

ARTICLE 5 MIXED USE ZONING DISTRICTS

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

5.020 Overview. The mixed-use 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, and community and personal services. Centers are easily accessible to nearby residences, are pedestrian-friendly, and relate to adjacent land uses. Commercial uses must fit the scale of adjacent neighborhoods and the desired character envisioned for each Village Center. 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 Village Center commercial zones.

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.

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

- Zoning Districts
- Schedule of Permitted Uses
- Development Standards

[Ord. 5673, 6/27/07]

ZONING DISTRICTS

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

- (1) **HD – HISTORIC DOWNTOWN DISTRICT.** The HD district is intended 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 that allows a mixture of neighborhood commercial uses that meet the daily needs of area residents. [Ord. 5673, 6/27/07]
- (4) **WF – WATERFRONT DISTRICT.** The WF district is intended to transition Albany’s Willamette River waterfront into a vibrant center characterized by a variety of housing choices and a mixture

of housing, office, and retail uses. Infill and redevelopment are encouraged, as well as adaptive reuse of existing buildings until the area is redeveloped. Development and design standards will result in great neighborhoods, a pedestrian friendly environment and an enhanced community image. [Ord. 5635, 1/11/06; Ord. 5832, 4/9/14]

- (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. Infill and redevelopment are encouraged provided there is no adverse impact to surrounding residences. [Ord. 5832, 4/9/14]
- (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. Commercial infill and redevelopment are encouraged. Sound and visual buffers should be used to protect nearby residential areas. [Ord. 5832, 4/9/14]
- (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>
Airport Approach	Article 4
Floodplain	Article 6
Wetlands	Article 6
Willamette Greenway	Article 6
Hillside Development	Article 6
Historic Overlay	Article 7

[Ord. 5555, 2/7/03]

5.045 Relationship to State, Federal and Other Local Regulations. In addition to the regulations of this Code, each use, activity, or operation in the City of Albany must comply with applicable state and federal standards. Other local regulations 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. 555, 2/7/03]

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

5.060 Schedule of Permitted Uses. The specific uses listed in the following schedule (Table 5-1) are permitted in the zones as indicated, subject to the general provisions, special conditions, additional restrictions, and exceptions set forth in this Code. A description of each use category is in Article 22, Use Categories and Definitions. The abbreviations used in the schedule have the following meanings:

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

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

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

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

Use Categories (See Article 22 for use category descriptions)	Spec. Cond.	MUC	WF	HD	CB	LE	PB	MS	ES	MUR
INDUSTRIAL										
Contractors and Industrial Services	1	N	N	N	S	S	S	N	N	N
Manufacturing and Production	2	N	N	S/CU	S/CU	S/CU	N	N	N	N
Small-scale Manufacturing - less than 5,000 sq. ft. -5,000 to 10,000 sq. ft.	2	S/CU CU	N N	N N						
Warehousing and Distribution		N	N	N	N	N	N	N	N	N
Waste and Recycling		N	N	N	N	N	N	N	N	N
Wholesale Sales		N	N	N	CU	N	N	N	N	N
COMMERCIAL										
Adult Entertainment	3	N	N	S	S	N	N	N	N	N
Entertainment and Recreation Indoor Outdoor		S-4 CU	CU-4 N	S N	S CU-5	S N	S-4 S	S-4 N	S-4 N	CU N
Offices Traditional Industrial		S CU	S S	S CU	S S	S S	S S	S S	S N	S N
Parking		S	CU-6	CU	CU	S	S	S	CU-6	CU
Restaurants, no drive-thru with drive-thru or mostly delivery	23	S CU	S N	S N	S N	S S	S S	S N	CUII N	S N
Retail Sales and Service		S-8	CU-7	S	S	S	S	S-8	S-8	S-8
Self-Serve Storage	9	N	N	N	N	N	N	N	N	N
Taverns, Bars, Breweries, Nightclubs	23	CUII	CUII	S	S	S	S	CUII	CU	CUII
Vehicle Repair		N	N	N	CU	N	S	N	N	N
Vehicle Service, Quick (gas/oil/wash)		S	S	N	N	N	S	S	S	N
INSTITUTIONAL										
Basic Utilities	10	CU	CU	CU						
Daycare Facility		S	S	S	S	N	CU	S	S	S
Community Services	11	CU	CU	S	S	S	S	S	S	CU
Educational Institutions	12	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	13	CU	CU	CU						
Religious Institutions	12	CU	CU	CU	S	S	CU	CU	CU	CU
RESIDENTIAL										
Residential Care or Treatment Facility	14	S	CU	S	S	S	N	S	S	S
Assisted Living Facility		CU	CU	CU						
Single Family and Two Family Units	15	Y-17	S-16	N	CU- 16	N-16	N	N-16	CU- 16	Y
Three or More Units	17	S-17	S	N	CU	S	N	CU	CU	S

