to indoor veterinary hospital kennels.

[Ord. 5555, 2/7/03]

### **SPECIAL STATUS FOR SINGLE FAMILY RESIDENCES**

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

### **DEVELOPMENT STANDARDS**

4.090 Purpose. Development standards are intended to promote site planning and design that consider the natural environment; maintain the required dimensional standards while promoting energy conservation, privacy, safe and efficient parking areas; and improve the general living environment and economic life of a development. Table 1, on the following page, summarizes the basic development standards. It should be used with the sections immediately following the table, which address special circumstances and exceptions. Design standards for multiple-family and commercial development and zones are located in Article 8. Industrial uses in commercial, office or mixed-use zoning districts must also meet the design standards for commercial and office development. [Ord. 5445, 4/12/00, Ord. 5555, 2/7/03]

**TABLE 1**

<b>Commercial and Industrial District Development Standards</b>								
<b>STANDARD</b>	<b>OP</b>	<b>NC</b>	<b>CC</b>	<b>RC</b>	<b>TD</b>	<b>IP</b>	<b>LI</b>	<b>HI</b>
<b>MINIMUMS</b>								
Lot size (sq. ft.)	(1)	(1)(2)	None	None	None	3 acres(4)	None	None
Lot width	None	None	None	None	None	None	None	None
Lot depth	None	None	None	None	None	None	None	None
Front setback	10'	10'	10'	10'	10'	15' (11)	15' (11)	15'
Interior setbacks -abutting non-res'l	5'	None	None	None	None	15' (6)	None	None
Interior setbacks- abutting res'l district	(5)	(5)	(5)	(5)(6)	(5)(6)	30'(11)	40'(11)	50'
<b>MAXIMUMS</b>								
Building Size	None	None	100,000	None	None	None(10)	None	None
Lot size (sq. ft.)	None	30,000(2)	None	None	None	None	None	None
Height (8)	30'	30'	50'	None	None	50' (12)	None	None
Lot Coverage (7)	70%	80%	90%	90%	None	80%	None	None
Landscaped Area (3)	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 means not applicable.

- (1) The minimum lot size for residential units is 1,600 s.f. per unit. No minimum lot size is required for non-residential development.
- (2) New NC zones may be no more than 30,000 s.f. of contiguous land.
- (3) All yards adjacent to streets.
- (4) The minimum lot size for supporting commercial uses may be smaller than 3 acres.
- (5) Yards abutting residential districts and/or uses require 1 foot of setback for each foot of finished wall height with a minimum setback of 10 feet.
- (6) No setbacks are required for buildings abutting railroad rights-of-way.
- (7) Includes building, parking, access, and sidewalk area coverage.
- (8) Unless in Airport Approach Overlay District.
- (9) Ten or more multiple-family units require open space. See Section 8.220.
- (10) The maximum business footprint for supporting commercial uses in IP (retail and personal or professional services) is 5,000 square feet.
- (11) When adjacent to or across the street from residentially zoned land, the setback shall be 1 foot for every 1 foot of building height over 30 ft. Building height may increase in height (“step” up) as the setback increases. For example, at the minimum setback, a building may be 30 feet tall, but may increase in height up to 50 feet when set back 50 feet from the property line.
- (12) Higher structures permitted by Conditional Use approval.

[Table and footnotes amended by Ord. 5445, 4/12/00, Ord. 5555, 2/7/03, Ord. 5556, 2/21/03]

**SETBACKS**

- 4.100 Minimum Standards. All setbacks must meet the minimum standards in Table 1 or 2, Development Standards. In addition to the setbacks in this Article, all development must comply with Section 12.180, Clear Vision Area. See also Article 3, Table 2, Accessory Structure Standards. [Ord. 5555, 2/7/03]
- 4.110 Measurements. Setback distances must be measured perpendicular to all portions of a property line. [Ord. 5555, 2/7/03]
- 4.130 Setback Alternate in Developed Areas. When an addition or new development is proposed in an area containing the same types of uses that were developed to a previous setback standard, the Director or

review body may approve setbacks that are the same as those for the existing buildings on the site for additions, or the same as those for buildings on abutting parcels for new development. In such instances, the Type I procedure will be used to process requests, and approval will be based upon the following criteria:

- (1) The area between buildings is sufficient for adequate property maintenance and rear yard access.
- (2) If there are non-accessory structures on both abutting lots with front yards less than the depth otherwise required, the front yard for a lot need not exceed the average front yard of the abutting structures.
- (3) If there is a non-accessory structure on one abutting lot with a front yard of less than the depth otherwise required, the front yard for a lot need not exceed a depth halfway between the depth of the abutting front yard and the required front yard depth.
- (4) A driveway extending not less than 20 feet from the street right-of-way must precede on-site parking spaces or structures.
- (5) For detached dwellings, no wall of one dwelling unit may be closer than 10 feet to a window of another dwelling unit. [Ord. 5555, 2/7/03]
- (6) All other provisions of this Code must be met.

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

- (1) Depressed Areas. In any zoning district, open-work fences, berms, hedges, guard railings, or other landscaping or architectural devices for safety protection around depressed areas, ramps, stairs, or retaining walls may be located in required yards, provided that the devices are not more than 3-1/2 feet tall.
- (2) Projecting Building Features. The following may project into the required front yard up to five feet and into the required interior yards up to two feet:
  - (a) Awnings, eaves, buttresses, architectural appendages (such as, but not limited to, bay windows, planters, cantilevered stairways).
  - (b) Chimneys and fireplaces, provided they do not exceed eight feet in width.
  - (c) Porches, steps, platforms or landings, raised patios or decks (applies only to structures above 30 inches in height: structures 30 inches or less are not subject to setback provisions).
  - (d) Projecting signs must conform to applicable ordinance requirements. See Article 13, Sign Code. [Ord. 5555, 2/7/03]

4.150 Zero Lot Line. Any residential dwelling or accessory building may be located on the property line when:

- (1) There are no openings or windows in the wall abutting the property line. Additionally, a 10-foot setback and maintenance easement must be recorded on the adjoining property deed or plat. This easement shall be written so it is not revocable without City approval.

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

[Ord. 5555, 2/7/03]

- 4.160 Setbacks for Dwellings. The interior yard requirement for attached single-family dwellings is 0 where the units adjoin; however, all other setbacks must conform to the requirements of this Code. The yard requirements for residential uses do not apply to a dwelling legally located above a commercial use. [Ord. 5445, 4/12/00]
- 4.170 Setbacks and Fencing for Swimming Pools. Swimming pools must conform to the setback regulations for main buildings, except that outdoor swimming pools must be set back at least 10 feet from all interior lot lines. Also, all swimming pools must be fenced or equipped with electric alarm systems that prevent entry or alarm upon entry. Required pool fencing must be at least four feet tall and have a self-locking gate that closes automatically.
- 4.180 Setbacks for Properties Abutting Future Street Rights-of-Way. Where the adopted Comprehensive Plan and future Street Plans include widening or connecting existing streets, or establishing new streets, the placement of all buildings and the establishment of all required yards must be in relation to the proposed street right-of-way boundaries. Also, no building may be erected on a lot that abuts a proposed street right-of-way unless the lot will have the width and depth needed to complete the street width plus the width and depth of the yards required on the lot.
- 4.190 Special Willamette River Setback and Height Restrictions. Except for water-related and water-dependent uses (see definitions, Article 22), all construction must be located outside the floodway line as defined for a 100-year storm. Development structure heights and setbacks south of the Willamette River may not extend above a plane that begins at the floodway line and extends directly south. The angle of this plane will be as follows:
- (1) For water-oriented uses, the angle will be 30°.
  - (2) For non-water-oriented uses, the angle will be 15°.

[Ord. 5555, 2/7/03]

For the following properties, the above language in this section shall not apply. Greenway setback provisions for these properties shall be as set forth below.

<u>Common Name</u>	<u>Assessor's Property Identification Number</u>
Willamette Seed Site	11S-03W-6DC #100
Permawood Site	11S-03W-5BD #200, #300 and 11S-03W-5CA #1001, #1100, #6805

The minimum setback for buildings and parking on the river side of property along the river is:

<u>Area</u>	<u>Minimum Setback</u>
West of Lafayette	5 feet
East of Lafayette	15 feet

For the purpose of establishing setbacks on property along the Willamette River, the river will be treated as a front lot line. The minimum setback for buildings and parking on the river side of property along the river will be measured from the most inland of the:

- (1) Property line along the river, or
- (1) City multi-use path easement, or
- (2) Top of the river embankment.

Fences on the river side of property along the river will be located south of the most inland of the:

- (1) Property line along the river, or
- (2) City multi-use path easement, or
- (3) Top of the river embankment.

[Ord. 5559, 3/26/03]

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

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

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

4.210 Special Setbacks for Educational and Religious Institutions, Public and Semi-Public Buildings. Any new construction of a school, church, or public or semi-public building must be set back at least 25 feet from any property line adjoining or directly across public right-of-way from any residential district. Stockpiling or storing materials or equipment is not permitted in the required front or interior setbacks. All other setbacks of the district where the property is located apply. [Ord. 5555, 2/7/03]

4.220 Parking Restrictions in Setback Areas. Required parking and loading spaces may not be located in a required front or side setback, except:

- (1) Driveways providing access to garages and carports for any residential development may be used to fulfill the parking requirements. [Ord. 5555, 2/7/03]

## **HEIGHT**

4.230 Height Standards. See Table 1 for commercial zone height restrictions and Table 2 for industrial zone height restrictions. [Ord. 5555, 2/7/03]

4.240 Height Exceptions.

- (1) Roof structures for the housing of elevators, stairways, tanks, ventilating fans and similar equipment required to operate and maintain the building, fire walls, skylights, towers, flagpoles, chimneys, smokestacks, wireless masts, antennas, steeples, and similar structures may be erected above the height limits prescribed in this article, provided that no roof structure, feature, or any other device above the prescribed height limit may be allowed or used for the purpose of providing additional floor space.
- (2) Religious Institutions and Public and Semi-Public Buildings. In zoning districts where churches and certain public and semi-public buildings require Conditional Use approval, the height restrictions may be waived as a part of the Conditional Use proceedings, provided that a request

for such has been noted in the public hearing notice. [Ord. 5555, 2/7/03]

**OFF-STREET PARKING AND LOADING REQUIREMENTS**

4.250 Parking Standards. Off-street parking and loading must be provided for all development in the amounts indicated in Table 2 and must be developed in accordance with Article 9. The area measured is the combined floor area of each level of a building exclusive of vent shafts, court yards, stairwells, elevator shafts, restrooms, storage rooms and rooms designed and used for the purpose of storage and operation of maintenance equipment, and covered or enclosed parking areas. The number of employees shall include those working on the premises, plus proprietors, during the largest shift at peak season. Fractional space requirements shall be counted to the nearest whole space; half spaces will be rounded up. In the case of mixed uses, the total requirements for off-street parking shall be the sum of the requirements for the various uses. Off-street parking for one use shall not be considered as providing parking facilities for any other use except through the provisions of Section 9.080, Joint Use of Parking Facilities. [Ord. 5555, 2/7/03]

**TABLE 2  
PARKING REQUIREMENTS FOR COMMERCIAL AND INDUSTRIAL USES**

<b>USE</b>	<b>SPACES REQUIRED</b>
Air, rail and motor freight terminals	Subject to site plan review
Animal hospitals and clinics	1 per 400 sq ft GFA
Banks and financial institutions	1 per 200 sq ft on first floor plus 1 per 600 sq ft above first floor
Beauty and barber shops and other personal services	1 per 200 sq ft plus 1 per 3 employees
Bowling alleys	4 per lane
Building materials sales	1 per 500 sq ft. GFA
Churches and other places of religious assembly	1 per 6 seats or 12 feet of bench length (1)
Commercial recreation and assembly	Subject to site plan review
Drive-in restaurants	1 per 50 sq ft GFA
Elementary, junior high and other children's day school	1 per classroom plus 1 per 2 employees
Funeral houses	1 per 4 seats or 8 feet of bench length
Furniture, machine and office equipment sales	1 per 500 sq ft GFA plus 1 per 3 employees
Golf courses (including clubhouses and accessory uses)	Subject to site plan review
Greenhouses and nurseries	2 per employee
High schools, colleges and universities	Subject to site plan review
Hospitals	1 per 2 beds plus 1 per staff doctor plus 1 per 2 full-time employees
Laundries and cleaners	1 per 300 sq ft GFA
Libraries, reading rooms, museums and art galleries	1 per 2 employees plus 1 per 500 sq ft GFA
Manufacturing, production or processing	1 per 2 employees plus 1 per company vehicle
Medical and dental clinics	1 per 200 sq ft GFA
Meeting rooms, private clubs and lodges	1 per 100 sq ft GFA plus 1 per 200 sq ft GFA (2)
Motels and hotels	1 per rental unit plus additional as required for accessory uses
Motor vehicle repair and service stations	1 per each 2 employees plus 2 per each service stall
Offices: all business and professional	1 per 300 sq ft GFA
Philanthropic, charitable and nonprofit institutions (excluding churches)	1 per 2 employees plus 1 per 500 sq ft GFA



USE	SPACES REQUIRED
Radio and television stations and studios	1 per 2 employees plus 1 per 300 sq ft over 2,000 sq ft GFA
Rail and bus passenger terminals	5 plus 1 per 100 sq ft waiting area
Residential uses	Off-street parking not required
Sales and rental of motor vehicles, trailers, mobile homes, boats, modular houses	2 per employee
Shopping centers, food, drugs, hardware, variety and department stores	1 per 200 sq ft sales floor area
Sit-down and carry-out restaurants, taverns, bars and nightclubs	1 per 100 sq ft GFA
Skating rinks	1 per 200 sq ft GFA
Specialty shops and other retail stores (under 6,000 sq ft)	1 per 300 sq ft GFA plus 1 per 3 employees
Stadiums, grandstands, coliseums, auditoriums and theaters	1 per 4 seating capacity (3)
Swimming pools, for pool only	10 plus 1 per 150 sq ft pool surface area
Testing, repairing, cleaning, servicing of materials, goods or products and warehousing and wholesale	1 per 2 employees plus 1 per 300 sq ft of patron serving area, plus 1 per company vehicle
Warehousing and wholesale	1 per 2 employees plus 1 per 300 sq ft of patron serving area plus 1 per company vehicle
Wrecking yards and junkyards	1 per employee plus 1 per 10,000 sq ft lot area

[Ord. 5555, 2/7/03]

- (1) On-street parking within 500 feet of the building, except in residential areas, may be used toward fulfilling this requirement.
- (2) On-street parking in non-residential areas within 800 feet of the main assembly room or building may be used toward fulfilling this requirement.
- (3) On-street parking in non-residential areas within 1,000 feet of the main assembly room or building may be used toward fulfilling this requirement.

4.260 Loading Standards. Loading spaces for commercial buildings and uses shall be off the street, and shall be provided in addition to the required parking spaces, and shall meet the following requirements: [Ord. 5555, 2/7/03]

- (1) Vehicles in the berths shall not protrude into a public right-of-way or sidewalk. Loading berths shall be located so that vehicles are not required to back or maneuver in a public street.
- (2) A school having a capacity greater than twenty-five students shall have a driveway designed for continuous forward flow of passenger vehicles for the purpose of loading and unloading children.
- (3) The minimum area required for commercial loading spaces is as follows:
  - (a) 250 square feet for buildings of 5,000 to 20,000 square feet of gross floor area.
  - (b) 500 square feet for buildings of 20,000 to 50,000 square feet of gross floor area.
  - (c) 750 square feet for buildings in excess of 50,000 square feet of gross floor area.
- (4) The required loading area shall not be less than ten feet wide by twenty-five feet long and shall have an unobstructed height of fourteen feet.
- (5) Required loading facilities shall be installed prior to final building inspection and shall be permanently maintained as a condition of use.
- (6) Loading areas shall be subject to the same provisions as parking areas relative to plan information,

setbacks, buffering/screening requirements, and lighting.

## LANDSCAPING

4.270 General. The required front and interior setback yards (see Table 1), exclusive of accessways and other permitted intrusions, must be landscaped before occupancy or in accordance with Section 9.190. The minimum landscaping per 1000 square feet of required setback yard areas in all commercial and industrial zones is:

- (1) Five five-gallon or eight one-gallon shrubs, trees, perennials, or accent plants.
- (2) The remaining area treated with living ground cover, lawn, or bark, rock, or other attractive ground cover.

In addition, one tree at least six feet in height is required for every 30 feet of street frontage.

For parking lot landscaping requirements, see Article 9.

[Ord. 5555, 2/7/03]

## BUFFERING AND SCREENING

4.280 General. Buffering and screening may be required to offset the impact of development. See Sections 9.210 through 9.320. [Ord. 5445, 4/12/00, Ord. 5555, 2/7/03]

## OUTSIDE STORAGE

4.290 General.

- (1) In the NC, OP, TD and IP zoning districts, outside storage or display of materials, junk, parts, or merchandise is not permitted, except for automobile sales (where allowed).
- (2) In the PB and CC zones, outside storage is allowed if screened from the public rights-of-way with a sight-obscuring fence, wall, hedge, or berm, which must be constructed of non-combustible material. This provision excludes automobile and plant sales. Display of goods is not permitted.
- (3) In the RC zone:
  - (a) Exterior display of goods is permitted except in the required front yard setback or buffer yard. Display is limited to a sample of goods offered for sale by the establishment. Display areas may not be used for storage. Display areas may not expand beyond 25 percent of the primary street frontage and must be designated on the site plan. Display areas adjacent to residential districts or uses must be set back at least 10 feet and must be screened from view with a sight-obscuring fence, wall, hedge, or berm, which must be constructed of non-combustible material.
  - (b) Exterior storage is permitted in interior yards, but is excluded from required buffer yards and minimum required setback areas. Storage areas adjacent to residential districts or uses must be screened from view with a sight-obscuring fence, wall, hedge, or berm, any or all of which must be constructed of non-combustible material. This enclosure must be located on the property at the required setback line as if the berm, fence, wall, or hedge were a building.
- (4) In the LI and HI zones, except for required setback areas, outside storage is permitted in interior yards. Outside storage is allowed in front yards (excluding the front setback), provided that such storage is enclosed with a sight-obscuring fence, wall, hedge, or berm, any or all of 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 in height above the elevation of the storage area.
  - (b) Outside storage over six feet in height must be screened by landscaping in accordance with 9.250.

[Ord. 5555, 2/7/03]

4.300 Screening of Refuse Containers. The following standards apply to all development, except for one- and two-family 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. Refuse disposal areas may not be located in required setbacks or buffer yards and must be placed at least 15 feet from any dwelling window.

### **FENCES FOR COMMERCIAL AND INDUSTRIAL USES**

4.310 Commercial and industrial establishments that elect to construct a fence not required under the provisions of this Code shall meet the following standards. Where screening is required of the development, the fence shall meet the provisions of (4) below and Section 9.250. Fences for residential uses, see Sections 3.400 to 3.410. [Ord. 5555, 2/7/03]

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

- (1) Barbed wire is permitted atop a six foot (6') chain link fence. The total height of the fence and barbed wire is limited to eight (8) feet. Barbed wire only fences and concertina wire are prohibited except as allowed in subsection (2).
- (2) Concertina wire may be used around correctional institutions and high security areas provided that the fences are posted at least at 15-foot intervals with clearly visible warnings of the hazard.
  - (a) Except as specified in the provisions of subsections (1) and (2) above, concertina wire, barbed wire, or upturned barbed selvage existing at the time of the passage of this ordinance that is between six and seven feet above grade in the commercial districts shall be considered a legal non-conforming use, provided that the barbed wire or upturned barbed selvage does not extend over a street or alley and where it does slant toward the public right-of-way, it is located not less than one foot from said right-of-way.
- (3) Fences are limited to the height and locational standards listed below:
  - (a) Fences may be up to eight (8) feet in height provided that the fence is located behind the required front yard planting area and outside of any vision clearance area.
  - (b) Fences more than six (6) feet in height require Building Permits.
- (4) Wherever a sight-obscuring fence, wall or hedge is required under the provisions of this Code, it must meet the following provisions:
  - (a) Opacity. In order to be "sight-obscuring," fences and walls will be at least 75 percent opaque

when viewed from any angle at a point 25 feet away from the fence or wall. Hedges will be of an evergreen species that will meet and maintain year-round the same standard within three (3) years of planting.

- (b) Height. Fences and walls will be a minimum of six feet in height. Hedges will be of a species capable of attaining a height of at least six (6) feet within three (3) years of planting, given their age, height and health when planted.
- (c) Maintenance. Fences and walls will be maintained in safe condition and opacity is maintained as required in subsection (a) of this section. Wooden materials will be protected from rot, decay, and insect infestation. Plants forming hedges will be replaced within six (6) months after dying or becoming diseased to the point that the opacity required in subsection (a) of this section is not met.

4.320 Standards. Every fence, whether or not approved as a result of Site Plan Review, 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.

## **ARTICLE 5**

### **MIXED USE VILLAGE CENTER ZONING DISTRICTS**

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

5.020 Overview. The mixed-use Village Center 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, community and personal services, and live work units. Centers are easily accessible to nearby residences, are pedestrian-friendly, and relate to the adjacent land uses. Commercial uses must fit the scale of adjacent neighborhoods and the desired character envisioned for each Village Center. The Village Center zones differ in permitted uses, development standards, and design based on the unique objectives of each center. Design standards may be adopted to define the unique architectural and streetscape features of each Village Center. Medium-density residential development that provides a mix of housing choices is located adjacent to the Village Center commercial zone.

Development may also be subject to the provisions in Article 8, Design Standards; Article 9, On-Site Development and Environmental Standards; and Article 12, Public Improvements. Sites within overlay districts are also subject to the provisions in Article 6, Special Purpose Districts, and Article 7, Historic Overlay Districts. [Ord. 5555, 2/7/03]

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

- Zoning Districts
- Schedule of Permitted Uses
- Development Standards

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

- (1) HD – HISTORIC DOWNTOWN DISTRICT. The HD district is intended primarily for a dense mixture of uses with an emphasis on entertainment, theaters, restaurants, night life 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) CB – DOWNTOWN CENTRAL BUSINESS DISTRICT. The CB district is intended primarily for retail and services that support Historic Downtown businesses and residents. Mixed uses are encouraged both horizontally and vertically. High-density residential infill, especially on upper floors, and office employment are both encouraged.
- (3) MUR – MIXED USE RESIDENTIAL DISTRICT. The MUR district is intended primarily to create a residential district with a mixture of neighborhood commercial uses allowed to meet daily needs of area residents. Water and open space oriented high-density residential uses are encouraged.

- (4) WF – WATERFRONT DISTRICT. The WF district is intended to allow the properties along the Willamette River to transition to medium- or high-density residential uses while preserving the viability of existing light industrial businesses in this area. Both residential and light industrial uses are allowed in this zoning district, and regulations are provided to facilitate compatibility.
- (5) 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.
- (6) 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. Retail, restaurant or night uses that impact surrounding residences are discouraged.
- (7) ES – ELM STREET DISTRICT. The ES district is intended primarily to provide enough land for Albany General Hospital and associated medical uses while maintaining compatibility with adjacent residences in scale and design. Light commercial and personal services are encouraged to serve the nearby residents. Removal of existing residences and landscapes is discouraged. New parking facilities should be underground or completely screened. Only the amount of parking that is necessary should be allowed for uses in this district, to minimize the amount of land consumed by parking.
- (8) 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. Sound and visual buffers should be used to protect nearby residential areas.
- (9) MUC – MIXED USE COMMERCIAL DISTRICT. The MUC zoning district is intended primarily to provide a mix of convenience commercial, personal services, offices and medium density residential uses. The district would typically be anchored by a grocery store, and may include a mix of smaller retailers, offices, live-work units and residences. The MUC district is easily accessible to nearby residences, and commercial uses are compatible in scale and design with adjacent neighborhoods. Uses in the MUC zone will serve area residents and should not draw from the region. [Ord. 5556, 2/21/03, Ord. 5577, 7/28/04]

[Ord. 5555, 2/7/03]

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

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

[Ord. 5555, 2/7/03]

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 include those in Article 6, Special Purpose Districts, and those of the Building Division and Fire Department. [Ord. 5555, 2/7/03]

## **SCHEDULE OF PERMITTED USES**

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

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

5.060 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. The abbreviations used in the schedule have the following meanings:

- Y Yes; use allowed without review procedures but may be subject to special conditions.
- S Use permitted that requires a site plan approval prior to the development or occupancy of the site or building.
- CU Use considered conditionally under the provisions of Sections 2.230-2.260.
- 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. [Ord. 5555, 2/7/03]

**SCHEDULE OF PERMITTED USES**

<b>Mixed-Use Village Center Uses</b>										
<b>Use Categories (See Article 22 for use category descriptions.)</b>	<b>Spec. Cond.</b>	<b>MU C</b>	<b>WF</b>	<b>HD</b>	<b>CB</b>	<b>LE</b>	<b>PB</b>	<b>MS</b>	<b>ES</b>	<b>MUR</b>
<b>INDUSTRIAL</b>										
Contractors and Industrial Services	1	N	S	N	S	S	S	N	N	N
Manufacturing and Production	2	N	S/CU	S/CU	S/CU	S/CU	N	N	N	N
Warehousing and Distribution		N	CU-3	N	N	N	N	N	N	N
Waste and Recycling		N	CU-4	N	N	N	N	N	N	N
Wholesale Sales		N	N	N	CU	N	N	N	N	N
<b>COMMERCIAL</b>										
Adult Entertainment	5	N	N	S	S	N	N	N	N	N
Entertainment and Recreation										
Indoor		S-6	CU-6	S	S	S	S-6	S-6	S-6	CU
Outdoor		CU	CU-7	N	CU-7	N	S	N	N	N
Offices		S	S	S	S	S	S	S	S	S
Parking		S	S-8	CU	CU	S	S	S	CU-8	CU
Restaurants, no drive-thru		S	S	S	S	S	S	S	S	S
with drive-thru or mostly delivery		CU	N	N	N	S	S	N	N	N
Retail Sales and Service		S-10	CU-9	S	S	S	S	S-10	S-10	S-10
Self-Serve Storage	11	N	CU	N	N	N	N	N	N	N
Vehicle Repair		N	CU	N	CU	N	S	N	N	N
Vehicle Service, Quick (gas/oil/wash)		S	S	N	N	N	S	S	S	N
<b>INSTITUTIONAL</b>										
Basic Utilities	12	CU	CU	CU	CU	CU	CU	CU	CU	CU
Community Services	13	CU	CU	S	S	S	S	S	S	CU
Daycare		S	S	S	S	N	CU	S	S	S
Educational Institutions	14	CU	CU	CU	CU	CU	N	CU	CU	CU
Hospitals		N	CU	CU	S	S	CU	N	CU	CU
Jails & Detention Facilities		N	N	N	N	N	N	N	N	N
Parks, Open Areas and Cemeteries	15	CU	CU	CU	CU	CU	CU	CU	CU	CU
Religious Institutions	14	CU	CU	CU	S	S	CU	CU	CU	CU
<b>RESIDENTIAL</b>										
Group or Residential Care Facilities	16	Y/S	Y/S	Y/S	Y/S	Y/S	N	Y/S	Y/S	Y/S
Assisted Living		CU	CU	CU	CU	CU	CU	CU	CU	CU
Single and Two Family Homes	17	Y-19	S-18	N	CU-18	N	N	N	CU-18	Y
Live Work		S-19	S	S	S	S	N	S	S	S
Three or More Units	19	S-19	S	N	CU	S	N	CU	CU	S
Units Above Business		S-19	S	S	S	S	S	S	S	S
Residential Accessory Buildings	20	Y/S	Y/S	Y/CU	Y/CU	CU	N	S/CU	Y/CU	Y/S
<b>OTHER CATEGORIES</b>										
Agriculture (on Vacant Land)	21	N	N	N	N	N	N	N	N	N
Communication Towers & Poles >= 50 ft.	22	CU	N	N	CU-23	CU-23	CU-23	N	CU-23	N
Kennels	24	N	N	N	N	N	N	N	N	N
Passenger Terminals		CU	N	CU	CU	CU	S	CU	N	N
Rail And Utility Corridors		CU	CU	N	CU	CU	CU	CU	CU	N

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

Y = Yes, allowed, no Site Plan review required

N = No, not allowed



CU = Conditional Use review required

S = Site Plan review required

## SPECIAL CONDITIONS

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

- (1) Contractors and Industrial Service Uses in the WF, CB, LE and PB zones.
  - (a) Prohibited Uses. Salvage or wrecking operations. See Section 5.360 for outside storage standards by zone.
- (2) Manufacturing. The environmental performance standards of Article 9 may further limit the placement of certain uses in some districts. Developments on sites located within 300 feet of residentially zoned land may require a Conditional Use approval.
- (3) Warehousing and Distribution in the WF zone.
  - (a) Outside Storage. Operations and related storage (except shipping and loading) must be conducted entirely within enclosed buildings.
- (4) Waste and Recycling Related Uses in the WF zone.
  - (a) Limited Uses. The only waste and recycling related uses allowed in the WF zone are transfer stations, excluding sheet and scrap metal and hazardous waste recycling or collection.
  - (b) Outside Storage. Operations and related storage must be conducted entirely within enclosed buildings.
- (5) 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 Variance procedures.
- (6) Indoor Entertainment and Recreation in the WF, PB, MS, ES and MUC zones.
  - (a) Conditional Uses in WF. The following indoor entertainment and recreation uses require a Conditional Use approval in WF: convention centers, bowling alleys, skating rinks, pool halls, games, amusements, arcades and similar uses.
  - (b) Prohibited Uses in WF, PB and MUC. The following indoor entertainment and recreation uses are prohibited in WF and PB: movie theaters, indoor firing ranges, paint gun, coliseums, stadiums and similar facilities.
  - (c) 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.
- (7) Outdoor Entertainment and Recreation in the WF and CB zones.
  - (a) Conditional Uses in WF and CB. The following outdoor entertainment and recreation uses are allowed with a Conditional Use approval: tennis courts, miniature golf, skateboard parks

and similar uses.

- (8) Parking in the WF and ES zones.
  - (a) Limited Uses. Parking facilities are limited to parking structures.
- (9) Retail Sales and Service in the WF zone. All retail uses in the WF zone require a Conditional Use approval.
  - (a) Limited Uses. The only retail uses allowed in the WF zone are: convenience and personal service-oriented commercial intended to serve nearby residents and employees; specialty retail stores and studios; rental and repair-oriented services limited to small appliance repair, shoe repair, tailoring and miscellaneous furniture, apparel and appliance rental. All other retail uses are prohibited.
- (10) Retail Sales and Service in the MS, ES, 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) Prohibited Uses in MUC. Sale, leasing and rental of vehicles and trucks; hotels, motels, and recreational vehicle parks. [Ord. 5556, 2/21/03]
- (11) Self-Serve Storage. These facilities are subject to the following standards:
  - (a) The minimum driveway width between buildings is 20 feet for one-way drives and 24 feet for two-way drives.
  - (b) The maximum storage unit size is 1,000 square feet.
  - (c) All outdoor lighting shall be shielded to prevent glare and reflection on adjacent properties.
  - (d) Repair of autos, boats, motors and furniture and storage of flammable materials are prohibited on the premises, and rental contracts shall so specify.
- (12) 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.
- (13) 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.
- (14) Conditional Use Approval for Religious and Educational Institutions includes the following secondary uses: educational activities; sports and other recreational activities; religious activities; political activities; meals programs; before- and after-school childcare activities; 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.

Expansion of an educational 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 process.

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

- (15) Public park development activity subject to conditional use review includes major development; expansions of activities and development within parks which currently generate substantial traffic; or construction of major structures such as swimming pools, lighted ball fields, and community centers. Conditional use review is not required, however, for construction of play equipment, tennis courts, bike paths, picnic shelters, restrooms, landscaping, and similar activities within existing improved parks.
- (16) Group or Residential Care Facilities. Group care homes or “residential homes” (as defined in ORS) that include five or fewer residents are permitted outright in any zone that allows single-family residences outright. (This is indicated by a Y in the schedule.) Residential group care facilities (6 or more residents) require a Site Plan review.
- (17) Existing Single Family Homes. Single-family homes built before December 11, 2002, may remain as a permitted use in any zone without being nonconforming. See Section 5.080.

Accessory Apartments. One accessory apartment is permitted as an addition to or within a single-family residence, hereafter called the “primary residence,” or in an existing detached accessory structure built before February 1, 1998, that is located on one lot or contiguous lots under one ownership, and that results in no more than two units per lot. Accessory apartments are intended to be incidental and subordinate to the primary residence and must meet the following regulations:

- (a) One of the residences is owner-occupied.
- (b) The size of an accessory apartment may not exceed 50 percent of the gross floor area of the primary residence (excluding garages or carports) or 800 square feet, whichever is less.
- (c) The size of the property meets the minimum single-family lot area requirements for the zoning district in which the lot is located.
- (d) The front door of an accessory apartment may not be located on the same façade as the front door of the primary residence unless the door already exists or the wall that contains the apartment front door is set back at least five feet from the front facade of the primary residence.
- (e) At least two off-street parking spaces are provided on the property to serve the two residences.
- (f) Exterior additions must substantially match the existing materials, colors and finish of the primary structure.
- (g) The property owner must obtain all required building permits and go through historic review if on the Local Historic Inventory.

- (18) Single and Two Family Homes in the WF, CB and ES zones.

- (a) Limited Uses. New single-family and two-family homes are limited to attached units (one unit per lot or condominiums), and duplexes (two units per lot).

- (19) Residential Development in CB, MS, ES, and MUC.

- (a) In CB, MS and ES, dwelling units at the street level are discouraged unless located behind a retail, service or office storefront.
- (b) In MUC, residential development shall develop at a minimum gross density of 10 units an acre. Residences above a business or office are exempt from meeting the minimum density.  
[Ord. 5556, 2/21/03]

(20) Residential Accessory Buildings.

Accessory buildings are permitted outright in MUR, WF, HD, CB and ES, and with Site Plan review in MS and MUC, 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 eleven feet in height.
- (b) Attached accessory buildings, garages or carports are less than 1,000 square feet.

Accessory buildings are considered through a Conditional Use review in LE if they meet the following condition:

- (c) Detached accessory buildings, garages and carports are less than 750 square feet and have walls equal to or less than eleven feet in height.

All other residential accessory buildings, garages or carports require a Site Plan review in RM-5, MUR, WF and ES, and are considered through a Conditional Use review in HD, CB, MS and MUC. (This is indicated by the use of a “/” in the matrix. For example, “Y/S” means accessory uses that don’t meet the standards above require a Site Plan review.) [Ord. 5556, 2/21/03]

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

For accessory apartments, see Special Condition 17.

(21) 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.

(22) Communication Tower and Pole 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 roof top is permitted outright in all districts subject to the following standards and those found in Section 8.400:

- (a) No antennas, antenna supports, satellite dishes or monopoles shall be located within any front yard setback area or within any required landscape buffer yard.
- (b) Dish antennas larger than three feet in diameter, and located within ten feet of a residential lot line or visible from a public street, shall be screened with a six-foot solid screen fence, wall, hedge, or other landscaping.
- (c) Antennas used to display sign messages shall conform to all district sign regulations in addition to the above.
- (d) Towers are not permitted.
- (e) Antennas, satellite dishes, monopoles and other communication structures less than 50 feet in height, not in conformance with the above, may be considered through a Conditional Use review.

[Ord. 5445, 4/12/00]

(23) In CB, LE, PB and ES, 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. No communication structure is allowed in any front yard setback.

(24) Kennels. Kennels do not include indoor veterinary hospital kennels.

[Ord. 5555, 2/7/03]

## **SPECIAL STATUS**

### **5.080 Existing Uses Granted Special Status.**

Single Family Homes. Notwithstanding the restrictions or terms of any other section of the Albany Development Code (ADC), all single-family residential units built before January 1, 2002, shall be deemed to be conforming with the base zoning district. If any building on these properties is substantially destroyed, as defined in ADC Section 2.340(4), it may be rebuilt to the same density, size and setbacks as existed on the property at the time it was destroyed, but will be subject to the regulations of any applicable overlay zone. If any single-family dwelling is converted to non-residential use, the special status granted here is rescinded, and the use of the property shall thereafter conform to the requirements of Article 5. The special status granted herein shall be lost if it is determined that the use which existed on May 22, 1996 (date the Central Albany districts were first created) was not then lawfully in existence. [Ord. 5555, 2/7/03]

## **HOME OCCUPATION STANDARDS**

5.085 Home Occupations. See Article 3, Residential Zoning Districts, Sections 3.090 to 3.180, for home occupation standards. [Ord. 5555, 2/7/03]

## **DEVELOPMENT STANDARDS**

5.090 Purpose. Development standards are intended to promote site planning and design that consider the natural environment; maintain the required dimensional standards while promoting 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 1 summarizes the basic development standards. It should be used with the sections immediately following the table, which address special circumstances and exceptions. Additional design standards for commercial and multi-family developments are located in Article 8. [Ord. 5445, 4/12/00]

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

STANDARD	MUC	WF	HD	CB	LE	PB	MS	ES	MUR
<b>Minimum Lot Size (sq.ft.) (3)</b>									
· Single-family	None	None	N/A	N/A	N/A	N/A	N/A	5,000	None
· Attached single-family, per lot	None	1,600 (16)	None	N/A	N/A	N/A	None	None	None
· Two-family	None	3,600	None	N/A	N/A	N/A	N/A	7,000	3,600
· 3 or more 1-bedroom	None	1,600/u (16)	None	None	None	1,600/u	1,600/u	3,300/u	1,600/u
· 3 or more 2+bedroom	None	1,800/u (16)	None	None	None	1,600/u	1,800/u	3,300/u	1,800/u
· All other uses	6,000	10,000	2,000	2,000	2,000	15,000	6,000	5,000	10,000
<b>Maximum Building Size (sq. ft.)(19)</b>									
Non-grocery	20,000								
Grocery-anchored	80,000 (18)	None	None	None	None	None	None	None	None
<b>Maximum Business Footprint (sq. ft.)(17)(19)</b>									
Non-grocery (19)	20,000	None	None	None	None	25,000 (13)	10,000 (13)	10,000 (13)	10,000
Grocery-anchored	80,000 (18)								
<b>Lot Width, minimum</b>	None	None	20'	20'	20'	None	None	None	None
<b>Lot Depth, minimum</b>	None	None	50'	50'	50'	None	None	None	None
<b>Landscaped Area (2)</b>	100%	100%	100%	100%	100%	100%	100%	100%	100%
<b>Minimum Open Space</b>	(12)	(12)	None	None	None	(12)	(12)	(12)	N/A
<b>Maximum Front Setbacks: (10)</b>	10' (15)	20' (11)	0'	0'	None	20'	10'	10'	20'
<b>Minimum Setbacks:</b>									
Front (5) (14)	5'	5'	0'	0'	0'	5'	5'	5'	15'
Interior (5) (14)	(1) (4)	5' (1) (4)	(4)	(4)	(4)	(4)	(1) (4)	5'	10'(1)
Garage Entrance (9)	20' (8)	20' (8)	20'	20'	20'	20'	20'(8)	20'	20'
<b>Height, maximum</b>	50'	50'	85'	60'	60'	50'	50'	50'	45'
<b>Lot Coverage, maximum (6)</b>	80%	80%	100%	(7)	100%	80%	90%	80%	70%

N/A means not applicable.

- (1) Single-family homes or duplexes must have a 5' interior yard for single-story buildings, and an 8' interior yard for two-story buildings. See 5.150 and 5.160 for zero lot line options.
- (2) All yards adjacent to streets.
- (3) Lots with alley access may be up to 10% smaller than the minimum lot size for the zone. [Ord. 5338, 1/28/98; Ord. 5445, 4/12/00.
- (4) Commercial or office buildings abutting residential districts and/or uses require 1 foot of setback for each foot of wall height with a minimum setback of 10 feet. For yards abutting commercial or industrial districts, no interior setback is required.
- (5) No setbacks are required for buildings abutting railroad rights-of-way.
- (6) Lot coverage includes building and parking area coverage.
- (7) See ADC 5.120.
- (8) Garage setback for non-vehicle entrance must conform with the requirements for interior setbacks.
- (9) For garages with alley access, see Table 2.
- (10) The maximum setback may be increased with the condition that 100% 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. See ADC 8.320(4).
- (11) For multi-family and commercial developments, no parking or circulation will be allowed within the front yard between the building with the primary entrance and the adjacent street.
- (12) Ten or more residential units require open space. See ADC 8.210.
- (13) Excluding grocery stores, which may be up to 60,000 square feet.

- (14) Properties adjacent to the Willamette River, see also the Willamette Greenway standards in 5.200 and ADC 6.310.
- (15) Except for residential development, which has a maximum setback of 25 feet. See Section 8.240 for residential design standards.
- (16) No minimum lot size for structures on the Local Historic Inventory.
- (17) In shopping centers with multiple tenants, “business” refers to each individually leasable space. “Footprint” refers to the amount of area covered by the first floor. Businesses may build on additional floors.
- (18) The building and business footprint maximum is 80,000 square feet if a grocery store occupies at least fifty percent (50%) 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.
- (19) The maximum building size and business footprint size may be exceeded for non-commercial and non-office uses when the building is multi-story.

[Table and footnotes amended by Ord. 5555, 2/7/03, Ord. 5556, 2/21/03, Ord. 5627, 7/27/05]

**SETBACKS**

5.100 Minimum Standards. Primary structures must meet the minimum setback standards in Table 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 2) apply to residential accessory structures in the MUR, WF, MS, ES, and MUC districts. [Ord. 5555, 2/7/03, Ord. 5556, 2/21/03]

**TABLE 2  
ACCESSORY STRUCTURE STANDARDS**

STRUCTURE	SETBACK STANDARD
Detached, walls less than or equal to 8 ft. height	Interior setback = 3 feet
Detached, walls greater than 8 ft. height	Interior setback = 5 feet
Attached structure	Interior setback = 5 feet
Garage with access to an alley	Alley setback = 20 feet, less the width of the alley right-of-way, but at least 3 feet.  Other interior setbacks, see Table 1
Structures, including fences, intended for housing animals	Interior setback = 10 feet
Fences less than 6 ft. high	District setback standard; building permit required.
Outdoor swimming pools	Interior setback = 10 feet
Decks less than 30 in. off grade, no rails, covers	No setback from property line
Decks greater than or equal to 30 in. off grade	Interior setback = 5 feet

[Ord. 5445, 4/12/00]

- 5.110 Measurements. Setback distances must be measured perpendicular to all portions of a lot line.
- 5.120 Minimum Floor Area Ratio Required in CB District. All new development within the Central Business District shall have at least one square foot of building floor area for each square foot of buildable lot area except:
  - (1) Expansions to existing buildings.
  - (2) Public parking and open space uses.



(3) Development within the Willamette River Greenway.

[Ord. 5555, 2/7/03]

5.130 Alternative Setbacks for Additions in Developed Areas. When an addition is proposed to a building 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 which are the same as those for the existing buildings on the site for additions, or the same as those for buildings on adjoining parcels for new development. (See Section 8.140 for new infill development.) Approval of an alternative setback request will be based upon the following criteria:

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

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

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

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

- (1) There are no openings or windows in the lot line wall. Additionally, a 10-foot setback and maintenance easement must be recorded on the adjoining property deed or plat. This easement is not revocable without City approval.

OR

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

[Ord. 5555, 2/7/03]

5.160 Setbacks for Attached Single-Family Dwellings. The interior yard requirement for attached single-family dwellings is zero where the units adjoin; however, all other setbacks must conform to the requirements of this Code.

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

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

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

5.190 Setbacks for Properties Abutting Future Street Rights-of-Way. Where the adopted Comprehensive Plan and future Street Plans include widening or connecting existing streets, or establishing new streets, the placement of all buildings and the establishment of all required yards must be in relation to the proposed street right-of-way boundaries. Also, no building may be built on a lot that abuts a proposed street right-of-way unless the lot will have the width and depth needed to complete the street width plus the width and depth of the yards required on the lot.

5.200 Special Willamette River Setback and Height Restrictions Outside the Waterfront Zone. Except for water-related and water-dependent uses (see definitions, Article 22), all construction must be located outside the floodway line as defined for a 100-year storm. Development structure heights and setbacks south of the Willamette River shall not extend above a plane that begins at the floodway line and extends directly south. The angle of this plane shall be as follows:

- (1) For water-oriented uses, the angle shall be 30 degrees.
- (2) For non-water-oriented uses, the angle shall be 15 degrees.

[Ord. 5555, 2/7/03]

5.205 Special Willamette River Setbacks Inside the Waterfront Zone. Setbacks for buildings south of the Willamette River shall meet the following minimum setbacks from the top of the river bank:

- (1) 35 feet for a building two stories or less, and
- (2) 45 feet for a building three or more stories.

[Ord. 5627, /27/05]



5.207 Exceptions to the Willamette River Setback Standards. For the following properties, the language in Sections 5.200 and 5.205 shall not apply. Willamette River setback provisions for these properties are set forth below.

<u>Common Name</u>	<u>Assessor's Property Identification Number</u>
Willamette Seed Site	11S-03W-6DC #100
PermaWood Site	11S-03W-5BD #200, #300 and 11S-03W-5CA #1001, #1100, #6805 [Ord. 5555, 2/7/03]
"Buzzsaw" Site	11S-03W-6CD #11500 [Ord. 5627, 7/27/05]

For These properties, the minimum setback for buildings and parking on the river side of property along the river is:

<u>Area</u>	<u>Minimum Setback</u>
West of Lafayette	5 feet
East of Lafayette	15 feet

For the purpose of establishing setbacks on property along the Willamette River, the river will be treated as a front lot line. The minimum setbacks outlined above will be measured from the most inland of the:

- (1) Property line along the river, or
- (1) City multi-use path easement, or
- (2) Top of the river embankment.

[Ord. 5627, 7/27/05]

Fences on the river side of property along the river will be located south of the most inland of the:

- (1) Property line along the river, or
- (2) City multi-use path easement, or
- (3) Top of the river embankment.

[Ord 5559, 3/26/03]

- 5.210 Special Setbacks for Schools, Churches, Public and Semi-Public Buildings. Any new construction of a school, church, or public or semi-public building must be set back at least 25 feet from any property line abutting any residential district. No required front or interior yard of the lot on which such building or use is located may be used for stockpiling or storing materials or equipment. All other setbacks of the district where the property is located continue to apply.
- 5.220 Parking Restrictions in Setback Areas. Required parking and loading spaces may not be located in a required front or side yard, except:
- (1) Driveways providing access to garages and carports for any residential development may be used to fulfill the parking requirements.
  - (2) In the WF, PB, and ES districts, required parking may be permitted in required front and interior yards behind the minimum landscaping and buffering requirements. [Ord. 5445, 4/12/00, Ord. 5555, 2/7/03]
- 5.230 Dwellings Located Above Commercial Uses. The yard requirements for residential uses do not apply where a dwelling is legally located above a commercial use.

## HEIGHT

- 5.240 Height Standards. See Table 1 for height restrictions.
- 5.250 Height Exceptions.
- (1) Roof structures for the housing of elevators, stairways, tanks, ventilating fans and similar equipment required to operate and maintain the building, fire walls, skylights, towers, flagpoles, chimneys, smokestacks, wireless masts, antennas, steeples, and similar structures may be erected above the height limits prescribed in this article, provided that no roof structure, feature, or any other device above the prescribed height limit may be allowed or used for the purpose of providing additional floor space. Antennas may exceed the minimum building height but must meet the standards outlined in 5.070(19). Towers must meet the standards in 8.400.
  - (2) Religious Institutions and Public and Semi-Public Buildings. In zoning districts where religious institutions and certain public and semi-public buildings require Conditional Use approval, the height restrictions may be waived as a part of the Conditional Use proceedings, provided that a request for such has been noted in the public hearing notice.  
[Ord. 5555, 2/7/03]

## OFF-STREET PARKING AND LOADING STANDARDS

- 5.260 Parking Standards. Off-street parking and loading shall be provided for all development in the amounts indicated in Tables 3, 4, and 5 below, and shall be developed in accordance with Article 9. The area measured shall be the combined floor area of each level of a building exclusive of vent shafts, court yards, stairwells, elevator shafts, restrooms, storage rooms and rooms designed and used for the purpose of storage and operation of maintenance equipment, and covered or enclosed parking areas. The number of employees shall include those working on the premises, plus proprietors, during the largest shift at peak season. Fractional space requirements shall be counted to the nearest whole space; half spaces will be rounded up. In the case of mixed uses, the total requirements for off-street parking shall be the sum of the requirements for the various uses. Off-street parking for one use shall not be considered as providing parking facilities for any other use except through the provisions of Section 9.080 (7), Joint Use of Parking Facilities.

Developments within the Downtown Parking Assessment District are not required to provide off-street parking. See the Downtown Parking Assessment District map at the end of this article. In the ES, Elm Street Medical District, the amount of parking provided with new development shall be only the minimum required. No additional off-street parking will be allowed for development in this district.

Site Plan review is not required for parking areas containing less than 1,000 square feet and otherwise meeting the provisions of this Code. [Ord. 5555, 2/7/03]

**TABLE 3  
RESIDENTIAL PARKING STANDARDS**

USE	STANDARD
Single-Family Dwelling	2 spaces
Multiple Family Dwellings - Studio and 1-Bedroom Units - 2-Bedroom Units - 3- and 4-Bedroom Units - Quad and Quint Units - Senior Citizen Apartments - Student Housing	1.00 space per unit 1.50 spaces per unit 2.00 spaces per unit .75 space per unit 1.00 space per each 2 bedrooms 1.00 per each 2 students at capacity
Boarding and Rooming Houses	1.00 space per 2 occupants at capacity
Group Care Homes	1.00 space per employee, plus 1.00 space per each 5 beds

[Ord. 5555, 2/7/03]

**TABLE 4: NON-RESIDENTIAL PARKING SPACE REQUIREMENTS**

<b>USE</b>	<b>SPACES REQUIRED</b>
Air, rail and motor freight terminals	Subject to site plan review
Animal hospitals and clinics	1 per 400 sq ft GFA
Banks and financial institutions	1 per 200 sq ft on first floor plus 1 per 600 sq ft above first floor
Beauty and barber shops and other personal services	1 per 200 sq ft plus 1 per 3 employees
Bowling alleys	4 per lane
Building materials sales	1 per 500 sq ft. GFA
Central Albany Area retail trade (excluding properties within the Downtown Parking Assessment District)	1 per 3 employees plus 1 per 400 sq ft sales area
Churches and other places of religious assembly	1 per 6 seats or 12 feet of bench length (1)
Commercial recreation and assembly	Subject to site plan review
Drive-in restaurants	1 per 50 sq ft GFA
Elementary, junior high and other children's day school	1 per classroom plus 1 per 2 employees
Funeral houses	1 per 4 seats or 8 feet of bench length
Furniture, machine and office equipment sales	1 per 500 sq ft GFA plus 1 per 3 employees
Golf courses (including clubhouses and accessory uses)	Subject to site plan review
Greenhouses and nurseries	2 per employee
High schools, colleges and universities	Subject to site plan review
Hospitals	1 per 2 beds plus 1 per staff doctor plus 1 per 2 full-time employees
Laundries and cleaners	1 per 300 sq ft GFA
Libraries, reading rooms, museums and art galleries	1 per 2 employees plus 1 per 500 sq ft GFA
Manufacturing, production or processing	1 per 2 employees plus 1 per company vehicle
Medical and dental clinics	1 per 200 sq ft GFA
Meeting rooms, private clubs and lodges	1 per 100 sq ft GFA plus 1 per 200 sq ft GFA (2)
Motels and hotels	1 per rental unit plus additional as required for accessory uses
Motor vehicle repair and service stations	1 per each 2 employees plus 2 per each service stall
Offices: all business and professional	1 per 300 sq ft GFA
Philanthropic, charitable and nonprofit institutions (excluding churches)	1 per 2 employees plus 1 per 500 sq ft GFA
Radio and television stations and studios	1 per 2 employees plus 1 per 300 sq ft over 2,000 sq ft GFA
Rail and bus passenger terminals	5 plus 1 per 100 sq ft waiting area
Residential uses	Off-street parking not required
Sales and rental of motor vehicles, trailers, mobile homes, boats, modular houses	2 per employee
Shopping centers, food, drugs, hardware, variety and department stores	1 per 200 sq ft sales floor area
Sit-down and carry-out restaurants, taverns, bars and nightclubs	1 per 100 sq ft GFA
Skating rinks	1 per 200 sq ft GFA
Specialty shops and other retail stores (under 6,000 sq ft)	1 per 300 sq ft GFA plus 1 per 3 employees
Stadiums, grandstands, coliseums, auditoriums and theaters	1 per 4 seating capacity (3)
Swimming pools, for pool only	10 plus 1 per 150 sq ft pool surface area
Testing, repairing, cleaning ,servicing of materials, goods or products and warehousing and wholesale	1 per 2 employees plus 1 per 300 sq ft of patron serving area, plus 1 per company vehicle

[Ord. 5555, 2/7/03]

- (1) On-street parking within 500 feet of the building, except in residential areas, may be used toward fulfilling this requirement.
- (2) On-street parking in non-residential areas within 800 feet of the main assembly room or building may be used toward fulfilling this requirement.
- (3) On-street parking in non-residential areas within 1,000 feet of the main assembly room or building may be used toward fulfilling this requirement.