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

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

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

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

SPECIAL CONDITIONS

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

- (1) Contractors and Industrial Service Uses in CB, LE and PB zones.
 - (a) 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) 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.
- (4) Indoor Entertainment and Recreation in the WF, PB, MS, ES and MUC zones.
 - (a) 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.

- (b) Limited Uses in MS and ES. Only the following indoor entertainment and recreation uses are allowed in MS and ES: athletic or exercise facilities, bowling alleys, skating rinks, pool halls, games, amusements, arcades and uses with similar impacts. All other indoor entertainment and recreation uses are prohibited.
- (5) Outdoor Entertainment and Recreation in the CB zone.
 - (a) Conditional Uses in CB. The following outdoor entertainment and recreation uses are allowed with a Conditional Use approval: tennis courts, miniature golf, skateboard parks and similar uses.
- (6) Parking in the WF and ES zones.
 - (a) Limited Uses. Parking that is required for a primary use on the same or adjacent property is allowed. Fee parking for people not connected to the primary use is limited to parking structures. [Ord. 5635, 1/11/06]
- (7) 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. All other retail uses are prohibited. [Ord. 5635, 1/11/06]
- (8) 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]
- (9) Self-Serve Storage. These facilities are subject to the following standards:
 - (a) The minimum driveway width between buildings is 20 feet for one-way drives and 24 feet for two-way drives.
 - (b) The maximum storage unit size is 1,000 square feet.
 - (c) All outdoor lighting shall be shielded to prevent glare and reflection on adjacent properties.
 - (d) Repair of autos, boats, motors and furniture and storage of flammable materials are prohibited on the premises, and rental contracts shall so specify.
- (10) Basic Utilities. In all mixed-use village center zones, new regional/community utilities including treatment plants, major power generation and storage facilities, major overhead power lines requiring tower support structures, and utilities with potential visual or off-site impacts are prohibited. All other Basic Utilities are considered through the Conditional Use review.
- (11) Community Service Uses. Community Service uses that may have significant off-site impacts, such as public swimming pools, public safety facilities and homeless shelters, may be considered through the Conditional Use process.

- (12) Conditional Use Approval for Religious and Educational Institutions includes the following secondary uses: educational activities; sports and other recreational activities; religious activities; political activities; meals programs; before- and after-school child care activities; fundraising activities; and cultural programs. Such uses will not be required to go through the land use process if all of the activities that constitute the use (excluding parking and travel to and from the site) take place on the site and no external noise is audible or light visible between 10:30 p.m. and 8:00 a.m.

Expansion of an educational or religious institution shall be reviewed through the conditional use Type II procedure. An expansion includes the addition of building area, increase in parking lot coverage, or expansion of athletic facilities.

An educational institution having a capacity greater than 25 students shall have a driveway designed for continuous forward flow of passenger vehicles for the purpose of loading and unloading children. [Ord. 5673, 6/27/07]

- (13) Public park development activity subject to conditional use review includes major development; expansions of activities and development within parks which currently generate substantial traffic; or construction of major structures such as swimming pools, lighted ball fields, and community centers. Conditional use review is not required, however, for construction of play equipment, tennis courts, bike paths, picnic shelters, restrooms, landscaping, and similar activities within existing improved parks.
- (14) Residential Care or Treatment Facility. A residential care facility (six or more residents) requires a Site Plan Review. A “residential home” (as defined in ORS Chapter 443) or group home that includes five or fewer residents is permitted outright in any zone that allows single-family residences. [Ord. 5673, 6/27/07; Ord. 5742, 7/14/10]
- (15) Existing Single- and Two-Family. Single-family and two-family units built before December 11, 2002, may remain as a permitted use in any zone without being nonconforming. See Section 5.080. [Ord. 5673, 6/27/07]