5.270 Loading Standards. Loading spaces for commercial buildings and uses shall be off the street and shall be provided in addition to the required parking spaces and shall meet the following requirements:

- (1) Vehicles in the berth shall not protrude into a public right-of-way or sidewalk. Loading berths shall be located so that vehicles are not required to back or maneuver in a public street.
- (2) A school having a capacity greater than 25 students shall have a driveway designed for continuous forward flow of passenger vehicles for the purpose of loading and unloading children.
- (3) The minimum area required for commercial loading spaces is as follows:
  - (a) 50 square feet for buildings of 5,000 to 20,000 square feet of gross floor area.
  - (b) 500 square feet for buildings of 20,000 to 50,000 square feet of gross floor area.
  - (c) 750 square feet for buildings in excess of 50,000 square feet of gross floor area.
- (4) The required loading area shall not be less than 10 feet in width by 25 feet in length and shall have an unobstructed height of 14 feet.
- (5) Required loading facilities shall be installed prior to final building inspection and shall be permanently maintained as a condition of use.
- (6) Loading areas shall be subject to the same provisions as parking areas relative to plan information, setbacks, buffering/screening requirements, and lighting.

## LANDSCAPING

5.280 Residential. All required yards adjacent to a street (see Table 1), exclusive of accessways and other permitted intrusions must be landscaped before occupancy in accordance with Section 9.190. Minimum landscaping acceptable per 1000 square feet of required yard area for residential properties in all Central Albany zones is:

- (1) One tree at least six feet in height.
- (2) Five five-gallon or eight one-gallon shrubs, trees, or accent plants.
- (3) The remaining area treated with suitable living ground cover, lawn, or decorative treatment of bark, rock, or other attractive ground cover. [Ord. 5555, 2/7/03]

5.285 Commercial, Office and Industrial. All required setbacks adjacent to a street (exclusive of accessways and other permitted intrusions) must be landscaped before issuance of an occupancy permit in accordance with Section 9.190. Minimum landscaping acceptable per 1000 square feet of required yards to be located in required front setback areas for all commercial, office and industrial development, is:

- (1) Five five-gallon or eight one-gallon shrubs, trees, perennials or accent plants.

- (2) The remaining area treated with living ground cover, lawn, or decorative treatment of bark, rock, or other attractive ground cover.

Trees are also required in the following amount:

- (3) One tree at least six feet in height per 30 feet of road frontage, to be located in the required front yard areas.

[Ord. 5555, 2/7/03]

## **BUFFERING AND SCREENING**

5.290 General. Buffering and screening may be required, to offset the impact of development. See Sections 9.280 through 9.325 for requirements. [Ord. 5445, 4/12/00]

## **OUTSIDE STORAGE**

5.360 General.

- (1) In the HD, CB, LE, MS, ES, WF and MUC districts, outside storage or display of materials, junk, parts, or merchandise is not permitted within required front yards or required buffer areas, except for automobile sales, where allowed. [Ord. 5556, 2/21/03]
- (2) In the HD, CB, LE, MS, ES, WF and MUC districts, open storage is permitted in yards not listed in (1) above, provided that such storage 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. [Ord. 5556, 2/21/03]
  - (a) Materials and equipment stored as permitted in this subsection may be no more than 14 feet in height above the elevation of the storage area.
  - (b) Open storage over six feet in height must be screened by landscaping.

[Ord. 5555, 2/7/03]

5.370 Screening of Refuse Containers. The following standards apply to all development, except for one and two family dwellings. Any refuse container or disposal area that would otherwise be visible from a public street, customer or resident parking area, any public facility, or any residential area, must be screened from view by placement of a sight obscuring fence, wall, or hedge at least 6 feet tall. Refuse disposal areas may not be located in required setback areas or buffer yards and must be contained within the screened area. No refuse container shall be placed within 15 feet of a dwelling window. [Ord. 5555, 2/7/03]

## **FENCES**

**MUC AND MUR DISTRICTS** [Ord. 5556, 2/21/03]

5.380 Materials. Fences and walls must not be constructed of or contain any material that will do bodily harm, such as barbed wire, broken glass, spikes, or any other hazardous or dangerous materials. Electric and barbed wire fences are not permitted except those intended to contain or restrict cattle, sheep, horses or other livestock, and existing prior to annexation to the City may remain. [Ord. 5446, 5/10/00]

5.390 Standards. Every fence must be maintained in a condition of reasonable repair and shall not be allowed to become and remain in a condition of disrepair including noticeable leaning toward an adjoining property or sidewalk, missing sections or slats, broken supports, non-uniform height, and overgrowth of



weeds or vines.

- (1) Fences must not exceed 6 feet in height in interior yards, 4 feet in height in front yards and 2 feet in the vision clearance areas (see Section 12.180). Exception: a single-family use that shares an interior property line with a multiple family use or zone may have a fence up to 8 feet in height along that property line.
- (2) Corner lots, which by definition have two front yards, may have a fence of up to 6 feet in height in the front yard adjacent to the street that does not contain the dwelling's main door entrance when one of the following conditions is met:
  - (a) If the adjoining street is improved with sidewalks, the fence is located a minimum of three feet from the sidewalk.
  - (b) 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.
  - (c) If the adjoining street is unimproved, the fence is no closer than 3 feet from the property line.
- (3) Fences more than 6 feet in height require a building permit prior to construction. Except where a taller fence is permitted at the lot line (see subsection (1) above), fences more than 6 feet in height must meet building setback requirements.
- (4) In no instance shall a fence extend beyond the property line.
- (5) All fencing must comply with the requirements of the clear vision area (Section 12.180) for streets and driveways.
- (6) Fence height shall 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, the height shall be measured from the bottom of the berm. [Ord. 5446, 5/10/00]

**HD, CB, MS, LE, TD, PB, ES, WF DISTRICTS [Ord. 5555, 2/7/03]**

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

- (1) Barbed wire is permitted atop a six foot (6') chain link fence. The total height of the fence and barbed wire is limited to eight (8) feet. Barbed wire only fences and concertina wire are prohibited except as allowed in subsection (2).
- (2) Concertina wire may be used atop a six foot (6') chain link fence around correctional institutions and high security areas provided that the fences are posted at least at 15-foot intervals with clearly visible warnings of the hazard.
  - (a) Except as specified in the provisions of subsections (1) and (2) above, concertina wire, barbed wire, or upturned barbed salvage existing at the time of the passage of this ordinance that is between six and seven feet above grade is considered a legal non-conforming use, provided that the barbed wire or upturned barbed salvage does not extend over a street or alley and where it does slant toward the public right-of-way, it is located not less than one foot from said right-of-way.
- (3) Fences are limited to the height and locational standards listed below:
  - (a) Fences may be up to eight (8) feet in height provided that the fence is located behind the required front yard planting area and outside of any vision clearance area. In no instance

- may a fence exceed eight (8) feet in height.
- (b) Fences more than six (6) feet in height require Building Permits.
- (4) Wherever a sight-obscuring fence, wall or hedge is required under the provisions of this Code, it must meet the following provisions:
- (a) Opacity. In order to be “sight-obscuring,” fences and walls will be at least 75 percent opaque when viewed from any angle at a point 25 feet away from the fence or wall. Hedges will be of an evergreen species which will meet and maintain year-round the same standard within three (3) years of planting.
  - (b) Height. Fences and walls will be a minimum of six feet in height. Hedges will be of a species capable of attaining a height of at least six (6) feet within three (3) years of planting, given their age, height and health when planted.
  - (c) Maintenance. Fences and walls will be maintained in safe condition and opacity is maintained as required in subsection (a) of this section. Wooden materials will be protected from rot, decay, and insect infestation. Plants forming hedges will be replaced within six (6) months after dying or becoming diseased to the point that the opacity required in subsection (a) of this section is not met.

5.410 Standards. Every fence, whether or not approved as a result of Site Plan Review, 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.

## **ARTICLE 6 SPECIAL PURPOSE DISTRICTS**

6.010 Overview. Special purpose districts are overlay districts which are combined with a base zoning district. The special purpose districts are intended to regulate development in areas where topographic or natural features or proximity to an airport require that specific limitations or requirements be imposed. The regulations of a special purpose district are supplementary to the regulations of the zoning district. Both the zoning district and special purpose district regulations apply to sites within a special purpose district. Where the regulations and permitted uses of a zoning district conflict with those of a special purpose district, the more restrictive standards apply, except as noted below.

The following is a list of the overlay districts created in this article.

- Airport Approach
- Floodplain
- Hillside Development
- Wetland
- Willamette Greenway
- Cluster Development

[Ord. 5562, 10/10/03]

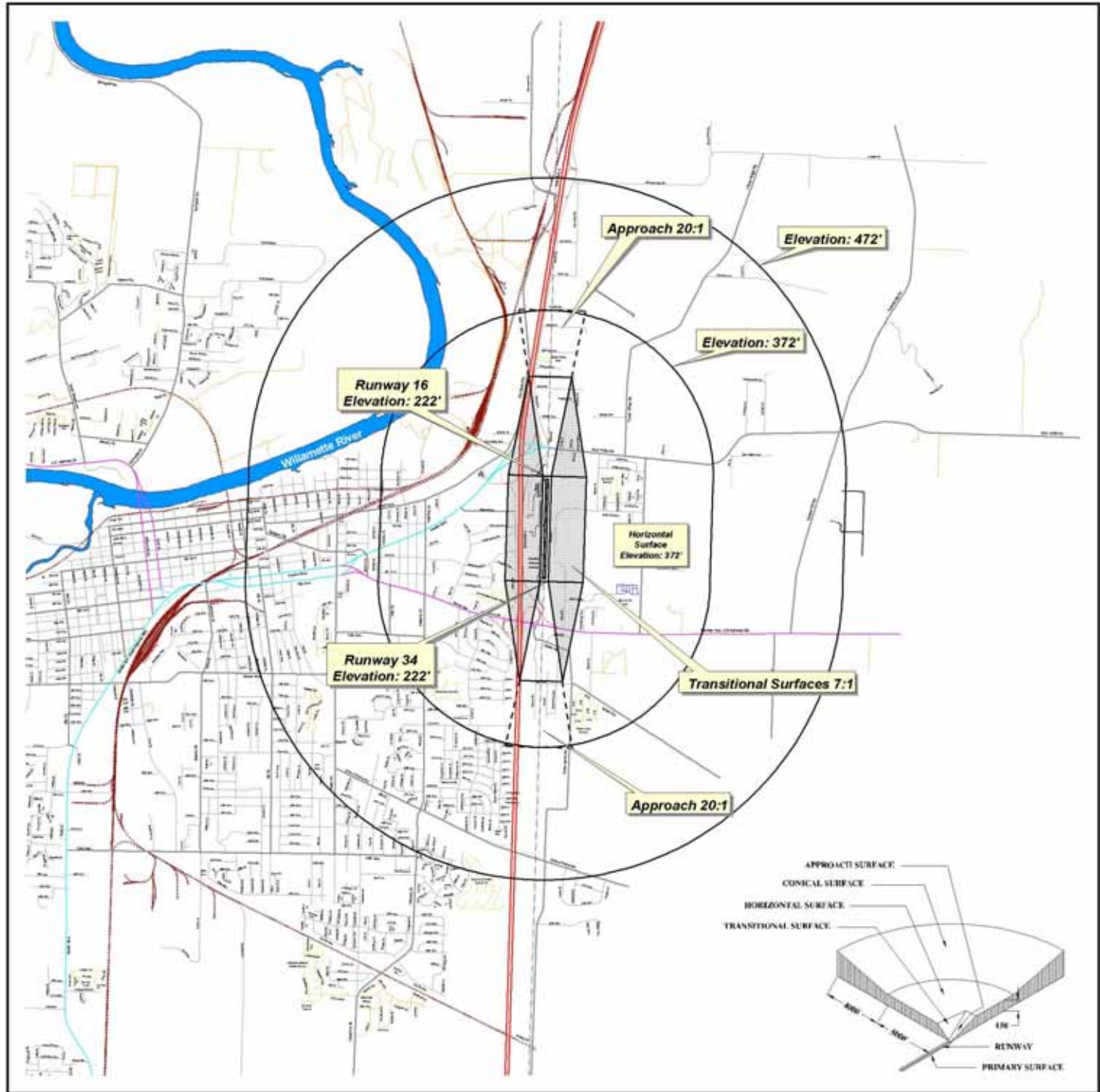
### **AIRPORT APPROACH**

6.020 Purpose. The Airport Approach district is intended to protect both the public from excessive noise and air traffic from possible hazards on landing or takeoff.

6.030 Applicability. The regulations below apply to those areas indicated on Figures 6-1 and 6-2.

6.040 Height Restrictions. No structure, mast, antenna, or wire shall be erected, altered, or maintained, and no tree shall be allowed to grow to a height in excess of the height limit established within each of the following described zones (which are also graphically represented in Figure 6-1):

- (1) Visual Approach Area. Slopes twenty (20) feet outward for each foot upward beginning at the ends of the primary surface (200 feet from the end of the pavement) and at the same elevation as the primary surface, and extending to a horizontal distance of 5,000 feet along the extended runway centerline.
- (2) Transitional Areas. Slopes seven (7) feet outward for each foot upward beginning at the sides of and at the same elevation as the primary surface and the approach surface, and extending to a height of 150 feet above the airport elevation which is 222 feet above mean sea level. In addition, there are height limits sloping seven (7) feet outward for each foot upward beginning at the sides of and at the same elevation as the approach surface, and extending to where they intersect the conical surface.
- (3) Horizontal Area. One hundred fifty (150) feet above the airport elevation or at a height of 372 feet above mean sea level.
- (4) Conical Area. Slopes 20 feet outward for each foot upward beginning at the periphery of the horizontal zone and at 150 feet above the airport elevation and extending to a height of 350 feet above the airport elevation.



## Albany Municipal Airport Approach and Clear Zone Plan

4000                      0                      4000 Feet

The City of Albany's infrastructure records, drawings, and other documents have been gathered over many decades, using differing standards for quality control, documentation, and verification. All the information we provide represents the current information we have in a readily available format. While the information we provide is generally believed to be accurate, occasionally this information proves to be incorrect, and thus we do not warrant its accuracy. Prior to making any property purchases or other investments based, in full or in part, upon the information provided, we specifically advise that you independently verify the information contained within our records.

**Geographic Information Services 917-7676**  
**Planning Division 917-7550**



Figure 6-1 Albany Airport Approach District



### Projected Year 2000 Ldn (Day and Night Sound Level)



Projected Year 2000 Loudness Contours  
 Loudness Contour  
 Runway



Geographic Information Services 917-7676  
 Planning Division 917-7550

The City of Albany's information records, drawings, and other documents have been gathered over many decades, using differing standards for quality control, documentation, and verification. All the information we provide represents the current information we have in a readily available format. While the information we provide is generally believed to be accurate, occasionally the information proves to be incorrect, and thus we do not warrant its accuracy. Prior to making any property purchase or other investments based, in full or in part, upon the information provided, we specifically advise that you independently verify the information contained within our records.

Figure 6-2 Projected Year 2000 Ldn Contours

- 6.050 Other Interference Prohibited. Notwithstanding any other provisions of this ordinance, no use may be made of land or water within any zone established by this ordinance in such a manner as to create electrical interference with navigational signals or radio communication between the airport and aircraft, make it difficult for pilots to distinguish between airport lights and others, result in glare in the eyes of pilots using the airport, impair visibility in the vicinity of the airport, create bird strike hazards, or otherwise in any way endanger or interfere with the landing, takeoff, or maneuvering of aircraft intending to use the airport.
- 6.060 Noise Construction Standards. Within the designated airport noise contours indicated in Figure 6-2, the following regulations shall apply:
- (1) In the 55 to 60 Day-Night Sound Level (Ldn) area, a declaration of anticipated noise levels shall be attached to any land use application and recording of such declaration may be required for approval on each parcel within such area.
  - (2) Development of “noise sensitive property” (e.g. residentially zoned areas, group quarters used for sleeping, motels, hotels, schools, churches, hospitals, libraries) within the 55 to 60 Ldn area and above shall be subject to the provisions of Site Plan Review outlined in Article 8 and may be required to include additional sound buffering features within the development as a condition of approval.

## **FLOODPLAIN**

- 6.070 Purpose. It is the purpose of these regulations to promote the public health, safety and general welfare, and to minimize public and private losses due to flood conditions in specific areas.
- 6.071 Development to Which These Regulations Apply. “Development”, as defined in Article 22, includes, but is not limited to, residential and non-residential construction, manufactured housing, and land divisions. Excavation and fill (grading) is specifically excluded from the definition of development as used in this section. Grading is regulated by Albany Municipal Code Title 18. [Ord. 5265, 12/18/96]
- 6.080 Lands to Which These Regulations Apply. These regulations shall apply to all areas within the City of Albany that are subject to inundation from a 100-year flood. These areas are depicted on federal Flood Insurance Rate Maps (FIRMs) and Floodway Maps by the letter A, AE, or AO.

These areas have been identified by the Federal Emergency Management Agency (FEMA) in the Flood Insurance Study for Albany (July 7, 1999), for Benton County (August 5, 1986), and for Linn County (September 29, 1986). In addition, the City Council may adopt by resolution more current studies or boundary information approved by the Federal Emergency Management Agency (FEMA).

Precise floodplain district boundaries may be difficult to determine from the maps referred to above due to their large scale and lack of site specific studies. In such instances, the Director may apply FEMA base flood elevations to topographic maps or site surveys in order to determine actual boundaries. In the absence of FEMA base flood elevations, the Director shall reasonably utilize other sources of floodplain and floodway data to determine base flood elevations and boundaries. However, when elevation data is not available through FEMA or another authoritative source and the development consists of 4 or more lots, 4 or more structures, or 4 or more acres, the applicant shall generate and have certified by a registered engineer the base flood elevation. Any decision of the Director regarding a determination of a base flood elevation or interpretation of a district boundary may be appealed in accordance with Section 1.520 of this Code. [Ord. 5146, 9/14/94; Ord. 5410, 7/28/99]

- 6.081 Variances. Variances from the terms of this section shall be granted only, when because of special circumstances applicable to the property, including size, shape, topography, location or surroundings, the strict application of this section deprives such property of privileges enjoyed by other property in vicinity and under identical zoning classifications. There will be no variance given to the standards for development

in the floodway. Variances from the floodplain management regulations of this section shall be reviewed as a Type II procedure and shall be approved if the review body finds that all of the following criteria have been met:

- (1) The applicant can show good and sufficient cause; and
- (2) Failure to grant the variance would result in exceptional, non-financial hardship to the applicant; and
- (3) Issuance of the variance will not result in increased flood heights, additional threats to public safety, extraordinary public expense, create nuisances, cause fraud on or victimization of the public, or conflict with existing local laws or ordinances; and
- (4) The variance is the minimum necessary, considering the flood hazard, to afford relief; and

In addition, variances from the required lowest floor elevation may be granted if the review body find that the request meets the following criterion as well as those criteria listed above:

- (5) The parcel is one-half acre or less in size contiguous to and surrounded by lots with existing structures constructed below the base flood level.

Upon issuance of the variance, the Community Development Director will notify the applicant in writing that the issuance of a variance to construct a structure below the base flood level will result in increased premium rates for flood insurance, and such construction below the base flood level increases risks to life and property.

6.085 Definitions. As used in this code the following words and phrases shall have the following meanings:

Base Flood or 100-year Flood: The flood having a one percent chance of being equaled or exceeded in any given year. Map designation always includes the letter “A” (e.g. A, AE, AO).

Federal Emergency Management Agency (FEMA): The federal agency charged with implementing the National Flood Insurance Program. FEMA provides floodplain maps to the City of Albany.

Flood: A general and temporary condition of partial or complete inundation of normally dry land areas from:

- (a) the overflow of inland or tidal waters; and/or
- (b) the unusual and rapid accumulation of runoff of surface waters from any source.

Flood Fringe: Those areas outside the floodway but within the 100-year floodplain. Zone designations on Flood Insurance Rate Maps include A, AE, and AO. Note Floodway Relationships diagram Fig. 6-3.

Flood Insurance Rate Map (FIRM): The official map on which FEMA has delineated both the areas of special flood hazards and the insurance risk premium zones.

Floodplain: The combined area of the floodway and the flood fringe.

Floodproofing: Any combination of structural or nonstructural provisions, changes or adjustments to structures, land or waterway for the reduction or elimination of flood damage to real estate or improved real property, water and sanitary facilities, structures, and their contents during a 100-year flood.

**Floodway:** The channel of a river or other watercourse and the adjacent land areas that must be reserved in order to discharge the base flood without increasing the water surface elevation more than one foot. These areas are identified on the Floodway maps issued by FEMA. Note Floodway Relationships diagram in Figure 6-3.

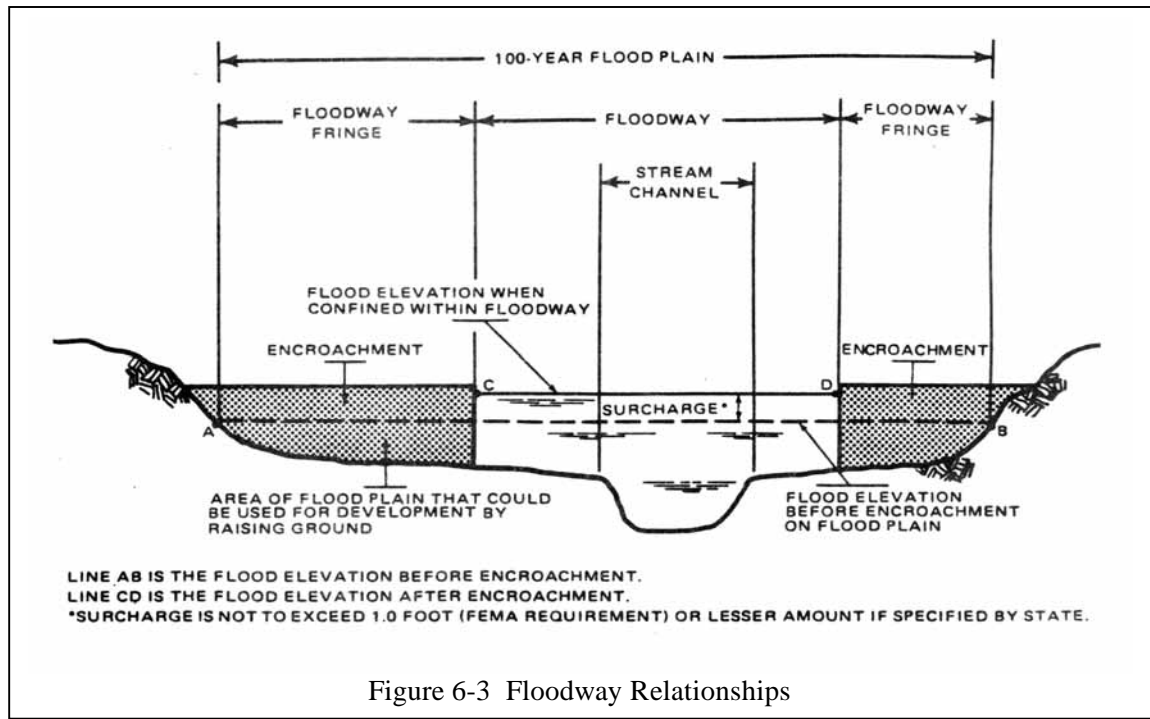


Figure 6-3 Floodway Relationships

**Lowest Floor:** The lowest floor of the lowest enclosed habitable area (including basement). An unfinished or flood-resistant enclosure, usable solely for parking vehicles, building access or storage, in any area other than a basement area, is not considered a building's lowest floor, provided that such enclosure is not built so as to render the structure in violation of the applicable design requirements of this ordinance found in Section 6.134(1).

**Permanent Foundation:** A natural or manufactured support system to which a structure is anchored or attached. A permanent foundation is capable of resisting flood forces and may include posts, piles, poured concrete or reinforced block walls, properly compacted fill, or other systems of comparable flood resistivity and strength.

**Special Flood Hazard Area:** Areas subject to inundation during the occurrence of the 100-year flood.

**Substantial Damage:** Damage of any origin sustained by a structure whereby the cost of restoring the structure to its before damaged condition would equal or exceed 50 percent of the market value or the structure before the damage occurred.

**Substantial Improvement:** For the purposes of this section, and notwithstanding the provisions for nonconforming use and development pursuant to section 2.300 through 2.400, any repair, reconstruction, or improvement of a structure, the cost of which equals or exceeds 50 percent of the market value of the structure before the start of construction of the improvement. This term includes structures which have incurred "substantial damage", regardless of the actual repair work performed. The term does not, however, include either:

- (a) Any project for improvement of a structure to correct existing violations of state or local health, sanitary, or safety code specifications which have been identified by the local code enforcement



- official and which are the minimum necessary to assure safe living conditions, or
- (b) Any alteration of a structure identified on the City's adopted Historic Inventory, provided that the alteration will not preclude the structure's continued designation as a historic structure.

Watercourse: Any natural or artificial stream, river, creek, ditch, channel, canal, conduit, culvert, drain, waterway, gully, ravine or wash in which water flows in a definite direction or course, either continuously or intermittently, and has a definite channel, bed and banks, and includes any area adjacent thereto subject to inundation by reason of overflow or flood water. This also includes any topographic feature not meeting the above definition which is identified in the Storm Water Drainage Master Plan for North Albany as needing preservation.

6.090 State and Federal Approval. City approval of any development within the floodplain is conditioned upon receipt of any required state or federal permits. Required state and federal permits include but are not limited to:

- (1) Permits and associated wetland development regulations administered by the Oregon Division of State Lands.
- (2) Permits administered by the U.S. Army Corps of Engineers.
- (3) All discharge permits covered by the U.S. Environmental Protection Agency and Oregon Department of Environmental Quality.

6.100 Floodway Restrictions. No development is allowed in any floodway except where the review body finds that the development will not result in any increase in flood levels during the occurrence of the 100-year flood. Such finding shall be based upon applicant-supplied evidence certified by a registered professional engineer and upon documentation that one of the following three criteria have been met:

- (1) The development does not involve the construction of permanent or habitable structures.
- (2) The development is a public or private park or recreational use or municipal utility use.
- (3) The development is a water-dependent structure such as a dock, pier, bridge, or floating marina.

If a floodway boundary is not designated on an official FEMA map available to the City, the floodway boundary can be estimated from available data. Proposed development along such estimated floodway boundary shall not result in an increase of the base flood level greater than one foot as certified by a registered professional engineer.

6.110 Alteration of the flood carrying capacity of a Watercourse prohibited. No development shall diminish the flood carrying capacity of a watercourse. Subject to the foregoing regulation, no person shall alter or relocate a watercourse, without having first provided 30-day prior written notice to the City, any adjacent community, and the Natural Hazards Mitigation Office of Department of Land Conservation and Development.

6.120 General Information Requirements. In addition to the information required in other sections of this code, the application for any development proposed in the floodplain district must include the following information:

- (1) Elevations of the original contours.
- (2) Final elevations of proposed fills and excavations.
- (3) Base flood (100-year flood) elevations of the site.

- (4) Location of any designated floodway and base flood boundary.
- (5) Location of any designated wetlands and/or wildlife habitat (if applicable).
- (6) Proposed elevation in relation to mean sea level of the lowest floor (including basement) of all structures (if applicable).
- (7) Description of the extent to which a watercourse will be altered or relocated as a result of proposed development (if applicable).
- (8) If floodproofing is required, the proposed description and elevation of floodproofing.

6.130 Land Division and Planned Development Standards. Land divisions and planned developments in the floodplain district shall be reviewed by the Planning Division as a part of the land use planning process. Notwithstanding other provisions of this code, all land division and planned development applications which propose actual development within a floodplain district shall be processed under the Type III process. An application to develop property which has floodplain on it, but where no development is proposed in that floodplain, will be processed as otherwise required in this Code. In the case of a land division, “no actual development” means the floodplain area has been excluded from the land division. This can be done by setting the property aside for some other purpose than later development. For example, as a public drainage right-of-way. In addition to the general review criteria for land divisions and planned developments in Article 11, applications which propose actual development within the floodplain district shall also be subject to the following standards: [Ord. 5338, 1/28/98]

- (1) All land division proposals shall be consistent with the need to minimize flood damage.
- (2) All land division proposals shall have public utilities and facilities such as sewer, gas, electrical, and water systems located and constructed to minimize flood damage.
- (3) All land division proposals shall have adequate drainage provided to reduce exposure to flood damage.
- (4) Any lot created for development purposes must have adequate area created outside of the floodway to maintain a buildable site area meeting the minimum requirements of this Code.
- (5) Any new public or private street providing access to a residential development shall have a roadway crown elevation not lower than one foot below the 100-year flood elevation.
- (6) All land divisions or planned developments in the floodplain district shall show the location of the 100-year flood contour line followed by the date the flood elevation was established. Where elevation data is not available, either through the Flood Insurance Study or from another authoritative source, and the development is four or more acres or results in four or more lots or structures, the elevation shall be determined and certified by a registered engineer. In addition, a statement located on or attached to the recorded map or plat shall read as follows: “Development of property within the 100-year floodplain as most currently established by the Federal Emergency Management Agency or City of Albany may be restricted and subject to special regulations by the City.” [Ord. 5338, 1/28/98]

6.131 Manufactured Home Parks. Manufactured home parks and manufactured home subdivisions proposed in the floodplain district shall be reviewed by the Planning Division. Notwithstanding other provisions of this code, all manufactured home park and subdivision applications which propose actual development within the floodplain district shall be processed under a Type III process. An application to develop property which has floodplain on it, but where no development is proposed in that floodplain, will be processed as otherwise required in this Code. In the case of a land division, “no actual development” means the floodplain area has been excluded from the land division. This can be done by setting the property aside for some other purpose than later development. For example, as a public drainage right-of-way. In addition to

the general review criteria applicable to manufactured home parks in Article 10, applications which propose actual development within the floodplain district shall include an evacuation plan indicating alternate vehicular access and escape routes. [Ord. 5338, 1/28/98]

6.133 Building Standards. Applications for building permits in the floodplain district shall be reviewed by the Building Official pursuant to locally adopted state building codes. In addition to building code criteria, all development in the floodplain district, except that exempted in Section 6.150 below, shall be subject to the following building standards:

- (1) The lowest floor, including basement, of any proposed structure (including manufactured homes and non-residential structures) shall be placed at least one (1) foot above the 100-year flood as determined by the latest Federal Insurance Study.
- (2) All new construction and substantial improvements shall be constructed with materials and utility equipment resistant to flood damage.
- (3) All new construction and substantial improvements shall be constructed using methods and practices that minimize flood damage.
- (4) Electrical, heating, ventilation, plumbing, and air conditioning equipment and other service facilities shall be designed and/or otherwise elevated or located so as to prevent water from entering or accumulating within the components during conditions of flooding.
- (5) All manufactured homes shall be on an adequately anchored, permanent foundation and be anchored to prevent flotation, collapse or lateral movement, and shall be installed using methods and practices that minimize flood damage. Anchoring methods may include, but are not limited to, the use of over-the-top or frame ties to ground anchors (reference FEMA's "Manufactured Home Installation in Flood Hazard Areas" guidebook for additional details).
- (6) All new construction and substantial improvements shall be anchored to prevent flotation, collapse, or lateral movement and shall be installed or constructed using materials, methods, and practices that minimize flood damage.
- (7) All new and replacement public water supply systems shall be designed to minimize or eliminate infiltration of flood waters into the system.
- (8) All new and replacement public sanitary sewer systems shall be designed to minimize or eliminate infiltration of flood waters into the system and discharges from the system into flood water. On site waste disposal systems shall be located to avoid impairment to them or contamination from them during flooding.
- (9) Property owners or developers shall file with the City a certificate whose format is acceptable to FEMA. This certificate must be approved by the Building Official, and prepared by a registered surveyor or professional engineer, architect or surveyor, and maintained for public inspection. The certificate must contain: 1) the actual elevation (in relation to mean sea level) of the lowest floor including basement of all new or substantially improved structures; 2) the elevation of any floodproofing; and 3) whether or not the structure contains a basement.
- (10) If floodproofing methods are required as per Section 6.140(2), the property owners or developers shall file with the City certification by a registered professional engineer or architect that the floodproofing methods meet or exceed FEMA standards. [Ord. 5146, 9/14/94; Ord. 5281, 3/26/97]

6.140 Flood Hazard Reduction Standards. All flood hazard reduction measures are required, as applicable, and must be certified as required in 6.133 (9) and (10) above to at least meet the following standards (these

standards do not apply to structures exempted in Section 6.150 below:

- (1) All structures, fully enclosed areas below the lowest floor and lower than 1 foot above the 100-flood level must meet or exceed the following minimum criteria:
  - (a) A minimum of two openings, having a total net area of not less than one square inch for every square foot of enclosed area subject to flooding, shall be provided.
  - (b) The bottom of all openings shall be no higher than one foot above grade.
  - (c) Openings may be equipped with screens, louvers, or other coverings or devices, provided that they permit the automatic entry and exit of floodwaters.
  
- (2) Non-habitable construction meeting the certification requirements of 6.133 (9) & (10) can have the lowest floor and attendant utility and sanitary facilities located lower than one foot above the 100-year flood elevation if:
  - (a) The structure is floodproofed so that areas lower than one (1) foot above the 100-year flood level are watertight with walls substantially impermeable to the passage of water.
  - (b) The structure has structural components capable of resisting hydrostatic and hydrodynamic loads and effects of buoyancy.
  - (c) The applicant is notified that flood insurance premiums will be based on rates that are one foot below the floodproofed level.
  - (d) The applicant files a certification by a registered professional engineer or architect that the design and methods of construction are in accordance with accepted standards of practice for meeting provisions of this subsection based on their development and/or review of the structural design, specifications and plans. Such certification shall be provided to the Building Official as set forth in 6.133(9). [Ord. 5146, 9/14/94; Ord. 5281, 3/26/97]

6.150 Accessory buildings in floodplain districts that represent a minimal investment are exempt from the standards of ADC 6.133 and 6.140. The following standards, and all other regulations that apply to development in floodplain areas apply to those buildings. The definition of “minimal investment” for the purposes of this section is a building which costs less than \$10,000 in labor and materials to construct. The value of a proposed building will be that value stated on the application for building permits.

- (1) Accessory structures shall not be used for human habitation.
- (2) Accessory structures shall be designed to have low flood damage potential.
- (3) Accessory structures shall be constructed and placed on the building site so as to offer the minimum resistance to the flow of floodwaters.
- (4) Accessory structures shall be firmly anchored to prevent flotation which may result in damage to other structures.
- (5) Service facilities such as electrical and heating equipment shall be elevated and floodproofed. [Ord. 5281, 3/26/97]

6.160 Warning and Disclaimer of Liability. The degree of flood protection required by this ordinance is considered reasonable for regulatory purposes and is based on scientific and engineering considerations. Larger floods can and will occur on rare occasions. Flood heights may be increased as a result of failure of manmade structures and/or natural causes. This ordinance does not imply that the land outside the area of special flood hazards or uses permitted within such areas will be free from flooding or flood damages. This ordinance does not create liability on the part of the City of Albany or any officer or employee thereof for any flood damages that result from reliance on this ordinance or any administrative decision lawfully made thereunder.

- 6.165 Storage of Material and Equipment. No storage of material or equipment is allowed within floodway areas, unless the storage can be approved upon determination that the following criteria have been satisfied:
- (1) Site Plan approval has been received.
  - (2) There is no storage or processing of material that is, in time of flooding, buoyant, flammable, toxic, explosive or otherwise could be injurious to human, animal, or plant life.
  - (3) The material or equipment is not subject to major damage by floods and is firmly anchored to prevent flotation or is readily removable from the area within the time available after flood warning.

### **HILLSIDE DEVELOPMENT**

- 6.170 Purpose. The Hillside Development district is intended to protect the terrain in areas where steep slopes exist.
- 6.180 Applicability. The Hillside Development standards apply to all areas that have an average slope of 12% or greater.
- 6.190 General. All development proposed within the Hillside Development overlay district is required to provide for the preservation and, if possible, enhancement of the site's natural features during all phases of the design and development process. This includes consideration of soils, vegetation, hydrology, wildlife habitat, views and visual orientation, both from the site and to the site, and unusual or unique natural features.
- 6.200 Revegetation Standards - Slopes Greater Than 20%. Exposed soil which is not under continuous construction must be revegetated with temporary or permanent vegetation so that the soil is not left exposed for more than 60 days in the period between October 1 and April 1. Within 6 months of issuance of a Certificate of Occupancy, vegetation must be reestablished. If irrigation is not provided, then the exposed soil must be planted with species which can survive without irrigation. Vegetative cover or any alternative cover (rock, masonry, etc.) must be maintained in perpetuity.
- 6.210 Density Standards. Areas with average slopes of greater than 25% prior to grading shall not be subdivided or partitioned further. However, open space, greenways and recreational trails may be developed in these areas. For those lots of record which have an average slope of 25% or greater, the maximum residential development shall be one dwelling unit per lot of record. Density transfers are permitted in order to utilize the more buildable portions of a site. When density is transferred from areas in excess of 25% slope, density shall be allowed at a rate of two dwelling units per acre. In slope areas of 12-25%, the minimum lot size shall be 15,000 sq. ft.
- 6.220 Grading, Cut and Fill Standards. All cut and fill slopes must not exceed a two (horizontal) to one (vertical) ratio. Slopes which are steeper (i.e. 1:1-1/2 or 1:1) may be conditionally approved by the Public Works Director upon certification, by a qualified soils engineer or geologist, that the slope will remain stable under foreseeable conditions. The certification must delineate any specific stabilization measures deemed necessary by the soils engineer or geologist. [Ord. 5265, 12/18/96]
- 6.230 Drainage. In all slope areas, impervious surface drainage from roofs, driveways, and parking areas must be directed to a City storm drain or other City-approved drainage system. Development activities must not block the flow of stormwater in natural drainageways without prior approval from the Public Works Director. [Ord. 5265, 12/18/96]
- 6.240 Street and Driveway Standards. Street grades shall generally be 12% or less. Grades on Arterial or

Collector streets must be no more than 6% and 10% respectively (see Section 12.210). Street grades of up to 15% may be permitted for a distance of no more than 200 feet. No intersections are permitted where street grades exceed 12%. Where practical, streets must be contoured to hillside areas in order to minimize environmental and scenic disruption. Driveways must have a grade of 15% or less, unless the Public Works Director approves a greater slope.

- 6.250 Reports Required. When one acre or more of the land to be developed exceeds 12% average slope, the Director may require reports to address possible hazards to life, property, and adverse impacts to the natural environment. These reports might relate to soils, geology, grading, and verification of slopes and grade percentages. These regulations do not apply to construction of a single family house.
- 6.260 Modification of Standards. If the Director determines that the applicant's plan adequately implements the policies of the Comprehensive Plan, the Director may modify the standards of this Code as they apply to the entire proposed development, within the following limitations:
- (1) Front, side and rear yards may be reduced to zero (when in conformance with the Fire and Building Safety Codes); provided, however, where attached dwellings are proposed there shall not be more than 5 dwelling units in any group.
  - (2) The reduction of public right-of-way, pavement width, and/or requirements for the installation of sidewalk as specified in Article 12, Public Improvements, may be made if provisions are made to provide off-street parking in addition to that required in other portions of this Code. Any reduction of these minimum street and sidewalk standards must be approved by the City Engineer. The additional parking requirements are as follows:
    - (a) Detached Dwelling Units: 2 additional off-street parking spaces.
    - (b) Attached Dwelling Units: One-half additional off-street parking space for each bedroom more than one in each unit. In cases where a one-half space occurs in a total figure, the standard shall be increased to the next whole figure.
  - (3) Height limitations may be removed, provided the additional height does not exceed 45 feet.

## WETLANDS

- 6.270 Purpose. The Wetland district is intended to ensure that wetland sites within the City, as defined on Plate 6 of the Comprehensive Plan, are developed with all due sensitivity for the vital role these areas play in the environment.
- 6.280 Applicability. The wetland area regulations apply to those areas meeting Division of State Lands criteria, identified as wetlands on the Comprehensive Plan wetlands map exhibit, and designated as Open Space in the Comprehensive Plan. Precise wetland boundaries may vary from that shown on the Comprehensive Plan Map exhibit if on-site inspection and other City approved documentation indicate more accurate boundaries. Those more precise boundaries can be identified, mapped, and used for review and development without a change in the Comprehensive Plan Wetlands Map exhibit. All developments proposed within a designated wetland area shall be subject to the provisions of Conditional Use Review and the wetland area regulations. If the development area is within the floodplain district, then the floodplain district regulations of 6.070 to 6.160 shall also apply.
- 6.290 Restrictions on Development Within Wetlands. No development shall result in the elimination of a wetland area, result in eventual elimination of wetland characteristics, or be located totally within a wetland area without acquiring permit approval from federal and state regulatory agencies and the City of Albany and, where necessary, amending the open space plan and zoning designation. Development may not infringe upon any designated wetland unless the review authority finds the following criteria have been met:

- (1) The development cannot be located outside the wetland area, or the wetland is proposed to be reconfigured such that the proposed total area is at least equal in size and quality to the wetland area existing prior to the proposed development. If the wetland area has not been substantially relocated, it is not necessary to remove the Open Space designation for such a modification.
- (2) The encroachment within the wetlands is the minimum required to complete the development.
- (3) Any encroachment or change in drainage which would adversely impact favorable wetland characteristics in the short- or long-term has been mitigated.
- (4) Development review is coordinated with the Division of State Lands and any other applicable agencies and other required permits have been obtained.
- (5) The applicable floodway or floodplain requirements of 6.070-6.160 have been met.
- (6) The open space, vegetation, and wildlife protection policies of the Comprehensive Plan have been addressed.

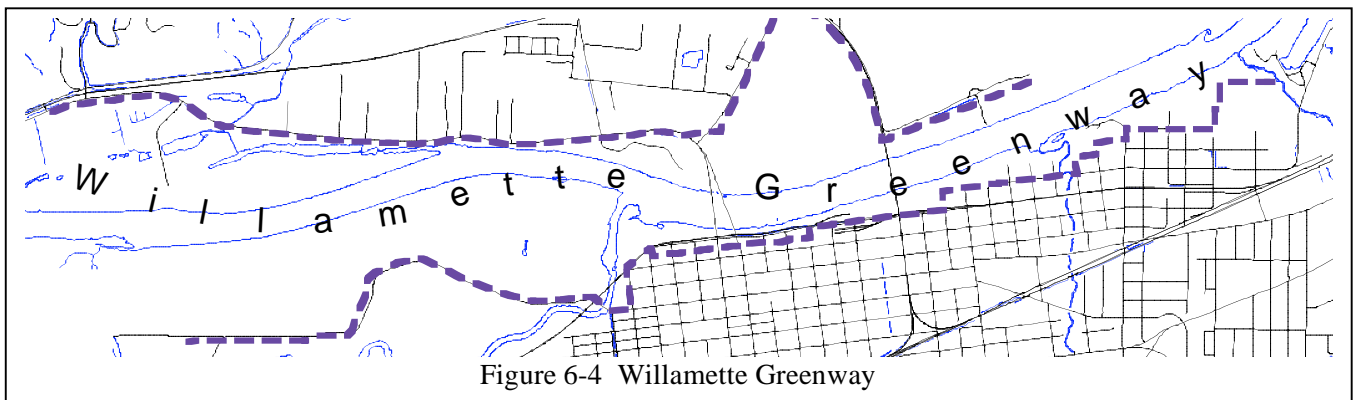
6.300 **Floodplain District and Wetlands Density Calculation.** Residential lands located in a Floodplain District or Wetland area shall not be used in calculating total project density except as follows:

- (1) Land which has been approved for development features (structures, roads, required yard areas, etc.) under the provisions of Section 6.130 or 6.290.
- (2) In Planned Developments, land in a flood fringe or wetland area shall be calculated at 50% of the allowed density provided that the additional units can be incorporated harmoniously into the Planned Development and without adverse impacts on adjoining projects and provided further that the floodplain lands and wetlands can be effectively utilized within the Planned Development or dedicated for public use under the provisions of 6.040.

## WILLAMETTE GREENWAY

6.310 **Purpose.** The Greenway district is intended to guide development along the Willamette River in a manner which preserves the existing scenic, use and natural features.

6.320 **Applicability.** The area of the city which is within the Willamette Greenway District is the area so designated by the boundary shown on Figure 6-4.



- 6.330 Procedure. Except for land use developments and uses exempted in Section 6.340 below, an application for development approval within the Willamette Greenway District will be approved under the Type II procedure. Approval of a Greenway Use application will be granted only if the proposal complies with all applicable sections of this Code. In the 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.
- 6.340 Greenway Use Permit Exceptions. The following developments and uses shall not be 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.
- 6.350 Criteria. An application for a Greenway Use development will be granted if the review body finds that the proposal conforms with the following applicable criteria:
- (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 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 are 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 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 4.190 and 5.200 of this Code.
- (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.

6.360 Conditions of Approval. The review body has the power to impose conditions, restriction, or limitations upon any use proposed in the Greenway District if such conditions, restrictions, or limitations are found to be necessary in order to satisfy the criteria of Section 6.350.

6.370 Special Notification. Notification regarding requests for Greenway Use Permits will be sent to the Oregon State Department of Transportation River Programs Section. Notification of the Oregon State Department of Transportation 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 Greenway use permit application will be mailed to the Department of Transportation River Programs Section within ten days of such decision.

## **CLUSTER DEVELOPMENT**

6.400 Purpose. Cluster Development is intended to allow development of properties while protecting community resources, including but not limited to: steep slopes, wetlands, stream corridors, scenic vistas, and parks and trails. Cluster development is intended to protect natural features, to provide linkage with adjacent parks, open space areas, and pathways, and to allow the development to be more compatible with the topography and/or physical limitations of the site. These provisions are not intended to infer public ownership or use. The cluster standards are also intended to promote flexibility in residential development without compromising the development potential of the underlying zoning district or changing the character of adjacent neighborhoods. Cluster developments should group residential units in one or more areas to reduce the amount of impervious surfaces and length of utility installations. [Ord. 5562, 10/10/03]

6.410 Eligibility. To be eligible for cluster development, the development site must be located in a residential zoning district and contain one or more of the following:

- (1) Lake;
- (2) Delineated wetland. The Oregon Division of State Lands must concur with the delineation;
- (3) Riparian area identified on the city's Riparian Inventory;
- (4) Existing channel identified on Figure 7.1 of the draft North Albany Storm Water Master Plan;
- (5) Slope greater than 25 percent;
- (6) Wooded area with five or more trees over 12 inches in diameter measured 4½ feet from the ground;
- (7) Spring; or
- (8) Land providing connectivity to parks, trails, inventoried natural features, or areas zoned or protected as permanent open space. [Ord. 5562, 10/10/03]

- 6.415 Optional Nature. Cluster development is an optional form of development. It is not mandatory. [Ord. 5562, 10/10/03]
- 6.420 Relationship to Other Regulations. If the site is eligible and the applicant chooses cluster development, these standards will supplement other provisions of this Code. For example, a subdivision proposed as a cluster development is also subject to the provisions of Article 11 of the Development Code. Other residential development is 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]
- 6.430 Procedure. Cluster development applications are reviewed as a Type III procedure. [Ord. 5562, 10/10/03]
- 6.440 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. Also, the review body must find that the application meets the following additional criterion:
- (1) The proposed plan meets the purpose of cluster development and the protection of permanent open space. [Ord. 5562, 10/10/03]
- 6.450 Open Space Requirements. Cluster developments must provide a minimum amount of permanent open space.
- (1) At least 20 percent of the site shall be designated as permanent open space, OR
  - (2) If the site contains land in the Open Space zoning district, the proposed development shall reserve all of the land within the Open Space zone or at least 20 percent of the site, whichever is greater, as permanent open space. [Ord. 5562, 10/10/03]
- 6.460 Designation of Permanent Open Space. Open space in a Cluster Development should be designated in the following priority order:
- (1) The first priority for open space designation is the protection of natural features, environmentally sensitive areas, and scenic features of the site. This priority is satisfied by any of the following:
    - Wetland identified on the city’s Local Wetland Inventory.
    - Riparian area identified on the city’s Riparian Inventory.
    - Existing channel identified on Figure 7.1 of the draft North Albany Storm Water Master Plan.
    - Slope greater than 25 percent.
    - Wooded area with five or more trees over 12 inches in diameter measured 4½ feet from the ground.
    - Spring.
    - Land providing connectivity to parks, trails, inventoried natural features, or areas zoned or protected as permanent open space.
  - (2) The second priority for open space designation is to create open spaces in and around neighborhoods. This priority is satisfied by any of the following:
    - Continuity of adjacent open space corridors or parkways.
    - A network of interconnected open space corridors.
    - A buffer between neighborhoods.
  - (3) The third priority for open space designation is to incorporate public parks, trails or open space designated in the Parks, Recreation and Open Space Plan and the North Albany Refinement Plan to

create private parks and trails that may be connected to public streets, parks, trails or open space.  
[Ord. 5562, 10/10/03]

6.470 Creation of Permanent Open Space.

- (1) Open space 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 of and to maintain the space.
- (2) Except for Subsection (1)(d) above, open space shall be 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. An easement shall 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 except for uses allowed in the Cluster Development provisions of the Development Code. [Ord. 5562, 10/10/03]

6.480 Protection of Permanent Open Space.

- (1) Except as necessary to meet transportation or utility infrastructure requirements, the development shall avoid encroachment into significant wetlands and riparian corridors.
- (2) For other natural features, permanent alteration by grading or placement of structures or impervious surfaces may be authorized upon demonstration that equal or better protection for natural resources found on site or in the same basin will be ensured through restoration or enhancement or similar measures. In no case shall such alterations encroach more than is necessary to accommodate the use.
- (3) Significant wetlands, riparian corridors, and intermittent streams preserved as open space in a cluster development may be used for conveyance of storm waters but shall 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 open space in a cluster development cannot be further subdivided.
- (5) Fences are permitted in and around the open space if consistent with the expressed purpose of the open space.
- (6) Provisions must be established to ensure the continued maintenance of any common areas. [Ord. 5562, 10/10/03]

6.490 Development Standards. In a Cluster Development, the following development standards supercede the same standards in Section 3.190, Table 1. The number of allowable lots is based on the density range for the zone as specified in the following table.

<b>Standard</b>	<b>RS-10</b>	<b>RS-6.5</b>	<b>RS-5</b>	<b>RM-5</b>
Max. dwelling units per gross acre	4	8	10	20
Minimum Lot size:	None	None	None	None
Minimum Lot Width	None	None	None	None
Minimum Lot Depth	None	None	None	None
Minimum front house setback (1)	15 ft.	10 ft.	10 ft.	10 ft.
Maximum Lot Coverage (2)	70%	70%	70%	70%

(1) Except, when lots are adjacent to existing development on the same side of the street, the setback shall be within 5 feet of the adjacent house(s) setback(s).

(2) Except, when building envelopes are used, the maximum lot coverage may be up to 100%.

[Ord. 5562, 10/10/03]

6.500 Permitted Uses. The uses allowed within Cluster Developments outside the permanent open space are determined by the underlying zoning district standards in Section 3.050, with the following exceptions:

- (1) On development sites greater than 20 acres, up to 20 percent of the housing units in RS-6.5 and RS-10 may be attached single-family or condominium-style housing.
- (2) On development sites greater than 50 acres, up to 2 acres may be developed with neighborhood commercial uses through a conditional use review. The maximum building footprint of commercial or office uses shall be 3,000 square feet. Commercial and office uses shall be limited to restaurants with no drive-through service and convenience-oriented uses as described in Article 22. [Ord. 5562, 10/10/03]

6.510 Street Standards for Cluster Development. All local streets in a cluster development may be constructed to the Residential Street Design for Constrained Sites as described in Section 12.122(6). If the City subsequently adopts street standards specifically designated for cluster development, those standards shall supersede and replace this section. [Ord. 5562, 10/10/03]

## **ARTICLE 7**

### **HISTORIC OVERLAY DISTRICT**

7.000 Overview. The regulations of the Historic Overlay District supplement the regulations of the underlying zoning district. The historic overlay district provides a means for the City to formally recognize and protect its historic and architectural resources. Recognition of historical landmarks helps preserve a part of the heritage of the City. When the regulations and permitted uses of a zoning district conflict with those of the historic overlay district, the more restrictive standards apply.

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

- Designation, Re-Rating or Removal of Historic Landmarks and Districts
- Historic Review of Exterior Alterations
- Historic Review of Substitute Materials
- Historic Review of New Construction
- Historic Review of Demolitions or Relocations [Ord. 5463, 9/13/00]

7.010 Applicability. This article is applied:

- (1) To properties in the Downtown, Hackleman, Monteith or Albany Municipal Airport National Register Historic Districts as identified in Figure 7-1 and 7-2.
- (2) To all other structures and sites that appear on the City's adopted Local Historic Inventory, including individually designated National Register Historic Landmarks. [Ord. 5463, 9/13/00]

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

Demolition: The intentional destruction of all or part of a building or structure.

Exterior Alteration: Any physical changes to the exterior of an existing structure; generally excludes maintenance work such as painting and repairs.

Historic Contributing: A building or structure originally constructed before 1946 that retains and exhibits sufficient integrity (materials, design, and setting) to convey a sense of history. These properties strengthen the historic character of the district. [Ord. 5488, 7/11/01]

Historic Integrity: A measure of authenticity of a property's historic identity, evidenced by the survival of physical characteristics that existed during the property's historic or prehistoric period in comparison with its unaltered state; for example, a historic building of high integrity has few alterations or ones that can be easily reversed.

Historic Non-contributing: A building or structure originally constructed before 1946 that retains but does not exhibit sufficient historic features to convey a sense of history. These properties do not strengthen the historic character of the district in their current condition. [Ord. 5488, 7/11/01]

Landmark: All designated historic buildings or structures on the Local Historic Inventory are considered landmarks. A landmark is either a historic contributing building, site, structure or object within a historic district, is listed individually on the National Register of Historic Places, or is on the Local Historic Inventory but located outside a historic district.

Landmarks Advisory Commission: The Mayor appoints the Commission to make advisory recommendations about historic districts, conservation districts, buildings and sites. The Commission

has the authority to recommend rules and regulations for adoption; compile and maintain a list of all historic buildings, sites and objects; conduct an educational program on historic properties within its jurisdiction; make recommendations about the designation of particular historic buildings and sites; and recommend removal from any list of designated historic buildings and sites any property it finds no longer worthy of such designation. [Ord. 5488, 7/11/01]

Local Historic Inventory: A list of historic properties that have been determined significant by the Landmarks Advisory Commission and City Council for either their architecture or history based on the criteria of the National Register. It includes properties located within the listed National Register historic districts and buildings, sites, structures, objects and districts located outside of the listed National Register Districts.

National Register of Historic Places: The nation's official list of districts, sites, buildings, structures, and objects significant in American history, architecture, archeology, and culture. In Albany, this includes all properties within the National Register Historic District boundaries and properties listed individually outside of designated historic districts.

Non-contributing: A building or structure that was originally constructed after 1945, outside the period of significance. [Ord. 5488, 7/11/01]

Period of Significance: The span of time when a property or district attained its significance that meets the National Register criteria.

State Historic Preservation Office: Each State has a designated State Historic Preservation Office (SHPO) to help the Federal government administer provisions of the National Historic Preservation Act. The SHPO is aided by a professional staff and review board.

Substitute Materials: Materials made from different sources than the original materials. For example: If wood were the original material for siding, window or trim, material other than wood would be a substitute material. (Examples of substitute materials are plastic; vinyl; aluminum, and concrete.) [Ord. 5463, 9/13/00]

## **DESIGNATION, RE-RATING OR REMOVAL OF HISTORIC LANDMARKS AND DISTRICTS**

- 7.030 Purpose. The designation of historic landmarks allows the City to formally recognize, rate and protect its historic and architectural resources. Properties listed on the National Register of Historic Places are eligible for automatic listing on the Local Historic Inventory. The Local Historic Inventory identifies buildings, sites, structures, objects and districts of historical importance or architectural significance that are considered exemplary of their time and style. The regulation of designated and rated historic landmarks provides a means to review proposed changes and encourage the preservation of historical or architectural values. Periodically it may be necessary to re-rate or remove the designation of a historic landmark to reflect changing conditions, community values or needs. [Ord. 5463, 9/13/00]
- 7.035 Initiation. The process for designating or removing a landmark or historic district may be initiated by the City Council, the Landmarks Advisory Commission, or by any other interested person. Initiations by the Landmarks Advisory Commission are made without prejudice towards the outcome. At the time of initiation, the Community Development Director shall provide the property owner and applicant with information regarding the benefits and obligations of designation. No historic resource shall be designated as a landmark without the written consent of the owner, or in the case of multiple ownership, a majority of the owners. Removal of properties from the National Register of Historic Places requires review and approval by the State Historic Preservation Office and State Advisory Committee. [Ord. 5463, 9/13/00]

7.040 Procedure.

- (1) **Designation.** Requests for designations of historic landmarks and districts are reviewed through the Type IV legislative or quasi-judicial procedure. The process is legislative when it affects a large number of persons or properties. The Landmarks Advisory Commission replaces the Planning Commission as the initial review body. The City Council makes the final determination of historic designation.
- (2) **Amendment to Existing Historic Districts.** Changes or additions to the period of significance statement, property rating structure, or boundaries of an existing historic district shall be reviewed under the Type IV legislative process. The Landmarks Advisory Commission replaces the Planning Commission as the initial review body. The City Council reviews and adopts any amendments to the historic districts.
- (3) **Local Historic Inventory Removal.** Only landmarks outside the National Register Historic Districts that are not listed on the National Register of Historic Places individually are eligible for removal from the Local Historic Inventory. The Director may delete any demolished or removed historic structure outside the historic districts from the Local Historic Inventory through the Type I procedure. In the event a National Register building or structure is demolished or moved, an application shall be made to the State Historic Preservation Office to remove and/or redesignate the property from the National Register.
- (4) **Individual Property Re-Rating.** The Landmarks Advisory Commission shall review requests for re-rating of individual properties. [Ord. 5463, 9/13/00]

7.050 Application Contents. An application for designation of a landmark must include the following information:

- (1) A written description of the boundaries of the proposed district or the location of the proposed landmark or property to be evaluated.
- (2) A map illustrating the boundaries of the proposed district or the location of the proposed landmark or the property to be evaluated.
- (3) A statement explaining the following:
  - (a) The reason(s) why the proposed district, landmark or property should be designated.
  - (b) The reason(s) why the proposed boundaries of the proposed district are appropriate for designation.
  - (c) The potential impact, if any, that designation of the proposed district or landmark would have on the owners, surrounding residents or other property owners in the area.

7.060 Submission of Application. Applications must be submitted at least 35 days in advance of the next regularly scheduled public meeting of the Landmarks Advisory Commission unless waived by the Director when legal notice can otherwise be achieved. All documents or evidence relied upon by the applicant shall be submitted to the Planning Division and made available to the public at least 20 days prior to the public hearing (10 days before the first evidentiary hearing if two or more evidentiary hearings are required). If additional documents, evidence or written materials are provided in support of a quasi-judicial application less than 20 days (10 days before the first evidentiary hearing if two or more evidentiary hearings are required) prior to the public hearing, any party shall be entitled to a continuance of the hearing. Such a continuance shall not be subject to the limitations of ORS 227.178.

7.070 Designation Review Criteria. In addition to being at least fifty years of age, the review bodies must find that one of the following criteria has been met in order to approve a proposed landmark or district:

- (1) The proposed landmark or district has historic significance because:
  - (a) There is an association with the life or activities of a person, group, organization, or institution that has made a significant contribution to the city, county, state, or nation;
  - (b) There is an association with an event that has made a significant contribution to the city, county, state, or nation;
  - (c) There is an association with broad patterns of political, economic, or industrial history in the city, county, state, or nation;
  - (d) Existing land use surrounding the resource contributes to the integrity of the historic period represented; or
  - (e) The resource contributes to the continuity or historic character of the street, neighborhood, and/or community.
  
- (2) The proposed landmark or district has architectural significance because:
  - (a) It is an example of a particular architectural style, building type and/or convention;
  - (b) It has a high quality of composition, detailing and/or craftsmanship;
  - (c) It is an example of a particular material and/or method of construction;
  - (d) The resource retains its original design features, materials and/or character;
  - (e) It is the only remaining, or one of a few remaining resources of a particular style, building type, design, material, or method of construction; or
  - (f) It is a visual landmark.
  
- (3) The proposed landmark or district is listed on the National Register of Historic Places. [Ord. 5463, 9/13/00]

7.080 Re-Rating or Removal Review Criteria. The review body must find that one of the following criteria is met in order to approve a re-rating or remove a landmark from the Local Historic Inventory:

- (1) The inventory was in error.
- (2) Additional research has uncovered an association with a person, group, organization, institution or events that have made a significant contribution to the city, county, state or nation or additional research has been compiled regarding the architectural significance of a structure or style.
- (3) Alterations to the structure have caused it to more closely approximate the historical character, appearance, or material composition of the original structure.
- (4) Alterations to the structure have removed distinguishing features or otherwise altered the exterior such that the existing rating is no longer justified.
- (5) The reasons for designating the historic landmark no longer apply. [Ord. 5463, 9/13/00]

7.090 Decision. All decisions, whether to approve or deny the request, must specify the basis for the decision. [Ord. 5463, 9/13/00]



## HISTORIC REVIEW OF EXTERIOR ALTERATIONS GENERALLY

- 7.100 Purpose. The purpose of reviewing alterations to historic landmarks is to encourage the preservation of characteristics that led to their designation as historic landmarks. Review is required for exterior alterations or additions to buildings or structures classified as historic contributing and historic non-contributing within the historic districts, and to landmarks outside the districts. [Ord. 5463, 9/13/00]
- 7.110 Exemptions from Review. Historic review is not required for buildings or structures originally constructed after 1945 or for changes to paint color to any home or structure. [Ord. 5463, 9/13/00, Ord. 5488, 7/11/01]
- 7.120 Procedure. A request for an exterior alteration is reviewed and processed by either the Community Development Director or the Landmarks Advisory Commission. The Landmarks Advisory Commission replaces the Hearings Board or Planning Commission as the review body.

Any exterior or interior alteration to buildings participating in Oregon's Special Assessment of Historic Property Program will also require review and approval by the State Historic Preservation Office.

- (1) The Director will approve residential alteration requests if one of the following criteria is met:
- (a) There is no change in historic character, appearance or material composition from the existing structure.
  - (b) The proposed alteration materially duplicates the affected exterior building features as determined from an early photograph, original building plans, or other evidence of original building features.
  - (c) The proposed alteration is not visible from the street.
- (2) For all other requests, the Landmarks Advisory Commission will review and process the alteration proposal. The applicant and adjoining property owners within 100 feet will receive notification of the Landmarks Advisory Commission public hearing on the proposal. The Commission will accept written and verbal testimony on the proposal. For buildings on the Special Assessment of Historic Property Program, the Landmarks Advisory Commission decision will be forwarded to the State Historic Preservation Office. [Ord. 5463, 9/13/00]

- 7.130 Relationship to Other Land Use Reviews. Projects that require historic review may also require other land use reviews. If other reviews are required, the review procedures may be handled concurrently. [Ord. 5463, 9/13/00]
- 7.140 Application Contents. Every application for an exterior alteration approval shall include information (e.g. drawings, photographs) which clearly shows the intended alteration and resulting appearance change of the structure. [Ord. 5463, 9/13/00]
- 7.150 Exterior Alteration Review Criteria. For applications other than for the use of substitute materials, the review body must find that one of the following criteria has been met in order to approve an alteration request: [Ord. 5488, 7/11/01]
- (1) The proposed alteration will cause the structure to more closely approximate the historical character, appearance or material composition of the original structure than the existing structure, or
  - (2) The proposed alteration is compatible with the historic characteristics of the area and with the existing structure in massing, size, scale, materials and architectural features.

The review criteria for the use of substitute siding, windows and trim shall be as found in ADC 7.170-7.225. [Ord. 5488, 7/11/01]

The review body will use the Secretary of the Interior's Standards of Rehabilitation (listed below) as guidelines in determining whether the proposed alteration meets the review criteria. [Ord. 5463, 9/13/00]

7.160 The Secretary of the Interior's Standards for Rehabilitation. The following standards are to be applied to rehabilitation projects in a reasonable manner, taking into consideration economic and technical feasibility.

- (1) A property shall be used for its historic purpose or be placed in a new use that requires minimal change to the defining characteristics of the building and its site and environment.
- (2) The historic character of a property shall be retained and preserved. The removal of historic material or alteration of features and spaces that characterize a property shall be avoided.
- (3) Each property shall be recognized as a physical record of its time, place, and use. Changes that create a false sense of historical development, such as adding conjectural features or architectural elements from other buildings, shall not be undertaken.
- (4) Most properties change over time; those changes that have acquired historic significance in their own right shall be retained and preserved.
- (5) Distinctive features, finishes, and construction techniques or examples of craftsmanship that characterize a historic property shall be preserved.
- (6) Deteriorated historic features shall be repaired rather than replaced. Where the severity of deterioration requires replacement of a distinctive feature, the new feature shall match the old in design, color, texture, and other visual qualities and, where possible, materials. Replacement of missing features shall be substantiated by documentary, physical, or pictorial evidence.
- (7) Chemical or physical treatments, such as sandblasting, that cause damage to historic material shall not be used. The surface cleaning of structures, if appropriate, shall be undertaken using the gentlest means possible.
- (8) Significant archeological resources affected by a project shall be protected and preserved. If such resources must be disturbed, mitigation measures shall be undertaken.
- (9) New additions, exterior alterations, or related new construction shall not destroy historic materials that characterize the property. The new work shall be differentiated from the old and shall be compatible with the massing, size, scale, and architectural features to protect the historic integrity of the property and its environment.
- (10) New additions and adjacent or related new construction shall be undertaken in such a manner that if removed in the future, the essential form and integrity of the historic property and its environment would be unimpaired. [Ord. 5463, 9/13/00]

7.165 Decisions/Appeals. All decisions must specify the basis for the decision. Landmarks Advisory Commission decisions may be appealed to the Albany City Council. Decisions of the Community Development Director may be appealed to the Landmarks Advisory Commission. [Ord. 5463, 9/13/00, Ord. 5488, 7/11/01]

## HISTORIC REVIEW OF SUBSTITUTE MATERIALS USED FOR SIDING, WINDOWS & TRIM

- 7.170 Purpose. The purpose of reviewing the use of substitute materials is to encourage the preservation of characteristics and materials of the historic architectural style. Review is required for the application of substitute materials for siding, windows and trim on buildings or structures originally constructed before 1946 and on the Local Historic Inventory. If these sections (7.170-7.225) conflict with other provisions of the Code relative to substitute materials to be used for siding, windows and trim, this section will control. [Ord. 5463, 9/13/00, Ord. 5488, 7/11/01]]
- 7.180 Procedure. Review of a request for the use of substitute materials is reviewed and processed by the Landmarks Advisory Commission. The Landmarks Advisory Commission replaces the Hearings Board or Planning Commission as the review body.
- The applicant and adjoining property owners within 100 feet will receive notification of the Landmarks Advisory Commission meeting on the proposal. The Commission shall accept written and verbal testimony on the proposal.
- The use of substitute materials on buildings participating in Oregon's Special Assessment of Historic Property Program will also require review and approval by the State Historic Preservation Office. The Landmarks Advisory Commission decision will be forwarded to the State Historic Preservation Office. [Ord. 5463, 9/13/00]
- 7.185 Relationship to Other Land Use Reviews. Projects that require an historic review may also require other land use reviews. If other reviews are required, the review procedures may be handled concurrently. [Ord. 5463, 9/13/00]
- 7.190 Application Contents. Applications for the use of substitute materials for historic contributing and historic non-contributing structures and for Landmarks must include information (e.g. photographs) that clearly shows the current condition of the area intended to be altered. The types of substitute materials and proposed dimensions must be described. The application must also include the proposed methods of application of substitute materials and preservation of the original materials and architectural elements. The City may require a pest and dry rot inspection if necessary, and a report made and prepared by an entity whose primary business is pest and dry rot inspection or repair. The report must assess the condition of the structure. [Ord. 5463, 9/13/00, Ord. 5488, 7/11/01]]
- 7.200 Eligibility for the Use of Substitute Materials. The City of Albany interprets the Secretary of Interior's Standards for Rehabilitation on compatibility to allow substitute siding and windows only under the following conditions:
- (1) The building or structure is rated historic non-contributing OR, in the case of historic contributing buildings or structures, the existing siding, windows or trim is so deteriorated or damaged that it cannot be repaired and finding materials that would match the original siding, windows or trim is cost prohibitive. [Ord 5488, 7/11/01]
- Any application for the use of substitute siding, windows and/or trim will be decided on a case-by-case basis. The prior existence of substitute siding and/or trim on the historic buildings on the Local Historic Inventory will not be considered a factor in determining any application for further use of said materials. [Ord. 5463, 9/13/00]
- 7.210 Design and Application Criteria for Substitute Materials. For buildings or structures rated historic contributing or historic non-contributing, the application for the use of substitute materials on siding,

windows or trim must follow these guidelines:

- (1) The proposed substitute materials must approximate in placement, profile, size, proportion, and general appearance the existing siding, windows or trim.
- (2) Substitute siding, windows and trim must be installed in a manner that maximizes the ability of a future property owner to remove the substitute materials and restore the structure to its original condition using traditional materials.
- (3) The proposed material must be finished in a color appropriate to the age and style of the house, and the character of both the streetscape and the overall district. The proposed siding or trim must not be grained to resemble wood.
- (4) The proposed siding, siding, windows or trim must not damage, destroy, or otherwise affect decorative or character-defining features of the building. Unusual examples of historic siding, windows and/or trim may not be covered or replaced with substitute materials.
- (5) The covering of existing historic wood window or door trim with substitute trim will not be allowed if the historic trim can be reasonably repaired. Repairs may be made with fiberglass or epoxy materials to bring the surface to the original profile, which can then be finished, like the original material.
- (6) Substitute siding or trim may not be applied over historic brick, stone, stucco, or other masonry surfaces;

For the application of substitute siding and trim only:

- (7) The supporting framing that may be rotted or otherwise found unfit for continued support shall be replaced in kind with new material.
- (8) The interior surface of the exterior wall shall receive a vapor barrier to prevent vapor transmission from the interior spaces.
- (9) Walls to receive the proposed siding shall be insulated and ventilated from the exterior to eliminate any interior condensation that may occur.
- (10) Sheathing of an adequate nature shall be applied to support the proposed siding material with the determination of adequacy to be at the discretion of the planning staff.
- (11) The proposed siding shall be placed in the same direction as the historic siding.
- (12) The new trim shall be applied so as to discourage moisture infiltration and deterioration.
- (13) The distance between the new trim and the new siding shall match the distance between the historic trim and the historic siding.
- (14) A good faith effort shall be made to sell or donate any remaining historic material for architectural salvage to an appropriate business or non-profit organization that has an interest in historic building materials. [Ord. 5463, 9/13/00, Ord. 5488, 7/11/01]

7.220 Conditions of Approval. In approving an alteration request, the Landmarks Advisory Commission may attach conditions that are appropriate for the promotion and/or preservation of the historic or architectural integrity of the district, building or site. All conditions must relate to a review criterion. [Ord. 5463, 9/13/00]

7.225 Decisions/Appeals. All decisions shall specify the basis for the decision. Landmarks Advisory Commission decisions may be appealed to the Albany City Council. Decisions of the Community Development Director may be appealed to the Landmarks Advisory Commission. [Ord. 5463, 9/13/00, Ord. 5488, 7/11/01]

### **HISTORIC REVIEW OF NEW CONSTRUCTION**

7.230 Purpose. The purpose of reviewing the exterior design of new construction within an historic district is to ensure that new structures over 100 square feet are compatible with the character of that district.

7.240 Procedure. The Community Development Director will review and decide on applications for new construction. At the Director's discretion, an application may be referred to the Landmarks Advisory Commission for a decision.

New construction (additions) to buildings participating in Oregon's Special Assessment of Historic Property Program will also require review and approval by the State Historic Preservation Office.

(1) For all requests, the applicant and adjoining property owners within 100 feet will receive notification during the 14-day comment period before the City decision. [Ord. 5463, 9/13/00, Ord. 5488, 7/11/01]

7.250 Relationship to Other Planning Reviews. Projects which require a historic review may also require other land use reviews. If other reviews are required, the review procedures may be handled concurrently.

7.260 Application Contents. Any application for new construction design approval must include the following information:

(1) A site plan showing the location of the structure on the site, setbacks, building dimensions, the location of driveways and landscape areas, and the general location of structures on adjacent lots.

(2) Elevations sufficient in detail to show the general scale, bulk building materials, and architectural elements of the structure. [Ord. 5463, 9/13/00]

7.270 New Construction Review Criteria. The Community Development Director or the Landmarks Advisory Commission must find that the request meets the following applicable criteria in order to approve the new construction request:

(1) Within the Monteith and Hackleman Districts:

(a) The development maintains any unifying development patterns such as sidewalk and street tree location, setbacks, building coverage, and orientation to the street.

(b) The structure is of similar size and scale of surrounding buildings, and as much as possible reflects the craftsmanship of those buildings.

(c) Building materials are reflective of and complementary to existing buildings within the district.

(2) Within the Downtown District:

(a) The development maintains the horizontal elements of adjacent buildings. (These horizontal elements can include an alignment of window frames, roof lines, facades and clear distinction between first floors and upper floors.)

- (b) The development maintains other historic patterns, such as the horizontal/vertical pattern of upper story windows and the pattern of entrances along the street.
- (c) Building materials are reflective of and complementary to existing historic buildings within the district.
- (d) Lot coverage, setbacks, and building orientation to the street are consistent with the surrounding development patterns.
- (e) The development maintains the pedestrian scale and orientation of the downtown district. [Ord. 5463, 9/13/00]

7.280 Decisions/Appeals. All decisions shall specify the basis for the decision. Landmarks Advisory Commission decisions may be appealed to the Albany City Council. Decisions of the Community Development Director may be appealed to the Landmarks Advisory Commission. [Ord. 5488, 7/11/01]

## **HISTORIC REVIEW OF DEMOLITIONS OR RELOCATIONS**

7.300 Purpose. The purpose of reviewing demolition/relocation requests involving a historic landmark is to explore all possible alternatives for preservation. Demolition of historic landmarks is an extreme and final measure. [Ord. 5463, 9/13/00]

7.310 Procedure. Demolition/Moving permits will be processed in accordance with the following:

- (1) The Building Official shall issue a permit for relocation or demolition if any of the following conditions exist:
  - (a) The building or structure is designated non-contributing within an historic district,
  - (b) The building or structure has been damaged in excess of 70% of its previous value in a fire, flood, wind, or other Act of God, or vandalism.
- (2) Those requests not meeting Building Official approval conditions shall be reviewed by the Landmarks Advisory Commission. The application shall be submitted at least 35 days in advance of the next regularly scheduled public hearing/meeting of the Landmarks Advisory, unless waived by the Director when adequate notice can otherwise be achieved. [Ord. 5463, 9/13/00]

7.320 Application Contents. An application for the demolition or relocation of a rated structure must contain the following information:

- (1) A description of the previous and existing uses of the structure and the intended future use of the property.
- (2) A drawing showing the location of the building on the property and any other buildings on the property.
- (3) The overall height of the building and the general type of construction.
- (4) A written statement addressing the review criteria and providing findings of fact in support of the request. [Ord. 5463, 9/13/00]

7.330 Review Criteria. The Landmarks Advisory Commission must find that the demolition or relocation request meets the following applicable criteria:

- (1) No prudent or feasible alternative exists, or
- (2) The building or structure is deteriorated beyond repair and cannot be economically rehabilitated on

the site to provide a reasonable income or residential environment compared to other structures in the general area, or

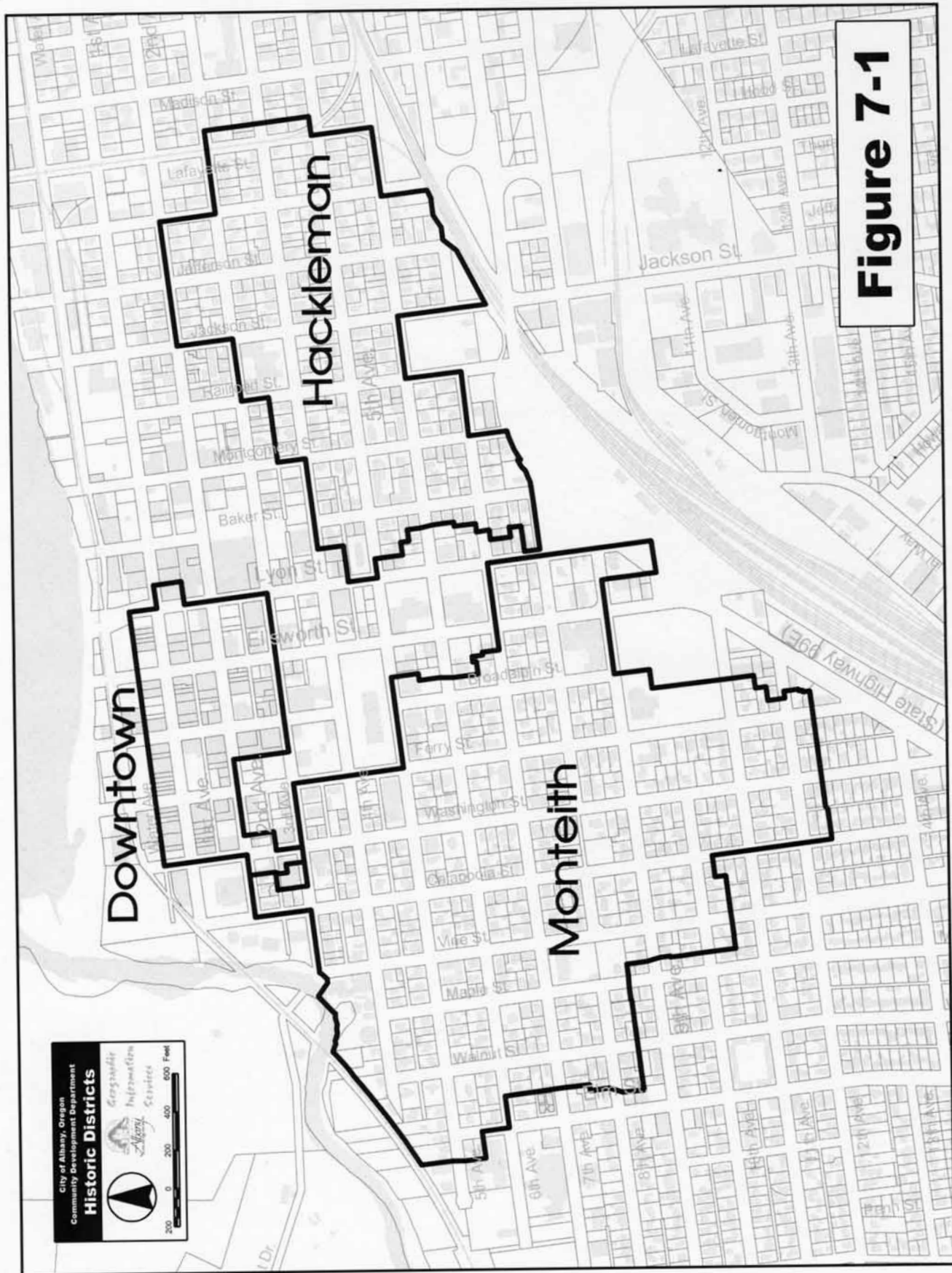
- (2) There is a demonstrated public need for the new use that outweighs any public benefit that might be gained by preserving the subject buildings on the site.
- (3) The proposed development, if any, is compatible with the surrounding area considering such factors as location, use, bulk, landscaping, and exterior design.
- (4) If the building or structure is proposed to be moved, moving to a site within the same historic district is preferred to moving it outside the district. [Ord. 5463, 9/13/00]

7.340 In approving an application for the demolition of a Landmark on the Local Historic Inventory, the Commission may impose the following conditions:

- (1) Photographic, video or drawn recordation of the property to be demolished be submitted to the City, and/or
- (2) Salvage and curation of significant elements, and/or
- (3) Other reasonable mitigation measures. [Ord. 5463, 9/13/00]

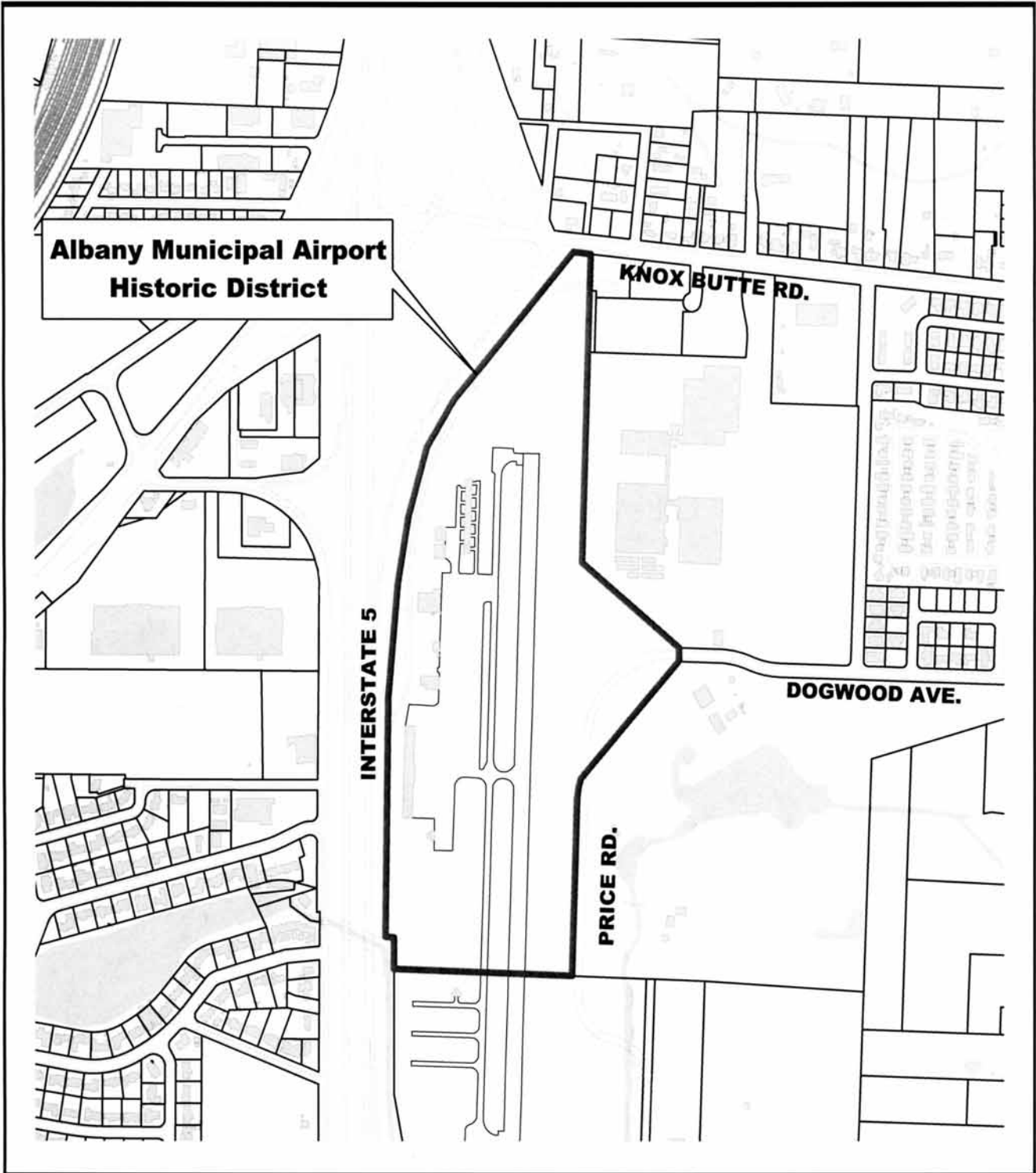
7.350 No provision in this ordinance shall be construed to prevent the alteration, demolition, or relocation of all or part of a Landmark on the Local Historic Inventory if the Building Official certifies that such action is required for public safety. [Ord. 5463, 9/13/00]

7.360 Decisions/Appeals. Following a public hearing, the Landmarks Advisory Commission may either approve the request or invoke a stay to the demolition. During the stay, the Landmarks Advisory Commission will notify the owner of potential rehabilitation programs and benefits and encourage public or private acquisition and restoration of the landmark. The length of the stay will be no more than 365 days from the date a complete application was received by the City. All decisions to approve, approve with conditions, or stay shall specify the basis for the decision. Decisions of the Landmarks Advisory Commission can be appealed to the City Council. [Ord. 5463, 9/13/00]



**Figure 7-1**





**Albany Municipal Airport  
National Register of Historic Places**

**Figure 7-2**



**Community Development Department  
City of Albany, Oregon**



The City of Albany's infrastructure records, drawings, and other documents have been gathered over many decades, using differing standards for quality control, documentation, and verification. All the information provided represents current information in a readily available format. While the information provided is generally believed to be accurate, occasionally the information proves to be incorrect, and thus its accuracy is not warranted. Prior to making any property purchases or other investments based in full or in part upon the information provided, it is specifically advised that you independently field verify the information contained within our records.



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May 1, 2000

## **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 ensure that high quality development is maintained throughout Albany.

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

- Single-Family Homes
- Multiple Family Homes
- Commercial Site Design
- Telecommunications Facilities

[Ord. 5445, 4/12/00]

### **SINGLE-FAMILY HOMES**

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

8.110 Applicability. These standards apply to all new houses, manufactured homes, duplexes, and attached houses on individual lots in all zones that allow single-family housing. They do not apply to existing structures, to new additions on existing structures, or to manufactured home parks. Development on flag lots or on lots that slope up or down from the street with an average slope of 20 percent or more is exempt from these standards. [Ord. 5445, 4/12/00]

8.120 Relationship to Historic Overlay Districts. For residential property inside the Monteith or Hackleman Historic Overlay Districts, see Article 7 for additional historic review criteria. [Ord. 5445, 4/12/00]

8.130 Home Orientation. At least one main entrance of each new home shall:

(1) Be within eight feet of the longest street-facing wall of the dwelling unit (excluding the garage); and

(2) Either:

(a) Face the street (see Figure 1);

(b) Be at an angle of up to 45 degrees from the street; or

(c) Open onto a porch (see Figure 2). The porch must:

i. Be at least 25 square feet in area;

ii. Have at least one entrance facing the street; and

iii. Have a roof that is:

■ No more than 12 feet above the floor of the porch; and

■ At least 30 percent solid. This standard may be met by having 30 percent of the porch area covered with a solid roof, or by having the entire area covered with a trellis or other open material if no more than 70 percent of the area of the material is open.

[Ord. 5445, 4/12/00]

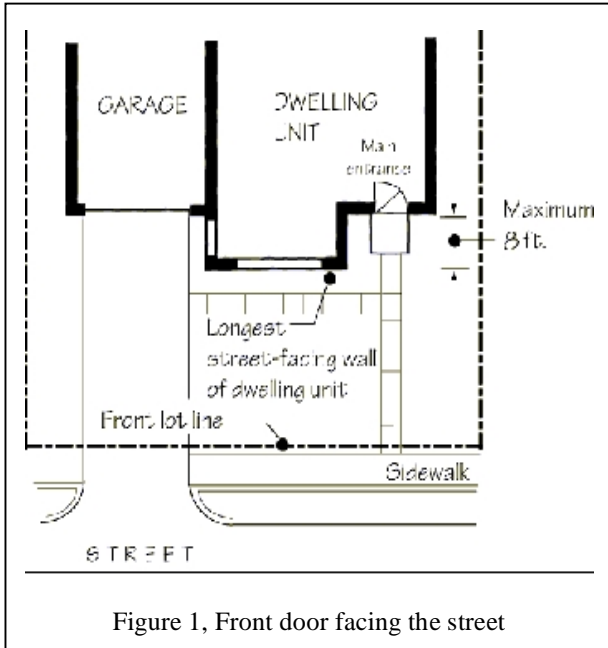


Figure 1, Front door facing the street

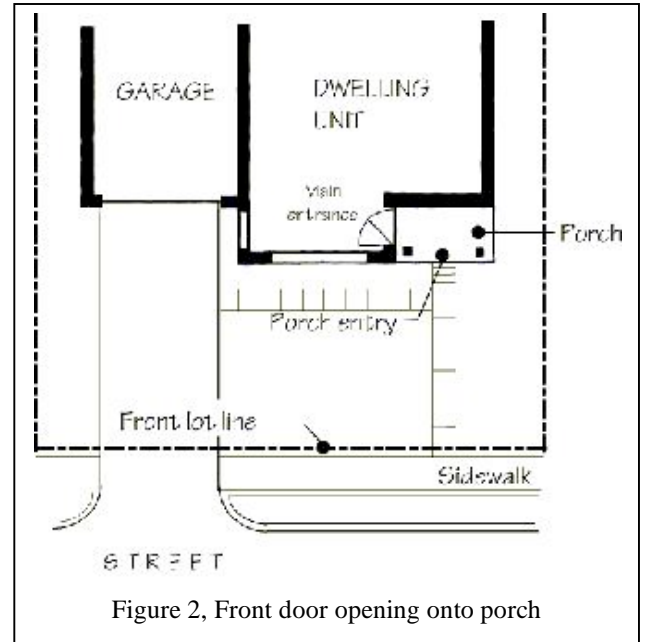


Figure 2, Front door opening onto porch

8.133 Street-Facing Windows. At least 15 percent of the area of each façade that faces a street lot line must be windows or main entrance doors. Windows in garage doors do not count toward meeting this standard, but windows in garage walls do count toward meeting this standard. To count toward meeting this standard, a door must be at the main entrance and facing a street lot line. For a corner lot, only one side of the home must meet this standard. [Ord. 5445, 4/12/00]

8.140 Additional Standards for Infill and Redevelopment. These standards apply to every new house, manufactured home, duplex, and attached house sited as infill development. For the purpose of this section, “infill development” means a dwelling that is proposed on land that is zoned for residential use where at least 75 percent of the abutting parcels have a dwelling, but not counting any parcel that is too small for a residence and any parcel that is large enough that it can be divided into four or more lots. These standards also apply where a home is removed to make way for a new house, manufactured home, duplex, and attached house. These standards do not apply to a dwelling that is proposed on land that is large enough that it can be divided into four or more lots.

(1) At the time of application for a building permit, the applicant shall submit a vicinity plan showing development on lots that are located within 150 feet on either side of the subject property. The vicinity plan must show footprints of all existing buildings (including garages), the footprint of the proposed development, and the lot lines. The setback of existing homes and garages from the street shall be noted. Building heights of all homes must also be noted.

(2) Based on the information shown on the vicinity plan, the applicant shall submit a site plan that demonstrates how the proposed home and/or garage or carport complies with all of the following design features:

(a) Home setback. A home shall be set no more than five feet closer to the street than the closest home, and no more than five feet farther from the street than the farthest home when compared with other homes within 150 feet on either side of the lot.

Figure 3, Existing House Setbacks. For this

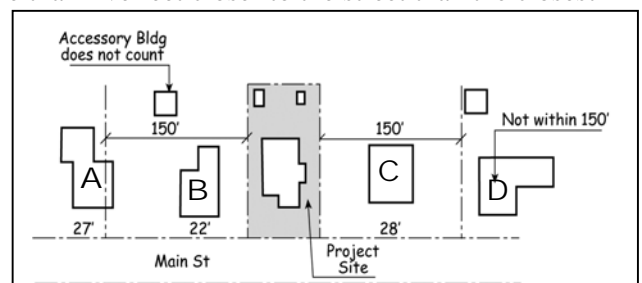


Figure 3, House setback for infill site

example, three houses (A, B, C) are located within 150' on either side of the lot. Of the three houses, B is closest to the street. The minimum setback is  $22-5=17$  feet. House C is the farthest from the street. The maximum setback is  $28+5=33$  feet.

(b) Garage Setback.

- i. A garage is required if more than 50% of the homes within 150 feet on either side of the lot have a garage. If more than 50% of the homes have a carport, then a carport or garage is required. If there is a mixture of garages or carports for more than 50% of the homes, then a carport or garage is required. The garage or carport shall be of like materials and color as the home.
- ii. The garage or carport may be attached or detached from the dwelling.
- iii. The garage or carport shall be set no more than five feet closer to the street than the closest garage or carport, and no more than five feet farther from the street than the farthest home, garage or carport when compared with other homes, garages and carports within 150 feet on either side of the lot.

(c) Building Height. A home shall be no more than one story higher than the lowest home when compared with homes on either side of the subject property.

(d) Home Orientation. The main entrance of each home shall comply with home orientation standards in Section 8.130.

(e) Street-Facing Windows. The street-facing façade of each home shall comply with the window standards in Section 8.133. [Ord. 5445, 4/12/00]

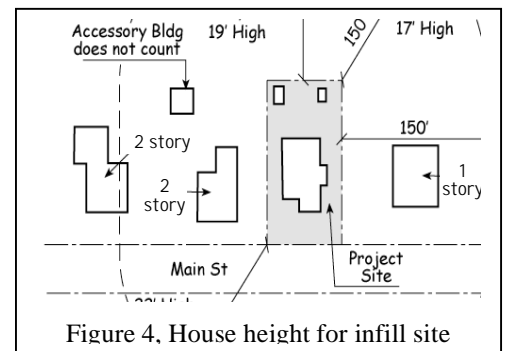


Figure 4, Existing House Heights. For this example, the maximum height is two stories.

## MULTIPLE FAMILY HOMES

8.200 Purpose. These sections are intended to set threshold standards for quality designs in new multiple family development. Good design results from buildings that are visually compatible with one another and adjacent neighborhoods and contribute to a residential district that is attractive, active and safe. [Ord. 5445, 4/12/00]

8.210 Relationship to Historic Overlay Districts. For residential property inside the Monteith or Hackleman Historic Overlay Districts, see Article 7 for additional historic review criteria. [Ord. 5445, 4/12/00]

8.220 Recreation and Open Space Areas. In multi-family developments, a portion of the land not covered by buildings and parking shall be of adequate size and shape and in the proper location to be functional for outdoor recreation and relaxation. The standards are also intended to ensure that project open space is an integral part of the overall development design, not merely leftover space. For larger developments there should be a variety of open space activities.

(1) Common Open Space. For projects of 10 or more units, common open space shall be required at a ratio of 0.25 square feet for each 1.0 square feet of living space.

- (a) Areas designated as common open space shall be at least 500 square feet in size with no horizontal dimension less than 20 feet. The open space shall be functional and shall include one or more of the following types of uses:
  - swimming pools, spas, and adjacent patios and decks

- developed and equipped adult recreation areas
  - sport courts (tennis, handball, volleyball, etc.)
  - community centers
  - food and ornamental gardens
  - lawn or hard surface areas in which user amenities such as trees, shrubs, pathways, covered picnic tables, benches, and drinking fountains have been placed
  - natural areas
- (b) Developments shall provide a mix of passive and active recreational uses from the above list if the open space can accommodate more than one use.
- (c) Indoor or covered recreational space may count towards 50 percent of the common open space requirement.
- (d) Not more than 20 percent of the common open space requirement shall be on land with slopes greater than 20 percent.
- (e) Areas Excluded. Streets and parking areas, including areas required to satisfy parking lot landscape standards, shall not be applied toward the minimum useable open space requirement. Required setback areas may be applied toward the minimum useable open space requirement with the exception of active, noise-generating activities.
- (f) Designated on Site Plan. Areas provided to satisfy the minimum useable open space requirement shall be so designated on the development site plan and shall be reserved as open space. Adult recreation areas shall not be allowed in any required setback and shall be centrally located.
- (g) Open Space and Recreation Area Credit. An open space credit, not to exceed 25 percent of the common open space requirements, may be granted if there is direct access by a pedestrian path, not exceeding 1/4 mile, from the proposed multiple family development to an improved public park and recreation area or public school playground.
- (2) Children's Play Areas. Multiple family developments larger than 10 units (excluding 1-bedroom and studio units) shall designate one or more children's play areas.
- (a) Children's play areas shall be placed within 300 feet of the units they are intended to serve. More than one play area may be needed in larger developments.
- (b) No horizontal dimension of a children's play area shall be less than 20 feet.
- (c) Placement of children's play areas shall not be allowed in any required setback and shall be centrally located.
- (d) Children's play areas may be part of the common open space area but do not count toward the use requirement as outlined in Section 8.220(1)(a). [Ord. 5445, 4/12/00]

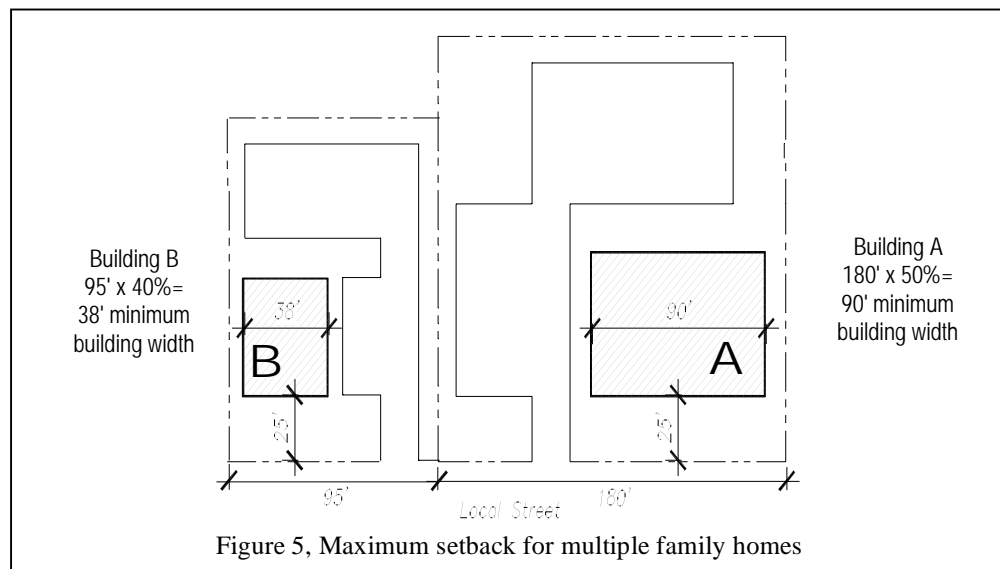
8.230 Private Open Space. In all newly constructed multiple family developments, private open space shall be provided as follows:

- (1) Building Orientation. Buildings shall be oriented so that no private open space or rear entrance faces a public street.
- (2) At-Grade Dwellings. Dwellings located at finished grade, or within 5 feet of finished grade, shall provide a minimum of 96 square feet of private open space per unit, with no dimension less than 8 feet. Private open space for at-grade dwellings may be provided within interior courtyards created within a single building or cluster of buildings. Private open space for at-grade dwellings shall be screened from view from public streets.
- (3) Above-Grade Dwellings. Dwellings located more than 5 feet from finished grade shall provide a minimum of 80 square feet of private open space per dwelling unit (such as a yard, deck or porch), with no dimension less than 6 feet. Private open space for units located more than 5 feet above grade may be provided individually, as with a balcony or collectively by combining into a larger area that serves multiple units.

- (4) Access to Private Open Space. All private open space shall be directly accessible from the dwelling unit through a doorway.
- (5) Privacy Requirements. Ground-level private open space shall be physically and visually separated from common open space. [Ord. 5445, 4/12/00]

8.240 Maximum Setbacks for Street Orientation.

- (1) On sites with 100 feet or more of frontage on a collector or local public street, at least 50 percent of the site width shall be occupied by a building(s) placed no further than 25 feet from the front lot line. See Figure 5, Building A.
- (2) On sites with less than 100 feet of frontage on a collector or local public street, at least 40 percent of the site width shall be occupied by a building(s) placed no further than 25 feet from the front lot line. See Figure 5, Building B.
- (3) As used in this standard, “site width” does not include significant natural resources as mapped by the city, delineated wetlands, slopes greater than 20%, recorded easements, required fire lanes and other similar non-buildable areas as determined by the City. [Ord. 5445, 4/12/00]



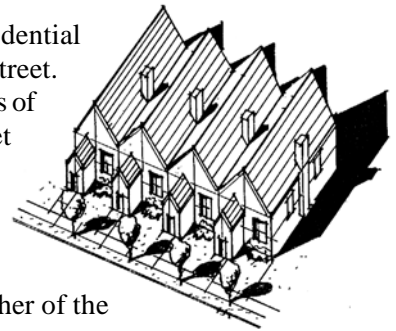
8.250 Functional Design and Building Details. These standards are intended to promote functional design and building details that contribute to a high-quality living environment for residents and enhance compatibility with the neighborhood.

- (1) Building design shall avoid long, flat, uninterrupted walls or roof planes. Changes in wall plane and height, and inclusion of elements such as balconies, porches, arbors, dormers, gables and other human-scale design elements such as landscaping should be used to achieve building articulation.
- (2) Buildings shall be massed so individual units are clearly identifiable from the private or public street that provides access.
- (3) Stairways shall be incorporated into the building design. External stairways, when necessary, should be recessed into the building, sided using the same siding materials as the building, or otherwise incorporated into the building architecture.

- (4) Building facades shall be broken up to give the appearance of a collection of smaller buildings. [Ord. 5445, 4/12/00]

8.260 Building Orientation and Entries. These standards are intended to promote building and site design that contributes positively to a sense of neighborhood and to the overall streetscape by carefully relating building mass, entries and yards to public streets.

- (1) As many of the dwelling unit entries as possible shall be oriented to front onto public local residential streets and along the internal street system of larger scale developments. Internal units may face a courtyard or plaza, but not a parking lot. The use of front porches or entry patios and terraces is encouraged.
- (2) Building entries and entries to individual units shall be clearly defined, visible for safety purposes, and easily accessible. Arches, gateways, entry courts, and awnings are encouraged to shelter entries.
- (3) Individual entries are encouraged; the use of long access balconies and/or corridors that are monotonous and impersonal are discouraged.
- (4) The primary entrance(s) of ground floor units of any residential building(s) located within 25 feet of a local street may face the street. Primary entrances may provide access to individual units, clusters of units, courtyard dwellings, or common lobbies. No off-street parking or circulation shall be located in the area between the front of the building and the street. See Figure 2. 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. [Ord. 5445, 4/12/00]

8.270 Transition to Lower Density Uses. The following design standards shall be incorporated into the design of multiple family housing to create transitions of multiple family developments to nearby, lower density residential development, in order to reduce the impacts of building mass and scale.

- (1) When abutting single-family homes, buildings shall be set back a minimum of one foot for each foot in building height from the property line. Building height is measured from the average grade to the top of the wall facing the property line or to the top of the highest window or door, whichever is higher.
- (2) Smaller scale buildings should be sited in the area immediately adjacent to single-family zoning districts and larger scale buildings sited at the interior of the development or adjacent to other multiple family developments.
- (3) Parking and maneuvering areas, driveways, active recreation areas, loading areas and dumpsters should not be located between multiple family buildings and abutting single family homes. [Ord. 5445, 4/12/00]

8.280 Pedestrian Connections. The design of pedestrian circulation systems shall provide clear and identifiable connections within the multiple family development and to adjacent uses and public streets/sidewalks.

- (1) Each multiple family development shall contain an internal pedestrian circulation system that makes clear, easily identifiable and safe connections between individual units and parking and shared open space areas. All pedestrian ways shall comply with the requirements of the Americans with

Disabilities Act.

- (2) The pedestrian circulation system shall be designed to provide safe crossings of streets and driveways. Where crossings occur, reflective striping should be used to emphasize the crossing under low light and inclement weather conditions.
- (3) Safe, convenient, and attractive pedestrian connections shall be provided between the multiple family development and adjacent uses such as parks, schools, retail areas, bus stops, and other pedestrian ways. Connections shall be made to all adjacent streets and sidewalks at 200-300 foot intervals. [Ord. 5445, 4/12/00]

8.290 Vehicle Circulation System. The design of on-site circulation shall be clearly identifiable, safe, pedestrian friendly and interconnected.

- (1) The internal vehicle circulation system of a multiple family development shall be a continuation of the adjacent public street pattern wherever possible and promote street connectivity. Elements of the public street system that shall be emphasized in the internal circulation system include the block pattern, sidewalks, street trees, on-street parking and planter strips.
- (2) The vehicle circulation system and building pattern shall mimic a traditional local street network and break the development into numerous smaller blocks with all of the public street system elements highlighted above. Private streets are acceptable, unless a public street is needed to extend the public street grid. The connectivity and block length standards in Articles 11 and 12 apply to all public and private streets.
- (3) The streets that form the primary internal circulation system may include parallel parking and accessways to parking bays or courts, but should not be lined with head-in parking spaces.
- (4) Interior roadways shall be designed to slow traffic speeds. This can be achieved by meandering the roadway, keeping road widths to a minimum, allowing parallel parking, and planting street trees to visually narrow the road. [Ord. 5445, 4/12/00]

8.300 Parking. The design of multiple family development shall provide attractive street frontages and visual compatibility with neighborhoods by minimizing the placement of parking lots along public streets. See Article 9 for additional parking lot standards.

- (1) Parking lots, carports, and garages shall not be sited between the multiple family buildings and the public local street unless site size and configuration make this impossible. Where available, private access to parking is encouraged.
- (2) Parking areas shall be broken into numerous small parking bays and landscaped to minimize their visual impact. Large, uninterrupted rows of parking are prohibited. Required parking must be located within 100 feet of the building entrance for each unit. The integration of garages into residential buildings is encouraged. [Ord. 5445, 4/12/00]

## COMMERCIAL SITE DESIGN

8.310 Purpose. These sections are intended to set threshold standards for quality design in new commercial development. Good design results in buildings that are visually compatible with one another and adjacent neighborhoods and contribute to a commercial district that is attractive, active and safe. These qualities in turn contribute to the creation of commercial districts that facilitate easy pedestrian movement and a rich mixture of land uses. These standards apply to the design of new commercial development and to the

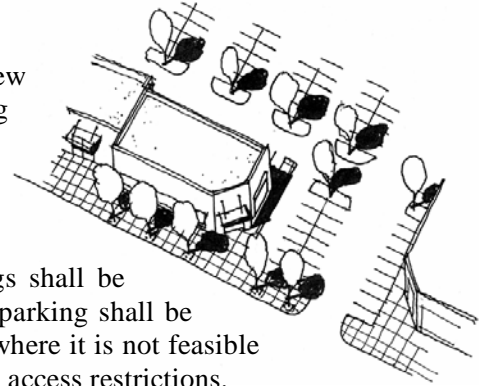


expansion of existing commercial development in any district. [Ord. 5445, 4/12/00]

8.320 Relationship to Historic Overlay Districts. For commercial property inside the Downtown Historic Overlay District, see Article 7 for additional historic review criteria. [Ord. 5445, 4/12/00]

8.330 Building Orientation. Building orientation and maximum setback standards are established to help create an attractive streetscape and pleasant pedestrian environment.

(1) New commercial buildings shall be oriented to existing or new public streets. Building orientation is demonstrated by placing buildings and their public entrances close to streets so that pedestrians have a direct and convenient route from the street sidewalk to building entrances.