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

The accessory apartment may be:

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

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

- (a) One of the residences is owner-occupied.
- (b) 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 750 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 three 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) All required building permits must be obtained. If the primary residence is on the Local Historic Inventory, historic review may be required.
- (h) The front setback shall be greater than or equal to the location of the front wall of the primary residence. [Ord. 5673, 6/27/07]

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

- (a) Limited Uses in CB, ES, LE and WF. New construction of single-family units is limited to attached units (one unit per lot or condominiums) and two-family units (a duplex). [Ord. 5742, 7/14/10]
- (b) In CB, ES, HD and LE: Buildings originally built as a single-family house or church may be converted to a single-family residential use without requiring a land use application. [Ord. 5673, 6/27/07]

(17) 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]

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

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

All other residential accessory buildings, garages or carports require a Site Plan Review in MUC, MUR, and WF, and are considered through a Conditional Use Type II review in HD, CB, ES, LE and MS. [This is indicated by the use of a “/” in the matrix. For example, “Y/S” means accessory uses that don’t meet the standards in (a) above require a Site Plan Review.] [Ord. 5556, 2/21/03; Ord. 5767, 12/7/11]

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

Accessory apartments see Special Condition 15.

[Ord. 5673, 6/27/07]

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

[Ord. 5742, 7/14/10]

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

- (a) No antennas, antenna supports, satellite dishes or monopoles shall be located within any front 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]
- (21) 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 setback. [Ord. 5742, 7/14/10]
- (22) Kennels. Kennels do not include indoor veterinary hospital kennels. [Ord. 5555, 2/7/03]
- (23) Hours of Operation. Hours of operation for establishments or outdoor seating areas within 300 feet of a residence may be restricted through conditions of approval to be compatible with neighbors. [Ord. 5728, 1/27/10]

SPECIAL STATUS

5.080 Existing Single-Family 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 legally established before January 1, 2002, shall be deemed to be conforming to 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 (square feet) and setbacks as existed on the property at the time it was destroyed, but will be subject to the regulations of any applicable overlay zone. If any single-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 residence was not legally established prior to January 1, 2002.

[Ord. 5789, 10/10/12; Ord. 5555, 2/7/03, Ord. 5635, 1/11/06]

5.085 Special Status for Industrial and Commercial Uses in the WF Zone. The regulations below apply to properties on the Special Status List and eligible properties in the Waterfront (WF) zoning district. The Special Status List is maintained by the Community Development Director.

Notwithstanding the restrictions or terms of any other section of the Albany Development Code (ADC), all industrial and commercial uses legally in operation before January 11, 2006, shall be deemed to be conforming to the WF zoning district. The use may change to another industrial or commercial use provided the new use does not create greater off-site impacts than the current use. A change of use is subject to the applicable Site Plan Review requirements of this Code.

If any building on these properties is substantially destroyed, as defined in ADC Section 2.340(4), it can be rebuilt for the same use provided that the new development is no larger (in square feet and in building footprint) than the original development and the new development is more compliant than the original development. [Ord. 5832, 4/9/14]

The intent is that each and every established industrial and commercial use in existence when the use changes were adopted (January 11, 2006) be listed here. Should an existing use not be on the Special Status List, the property owner may request that the property be listed upon showing that the use was legally established at the time of the January 11, 2006 amendments to this article. The property will be added to the list administratively if the owner or the City provide documents that clearly and objectively

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

Special Status List moved out of ADC; Ord. 5894, 10/10/12

HOME BUSINESS STANDARDS

- 5.085 Home Businesses. See Article 3, Residential Zoning Districts, Sections 3.090 to 3.180, for home business 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; site intensity, building mass and open space. The standards also promote energy conservation, needed privacy, and safe and efficient parking areas for new development; and improve the general living environment and economic life of a development. Table 5-2 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; Ord. 5768, 12/7/11]