- (a) On sites smaller than 3 acres, commercial buildings shall be oriented to the public street/sidewalk and off-street parking shall be located to the side or rear of the building(s), except where it is not feasible due to limited or no street frontage or where there are access restrictions.
- (b) Buildings on larger sites may be setback from the public street and oriented to traffic aisles on private property, if the on-site circulation system is developed like a public street with pedestrian access, landscape strips and street trees.

(2) At least one major public entrance shall be visible from the abutting public street. Corner entrances may be used to provide orientation to two streets. Customer entrances should be clearly defined, highly visible, using features such as canopies, porticos, arcades, arches, wing walls, and planters. [Ord. 5445, 4/12/00]

8.340 General Building Design. New commercial buildings shall provide architectural relief and interest, with emphasis at building entrances and along sidewalks, to promote and enhance a comfortable pedestrian scale and orientation. Blank walls shall be avoided except when not feasible. [Ord. 5555, 2/7/03]

(1) Ground floor windows shall be provided along frontages adjacent to sidewalks. The main front elevation(s) of buildings shall provide windows or transparency at the pedestrian level in the following minimum proportions:

District	% Transparency
RC, CC, NC, OP, MUC	25%
MS, LE, PB, ES, MUR, WF	50%
HD, CB	75%

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



The minimum window and door requirements are measured between 2 and 8 feet from the ground. Only the glass portion of doors may be used in the calculation. [Ord. 5555, 2/7/03]

If there are upper floor windows, they shall continue the vertical and horizontal character of the ground level windows.

(2) Walls that are visible from a public street shall include a combination of architectural elements and

features such as offsets, windows, entry treatments, wood siding, brick stucco, synthetic stucco, textured concrete block, textured concrete, and landscaping. [Ord. 5445, 4/12/00]

8.350 Street Connectivity and Internal Circulation. The following standards emphasize the importance of connections and circulation between uses and properties. The standards apply to both public and private streets.

- (1) New commercial buildings may be required to provide street or driveway stubs and reciprocal access easements to promote efficient circulation between uses and properties, and to promote connectivity and dispersal of traffic.
- (2) The internal vehicle circulation system of a commercial development shall be a continuation of the adjacent public street pattern wherever possible and promote street connectivity. The vehicle circulation system shall mimic a traditional local street network and break the development into numerous smaller blocks.
- (3) Traffic lanes shall be internal to the site and shall not be located between the building(s) and the sidewalk(s), except as provided in (4) below.
- (4) Where drop off facilities are provided, they shall be designed to meet the requirements of the American with Disabilities Act but still provide for direct pedestrian circulation.
- (5) Internal roadways shall be designed to slow traffic speeds. This can be achieved by keeping road widths to a minimum, allowing parallel parking, and planting street trees to visually narrow the road. [Ord. 5445, 4/12/00]

8.360 Pedestrian Amenities. Amenities such as awnings, seating, special paving and planters can have a dramatic affect on the pedestrian environment. Commercial developers should give as much thought to the pedestrian environment as they give to vehicle access, circulation and parking. The standards for pedestrian amenities are related to the scale of the development and also provide the flexibility for the developer to select the most appropriate amenities for the particular site and use.

- (1) All new commercial structures and improvements to existing sites shall provide pedestrian amenities. The number of pedestrian amenities shall comply with the following sliding scale.

<u>Size of Structure or Improvement</u>	<u>Number of Amenities</u>
Less than 5,000 sf	1
5,000 – 10,000 sf	2
10,001 – 50,000 sf	3
More than 50,000 sf	4

- (2) Acceptable pedestrian amenities include the following improvements. No more than two of any item may be used to fulfill the requirement:
  - (a) Sidewalks at least 10 feet wide with ornamental treatments (e.g., brick pavers), or sidewalks which are 50% wider than required by the Code.
  - (b) Benches and public outdoors seating for at least four people.
  - (c) Sidewalk planter(s) enclosing a total of 8 square feet.
  - (d) Pocket parks or decorative gardens (minimum usable area of 300 square feet).
  - (e) Plazas (minimum usable area of 300 square feet).
  - (f) Street trees that are 50 percent larger than required by the Code.
  - (g) Weather protection (awnings, etc.).
  - (h) Other pedestrian amenities that are not listed but are similar in scale and benefit.

- (3) Pedestrian amenities shall comply with the following standards:
  - (a) Amenities shall be located outside the building main entrance, along pedestrian corridors, or near transit stops. Amenities shall be visible and accessible to the general public from an improved public or private street. Access to pocket parks, plazas, and sidewalks must be provided via a public right-of-way or a public access easement.
  - (b) Amenities are not subject to setback requirements.
  - (c) Amenities are consistent with the character and scale of surrounding developments. For example, similarity in awning height, bench style, planter materials, street trees, and pavers is recommended to foster continuity in the design of pedestrian areas. Materials should be suitable for outdoor use, easily maintained, and have a reasonably long life cycle (e.g., 10 years before replacement). [Ord. 5445, 4/12/00]

8.370 Pedestrian Connections.

- (1) New retail, office and institutional buildings at or near existing or planned transit stops shall provide for convenient pedestrian access to transit.
- (2) Walkways shall be provided connecting building entrances and streets adjoining the site.
- (3) Pedestrian connections to adjoining properties shall be provided except where such a connection is impractical. Pedestrian connections shall connect the on site circulation system to existing or proposed streets, walkways, and driveways that abut the property. Where adjacent properties are undeveloped or have potential of redevelopment, streets, accessways and walkways on site shall be laid out or stubbed to allow for extension the adjoining property.

For the purposes of this section, “impractical” means where one or more of the following conditions exist:

- (a) 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 reasonable be provided;
  - (b) Buildings or other existing development on adjacent lands physically preclude a connection now or in the future considering the potential for redevelopment; or
  - (c) Where streets or accessways would violate provisions of leases, easement, covenants, restrictions or other agreements existing as of May 1, 1995 which preclude a required street or accessway connection.
- (4) On sites at major transit stops 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 at the transit stop or a street intersection.
    - (b) A reasonable direct pedestrian connection between the transit stop and building entrances on the site.
    - (c) A transit passenger landing pad accessible to disabled person.
    - (d) An easement or dedication for a passenger shelter if requested by the transit provider.
    - (e) Lighting at the transit stop. [Ord. 5281, 3/26/97; Ord. 5445, 4/12/00]

8.380 Large Parking Areas. The amount of parking needed for larger commercial development can result in a large expanse of pavement. Landscaping within a parking area shall be incorporated in a manner that is both attractive and easy to maintain, minimizes the visual impact of surface parking, and improves environmental and climatic impacts. In addition to the provisions of Article 9, the following standards apply to commercial development where more than 75 parking spaces are proposed.

- (1) Walkways are necessary for persons who will access the site by walking, biking or transit. A continuous pedestrian walkway at least 7 feet wide shall be provided from the primary frontage sidewalk to the customer entrance for each building. This internal walkway shall incorporate a mix of landscaping, benches, drop-off bays and bicycle facilities for at least 50 percent of the length of the walkway. The walkways must be designed for access by disabled persons. If the walkway crosses a parking area or vehicle aisle, the standards in subsection (2) below apply.
- (2) For the safety of pedestrians, parking lots shall be designed to separate pedestrians from vehicles and include protected pedestrian walkways from parking areas to building entrances. Walkways shall be protected by landscaping or parking bumpers. Walkways shall have a minimum width of 7 feet with no car overhang or other obstruction; 9' 6" for car overhang on one side; 12 feet for car overhang on both sides. Walkways may cross a vehicle aisle if distinguished by a color, texture or elevation different from the parking and driving areas. Walkways shall not share a vehicle aisle.
- (3) The parking area shall be divided into pods of no more than 50 spaces each with landscape strips, peninsulas, or grade separations to reduce the visual impact of large expanses of paving, to direct vehicular traffic through the parking lot, and to provide a location for pedestrian walkways.

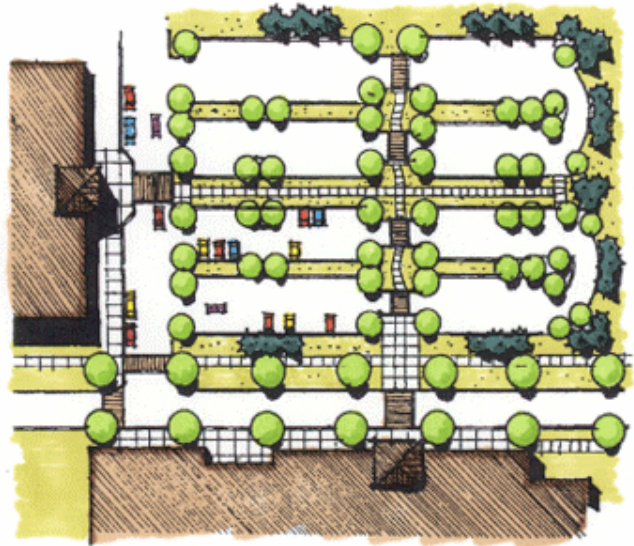


Figure 6, Sample parking area design

- (4) Pods may have access at one or both ends. A pod may be U-shaped with double access at one end.
- (5) Pods shall be separated with physical breaks by providing one or more of the following:
  - (a) Landscape strips between parallel parking rows that are a minimum 5 feet in width with no car overhang and 10 feet in width with a car overhang. When incorporating pedestrian walkways, such strips shall be a minimum of 20 feet in width to accommodate vehicular overhangs, walkways, lights, posts and other appurtenances.
  - (b) Building pads, landscaped pedestrian walkways, interior streets or other site features.
- (6) Landscaping for large parking areas shall consist of a minimum of seven percent of the total parking area plus a ratio of one tree per eight parking spaces to create a canopy effect. The total parking area includes parking spaces, travel aisles, sidewalks and abutting landscaped areas. [Ord. 5445, 4/12/00]

8.390 Compatibility Details. Attention to detail can significantly increase the compatibility of commercial development with adjacent uses. Commercial development shall be designed to comply with the following applicable details and any other details warranted by the local conditions:

- (1) On-site lighting is arranged so that light is reflected away from adjoining properties and/or streets.
- (2) Any undesirable impacts produced on the site, such as noise, glare, odors, dust or vibrations have been adequately screened from adjacent properties.

- (3) The site is protected from any undesirable impacts that are generated on abutting properties.
- (4) Unsightly exterior improvements and items such as trash receptacles, exterior vents and mechanical devices have been adequately screened.
- (5) Storage areas, trash collection facilities and noise generating equipment are located away from public streets, abutting residential districts or development, or sight obscuring fencing has been provided.
- (6) Where needed, loading facilities are provided on-site and are of sufficient size and number to adequately handle the delivery or shipping of goods or people. Where possible, loading areas should be designed so that vehicles enter and exit the site in a forward motion. [Ord. 5445, 4/12/00]

## **SUPPLEMENTAL COMMERCIAL DESIGN STANDARDS IN VILLAGE CENTERS**

8.405 Village Center Character. The purpose of these standards is to contribute to the desired character of the village center. They are intended to promote the design of an urban environment that is built to human scale with attractive street fronts and interconnected walkways that promote pedestrian usage and accommodate vehicles. Development in the village center must contribute to a cohesive, visually compatible and functionally linked pattern through street and sidewalk layout, building siting and character, and site design. Details count. [Ord. 5556, 2/21/03]

8.410 Applicability. These standards apply to commercially zoned properties within the Village Center Comprehensive Plan designation. They are in addition to the Commercial Design Standards in this article for commercial and office development. Taken together, these design standards are intended to foster a mixed-use character for village centers. [Ord. 5556, 2/21/03]

8.415 Buildings Along Public Streets.

Purpose. The siting of buildings along the public street defines the street edge and frames the streetscape. In larger development, the locations of pad site buildings also provide opportunities to frame entries into the shopping center and contribute to the visual interest of the site. These provisions are intended to avoid deep building setbacks behind large expanses of parking areas or vacant land.

Standards.

- (1) Buildings and plazas shall be located within the maximum setback area for at least 40% of one public street frontage.
- (2) For sites with frontage on more than one public street (i.e., corner lots), this standard applies to one frontage only.
- (3) The public street frontage is the length of the property as measured along the street right-of-way excluding the width of entrance driveways and/or streets.
- (4) Building facades that face public streets shall be subdivided into human-scale proportions using at least two features such as windows, entrances, arcades, arbors, awnings, trellises with vines, or an equivalent element. A blank, uninterrupted wall shall not be longer than thirty feet.
- (5) No parking, loading or travel aisles shall be located between the public street and buildings within 50 feet of the street, except that a designated park-and-ride lot or one drive-through lane may be permitted. See Section 8.420(b).
- (6) To count toward this standard, a plaza shall:

- (a) Be well defined at the street edge by a low decorative architectural wall (no higher than three feet), a line of shrubs or trees of the same species, or similar landscaped or built feature;
- (b) Be constructed/landscaped of materials that are similar in quality to the principal materials of the primary building(s) and landscape. Landscaping with drought-resistant native species is strongly encouraged;
- (c) Have direct access to the public street sidewalk and be located the shortest distance to the nearest building main entrance; and
- (d) Extend at least the full depth of the maximum setback.

[Ord. 5556, 2/21/03]

8.420 Maximum Setback.

Purpose. Customer entrances should be readily accessible from the public street sidewalk as well as from the parking lot. Build-to lines form visually continuous, pedestrian-oriented street fronts with no vehicle use area between building fronts and the street.

Standards.

- (1) Buildings within 50 feet of a public street shall have 40% of the building located within the maximum setback except that:
  - (a) If a previously recorded easement precludes meeting the maximum setback, the applicant shall demonstrate that an alternative layout best addresses the intent of this standard and the character of the village center.
  - (b) A building with drive-through service may have one drive-through lane between the building and the street provided that the building is set back no more than 25 feet and the drive-through lane is screened according to standards for perimeter parking area landscaping in ADC 8.470.
- (2) Any building more than 50 feet from a public street is exempt from this standard.

[Ord. 5556, 2/21/03]

8.430 Size Limitations. See building size limitations in Article 5, Table 1, Development Standards, ADC 5.090. [Ord. 5556, 2/21/03]

8.440 Building Design.

Purpose. These provisions are intended to reduce the visual appearance of larger scale buildings to a smaller, pedestrian-level scale that is appropriate for a village center. They are not intended to limit the size of the building.

Standards.

- (1) Building facades longer than 100 feet shall have relief such as recessed entries, offsets, jogs, bays, columns, ribs, pilasters, piers, cornices, bases, or other distinctive constructed changes. Changes in relief in the building façade shall occur at least every 100 feet for at least 20% of the exterior wall area. At least two colors or textures shall be used (not including stripes or bands).
- (2) Rooflines longer than 100 feet shall be relieved by elements such as parapets, gables, dormers, towers, steeples, etc.
- (3) No building wall shall be longer than 300 feet unless the building façade has one or more major

offsets in wall plane. A major offset in wall plane shall have a depth of at least 10% of the length of the longest abutting wall and shall continue for at least 20% of the building facade. Minor changes in wall plane such as entries, jogs, bays, columns, ribs, pilasters, piers, or cornices do not count toward meeting this standard.

- (4) In developments with multiple buildings, each individual building shall include predominant characteristics shared by all buildings in the development, so that the development forms a cohesive place within the district. A standardized prototype design shall be modified if necessary to meet the provisions of this Code and character of this district.
- (5) Corrugated metal siding is prohibited on any building. Corrugated metal roofing is allowed. [Ord. 5556, 2/21/03]

#### 8.445 Pedestrian Network.

Purpose. By creating a safe, continuous network of sidewalks within and between developments, pedestrians will feel more inclined to walk (rather than drive). A pedestrian network that offers clear circulation corridors from the parking areas to building entries creates a friendlier, more inviting image. A detailed pedestrian circulation plan must demonstrate that the layout of sidewalks contributes to the overall pedestrian connectivity of the village center.

##### Standards.

- (1) Sidewalks must be located to provide the shortest direct connection from the public street sidewalk(s) to all customer entrances.
- (2) Sidewalks must be located to provide the shortest direct connection between all on-site customer entrances.
- (3) Sidewalks must be located along every public street frontage and both sides of on-site private streets. These sidewalks must be separated from the street by a tree-lined landscape strip.
- (4) Extra-wide sidewalks are encouraged to provide space for tables and chairs and other pedestrian amenities, creating a concentration of activity to serve as the neighborhood center.
- (5) Sites larger than 8 acres shall create an open space or plaza with amenities such as benches, monuments, kiosks or public art. Amenities shall be in prominent locations, interconnected with the uses and walkways on the site, and be landscaped.

[Ord. 5556, 2/21/03]

#### 8.450 Privacy Considerations.

Purpose. Village centers are mixed-use areas where special attention is given to resolving potentially incompatible situations. General standards provide the flexibility to adjust the design and operating characteristics to given circumstances.

##### Standard.

- (1) Non-residential uses and parking areas shall be arranged to minimize infringement on the privacy of adjoining residents.

[Ord. 5556, 2/21/03]

8.460 Parking Areas.

Purpose. While recognizing the paramount role of cars in everyday life and the need to provide adequate and convenient space for them, these standards move away from the typical suburban pattern of predominant and highly-visible parking areas in commercial developments. They are intended to reduce the scale of parking areas by siting a portion of the parking lot out of view, and using increased landscaping to screen spaces and reduce the overall visual impact of large parking areas.

Standards.

- (1) On-street parking spaces within 100 feet of a commercial or office development may count towards meeting the parking requirement.
- (2) Shared parking is encouraged for all uses.
- (3) Trees intended for parking area landscaping shall provide a canopy cover of at least 20% of the parking area at maturity. Existing trees may be included to meet the canopy requirement, provided the site plan identifies such trees and the trees meet the standards of size, health, and placement. The extent of canopy at maturity shall be based on published reference texts generally accepted by landscape architects, nurserymen, and arborists.
- (4) Bioswales shall be considered as the initial storm water collection system.

[Ord. 5556, 2/21/03]

8.470 Perimeter Parking Area Landscaping.

Purpose. These provisions are intended to give parking a low profile in order 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. They will also 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.

Standards.

- (1) All parking areas (excluding entranceways) adjacent to a public street shall be screened with:
  - (a) A low continuous hedge of evergreen shrubs, trees and plantings that are at least 3 feet tall within 2 years and grow to provide an evergreen screen of at least 70%; OR
  - (b) A berm three feet high with a maximum slope of 3:1, in combination with coniferous and deciduous trees and shrubs; OR
  - (c) A low decorative masonry wall at least three feet high in combination with landscaping; OR
  - (d) A combination of any of these methods.
- (2) The landscape plan shall be prepared by a licensed landscape architect.

[Ord. 5556, 2/21/03]

8.475 Signs.

Purpose. Signs must be scaled appropriately to appeal to both pedestrians walking on the adjacent sidewalks and to nearby motorists. The following standards are intended to create aesthetically pleasing and cohesive sign standards while reinforcing the context of the village center.

Standards.



- (1) For integrated centers, an overall signage and graphics program shall be provided as part of the development application to ensure that stand-alone signs are consolidated and that signs complement the character of the neighborhood.
- (2) Monument signs are preferred rather than freestanding signs.

[Ord. 5556, 2/21/03]

#### **SUPPLEMENTAL RESIDENTIAL DESIGN STANDARDS IN VILLAGE CENTERS**

8.480 Applicability. These standards apply to residential development in mixed-use and residential zones within the Village Center Comprehensive Plan designation. They are in addition to the residential design standards for Single-Family Homes and Multiple Family Homes in this article. [Ord. 5556, 2/21/03]

8.485 Purpose. These provisions are intended to promote the design of an urban environment that is built to human scale and to foster a mixed-use character for village centers with an emphasis on a high-quality pedestrian environment.

#### Standards.

- (1) Building exteriors shall be surfaced with wood, brick, stucco, stone, masonry, or lap siding on all sides.
- (2) Rooflines should be designed to reduce the exterior mass of multiple attached units and shall incorporate elements such as parapets, gables, dormers, etc.
- (3) All exterior HVAC equipment shall be screened from street-level view.
- (4) Covered bike parking shall be provided for 50% of the dwelling units in shelters, individual storage lockers or garages.
- (5) Alleys are encouraged to provide friendly street frontage and to set driveways and garages in the rear.  
[Ord. 5556, 2/21/03]

## TELECOMMUNICATION FACILITIES

8.500 Telecommunication Facilities. Every telecommunication facility shall comply with the following standards and applicable standards of the zone.

- (1) No new tower shall be permitted unless the applicant demonstrates that co-location is not feasible on existing towers.
- (2) New towers or facilities 50 feet or more in height must provide for future co-location of other telecommunications providers.
- (3) Monopole construction is preferred over the lattice style.
- (4) The applicant shall consider the following locations as the preferred order of location of a proposed communication facility: a) existing broadcasting or communication facilities; b) public structures such as water reservoirs, utility structures, fire stations, bridges, and other public buildings within all zoning districts not utilized primarily for residential uses; c) property zoned Light Industrial, Heavy Industrial, Industrial Park and Heavy Commercial.
- (5) Towers and antennas shall be designed to blend into the surrounding environment through the use of color and camouflaging architectural treatment, except in instances where the color is dictated by federal or state authorities such as the Federal Aviation Administration.
- (6) Towers should be located in an area where they are unobtrusive and do not substantially detract from aesthetics or neighborhood character, due to either location, nature of surrounding uses, or to lack of visibility caused by natural growth or other factors.
- (7) Towers shall not be located between the principle structure and a public street.
- (8) Tower setbacks shall be at least the height of the tower from public streets.
- (9) Tower guys and accessory structures shall satisfy the minimum setback requirements of the underlying zoning district. Vegetative screening shall be provided around any accessory building as prescribed by Section 9.250.
- (10) All towers and associated facilities shall be removed within six months of the cessation of operations at the site unless the Community Development Director approves a time extension. In the event that a tower is not removed within six months, the City may remove the telecommunications facilities and assess the costs of removal against the owner and property. [Ord. 5445, 4/12/00]

## ARTICLE 9

### ON-SITE DEVELOPMENT AND ENVIRONMENTAL STANDARDS

9.010 Overview. The City of Albany has established standards for on-site improvements and environmental protection. These standards are intended to foster high quality development throughout the City and to minimize adverse effects on surrounding property owners or the general public. This article contains the following standards:

- Off-Street Parking
- Landscaping
- Tree Felling
- Buffering and Screening
- Environmental

[Ord. 5445, 4/12/00]

#### OFF-STREET PARKING

9.020 Space Requirements. Minimum parking and loading space requirements based on type of use are found in Sections 3.320 (residential); Sections 4.250 and 4.260 (commercial), and Sections 5.240 and 5.250 (industrial).

9.030 Responsibility/Prerequisite. Provision for and maintenance of off-street parking and loading space are responsibilities of the property owner. Plans showing property that is and will be available for exclusive use as off-street parking and loading must be presented before the city will issue building permits or approve land use applications.

9.040 Elimination of Existing Space. If a parking space has been provided in connection with an existing use or is added to an existing use, the parking space may not be eliminated if elimination would result in less space than is required by this Code.

- (a) Existing development will be allowed to redevelop up to 25% of the area of existing parking areas for transit oriented uses, including bus stops and pullouts, bus shelters, park and ride stations, transit oriented developments, and similar facilities, where appropriate.

9.050 Company Vehicles. Required parking spaces must be made available for the parking of passenger automobiles of residents, customers, patrons, and employees only, and may not be used for storage of company vehicles or materials. Spaces for company vehicles must be provided in addition to the number of spaces required by this Code.

9.060 Maintenance. Parking lots must be maintained by the property owner or tenant in a condition free of litter and dust, and deteriorated conditions must be improved to comply with the standards of Section 9.120.

9.070 Mixed Uses. In the case of mixed uses, the total requirements for off-street parking spaces is the sum of the requirements for the various uses. Off-street parking facilities for one use may not be considered as providing parking facilities for any other use, except as provided below.

9.080 Joint Use of Parking Facilities. The Planning Commission or Hearings Board, upon application by all involved property owners, may authorize the joint use of parking facilities, provided that:

- (1) The applicant shows that there is no substantial conflict in the principal operating hours of the buildings or uses for which the joint use of parking facilities is proposed.

- (2) The parking facility for which joint use is proposed is no farther than 500 feet from the building or use required to provide parking.
- (3) The parties concerned in the joint use of off-street parking facilities shall provide evidence of an agreement for such joint use by a legal instrument approved by the City Attorney. An agreement for joint use of parking facilities shall be for a period of not less than 10 years and shall provide for maintenance of jointly used parking facilities.

9.090 Parking Plan. A parking plan, drawn to scale, must accompany land use applications. Depending on the nature and magnitude of the development, it may be possible to show the needed parking information on the site plan (See Section 8.120). The plan must show the following elements that are necessary to indicate that the requirements of this Code are being met.

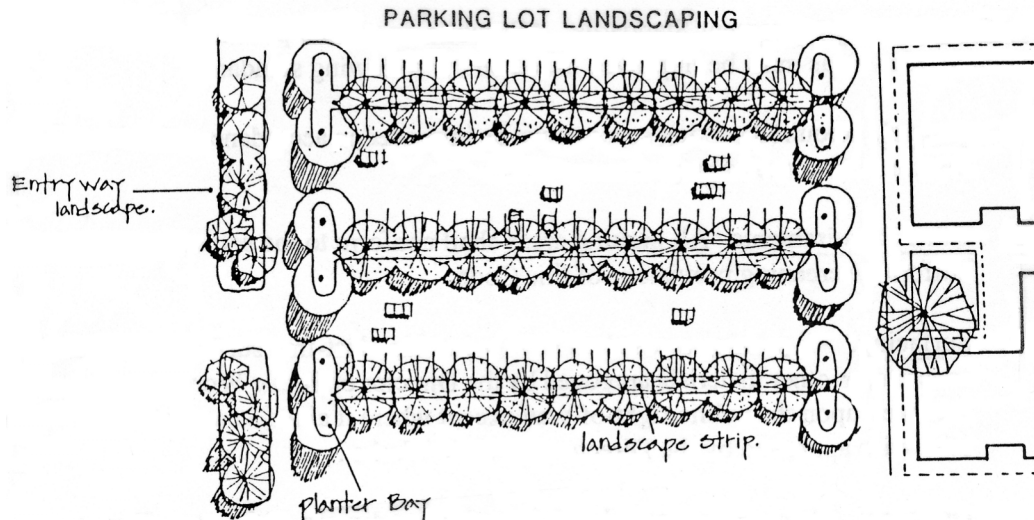
- (1) Delineation of individual parking spaces, including handicapped parking spaces.
- (2) Loading areas and docks.
- (3) Circulation area necessary to serve spaces.
- (4) Location of bicycle and motorcycle parking areas.
- (5) Access to streets, alleys, and properties to be served.
- (6) Curb cuts.
- (7) Type of landscaping, fencing, or other screening materials.
- (8) Abutting land uses.
- (9) Grading, drainage, surfacing, and subgrading details.
- (10) Location of lighting fixtures.
- (11) Delineation of all structures and obstacles to circulation on the site.
- (12) Specifications of signs and bumper guards.
- (13) Location of planter bays where required.
- (14) Proposed number of employees and amount of floor area space applicable to the parking requirements for the proposed use.

9.100 Downtown Assessment District. Parking spaces are not required for uses located within the Downtown Off-Street Assessment District as established by separate ordinance. However, the improvement of parking areas within this District must comply with the standards of this Article.

9.110 Public Right-of-Way. Parking spaces in a public right-of-way may not be counted as fulfilling any part of the parking requirements, except as described in Section 4.250 for churches.

9.120 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:

- (1) General. Required 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 parking areas shall have a durable, dust-free surfacing of asphaltic concrete, cement concrete, or other materials approved by the Director of Public Works. Parking lot surfacing shall not encroach upon the public right-of-way except where it abuts a concrete public sidewalk, or has been otherwise approved by the Director of Public Works.
- (4) Drainage. Adequate drainage shall be provided to dispose of the run-off generated by the impervious surface area of the parking area. Provisions shall be made for the on-site collection of drainage waters to eliminate sheet flow of such waters 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, pedestrian walkways, and to prevent runoff onto adjacent properties. All parking areas except those required in conjunction with a single- or two-family dwelling shall provide a curb of not less than 6 inches in height along the perimeter of all parking areas.
- (6) Wheel Bumper. All parking stalls fronting a sidewalk, alleyway, street or property line, except for those required in conjunction with a single or two family dwelling, shall provide a secured wheel bumper not less than 6 inches in height nor less than 6 feet in length, to be set back from the front of the stall a minimum of 2-1/2 feet. If the sidewalk is widened to 7'6" to allow for vehicle encroachment, no wheel bumpers are required.
- (7) Turnaround. Except for single family and duplex dwellings, groups of more than 2 parking spaces must be located and served by an aisle or turnaround so that their use will require no backing movements or other maneuvering within a street right-of-way other than an alley.
- (8) Striping. Lots containing more than 2 parking spaces must have all required spaces permanently and clearly marked. If parking spaces are provided for motorcycle parking, they shall be so designated.
- (9) Adjacent Parking Areas. Where a proposed parking area is adjacent to a developed or undeveloped site within the same zoning district, the proposed parking area must be designed to connect to the existing or future adjacent parking area. This requirement may be waived by the Director where it is deemed impractical or inappropriate due to the nature of the adjoining uses.
- (10) Parking Lot Landscaping. Parking lots shall be landscaped in accordance with the standards listed in Section 9.150. See also illustration on page 9-4:



- (11) Compact Car Parking. Not more than 40% of the total parking spaces in a parking lot may be designated for compact cars. The minimum dimensions for a compact space are 8 feet by 16 feet. Such spaces must be signed and/or the space painted with the words “Compact Car Only.”
- (12) Handicapped Parking. All parking areas must provide handicapped parking spaces in conformance with the Oregon State Structural Specialty Code.
- (13) Bicycle Parking. For each parking area containing more than 15 spaces, an area must be created and designated for bicycle parking. Each space must be a minimum of six feet in length, two feet in width, and have an overhead clearance of six feet. Required spaces must be located as near as possible to building entrances used by automobile occupants. Bicycle parking space requirements are as follows:
- (a) For multiple family dwellings (3 or more units) – 1 space per unit.
  - (b) For industrial development – 1 space for every 10 automobile spaces required.
  - (c) For commercial or office development – a minimum of 2 spaces, and 1 space for every 10 automobile spaces required.
  - (d) Exemptions – the Director may allow exemptions to required bicycle spaces in connection with temporary uses or uses that are not likely to generate the need for bicycle parking.
- (14) 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 residential district.
- (15) 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 entrance of new buildings.
- (16) Where employee parking is designated in new developments, parking for carpools and vanpools shall be provided and located nearest the employee entrances to buildings.

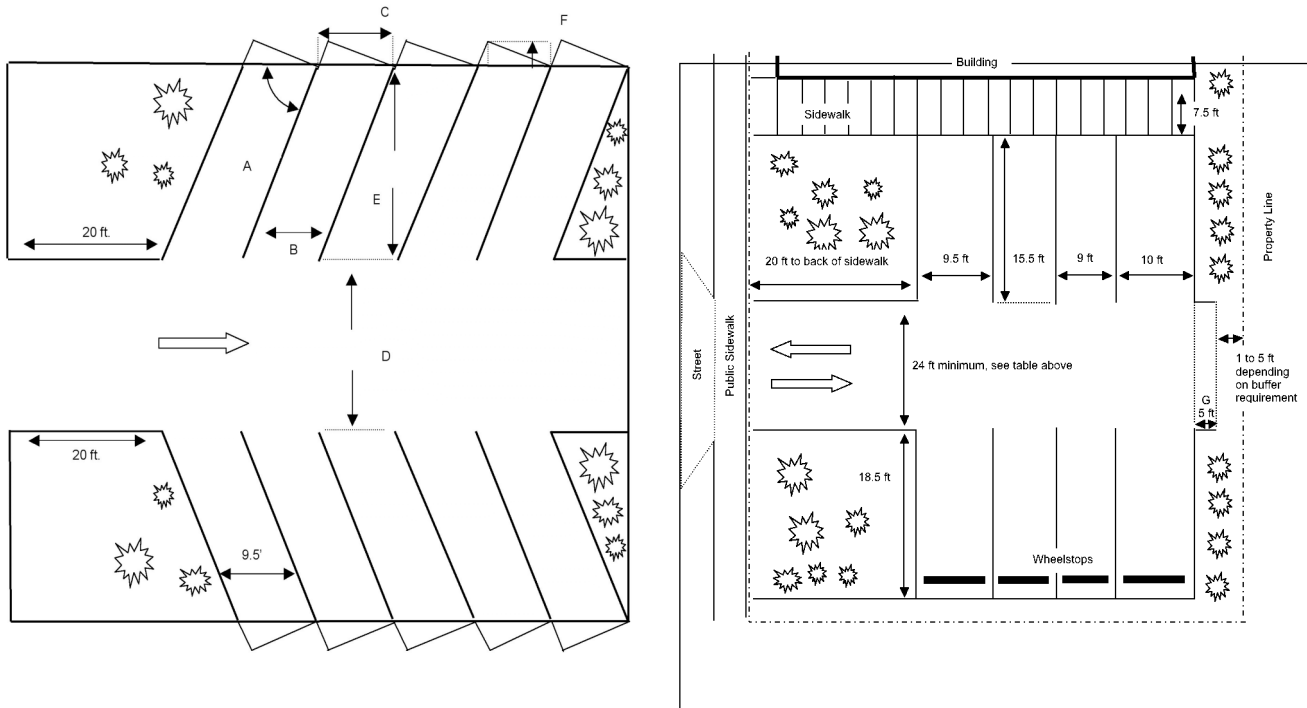
9.130 Off-Street Parking Lot Design. All off-street parking lots must be designed in accordance with City standards for stalls and aisles as set forth in the following table and drawing.

**Table 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 Back-up
(Parallel)	8.0 feet	8.0 feet	N/A	25.0 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
Compact	8.0C	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 minimum width.
- (2) The dimensions for compact car spaces shall be 8 feet by 16 feet.
- (3) For estimating available parking area, use 350 square feet per vehicle for stall, aisle, and access areas.
- (4) The stall width for self-parking of long duration is 8.6 feet; for higher turnover, self-parking it is 9.0 feet; and for supermarkets and similar facilities (shoppers with packages), it is 9.5-10 feet.
- (5) The minimum aisle width for two-way traffic and for emergency vehicle operations area is 24 feet. The minimum aisle width for emergency vehicle access (one-way traffic) is 20 feet.
- (6) Where appropriate bumper overhang area is provided (extruded curbs), “F” can be subtracted from “E” to determine stall depth.
- (7) All handicapped spaces shall be 15 feet in width.



**LANDSCAPING**

9.140 General Requirements. Landscaping requirements by type of use are listed below:

- (1) Landscaping Required – Residential. All front yards (exclusive of accessways and other permitted intrusions) are required to be landscaped prior to issuance of an occupancy permit. A temporary occupancy permit for up to one year may be issued if the developer posts a bond with the city. See Section 9.190. In all residential districts except Rural Residential (RR), minimum landscaping acceptable per 1,000 square feet of required yard areas is as follows:
  - (a) One tree at least six feet in height.
  - (b) Four 1-gallon shrubs or accent plants.
  - (c) The remaining area treated with attractive ground cover (e.g. lawn, bark, rock, ivy, and evergreen shrubs).
  
- (2) Landscaping Required – Commercial. All required yards adjacent to a street (exclusive of accessways and other permitted intrusions) are required to be landscaped prior to issuance of an occupancy permit. A temporary occupancy permit for up to one year may be issued if the developer posts a bond with the city. See Section 9.190. Minimum landscaping acceptable per 1,000 square feet of required yard area in all commercial districts is as follows:
  - (a) One tree at least six feet in height.
  - (b) Five five-gallon or eight one-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.
  
- (3) Landscaping Required – Industrial. All required yards adjacent to a street (exclusive of accessways and other permitted intrusions) are required to be landscaped prior to issuance of an occupancy permit. A temporary occupancy permit for up to one year may be issued if the developer posts a bond with the city. See Section 9.190. Minimum landscaping acceptable per 1,000 square feet of required yard area in all industrial districts is as follows:
  - (a) One tree at least six feet in height.
  - (b) Five five-gallon or eight one-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) Where 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% of such yard area must be landscaped.

9.150 Parking Lot Landscaping. Parking lots must be landscaped in accordance with the following minimum standards:

- (1) Planter Bays. Parking areas shall be divided into bays of not more than 12 parking spaces. Between or at the end of each parking bay there shall be curbed planters of at least 5 feet in width. Each planter shall contain 1 tree at least 10 feet high and decorative ground cover containing at least two shrubs for every 100 square feet of landscape area.
- (2) Entryway Landscaping. Entryways into parking lots shall be bordered by a minimum 5 feet wide landscape planter strip meeting the same landscaping provisions as for planter bays, except that no sight obscuring trees or shrubs are permitted.
- (3) Parking Space Buffers. Parking areas shall be separated from the exterior wall of a structure by pedestrian entrance ways or loading areas or by a 5-foot strip of landscaping materials.
- (4) Alternate Plan. An alternate plan may be submitted which provides landscaping of not less than 5% of the total parking area exclusive of required landscaped yard areas and which separates parking areas of



more than 100 spaces into clusters divided by landscape strips. Each planter area shall contain 1 tree at least 10 feet high and decorative ground cover containing at least 2 shrubs for every 100 square feet of landscape area.

- (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 providing protection.

9.160 Irrigation of Required Landscaping. All required landscaped areas must be provided with a piped underground water supply irrigation system unless a licensed landscape architect or certified nurseryman submits written verification that the proposed plant materials do not require irrigation. Irrigation systems installed in the public right-of-way require an encroachment permit.

9.170 Identification of Existing Trees. In all proposed developments, existing trees over 9 inches in diameter as measured 3 feet from ground level will be noted on all development plans, with notations indicating whether they are to be removed or utilized in the development. Clusters of trees in open space and floodplain areas may be noted in approximate locations.

9.180 Landscape Plans. With the exceptions noted below, all development applications involving buildings and parking areas must include landscape plans. The following uses are required to meet the landscaping requirements of this code but are not required to submit landscape plans:

- (1) Single-family dwellings, duplexes and triplexes.
- (2) Accessory buildings.
- (3) Changes internal to an existing structure.
- (4) Building additions involving less than 500 square feet.

9.190 Completion Guarantees. Occupancy of a development that required land use approval may be allowed prior to the complete installation of all required landscaping and irrigation only under the following circumstances:

- (1) Occupancy is requested between December 1 and March 1.
- (2) A security is provided to the City equal to 110% of the cost of the labor and materials (plants, ground covers, and any required irrigation) that have not been installed, as verified in writing by a landscape contractor. Security may consist of a performance bond payable to the City, cash, certified check, time certificate of deposit, or lending agency certification that funds are being held until completion or such other assurances as may be approved by the Director and City Attorney.
- (3) The applicant and City agree to a specified installation completion date. The date chosen will be the soonest date possible after it is safe to plant (i.e. chance of freezing has past).
- (4) To verify that the landscaping, and irrigation, if required, has been installed per the approved plan, an inspection shall be made prior to any security being returned. [Ord. 5446, 5/10/00]

9.200 Maintenance of Landscaped Areas. It shall be the continuing obligation of the property owner to maintain required landscaped areas in an attractive manner free of weeds and noxious vegetation. In addition, the minimum amount of required living landscape materials shall be maintained.

## TREE FELLING

9.205 Purpose. Trees of significant size represent a visual and aesthetic resource to the community. These standards are intended to balance the preservation of significant trees as a benefit to the community with the individual right to use and enjoy property. [Ord. 5445, 4/12/00]

9.206 Definitions. For the purposes of the following sections, these definitions apply:

- (1) Fell: To remove or sever a tree or the intentional use of any procedure the natural result of which is to cause the death or substantial destruction of the tree. Fell does not in any context include normal pruning of trees.
- (2) Tree: A living, standing, woody plant having a trunk circumference of 24 inches or more.
- (3) Tree, Circumference: The circumference of a tree is measured at 4-1/2 feet above mean ground level from the base of the trunk. To obtain the circumference of a tree with multiple trunks, add the individual trunk circumferences, which are greater than six inches in circumferences. [Ord. 5445, 4/12/00]

9.207 Applicability. Site plan review approval is required for the felling of five or more trees larger than 25 inches in circumference (approximately 8 inches in diameter) on a lot or property in contiguous single ownership in excess of 20,000 square feet in any zone.

The following activities are exempt from site plan review:

- (1) The action of any City official or of any public utility necessary to remove or alleviate an immediate danger to life or property; to restore utility service or to reopen a public street to traffic.
- (2) Felling of any tree that is defined as a nuisance under the Albany Municipal Code.
- (3) Any felling necessary to maintain streets or public or private utilities within a public right-of-way or utility easement provided the Tree Commission or City Forester approved the proposed tree felling. [Ord. 5445, 4/12/00]

9.208 Tree Felling Criteria. The following review criteria replace the site plan review criteria found elsewhere in this code for the purposes of reviewing tree felling. A site plan review for tree felling will be processed as a Type I-L land use decision.

- (1) The Community Development Director or his/her designee shall approve a site plan review for tree felling when the applicant demonstrates that the felling of the tree(s) is warranted because of the condition of the tree(s) with respect to disease, hazardous or unsafe conditions, danger of falling, proximity to existing structures or proposed construction, or interference with utility services or pedestrian or vehicular safety. The Director may require the applicant to provide a Certified Arborist's report.
- (2) For property where a site plan review, conditional use or land division application has been approved or is currently under review, the Community Development Director, City Forester, or his/her designee shall approve a site plan review for tree felling when the applicant demonstrates that all of the following review criteria are met:
  - (a) It is necessary to fell tree(s) in order to construct proposed improvements in accordance with an approved site plan review or conditional use review, or to otherwise utilize the applicant's property in a manner consistent with its zoning, this code, applicable plans adopted by the City Council, or a logging permit issued by the Oregon Department of Forestry.
  - (b) The proposed felling is consistent with State standards, City ordinances, and the proposed felling does not negatively impact the environmental quality of the area, including but not

limited to: the protection of nearby trees and windbreaks; wildlife; erosion; soil retention and stability; volume of surface runoff and water quality of streams; scenic quality, and geological sites.

- (c) The uniqueness, size, maturity, structure, and historic value of the trees have been considered and all other options for tree preservation have been exhausted. The Director may require that trees determined to be unique in species, size, maturity, structure, or historic value are preserved.
- (3) For property where tree felling has not been approved as part of a site plan review, conditional use, or land division application, the Community Development Director or his/her designee shall approve a site plan review application for tree felling, if the review criteria above are met, and the following criteria are met:
- (a) Trees shall be retained in significantly large areas and dense stands so as to ensure against windthrow.
  - (b) Wooded areas that will likely provide an attractive on-site amenity to occupants of future developments shall be retained.
  - (c) Wooded areas associated with natural drainageways and water areas will be maintained to preserve riparian habitat and minimize erosion. The wooded area to be retained shall be at least 10 feet in width or as required elsewhere in this code.
  - (d) Wooded areas along ridges and hilltops will be retained for their scenic and wildlife value.
  - (e) Tree felling on developable areas will be avoided to retain the wooded character of future building sites and so preserve housing and design options for future City residents.
  - (f) Wooded areas along property lines shall be retained at a minimum width of 10 feet to provide buffers from adjacent properties.
  - (g) The plan for tree felling shall be consistent with the preservation of the site's future development potential and zoning.
- (4) The Director may attach conditions to the approval of the site plan review for tree felling to ensure the replacement of trees and landscape or otherwise reduce the effects of the felling, and may require an improvement assurance to ensure all conditions are met.
- (5) Precautions shall be made to protect residual trees and tree roots from damaging agents during and after the removal process. The following tree protection specifications should be followed to the maximum extent feasible for all projects with protected existing trees.
- (a) Within the drip line of any protected existing tree, there shall be no cut or fill over a four-inch depth unless a qualified arborist or forester has evaluated and approved the disturbance.
  - (b) Prior to and during construction, barriers shall be erected around all protected existing trees with such barriers to be of orange fencing a minimum of four (4) feet in height, secured with metal T-posts, no closer than six (6) feet from the trunk or one-half (½) of the drip line, whichever is greater. There shall be no storage or movement of equipment, material, debris or fill within the fenced tree protection zone.
  - (c) During the construction stage of development, the applicant shall prevent the cleaning of equipment or material or the storage and disposal of waste material such as paints, oils, solvents, asphalt, concrete, motor oil or any other material harmful to the life of a tree within the drip line of any protected tree or group of trees.
  - (d) No damaging attachment, wires, signs or permits may be fastened to any protected tree.
  - (e) Large property areas containing protected trees and separated from construction or land clearing areas, road rights-of-way and utility easements may be "ribboned off," rather than erecting protective fencing around each tree as required in subsection (5)(b) above. This may be accomplished by placing metal t-post stakes a maximum of fifty (50) feet apart and tying ribbon or rope from stake-to-stake along the outside perimeters of such areas being cleared.
  - (f) The installation of utilities, irrigation lines or any underground fixture requiring excavation

deeper than six (6) inches shall be accomplished by boring under the root system of protected existing trees at a minimum depth of twenty-four (24) inches. The auger distance is established from the face of the tree (outer bark) and is scaled from tree diameter at breast height as described in the chart below. [Ord. 5445, 4/12/00]

<b>Tree Diameter at Breast Height (inches)</b>	<b>Auger Distance from Face of Tree (feet)</b>
8-9	5
10-14	10
15-19	12
Over 19	15

### **BUFFERING AND SCREENING**

- 9.210 General Requirements/Matrix. In order to reduce the impacts on adjacent uses which are of a different type, buffering and screening is required in accordance with the matrix that follows. The property owner of each proposed development is responsible for the installation and maintenance of such buffers and screens. The Director may waive the buffering/screening requirements of this section where such has been provided on the adjoining 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) shall be required as specified in the matrix. Where a proposed use abuts undeveloped property, only one half of the buffer width shall be required. [Ord. 5445, 4/12/00]
- 9.220 Delineation of Area. A buffer consists of an area within a required setback adjacent to a 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.
- 9.230 Occupancy. A buffer area may only be occupied by utilities, screening, sidewalks, bikeways and landscaping. No buildings, accessways or parking areas are allowed in a buffer area except where an accessway has been approved by the City.
- 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 time of planting for deciduous trees and spaced not more than 30 feet apart and 5 feet high at time of planting for evergreen trees and spaced not more than 15 feet apart. This requirement may be waived by the Director where it can be demonstrated that such trees would conflict with other purposes of this Code (e.g. solar access).
  - (2) At least five 5-gallon shrubs or ten 1-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:
- (1) One row of evergreen shrubs which will grow to form a continuous hedge at least four feet in height within two years of planting, or
  - (2) A minimum of a five-foot fence or masonry wall constructed to provide a uniform sight-obscuring screen, or

- (3) An earth berm combined with evergreen plantings or a fence which forms a sight and noise buffer at least six feet in height within two years of installation.
- 9.260 Clear Vision. Buffering and screening provisions are superseded by the clear vision requirements of Section 6.160 and by the fence and wall height restrictions of the zone where 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.
- 9.280 Trees Prohibited on Right-of-Ways. Because of their potential negative impact on the public infrastructure, it is unlawful to plant any of the following trees in or on any street right-of-way or parking strip in the city: box elder, tree of heaven, golden chain, holly, silver maple, bamboo, poplar, willow, conifer, cottonwood, fruit trees (other than ornamental fruit trees), nut trees (other than ornamental nut trees), and ailanthus.
- 9.290 Trees Requiring Approval. It is unlawful to plant willow, cottonwood, or poplar trees anywhere in the city unless the Director of Public Works approves the site thereof as one where the tree roots will not be likely to interfere with public sewers.
- 9.300 Height Requirements. Trees or shrubs growing in the right-of-way or on private property must be trimmed to maintain a minimum canopy height of 8 feet above sidewalks, or 14 feet above streets or alleys.
- 9.310 Trimming, Removal. The city manager or duly authorized representative may cause any vegetation in or upon any parking strip, street right-of-way or other public place in the city to be trimmed, pruned, or removed.
- 9.320 Planting In Roadways Having No Gutter, Curb. No trees, shrubs, or plantings more than eighteen inches in height shall be planted in the public right-of-way abutting roadways having no established curb and gutter.
- 9.330 [Repealed by Ord. 5445, 4/12/00]

BUFFER MATRIX	PROPOSED USE								
	Detached dwelling	Attached dwelling 1-story	Attached dwelling 2+ stories	Manufactured home park or subdivision	Commercial/professional use	Industrial Park use	Light Industrial use	Heavy Industrial use	Parking lot with more than 4 spaces
Detached family dwelling units in RS-6.5, RS-5, HM Districts	0'	0'	10'	0'	10' S	30' S	30' S	40' S	10' S
Detached unit 1-story in RM-5 District	0'	0'	10'	0'	10' S	30' S	30' S	40' S	10' S
Attached dwelling unit/2+ stories, or RM-3 or RH district	0'	0'	10'	0'	10' S	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' S	10' S	10' S	10' S (1)	10'	0'	10'	10'	10'
Commercial or professional uses, or commercial districts (Articles 4,14)	10	10	10'	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 more than 4 spaces	10' S	5' S	5' S	5' S	0'	0'	0'	0'	0'

"S" indicates screening required. (1) See Section 10.270(2)(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. [Ord. 5445, 4/12/00]

## ENVIRONMENTAL

- 9.400 Purpose. These regulations are designed to protect all uses in all zones from certain objectionable off-site impacts associated with nonresidential uses. These impacts include noise, vibration, odors, and glare. The standards ensure that uses provide adequate control measures or locate in areas where the community is protected from health hazards or nuisances. The use of objective standards provides a measurable means of determining specified off-site impacts. This method protects specific industries or firms from exclusion in a zone based solely on the general characteristics of similar industries in the past. [Ord. 5555, 2/7/03]
- 9.405 Exemptions. The off-site impact standards do not apply to machinery, equipment, and facilities that were at the site and in compliance with existing regulations at the effective date of these regulations. Any new or additional machinery, equipment, and facilities must comply with the standards of this chapter. Documentation is the responsibility of the proprietor of the use if there is any question about when the equipment was brought to the site. [Ord. 5555, 2/7/03]
- 9.410 Relationship to Other Regulations. The environmental standards are in addition to all other regulations of the Albany Municipal Code. These standards do not replace or supercede regulations of the Department of Environmental Quality (DEQ), relevant county regulations, or standards such as the Uniform Building Code or Uniform Fire Code. [Ord. 5555, 2/7/03]
- 9.420 Evidence of Compliance. Prior to approval of a development application, the Director may require submission of evidence demonstrating compliance with state, federal and local environmental regulations and receipt of necessary permits.
- 9.425 Responsibility. Compliance with state, federal and local environmental regulations is the continuing obligation of the property owner and operator.
- 9.430 Measurements. Measurements for compliance with these standards are made from the property line or within the property of the affected site. Measurements may be made at ground level or at habitable levels of buildings.
- If the City does not have the equipment or expertise to measure and evaluate a specific complaint, it may request assistance from another agency or may contract with an independent expert to perform such measurements. The City may accept measurements made by an independent expert hired by the owner or operator of the off-site impact source. If the City contracts to have measurements made and no violation is found, the City will bear the expense, if any, of the measurements. If a violation is found, City expenses will be charged to the violator. Nonpayment of the costs is a violation of the Code. [Ord. 5555, 2/7/03]
- 9.435 Neighborhood Compatibility. If a site is located within 300 feet of residentially zoned property and environmental impacts regulated by this article have not been adequately determined, the Community Development Director may require that a proposed use be considered under the Conditional Use process to provide an opportunity for public review and comment and to establish conditions to mitigate potential impacts. [Ord. 5555, 2/7/03]
- 9.440 Noise. The City noise standards are stated in Albany Municipal Code Title 7, Public Peace, Morals and Safety. In addition, the Department of Environmental Quality (DEQ) has regulations that apply to firms adjacent to or near noise-sensitive uses such as dwellings, religious institutions, schools, and hospitals.
- (1) Additional City Standards. The following restrictions are in addition to the State DEQ standards for purposes of City noise regulation:
- (a) For purposes of measuring permitted sound levels from noise generating sources under the provisions of DEQ rules, any point where a noise sensitive building could be constructed under

- the provisions of this Code shall apply as if such point contained a noise sensitive building.
- (b) Within the Industrial Park (IP) and Waterfront (WF) Zoning Districts, each property or building under separate ownership shall be considered a noise sensitive property under the provision of DEQ rules with the exception that the allowable noise levels shall be increased by 5 db.

(2) Expert Evaluation. A noise analysis may be required in the development review process to show that a proposed activity can meet the noise standards or that residential uses are adequately buffered from noise sources.

(3) Mitigation Measures. The following noise mitigation measures may be required through development review:

- (a) increased building setbacks;
- (b) special berms and heavy vegetation areas;
- (c) site layout to establish buffer areas or locate low-noise buildings to serve as buffer between the noise-sensitive areas and the sound source;
- (d) special sound insulation construction techniques;
- (e) improvements as recommended by the DEQ or a qualified noise consultant;
- (f) issuance of a bond or other financial agreements to ensure that the required noise reduction features are installed.

[Ord. 5555, 2/7/03]

9.450 Visible Emissions. Within the mixed-use, commercial, IP and WF zoning districts, there shall be no use, operation, or activity which results in a stack or other point source emission, other than an emission from space heating, or the emission of pure uncombined water (steam) which is visible from a property line. [Ord. 5555, 2/7/03]

9.455 Water Quality. Direct discharge of storm water and process waste from operation of industries shall comply with the water quality standards adopted by DEQ and as authorized in a National Pollutant Discharge Elimination System (NPDES) Permit. [Ord. 5555, 2/7/03]

9.460 Vibration. Continuous, frequent, or repetitive vibrations that exceed 0.002g peak may not be produced.

Exceptions: Vibrations from temporary construction and vehicles that leave the site (such as trucks, trains, or aircraft) are exempt; vibrations lasting less than 5 minutes per day are also exempt. Vibrations from primarily on-site vehicles and equipment are not exempt.

Measurements. Seismic or electronic vibration measuring equipment may be used for measurements when there are doubts about the level of vibration.

[Ord. 5555, 2/7/03]

9.470 Odors. Continuous, frequent, or repetitive odors or the emission of odorous gases or other matter in such quantities as to be readily detectable at any point beyond the property line of the use creating the odors is prohibited. Odor is regulated by the Department of Environmental Quality.

Exceptions: An odor detected for less than 15 minutes per day is exempt.

[Ord. 5555, 2/7/03]

9.480 Glare and Heat. No direct or sky-reflected glare in excess of 0.5-foot candles of light, whether from floodlights or from high temperature processes such as combustion or welding or otherwise, visible at the lot line shall be permitted. These regulations shall not apply to signs or floodlighting of parking areas otherwise permitted by this Code. There shall be no emission or transmission of heat or heated air so as to be discernible at the lot line of the source. Strobe lights visible from another property are not allowed, except as may be required by the Federal Aviation Administration. [Ord. 5555, 2/7/03]



- 9.490 Insects and Rodents. All materials including wastes shall be stored and all grounds shall be maintained in a manner which will not attract or aid the propagation of insects or rodents or create a health hazard.
- 9.500 Hazardous Waste. Hazardous wastes are subject to the regulations of OAR 340.100-110, Hazardous Waste Management. [Ord. 5555, 2/7/03]

## **ARTICLE 10**

### **MANUFACTURED HOME DEVELOPMENT STANDARDS**

10.000 Overview. This article contains the standards of development for manufactured housing placed on individual lots and in manufactured home parks within the City. Manufactured homes provide a wide choice of housing types suitable for a variety of households, lifestyles and income levels. The standards contained in this article are intended to provide a suitable living environment for residents of manufactured homes and establish development standards that will increase compatibility with adjacent land uses. The following is a list of the main headings in this article.

- General Provisions
- Classification of Manufactured Homes
- Placement on Individual Lots
- Manufactured Home Parks
- Temporary Placements
- Recreational Vehicle Parks

#### **GENERAL PROVISIONS**

10.010 Definitions. For purposes of this article, the definitions of terms used and not defined in Article 22 of this Code are as defined in ORS Chapter 446, Oregon Administrative Rules Chapter 918, Division 600, or Oregon Administrative Rules Chapter 333, Division 31 as amended. [Ord. 5445, 4/12/00]

10.020 Relationship to Other Regulations. Standards for manufactured home developments established by state law or state administrative rule are in addition to the provisions of this article.

10.030 Relationship to Deed Restrictions. Nothing in these provisions shall be interpreted as superseding deed covenants or restrictions.

10.040 Manufactured Housing Construction & Safety Standards Code. All Class “A”, “B”, and “C” manufactured homes must comply with the minimum construction standards of Title IV of the 1974 Housing and Community Development Act as amended (effective June 15, 1976), and all associated rules, regulations and interpretations of both federal and state authorities.

10.050 Foundations/Enclosures/Support Systems. All load bearing foundations, supports, and enclosures shall be installed in conformance with the state regulations and with the manufacturer’s installation specifications. Permitted enclosure materials are concrete, concrete block, or other materials approved by the Building Official. [Ord. 5445, 4/12/00]

10.060 Attached Structures. All attached structures must be constructed in compliance with building codes adopted by the state of Oregon. [Ord. 5445, 4/12/00]

#### **CLASSIFICATION OF MANUFACTURED HOMES**

10.080 Manufactured Home Classes. For purposes of these regulations, manufactured homes are divided into three types, “A,” “B,” and “C.” These classes are segregated by the size and construction standards under which the home was manufactured. All manufactured homes placed within the city after the effective date of this Code must comply with the placement standards in the Sections that follow. [Ord. 5445, 4/12/00]

#### **CLASS “A”**

- 10.090 Class “A” Definition. A Class “A” manufactured home is one that meets the following standards:
- (1) It is multi-sectional and encloses a space of not less than 1,000 square feet.
  - (2) It will be placed on a permanent foundation as specified in Section 10.050 or 10.310.
  - (3) Wheels, axles, and hitch mechanisms will be removed prior to occupancy.
  - (4) Utilities will be connected in accordance with state requirements and the manufacturer’s specifications.
  - (5) It bears an insignia of compliance with the Manufactured Housing Construction and Safety Standards Code and, at the time of placement meets applicable building codes. [Ord. 5445, 4/12/00]

10.100 Class “A” Placement. Class “A” manufactured homes are permitted on individual lots in all Residential Districts, except RM-H, if they meet the approval criteria listed in Section 10.180. Class “A” homes are permitted outright in manufactured home parks, and as replacements to existing nonconforming manufactured homes. They are not allowed in any National Register Historic District.

**CLASS “B”**

- 10.110 Class “B” Definition. A Class “B” manufactured home is one that meets the following standards:
- (1) It contains more than seven hundred fifty (750) square feet of occupied space in a single, double, expando, or multi-section unit (including those with add-a-room units);
  - (2) It will be placed on a permanent foundation as specified in Section 10.050 or 10.310.
  - (3) Wheels, axles, and hitch mechanisms will be removed.
  - (4) Utilities will be connected in accordance with manufacturer’s specifications and state requirements.
  - (5) It bears an insignia of compliance with the Manufactured Housing Construction and Safety Standards Code as of June 15, 1976, and at the time of placement meets applicable building codes. [Ord. 5445, 4/12/00]

10.120 Class “B” Placement. Class B manufactured homes are permitted on individual lots in the RS-5, RM-5, and RM-3 districts if they meet the approval criteria listed in Section 10.180. Class “B” homes are permitted outright in all manufactured home parks. In addition, they are permitted as replacements to existing nonconforming manufactured homes classified as Class B or C. They are not allowed in any National Register Historic District. [Ord. 5445, 4/12/00]

**CLASS “C”**

- 10.130 Class “C” Definition. A Class “C” manufactured home is one that meets the following standards:
- (1) It has more than three hundred twenty (320) square feet of occupied space in a single, double, expando or multi-section unit (including those with add-a-room units).
  - (2) It will be placed on a support system in accordance with approved installation standards as specified in Section 10.310.
  - (3) It will be enclosed with foundation siding/skirting in accordance with approved installation standards as specified in Section 10.310.

- (4) Utilities will be connected in accordance with a manufacturer's specifications and state requirements.
- (5) It bears an insignia of compliance with the Manufactured Housing Construction and Safety Standards Code as of June 15, 1976, and at the time of placement meets applicable building codes. [Ord. 5445, 4/12/00]

10.140 Class "C" Placement. Class "C" manufactured homes are permitted in all manufactured home parks. These units are also allowed as replacements to existing nonconforming manufactured homes on an individual lot for units classified as Class C. [Ord. 5445, 4/12/00]

10.150 [Repealed by Ord. 5445, 4/12/00]

10.160 [Repealed by Ord. 5445, 4/12/00]

### **PLACEMENT ON INDIVIDUAL LOTS**

10.170 Manufactured Home Placements. Manufactured homes are permitted on individual parcels or lots outside of manufactured home parks in accordance with the placement standards set forth in Sections 10.100 and 10.120 and all other provisions of the Development Code for site-built dwellings. They are not allowed within the National Register Historic Districts or on residential land immediately adjacent to a historic landmark. [Ord. 5446, 5/10/00]

10.180 Review Criteria. In order to be approved, the manufactured home must be found to have design compatibility with other single-family dwellings in the "review area," which is the area within 150 feet of the subject lot or parcel or the nearest five dwellings. The criteria for determining acceptable compatibility shall be based upon a review of the following design elements:

- (1) Roofing shall be similar in color, material, and appearance to the roofing material commonly used on residential dwellings within the community or comparable to the predominant materials used on dwellings within the review area. The roof pitch shall be a minimum of nominal 3/12. Manufactured homes placed in RM-5 or RM-3 districts may have a roof pitch of nominal 2/12.
- (2) Exterior siding shall be similar in color, material, and appearance to the exterior siding material commonly used on residential dwellings within the community or comparable to the predominant materials used on dwellings within the review area.
- (3) A garage is required if more than 50% of the homes in the review area have a garage. If more than 50% of the homes in the review area have a carport, then a carport or garage is required. If there is a mixture of garages or carports for more than 50% of the homes in the review area, then a carport or garage is required. The garage or carport shall be of like materials and color as the home. The garage or carport may be required to be attached if other dwellings in the review area have attached garages.
- (4) All Class A and Class B manufactured homes outside of manufactured home parks shall be placed on an excavated and back-filled foundation (e.g. pit set) and enclosed with a perimeter enclosure, which must be similar in appearance to foundations or enclosures in the area.
- (5) The manufactured home shall comply with the standards of Section 8.130 for home orientation.
- (6) The manufactured home shall comply with the standards of Section 8.140 for infill or redevelopment of existing parcels. [Ord. 5445, 4/12/00]

### **MANUFACTURED HOME PARKS**

## GENERAL

10.190 [Repealed by Ord. 5445, 4/12/00]

10.200 Definitions. A manufactured home park is a land-lease residential community. The land is under the same ownership; home sites within the community are leased to individual homeowners. [Ord. 5445, 4/12/00]

10.205 Applicability. The following standards apply to the design of new manufactured home parks and to the expansion of existing manufactured home parks. These standards are not intended to apply to existing manufactured home parks or to render unlawful any existing manufactured home park.

However, there may be spaces in existing manufactured home parks that were constructed under previous standards where a replacement manufactured home could not now be placed in conformance with these standards. It is not the purpose of these standards to prohibit continued use of those spaces. The applicant may either select a home that could be placed in such a space in full compliance with these standards, or the applicant could seek relief as allowed by other provisions of this code. [Ord. 5445, 4/12/00]

10.210 Where Permitted. Manufactured home parks are permitted with Site Plan Review approval in the RS-6.5, RS-5, RM-5 and RM-3 Districts in accordance with the standards of this Article and the standards for site plan approval, Article 2. In addition, manufactured home parks may be planned under the provisions for Planned Developments (Article 11) which may be used to provide for individual ownership of manufactured homes and sites and common ownership and maintenance of other lands and facilities. Manufactured home parks are not permitted in the HM, RR, RS-10 and RM-H districts. [Ord. 5445, 4/12/00]

10.220 Same Standards Apply as for Conventional Development. Except as specified otherwise by this article, the standards for developing land within manufactured home parks are the same as for all other developments in accordance with the provisions of this Code. [Ord. 5445, 4/12/00]

10.230 Improvement Standards. The improvement of driveways, walkways, streets, drainage and other utilities shall conform to adopted State standards for such or shall conform to the City's Standard Construction Specifications Manual, whichever is more restrictive. [Ord. 5445, 4/12/00]

10.240 Minimum Park Size. The minimum area of the park shall be at least one acre. [Ord. 5338, 1/28/98; Ord. 5445, 4/12/00]

10.250 Density. The maximum number of manufactured homes allowed within a manufactured home park shall be computed by dividing the total land area of the park, including private streets and common areas by the minimum lot area per dwelling unit allowed within the subject zone. The total density shall not exceed 10 units per acre. [Ord. 5445, 4/12/00]

10.260 Permitted Uses. A manufactured home park may contain manufactured homes and accessory structures incidental to the primary use. Accessory uses may include: community laundry and recreation facilities, common buildings for use by park residents only, a manager's office, and one residence (that may be other than a manufactured home) for the use of a caretaker or a manager responsible for maintaining or operating the property. Only those manufactured homes that have an insignia of compliance from either the Department of Housing and Urban Development (HUD) or the State of Oregon are permitted in a manufactured home park. [Ord. 5445, 4/12/00]

10.270 Compatibility and Park Perimeter Standards. These standards apply only to spaces on the perimeter of the park.

- (1) Space Size. The size of spaces on the perimeter of the park is determined by the use of adjoining land and the zoning district. This standard does not apply to spaces that abut public streets on the perimeter

of the park. For purposes of this section, “developed” means that the number of dwelling units per acre exceeds 50% of the maximum density allowed by the zone. For RS-10, 50% of the maximum density is 2 units/acre; for RS-6.5, 4 units per acre; for RS-5, 5 units/acre; for RM-5, 10 units/acre; and for RM-3, 20 units/acre. This definition applies equally to adjoining land that is used for a subdivision, apartment, or manufactured home park. Each side of the manufactured home park is considered separately even though the adjoining land may be zoned alike.

- (a) If the adjoining land is developed, spaces shall be at least 90 percent of the minimum single-family lot size of the adjoining zoning district. (For example, in the RS-6.5 zoning district, spaces must be 90% of 6,500 square feet.)
  - (b) If the adjoining land is not developed, spaces shall be at least 90 percent of the minimum single-family lot size in the underlying zoning district.
  - (c) A variance to this standard may be appropriate where the adjacent land is protected from development (e.g. floodways, wetlands, steep slopes) and creates a natural buffer area between developable areas.
- (2) Home Orientation. Homes on perimeter spaces shall be oriented to the street so the front door faces the street.
- (3) Perimeters on Public Streets. These standards apply to spaces abutting public streets on the perimeter of the park.
- (a) Setbacks. Homes and accessory structures shall meet the minimum front yard setback for the underlying zoning district.
  - (b) Home Orientation. Homes adjacent to local residential streets shall be oriented to the public street so the front door faces the street.
  - (c) Screening along collector and arterial streets. Buffering and screening shall be provided along collector and arterial streets in accordance with Section 9.250. Architectural screening to include sight-obscuring fencing may be used for screening along streets classified as a collector or arterial. Long expanses of fence or wall along streets shall be designed to prevent visual monotony through the use of offsets, landscaping, and change in materials. Fencing closer than 15 feet to the public right-of-way shall be subject to the district’s restrictions on front yard fencing (4-foot maximum height). [Ord. 5445, 4/12/00]

#### 10.280 Site Development Standards.

- (1) Connectivity, Streets and Parking.
  - (a) Connectivity. Streets that are needed to connect to and extend the transportation network shall be public streets. Other streets may be public or private. Walkways are required to make pedestrian connections to park amenities and neighboring developments. Gated residential streets are prohibited. Access locations needed for emergency vehicle access shall be open to the public and not barricaded.
  - (b) Streets. Either public or private streets may be constructed in manufactured home communities, subject to the connectivity requirements above.
    - i. Private Streets. Private streets shall be paved a minimum width of 20 feet if there is no parking allowed (community/visitor parking is required) or 30 feet if on-street parking is allowed. The layout of private streets shall foster circulation and access throughout the park. Private streets shall meet the standards outlined in Section 12.250.
    - ii. Public Streets. Public streets shall meet local residential street standards as described in Sections 12.060-12.280.
    - iii. Alleys. The use of alleys and garages located at the back of the property are allowed.

Alleys facilitate the efficient layout of home spaces and parking areas and narrower streets.

- (c) Block Length. Block dimensions shall be determined by existing street and development patterns, connectivity needs, topography, and adequate space size. The average block length shall not exceed 600 feet unless adjacent layout or physical conditions justify a greater length. Block length is defined as the distance along a street between the centerline of two intersecting through streets. Physical conditions may include existing development, steep slopes, wetlands, creeks, and mature tree groves. Blocks along the perimeter of the park may be longer if clustered spaces, small bulb-outs or similar design features break up the block.
- (d) Street Trees. Street trees shall be provided along all streets, public and private within the park and around the perimeter of the park, in a manner consistent with Article 12. Trees shall be located within the landscape strip of public roads and within 8 feet of the curb on private streets. Street trees may be used towards the landscaping requirements of the individual home spaces and common areas. The developer may incorporate planting medians into street designs.
- (e) Walkways. A street sidewalk (or an equivalent pedestrian walking system) at least 4 feet in width shall connect each manufactured home space with common areas, public streets, and play areas. All walkways must be separated, raised or protected from vehicular traffic and provide access for handicapped persons. The walkway system must connect with neighboring public sidewalk systems.

A walkway of not less than three feet in width shall be provided from each manufactured home main entrance to the nearest public or private street.

- i. Public Sidewalks. Setback sidewalks are required along all public streets within parks and on perimeters adjoining a public right-of-way. The sidewalks shall be set back 6 feet and be a minimum of 5 feet wide.
  - ii. Private Sidewalks or Paths. The developer may construct walking/biking paths in combination with open space and buffer areas to create a park-like setting and “gathering places” in lieu of sidewalks on private streets. The “path” shall circulate throughout the community, providing pedestrian access throughout the development and access to parks and other amenities.
- (f) Parking.
- i. Home Parking. Each manufactured home space must provide 2 on-site parking spaces.
  - ii. Visitor Parking. If the park streets do not allow on-street parking, visitor parking of one space per 8 units shall be provided in clustered community parking areas so that no home is more than 200 feet from a parking area.
  - iii. Office and Common Building Parking. Office and common buildings shall be provided with one space for each 300 square feet of floor area. This requirement may be partially filled by required visitor parking located within 300 feet of the building.
- (g) Lighting. All streets shall be lighted at intersections and pedestrian crossings. Fixtures shall not produce direct glare on adjacent properties.
- (h) Street Identification. All streets shall be named and identification signs shall be provided according to applicable City requirements. All spaces shall be addressed.
- (i) Entry Signage. One freestanding non-illuminated sign identifying the manufactured home park is allowed at each entrance to the park. Such signs may not exceed 32 square feet and are subject to the clear vision area requirements of Section 12.180.
- (j) Park Information Sign. A permanent map layout of a park is required for parks with more than 30 spaces.

- (2) Common and Recreation Areas. Common and recreation areas shall be located within the park development. All homes shall be within 600 feet of a common area and children's play area.
- (a) Common Area. A minimum of 200 square feet of outdoor or indoor recreation or gathering area shall be provided for manufactured home spaces less than 5,000 square feet. Spaces larger than 5,000 square feet shall provide a minimum of 100 square feet of common space per home space. Common areas may be in one or more locations in the park. Recreation and children's play areas may count towards the common area requirement.
  - (b) Recreation Area Standard. At least one recreation area must be a minimum of 5,000 square feet. If the manufactured home park is smaller than 30 spaces, then only 2,500 square feet of recreation area is required.
  - (c) Children's Play Area Standards. A separate play area must be provided in all manufactured home parks that accommodate children. The play area must be a minimum of 2,500 square feet in area with at least 100 square feet of play area provided for each manufactured home space.
  - (d) Credits. If the manufactured home park is within 1/2 mile of a public park or public school playground that has similar recreational amenities, the standard in subsection (b) may be reduced by 1/4 if there is a pedestrian connection to the public park.
- (3) Park Landscaping. A landscape plan for the park is required with the site plan application. This plan shall be drawn to scale. The plan will show the location of existing trees, vegetation proposed to be removed, vegetation proposed to be retained on the site, the location and design of landscaped areas, the varieties and sizes of trees and plant materials to be planted on the site, contour lines indicating any earth sculpting to be used, and other pertinent landscape information.

All common areas within a manufactured home park – exclusive of required buffer areas, buildings, and streets – shall be landscaped and maintained in accordance with the following minimum standards per each 1,000 square feet of open area.

- (a) One 10-foot tree or two trees at least 5 feet in height.
  - (b) Three shrubs or perennials.
  - (c) The remaining area must be landscaped in an attractive ground cover (see Article 9).
  - (d) Long expanses of fence or wall along public streets shall be designed to prevent visual monotony through the use of offsets, landscaping, and change in materials. Fencing closer than 15 feet to the public right-of-way shall be subject to the zoning district's restrictions on front yard fencing.
- (4) Storage Areas. Manufactured home parks may provide outside or covered storage areas for recreational vehicles or other equipment used by park residents provided that such areas are surfaced and drained (gravel is acceptable) in accordance with City Standards and provide buffering and screening as required in Section 9.250.
- (5) Utilities. All manufactured home parks shall provide each lot or space with storm drainage, public sanitary sewer, electric, telephone, and public water, with easements dedicated where necessary to provide such services. All such utilities shall be located underground unless waived by the City Engineer where underground service would require an exception to local prevalent conditions.
- (6) Fire Hydrants. If a manufactured home space or permanent structure in the park is more than 500 feet from a public fire hydrant, the park must have water supply mains designed to serve fire hydrants. Hydrants must be provided within 500 feet of any space or structure. Each hydrant within the park must be located on a vehicular way and conform in design and capacity to the public hydrants in the city. [Ord. 5445, 4/12/00]

#### 10.290 Manufactured Home Space Requirements.

- (1) Manufactured Home Spaces. Manufactured home spaces shall be indicated on the development plan



and each space clearly identified by number. In design of a manufactured home park, it shall be demonstrated that planned spaces can reasonably accommodate a variety of manufactured home types with accessory structures and required setbacks.

- (a) Minimum Lot width - 30 feet.
- (b) Minimum Lot depth - 40 feet.
- (c) Maximum Lot Coverage - 60% on perimeter spaces. There is no maximum lot coverage for interior spaces.
- (d) Minimum space size - There is no minimum space size for spaces that do not abut the perimeter of the park.

(2) Home Orientation.

- (a) For perimeter spaces, homes shall be oriented to the street so the front door faces the street. For interior spaces, the front door of each home may face the street of address or open onto a porch that faces the street.
- (b) Spaces should be arranged to avoid uniform placement of homes.
- (c) A walkway of not less than three feet in width shall be provided from each manufactured home main entrance to the nearest public or private street.
- (d) Carports and garages must be located so the front door or porch is visible from the street and the carport or garage comprises no more than 50% of the front façade.

(3) Setbacks. The following minimum setbacks shall apply within manufactured home parks:

- (a) Front yard setback - The distance of a manufactured home or accessory structure from private street is a minimum of 8 feet. Where a public street runs through a manufactured home park, the homes shall be at least 10 feet from the front property line. For spaces located along a public street that abuts the perimeter of the park, see Section 10.270(3)(a).
- (b) Interior setbacks - 3 feet minimum.
- (c) Distance between manufactured homes - 10 feet minimum.
- (d) Distance from a park building other than an accessory structure - 10 feet minimum.
- (e) Distance of a manufactured home or accessory structure from a sidewalk intended for public use shall be a minimum of 5 feet.
- (f) A detached accessory structure shall not be located closer than 6 feet to any dwelling or other accessory building on adjacent space without an appropriate fire separation. A double carport or garage may be built which serves two adjacent buildings if appropriate fire separation is provided.
- (g) The distance of a manufactured home or accessory structure from an exterior park boundary shall be a minimum of 10 feet.

(4) Space Landscaping. All manufactured home spaces shall be landscaped within six months of manufactured home placement. Such landscaping shall be the responsibility of the park owner unless under terms of the space rental agreement the renter assumes responsibility for landscaping. Minimum landscaping acceptable for each front yard is as follows:

- (a) One tree at least six feet in height.
- (b) Four one-gallon shrubs, perennials or accent plants.
- (c) The remaining area treated with attractive ground cover (e.g. lawn, bark, rock, ivy, and evergreen shrubs.)

(5) Patio/Deck. Each manufactured home shall have a patio or deck constructed of concrete, flagstone, wood, or other equivalent surface materials totaling at least 120 square feet of area and not less than 8 feet wide in any dimension. [Ord. 5338, 1/28/98; Ord. 5445, 4/12/00]

## APPLICATION REQUIREMENTS

10.300 Plot Plans Required. The application for a new or expansion of an existing manufactured home park shall be accompanied by ten copies of the plot plan of the proposed park. The plot plan should show the general layout of the entire manufactured home park and should be drawn to a scale not smaller than 1" = 40'. In addition to the application requirements for site plan review, the plan must include the following information:

- (1) The location of adjacent streets and all private right-of-way existing and proposed within 300 feet of the development site.
- (2) A legal survey.
- (3) The boundaries and dimensions of the manufactured home park.
- (4) The size (in square feet), location, dimensions and number of each manufactured home space.
- (5) The name and address of manufactured home park.
- (6) The scale and north point of the plan.
- (7) The location and dimensions of each existing or proposed structure, together with the usage and approximate location of all entrances, height, and gross floor area.
- (8) The location and width of accessways and walkways.
- (9) The extent, location, arrangement, and proposed improvements of all off-street parking and loading facilities, open space, landscaping, fences and walls, and garbage receptacles.
- (10) Architectural drawings and sketches demonstrating the planning and character of the proposed development.
- (11) The total number of manufactured spaces.
- (12) The location of each lighting fixture for lighting manufactured home spaces and grounds.
- (13) The location of recreation areas, buildings, and area of recreation space in square feet.
- (14) The point where the manufactured home park water and sewer system connects with the public system.
- (15) The location of available fire and irrigation hydrants.
- (16) A manufactured home shall be drawn on each space to demonstrate how each of the space standards will be met. Dimensions shall be shown for the size of the manufactured home and to demonstrate compliance with the orientation standards.
- (17) The location and species of trees that are at least 25 inches in circumference (approximately 8 inches in diameter).

10.310 [Repealed by Ord. 5445, 4/12/00]

10.430 [Repealed by Ord. 5445, 4/12/00]

## **TEMPORARY PLACEMENTS**

10.440 General. A special use permit may be issued to an applicant showing an undue hardship. The special use permit shall not exceed one (1) year in length and shall be for a Class A, B or C manufactured home (see Sections 10.080 through 10.140) for use on a single lot in accordance with the provisions which follow.

10.450 Medical Hardship Application. A medical hardship application will be reviewed through a Type I procedure. The applicant must demonstrate to the review body, with supporting factual information, that the permit is necessary to provide adequate and immediate health care for a family member in need of close attention who would otherwise be unable to receive the needed attention from the hospital or care facility. The manufactured home to be used must meet all city, county, and state health and building requirements and is to be used in conjunction with a permanent residential structure on the same lot. The application for medical hardship special use permit must contain:

- (1) A written medical report from a licensed physician indicating the nature of the medical or disability hardship and the amount and type of care needed by the affected person or persons.
- (2) A plot plan showing in detail the proposed location of the manufactured home on the site, with respect to the surrounding area, setbacks, existing structures and improvements to be made.
- (3) A signed petition indicating approval of all legal property owners within one hundred (100) feet of the subject property.

10.460 Medical Hardship Permit. A permit issued for medical hardship will include the following conditions:

- (1) There shall be no change in occupancy under the permit.
- (2) Manufactured homes shall not be expanded or attached to a permanent structure.
- (3) Manufactured homes shall have approved connections to utility systems and the owners shall be allowed to hook to an existing residential sewer service lateral without paying a sewer hookup charge.
- (4) The manufactured home shall be required to meet all setback requirements to residential dwellings and shall be situated so as to have the least possible visual exposure to adjoining streets.
- (5) The manufactured home must be removed when the original hardship no longer exists.
- (6) The permit is valid for a two-year period from the date of approval. The permit may be renewed upon request if the Director finds that the hardship still exists and that the temporary placement has had no adverse effect on surrounding properties. The renewal request must be made at least 30 days prior to the permit's expiration date.

10.470 Temporary On-site Residence Application. An application for a temporary on-site residence for owners or caretakers who are overseeing the construction of a new or replacement home, or the repair of an existing home is reviewed under the Type I procedure and must include the following information:

- (1) A statement of intended use and length of time for use.
- (2) A property plan showing in detail the proposed location and size of the manufactured home with respect to the surrounding area, setbacks, structures, and improvements to be made.

- (3) Evidence that the manufactured home complies with building and health codes.
- (4) A signed petition indicating approval of all legal property owners within one hundred (100) feet of the subject property.

10.480 Temporary On-site Residence Permit. The permit as issued will contain the following restrictions:

- (1) There shall be no change in occupancy under the permit.
- (2) The manufactured home may not be included or sold as a part of any property on which it is located.
- (3) The manufactured home may not be expanded or have attached permanent structures.
- (4) The manufactured home must have approved connections to utility systems as required by the City.
- (5) The use is limited to the function as set forth in the application for the permit.
- (6) The permit is limited in duration to one year. The permit may be extended as outlined in Section 1.080 (2).

10.490 Other Temporary Uses. A site plan review approval may be issued under the Type I-L procedure so as to provide adequate temporary building space for the following uses only:

- (1) Night watchman.
- (2) Temporary offices accessible to the general public for use during construction or remodeling.
- (3) Temporary building space for education, non-profit, and government agencies.

10.500 Right of Revocation. The review body shall have the right to revoke any special use permit granted under this section within thirty (30) days notice, if upon inspection, the use is found to be in non-compliance with the application for which the permit is issued.

10.510 Renewal. The permit as issued shall not exceed a period of one (1) year from the date of issue at which time it shall expire. A permit may be extended as provided in Section 1.080 (2). Applicants for renewal of the special use permit under this section must submit a letter stating the reason for the extension and the expected time period for continuation of the use.

## **RECREATIONAL VEHICLE PARKS**

10.520 Where Permitted. Recreational vehicle (RV) parks are permitted in the CC, RM-5 and RM-3 districts with a conditional use approval. RV parks are also permitted in the LI, CH and TS districts with site plan review approval.

10.530 Procedure. An application for conditional use approval of a proposed RV park will be processed through the Type II procedure. Applications for site plan review approval will be processed through the Type I-L procedure.

10.540 Recreation Vehicle (RV) Park. RV parks shall be built to the following standards, and, in addition, comply with state standards in effect at the time of construction:

- (1) The space provided for each RV must be a minimum of 700 square feet exclusive of any space used for common areas, such as roadways, general use structures, walkways, parking spaces for vehicles

other than RVs and landscaped areas.

- (2) Roadways must be a minimum of 30 feet in width if parking is permitted on the margin of the roadway, or 24 feet in width if parking is not permitted on the edge of the roadway. Roadways must be paved with asphalt, concrete, or similar impervious surface and designed to permit easy access to each RV space.
- (3) A space provided for an RV must be covered with crushed gravel or paved with asphalt, concrete, or similar material and be designed to provide runoff of surface water. The part of the space which is not occupied by the recreation vehicle, not intended as an access way to the recreation vehicle or part of an outdoor patio, need not be paved or covered with gravel provided the area is landscaped or otherwise treated to prevent dust or mud.
- (4) All RV spaces must be provided with public water and sewer. An RV staying in the park must be connected to the water and sewer utilities provided by the park if the vehicle has equipment needing such service.
- (5) All RV spaces must be provided with electrical service.
- (6) Trash receptacles for the disposal of solid waste materials must be provided in convenient locations for the use of guests of the park and be of sufficient quantity and capacity so that there is no uncovered accumulation of trash at any time.
- (7) No RV shall remain in the park for more than six months in any twelve-month period.
- (8) The total number of parking spaces in the park, exclusive of parking provided for the exclusive use of the manager or employees of the park, must be equal to one space per RV space. Parking spaces must be covered with crushed gravel or paved with asphalt, concrete, or similar material.
- (9) The park must provide toilets, lavatories, and showers for each sex in the following ratios: for each 15 recreational vehicle spaces or any fraction thereof; one toilet, one urinal, one lavatory, and one shower for men; and one toilet, one lavatory, and one shower for women. The toilets and showers must afford privacy and the showers must be provided with private dressing rooms. Facilities for each sex must be located in separate buildings, or, if in the same building, must be separated by a soundproof wall.
- (10) The park must provide at least one utility building or room containing one clothes washing machine, one clothes drying machine, and 15 square feet of space for clothes drying lines for each 10 recreational vehicle spaces or any fraction thereof.
- (11) Building spaces required by subsections (9) and (10) of this section must be lighted at all times; ventilated; provided with heating facilities which maintain a room temperature no lower than 65° F and provided with adequate floor drains to permit easy cleaning. The facilities must have a floor of waterproof material, and sanitary ceiling, floor, and wall surfaces.
- (12) Except for the access roadway into the park, the park must be screened on all sides by a sight-obscuring hedge or fence not less than 6 feet in height.
- (13) The park must be maintained in a neat appearance at all times. Except for vehicles, there shall be no outside storage of materials or equipment belonging to the park or to any guest of the park.

## **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

#### **GENERAL PROVISIONS**

11.010 Relationship to State Law. ORS Chapter 92 governs all land divisions. This chapter permits the City to develop its own procedures and review criteria. Because the state law particularly limits the city's discretion in these matters, users of this Code are encouraged to review ORS Chapter 92 at the same time. Because of the many state requirements in this area, this article cannot be relied upon to provide all of the regulations which are applicable to land divisions. At the time of adoption of this article in 1992, the following provisions of state law were identified as particularly applicable:

- ORS 92.025 Prohibition of sales of lots or certain interests prior to recordation of plat.
- ORS 92.050 Requirements of survey and plat of subdivisions and partitions.
- ORS 92.060 Monument requirements for subdivisions, partitions and property line adjustments.
- ORS 92.090 Requisites for approval of tentative subdivision or partition plat.
- ORS 92.120(5) Disclosure of water rights information when dividing land.
- ORS 92.180 Authority to review replats.
- ORS 92.205 Policy on undeveloped subdivisions.

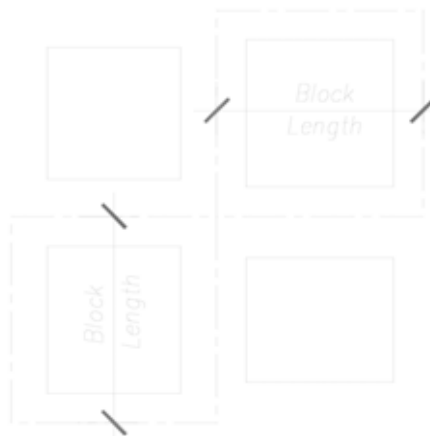
The foregoing is not intended to be an exclusive list of all of the provisions of state law, which must be considered by an applicant or staff in reviewing land division applications. By the same token, the provisions of state law, which are listed above, are not mandatory provisions of this Code. Rather they are merely intended to warn the reader of the need for careful contemporaneous review of state law.

- 11.020 Relationship to Public Improvements Article. All proposed developments governed by this article must meet the applicable design, and construction standards of Article 10 - Public Improvements and the financial standards of Article 19, Bonding of Improvements.
- 11.030 Relationship to Other Local Regulations. All proposed development governed by this article must meet the applicable on-site improvements of Article 9 (i.e., off-street parking, landscaping, buffering and screening) and the applicable environmental standards of Article 6 -- Special Purpose Districts (i.e., floodplain, hillsides, wetlands, and Willamette Greenway).
- 11.040 Pre-application Conference. A pre-application conference, in accordance with Section 1.202, is required prior to submittal of an application for any land division. A pre-application conference is not mandatory for property line adjustments.
- 11.050 Acceptance of Application. The Director will review the application for compliance with established application requirements within five (5) working days. If the application is found to be incomplete, the Director will notify the applicant of the reasons, and advise the applicant of the requirements for an acceptable application.
- 11.060 Expiration Dates. City approval of a tentative subdivision or partition plat will expire after three years if a final plat is not submitted for approval. Once city approval is granted for a final plat, it must be recorded within 45 days with the Linn or Benton County Records Division unless an extension is approved by the City and the County Surveyor's Office.
- 11.070 Staged Subdivision Development. When an applicant desires to develop and record in stages final subdivision plats covering portions of an approved tentative plat, the City may authorize a time schedule for platting and otherwise developing the various stages in periods of time in excess of one year, but in no case shall the total time period for all stages be greater than five years without resubmission of the tentative plat. Each stage so platted and developed shall conform to the applicable requirements of this title. Portions platted after the passage of one year may be required to have modifications to avoid conflict with a change in the Comprehensive Plan or implementing regulations.
- 11.080 Subsequent Land Divisions and Property Line Adjustments. No subsequent land division or property line adjustment may be approved on the same lot or parcel until the previously approved land division or property line adjustment has been filed and recorded, or the previous approval is withdrawn or otherwise invalidated.

## **LOT AND BLOCK ARRANGEMENT**

- 11.090 Lot and Block Arrangements. In any single-family residential land division, lots and blocks shall conform to the following standards in addition to the provisions of Article 3:
- (1) Lot arrangement must be such that there will be no foreseeable difficulties, for reason of topography or other condition, in securing building permits to build on all lots in compliance with the requirements of this Code with the exception of lots designated for Open Space Use.
  - (2) Lot dimensions must comply with the minimum standards of this Code. When lots are more than double the minimum area designated by the district, those lots must be arranged so as to allow further subdivision and the opening of future streets where it would be necessary to serve potential lots. An urban conversion plan may be required in conjunction with submittal of tentative subdivision or partition plat.

- (3) Double frontage lots shall be avoided except where necessary to provide separation of residential developments from streets of collector and arterial street status or to overcome specific disadvantages of topography and/or orientation. When driveway access from arterials is necessary for several adjoining lots, those lots must be served by a combined access driveway in order to limit possible traffic hazards on such streets. The driveway should be designed and arranged so as to avoid requiring vehicles to back into traffic on arterials. An access control strip shall be placed along all lots abutting arterial streets requiring access onto the lesser class street where possible.
- (4) Side yards of a lot shall run at right angles to the street upon which it faces, except that on a curved street the side property line shall be radial to the curve.
- (5) Block dimensions shall be determined by existing street and development patterns, connectivity needs, topography, and adequate lot size. The average block length shall not exceed 600 feet unless adjacent layout or physical conditions justify a greater length. Block length is defined as the distance along a street between the centerline of two intersecting through streets. Physical conditions may include existing development, steep slopes, wetlands, creeks, and mature tree groves.



**Figure 1, Block Length**

- (6) Off-street pedestrian pathways shall be connected to the street network and used to provide pedestrian and bicycle access in situations where a public street connection is not feasible.
- (7) The recommended minimum distance between arterial street intersections is 1800 feet. In order to provide for adequate street connectivity and respect the needs for access management along arterial streets, the Community Development Director/City Engineer may require either a right-in/right-out public street connection or public accessway connection to the arterial in lieu of a full public street connection. Where a right-in/right-out street connection is provided, turning movements shall be defined and limited by raised medians to preclude inappropriate turning movements.
- (8) Cul-de-sac lots are limited to five lots or units with access on a cul-de-sac bulb except that additional lots or units may be permitted where one additional off street parking space is created for each unit which has access on a cul-de-sac bulb. The minimum frontage of a lot on a cul-de-sac shall be 22 feet as measured perpendicular to the radius.
- (9) Flag lots are discouraged and allowed only when absolutely necessary to provide adequate access to buildable sites and only where the dedication and improvement of a public street cannot be provided. The minimum width for a flag lot is 22 feet, except where point access is shared by an



access and maintenance agreement in which case each lot shall have a minimum width of 12 feet and a combined minimum of 24 feet.

- (10) At all street intersections, an arc along the property lines shall be established so that construction of the street at maximum allowable width, centered in the right-of-way, shall require not less than a twenty foot radius of the curb line. [Ord. 5445, 4/12/00]

### **PROPERTY LINE ADJUSTMENTS**

- 11.100 **Definition.** A property line adjustment means the relocation of a common property line between two abutting properties. It occurs when property lines separating two or three properties are moved to add and remove land from the properties. A property line adjustment does not result in the creation of a new lot.
- 11.110 **Procedure.** Property line adjustments are reviewed through the Type I procedure, with the Director acting as review body.
- 11.120 **Review Criteria.** The Director will approve, approve with conditions, or deny the request for a property line adjustment based on the following criteria:
- (1) The property line adjustment does not create a new lot or a land-locked parcel.
  - (2) The adjusted properties are not reduced below the minimum dimensions of the zoning district and do not otherwise violate standards of this Code, or the Structural Specialty Code.
  - (3) The adjusted properties are in compliance with any adopted transportation, public facilities, or neighborhood plan.
  - (4) The adjusted properties comply with any previous requirements or conditions imposed by a review body.
- 11.130 **Submittal Requirements.** An application for a property line adjustment consists of a completed application form, signed by all property owners involved in the proposed adjustment, and a map showing the following details:
- (1) The scale, north point and date of the map.
  - (2) The tax map and lot number identifying each parcel involved in the adjustment.
  - (3) The location, width and purpose of any easements and driveway access to public right-of-way, existing or proposed.
  - (4) The area, before and after the property line adjustment, of each parcel.
  - (5) The proposed property lines and dimensions of each parcel.
  - (6) Existing and proposed utility services and stub locations, including water, sanitary sewer, drainage, power, gas and telephone.
  - (7) Adjacent rights-of-way with width shown.

11.140 Recording Requirements. Property line adjustments must meet the recording requirements of ORS 92.190 and be executed by deed.

## **SUBDIVISIONS AND PARTITIONS**

11.150 Difference Between Partitions and Subdivisions. A subdivision relates to the division of land into four or more lots within a calendar year. A partition relates to the division of land into two or three parcels within a calendar year. A partition does not include the three exclusions set forth in ORS 92.010 (7), including property line adjustments as described in Section 11.100 of this article.

11.160 Explanation of Process. Partitions and subdivisions are reviewed at two stages. A tentative plat is reviewed primarily for design aspects, such as connections to existing and future streets, preservation of natural features, drainage and floodplain considerations, and compliance with requirements of other portions of this Code. The tentative plat need not be prepared by a surveyor. The final plat is reviewed for conformance to the tentative plat as approved (with or without conditions) and applicable state or county laws or rules. The final plat must be prepared by a licensed land surveyor and is the instrument by which the land division is recorded.

11.170 Procedure. A tentative subdivision or partition plat is reviewed through the Type III procedure for 20 or more lots or for all cluster development. All other tentative plats are reviewed through the Type I-L procedure. A final subdivision or partition plat is reviewed through the Type I procedure. [Ord. 5562, 10/10/03]

11.180 Tentative Plat Review Criteria. Approval of a tentative subdivision or partition plat will be granted if the review body finds that the applicant has met all of the following criteria which apply to the development:

- (1) Development of any remainder of property under the same ownership can be accomplished in accordance with this Code.
- (2) Adjoining land can be developed or is provided access that will allow its development in accordance with this Code.
- (3) The proposed street plan affords the best economic, safe, and efficient circulation of traffic possible under the circumstances.
- (4) The location and design allows development to be conveniently served by various public utilities.
- (5) Any special features of the site (such as topography, floodplains, wetlands, vegetation, historic sites) have been adequately considered and utilized.

11.190 Tentative Plat Conditions of Approval. The City may attach conditions of approval of a tentative subdivision or partition plat to ensure that the proposal will conform to the applicable review criteria.

11.200 Appeal of a Tentative Plat Decision. A decision to approve, approve with conditions, or deny a tentative subdivision or partition plat is a limited land use decision appealable to the Land Use Board of Appeals. At the Director's discretion the decision may be referred to the Planning Commission.

11.210 Tentative Plat Submittal. All applications for tentative partition or subdivision approval must include a complete application form and sixteen (16) copies of a plan showing the following details. The tentative plan need not be a finished drawing but it should show all pertinent information to scale.

- (1) Where the land to be subdivided contains only part of the tract owned or controlled by the subdivider, a sketch is required of a tentative layout for streets and utilities in the unsubdivided portion indicating connections to existing or future improvements.
- (2) If the detailed map does not show the following information, a vicinity map at a scale of 400 feet to the inch shall be prepared showing:
  - (a) All existing subdivisions, streets and tract lines of acreage land parcels immediately adjoining the proposed subdivision and between it and the nearest existing arterial streets.
  - (b) Name of the record owners of all contiguous land parcels.
  - (c) How streets and alleys in the proposed subdivision may connect with existing or proposed streets and alleys in neighboring subdivisions or undeveloped property to produce the most advantageous development of the entire neighborhood area.
- (3) The tentative plat shall be drawn to a standard engineer's scale where 1 inch equals 20 - 60 feet; or for areas over 100 acres, 1" - 200'.
- (4) The name, if any, of the land division; this name must not duplicate or resemble the name of another subdivision in the same county or in the same area within six miles of Albany and must be approved by the Director and the County Surveyor.
- (5) Date, north point, and scale of drawing.
- (6) Location of the land division by section, township and range, and a legal description sufficient to define the location and boundaries of the proposed tract or the tract designation or other description according to the real estate records of the County Assessor.
- (7) Names and addresses of owner or owners, subdivider, surveyor, and engineer, if applicable.
- (8) The location, widths and names of all existing or platted streets or other public ways within or directly adjacent to the tract; railroad rights-of-way and other important features, such as railroad rights-of-ways, City boundary lines, and other important features.
- (9) The location on the site and in the adjoining streets or property of existing and proposed sewers and water mains and services, culverts, ditches and drain pipes, electric, gas and telephone conduits with invert elevations of sewers at points of proposed connections.
- (10) Contour lines having the following minimum intervals:
  - One (1) foot contour intervals for ground slopes less than five (5%) percent.
  - Two (2') feet contour intervals for ground slopes between five (5%) and ten (10%) percent.
  - Five (5') feet contour intervals for ground slopes exceeding ten (10%) percent.
  - The elevations of all control points which are used to determine the contours.
  - Contours shall be related to City of Albany datum.
- (11) Approximate location of areas subject to inundation or storm water overflow with approximate high water elevation.
- (12) Location, width, direction and flow of all water courses.

- (13) Location of properties within the 100-year flood plain and other areas subject to flooding or ponding (see Section 6.130).
- (14) Location of the following significant natural resources:
  - (a) Significant wetlands identified on the city's Local Wetlands Inventory;
  - (b) Riparian areas on the city's Riparian Inventory;
  - (c) Existing channels as shown on Figure 7.1 of the draft North Albany Storm Water Master Plan, and
  - (d) Slopes greater than 25 percent.
- (15) Location of the following natural features
  - (a) Non-significant wetlands identified on the city's Local Wetlands Inventory;
  - (b) Wooded areas with 5 or more trees over 12 inches in diameter measured 4½ feet from the ground, and
  - (c) Springs.
- (16) Existing uses of the property and adjacent property within 100' including location of all existing structures to remain on the property.
- (17) Zoning on and adjacent to the tract.
- (18) Any proposed streets: location, widths, names, approximate radii or curves. The relationship of all streets to any projected streets as shown on any development plan approved by the City.
- (19) Existing and proposed easements on the site and any existing easements on adjoining properties, showing the width and purpose of all easements.
- (20) Approximate dimensions of all lots, minimum lot size, proposed lot numbers and block numbers [see Section 11.230 (11)].
- (21) Sites, if any, allocated for multiple family dwellings, shopping centers, churches, industry, parks, schools, playgrounds, or public or semi-public buildings.
- (22) The following additional information must be submitted with the tentative plat:
  - (a) The names and addresses of all owners within 300 feet of the proposed land division.
  - (b) Total acreage in the subdivision and the percent of land dedicated to the public, not including easements.
  - (c) All public improvements proposed to be installed and the approximate time of installation including the method of financing.
  - (d) Special improvements to be made by the developer and the approximate time such improvements are to be completed (examples include entrance signs or walks, berms, bus stands, etc). Sufficient detail regarding proposed improvements shall be submitted so that they may be checked for compliance with the objectives of these regulations, State laws and other applicable City ordinances. If, however, the nature of the improvement is such that it is impractical to prepare all necessary details prior to approval of the tentative plat, the additional details shall be submitted at least 30 days prior to approval of the final plat.
  - (e) An urban conversion plan for large acreage subdivisions.

[Ord. 5562, 10/10/03; Ord. 5562, 10/10/03]]

11.220 Final Plat Review Criteria. Approval of a final subdivision or partition plat will be granted if the review body finds that the applicant has met the following criteria:

- (1) The final plat is in substantial conformance with the tentative plat.
- (2) Conditions of approval attached to the tentative plat have been satisfied.

11.230 Final Plat Submittal. A partition or subdivision final plat must include the following information:

- (1) The date, scale, north point, legend, and controlling topography such as creeks, ditches, highways, and railroad right-of-way.
- (2) Legal description of the tract boundaries and the City of Albany case file number of the subdivision or partition.
- (3) Name and address of the owner(s), subdivider, and surveyor.
- (4) Reference points of existing surveys identified, related to the plat by distances and bearings, and referenced to a field book or map as follows:
  - (a) Stakes, monuments, or other evidence found on the ground and used to determine the boundaries of the land division.
  - (b) Adjoining corners of adjoining subdivisions.
  - (c) Other monuments found or established in making the survey of the land division or required to be installed by provisions of this Code.
- (5) National Geodetic Survey Control points as recorded in the County Surveyor's office; description and "ties" to such control points, to which all dimensions, angles, bearings and similar data on the plat shall be referred.
- (6) The location and width of streets and easements intercepting the boundaries of the tract.
- (7) The 100-year flood plain for any body of water or natural drainageway (see Section 6.070), together with the method or source of such determination.
- (8) Lines with dimensions, bearings or deflection angles, radii, arcs, points of curvature and tangent bearings for tract, lot, and boundaries and street bearings shall be shown to the nearest second with basis of bearings. All distances shall be shown to the nearest one-hundredth foot.
- (9) The width of the portion of streets being dedicated, the width of any existing right-of-way and the width of each side of the center line. For streets on curvature, curve data shall be based on the street center line and, in addition to center line dimensions, the radius, chord distance, bearing, and central angle shall be indicated.
- (10) Public utility and private easements, clearly identified and, if already of record, their recorded reference. Where possible, the bearing, and sufficient ties to locate the easement with respect to the land division, shall be shown. If the easement is being dedicated by the map, it shall be properly referenced in the owner's certificates of dedication. The purposes of easements shall also be identified.
- (11) Lot numbers beginning with the number "1" and continuing consecutively through the subdivision. No block numbers or letters will be used unless the subdivision is a continued phase of a previously recorded subdivision of the same name that has previously used block numbers or letters.

- (12) Identification of land to be dedicated for any purpose, public or private, to distinguish it from lots or parcels intended for sale, the following phrasing shall be used when identifying open space dedications:
- (a) Common Open Space - shall be used to identify those parcels of land created for the purpose of common ownership, enjoyment and maintenance by an approved homeowners association group or is listed as being held in common ownership, with appropriate deed restrictions and responsibilities, by owners of property within the subdivision.
  - (b) Public Open Space - shall be used when identifying those parcels of land dedicated to the City of Albany for open space purposes.
  - (c) Open Space Easement - shall be used to identify that portion of a lot, or lots that have established an open space easement agreement with the City of Albany.
- (13) Special building setback lines (as may be required by Sections 3.270-3.300) and solar easements, if any, which are to be made a part of the subdivision's deed restrictions. These must be shown in writing on the face of the plat, not graphically shown.
- (14) The following certificates, which may be combined where appropriate. All signatures on the original subdivision or partition plat must be in permanent black India type ink.
- (a) A certificate signed by the City Community Development Director certifying City approval.
  - (b) A certificate signed and acknowledged by all parties having record title interest in the land, consenting to the preparation and recording of the plat.
  - (c) A certificate signed and acknowledged as above, dedicating to the public all land shown on the final plat intended for public access, use, or benefit.
  - (d) A certificate signed by the surveyor responsible for the survey and final map, the signature accompanied by seal, attesting that applicable requirements of City, state and county requirements have been met.
  - (e) A certificate signed by the county surveyor.
  - (f) Other certifications as appropriate.
- (15) Filing of separate legal documents to achieve any of the above requirements (1 through 14) may be permitted by the Director when it can be shown that placing such information on the final map is not required to achieve the purposes of this code. When a separate legal document is filed describing a geographically based restriction (such as an easement) the described area shall be marked with colored ink (other than black) on the City copy. A description of or reference to any other restrictions attached to the subdivision approval shall also be noted on the City copy.
- (16) Supplementary Information.
- (a) A copy of any deed restrictions.
  - (b) A copy of any dedication requiring separate documents.
  - (c) Legal documents conveying property to the City.
  - (d) Assurance satisfactory to the Director of Public Works that improvements installed by the subdivider will be in conformity with the standards of the City and that streets and pedestrian ways will be improved.
  - (e) Financial assurances for all required improvements per Article 12, Public Improvements.
  - (f) Boundary and lot closure computations and total area of each lot, parcel, and open space dedication, in square feet or acres.
  - (g) Title Report.

- (17) For subdivisions, all monumentation shall comply with standards established in ORS 92.060. Witness corners may be set when it is impractical or impossible to set a monument in its true position providing course and distance is given to the true position. All monuments shall be clearly identified with the surveyor's name or registration number. Unless waived by the Director of Public Works, the intersection of all street centerlines shall be monumented according to County specifications.

## 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, or it may be a commercial or industrial development.
- 11.250 Purpose. A planned development provides the benefits of greater zoning flexibility, reduced lot sizes, and more variety in permitted uses. In exchange, developments must satisfy high quality master planning and performance requirements.
- 11.260 Procedure. A planned development is processed in three steps; tentative, interim and final approvals. The preliminary application is reviewed by staff as a Type I procedure. The interim application is reviewed by the Planning Commission under the Type III procedure. The final approval is reviewed through the Type I procedure.
- 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) Duplexes.
    - (c) Dwellings, multiple family.
    - (d) Dwellings, single family.
    - (e) Open space.
    - (f) Parks, playgrounds, golf courses, driving ranges, community centers, or recreation facilities supported by the PD.
    - (g) Commercial services to 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% of the site except that additional amounts may be approved through the conditional use process.
    - (b) Up to 25% of the total site area may be occupied by retail and service establishments not otherwise permitted within industrial districts provided that at least an equal area of the development has been previously or simultaneously developed for other permitted uses.
    - (c) Up to 25% 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.