**TABLE 5-2
MIXED-USE VILLAGE CENTER DEVELOPMENT STANDARDS**

STANDARD	MUC	WF	HD	CB	LE	PB	MS	ES	MUR
Minimum Lot Size (sq.ft.) (3)									
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	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	None	None	None	1,600/u	1,600/u	3,300/u	1,600/u
3 or more 2+bedroom	None	1,800/u	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
Maximum Building Size (sq. ft.)(16)									
Non-grocery (16)	20,000	None	None	None	None	None	None	None	None
Grocery-anchored	80,000 (13)	None	None	None	None	None	None	None	None
Maximum Business Footprint (sq. ft.)(16)(17)									
Non-grocery (16)	20,000	None	None	None	None	25,000	10,000	10,000	10,000
Grocery-anchored	80,000 (13)	None	None	None	None	60,000	60,000	60,000	60,000
Lot Width, minimum	None	None	20'	20'	20'	None	None	None	None
Lot Depth, minimum	None	None	50'	50'	50'	None	None	None	None
Landscaped Area (2)	100%	100%	100%	100%	100%	100%	100%	100%	100%
Minimum Open Space	(12)	(12)	None	None	None	(12)	(12)	(12)	N/A
Maximum Front Setbacks: (10)	10' (15)	20' (11)	0'	0'	None	20'	10'	10'	20'
Minimum Setbacks:									
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'
Height, maximum	50'	50'	85'	60'	60'	50'	50'	50'	45'
Lot Coverage, maximum (6)	80%	80%	100%	(6)	100%	80%	90%	80%	70%

N/A means not applicable.

- (1) Single-family homes or duplexes must have a 3' interior setback for single-story buildings, and a 5' interior setback for two-story buildings. See Sections 5.150 and 5.160 for zero lot line options. [Ord. 5742, 7/14/10]
- (2) All yards adjacent to streets. Approved vegetated post-construction stormwater quality facilities are allowed in landscaped areas. [Ord. 5842, 1/01/15]
- (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 one foot of setback for each foot of wall height with a minimum setback of ten feet. For developments 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 for single-family detached development shall only include the area of the lot covered by buildings or structures. [Ord. 5768, 12/7/11]
- (7) See minimum floor area ratio requirements in ADC 5.120.
- (8) Garage setback for non-vehicle entrance must conform to 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; or to accommodate changes in elevation due to road and site grading or natural slopes.

- (11) For multi-family and commercial developments, no parking or circulation will be allowed between the building with the primary entrance and the adjacent street. [Ord. 5742, 7/14/10]
- (12) Ten or more residential units may require common open space. See Section 8.220.
- (13) 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.
- (14) Properties adjacent to the Willamette River see also the Willamette Greenway standards in Sections 5.200 – 5.207 and Sections 6.500-6.560.
- (15) Except for residential development, which has a maximum setback of 25 feet. See Sections 8.200 – 8.300 for multiple-family residential design standards.
- (16) The maximum building size and business footprint size may be exceeded for non-commercial and non-office uses when the building is multi-story.
- (17) In shopping centers with multiple tenants, “business” refers to each individually leasable space. “Footprint” refers to the amount of area covered by the first floor. Businesses may build on additional floors.

[Table and footnotes amended by Ord. 5555, 2/7/03; Ord. 5556, 2/21/2003; Ord. 5627, 7/27/05; Ord. 5673, 6/27/07; Ord. 5768, 12/7/2011]

SETBACKS

5.100 Minimum Standards. Primary structures must meet the minimum setback standards in Table 5-2, Development Standards. In addition to the setbacks in this Article, all development must comply with Section 12.180, Clear Vision Area.