11.280 Regulations Which May Be Modified. All of the site development standards of the underlying zoning district will apply to a planned development, except as follows:

- (1) Minimum lot area, width and frontage, height and yard requirements will not be used to dictate the development, but will act as general guidelines which may be adjusted to provide for a higher quality development. Maximum density permitted will be calculated by including street and one-half of park land dedications.
- (2) Where the development provides common parking areas for adjacent uses, no minimum number of parking spaces will be required. It is the developer's responsibility to provide adequate off-street parking and loading areas. In proposing the parking areas, the developer shall provide the city with information on expected demand for parking, including trip generation for the uses which share the parking area.
- (3) 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.

11.290 Professional Design Team Required. An applicant for a planned development approval must certify, in writing, that a member of each of the following professions will be used in the planning and design process for the proposed development:

- (1) A licensed architect or professional designer.
- (2) A certified nurseryman, landscape architect, or landscape designer approved by the Director.
- (3) A registered engineer or land surveyor.

11.300 Application Contents. A planned development proposal is reviewed in three stages, preliminary, interim, and final. At each stage, the applicant must submit increasingly detailed plans for the proposal as indicated below.

- (1) Preliminary submittal requirements --
  - (a) A schematic drawing at a minimum scale of 1" - 200' showing the proposed public and private uses and the existing physical features.
  - (b) A written statement outlining the following details: water supply; sewage disposal; drainage; dwelling types and density; non-residential uses; lot layout; public and private access; parking; height of structures; lighting; landscaped areas and provisions for continued maintenance; and areas devoted to various uses.
- (2) Interim submittal requirements in addition to the above --
  - (a) Sidewalks, pedestrian ways, utilization of structures, and lighting.
  - (b) A boundary survey or a certified boundary description by a licensed surveyor.
  - (c) Data, drawings, and/or elevations clearly establishing the scale, character and relationship of buildings, streets, and open space.
  - (d) A tabulation of land area to be devoted to each use, and a calculation of the average residential density per acre, if applicable.
  - (e) A development schedule for commencement and of construction, or a phasing schedule if phased development is proposed.



- (f) If the development will be divided into different ownerships, any additional information generally required for a land division tentative plat approval and not required above.
- (g) A transportation impact analysis, where required by the city Engineering Division, Department of Public Works.

(3) Final submittal requirements in addition to the information on the approved interim plan --

- (a) The location of water, sewerage, and drainage facilities.
- (b) Detailed building and landscaping plans and elevations.
- (c) The character and location of signs.
- (d) Plans for street improvements and grading or earth-moving plans.
- (e) Any additional requirements of final land division submittal, if the land is to be divided.

11.310 Interim Submittal Review Criteria. A planned development request will be granted interim approval by the review body if the development meets the site plan review criteria of Section 8.070 and all of the following applicable criteria:

- (1) The increased flexibility in Code standards and permitted uses will result in an improved development for the city, the surrounding area, and users of the development as compared to strict compliance with Code provisions.
- (2) The project design results in a more efficient utilization of the natural features of the site.
- (3) The project design results in a more efficient utilization of materials and public resources including streets, utilities, and energy supplies.
- (4) Provisions will be established to insure the continued maintenance of any common areas.
- (5) More usable and suitable recreational facilities and other common areas are provided than would normally be provided under conventional development standards.

11.320 Conditions of Approval. The City may attach conditions of approval of a planned development to ensure that the proposal will conform to the applicable review criteria.

11.330 Living and Recreational Area Standards. In conjunction with standard requirements for setbacks and landscaped areas, the following standards apply to planned developments:

- (1) Outdoor living area shall be provided for residential developments in the following amounts:
  - (a) In all residential developments or in combination residential/commercial developments, 40 percent of the gross land area shall be devoted to outdoor living area. Of this required area, at least 75 percent shall be common or shared outdoor living area.
  - (b) Outdoor 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. The square footage of land dedicated for public parks shall be deemed a part of the development site for the purpose of computing density.
- (2) In all planned residential developments having 50 living units or more, an indoor recreation area (see definition) shall be established using the following minimum guidelines:
  - (a) Ten square feet of indoor recreation area for each living unit in the development.

- (b) Play equipment, athletic facilities, and/or game-room facilities and equipment in amounts commensurate with the size of the building or room, to be maintained by the property owner or owners association.
  - (c) At least one restroom for all indoor recreation buildings or rooms under 600 square feet and two restrooms for all indoor recreation buildings or rooms 600 square feet or greater.
  - (d) All indoor recreation rooms and buildings shall be fully lighted, heated, and shall meet all uniform building codes and should be designed primarily for the use of the residents of the PD.
  - (e) The off-street parking requirement for recreation rooms and buildings shall be one space per each 150 square feet of floor area. This requirement shall be in feet of floor area. This requirement shall be in addition to any parking required for residents.
- (3) In an industrial planned development the following minimum percentage of landscaped open space is required, including required buffer yards and setback areas:
- (a) IP (Industrial Park) -- 25%
  - (b) LI (Light Industrial) -- 15%
  - (c) HI (Heavy Industrial) -- 5%
- (4) The requirement for indoor recreation area may be waived by the review body where increased opportunity for outdoor recreation is provided in addition to the requirements of subsection (1). Such opportunities may include court sports, playgrounds, golf, swimming, or other exceptional treatment of open spaces.
- (5) 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.
- (6) When calculating density of a proposed planned development the regulations of the basic use district in which the development is located shall apply except when calculating density of the proposed planned development, the total area including street and one-half of park land dedications shall be included.

11.340 Dedication and Maintenance of Facilities. The review body may, as a condition of approval for any planned development, require that portions of the tract or tracts be set aside, improved, conveyed, or dedicated for the following uses:

- (1) Parks or playgrounds set aside, improved, or permanently reserved for the owners, residents, employees, or patrons of the development.
- (2) Whenever private common outdoor living area is provided, an association of owners must be created under state law. Owners of property within the development will automatically be members and will be assessed levies for maintenance of the outdoor living area. The period of existence of such association will be at least 20 years, and it will continue thereafter until a majority vote of the members shall terminate it.
- (3) Right-of-way width within the development must be maintained as private streets or be dedicated to the City when necessary in accordance with the Albany Comprehensive Plan. Other streets necessary to the proper development of adjacent properties may also be required to be dedicated. Streets must be constructed in accordance with city standards.
- (4) Easements necessary for the orderly extension of public utilities.

- 11.350 Changes in the Approved Plan. Changes in the approved Planned Development may be made as long as they continue to meet the requirements of these provisions. Major changes, as determined by the Director, shall be reviewed under the same procedure as was used for final approval. Minor changes shall be reviewed under the Type I procedure.
- 11.360 Revocation. In the event of failure to comply with approved plans, conditions of approval, stage development schedule; the Commission may, after notice and hearing, revoke a planned development permit. The determination of the Commission shall become final 30 days after the date of decision unless appealed to the City Council.
- 11.370 Failure to Adhere to Approved Plan, Satisfy Conditions, or Comply with Stage Development Schedule. Failure to comply with approved preliminary or final development plans, conditions of approval, or stage development schedule, shall constitute a violation of this ordinance as prescribed in Article 1.

### CONDOMINIUMS

- 11.380 Definition. A condominium is a building, or group of buildings, in which units are individually owned, and the structure, common areas and facilities are owned by all of the unit owners on a proportional, undivided basis.
- 11.390 Procedure. A proposal for new construction of a condominium is reviewed through the planned development process. A proposal for conversion of existing units into condominiums is reviewed through the conditional use process in conjunction with planned development requirements. All condominium proposals must meet the appropriate requirements of ORS Chapter 100.

## **ARTICLE 12 PUBLIC IMPROVEMENTS**

12.000 Overview. This article contains the city's standards for those public improvements which relate to the development process.

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

- General Provisions
- Streets
- Sidewalks
- Bikeways
- Utilities—General
- Water
- Sanitary Sewer
- Storm Drainage
- Improvement Assurances
- Addresses and Street Names

### **GENERAL PROVISIONS**

12.010 Purpose. The provisions in this article for new public improvements are intended to address the City's concerns relative to public health, safety, and welfare.

12.020 Relationship to Other Local Regulations. This article is intended to supplement other municipal ordinances. In the event of a conflict between a provision of this article and another city ordinance, that ordinance which most specifically deals with the issue in question shall control. Whenever possible, the two provisions shall be interpreted in a manner which renders the provisions of both ordinances consistent. Only when such interpretation is impossible will one provision be deemed to supersede the other.

12.030 Relationship to Specialty Codes or State Law. This article is intended to supplement other existing state and local codes. Examples of these codes include, but are not limited to, the Uniform Building Code, the Uniform Fire Code, and the Uniform Plumbing Code. In the event of a conflict between any provision of this article and a specialty code, the specialty code shall control.

12.040 Conditions of Approval. Development approval may be conditioned upon the provision and/or guarantee of public improvements called for in an adopted Public Facilities Master Plan or any other public improvements necessitated by the development. Development approval may likewise be conditioned where private facilities are proposed to be shared by two or more parcels. Construction of off-site improvements may be required when necessary to mitigate impacts resulting from development which relate to capacity deficiencies and public safety; and/or when necessary to upgrade or construct public facilities to City standards.

All development decisions shall be consistent with constitutional limitations concerning the taking of private property for public use.

To provide an adequate transportation system, development approvals may include conditions that require facilities which accommodate safe and convenient pedestrian and bicycle access within and from new subdivisions, multi-family developments, planned developments, shopping centers and commercial districts to adjacent residential areas and transit stops, and to neighborhood activity centers within one-half mile of the development.

- (1) “Neighborhood activity centers” includes, but is not limited to, existing or planned schools, parks, shopping areas, transit stops or employment centers;
- (2) “Safe, convenient and adequate” means bicycle and pedestrian routes, facilities and improvements which:
  - (a) Are reasonably free from hazards, particularly types or levels of automobile traffic which would interfere with or discourage pedestrian or cycle travel for short trips;
  - (b) Provide a reasonably direct route of travel between destinations such as between a transit stop and a store; and
  - (c) Meet travel needs of cyclists and pedestrians considering destination and length of trip, and considering that the optimum trip length of pedestrians is generally 1/4 to 1/2 mile. [Ord. 5281, 3/26/97; Ord. 5339, 1/28/98]

12.045 Relationship to Other Development Code Articles. This article provides the public improvements standards to be used in conjunction with the procedural and design requirements contained in the articles on Land Divisions, Site Plan Review, and Manufactured Homes.

12.050 Relationship to Construction Standards. Public improvements shall be designed to comply with adopted facility master plans to the greatest extent possible. Unless otherwise approved by the City Engineer, public improvements shall be constructed according to the standard construction specifications. The standard specifications for construction, reconstruction or repair of streets, sidewalks, curbs, gutters and other public improvements within the City are as contained in the City’s “Standard Construction Specifications.” The City Engineer may make changes to the standard specifications consistent with the application of engineering principles to the conditions in Albany. [Ord. 5339, 1/28/98]

## STREETS

12.060 General Provisions. No development may occur unless the development has frontage on or approved access to a public street currently open to traffic. A currently non-opened public right-of-way may be opened by improving it to city standards.

Streets shall be interconnected to reduce travel distance, provide multiple travel routes, and promote the use of alternative modes. Street patterns have a long-range effect on land use patterns, greater than parcelization patterns or building location.

Streets (including alleys) within and adjacent to a development shall be improved in accordance with the standards in this Article. In addition, any new street or additional street width planned as a portion of an approved street plan shall be dedicated and improved in accordance with this Article.

Where the City Engineer determines that a required street improvement would not be timely, the City Engineer may accept a Petition for Improvement/Waiver of Remonstrance for a future assessment district. [Ord. 5445, 4/12/00]

12.070 Creation of Streets. Streets are usually created through the approval of a subdivision or partition plat. However, the City Council may also approve the creation of a street by acceptance of a deed. If the creation of a street unintentionally results in a land partition, the owner is not required to apply for partition approval as long as the resulting parcels comply with Code standards.

12.080 Classification of Streets. Arterial and collector streets are designated in the Transportation System Master Plan. [Ord. 5445, 4/12/00]

12.090 Creation of Access Easements. In general, the creation of access easements between property owners is discouraged. However, there are some instances where an access easement is the only viable method of providing access to a developable lot. The review body will approve an access easement where the applicant has demonstrated that all of the following criteria have been met:

- (1) No more than two parcels or uses are to be served by the proposed access easement;
- (2) There is insufficient room for a public right-of-way due to topography, lot configuration, or placement of existing buildings and,
- (3) The City Engineer has determined that there is not a need for a public street in this location.

12.100 Access to Public Streets. With the exceptions noted in Section 1.070, the location and improvement of an access point onto a public street shall be included in the review of a development proposal. In addition, the following specific requirements shall apply to all access points, curb cuts, and driveways:

- (1) Approaches and driveways to City streets and alleys must be paved and constructed in accordance with the Standard Construction Specifications.
- (2) Driveways for single- and two-family dwellings must have a minimum width of 10 feet, maximum width of 24 feet (not to exceed the width of the driveway curb cut), and minimum separation of 5 feet. Up to four multi-family units that front on a public street may have separate driveways. The driveways shall meet the same standards as single- and two-family dwellings.

Driveways for all other uses must have widths of 12-16 feet for one-lane (one-way) driveways, 24-32 feet for two-lane driveways, and 36 feet for three-lane driveways. Three-lane driveways must have designated lanes and turning movements. Industrial driveways shall have a width of 24-48 feet. There must be a minimum separation of 22 feet between all driveways except for single- and two-family dwellings. The width of a driveway will be determined by measuring at the curb line and will exclude the transitions which must conform to standards fixed by the City Engineer.

- (3) All driveways must be located the maximum distance which is practical from a street intersection and in no instance shall the distance from an intersection be closer than the following as measured from the nearest curb return radius:

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

Where streets of different functional classification intersect, the distance required is that of the classification which requires the greatest distance between the access point and the intersection.

- (4) The location, width, and number of accesses to a public street may be limited for developments which are subject to site plan review provisions of this Code. All development that proposes access to an arterial street is subject to site plan review procedures and the design requirements of 12.230.
- (5) Access points to a public street shall be the minimum necessary to provide reasonable access while not inhibiting the safe circulation and carrying capacity of the street. Except as further restricted by this Article, local street access to properties of less than 100 feet of frontage is limited to 2 access lanes per frontage which may be together or separate and properties exceeding 100 feet of frontage are limited to 2 access lanes per each 100 feet of frontage.
- (6) Properties which have frontage on more than one street may be restricted to access on the streets of a lower classification through site plan, land division, or other review procedures.

- (7) A common access point at a property line is encouraged and, in some instances, may be required in order to reduce the number of access points to streets. Construction of common access points must be preceded by recording of joint access and maintenance easements.
- (8) With the exception of single-family residential development, approach grades must not exceed 10% slope within 20 feet of a public street. Driveways for single-family residential development shall comply with applicable fire and building codes.
- (9) Access to designated state highways is subject to the provisions of this Article in addition to requirements of the State Highway Division, State Department of Transportation. Where regulations of the City and State may conflict, the more restrictive requirements apply.
- (10) For developments on parcels of contiguous ownership exceeding five acres in size which front on an arterial street or limited access highway, a frontage road may be required in order to provide a single access determined by the review body to be the most appropriate location for safety and convenience.
- (11) Where access is allowed on an arterial street, efforts shall be made to locate the access adjacent to the interior property line where such access could be shared by the adjacent property. [Ord. 5338, 1/28/98; Ord. 5445, 4/12/00]

12.110 Street Location, Width and Grade. The location, width, and grade of all streets must conform to any approved transportation master plan or recorded subdivision plat. Where location of a street is not shown in an approved street plan, the arrangement of streets in a development shall either provide for the continuation or appropriate projection of existing principal streets in the surrounding areas or conform to a plan for the neighborhood approved or adopted by the City to meet a particular situation where topographical or other conditions made continuance or conformance to existing streets impractical or where no plan has been previously adopted.

In addition, new streets may be required to be located where the City Engineer determines that additional access is needed to relieve or avoid access deficiencies on adjacent or nearby properties. In determining the location of new streets in a development or street plan, consideration shall be given to maximizing available solar access for adjoining development sites.

Street grades must be approved by the City Engineer who will consider drainage and traffic safety.

12.120 Rights-of-Way and Roadway Widths. Unless otherwise indicated on an approved street plan or in Section 12.130, the street right-of-way and roadway widths shall not be less than the minimum width in feet shown in the following table. Where a range is indicated, the width shall be determined by the City Engineer.

<u>Type of Street</u>	<u>Minimum Rights-of-Way Width</u>	<u>Minimum Roadway Width</u>
Arterial	(70-120) feet	(40-70) feet
Collector	(60-80) feet	(36-48) feet
Local	(42-56) feet	(22-32) feet
Radius for turnaround at end of cul-de-sac	(43) feet	(36) feet
Alley	(14-20) feet	(12-20) feet

[Ord. 5445, 4/12/00]

12.122 Local Residential Streets. There are two classifications of local streets, based on projections of traffic volumes. The applicant is responsible for demonstrating that each proposed street is designed for the appropriate traffic volume.

- (1) Minor Local Streets. The minor local street design is intended to be the predominant street type in residential neighborhoods. A minor local street will have fewer than 1,000 average trips per day (ADT) when all future street connections are made. The standard design is a 30-foot wide paved surface with curb and gutter, a 6-foot landscape strip, and a 5-foot sidewalk on each side within a 54-foot right-of-way. There is a parallel 7-foot public utility easement dedicated on each side of the street. Parking is allowed on both sides of the street. See Figure 2.



Figure 2: Minor Local Street

- (2) Optional Design for Minor Local Streets. In lieu of the standard design in subsection (1), a 28-foot wide paved surface within a 52-foot right-of-way with parking on both sides for minor local streets is allowed when the following performance standards are met:
  - (a) Provisions are made to ensure emergency response vehicles have adequate access to all parcels on the street. A 40-foot long clear area must be provided at a rate of one per two lots along each side of the street. The clear area may be created with parking restrictions created by adjoining driveways or other method approved by the City Engineer.
  - (b) The street will have fewer than 1,000 average trips per day (ADT) when all future street connections are made.
- (3) Network Local Streets. A network local street will have greater than 1,000 ADT. The standard design is a 28-foot wide paved surface with curb and gutter, a 6-foot landscape strip, and a 5-foot sidewalk on each side within a 52-foot right-of-way. There is a parallel 7-foot public utility easement dedicated on each side of the street. Parking is restricted to one side of the street. See Figure 3.



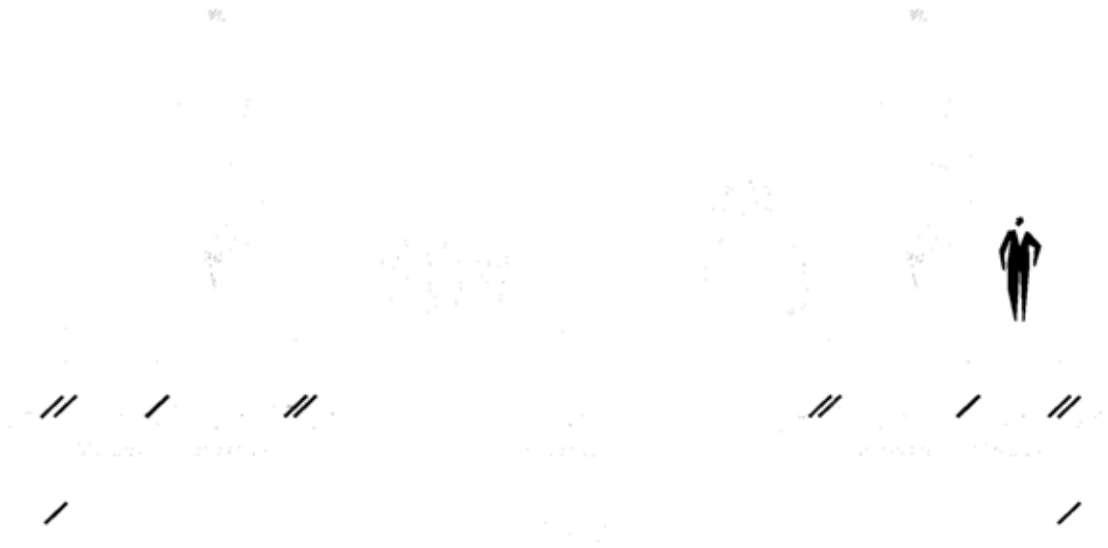


Figure 3: Network Local Street

- (4) Alley Option. Use of alleys is encouraged in residential neighborhood design. A narrower minor local street (22-foot paved surface) will be allowed with alley access because the alley will reduce some of the parking and access functions usually found on the frontage street. All private utilities must be located in the alley and no curb cuts will be permitted along the frontage street. The standard 6-foot planter strip and 5-foot setback sidewalks are required along the frontage street. See Figure 4. As an incentive, lots with alley access may be up to 10% smaller than the minimum lot size of the zone. See Table 1, Article 3.

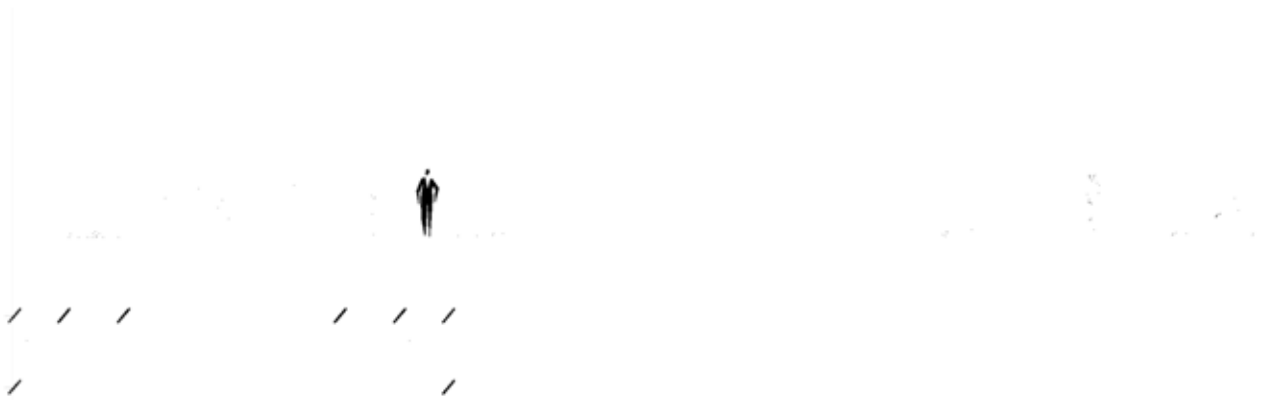


Figure 4, Alley Option

- (5) Wide Local Street Option. A wider local street (32-foot paved surface) may be proposed to accommodate on-street parking on both sides of the street. Additional pedestrian amenities, such as bulb outs at intersections and larger street trees, will be required as a condition of the subdivision or planned development approval to offset the wider street section. See Figure 5.

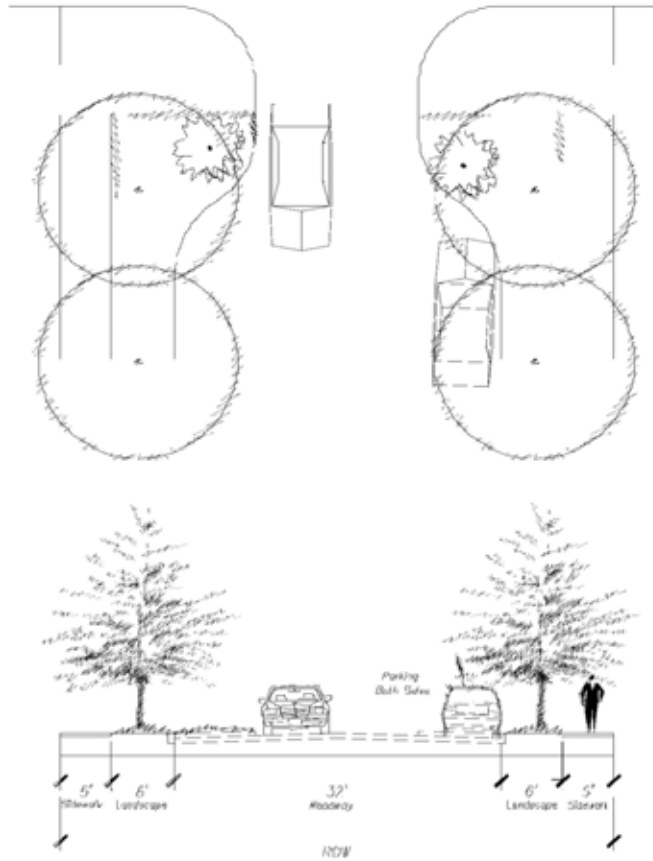


Figure 5: Wide Local Street Option

- (6) Residential Street Design for Constrained Sites. There are instances where a development is proposed on land that has natural features that may constrain the standard local street design. Examples of such natural features include floodplains, steep slopes, drainageways, wetlands, riparian corridors, and tree groves. Through the subdivision or Planned Development review process, the City will consider a narrower street section that does not compromise the goals for street design in a great neighborhood. For example, the sidewalks may be placed curbside and parking may be removed from the street in order to narrow the street paving and preserve natural areas. See Figure 6.



Figure 6: Residential Street Design (Constrained)

- (7) Alternate Street Standard for Cluster Development. (Reserved)

SUMMARY OF STREET DESIGN STANDARDS	SINGLE-FAMILY DEVELOPMENT				MULTI-FAMILY DEVELOPMENT
	MINOR LOCAL STREETS		NETWORK LOCAL STREETS	WIDE OPTION	
Design Elements	Standard Design	Street with Alley Option	Standard Design	Wide Option	Standard Design
Right-of-way	54' <sup>3</sup>	42'	52'	56'	56'
Pavement width	30' <sup>3</sup>	22'	28'	32'	32'
On-street parking	Both sides	One side	One side	Both sides	Both sides
Bike lanes	No	No	No	No	No
Curb & gutter	Yes	Yes	Yes	Yes	Yes
Sidewalks <sup>1</sup>	5' setback	5' setback	5' setback	5' setback	5' setback
Planter strip	6' planter	6' planter	6' planter	6' planter	6' planter
Examples of "add backs" <sup>2</sup>	None	14-20' rear alley with all private utilities	None	Traffic calming, taller street trees	Traffic calming, taller street trees

<sup>1</sup> Curbside sidewalks are allowed on cul-de-sac bulbs. See Section 12.300(2).  
<sup>2</sup> In exchange for building a street that does not meet the standard design, additional design features are required to more than compensate for the loss of one or more design objectives.  
<sup>3</sup> A 28-foot street in a 52-foot right-of-way is allowed subject to the provisions of Section 12.122(2).

[Ord. 5445, 4/12/00; Ord. 5562, 10/10/03]

12.130 Mini-Subdivision Street and Rights-of-Way Standards. The standards listed in this section are intended for use in developing residential infill parcels. The review body will approve variations to the standards listed in Section 12.120 above, when the following criteria are met:

- (1) The property to be divided is less than 2 acres in size and no more than 8 lots will be created or served by the street and
- (2) The proposed land division, as a whole, meets the standards for lot size and configuration for the zoning district and
- (3) Surrounding parcels are developed or are so physically incapable of being developed that combining the proposed land division with adjoining properties in a conventional land division is not feasible.
- (4) The property is not needed for a continuation of the adjacent public street pattern. However, pedestrian connections may be required for the continuation of the pedestrian circulation system.

The review body may also modify other standards in this Code as indicated below:

Dedication & Maintenance	Paved Width (b) Street/Cul-de-sac	On-Street		Rights-of-Way (c)	
		Curbs	Parking	Sidewalk	Street/Cul-de-sac
Public (a)	22' / 25' (radius)	Yes	no	4' (1 side)	30' / 35' (radius)
Public (a)	28' / NA	Yes	one side	4' (1 side)	36' / NA

- (a) A 7-foot public utility easement may be required on each side of the right-of-way.
- (b) Maximum street length is 400 feet.
- (c) A "hammerhead" turnaround may be allowed only if no more than four residential lots are created, and the City Engineer determines that no other options exist and no traffic hazards will be created. [Ord. 5445, 4/12/00]

12.140 Additional Rights-of-Way. A development project requiring land use approval is required to dedicate additional right-of-way if an existing street abutting or within the development does not meet the

widths designated in Section 12.120. This provision does not apply to property line adjustments or historic review. While not required to dedicate additional right-of-way, single and two-family dwellings (and related accessory buildings) are subject to being set back from future street rights-of-way as provided in Section 3.270.

- 12.150 Future Extensions of Streets and Reserve Strips. Where it is necessary to give access to or permit a future division of adjoining land, streets shall be extended to the adjoining tract. A reserve strip across the end of a dedicated street shall be deeded to the City. In addition, a barricade at the end of the street shall be installed and paid for by the property owners. It shall not be removed until authorized by the City Engineer.
- 12.160 Street Alignment. As far as practical, streets shall be dedicated and constructed in alignment with existing streets by continuing the centerlines thereof. Arterial and collector streets shall have continuous alignments without offset or staggered intersections. In no case shall the staggering of streets be designed where jogs of less than 300 feet are created as measured from the centerline of any intersection involving an arterial or collector street. [Ord. 5338, 1/28/98]
- 12.170 Intersections. Streets must be laid out so as to intersect as nearly as possible at right angles. Proposed intersection of two streets at an acute angle of less than 75 degrees is not allowed. An oblique street should be curved approaching an intersection to provide at least 100 feet of street at right angles with the intersection. Not more than two streets shall intersect at any one point.
- 12.180 Clear Vision Area. A clear vision area must be maintained at each access to a public street and on each corner of property at the intersection of two streets or a street and a railroad. No fence, wall, hedge, sign, or other planting or structure that would impede visibility between the heights of 2-8 feet shall be established in the clear vision area. Measurements shall be made from the top of the curb or, where no curb exists, from the established street center line grade.

(1) The preceding provisions do not apply to the following:

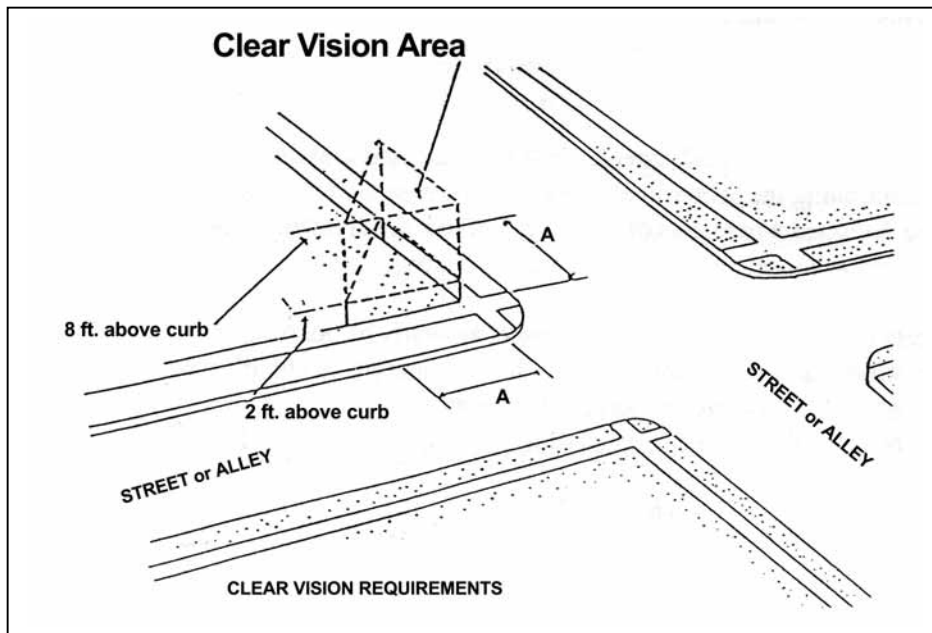
- (a) a public utility pole,
- (b) a tree trimmed (to the trunk) to a line at least eight feet above the level of the intersection,
- (c) another plant species of open growth habit that is not planted in the form of a hedge and which is so planted and trimmed as to leave at all seasons a clear and unobstructed cross-view,
- (d) a supporting member or appurtenance to a permanent building lawfully existing on the date this standard becomes effective,
- (e) an official warning sign or signal,
- (f) the post section of a pole sign when there are no more than two posts and any post is less than 8 inches in diameter, and
- (g) existing or new buildings within the Central Business District (CBD).

(2) A clear vision area consists of a triangular area, two sides of which are lot lines or a driveway and a lot line for a distance specified in this section, or, where the lot lines have rounded corners, the lot lines extended in a straight line to a point of intersection and so measured, and the third side of which is a line across the corner of the lot joining the non-intersecting ends of the other two sides (See illustration below). The following measurements shall establish the clear vision areas:

<u>Type of Intersection</u>	<u>Measurement Along Each Lot Line or Drive Edge*</u>
Controlled Intersection (stop sign or signal)	20 feet
Uncontrolled Intersection (60' right-of-way)	30 feet
Uncontrolled Intersection (less than 60' right-of-way)	30 feet

Commercial and Industrial District driveways	20 feet
Residential District driveways	15 feet
Alley (less than 25 feet)	20 feet

\* When there is an intersection of two or more streets of different right-of-way width, the distance to be measured along the lot lines shall be the distance specified for each type street.



12.190 Cul-de-sacs. The street pattern may include cul-de-sacs and bulbs only if connectivity and block length standards have been met. A cul-de-sac must be as short as possible and is not to exceed 400 feet. A cul-de-sac must terminate with a circular turnaround, except as provided in 12.130 (3)(c). Dead-end streets longer than 400 feet may be approved by the City Engineer if no other means is available for development of the property.

A 10-foot wide lighted concrete bikeway/pedestrian access way shall be dedicated and constructed from the end of each cul-de-sac to the nearest street or property line of adjacent property, except where the cul-de-sac abuts developed property and/or the City Engineer determines there is no need for a connection. [Ord. 5338, 1/28/98; Ord. 5445, 4/12/00]

12.200 Street Abutting New Development. Sections of existing streets not meeting City standards which directly abut new development shall be constructed to City standards. The City Engineer may approve construction of a partial width street provided the design is determined to be adequate to accommodate needed public facilities, storm drainage runoff, traffic volumes, and traffic loadings. The design of the improvement shall consider the ultimate design of the fully widened street. For purposes of this section, "development" means a land division, new commercial or industrial development, construction of multi-family residential units or a manufactured home or recreational vehicle park.

A future improvement assurance, as described in Section 12.600, may be accepted by the City where the City Engineer determines that the street improvement would not be timely. [Ord. 5338, 1/28/98]

12.210 Slope and Curves. Slope shall not exceed 6 percent on arterials, 10 percent on collector streets or 12 percent on other streets. Center line radii or curves shall not be less than 600 feet on arterials, 400 feet on collectors, or 200 feet on other streets. Where existing conditions, particularly the topography, make it otherwise impractical to provide buildable sites, steeper grades and sharper curves may be approved by the review body. In flat areas, allowance shall be made for finished street grades having a minimum slope of at least 0.5 percent, where possible.

- 12.220 Street Adjacent to Railroad. Wherever a proposed development contains or is adjacent to a railroad right-of-way, provision may be required for a street approximately parallel to and on each side of the railroad right-of-way at a distance suitable for the appropriate use of the land between each street and the railroad. The distance shall be determined with due consideration at each cross street of the minimum distance required for approach grades to a future grade separation and to provide sufficient depth to allow screen planting along the railroad right-of-way in non-industrial areas.
- 12.230 Access to Arterials. Where a development abuts or contains an existing or proposed arterial street, the development design shall provide adequate protection for residential properties and shall separate residential access and through traffic, or if separation is not feasible, the design shall minimize the traffic conflicts. The design requirements may include any of the following:
- (1) A parallel access street along the arterial.
  - (2) Lots of suitable depth abutting the arterial to provide adequate buffering and having frontage along another street.
  - (3) Screen planting at the rear or side property line to be contained in a nonaccess reservation along the arterial.
  - (4) Other treatment, as determined by the City Engineer, suitable to meet the objectives of this subsection.
- 12.240 Property Monuments. Upon completion of a street improvement and prior to 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.
- 12.250 Private Streets. Unless the review body determines that public streets are needed to provide for circulation and/or access to neighboring properties, private streets are permitted within Planned Unit Developments, Manufactured Home Parks, and singularly owned developments of sufficient size to warrant interior circulation on private streets. Streets classified as arterials or collectors that run through these developments must be public streets. Local streets needed for connectivity purposes shall be public streets. Gated residential streets are prohibited. Private streets shall be designed and constructed with a 20-year design life. Plats for developments containing private streets must show that streets are private and upkeep and maintenance the responsibility of the abutting property owners. The review body may require legal assurances for the construction and continued maintenance of private streets. [Ord. 5338, 1/28/98; Ord. 5445, 4/12/00]
- 12.260 Traffic Signals. Where a single development or concurrent group of developments will create a need for a traffic signal at an intersection, such installation may be a condition of development approval.
- 12.270 Railroad Crossings. Where an adjacent development results in a need to install or improve a railroad crossing, such improvement may be a condition of development approval.
- 12.280 Street Signs. The City shall install all street signs, relative to traffic control and street names, as specified by the City Engineer for any development. The cost of signs and installation shall be included in the developer's project costs.

## **SIDEWALKS**

- 12.290 Requirement. All development for which land use applications are required by Section 1.060 must include sidewalks adjacent to public streets. This requirement also applies to new single-family houses

and duplexes if they are located on arterial or collector streets or on curbed local streets if there is an existing sidewalk within 500 feet on the same side of the street.

In the case of arterial or collector streets, sidewalks shall be built during their construction and considered during their reconstruction. This provision shall also apply to local streets that serve commercial and multi-family development. Sidewalks are required on both sides of all streets. If an interim street standard is being constructed which does not include bike lanes or sidewalks, interim bikeways or walkways for pedestrians shall be provided through construction of paved roadway shoulders at least 8 feet in width on arterials and 6 feet on other streets. The provision of sidewalks may be waived where the street serves a use or combination of uses which generate fewer than fifty trips a day (based on ITE standards) and cannot be continued or extended to other properties. [Ord. 5445, 4/12/00]

12.300 Design, Width, and Location. All sidewalks must be constructed, replaced or repaired in accordance with the Standard Construction Specifications. The required width and location of sidewalks is as follows:

- (1) The required width for a sidewalk on an arterial or collector street is seven (7) feet. This width may be reduced to six (6) feet if the sidewalk is separated from the curb by a landscaped planter strip at least five feet wide. In those instances where there is inadequate right-of-way for additional width and no additional right-of-way can be obtained as a condition of development approval, the sidewalk width may be reduced to five (5) feet. In all cases, any right-of-way remaining outside the sidewalk is to be landscaped and maintained by the adjoining property owner.
- (2) Sidewalks along residential and other local streets must be a minimum of five (5) feet in width. A planter strip at least 6 feet wide shall separate the sidewalk from the street. Street trees shall be selected from the list of approved street trees established by the City. Other tree species may be approved if they have similar qualities as those on the list. The planter strip shall be of permeable materials.
- (3) In the Central Business District, as defined on the zoning map, sidewalks must be at least ten (10) feet in width and be installed adjacent to the curb.
- (4) Regardless of other provisions contained in this article, any sidewalk project that is less than 200 feet in length and connects on either end to an existing sidewalk may be designed to match the existing pattern with the approval of the City Engineer.
- (5) Where obstructions exist or are proposed (including but not limited to mail boxes, utility poles, trees, planters, fire hydrants, signs, benches, bus stops, etc.), provisions must be made to maintain a minimum of four feet of unobstructed sidewalk width on local streets, five feet on collector and arterial streets, and six feet in the Central Business District.
- (6) Maintenance of sidewalks and planter strips shall be the continuing obligation of the adjacent property owner except where the lot backs onto an arterial. Planter strips shall be landscaped and maintained in like manner to the front yard setback requirements of Article 9.
- (7) Sidewalks shall be designed to parallel streets in line and grade and shall avoid unnecessary meandering from the curb line and elevation changes except as necessary to avoid significant trees or traverse topographic barriers.
- (8) Pedestrian accessways not adjacent to a public street shall be a minimum of 10 feet wide. [Ord. 5445, 4/12/00]

- 12.310 Conformance to Street Grades. All sidewalks constructed adjacent to a street must be placed upon the street grade as established at the time of sidewalk construction. If a space is left between the property line and the sidewalk and/or between the sidewalk and the curb, the space shall be filled and surfaced with earth or other approved material level with the sidewalk.
- 12.320 Timing of Sidewalk Construction. Sidewalk construction may be deferred until the proposed improvement on the property is completed. No occupancy permit shall be issued by the Building Official for a development until the provisions of this Article are satisfied.

The City Engineer may authorize a future improvement assurance (as described in Section 12.600) when, in his opinion, the construction of the sidewalk is impractical for one or more of the following reasons:

- (1) Sidewalk grades have not and cannot be established for the property in question within a reasonable length of time,
- (2) Forthcoming installation of public utilities or street paving would be likely to cause severe damage to the new sidewalk,
- (3) Street right-of-way is insufficient to accommodate a sidewalk on one or both sides of the street,
- (4) Topography or elevation of the sidewalk base area makes construction of a sidewalk impractical or economically infeasible.

### **BIKEWAYS**

- 12.330 Master Bikeways Plan. The City's adopted Master Bikeways Plan is in the Comprehensive Plan.
- 12.340 Provisions for Bikeways. Developments adjoining or containing proposed bikeways identified on the adopted Master Bikeways Plan shall include provisions for the future extension of such bikeways. Land use approvals issued for Planned Developments, Greenway Conditional Use Permits, subdivisions and other developments which will principally benefit from such bikeways may be conditioned to include bikeway improvements.

In the case of arterial or collector streets, bikelanes shall be built during their construction, and considered during their reconstruction. This provision shall also apply to local streets in other than single family residential developments.

- 12.350 Bikeway Design. Where possible, bikeways should be separated from other modes of travel, including pedestrian. Minimum width for bikeways shall be 6 feet per travel lane where adjacent to a curb (one-way) and 10 feet where not on roadway (two-way). A reduction in standards may be allowed where the City Engineer finds that no safety hazard will be created and other special circumstances (such as physical constraints) exist.

### **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 feet for piped storm drainage unless otherwise specified by the utility company or City Engineer. Where feasible, utility easements shall be centered on a lot line.

- 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.
- 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.
- 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, such new or revised installations shall be made only on rights-of-way or easements on which overhead facilities exist at the time of such capacity increase.
  - (2) Appurtenances and associated equipment such as surface-mounted transformers, pedestal-mounted terminal boxes, meter cabinets, telephone cable closures, connection boxes, and the like.
  - (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 necessary for transmission or distribution of utility services.
  - (5) Television antennas and satellite dishes [See Section 3.080 (12)].
  - (6) Industrial developments, except for those utility lines, cables, and/or wires providing service to an individual lot. Such lines must be placed underground from the nearest power pole to the facility ultimately being operated on the individual lot. Certain industries requiring exceptionally large power supplies may request direct overhead power as a condition of Site Plan approval. Underground utilities may be required in Industrial Park developments and Planned Developments in the Industrial Districts.
  - (7) New development on existing individual lots of record in areas where service is currently by overhead utilities.
- 12.405 Property Monuments. Upon completion of a utility project and prior to 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.

## **WATER**

- 12.410 When Public Water is Available. All new development, including a single family residence, must extend and connect to the public water system when service is available within 150 feet of the property. Fire hydrants, mains, and related appurtenances shall be installed as required by the City Fire Marshal.

- 12.420 When Public Water is Not Available. No new development is allowed on private well systems, except for construction of one single family dwelling on an existing lot of record. Residential lots created by a land partition may be served by private wells if approved by the City and provided the new lots are subject to a Petition for Improvement/Waiver of Remonstrance for a future assessment district for public water. If a second partition plat is filed on the same parcel, the application will be subject to the subdivision requirement that the development be served by public water.
- 12.430 Extension Along Property Frontage and Within Interior. Water distribution mains must be extended along the full length of the property's frontage along the right-of-way or to a point identified by the City Engineer as necessary to accommodate likely system expansion. Main extensions may be required through the interior or properties when necessary to provide for service to other properties or to provide looping for fire flows.
- 12.440 Water Plan Approval. All proposed water plans and systems must be approved by the City Engineer as part of the tentative plat or site plan review process.
- 12.450 Design Requirements for New Development. All new development within the City must, where appropriate, make provisions for the continuation or appropriate projection of existing principal water lines serving surrounding areas.
- 12.460 Restriction of Development. The review body may restrict development approvals where a deficiency exists in the water system or portion thereof which cannot be corrected as a part of the development improvements.

### **SANITARY SEWERS**

- 12.470 When Public Sewer is Available. All new development must extend and connect to the public sewer system when service is available within 300 feet of the property.
- 12.480 When Public Sewer is Not Available. Where sewer is not available within 300 feet of the property, no development is allowed on private septic systems, except for construction of one single family dwelling on an existing lot of record or on a parcel no smaller than five acres created through the land division process. Any private on-site system allowed by this section must be approved by the county.
- 12.490 Extension Along Property Frontage and Within Interior. Sewer collection mains must be extended along the full length of the property's frontage along the right-of-way or to a point identified by the City Engineer as necessary to accommodate likely system expansion. Where private sanitary sewer services will exceed 100 feet in length, as measured from the public main to the structure, the City Engineer may require extension of public sewers into the interior of the property.
- 12.500 Sewer Plan Approval. All proposed sewer plans and systems must be approved by the City Engineer as part of the tentative plat or site plan review process.
- 12.510 Design Requirements for New Developments. All new development within the City must, where appropriate, make provisions for the continuation or appropriate projection of existing sewer lines serving surrounding areas. Line extensions may be required through the interior of a property to the developed where the City Engineer determines that the extension is needed to provide service to upstream properties.
- 12.520 Restriction of Development. The review body may restrict development approvals where a deficiency exists in the sewer system or portion thereof which cannot be corrected as a part of the development improvements.

## STORM DRAINAGE

12.530 General Provisions. The review body will approve a development request only where adequate provisions for storm and flood water run-off have been made as determined by the City Engineer. The storm water drainage system must be separate and independent of any sanitary sewerage system. Where possible, inlets should be provided so surface water is not carried across any intersection or allowed to flood any street. Surface water drainage patterns and proposed storm drainage must be shown on every development proposal plan. All proposed storm sewer plans and systems must be approved by the City Engineer as part of the tentative plat or site plan review process.

Ditches are not allowed without specific approval of the City Engineer. Open natural drainageways of sufficient width and capacity to provide for flow and maintenance may be permitted. For the purposes of this article, an open natural drainageway is defined as a natural path that has the specific function of transmitting natural stream water or storm water run-off from a point of higher elevation to a point of lower elevation.

12.540 Easements. Where a subdivision is traversed by a water course, drainageway, channel or stream, there shall be provided a public storm water easement or drainage right-of-way conforming substantially with the lines of such water course and such further width as the City Engineer determines will be adequate for conveyance and maintenance. Improvements to the drainageway, or streets or parkways parallel to water courses may be required.

12.550 Accommodation of Upstream Drainage. A culvert or other drainage facility shall be large enough to accommodate potential run-off from its entire upstream drainage area, whether inside or outside of the development. The City Engineer must review and approve the necessary size of the facility, based on the provisions of the Storm Drainage Master Plans, and sound engineering principles and assuming conditions of maximum potential watershed development permitted by the Comprehensive Plan.

12.560 Effect on Downstream Drainage. Where it is anticipated by the City Engineer that the additional run-off resulting from the development will overload an existing drainage facility, the review body will withhold approval of the development until provisions have been made for improvement of said potential condition.

12.570 Drainage Management Practices. Development must employ drainage management practices approved by the City Engineer which minimize the amount and rate of surface water run-off into receiving streams or drainage facilities or onto adjoining properties. Drainage management practices must include, but are not limited to one or more of the following practices:

- (1) Temporary ponding or detention of water;
- (2) Permanent storage basins;
- (3) Minimization of impervious surfaces;
- (4) Emphasis on natural drainageways;
- (5) Prevention of water flowing from the development in an uncontrolled fashion;
- (6) Stabilization of natural drainageways as necessary below drainage and culvert discharge points for a distance sufficient to convey the discharge without channel erosion;
- (7) Runoff from impervious surfaces must be collected and transported to a natural drainage facility with sufficient capacity to accept the discharge; and
- (8) Other practices and facilities designed to transport storm water and improve water quality.

- 12.580 Design Requirements for New Development. All new development within the City must, where appropriate, make provisions for the continuation or appropriate projection of existing storm sewerlines or drainageways serving surrounding areas. Extensions may be required through the interior of a property to be developed where the City Engineer determines that the extension is needed to provide service to upstream properties.
- 12.585 NPDES Permit Required. A National Pollutant Discharge Elimination System (NPDES) permit must be obtained from the Department of Environmental Quality (DEQ) for construction activities (including clearing, grading, and excavation) that disturb five (5) or more acres of land.

### **IMPROVEMENT ASSURANCES**

- 12.590 Purpose. The purpose of improvement assurances is to provide the City with a guarantee that the improvements called for in this article will be made. The type of guarantee will be determined by the City. Before issuing or renewing a development approval when the applicant has an obligation to design and construct improvements shown on the development plan, the review body may require that the applicant acknowledge the obligation.
- 12.600 Form and Contents. The assurance shall contain the time within which the obligation is to be met. It may take the form of a surety or performance bond, cash, a negotiable security deposit, a mutual improvement agreement, a monetary contribution to a fund for future improvements if established by a separate city ordinance or other guarantees approved by the City Attorney sufficient to cover the cost of the work as estimated by the City. The bond shall be conditioned upon the developer's carrying out the obligation and fulfilling the other requirements of this Title that bear on the approval of the development. The deposit or bond shall be forfeited to the City if the developer does not fulfill the requirements. The bond or deposit shall remain in the custody of the City until the obligation is completed or the bond or deposit is forfeited, or shall be placed in an escrow account subject to City control.
- 12.610 Noncompliance with Provisions Under Obligation. If the Director finds that a developer is not fulfilling an obligation, the Director shall, in written notice to the developer and the developer's surety, specify the details of noncompliance. Unless the Director allows more time for compliance because of circumstances beyond the developer's control, within 30 days after receiving the notice, the developer or the developer's surety shall commence the compliance and proceed diligently to complete fulfillment of the obligation.
- (1) If the developer or the developer's surety does not commence the compliance within the 30 days or the additional time allowed by the Director, or has so commenced but fails diligently to complete the compliance, or the compliance is otherwise not completed within the time specified in granting the development approval, the City may take the following action:
- (a) Enter upon the site of the development and carry out the obligation in accordance with the provisions agreed upon under the acknowledgement.
  - (b) Notify the developer and the developer's surety of the developer's failure to perform as required by this Code.
  - (c) Demand payment from the developer's for the unfulfilled obligation.
  - (d) If the security for the obligation is a bond, notify the surety that has furnished the bond that reimbursement for the expense for fulfillment of the obligation is due and payable to the City or, if the security is a deposit of cash or other assets, appropriate as much of the deposit as is necessary to recoup the expense.
  - (e) Void all approvals granted in reliance on the improvement assurance.

- (2) If a bond or other required security is not sufficient to compensate the City for expenses necessary to fulfill the obligation, the amount due to the City for the obligation is a lien in favor of the City and upon the entire contiguous real property of the owner of the land subject to the obligation.
- (3) The lien attaches upon the filing with the City Recorder of notice of the claim for the amount due for the fulfillment of the obligation. The notice shall demand the amount due, allege the insufficiency of the bond or other security to compensate the City fully for the expense of the fulfillment of the obligation, and allege the developer's failure to do the required obligation.
- (4) The lien may be foreclosed in the manner prescribed by law for foreclosing other liens on real property.
- (5) The remedies set forth for non-compliance are cumulative. In addition to the remedies set forth above, non-compliance by the developer or his surety with any term of a performance guarantee shall entitle the city to pursue any civil remedy permitted by law.

## **ARTICLE 13 SIGNS**

13.000 Overview. This article contains the City's standards for signage.

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

- General Provisions
- Review Procedures
- General Sign Regulations
- Standards by Sign District
- Standards by Sign Type
- Standards by Special Sign Function
- Variances
- Nonconforming Signs

### **GENERAL PROVISIONS**

13.110 Purpose. To help implement the Comprehensive Plan, provide equitable methods of business identification, reduce signage conflicts, promote traffic and pedestrian safety, increase the aesthetic value and economic viability of the City, all by classifying and regulating the location, size, design, type and number of signs and related matters.

13.120 Definitions. The following definitions are in addition to those of Article 14 that shall be used in combination for purposes of this article. Where there is duplication, the definitions of this article shall be used.

A-frame sign: See portable sign.

Alteration: Any change in the size, shape, method of illumination, sign face, position, location, construction, or supporting structure of a sign.

Area: The area of a sign shall be the entire area within any type of perimeter or border which encloses the outer limits of any writing, representation, emblem, figure, or character. The area of the sign having no such perimeter or border shall be computed by enclosing the entire area within a parallelogram or a triangle of the smallest size sufficient to cover the entire area of the sign and computing the area of the parallelogram or a triangle. For the purpose of computing the number of signs, all writing included within such a border shall be considered one sign.

Awning: A shelter supported entirely from the exterior wall of a building and composed of non-rigid materials except for the supporting framework.

Building Face: The single wall surface of a building facing a given direction.

Building Frontage: The portion of the building face most closely in alignment with an adjacent right-of-way or fronting a parking lot when so defined as allowed in this article.

Building Official: The officer or other designated authority charged with the administration and enforcement of this Code or his/her duly authorized representative.