The Accessory Structure Standards (Table 5-3) 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 5-3
ACCESSORY STRUCTURE STANDARDS**

STRUCTURE	SETBACK STANDARD
All Accessory Structures	See Table 1 for minimum front setbacks.
Detached, walls less than or equal to 8 ft. tall	Interior setback = 3 feet
Detached, walls greater than 8 ft. tall	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 more than 6 ft. high	District setback standard; building permit required.
Outdoor swimming pools with depths greater than or equal to 24 inches	Interior setback = 10 feet
Decks less than 30 in. off grade, no rails, covers	No setback from property line
Decks greater than or equal to 30 in. off grade	Interior setback = 5 feet

[Ord. 5445, 4/12/00; Ord. 5673, 6/27/07]

- 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 in Developed Areas. When an addition or new development is proposed in an area containing the same type of uses that have been developed to a previous setback standard, the Director or review body may approve setbacks that are the same as those for the existing buildings on the site for additions, or the same as those for buildings on 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) The front setback of the structure is not less than the average of the setbacks for the same uses on the abutting properties on either side. If the same use is only on one abutting property, the proposed front setback may be no less than the setback of the abutting structures. [Ord. 5742, 7/14/10]
- (2) Addition of a garage or carport. The front setback for a garage or carport meets the current front setback standard, and the driveway to it is paved. [Ord. 5742, 7/14/10]
- (3) Additions to the side or rear of a dwelling. The proposed structure does not encroach any further into the setback than the existing structure.
- (4) No wall of one dwelling unit is closer than ten feet to a window of another dwelling unit.
- (5) All other provisions of this Code must be met. [Ord. 5446, 5/10/00]

5.140 General Exceptions to Setback Requirements. The following may project into required setbacks, provided that they conform to the conditions and limitations indicated: [Ord. 5742, 7/14/10]

- (1) Depressed Areas. In any district, open-work fences, berms, hedges, guard railings, or other landscaping or architectural devices for safety protection around depressed areas, ramps, stairs, or retaining walls may be located in required setbacks, provided that the devices are not more than 3 1/2 feet tall. [Ord. 5742, 7/14/10]
- (2) Projecting Building Features. The following may project into the required front setback no more than five feet and into the required interior setbacks no more than 2 feet: [Ord. 5742, 7/14/10]
 - (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 6-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, Ord. 5742, 7/14/10]

5.160 Setbacks for Attached Single-Family Dwellings. The interior setback requirement for attached single-family dwellings is zero where the units adjoin; however, all other setbacks must conform to the requirements of this Code. [Ord. 5742, 7/14/10]

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

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

5.180 Setback and Fencing for Swimming Pools. Swimming pools must conform to the setback regulations for main buildings, except that outdoor swimming pools must be set back at least 10 feet from all interior 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 setbacks 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 setbacks required on the lot. [Ord. 5742, 7/14/10]

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 (Figure 5-1):

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

[Ord. 5627, 7/27/05]