Bulletin Display: Two poster panels side by side on the same structure.

Business: Any commercial or industrial enterprise.

Changeable Copy Sign: A sign which contains numbers, letters or symbols which are designed to be moved, interchanged, or replaced (i.e., reader board). Sign area denoting price is also considered changeable copy.

Construct: Build, erect, attach, hang, place, suspend, paint in new or different word, affix, or otherwise bring into being.

Construction Project Sign: A sign erected in conjunction with construction projects and used to inform the public of the architects, engineers and construction organizations participating in the project and indicating “future home of” information.

Direct Illumination: A source of illumination on the surface of a sign or from within a sign.

Double Face Sign: A sign with advertising on two surfaces back to back, with the angle between the two sides less than 25 degrees.

Fence Sign: A sign attached to or painted on a fence.

Finish Ground Level: The average elevation of the ground (excluding mounds or berms, etc. located only in the immediate area of the sign) adjoining the structure or building upon which the sign is erected, or the curb height of the closest street, whichever is the lowest.

Flashing Sign: A sign any part of which pulsates or blinks on and off, except time and temperature signs and message centers allowed by conditional use.

Freestanding Sign: A sign supported by one or more uprights, poles or braces placed in or upon the ground, or a sign supported by any structure primarily for the display and support of the sign.

Freeway Interchange Area: An area zoned CC, CH, LI, or TS area within a 1500 foot radius measured from the center intersection point of Interstate 5 and Knox Butte Road and Santiam Highway, or within a 70-foot strip along the east boundary of the I-5 right-of-way, as shown in Figure 1. (Ord. 5281, 3/26/97)

Frontage: See Building Frontage or Street Frontage.

Garage Sale Sign: A sign advertising garage sales or similar non-regular sales operated out of a residence.

Gas Station Price Sign: A changeable copy sign for the single purpose of advertising gasoline prices.

Historical Markers: Signs erected or maintained by public authority or by a recognized historical society or organization identifying sites, buildings, districts, or structures of recognized historical value.

Home Occupation Sign: A sign used in conjunction with a home occupation as established in Sec. 3.100(3).

Indirect Illumination: A source of illumination directed toward such sign so that the beam of light falls upon the exterior surface of the sign.

Industrial Park Area: Those industrial properties with three or more business tenants as occupants of the property or which share a common off-street parking area, whether or not the businesses, buildings, or land are under common ownership.

Integrated Business Center: A group of two or more businesses which are planned or designed as a center, or share a common off-street parking area or access, whether or not the businesses, buildings, or land are under common ownership.

Joint Use Sign: When two or more businesses combine their principal signs into one freestanding sign for each common frontage of such business or for each frontage for an integrated shopping center in which such businesses are located.

Major Integrated Center: A commercial development having at least two anchor stores or major tenants, each containing a minimum of 40,000 square feet in gross floor area.

Mansard Roof: A roof with 2 slopes on all sides, the lower slope being nearly vertical and the upper nearly horizontal.

Marquee: A permanent roofed structure attached to and supported by the building and projecting over public property which is constructed for purposes other than signage.

Message Sign: A sign which is electronically controlled and designed to display various messages or advertisements.

Minor Integrated Center: A commercial development with more than one tenant space that does not meet the minimum standards for Major Integrated Center.

Mural: A graphic illustration or artful presentation which is painted or otherwise applied without projections to an outside wall of a structure.

Name Plate: A sign identifying the name, street address, occupation and/or profession of the occupant of the premises.

Nonconforming Sign: Any sign which lawfully exists prior to the effective date of this article but, which due to the requirements adopted herein, no longer complies with the height, area, and placement regulations or other provisions of this title.

Off-Premises Directional Sign: A directional sign which displays only the name, logo, and/or address of a business or other use and a directional indicator and is located on another's property.

Opening Banner: A banner announcing the opening of a new business ("Grand Opening" or words to that effect).

Portable Sign: A sign that is not permanently affixed to a building, structure, or the ground that is designed to be moved from place to place. [Real estate signs conforming to Section 13.320(10) and garage sale signs conforming to Section 13.320(2) are excluded from this definition.] Portable signs (not limited to A-frame signs) primarily include signs attached to wood or metal frames designed to be self-supporting and movable.

Projecting Signs: A sign projecting more than 12 inches from a structure and meeting the standards of Section 13.530.

Public Safety and Convenience Sign: Sign designed primarily to be read by a person on the premises and used only to identify and locate an office, entrance, exit, telephone, and similar place, service, or route.

Real Estate Sign: A sign for the purpose of rent, lease, sale, etc. of real property, building opportunities, or building space.

Roof Line: Either the eave of the roof or the top of the parapet, at the exterior wall. (A "mansard roof" is below the top of a parapet and is considered a wall for sign purposes.)



Roof Sign: A sign or any portion of which is displayed above the roof line.

Rotating/Revolving Sign: A sign all of or a portion of which moves in some manner.

Sandwich Board Sign: A two-sided portable sign designed to fold flat. See also portable sign.

Sign: Any writing (including letter, word, or numeral); pictorial presentation (including illustration or decoration); emblem (including device, symbol or trademark); flag (including banner or pennant); or any other device figure or similar thing which is a structure or any part thereof, or is attached to, painted on, or in any other manner represented on a building or structure or device; and is used to announce, direct attention to, or advertise; and is visible from any public right-of-way.

Sign Height: The distance from the finished ground level, to the top of the sign or the highest portion of the sign structure or frame, whichever is greater.

Single Face Sign: A sign with a display on only one surface of a sign structure.

Special Event Sign: A sign advertising or pertaining to any special event taking place within Linn or Benton Counties.

Street Frontage: That portion of a property which abuts a paved street right-of-way and measured by the lineal distance of the property adjacent to such right-of-way.

Wall Sign: A sign attached to, erected against or painted on a wall of a building or structure, with the exposed face of the sign in a plane approximately parallel to the face of said wall and not projecting more than 12 inches. A sign painted on an awning in which the face of the sign is approximately parallel to and within 3.5 feet of the wall shall also be considered a wall sign.

Window Sign: A sign outside or inside a window which is designed and placed so as to be read by people from a public right-of-way, excluding open and closed and/or business hours signs. [Ord. 5445, 4/12/00]

## **REVIEW PROCEDURES**

- 13.210 Permit Needed. Except as specifically excluded herein, no property owner, lessee, contractor, or other person shall display or cause to be displayed any sign requiring a permit as set forth in this Code, except for maintenance of signs that conform with this ordinance, without first obtaining from the Building Official a written permit to do so, paying the fees prescribed therefore, and otherwise complying with all of the applicable provisions of this ordinance. If a governmental agency requires the relocation of a sign, the fee described above shall be waived.
- 13.211 Approval of Permits. Unless otherwise authorized by this ordinance, no permit shall be issued for any new sign within the city until such sign is reviewed and approved by the Building Official or his designee. When a sign is to be located on a lot occupied by a structure listed on the official city historic inventory, then the sign shall be considered an exterior alteration subject to the provisions of ADC Sec. 7.100.
- 13.212 Permit Fees. The permit fees shall be established by Council resolution. If a sign is installed without a permit and the sign conforms to all other provisions of this ordinance, a double fee shall be collected. Other signs installed without permits shall subject the persons responsible to any and all penalties provided by this Code.
- 13.213 Application Requirements. An application for a sign permit shall be made on a form prescribed by the Building Official and shall be filed with the Building Division. The application shall include, at a minimum, a sketch drawn to scale indicating the proposed sign and identifying existing signs on the

premises, the sign's location, graphic design, structural and mechanical design and engineering data which ensures its structural stability. The application shall also contain the names and addresses of the sign company, person authorizing erection of the sign and the owner of the subject property.

13.214 Permit Issued if Application in Order. It shall be the duty of the Building Official, upon the filing of an application for a sign permit, to examine such plans and specifications and other data and the premises upon which it is proposed to erect the sign, and if it shall appear that the proposed sign is in compliance with all the requirements of this ordinance and all other laws and ordinances of the City of Albany, he/she shall then issue the sign permit.

13.215 Enforcement. In addition to the enforcement criteria set forth in Section 1.110 through 1.190 of the Development Code and Chapter 1.04 of the Municipal Code, the following provision applies:

Enforcement shall be as set forth in Section 1.110 through 1.190 of the Development Code and Chapter 1.04 of the Municipal Code. Unsafe signs, abandoned signs, signs erected without a permit, and nonconforming signs past the conformance deadline may be subject to the abatement procedure listed under Section 302 of the Uniform Code for the Abatement of Dangerous Buildings, in addition to the other remedies set forth in this Code.

### **GENERAL SIGN REGULATIONS**

13.310 Standard Sign Exemptions. No permit is necessary before placing, constructing, or erecting the following signs:

- (1) Governmental street signs, such as traffic signs or informational and directional signs as may be authorized by the City.
- (2) Signs of public utility companies indicating danger, or which serve as an aid to public safety, or which show the location of underground facilities or of public telephones.
- (3) Signs which are not meant to be visible off-site, such as signs in a stadium which are visible only to patrons, and signs on the interior of a mall or building not visible from a public right-of-way.
- (4) Official or legal signs which are erected by public officers performing official duties including those erected pursuant to law, administrative order, or court order.

13.320 Conditional Sign Exemptions. No permit is necessary before placing, altering, constructing or erecting the following signs as long as the applicable standards have been met:

- (1) Construction Project Sign. One sign not to exceed 64 square feet per frontage, and two signs per project shall be the maximum allowed.
- (2) Garage, Yard and Other Temporary Residential Sales. Shall not exceed a size of 4 square feet per face and shall not exceed 4 feet in height. Such signs shall not be erected prior to one week before this event and shall be removed no later than the day after the event, or no more than a total of 15 consecutive days for extended sales. Not more than two on-premises and two off-premises directional signs shall be allowed. They shall not be placed in the public right-of-way or vision clearance areas and must be posted with the property owner's permission.
- (3) Historical Markers. As defined.
- (4) Home Occupation Signs. One sign not larger than 12 inches by 18 inches which shall be placed in a window or attached to the building.

- (5) House and Building Numbers. Individual characters shall not be less than three inches in height nor exceed 12" in width or height.
- (6) Nameplate. One nameplate, not exceeding 2 square feet total shall be allowed for each occupant; the nameplate shall be affixed to the building wall.
- (7) Search Lights. Search lights may be permitted if they are part of an opening or promotional event as allowed in Section 13.680, but no business shall utilize search lights more than 5 days in duration or 15 days total in any calendar year.
- (8) Permanent Building Plaques. One sign per building frontage with a combined size of 4 square feet or less, which may only indicate the building name and date of construction and be affixed to the building wall.
- (9) Political Signs. Signs shall be erected and maintained entirely on private property with the consent of the occupant of the premises, and be limited to an area of 4 square feet per face in a Residential Zone and 8 square feet per face in a Commercial or Industrial Zone and a maximum dimension or height of 3 feet in a Residential Zone and 5 feet in a Commercial or Industrial Zone. Billboards are excluded from this provision. No signs shall be erected or maintained on utility poles or upon trees, rocks or other natural features. Signs shall not be erected prior to 45 days from the applicable election, and shall be removed within 7 days after the election. Violation of this ordinance shall result in enforcement procedures against the candidate or property owner.
- (10) Real Estate Signs. Signs shall conform to the following restrictions:
- (a) Commercial and Industrial Zones. In Commercial and Industrial Zones, real estate signs shall conform to all restrictions (such as number and size) applicable to that zone, except that no sign shall exceed 100 square feet in area per face and 10 feet in height. If a developed property meets or exceeds the maximum signage allowed, then one additional wall sign per frontage shall be allowed not exceeding 10% of the wall face area.
- (b) Residential Zones. Where single family, duplexes, or multi-family units are for rent, lease, or sale, the following regulations apply:
1. The owner or the owner's authorized representative may erect one sign per frontage with a maximum of two signs per lot.
  2. Up to two directional signs may be erected off premises with the property owner's permission, but no more than one off-premises sign may be located on any tax lot.
  3. Signs shall not exceed 6 square feet per face.
  4. A-frame signs are allowed if they do not exceed 4 square feet per face and shall be removed at dusk and not replaced before sunrise.
  5. For placement in a city right-of-way, a right-of-way use permit is required (per AMC 13.33).
- (c) Subdivisions. Subdivisions involving more than three contiguous lots shall be allowed advertising signs subject to the following restrictions:
1. Signs shall be limited to one double-faced sign of 32 square feet per face, placed at a right angle to the street, or two 24 square foot signs facing the street. Such signs shall be at least 700 feet apart and shall not exceed a height of 8 feet.
  2. Signs shall be placed within the subject subdivision.
  3. Signs shall be removed at the end of 2 years, or when 90% of the subdivision lots contain

a completed structure, whichever occurs first. (For permanent marker signs, see Section 13.610.)

- (11) Public Safety and Convenience. Signs which are for public safety and convenience such as parking directional signs, store hours, open/closed, credit card acceptance, restroom facilities, taxi signs when attached to a building, etc. shall be located and sized commensurate with their function but shall not exceed 8 square feet per face per sign. No more than 50% of the sign area can be a business identification or logo. All signs must be placed outside of any vision clearance area.
- (12) Window Sign. Product advertising signs which are inside a window are allowed without regard to other aggregate or number sign restrictions. Window signs shall not obscure more than 50% of any individual window.
- (13) Seasonal Sign. Seasonal sales signs for temporary businesses such as Christmas tree sales and fireworks booths shall be allowed as follows:
  - (a) One sign per frontage.
  - (b) Sign area can be no greater than 32 square feet.
  - (c) Signs can be displayed only for the following periods:
    1. For Christmas related signs, day after Thanksgiving to January 4th.
    2. For Fourth of July related signs, from June 15 to July 6.
    3. For Easter related signs, from 15 days before Easter to 5 days after.
    4. Other seasonal sign time limits may be determined by the Building Official, but shall not exceed 30 days.
  - (d) Seasonal murals shall be allowed subject to the time limits above.
- (14) A sign located on the valance or bottom vertical 12 inches of the awning or on the face or vertical edge of a marquee and advertising only the name of the business.
- (15) Alteration of Sign Faces or Change in Copy Information. Provided that the sign structure is in conformance with all other provisions of this Article and the subject use has received all required Development Permits, only structural modifications or enlargements shall be subject to sign permit requirements. See 13.811 for copy changes to nonconforming signs.
- (16) Signs placed within the public right-of-way are subject only to the limitations and provisions of AMC Chapter 13.33 and the issuance of a temporary Right-of-way Use Permit.

13.330 Prohibited Signs. The following signs are prohibited and may not be placed within the city of Albany:

- (1) Obstructing Signs. A sign or sign structure which is attached to or placed against a building or other structure in such a manner as to prevent or inhibit ingress or egress through any door or window required or designated for access to any building or which is attached to or obstructs a fire escape, exit, or standpipe.
- (2) Portable Sign. Except as allowed in Section 13.320(10) ADC (Real Estate Signs), Section 13.320(2) ADC (Garage Sale Signs), Section 13.680 (Promotional Displays), and those signs allowed as per Albany Municipal Code Chapter 13.33.
- (3) Obscene Sign. It shall be unlawful for any person to display upon any sign any obscene, indecent, or immoral matter.
- (4) Roof Signs. A sign or any portion of which is displayed above the roof line.

- (5) Flashing Sign, Animated, Rotating or Revolving Sign, or signs that glare, change color more than three times per minute, reflect, blink, or appear to do any of the above except for clocks, approved time and temperature signs, and barber poles not exceeding four feet in length and one foot in diameter.
- (6) Signs in vision clearance areas as defined in Section 12.180 ADC, except for Public Safety and Convenience Signs approved under a site review procedure and sign poles which meet the standards of Section 12.180 ADC.
- (7) Pennants, streamers, festoon lights and other similar devices with parts intended to be moved by the wind except as allowed under 13.680 ADC.
- (8) Signs attached to any tree or public utility pole, other than warning signs issued by public utilities.
- (9) Signs using bare-bulb illumination or lighted so that the immediate source of light is exposed to direct view from a public street or highway. This is not intended to prohibit the use of neon as a source of illumination.
- (10) Signs using flame as a source of light.
- (11) Any sign which purports to be or is an imitation of or resembles an official traffic sign or signal, or which bears the words "STOP, GO, SLOW, CAUTION, DANGER, WARNING," or similar words, when used in a manner resembling an official traffic sign.
- (12) Any sign which by reason of its size, location, movement, content, coloring or manner of illumination may be confused with or construed as a traffic control device, or which hides from view any traffic sign or signal.
- (13) (Inflatable signs containing advertising or logos except for promotional purposes as allowed per Section 13.680 ADC.
- (14) Changeable copy signs which take up more than 50% of the sign face except for theaters, churches, and service station price signs.
- (15) Any sign placed on the roof of a marquee.
- (16) Any sign or portion thereof erected within future street right-of-way as depicted in the Comprehensive Plan as amended, unless and until an agreement is recorded stipulating that the sign will be removed or relocated upon street widening at no expense to the City.
- (17) Signs so located and placed to be viewed primarily from the freeway except for those signs allowed under Section 13.440.
- (18) Signs in the public right-of-way except as listed in Section 13.310 ADC and AMC Chapter 13.33 (Temporary Right-of-Way Use Permits).

13.340 Abandoned Signs. Signs existing beyond 60 days or sign structures existing beyond 12 months from when a bona fide business is no longer conducted or a product sold shall be taken down and removed by the owner, agent or person having the beneficial use of the building or structure upon which such sign may be found.

13.350 Construction Standards. All signs shall be designed and constructed to resist wind pressures of 20 pounds per square foot of sign surface area when located less than 30 feet above ground level as specified in Chapter 23 of the State of Oregon Structural Specialty and Life Safety Code. Any electrical apparatus used

in connection with a sign must be listed and approved by a testing agency approved by the Department of Commerce and be covered by an electrical permit. The amperage and voltage of such apparatus must be permanently affixed to the sign.

- 13.360 Maintenance of Signs. All signs, together with all of their supports, braces, guys and anchors, shall be kept in good repair and be maintained in a safe, neat, clean and attractive condition, free from rust, corrosion, peeling paint or other surface deterioration.

## STANDARDS BY SIGN DISTRICT

### 13.410 PEDESTRIAN AREAS.

- 13.411 District Areas. The Pedestrian Area shall consist of the CB (Central Business), HD (Historic Downtown), MUC (Mixed Use Commercial) and LE (Lyon-Ellsworth) zones. [Ord. 5446, 5/10/00, Ord. 5556, 2/21/03]

- 13.412 Aggregate Sign Restrictions. The total number and area of signs in pedestrian areas shall conform to the following:

- (1) The aggregate number of signs allowed for each business shall be no more than two signs for each building frontage.
- (2) The aggregate area of all signs per building frontage (except for exclusive use of wall sign Section 13.413(2)) shall not exceed an area equal to one square foot for each lineal foot of building frontage with a minimum aggregate area restriction of 30 square feet and a maximum aggregate area of 120 square feet.
- (3) As an option to the above, when a customer entrance/exit is used by a group of businesses for access, then each business with frontage can have one wall sign or marquee sign no greater than ½ foot for each foot of the business fronting on the street. In addition, one sign is allowed using the entire building frontage for all businesses located within, which shall not exceed 1 square foot for each 1 foot of lineal frontage.
- (4) Aggregate area and number provisions do not include nameplates, directional signs, awning and marquee signs as prescribed in Sections 13.320 (3, 5, 6, 8, 11, 12, & 14).

- 13.413 Wall Signs. Wall signs in Pedestrian Areas shall comply with the following provisions:

- (1) No wall sign shall exceed sixty (60) square feet unless increased by the following provision.
- (2) If wall signs are used exclusively, a bonus to Sections 13.412 and 13.413 is granted such that the area allowed shall be calculated at 1.5 square feet for each lineal foot of wall frontage up to a maximum individual sign size of 75 square feet and a maximum aggregate area of 150 square feet.

- 13.414 Freestanding Signs. Freestanding signs in pedestrian areas shall comply with the following provisions:

- (1) Signs shall be no higher than 25 feet.
- (2) One sign shall be permitted for each lot with a street frontage in excess of 50 lineal feet. Two or more parcels of less than 50 feet may be combined for purposes of meeting the foregoing standard, provided that all businesses are identified on such signs.
- (3) Signs shall not exceed a total face area of ¾ square feet for each lineal foot of street frontage with a

maximum face area of 50 square feet for one face or a total of 100 square feet for two or more faces.

- (4) Signs shall be placed on the central 50% of the street frontage of the business(es) or 40 feet from any adjacent freestanding sign. Signs on corner properties may be placed near the corner if vision clearance provisions are met.

13.415 Projecting Signs. Projecting signs in pedestrian areas shall comply with the following provisions:

- (1) One sign shall be permitted for each business or group of businesses occupying a single common space or suite in lieu of a freestanding sign.
- (2) Signs shall not exceed an area of 3/4 square feet for each lineal foot of business frontage to which the sign pertains, except that any business may have one projecting sign of 12 square feet per face. The maximum area of any projecting sign shall be 50 square feet per face.

13.420 **COMMERCIAL AND INDUSTRIAL AREAS.**

13.421 District Areas. The Commercial and Industrial Areas shall consist of the OP (Office Professional), NC (Neighborhood Commercial), CC (Community Commercial), RC (Regional Commercial), MUR (Mixed Use Residential), MS (Main Street), WF (Waterfront), TD (Transit District), ES (Elm Street), PB (Pacific Boulevard), LI, (Light Industrial), HI (Heavy Industrial), and IP (Industrial Park) zoning districts. [Ord. 5446, 5/10/00, Ord. 5555, 2/7/03]

13.422 Aggregate Sign Restrictions. The total number and area of signs in Commercial and Industrial Areas shall conform to the following:

- (1) The aggregate number of signs allowed for each lot shall be two signs for each frontage.
- (2) The aggregate area of all signs for each street frontage shall not exceed an area equal to 1-1/2 square feet for each lineal foot of street frontage. However, in addition, aggregate sign area shall be subject to the following minimum and maximum ranges:
  - (a) For CC, RC, TS, PB, LI, HI, and IP Zones, the minimum is 45 square feet, maximum is 200 square feet. [Ord. 5555, 2/7/03]
  - (b) For NC, MS, MUR and WF zones, the minimum is 35 square feet, maximum is 150 square feet.
  - (c) For OP, ES and TD zones the minimum is 24 square feet, maximum is 50 square feet. [Ord. 5446, 5/10/00]

13.423 Wall Signs. Wall signs in Commercial and Industrial areas shall comply with the following provisions:

- (1) No wall sign shall exceed one hundred (100) square feet except as noted below.
- (2) If wall signs are used exclusively, a bonus to Sections 13.422 and 13.423 is granted such that the area allowed shall be calculated at 2 square feet for each lineal foot of street frontage up to a maximum individual size of 125 square feet and a maximum aggregate area of 250 square feet in the CC, RC, LI, HI, PB, and IP zones; 180 square feet in the NC, MUR, WF and MS zones and 75 square feet in the OP, ES and TD zones. [Ord. 5446, 5/10/00, Ord. 5555, 2/7/03]

13.424 Freestanding Signs. Freestanding signs in Commercial and Industrial areas shall comply with the following provisions:

- (1) Signs shall be no higher than 30 feet in the PB, CC, RC, LI and HI zones. In the MUR, WF, MS, ES, TD, NC, OP, and IP zones signs shall be no higher than 15 feet. Signs located within the freeway

interchange area may be higher per Section 13.440. [Ord. 5555, 2/7/03]

- (2) One sign shall be permitted for each frontage in excess of 75 lineal feet. Two or more parcels of less than 75 feet may be combined for purposes of meeting the foregoing standard with the approval of all affected property owners.
- (3) Signs shall not exceed a total face area of 3/4 square feet for each lineal foot of street frontage with a maximum area of 160 square feet per face in the PB, CC, RC, LI, HI, and IP zones, 120 square feet in the MUR, WF, MS and NC zone and 40 square feet in the ES, TD and OP zone. In all cases a minimum allowance of 20 square feet is guaranteed. [Ord. 5555, 2/7/03]
- (4) Signs for interior businesses shall be placed on the central fifty percent of the street frontage of the business(es) or 60 feet from any adjacent freestanding sign. Signs on corner properties may be placed near the corner if vision clearance provisions are met. [Ord. 5446, 5/10/00]

13.425 Projecting Signs. Projecting signs in Commercial and Industrial Areas shall comply with the following provisions:

- (1) One sign shall be permitted for each business or group of businesses occupying a single common space or suite in lieu of a freestanding sign.
- (2) Signs shall not exceed an area of 3/4 square feet for each lineal foot of business frontage to which the sign pertains. The maximum area of any projecting sign shall be 80 square feet per face with a minimum allowance of 20 square feet.

13.430 **INTEGRATED BUSINESS CENTERS OR INDUSTRIAL PARK AREA**. The allowed number and square footage of integrated center signs is determined by the size and characteristics of the center. Centers having at least two anchor stores or major tenants, each containing a minimum of 40,000 square feet in gross floor area, are regulated under Major Integrated Centers. Those centers not meeting the minimum standards above are covered under Minor Integrated Centers.

### **MINOR INTEGRATED CENTERS**

13.431 Overall Identity Sign.

- (1) The overall identity or joint use sign must comply with Section 13.424, except that a bonus to the maximum size provisions is allowed so that the maximum area is 200 square feet per face and the minimum allowance is 60 square feet.
- (2) In lieu of (1) above, integrated businesses which utilize overall Business Center Identity Signs which are less than 6 feet in height may locate one such sign per entrance. Such signs are limited in aggregate area to the same requirements listed in (1) above.
- (3) Properties having two or more frontages, one of which is in excess of 400', are permitted two freestanding signs on the long frontage provided that the total combined area does not exceed 200 square feet (on one face); however, no freestanding sign is allowed on the other frontage.
- (4) In determining size restrictions based on frontage, an individual sign size can be any percentage of that allowed so long as the total allowance for all signs is not exceeded.

13.432 Individual Businesses.



- (1) One wall sign per building frontage or parking lot frontage provided that the wall adjacent to the parking lot is at least 75 feet from a facing residential area. The sign area shall be limited to the provisions of Section 13.520, 13.412(2) and (4), and 13.413(1).
- (2) In cases where the name of the business is not placed on the overall identity or joint use sign, a bonus is allowed such that two signs are allowed per frontage and wall sign area is determined by 13.613(2).

13.433 Special Signs for Interior Businesses. Where an individual business does not have frontage on a street or parking lot, such business or businesses may utilize any remaining signage area, subject to the following restrictions:

- (1) There shall be only one interior business sign per entrance, but multiple business advertising or identification can appear on such sign.
- (2) Such sign shall be located within 30 feet of an entrance open to the public providing access to the business.
- (3) Any interior business shall not use this provision more than twice.

### **MAJOR INTEGRATED CENTERS**

13.434 Overall Identity Sign. One freestanding, joint use sign per street frontage with a customer entrance is allowed. This sign is limited to 200 square feet per face and 30 feet in height.

13.435 Individual Businesses.

- (1) If the business is not represented on the integrated center sign, one freestanding monument sign is permitted for use by each freestanding pad building. The sign structure is limited to six (6) feet in height measured from ground level and ten (10) feet in horizontal length. The sign face(s) is/are limited to four (4) feet in height and eight (8) feet in horizontal length.
- (2) One wall sign per business per parking lot or street frontage. Allowed sign area is calculated at one square foot per lineal foot of building frontage on which the sign will face, with a minimum size of 30 square feet and a maximum area of 60 square feet.

13.436 Major Store Signs. Each major store with an entrance from a parking area or street is allowed two (2) wall signs on each frontage, provided that the building wall is at least 75 feet from a residential district. The aggregate sign area is limited to 3 percent of the gross wall area of the face on which the sign is to be located, or 200 square feet, whichever is less.

13.437 Mall Entrance and Identity Signs.

- (1) At each mall entrance, each interior business is allowed a minimum of two (2) square feet in signage. The maximum entrance sign area allowed is twelve (12) feet. Remote signs for major tenants are allowed, are not to exceed twelve (12) square feet in area, and are in addition to the interior business sign.
- (2) Mall identity wall signs may be placed over all main entries to the mall and are limited to 130 square feet in size.

13.438 Sign Spacing. A minimum of 200 feet of spacing is required between freestanding signs. limited to four (4) feet in height and eight (8) feet in horizontal length.

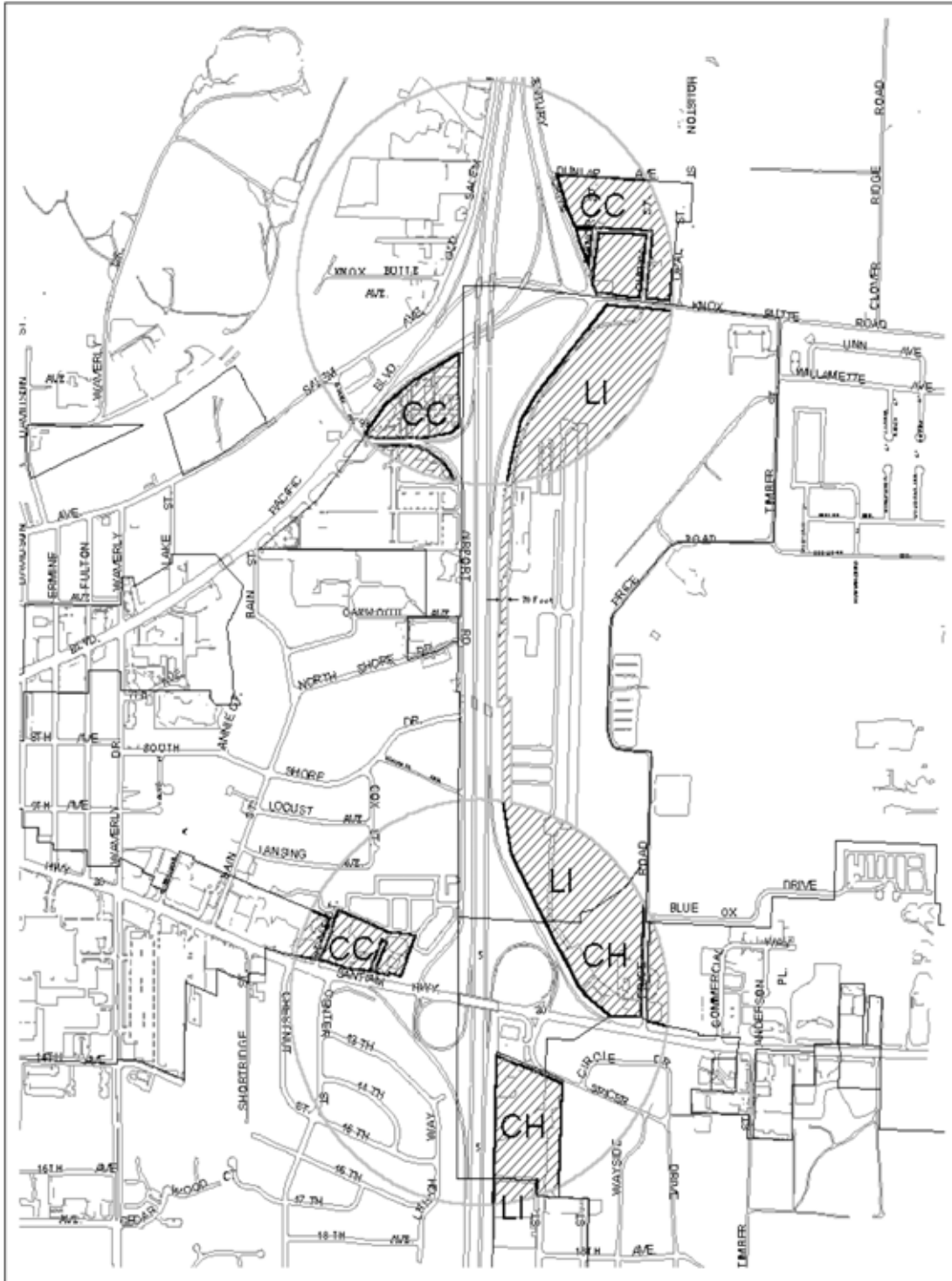


Figure 1: Freeway Interchange Area (Ord. 5281, 3/26/97)

13.440 **FREEWAY AREA SIGNS – GENERAL PROVISIONS.**

- (1) Where an individual business catering to the motoring public traveling on the Interstate 5 Freeway is within the Freeway Interchange Area, as defined and as shown in Figure 1, such business may have one freestanding sign limited to a maximum height of 50 feet.
- (2) Maximum sign area is limited to 250 square feet for one face, 500 square feet for two or more faces.
- (3) If such sign is erected, it shall be in lieu of and not in addition to the signs permitted by Section 13.422 for such business along the street frontage on which it is located.
- (4) Such freeway-oriented signs shall comply with requirements of Section 13.424(2).
- (5) For purposes of this Section, “business catering to motoring public” shall be limited to regional recreational facilities, convention centers, service stations, restaurants, motels, hotels, and recreational vehicle parks. (Ord. 5281, 3/26/97)

**STANDARDS BY SIGN TYPE**

13.510 **Freestanding Signs.** The following standards apply to all freestanding signs:

- (1) A freestanding sign shall be directly supported by poles or foundation supports in or upon the ground. No external cross-braces, guywires, “T-frames,” “A-frames,” “trusses,” or similar bracing systems shall be used in constructing freestanding signs.
- (2) No freestanding sign shall project over public property more than eight (8) feet or closer than two and one-half (2-1/2) feet of the curb line nor over any state highway right-of-way as specified in state law. In the event the street shall be widened or changed in any manner so that the change would result in the projection of a sign to a distance over public property, then the owner of said sign shall cause the sign to be removed and replaced at the expense of the owner.
- (3) Freestanding signs shall have a minimum clearance of 15 feet over a driveway or parking area.
- (4) Freestanding signs shall have a minimum clearance of eight (8) feet over a pedestrian walkway or sidewalk.
- (5) When a freestanding sign is located at the corner of two intersecting rights-of-way and placed a distance from the right-of-way corner of less than 50 feet in pedestrian areas and less than 75 feet in other commercial/industrial areas, the sign shall be counted as one sign for each frontage. Where a face can be seen from a street, then that face shall count as part of the aggregate area for that street frontage (not to exceed counting one face per frontage). The maximum size allowed for such sign shall be based on the street frontage with the highest average daily traffic count or the average of the two frontages.
- (6) Fence signs shall be subject to the same size and placement requirements as a wall sign and shall not exceed the height of the fence.

13.520 **Wall Signs.** The following standards apply to all wall signs:

- (1) No wall sign shall project more than 12 inches beyond the wall to which it is attached.
- (2) No wall sign shall extend above the roof or eave line of the building.

- (3) Wall signs shall not exceed an area of 12 percent of the wall area of the business to which the sign pertains or the total aggregate area for the sign district in which the business is located, whichever is less.

13.530 Projecting Signs. The following standards apply to all projecting signs:

- (1) The inner edge of a projecting sign shall not be more than 6 inches from the face of the building.
- (2) Projecting signs shall have a minimum clearance of 8 feet over sidewalks or grade and 15 feet over driveways.
- (3) No projecting sign (or other signs) shall project more than 8 feet over public property nor closer than within 2-1/2 feet of the curb line.
- (4) When a projecting sign is located at the corner of two intersecting rights-of-way and positioned in such a manner that each sign face is designed to be read from each adjacent right-of-way, the sign will be counted as one sign for each frontage and the area of each face shall count as part of the aggregate area for each frontage, except that the maximum size of such sign may be based on the street frontage with the highest average daily traffic count.

13.540 Marquee and Awning Signs. The following standards apply to all marquee or awning signs:

- (1) Signs suspended from a marquee shall not extend beyond the perimeter of the marquee. Signs attached to the vertical face of the marquee shall not extend above or below the face to which it is attached.
- (2) Signs hanging from marquees must be a minimum of 7 feet 6 inches above grade. Signs sized 4 square feet or smaller are exempted from sign number and area restrictions; larger signs are treated as projecting signs and subject to all applicable provisions.
- (3) Awning or marquee signs as specified in Section 13.320(14) are exempt from permit and shall not be included in the aggregate area computation nor shall be counted in the total number of signs allowed per frontage.
- (4) Signs not meeting the above criteria shall be considered to be wall signs and shall be regulated by the provisions of Sections 13.413 and Sections 13.423.

13.550 Changing Electronic Message Signs. Signs with a changing electronic message are subject to the provisions of this Article. [Ord. 5446, 5/10/00]

13.560 Signs for Theaters. The following standards apply to all theater signs:

- (1) Where a building is built within two feet of a right-of-way line, the theater may elect to use in lieu of all other signs along the same street frontage either signs listed in Paragraphs (2)(a) or (2)(b) below but not both.
- (2) Sizes shall be limited to those regulations of the district in which they are located. For the purpose of limiting the size and number of signs for theaters, advertisements contained within a glass case or frame on the face of the building advertising present or coming attractions shall be considered as signs located within a building and shall not be limited. The theater may elect to use:
  - (a) One projecting sign and one reader board type sign limited to a projection of eight feet over public property but not closer than within 2-1/2 feet of the curb line; or
  - (b) One projecting sign and one sign on each face of a theater marquee.

## STANDARDS BY SPECIAL SIGN FUNCTION

- 13.610 Neighborhood Signs. For subdivisions, multiple-family units (including planned developments), or identified neighborhood areas, 1 single- or double-faced, indirectly lighted sign not to exceed 24 square feet for one face or 48 square feet in surface area for 2 or more faces. If the sign is not attached to a building, the maximum height of the sign shall not exceed 4 feet. The information allowed on the sign shall be limited to the name and address of the development. If the sign pertains to any development request, then the location and design shall be subject to the appropriate review.
- 13.620 Residential Conditional Use. When a Conditional Use is allowed in a residential zone, the size and placement may be further restricted as part of Conditional Use review but shall not exceed 2 indirectly lighted signs per frontage containing not more than 32 square feet per face. For signs not attached to a building, the maximum height shall be 6 feet. [This paragraph does not apply to home occupations, which must comply with Section 13.320(4)].
- 13.630 [Repealed by Ord. 5445, 4/12/00]  
13.632 [Repealed by Ord. 5445, 4/12/00]  
13.633 [Repealed by Ord. 5445, 4/12/00]
- 13.640 Off-Premises Directional Business Signs.
- (1) Off-premises directional signs shall be allowed only in the CC, CB, CH, and Industrial Zones.
  - (2) A Type II procedure shall be utilized for the review of Off-Premises Directional Signs. Such Off-Premises Directional Sign shall be approved only when the property owner or business owner can demonstrate that the existing signs allowed under the ordinance fail to relieve an unreasonable hardship and that the hardship can only be relieved by the erection of an off-premises directional sign, and compliance with criteria set forth in Section 13.710.
  - (3) Any permit issued under this Section is non-transferable and the sign may only be used for the purpose for which the permit is granted.
  - (4) Only one off-premises directional business sign shall be allowed per business.
  - (5) The face size of an off-premises directional sign shall not exceed three (3) feet in vertical height or six (6) feet in horizontal length.
  - (6) The maximum height of any portion of any off-premises sign structure shall not exceed eleven (11) feet in height from ground level to the top of the structure nor eight (8) feet in horizontal length.
  - (7) Except as provided in Section 13.310(1), all off-premises directional signs must be placed outside of any public rights-of-way and any vision clearance area.
  - (8) Where applicable, off-premises signs are subject to the provisions of 13.434(10) (state permits).
- 13.650 Murals. Murals which contain advertising material are subject to Conditional Use Permit Approval (Article 2) except that the criteria for approval in 2.250 shall be replaced by the criteria below in 13.656. Seasonal murals (such as Christmas window displays), and murals not containing advertising material shall be exempted from this Section.
- 13.652 Information Requirement. The applicant requesting the permit shall submit a finished drawing, prepared to scale, of the outside wall, facade, or surface that the applicant proposes to use for said mural, and of the mural that the applicant proposes to place on said outside wall, facade, or surface. The mural shall be

colored on the drawing the colors that the applicant proposes to use for the mural, and shall be of sufficient detail to allow for a visualization of the actual appearance of the mural. The drawing shall be available for viewing by the public during the regular business hours at the Planning Department. The permit application shall include a statement as to the type of lighting, if any, that will be used to illuminate the mural during hours of darkness.

13.654 Specific Standards. The following standards must be met before the application can be reviewed:

- (1) All signs relating to the building or structure upon which the mural is to be placed shall be in compliance with the requirements of the Development Code in effect on the date of application. No mural may be placed on any building or structure that includes a nonconforming sign.
- (2) Only one wall, facade, or surface of a building or structure may be used for a mural.
- (3) A wall, facade, or surface that is used for a mural pertaining to the business on which it is located shall be counted as one sign. A mural, regardless of size, will count as one-half of the total aggregate sign area allowed for the business.
- (4) The owner of record of the building or structure on which the proposed mural is to be placed shall, in writing, and in a form satisfactory to the City Attorney, consent to the placing of said mural on the property, and shall agree to restore the wall, facade, or surface upon which the mural is placed to its prior existing condition if and at such time the mural is not maintained by the applicant. The permit application shall include a statement detailing the applicant's plans for the maintenance of the mural.

13.656 Review Criteria. The mural shall be approved if the following criteria are met:

- (1) The placing of the proposed mural at the location selected by the applicant would not constitute a significant traffic safety hazard.
- (2) Neither the mural, nor the placement of the mural, would endanger the public health, safety, or general welfare.
- (3) Neither the mural, nor the placement of the mural, would be injurious to the use and enjoyment of other property in the immediate vicinity of the proposed location.
- (4) Any lettering area which advertises the business or products pertaining to the use or uses within the building shall be limited to one-half that permitted under other signage requirements for the building.

13.660 Alley Signs. An alley sign shall be limited to a wall sign with total area limited to 6 square feet and should identify the business and shall not be used to advertise products or services.

13.670 Street Banners. No street banner sign shall be erected over public property unless first approved by the Public Works Director. The action giving approval for such signs may contain any condition(s) which the Public Works Director deems necessary to insure safety, proper maintenance, and appearance and removal of such sign when required. No person who places a sign under the provision of this section shall permit the sign to remain in place after the period specified for display has expired.

13.680 Temporary Promotional Business Displays. Temporary banner signs, A-frame signs, and inflatable signs may be used, but are limited to one sign on each street frontage for each separate business. The maximum total number of days for promotional display shall not exceed 60 days in any one calendar year. Each display period requires a separate permit, but the display duration can be from 7 days to 60 days. The area of such banner shall not exceed 50 square feet in the CB, NC, HD, MUR, MUI, MS, LE, ES, TD and OP zones and

75 square feet in all other non-residential zones, or in the case of inflatable signs, 500 cubic feet. Inflatable

signs can be no higher than freestanding signs allowed in the particular zone.

Any temporary A-frame, sandwich board or similar sign may be no larger than 16 square feet for one face or 32 square feet for two or more faces. If the sign is not attached to a building, the maximum height of the sign may not exceed 4 feet. All temporary signs must be anchored, may not be located within 10 feet of any public right-of-way, may not be attached to or placed inside a parked vehicle, and may not be placed within any vision clearance area. All signs shall be maintained in a safe, neat, clean and attractive condition.

Pennants, flags, and streamers may be used as part of an opening or promotional event subject to the above time constraints. Pennants and flags which are designed with no writing and have permanent mounting devices may be displayed for a longer period of time only upon approval of a Conditional Use Permit. (The American and Oregon flags are exempted from Sign Code regulations.) [Ord. 5446, 5/10/00]

- 13.685 Interior Lot Line Signs. A principal wall sign may be located on the side of a building facing an interior lot line if written consent of the abutting property owner is obtained for the erection of the sign or the sign is 50 feet or more from the abutting property. Sign and area for both the interior lot line sign and street frontage signs shall not exceed that allowed for the street frontage and shall not be in addition thereto.

## VARIANCES

- 13.710 Variances. Variances to this Article 13 will be processed according to Article 2 (Review Criteria) except that the criteria of Section 2.500 shall be replaced by the following criteria:

- (1) The granting of the Variance would not decrease traffic safety nor detrimentally impact any other identified items of public welfare.
- (2) There are unique circumstances or conditions of the lot, building, or traffic pattern such that:
  - (a) The requested Variance better implements the purpose of the Article as stated in Section 13.110.
  - (b) The granting of the Variance compensates for those circumstances in a manner equitable with other property owners and is thus not a special privilege to any one business. The Variance requested shall be the minimum necessary to compensate for those conditions and achieve the purpose of this Article.
- (3) The Variance would not result in a special advertising advantage in relation to neighboring businesses or businesses of a similar nature. The desire to match standard sign sizes (for example, chain store signs) shall not be listed or considered as a reason for a Variance.
- (4) Granting of the Variance would not obstruct views of other buildings or signs or cover unique architectural features of a building or detract from landscape areas.
- (5) The size, placement, color, and graphics of the proposed sign results in more attractive signage than that allowed under strict interpretation of the Code.

- 13.711 Variances for Historic Buildings. For buildings listed as primary or secondary on the City's adopted Historic Inventory, a Variance can be granted for a sign resembling an original historic sign when a recommendation is made by the Landmarks Advisory Commission or its successor on the entire signage of the structure, and the following criteria are met:

- (1) The Variance criteria of Section 13.710(1), (4) and (5) have been met.
- (2) The sign takes the place of one of the permitted signs. (A Variance for more than the permitted number will require full compliance with Section 13.710.)

- (3) All signs on the structure are reviewed as part of the Variance, and conditions can be attached regarding all signs on the structure to achieve greater consistency with the overall purpose of this Article.

## **NONCONFORMING SIGNS**

13.810 Nonconforming Signs.

13.811 General Provisions.

Nonconforming signs are subject to the following provisions:

- (1) When sign copy is not part of a site plan review process:
  - (a) Only the signs being changed are affected and do not affect the status of other signs which may be nonconforming due to sign area, aggregate area, or number of signs.
  - (b) The aggregate area restrictions shall not be used to decrease the new sign beyond its previous existing size.
- (2) When site plan review is required, total business signage compliance beyond sign copy changes shall be commensurate with the amount of change occurring on the site.
- (3) When sign copy change occurs on a joint use, nonconforming sign structure, then the total signage on the sign structure does not have to comply with sign regulations if:
  - (a) the sign is removed from the sign structure;
  - (b) the sign copy is changed but the individual business meets Code requirements for aggregate sign area and for total number of signs;

OR

  - (c) the sign copy is changed but the business receives site plan review approval. Under site plan review, the business may be required to meet Code compliance for aggregate sign area and number of signs as well as other site improvements commensurate with the amount of change occurring on site.
- (4) When a nonconforming sign face is damaged or destroyed by fire, flood, wind, or other calamity or act of God, such sign face may be restored to its original condition provided such work is completed within sixty (60) days of such calamity. However, a sign structure or support mechanisms so damaged shall not be replaced except in conformance with the provisions of this Code.
- (5) The Community Development Director or her/his designee shall authorize an exemption from the conformance requirements where it can be shown that the sign is within 20% of the required size and height limitations of this ordinance.

13.812 Signs for Nonconforming Business in a Residential Zone. Nonconforming business shall be permitted one permanent attached wall sign not exceeding 24 square feet in sign area. No other signs shall be permitted except for pre-existing nonconforming signs for which required permits have been obtained.

13.813 Nonconforming Sign Area. Conforming and/or nonconforming signs in existence at the time of the enactment of this ordinance shall be counted in establishing the permitted area or size of all new signs to be allowed on the property.

13.814 Abatement of Nonconforming Signs. Except as provided within Section 13.816, permanent signs in



existence on the effective date of this ordinance which are not in conformance with the provisions of this ordinance shall be regarded as nonconforming signs and must be removed, altered, or replaced so as to conform within seven years of the effective date of this ordinance. Temporary signs which are not in conformance with the provisions of this ordinance shall be regarded as nonconforming and shall be removed within thirty (30) days of the effective date of this ordinance; provided, however, a change of use or occupation of a site shall require full compliance with the provisions of this ordinance. The Building Official shall notify each owner by certified mail of a nonconforming sign of the conformance deadline at least 2 years prior to such deadline as a public service. Failure to be notified of the deadline shall not relieve the owner of responsibility to conform with this ordinance within the time period herein. Properties annexed to the city after the effective date of this ordinance shall follow the same conformance schedule as defined above. The time for conformance shall be measured from the effective date of annexation rather than the effective date of the ordinance.

13.815 Extension for Conformance.

- (1) The Building Official may authorize an extension of no more than one year where it can be shown that special and unusual circumstances related to a specific piece of property make application of the conformance schedule an undue hardship. This hardship shall not result from the actions of the applicant and shall not merely constitute financial hardship or inconvenience.
- (2) The Building Official shall authorize an exemption from the conformance schedule where it can be shown that the sign is within 20% of the required size and height limitations of this ordinance.

13.816 Exemption from Nonconforming Status. An owner of a nonconforming sign in existence on the date of enactment of this ordinance may apply for a determination that the sign qualifies as an historic or significant sign. An owner must make such application within six months of being notified of a nonconforming status. Such exemption of nonconforming status may be made by the Hearings Board through a Type II procedure upon finding that any of the following applicable criteria have been met:

- (1) The sign does not constitute a significant safety hazard due to structural inadequacies or the impact on traffic.
- (2) Due to age, relation to an historic event, or general recognition, the sign has become a recognized Albany landmark.
- (3) For an historic sign exemption, the sign is:
  - (a) attached to a primary or secondary structure as recognized on a City Historic Survey;
  - (b) the sign adds to the architectural and historic significance of the premises, taking into account the size, location, construction, and lighting of the sign; and
  - (c) a recommendation is received from the Landmarks Advisory Commission or its successor giving its recommendation on Criteria (a) and (b) above.
- (4) For significant signs, the sign is:
  - (a) maintained essentially as originally constructed, with sufficient remaining original workmanship and material to serve as instruction in period fabrication; and
  - (b) the sign is associated with significant past trends in structure, materials, and design and is in conformance with generally accepted principles of good design, architecture, and maintenance.

# **ARTICLE 22**

## **USE CATEGORIES AND DEFINITIONS**

[22.010 – 22.370 added by Ord. 5555, 2/7/03]

### **USE CATEGORIES**

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. Characteristics include the type and amount of activity, the type of customers or residents, how goods or services are sold or delivered, and certain site factors. 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 goals and policies of the Comprehensive Plan.

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
- 22.050 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
- 22.130 Restaurants
- 22.140 Retail Sales and Service
- 22.150 Self-Serve Storage
- 22.160 Vehicle Repair
- 22.170 Vehicle Service, Quick

#### **INSTITUTIONAL USE CATEGORIES**

- 22.180 Basic Utilities
- 22.190 Community Services
- 22.200 Daycare
- 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 Group or Residential Care Facilities
- 22.270 Assisted Living
- 22.280 Single Family, Two Family
- 22.290 Live Work

- 22.300 Three or More Units
- 22.310 Units Above a Business
- 22.320 Residential Accessory Buildings

#### OTHER USE CATEGORIES

- 22.330 Agriculture
- 22.340 Communication Towers and Poles
- 22.350 Kennels
- 22.360 Passenger Terminals
- 22.370 Rail and Utility Corridors

#### 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. The “Characteristics” subsection of each use category describes the characteristics of each category. 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 the other activities on the site.
- (2) **Developments with multiple primary uses.** When all 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 allowed by right in conjunction with the use unless stated otherwise in the regulations. Also, unless otherwise stated, they are subject to the same regulations as the primary use. Common accessory uses are listed as examples with the categories.
- (4) **Use of 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.

#### INDUSTRIAL USE CATEGORIES

22.030 Contractors and Industrial Services

- (1) *Characteristics.* Contractors are engaged in mostly off-site activities. These include building construction and the repair or servicing of industrial, business or consumer machinery, equipment, products or by-products. Industrial service uses serve businesses and industries; relatively few general public customers come to the site.
- (2) *Accessory uses.* Accessory uses may include offices, parking, storage, rail spur or lead lines. Hotels, restaurants, and other services that are part of a truck stop are considered accessory to the truck stop.
- (3) *Use Examples.* Types of uses include, but are not limited to: building, heating, plumbing or electrical suppliers and contractors; printing, publishing and lithography; tool repair; exterminators; laundry, dry-cleaning, and carpet cleaning plants; photo-finishing laboratories; bulk landscape materials including rocks, bark chips or compost; welding shops; machine shops; electric motor repair; repair of scientific or professional instruments; rental of equipment; sales, rental, repair, equipment storage, salvage or wrecking of heavy machinery, metal, and building materials; towing and vehicle storage; overnight or long-term equipment storage; heavy truck servicing and repair; tire retreading or recapping; truck fueling stations; janitorial and building maintenance services; fuel oil distributors; solid fuel yards.
- (4) *Exceptions.*
  - (a) If fabrication is not carried on at the site and equipment and materials are not stored on site, contractors and others who perform services off-site are included in the Office category.

22.040 Manufacturing and Production

- (1) *Characteristics.* Manufacturing and Production firms are involved in the manufacturing, processing, fabrication, packaging, or assembly of products or energy. Natural, man-made, raw, secondary, or partially completed materials may be used. Products may be finished or semi-finished and are generally made for the wholesale market, for transfer to other plants, or to order for firms or consumers. Goods are generally not displayed or sold on site. If they are, they are a subordinate part of sales. Relatively few customers come to the manufacturing site.
- (2) *Accessory uses.* Accessory uses may include offices, cafeterias, parking, employee recreational facilities, warehouses, storage yards, rail spur or lead lines, docks, repair facilities, truck fleets, or caretaker living quarters. Other living quarters are subject to the regulations for residential uses in the base zones.
- (3) *Use Examples.* Types of uses include, but are not limited to: the manufacturing, researching, testing, experimentation and development of products, including engineering and laboratory research, pharmaceuticals, medical and dental devices and instruments; manufacturing, assembly, or packaging of products from previously prepared materials (excluding vehicle repair shops); weaving or production of textiles or apparel; manufacture or assembly of machinery, equipment, instruments, including musical instruments, appliances, precision items, and other electrical items; movie production facilities; production of artwork and toys; printing, publishing and book binding; catering establishments; processing of food, beer, wine and related products, including slaughterhouses and meat packing; woodworking, including cabinet makers; production of chemical, rubber, leather, clay, bone, plastic, stone, or glass materials or products; sign making; crematoriums; wood products manufacturing; concrete and asphalt mixing; production or fabrication of metals or metal products including enameling and galvanizing; production of prefabricated structures, including manufactured homes; and energy production.
- (4) *Exceptions.*

- (a) Manufacturing of goods to be sold primarily on site and to the general public is classified as Retail Sales and Service.
- (b) Small-scale manufacturing or assembly that is compatible with an office building is classified as Office.
- (c) Manufacturing and production of goods from composting organic material is classified as Waste and Recycling Related uses.

22.050 Railroad Yards

- (1) *Characteristics.* Railroad yards are areas that contain multiple railroad tracks used for rail car switching, assembling of trains, and transshipment of goods from other transportation modes to or from trains.
- (2) *Accessory Uses.* Accessory uses include offices, employee facilities, storage areas, railcar maintenance and repair facilities, and parking.

22.060 Warehousing and Distribution

- (1) *Characteristics.* Warehousing and Distribution firms are involved in the storage or movement of goods for themselves or other firms. Goods are generally delivered to other firms or the final consumer, except for some will-call pickups. There is little on-site sales activity with the customer present.
- (2) *Accessory Uses.* Accessory uses may include offices, truck fleet parking and maintenance areas, rail spur or lead lines, docks, and repackaging of goods.
- (3) *Use Examples.* Types of uses include, but are not limited to: separate warehouses used by retail stores such as furniture and appliance stores; household moving and general freight storage; cold-storage plants, including frozen-food lockers; major wholesale distribution centers; trucks or trucking terminals; bus barns and rail barns; parcel services; major post offices; the overnight or long-term storage of vehicles or equipment (e.g., RV storage, contractor equipment storage) as the primary use; grain terminals; and the stockpiling of sand, gravel, or other aggregate materials.
- (4) *Exceptions.*
  - (a) Uses that involve the transfer or storage of solid or liquid wastes are classified as Waste and Recycling Related uses.
  - (b) Mini-warehouses are classified as Self-Serve Storage uses.

22.070 Waste and Recycling Related

- (1) *Characteristics.* Waste-Related uses are uses that receive solid or liquid wastes from others for disposal on the site or for transfer to another location, uses that collect sanitary wastes, or uses that manufacture or produce goods or energy from the biological decomposition of organic material. Waste-Related uses also include uses that receive hazardous wastes from others.
- (2) *Accessory Uses.* Accessory uses may include recycling of materials, offices, and repackaging and transshipment of by-products.

- (3) *Use Examples.* Types of uses include, but are not limited to: sanitary landfills, limited use landfills, waste composting, energy recovery plants, sewer treatment plants, portable sanitary collection equipment storage and pumping, and hazardous waste collection sites.
- (4) *Exceptions.*
  - (a) Disposal of dirt, concrete, asphalt, and similar non-decomposable materials is considered a fill.
  - (b) Sewer pipes that serve a development are considered a Basic Utility.

22.080 Wholesale Sales

- (1) *Characteristics.* Wholesale Sales firms are involved in the sale, lease, or rent of products primarily intended for industrial, institutional, or commercial businesses. The uses emphasize on-site sales or order taking and often include display areas. Businesses may or may not be open to the general public, but sales to the general public are limited. Products may be picked up on site or delivered to the customer.
- (2) *Accessory uses.* Accessory uses may include offices, product repair, warehouses, parking, minor fabrication services, and repackaging of goods.
- (3) *Use Examples.* Types of uses include, but are not limited to: the sale or rental of machinery, equipment, heavy trucks, building materials, special trade tools, welding supplies, machine parts, electrical supplies, janitorial supplies, restaurant equipment, and store fixtures; mail-order houses; and wholesalers of food, clothing, auto parts, or building hardware.
- (4) *Exceptions.*
  - (a) Firms that engage primarily in sales to the general public or on a membership basis are classified as Retail Sales and Service.
  - (b) Firms that primarily store goods with little on-site business activity are classified as Warehousing and Distribution.

**COMMERCIAL USE CATEGORIES**

22.090 Adult Entertainment

- (1) *Characteristics.* Adult entertainment uses are sexually-oriented business entertainment uses and accessory uses which exclude minors by virtue of age under the laws of the State of Oregon, whether or not such minors are accompanied by a consenting parent, guardian, or spouse.
- (2) *Accessory Uses.* Accessory uses may include parking and general office.
- (3) *Use Examples.* Types of uses include, but are not limited to: adult motion picture theaters, video arcades, massage parlors, nude modeling studios, lotion studios, adult bookstores, nude photography studios, or eating and drinking establishments which have sexually-oriented entertainment such as nude dancers, strippers, or other similar entertainers.

22.100 Entertainment and Recreation, Indoor and Outdoor

- (1) *Characteristics.* Entertainment uses are characterized by activities that provide entertainment and recreational activity either indoors or outdoors. Activities are both spectator and participatory. Some entertainment uses are characterized by activities and structures that draw large numbers of people to specific events or shows.
- (2) *Accessory Uses.* Accessory uses may include food sales, offices, maintenance facilities and parking.

- (3) *Use Examples. Indoor:* Types of uses include, but are not limited to: public or private athletic, exercise and health clubs or gyms; bowling alleys; skating rinks; game arcades; pool halls; theaters; indoor firing ranges.

*Outdoor:* Types of uses include, but are not limited to: miniature golf, driving ranges; drive-in theaters; fairgrounds; convention centers; sports complexes, ball fields, coliseums or stadiums; equestrian centers and animal arenas; theme and water parks.

- (4) *Exceptions.*

- (a) Golf courses are classified as Parks, Open Areas and Cemeteries.
- (b) Exhibition and meeting areas with less than 20,000 square feet of total event area are classified as Retail Sales and Service.
- (c) Banquet halls that are part of hotels or restaurants are accessory to those uses, which are included in the Retail Sales and Service category.
- (d) Adult Entertainment is its own use category.

#### 22.110 Offices

- (1) *Characteristics.* Office uses are characterized by activities conducted in an office setting and generally focusing on business, government, professional, medical, or financial services.

- (2) *Accessory uses.* Accessory uses may include cafeterias, health facilities, parking, or other amenities primarily for the use of employees in the firm or building.

- (3) *Use Examples.*

- (a) Offices with limited customer traffic: Types of uses include, but are not limited to: corporate offices, company headquarters or financial and operational divisions; insurance headquarters; financial headquarters for brokerage houses, banks or other lenders; data processing; public utility offices; newspaper, television and radio offices and studios; and research labs.
- (b) Offices intended to provide personal or professional services to customers on-site: Types of uses include, but are not limited to: professional services such as lawyers, accountants, employment services, insurance and travel agencies; financial and investment services such as banks, lenders, or brokerage houses; real estate agents; sales offices; some government offices; medical and dental clinics or labs; veterinarians and animal hospitals; and blood-collection facilities.

- (4) *Exceptions.*

- (a) Offices that are part of and located with a firm in another category are considered accessory to the firm's primary activity. Headquarters offices, when in conjunction with or adjacent to a primary use in another category, are considered part of the other use category.
- (b) Contractors and others who perform services off site are included in the Office category if equipment and materials are not stored on the site and fabrication, services, or similar work is not carried on at the site. Otherwise, contractor offices are included in the Contractors and Industrial Services category.

#### 22.120 Parking

- (1) *Characteristics.* The Parking use category includes facilities that provide both accessory parking for a specific use and regular fee parking for people not connected to the use. The Parking use category does not include parking that is required for a primary use on the same or adjacent property as the primary use. A fee may or may not be charged.

- (2) *Accessory Uses.* In a parking structure only, accessory uses may include gasoline sales, car wash, and vehicle repair activities if these uses provide service to autos parked in the garage, and not to the general traffic.
- (3) *Use Examples.* Types of uses include, but are not limited to: off-site parking lots for commercial, education, religious, and institutional uses; fee parking facilities, commercial district shared parking lots, park-and-ride lots, and mixed parking lots (partially for a specific use, partly for rent to others).
- (4) *Exceptions.*
  - (a) Parking facilities that are accessory to a use, but which charge the public to park for occasional events nearby, are not considered Parking.
  - (b) The overnight or long-term storage of vehicles or equipment (e.g., RV storage, contractor equipment storage) as an accessory use is not Parking. Overnight or long-term storage of vehicles or equipment as the primary use is classified as Warehousing and Distribution.

#### 22.130 Restaurants

- (1) *Characteristics.* Restaurants are involved in the sale of food and/or beverages to the general public. Businesses may also provide entertainment in addition to food sales.
- (2) *Accessory Uses.* Accessory uses may include offices, storage of goods and packaging of goods for sale on site, and parking.
- (3) *Use Examples.* Types of uses include, but are not limited to: cafes and delicatessens; restaurants with sit-down, carry-out, and fast food (with or without drive-through window), taverns, bars and night clubs.
- (4) *Exceptions.* Food sales at events and entertainment centers are accessory uses to the primary use type.

#### 22.140 Retail Sales and Service

- (1) *Characteristics.* Retail Sales and Service firms are involved in the sale, lease or rent of new or used products to the general public. Businesses may also provide personal services, or provide product repair or services for consumer and business goods. For the most part, operations are conducted within enclosed buildings, and outside storage is screened.
- (2) *Accessory Uses.* Accessory uses may include offices, storage of goods, manufacture or repackaging of goods for on-site sale, and parking.
- (3) *Use Examples.* Types of uses include, but are not limited to, uses from the four subgroups listed below:
  - (a) Convenience-oriented: Retail items generally necessary or desirable for everyday living and usually purchased at a convenient nearby location. Because these goods cost relatively little compared to income, they are often purchased without comparison shopping.
  - (b) Personal service-oriented: Branch banks; urgent medical care; laundromats; photographic studios; photocopy and blueprint services; hair, tanning, and personal care services; private lodges or clubs; business and other trade schools; galleries; martial arts, dance or music studios; taxidermists; mortuaries; veterinarians; and animal grooming.
  - (c) Sales and service-oriented: Stores selling, leasing, or renting consumer, home, and business goods including art, art supplies, bicycles, clothing, dry goods, electronic equipment, fabric,



furniture, garden supplies, gifts, hardware, home improvements, household products, jewelry, pets, pet food, pharmaceuticals, plants, printed material, stationery, and videos; sales or leasing of consumer vehicles including passenger vehicles, motorcycles, light and medium trucks, and other recreational vehicles; adult entertainment theaters, stores and clubs; and hotels, motels, recreational vehicle parks, and other temporary lodging with an average length of stay of less than 30 days.

- (d) Repair-oriented: Repair of TVs, bicycles, clocks, watches, shoes, guns, appliances and office equipment; photo or laundry drop-off; quick printing; recycling drop-off; tailors; locksmiths; and upholsterers.

(4) *Exceptions.*

- (a) Lumber yards and other building material sales that sell primarily to contractors and do not have a retail orientation are classified as Wholesale Sales.
- (b) Bulk sales of landscape materials, including bark chips and compost, is classified as Contractor and Industrial Services.
- (c) Repair and service of consumer motor vehicles, motorcycles, and light and medium trucks is classified as Vehicle Repair.
- (d) Repair and service of industrial vehicles and equipment and heavy trucks is classified as Contractor and Industrial Services.
- (e) Sales, rental, or leasing of heavy trucks and equipment is classified as Wholesale Sales.
- (f) Hotels, restaurants, and other services that are part of a truck stop are considered accessory to the truck stop, which is classified as Contractor and Industrial Services.
- (g) In certain situations, such as short-term housing or mass shelter, hotels and motels may be classified as Community Services.
- (h) Public or private athletic, exercise and health clubs or gyms are classified as Entertainment and Recreation, Indoor.

22.150 Self-Serve Storage

- (1) *Characteristics.* Self-Serve Storage uses provide separate storage areas for individual or business uses. The storage areas are designed to allow private access by the tenant for storing or removing personal property.
- (2) *Accessory uses.* Accessory uses may include security and leasing offices and caretaker living quarters. Other living quarters are subject to the regulations for Residential uses in the base zones. Use of the storage areas for sales, service and repair operations, or manufacturing is not considered accessory to the Self-Serve Storage use. Rental of trucks or equipment is also not considered accessory to a Self-Serve Storage use.
- (3) *Use Examples.* Examples include single-story and multi-story facilities that provide individual storage areas for rent. These uses are also called mini-warehouses.
- (4) *Exceptions.* A transfer and storage business where there are no individual storage areas or where employees are the primary movers of the goods to be stored or transferred is in the Warehouse and Freight Movement category.

22.160 Vehicle Repair

- (1) *Characteristics.* Firms servicing passenger vehicles, light and medium trucks and other consumer motor vehicles such as motorcycles, boats and recreational vehicles. Generally, the customer does not wait at the site while the service or repair is being performed.
- (2) *Accessory Uses.* Accessory uses may include offices, sales of parts, and vehicle storage.

- (3) *Use Examples.* Types of uses include, but are not limited to: vehicle repair, transmission or muffler shop, auto body and paint shop, alignment shop, auto upholstery shop, auto detailing, and tire sales and mounting.
- (4) *Exceptions.* Repair and service of industrial vehicles and equipment, and of heavy trucks; towing and vehicle storage; and vehicle wrecking and salvage are classified as Industrial Service.

22.170 Vehicle Service, Quick (gas, oil, wash)

- (1) *Characteristics.* Quick Vehicle Servicing uses provide direct services for motor vehicles where the driver generally waits while the service is performed. Full-serve and mini-serve gas stations are always classified as primary uses (Vehicle Service, Quick), rather than accessory uses, even when they are in conjunction with other uses.
- (2) *Accessory Uses.* Accessory uses may include auto repair, oil change, tire and other retail sales.
- (3) *Use Examples.* Types of uses include, but are not limited to: full-serve and mini-serve gas stations, unattended card key stations, car washes, quick lubrication services, tire repair and Department of Environmental Quality vehicle emission test sites.
- (4) *Exceptions.*
  - (a) Truck stops are classified as Contractors and Industrial Services.
  - (b) Refueling facilities for the vehicles that belong to a specific use (fleet vehicles) and which are on the site where the vehicles are kept, are accessory to the use.

**INSTITUTIONAL USE CATEGORIES**

22.180 Basic Utilities

- (1) *Characteristics.* 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) *Accessory Uses.* Accessory uses may include parking, control, monitoring, data or transmission equipment.
- (3) *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; storm water facilities and conveyance systems; telephone exchanges; mass transit stops, transit centers, park-and-ride facilities for mass transit; and emergency communication broadcast facilities.
- (4) *Exceptions.*
  - (a) Public Works projects, such as streets, utility lines, and pump stations.
  - (b) Services where people are generally present, other than transit stops and park-and-ride facilities, are classified as Community Services or Offices.
  - (c) Utility offices where employees or customers are generally present are classified as Offices.
  - (d) Bus and light-rail barns are classified as Warehousing and Distribution.
  - (e) Public or private passageways, including easements, for the express purpose of transmitting or transporting electricity, gas, oil, water, sewage, communication signals, or other similar services on a regional level are classified as Rail and Utility Corridors.

- (f) Energy production facilities are classified as Manufacturing uses; see Section 22.040.

#### 22.190 Community Services

- (1) *Characteristics.* Community Services are uses of a public, nonprofit, or charitable nature generally providing a local service to people of the community. Generally, they provide the service on the site or have employees at the site on a regular basis. The service is ongoing, not just for special events. Community centers or facilities that have membership provisions are open to the general public to join at any time (for instance, any senior citizen could join a senior center). The use may provide shelter or short-term housing where tenancy may be arranged for periods of less than one month when operated by a public or non-profit agency. The use may also provide special counseling, education, or training of a public, nonprofit or charitable nature.
- (2) *Accessory uses.* Accessory uses may include offices; meeting areas; food preparation areas; parking, health and therapy areas; daycare uses; and athletic facilities.
- (3) *Use Examples.* Types of uses include, but are not limited to: libraries, museums, senior centers, community centers, publicly owned swimming pools, youth club facilities, hospices, public safety facilities including fire and police stations, ambulance stations, drug and alcohol centers, social service facilities, shelters or short-term housing when operated by a public or non-profit agency, vocational training for the physically or mentally disabled, soup kitchens, and surplus food distribution centers.
- (4) *Exceptions.*
  - (a) Private lodges, clubs, and private or commercial athletic or health clubs are classified as Retail Sales and Service.
  - (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.

#### 22.200 Daycare

- (1) *Characteristics.* A daycare facility is operated with or without compensation, and is certified by the state for the daytime care of children, teenagers or adults who need assistance or supervision, located in a building constructed as other than a single-family dwelling.
- (2) *Accessory Uses.* Accessory uses include offices, play areas, and parking.
- (3) *Use Examples.* Types of uses include, but are not limited to: nursery schools, preschools, kindergartens, before- and after-school care facilities, child development centers and adult daycare programs.
- (4) *Exceptions.*
  - (a) Daycare use does not include care given by the parents, guardians, or relatives of the children, or by babysitters.
  - (b) Daycare use also does not include care given by a “family daycare” provider as defined by ORS 657A.250 if the care is given to 12 or fewer children at any one time, including the children of the provider. “Family daycare” is care regularly given in the family living quarters of the provider's home. Family daycare homes are allowed outright in residential, mixed use and commercial districts without site plan review. These homes may require a license from the State of Oregon Children's Services Division.

#### 22.210 Educational Institutions

- (1) *Characteristics.* This category includes 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. They are certified by the State Board of Higher Education or by a recognized accrediting agency.
- (2) *Accessory Uses.* Accessory uses include offices, housing for students, food service, laboratories, health and sports facilities, theaters, meeting areas, parking, maintenance facilities, support commercial uses, play areas, cafeterias and meals programs, recreational and sports facilities, auditoriums, and before- or after-school daycare.
- (3) *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 and military academies.
- (4) *Exceptions.*
  - (a) Business, trade and vocational schools are classified as Retail Sales and Service.
  - (b) Preschools are classified as Daycare uses.

#### 22.220 Hospitals

- (1) *Characteristics.* Hospitals include uses providing medical or surgical care to patients and offering overnight care. Hospitals tend to be on multiple blocks or in campus settings.
- (2) *Accessory uses.* Accessory uses include out-patient clinics, offices, laboratories, teaching facilities, meeting areas, cafeterias, parking, maintenance facilities, and housing facilities for staff or trainees.
- (3) *Use Examples.* Examples include hospitals and medical complexes that include hospitals or emergency care facilities.
- (4) *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 category.
  - (b) Medical clinics that provide care where patients are generally not kept overnight are classified as Office.
  - (c) Urgency medical care clinics are classified as Office.

#### 22.230 Jails and Detention Facilities

- (1) *Characteristics.* Detention Facilities includes facilities for judicially required detention or incarceration of people. Inmates and detainees are under 24-hour supervision by sworn officers, except when on approved leave.

- (2) *Accessory Uses.* Accessory uses include offices, recreational and health facilities, therapy facilities, maintenance facilities, and hobby and manufacturing activities.
- (3) *Use Examples.* Types of uses include, but are not limited to: prisons, jails, probation centers, and juvenile detention homes.
- (4) *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.

22.240 Parks, Open Areas And Cemeteries

- (1) *Characteristics.* Parks, Open Areas and Cemeteries uses focus on natural areas, large areas consisting mostly of vegetative landscaping or outdoor recreation, community gardens, or public squares. Land tends to have few structures.
- (2) *Accessory uses.* Accessory uses may include clubhouses, maintenance facilities, ball fields, concessions, caretaker's quarters, and parking.
- (3) *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.

22.250 Religious Institutions

- (1) *Characteristics.* Religious Institutions are primarily intended to provide meeting areas for religious worship and activities.
- (2) *Accessory Uses.* Accessory uses include Sunday school facilities, parking, social halls, gymnasiums and other recreational activities, soup kitchens, caretaker's housing, group living facilities such as convents, and temporary shelter.
- (3) *Use Examples.* Churches, temples, synagogues, and mosques.

**RESIDENTIAL USE CATEGORIES**

22.260 Group or Residential Care Facilities

- (1) *Characteristics.* A public or private facility for six or more unrelated persons 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. The residents may or may not receive any combination of care, boarding, training, or treatment, as long as they also reside at the site. Larger facilities may offer shared facilities for eating, hygiene and/or recreation. Tenancy is for longer than one month. Group or Residential Care Facilities include the state definition of residential care facility (in the Definitions section following the Use Categories).
- (2) *Accessory Uses.* Accessory uses commonly found are recreational facilities, parking of autos for the occupants and staff, and parking of vehicles for the facility.
- (3) *Use Examples.* Types of uses include, but are not limited to: group homes (for six or more residents);

residential programs for drug and alcohol treatment; and alternative or post-incarceration facilities.

(4) *Exceptions.*

- (a) “Residential Homes” boarding, caring 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 single-family homes.
- (b) Child or adult foster homes, where residential care is provided in a homelike environment for five or fewer non-related individuals are classified under Single- and Two-Family Homes.
- (c) Hospitals and medical treatment facilities with overnight care are classified as Hospitals.
- (d) Nursing homes are classified as Assisted Living.
- (e) 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 mass shelters).
- (f) 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 or Two-Family, Live Work, or Three or More Units.
- (g) 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.

22.270 Assisted Living

- (1) Assisted Living facilities are characterized by unrelated elderly or disabled persons, and at least one person residing on the site who is responsible for providing daytime care, protection, supervision, monitoring and/or training or treatment of residents. Larger group-living facilities may offer shared facilities for eating, hygiene and/or recreation. Tenancy is for longer than one month.
- (2) *Accessory Uses.* Accessory uses commonly found are recreational facilities, parking of autos for the occupants and staff, and parking of vehicles for the facility.
- (3) *Use Examples.* Types of uses include, but are not limited to: nursing and convalescent homes; residential care/treatment facilities, lifecare or continuing care services, and assisted living facilities.
  - (a) Retirement housing units that are separate units and ownership are classified as Single Family, Two Family or Three or More Units.
  - (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 mass shelters).
  - (c) Lodging where the residents meet the definition of Household, and where tenancy is arranged on a month-to-month basis, or for a longer period, is classified as Single Family, Two Family, Live Work, or Three or More Units.

22.280 Single Family and Two Family

- (1) *Characteristics.* Single-family units are characterized by the residential occupancy by a household of a dwelling unit on one lot. Single units may be attached or detached, with the opportunity to be owner-occupied. A two-family unit (duplex) is defined as a building with two separate households on the same property.
- (2) *Accessory Uses.* Examples of accessory uses include parking, home occupations, accessory dwelling units, and bed and breakfast facilities. For Accessory Buildings, see Section 22.320 below.

- (3) *Use Examples.* Single-family units, two-family units, duplexes, manufactured housing, and other structures with self-contained dwelling units on individual lots.
- (4) *Exceptions.*
  - (a) In certain situations, lodging where tenancy may be arranged for periods less than one month, such as short-term housing or mass shelter, may be classified as Community Service uses.

22.290 Live Work

- (1) *Characteristics.* Live Work units are units that contain both a household and a business. The business may have up to 3 employees in addition to the resident employee.
- (2) *Accessory Uses.* Accessory uses include recreational activities, raising of pets, hobbies, and parking.

22.300 Three or More Units

- (1) *Characteristics.* Three or More Units are characterized by the residential occupancy of three or more dwelling units on one lot by three or more households. A structure containing at least three dwelling units in any vertical or horizontal arrangement, located on a single lot or development site, but excluding single-family attached building types on two or more contiguous lots.
- (2) *Accessory Uses.* Accessory uses commonly found are recreational activities, raising of pets, hobbies, and parking of the occupants' vehicles. Home occupations, accessory dwelling units, and bed and breakfast facilities are accessory uses that are subject to additional regulations.
- (3) *Use Examples.* Apartments, condominiums, retirement center apartments, and other structures with self-contained dwelling units.
- (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) SROs that contain programs that include common dining are classified as Group or Residential Care Facilities.

22.310 Units Above a Business

- (1) *Characteristics.* Two or more residential dwelling units located above a business or office on the ground floor(s).
- (2) *Accessory Uses.* Accessory uses commonly found are recreational activities, raising of pets, hobbies, and parking of the occupants' vehicles. Home occupations, accessory dwelling units, and bed and breakfast facilities are accessory uses that are subject to additional regulations.
- (3) *Use Examples.* Apartments, condominiums, retirement center apartments, and other structures with self-contained dwelling units located above a business.

(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) SROs that contain programs that include common dining are classified as Group or Residential Care Facilities.

22.320 Residential Accessory Buildings

- (1) *Characteristics.* A detached or semi-detached building that is subordinate to and consistent with the principal use of the property. Accessory buildings are permitted outright in residential zones 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 eleven feet in height.
  - (b) Attached accessory buildings, garages or carports are less than 1,000 square feet.
  - (c) Accessory apartments have special conditions. See Articles 3, 4 and 5.

**OTHER USE CATEGORIES**

22.330 Agriculture

- (1) *Characteristics.* Agriculture includes activities that raise, produce or keep plants or animals.
- (2) *Accessory uses.* Accessory uses include seasonal sales of produce or plants, animal training, parking and storage.
- (3) *Use Examples.* Types of uses include, but are not limited to: breeding or raising of fowl or other animals; dairy farms; stables; riding academies; farming, truck gardening, forestry, tree farming; and wholesale plant nurseries.
- (4) *Exceptions.*
  - (a) Kennels and animal boarding facilities are classified separately under Kennels.
  - (b) Processing of animal or plant products, including milk, and feedlots, is classified as Manufacturing and Production.
  - (c) Livestock auctions are classified as Wholesale Sales.
  - (d) Plant nurseries oriented to retail sales are classified as Retail Sales and Service.

22.340 Communication Towers and Poles

- (1) *Characteristics.* Communication Towers and Poles include all devices, equipment, machinery, structures or supporting elements necessary to produce signals or messages. Towers may be self-supporting, guyed, or mounted on poles or buildings. See Article 8, Section 8.400, for site design standards.
- (2) *Accessory Uses.* Accessory use may include transmitter facility buildings.
- (3) *Use Examples.* Types of uses include, but are not limited to: broadcast towers, telecommunication towers, and point-to-point microwave towers.



(4) *Exceptions.*

- (a) Receive-only antennas and satellite dishes are not included in this category.
- (b) Radio and television studios are classified in the Office category.
- (c) Radio frequency transmission facilities that are public safety facilities are classified as Basic Utilities.

22.350 Kennels

- (1) *Characteristics.* Kennels includes facilities where the overnight boarding of dogs, cats or other household pets is conducted as a business.
- (2) *Accessory uses.* Accessory uses include offices and parking.
- (3) *Exceptions.*
  - (a) Veterinary hospitals or clinics that keep animals overnight are classified as Offices.

22.360 Passenger Terminals

- (1) *Characteristics.* Passenger Terminals includes train stations and rail service (multi-modal facility), bus stations and loading facilities, and facilities for the landing and takeoff of aircraft, including loading and unloading areas and passenger terminals.
- (2) *Accessory Uses.* Accessory uses include freight-handling areas, concessions, offices, parking, hangars, runways, maintenance and fueling facilities.
- (3) *Use Examples.* Airports, bus passenger terminals, railroad passenger stations for regional rail service, and helicopter landing facilities.
- (4) *Exceptions.*
  - (a) Bus transit stops are classified as Basic Utilities.
  - (b) Park-and-ride facilities are classified as Parking.
  - (c) Private helicopter landing facilities that are accessory to another use are considered accessory uses.

22.370 Rail and Utility Corridors

- (1) *Characteristics.* This category includes railroad tracks and lines for the movement of trains. The land may be owned or leased by the railroad. The category also includes 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.
- (2) *Use Examples.* Rail trunk and feeder lines; regional electrical transmission lines; and regional gas and oil pipelines.
- (3) *Exceptions.*
  - (a) Railroad lead and spur lines for delivery of rail cars to sites or for unloading of rail cars on specific sites are classified as accessory to the primary use of the site.
  - (b) Rail lines and utility corridors located within motor vehicle rights-of-way are not included.

## DEFINITIONS

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

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

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

Accessory Apartment: A self-contained living unit which is attached to or a part of a single-family dwelling, or constructed within an accessory structure built before February 1, 1998, and which is incidental and subordinate to the principal dwelling unit. [Ord. 5338, 1/28/98]

Accessory Building: A detached or semi-detached building the use of which is subordinate to and consistent with the principal use of the property.

Accessory Use: A use on the same lot with and of a nature customarily incidental and subordinate to the principal use.

Access Way: An unobstructed way of specified width containing a drive or roadway which provides vehicular access and connects to a public street.

Active, Passive Solar Systems: Active or indirect solar heating utilizes heat collection which is separate from the area being heated, with a mechanical method of transferring heat between the two areas. A passive solar system is any method which requires no external energy input to collect and disperse solar heat. In new building design, this means utilizing site design, building orientation, window placement, insulation, vegetation, etc. to heat and cool a building. Passive solar systems may also include the addition of such solar collectors as greenhouses, water traps, improved insulation, or other weatherization techniques.

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

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

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

Alley: A public way not over 30 feet wide providing a secondary means of access to private property.

Alter, Alteration: A change, addition, or modification in construction or occupancy of a building or structure.

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

Apartment House: See Dwelling, Multiple.



Approval Authority: The Director, Hearings Board, Planning Commission, or City Council, whichever has jurisdiction for making a determination under the various provisions of this Code.

Arterial Street: A major street which functions primarily to move large amounts of traffic and is identified as such on the Master Street Plan.

Bed and Breakfast Home: A structure designed for and occupied as a single-family dwelling, in which travelers are lodged for sleeping purposes for two weeks or less and a morning meal is provided, and for which compensation is paid.

Bedroom: A private room planned and intended for sleeping, separable from other rooms by a door and accessible to a bathroom without crossing another bedroom, kitchen, or living room.

Berm: A mound of earth used to deflect sound or used as a buffer in landscaping provisions to separate incompatible areas or to provide aesthetic enhancement in site design.

Bike Path, Lane, Way: A bike path is completely separate from vehicular traffic and within an independent right-of-way or the right-of-way of another facility. A bike lane is part of the roadway or shoulder and delineated by pavement markings. A bikeway is any trail, path, or part of a highway, shoulder, sidewalk, or any other travelway specifically signed and/or marked for bicycle travel.

Block: An area of land containing one or more lots or parcels surrounded by streets, railroad rights-of-way, unsubdivided acreage, or a combination thereof.

Board: See Hearings Board.

Boarding House: A building where lodging and meals are provided for more than two weeks for compensation, exclusive of bed and breakfast homes or other homes or institutions providing supervisory care.

Bond , Performance or Security: Collateral security for the performance of a specific action or duty imposed by the City.

Buffer, Buffering: A landscaped area which provides a separation between potentially conflicting land uses.

Building: Any structure used or intended for supporting or sheltering any use or occupancy.

Building, Principal: A building within which is conducted a principal use permitted on a lot.

Building Official: The Superintendent of the Building Division or a person designated by the City Manager as such.

Carport: A structure consisting of a roof with its supports and which is entirely open on two or more sides and is used for sheltering a motor vehicle.

Cemetery: Land used or intended to be used for the burial of the dead and dedicated for cemetery purposes including columbaria, crematories, mausoleums, and mortuaries.

Child Care Home: A residence or other facility within which day time care is provided for less than thirteen children (including the children of the provider) under the age of fifteen years and may require a license from the State of Oregon Children's Services Division.

Child Care Institution: An institution, establishment, or place in which are regularly received at one time thirteen or more children under the age of fifteen years, for a period not exceeding 12 hours, for the purpose of being given board, care, or training apart from their parents or guardians and which also requires a license from the State of Oregon Children's Services Division.

City: The City of Albany.

City Council: The Council of the City of Albany.

City Engineer: The Director of the Department of Engineering and Public Works or a person designated as such by the City Manager.

City Recorder: The Finance Director of the City of Albany or the duly authorized representative.

Clinic: Single or multiple offices for physicians, surgeons, dentists, chiropractors, osteopaths, and members of the healing arts, including incidental and appropriate accessory uses.

Code: Shall mean the City of Albany Development Code.

Collector Street: A major street which transports traffic from local streets to the arterial street system and is identified as such on the Master Street Plan.

Commission: The Albany City Planning Commission.

Comprehensive Plan: An official document which establishes the future land use pattern and land use policies for the City, as may be currently established by the City Council.

Condominiums: A type of residential development offering individual ownership of units and common ownership of open spaces and other facilities and regulated, in part, by State Law (ORS 91.010.900).

Courtyard: A landscape area enclosed by two or more walls.

Coverage: See lot coverage.

Criteria: A general rule or test on which a judgment or decision can be based.

Cul-de-sac: A short street which has one end open to traffic and usually terminated by a vehicle turn-around.

Cul-de-sac Bulb: The circular radius at the end of a cul-de-sac.

Day(s): Shall mean calendar days, unless working days are specified which shall mean Monday through Friday.

De Novo: A new hearing usually without consideration of any previous hearing testimony.

Density: The number of living units per acre of land.

Development: Any manmade change to improved or unimproved real estate, including but not limited to construction, installation, or change of a building or other structure, land division, establishment or termination of a right of access, storage on the land, drilling and site alteration such as that due to land surface mining, dredging, paving, excavation, or clearing.

Development Permit: A permit issued by the Director for a development which is in compliance with this Code and the Comprehensive Plan.

Development Site: A tract of land either unsubdivided or consisting of two or more contiguous lots of record which, on the effective date of this Ordinance or subsequently, came under single or common ownership and continued to be so owned at the time a development permit was applied for.

Director: Director of the City's Planning Department or his/her designee.

District: A portion of territory of the city within which certain uniform regulations and requirements of this Code apply.

Dividing Land: See Land Divisions.

Drainageway: Any natural or manmade watercourse, trench, ditch, swale, or similar depression into which surface water flows.

Duplexes: A building under single or common ownership designed or used exclusively for the occupancy of two families living independently of each other and having separate housekeeping facilities for each family.

Dwelling, Multiple: A building under single or common ownership designed and used for occupancy by two or more families, all living independently of each other, and having separate housekeeping facilities for each family.

Dwelling, Single Family: A building designed or used exclusively for the occupancy of one family and having housekeeping facilities for only one family and, if attached, is under separate ownership from any attached dwelling.

Dwelling Unit: One or more habitable rooms which are occupied or which are intended or designed to be occupied by one family with housekeeping facilities for living, sleeping, cooking, and eating.

Dwelling Unit, Quad: A dwelling, which for purposes of this Code shall count as two dwelling units, which has separate sleeping and living quarters for four individuals but which is centered around a common kitchen facility.

Dwelling Unit, Quint: A dwelling, which for purposes of this Code shall count as two and one-half dwelling units, which has separate sleeping and living quarters for five individuals but which is centered around a common kitchen facility.

Easement: A recorded interest in land owned by another that entitles its holder to a specific limited use or enjoyment.

Employees: All persons, including proprietors, working on the premises during the largest shift at peak season.

Family: An individual or two or more persons related by blood or marriage or a group of unrelated individuals (at a density of not more than two people per bedroom) which is established in structure and appearance to resemble a traditional family unit. In cases where a Group Care Home takes on the appearance of a family, it shall be considered a Group Care Home and subject to all applicable regulations of this Code.

Findings: Written statements of fact, conclusions and determinations based on the evidence presented in relation to the approval criteria and accepted by the approval authority in support of a decision.

Floor Area: The combined floor area on each level or story of a building exclusive of vent shafts, court yards, stairwells, elevator shafts, restrooms, rooms designed and used for the purpose of storage and operation of maintenance equipment, and enclosed or covered parking area.

Frontage: That portion of a property which abuts a street right-of-way.

Future Street Plan: An approved street plan indicating the location of future streets within undeveloped or partially developed portions of the Urban Growth Area.

Garage, Private Parking: A structure having one or more tiers of height used for the parking of automobiles for the tenants, employees, or owners of the property for which the parking spaces contained in or on said garage are required by this Article and are not open for use by the general public.

Garage, Public Parking: A publicly or privately owned structure having one or more tiers of height, used for the parking of automobiles and open for use by the general public, either free or for remuneration. Public parking garages may include parking spaces for customers, patrons, or clients which are required by this Article provided said parking spaces are clearly identified as free parking space(s) for the building or use.

Garage, Repair: A building used for the care and repair of motor vehicles, including major and minor work such as body and fender work or engine and transmission overhaul, and incidental storage or parking of vehicles.

Goals: Statements identified as such in the Comprehensive Plan.

Governmental Bodies: Shall mean city, county, state and federal boards, councils, commissions, and agencies and the like.

Grade (Adjacent Ground Elevation): The lowest point of elevation of the finished surface of the ground, paving, or sidewalk within the area between the building and the property line, or when the property line is more than five feet from the building, between the building and a line five feet from and parallel to the building.

Gross Floor Area: The combined floor area on each level or story of a building as measured within the exterior walls of such building.

Group Care Home: Any private or public institution maintained and operated for the care, boarding, housing, or training of five or fewer physically, mentally, or socially handicapped or delinquent, elderly or dependent persons 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.

Half Street: A portion of the width of a street, usually along the side of a subdivision where the remaining portion of the street could be provided in another subdivision.

Hearings Board: A subcommittee of the Planning Commission empowered with certain decision making authority by City ordinance.

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. The measurement may be taken from the highest adjoining sidewalk to ground surface within a five-foot horizontal distance of the exterior wall of the building, when such sidewalk or ground surface is not more than 10 feet above grade. The height of a stepped or terraced building is the maximum height of any segment of the building.

**High Volume Traffic Generation:** All uses involving the sales, rental, and servicing of goods, merchandise, and equipment which cannot be classified in the 4.100, 4.300, and 4.500 subsections of Article 5, Section 5.050, Schedule of Permitted Uses (see definition of Low Volume Traffic Generation).

**Home Occupation:** An occupation carried on within a dwelling provided the residential character of the building is maintained and the occupation is conducted in such a manner as not to give an outward appearance nor manifest any characteristics of a business in the ordinary meaning of the term, nor infringe upon the right of neighboring residents to enjoy the peaceful occupancy of their homes.

**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 non-related individuals suffering from illness, injury, or deformity, or where other healing, curing, and/or nursing care is rendered over a period exceeding 24 hours.

**Hospital, Small Animal:** A building, together with animal runs, in which veterinary services, clipping, bathing, boarding, and other services are rendered to dogs, cats, and other small animals and domestic pets.

**Hotel (Motel, Motor Hotel, Tourist Court):** A building or group of buildings used for transient residential purposes containing six or more rental units which are designed to be used, or which are used, rented, or hired out for sleeping purposes.

**Indoor Recreation Area:** A room or rooms within an enclosed building which is designed and used for recreational purposes by the public and/or occupants of a residential development. Activities provided for within an indoor recreation area may include, but are not limited to, the following: indoor swimming pools, saunas, gymnasiums, exercising rooms, dance floors, tennis or handball courts, and games such as pool, ping pong, shuffleboard, etc.

**Junkyard:** Any premises upon which any of the following are kept outside an enclosed building:

- a. The principal components of more than four (4) inoperable and unregistered vehicles.
- b. The principal components of more than five (5) inoperable washers, dryers, hot water heaters, stoves, ranges, televisions, video cassette recorders, radios, stereos, or other major appliances.
- c. More than six (6) inoperable bicycles or lawnmowers.

This definition is not intended to include salvage yards, which are separately defined in this Code. (Ord. 5281, 3/26/97)

**Kennels:** A lot or premise on which three or more adult dogs are kept, whether by the owner(s) of the dogs or by person(s) providing facilities and care, whether or not for compensation. An adult dog is one that has reached the age of six months.

**Land Divisions:** The creation of a lot or parcel of land through the process of subdividing or partitioning land or through the leasing of land for more than three years, or less than three years if the lease may be renewed under the terms of the lease for a total period more than three years; or through the sale of interest in a condominium as that term is defined in ORS Chapter 91; or through sale of any security interest under a land sales contract, trust deed, or mortgage.

**Landscaping:** The term "landscaping" includes ground cover, trees, grass, bushes, shrubs, flowers, and garden areas and any arrangement of fountains, patios, decks, street furniture, and ornamental concrete or stonework areas and artificial turf or carpeting.



Loading Space: An off-street space or berth on the same lot with a main building or contiguous to a group of buildings for the temporary parking of commercial vehicles while loading or unloading which abuts a street, alley, or other appropriate means of ingress and egress.

Lot: A portion of a subdivision intended as a unit for transfer of ownership or for development. Lots may be occupied by principal and accessory structures, together with the yards or open spaces required, and must have legal access to public right-of-way.

Lot, Corner: A lot abutting two intersecting streets, other than an alley, provided that the streets do not intersect at an angle greater than 135 degrees.

Lot, Coverage: That portion of a lot which, when viewed directly from above, would be covered by a building, or any part of a building, except any area covered by a structure where fifty percent or more of the perimeter of such structure is open from grade.

Lot, Depth: The horizontal distance from the midpoint of the front lot line to the midpoint of the rear lot line excluding any “panhandles.”

Lot, Frontage: That portion of a lot nearest the street. For the purpose of determining yard requirements, all sides of a lot adjacent to a street shall be considered frontage and yards shall be provided as required.

Lot, Interior: A lot other than a corner lot.

Lot Line: Any property line bounding a lot.

Lot Line, Front: A property line contiguous with any street line.

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

Lot Line, Rear: A lot line which is opposite and most distant from the front lot line and in the case of an irregular or triangular shaped lot, a line ten feet in length within the lot parallel to and at a maximum distance from the front lot line.

Lot Line, Side: A lot line which extends from any front lot line to a rear lot line, or in the case of a corner, triangular or irregular shaped lot, to another side lot line.

Lot of Record: A lot shown as part of a recorded subdivision or approved partition map; or any parcel of land described by metes and bounds in a recorded deed, record of survey, or other appropriate document recorded in the Office of the County Recorder prior to December 12, 1956. No lot or parcel of land created without complying with the provisions of the Land Division Requirements of the State of Oregon and the City Subdivision Ordinance is recognized as a lot of record.

Lot, Width: The average horizontal distance between the side lot lines, ordinarily measured parallel to the rear lot line (excluding lot “panhandles”) at the front and rear setbacks.

Low Volume Traffic Generation: Uses such as furniture stores, floor covering stores, major appliance stores, wholesale sales, equipment rental stores, equipment servicing, etc. that sell or service items that are large and bulky that need a relatively large amount of storage, display, or service area per item, or that provide customer services primarily off-site, and that, therefore, generate substantially less customer traffic per square foot of usable space than stores or services dealing in smaller items or on-site services.

Major Partition: A partitioning of property into 2 or 3 parcels in a calendar year including the creation of a road or street.

Major Zoning District: The primary zone designation of property within the City such as R-1, C-2, or MH.

Manager: The City Manager of the City of Albany or his designee or person otherwise appointed by the City Council.

Marginal Access (or Frontage Street): A minor street parallel and adjacent to a major arterial street providing access to abutting properties and protection from through traffic.

Minor Partition: A partitioning of property into 2 or 3 parcels in a calendar year that does not include the creation of a road or street.

Minor Street: A street used exclusively for access to abutting properties.

Manufactured Home: A dwelling unit constructed on one or more chassis in an off-site manufacturing facility and designed to be used with a foundation as a dwelling unit on a year-round basis with approved connections to water, sewer, and electric utility systems. A commercial coach, motor home, camper, or other unit originally designed as a recreation vehicle is not a mobile or manufactured home for purposes of this Code and is not permitted for occupancy purposes outside of approved locations for such units.

Manufactured Home Park: A parcel of land under common ownership on which four or more manufactured homes are occupied as residences and which conforms to the regulations of this Code.

Manufactured Home Space or Lot: A plot of ground within a home park or subdivision designed for the accommodation of one manufactured home, its accessory structures, parking spaces, and required yard areas.

Manufactured Home Subdivision: A subdivision developed under the provisions outlined in Article 12 in this Code and that meets the standards for conventional subdivisions as prescribed by State Statutes and this Code. Manufactured home subdivisions are designed for sale of lots for residential occupancy by manufactured homes.

Mobile Home: See “Manufactured Home.”

Modular Home: A factory fabricated transportable building designed to meet the Uniform Building Code to be used by itself or incorporated with similar structures or units at a building site into a modular structure. The term is intended to apply to major assemblies and does not include buildings constructed at a site from prefabricated panels, trusses, and other prefabricated supplements.

Motel or Tourist Court: See Hotel.

Motor Vehicle and Trailer Sales Area: A lot used for display, sale, or rental of new or used motor vehicles or trailers where no repair work is done except minor, incidental repairs of motor vehicles or trailers to be displayed, sold, or rented for use off the premises.

Nonconforming Building: Any building which lawfully existed prior to the effective date of this Code but which due to the requirements adopted herein, no longer complies with the height, yard, area, and coverage regulations, off-street parking requirements, or other provisions of this Code.

Nonconforming Development: Any physical development of land which lawfully existed on the effective date of this Code but which, due to the requirements adopted herein, no longer complies with the site development standards of this Code for the zoning district in which the development is located.

Nonconforming Lot: A parcel of land which lawfully existed as a lot on the effective date of this Code or which is legally created after the effective date of this Code, but which in either case does not conform to the lot area and lot dimension standards for the zone in which it is located.

Nonconforming Situation: An inclusive term for nonconforming lot, nonconforming use, nonconforming building, and/or nonconforming development.

Nonconforming Use: Any use which lawfully existed on the effective date of this Code but which, due to the requirements adopted herein, no longer complies with the schedule of permitted uses and which has not been deemed terminated under the provisions of this Code. Uses allowed in certain use districts by Conditional Use Permit but which were existing on the effective date of this Code without a Conditional Use Permit shall also be considered as nonconforming.

Outdoor Living Area: Outdoor or semi-outdoor area designed to provide a more pleasant and healthful environment for the occupants of a dwelling unit and the neighborhood in which such dwelling unit is located. It includes natural ground areas, landscaped areas, balconies, porches, patios, terraces, verandas, outdoor swimming pools, play areas, tennis courts, walkways, and similar areas developed for active or passive recreational activities. Outdoor living area does not include accessways, parking and loading areas, strips between buildings less than ten feet in width, storage areas, and other areas not usable for outdoor activities.

Owner: Where used in relationship to real property, “owner” means the legal owner of record or, where there is a recorded land sales contract in force, the purchaser thereunder.

Parking Area, Private: Privately or publicly owned property, other than streets and alleys, on which parking spaces are defined, designated, or otherwise identified for use by the tenants, employees, or owners of the property for which the parking area is required and not open for use by the general public.

Parking Area, Public: Privately or publicly owned property other than streets or alleys, on which parking spaces are defined, designated, or otherwise identified for use by the general public, either free or for remuneration.

Parking Space: A permanently maintained paved surface with proper access for one standard-size automobile.

Partition: The process of dividing a single property into two or three parcels for sale, taxation, development, or other purpose.

Pedestrian Way: A right-of-way through a block to facilitate pedestrian access to adjacent streets and properties.

Person: A natural person, his heirs, executors, administrators, or assigns, and also includes a firm, partnership, or corporation, its or their successors or assigns, or the agent of any of the aforesaid and the singular includes the plural.

Planned Development (PD): A tract of land having singular ownership and developed under provisions of this Code which provide for flexibility and innovation in design and placement of structures and which provide for detailed Planning Commission involvement in review and approval of such developments. The terms Planned Development (PD) and Planned Unit Development (PUD) may be used interchangeably.

Plat: The map, drawing, or chart on which the subdivider’s plan of subdivision is presented and which he/she submits for approval and intends in final form to record.

Private Driveway: A driveway to serve residential premises.

Public Need: A conclusion based on presentation of factual evidence which demonstrates that a particular request for a change is in the best public interest for economic, social, and environmental reasons.

Ramada: A structure having a roof extending over a manufactured home or manufactured home space which is designed for protection of the manufactured home from sun and rain.

Residential Care Institution: Any private or public institution 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 but not including jails or other criminal detention facilities. Residential care institutions include but are not limited to nursing homes, rehabilitation centers, residential care and training facilities for the mentally and socially handicapped, delinquent youth care centers, and specialized health care homes.

Right-of-way: The area between boundary lines of a street.

Roadway: The portion or portions of a street right-of-way available for vehicular traffic.

Salvage Yard: Any premises upon which any type of material is dismantled, stored, and disposed of for the purpose of recycling the base material or its components. It is the intention of this definition to include the type of operation commonly known as an auto wrecking yard. (Ord. 5281, 3/26/97)

Satellite Dish Antenna: A device incorporating a reflective surface that is solid, open mesh, or bar configured and is in the shape of a shallow dish, cone, horn, or cornucopia. Such device shall be used to transmit and/or receive signals. This definition is meant to include but not be limited to what are commonly referred to as satellite earth stations, TVRO's, and satellite microwave antennas.

Service Station: A place or station selling motor fuel and oil for motor vehicles, servicing batteries, furnishing repair and service, excluding painting, body work, steam cleaning, tire recapping, and mechanical car washing which necessitates equipment to wash more than one car at a time and at which accessory sales or incidental services are conducted.

Service Driveways: Any driveway constructed, installed, maintained in or over any portion of the public streets for the purpose of ingress and egress of vehicles from the street to the property abutting the street.

Setback Line: The innermost line of any required yard area on a lot (see Yard).

Special Purpose District: Overlay zone designations which set forth specific land use regulations in addition to the standards of the underlying major zoning district.

Staff: An employee or employees of the City of Albany.

Stand: A hard surfaced area within a manufactured home space or lot designed for placement of a manufactured home.

Story: That portion of a building included between the upper surface of any floor and the upper surface of the floor next above, except that the top story shall be that portion of a building included between the upper surface of the top floor and the ceiling above. If the finished floor level directly above a basement or cellar is more than six feet above grade, such basement or cellar shall be considered a story.

Story, Half: A basement or cellar, except as provided in this Code, which has less than six feet of its height above grade.

Street: A public thoroughfare or right-of-way dedicated, deeded or condemned; other than an alley, which

affords the principal means of access to abutting property, including avenue, place, way, drive, land, boulevard, highway, road, and other thoroughfares except as excluded in this Code. The word “street” shall include all arterial highways, freeways, traffic collector streets, and local streets.

Street Line: A lot line abutting a street.

Structure: Anything constructed or built, an edifice or building of any kind, or any piece of work artificially built up or composed of parts joined together in some definite manner.

Subdivide Land: Means to divide a parcel of land into four or more parcels of less than five acres each for the purpose of transfer of interest or ownership, whether immediate or future, when such parcel exists as a unit or contiguous units under a single ownership as shown on the tax roll for the year preceding the division.

Subdivision: Means either an act of subdividing land or a tract of land subdivided as defined in this Code.

Substantial Construction: Any physical improvement of a property, the cost of which equals or exceeds fifty percent of the fair market value of the property before the improvement was started.

Temporary Residence: A residence (which may be a manufactured home) that is: a) located on the same property as a residence made uninhabitable by fire, flood, or other natural disaster and occupied by the persons displaced by such disaster, or b) located on the same property as a residence that is under construction or undergoing substantial repairs or reconstruction and occupied by the persons intending to live in such permanent residence when the work is completed, or c) located on a non-residential site and occupied by persons having construction or security responsibilities over such site.

Townhouse: Two or more common wall single family dwelling units, each unit of which is built upon an individually owned subdivided or partitioned lot or parcel.

Travel Trailer: A portable structure capable of being towed or driven, having a width of less than ten feet, and which is designed to be used as a temporary dwelling unit.

Trailer: See Travel Trailer.

Use: The purpose for which land or a building is arranged, designed, or intended or for which either land or a building is or may be occupied or maintained.

Water-Dependent: A use or activity which can be carried out only on, in, or adjacent to water areas because the use requires access to the water body for waterborne transportation, recreation, energy production, or source of water.

Water-Oriented Use: Any use which received a demonstrable benefit from being located with a view to the river. Examples might include restaurants, residential structures, and commercial structures when river views are incorporated into the design of the river.

Water-Related: Uses which are not directly dependent upon access to a water body, but which provide goods or services that are directly associated with water-dependent land or waterway use and which, if not located adjacent to water, would result in a public loss of quality in the goods or services offered.

Wetland: Areas that are inundated or saturated by surface or groundwater at a frequency and duration sufficient to support, and under normal circumstances do support, a prevalence of vegetation typically adapted for life in saturated soil conditions.

Wrecking Yard, Motor Vehicles, and Building Materials: Any premises used for the storage, dismantling,

or sale of either used motor vehicles, trailers, machinery and/or building materials, or parts.

Yard: Any open space which is required, created, or is maintained on a lot and which is not obstructed from the ground up by any structure or building.

Yard, Front: The area between the front property line and the nearest point of any building on that same parcel.

Yard, Interior: Any yard, required or otherwise, which is not a front yard and which is adjacent to an interior lot line.

Zoning District: A classification of land in which only uses specified by this Code are allowed, except for nonconforming uses, and for which specific requirements are set forth pertaining to height, yard, area, coverage, landscaping, parking, and other land use restrictions.