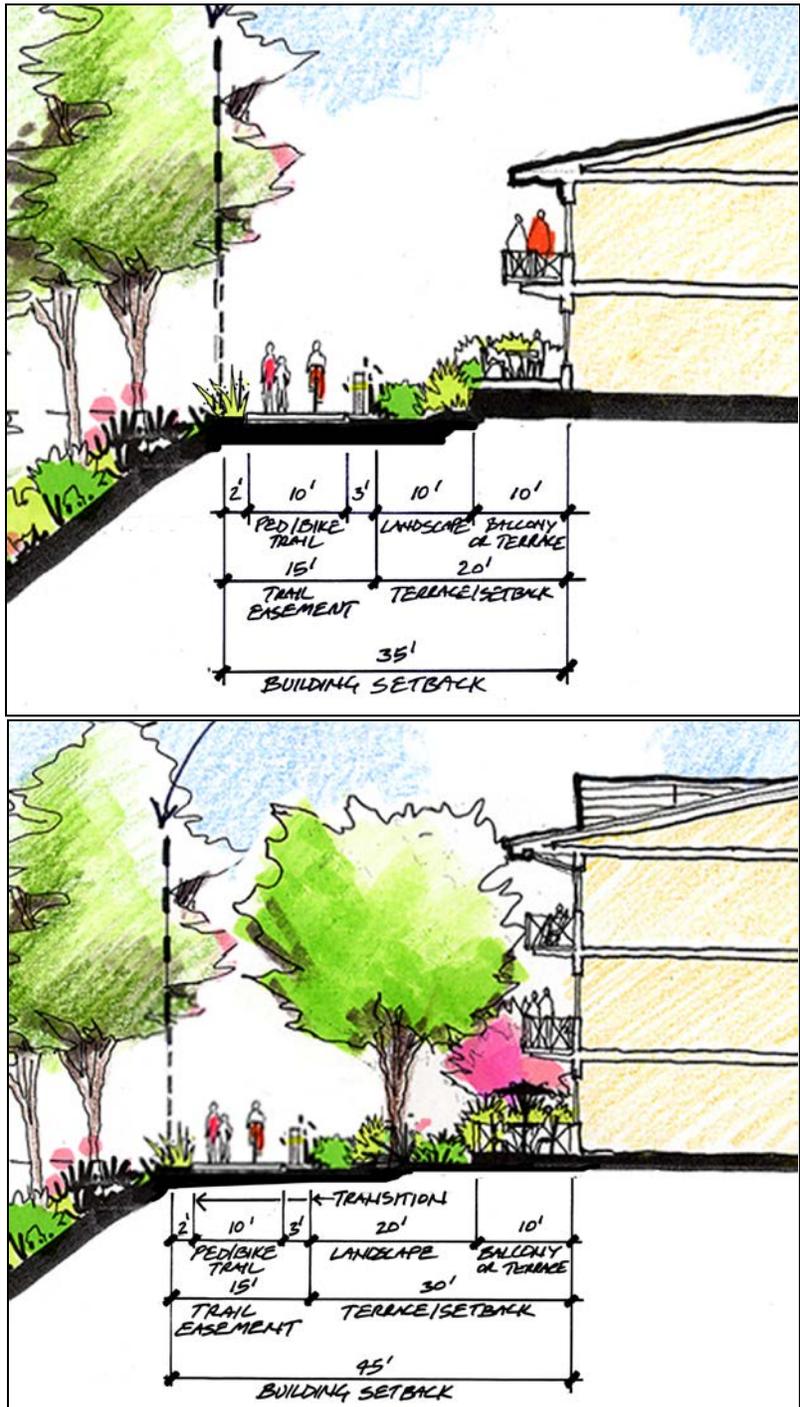


FIGURE 5-1. Minimum building setback requirements inside the Willamette River Waterfront Zone.

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
- (2) City multi-use path easement, or
- (3) 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 setback 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. Parking and loading spaces may not be located in a required front or side setback, except:

- (1) Driveways meeting dimensional standards may be used to fulfill parking requirements for single-family and two-family residences. Each space must be a paved area at least 10 feet wide and 20 feet long. [Ord. 5445, 4/12/00; Ord. 5555, 2/7/03]

5.230 Dwellings Located Above Commercial Uses. The setback requirements for residential uses do not apply when a dwelling is legally located above a commercial use. [Ord. 5742, 7/14/10]

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(20). Towers must meet the standards in 8.500.

- (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 moved to Article 9 per Ord. 5832, 4/9/14.*

5.270 Loading Standards. Loading spaces for all uses except office and residential uses shall be off the street and shall be provided in addition to the required parking spaces and shall meet the following requirements: [Ord. 5742, 7/14/10]

- (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 required loading area 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.[Ord. 5742, 7/14/10]
- (4) The required loading area shall not be less than 10 feet wide by 25 feet long 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 General. Developments must comply with site landscaping standards in Article 9 before occupancy in accordance with Section 9.140. [Ord. 5742, 7/14/2010]

BUFFERING AND SCREENING

5.290 General. Buffering and screening may be required in addition to the minimum landscaping, to offset the impact of development. See Sections 9.280 through 9.325 for requirements. [Ord. 5445, 4/12/00; Ord. 5742, 7/14/10]

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 setbacks or required buffer areas, except for automobile sales, where allowed. [Ord. 5556, 2/21/2003]

(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 it is enclosed with a sight-obscuring fence, wall, hedge, or berm, which must be constructed of non-combustible material. This enclosure must be located on the property at the required setback line as if the berm, fence, wall, or hedge was a building.
[Ord. 5556, 2/21/2003]

(a) Materials and equipment stored as permitted in this subsection may be no more than 14 feet above the elevation of the storage area. Open storage over six feet tall must be screened by landscaping.

(b) Open storage over 6 feet tall 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]

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