

ARTICLE 22 USE CATEGORIES AND DEFINITIONS

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USE CATEGORIES

[Use Categories in Sections 22.010 – 22.370 added by Ord. 5555, 2/7/03]

22.010 Introduction to the Use Categories. This section classifies land uses and activities into use categories based on common functional, product, or physical characteristics. The use categories provide a systematic basis for assigning present and future uses to zones. The decision to allow or prohibit the use categories in the various zones is based on the zoning district purpose statements.

The Schedules of Permitted Uses (by zoning district), special conditions and the development standards are located in Article 3, Residential Zoning Districts; Article 4, Commercial and Industrial Zoning Districts; and Article 5, Mixed Use Village Center Zoning Districts. The environmental performance standards in Article 9, On-site Development and Environmental Standards, may limit the placement of certain uses in some zoning districts.

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[Ord. 5742, 7/14/10]

22.020 Description of Use Categories.

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

Lists of accessory uses were deleted from the use categories in Sections 22.030 to 22.370 by Ord. 5742, adopted 7/14/10.

- (4) *Use Examples.* The “Use Examples” subsection of each use category provides a list of examples of uses that are included in the category. The names of uses on the lists are generic. They are based 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) Contractors and industrial services uses perform services or provide materials related to building construction or remodeling, and the repair or servicing of industrial, business or consumer machinery, equipment, products or by-products. Contractors are engaged in mostly off-site activities. Industrial service uses serve businesses and industries; relatively few general public customers come to the site. [Ord. 5742, 7/14/10]
- (2) *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.
- (3) *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) Manufacturing and Production businesses manufacture, process, fabricate, package, or assemble 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. [Ord. 5742, 7/14/10]
- (2) *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.

- (3) *Exceptions.*
 - (a) Manufacturing of goods to be sold primarily on site and to the general public is classified as Retail Sales and Service, unless defined under Small-scale Manufacturing. [Ord. 5832, 4/9/14]
 - (b) Industrial Office uses are classified as Offices. [Ord. 5832, 4/9/14]
 - (c) Manufacturing and production of goods from composting organic material is classified as Waste and Recycling Related uses.

22.045 Small-scale Manufacturing

- (1) Small-scale manufacturers are those that manufacture artisan goods or specialty foods occupying no more than 10,000 square feet of building space. Goods are generally not sold on site; any retail component is incidental. Small-scale manufacturing businesses are intended to be allowed when the use can be compatible with adjacent uses. The environmental performance standards of Article 9 will apply to ensure there are no objectionable off-site impacts concerning noise, vibration, odors, and glare to nearby commercial businesses or residential uses.
- (2) *Use Examples.* Types of uses include, but are not limited to: sugar and confectionary, fruit and vegetable preserving and specialty foods, bakeries and tortilla manufacturing; microbreweries, micro distilleries, and wineries; artisan leather, glass, jewelry, cutlery, hand tools, wood, paper, ceramic, textile and yarn products; musical instruments, pens, pencils, sporting and athletic goods, toys, brooms and brushes, buttons, costume novelties, and other miscellaneous small-scale manufacturing industries.
- (3) *Exceptions.*
 - (a) Manufacturing of goods to be sold primarily on site and to the general public is classified as Retail Sales and Service. [Ord. 5832, 4/9/14]

22.050 Railroad Yards

- (1) 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. [Ord. 5742, 7/14/10]

22.060 Warehousing and Distribution

- (1) Warehousing and Distribution businesses receive, store or move 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. [Ord. 5742, 7/14/10]
- (2) *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.
- (3) *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) Waste and Recycling related uses receive solid or liquid wastes from others for disposal on the site or for transfer to another location, collect sanitary wastes, or 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. [Ord. 5742, 7/14/10]
- (2) *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.
- (3) *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) Wholesale Sales businesses sell, lease, or rent 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. [Ord. 5742, 7/14/10]
- (2) *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.
- (3) *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) Adult entertainment uses are businesses that provide sexually-oriented entertainment, services or products. Businesses 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. [Ord. 5742, 7/14/10]
- (2) *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 that have sexually-oriented entertainment such as nude dancers, strippers, or other similar entertainers.

22.100 Entertainment and Recreation, Indoor and Outdoor

- (1) Entertainment and Recreation uses provide entertainment or recreational activity either indoors or outdoors. Activities are both spectator and participatory. Some entertainment uses draw large numbers of people to specific events or shows. [Ord. 5742, 7/14/10]

- (2) *Use Examples, Indoor:* Types of uses include, but are not limited to: athletic or fitness gyms; gymnasiums; bowling alleys; skating rinks; game arcades; pool halls; theaters; indoor firing ranges, coliseums, or convention centers. [Ord. 5832, 4/9/14]

Use Examples, Outdoor: Types of uses include, but are not limited to: miniature golf, driving ranges; drive-in theaters; fairgrounds; sports complexes, ball fields, coliseums or stadiums; equestrian centers and animal arenas; theme and water parks. [Ord. 5832, 4/9/14]

- (3) *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) Traditional Office uses provide direct services to consumers generally focusing on business, government, professional, medical, or financial services. Business activities are conducted in an office setting. [Ord. 5832, 4/9/14]
- (2) Industrial Office uses are characterized by activities that, while conducted in an office-like setting, are more compatible with industrial activities, businesses, and industrial park settings and districts. Their operations are less service-oriented than Traditional Office uses and focus on the development, testing, production, processing, packaging, or assembly of goods and products in an office-like setting with no off-site impacts and may include digital products such as internet home pages, media content, designs and specifications, computer software, advertising materials, and others. They primarily provide products to other businesses. They do not require customers or clients to visit the site; any such visits are infrequent and incidental. [Ord. 5832, 4/9/14]

- (3) *Use Examples.*
- (a) Traditional Office: 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; public utility offices; real estate agents; sales offices; some government offices; corporate offices, company headquarters or financial and operational divisions; medical and dental clinics, or urgent care facilities; veterinarians and animal hospitals; and blood-collection facilities. [Ord. 5832, 4/9/14]
 - (b) Industrial Office: Software and internet content development and publishing; computer systems design and programming; graphic and industrial design; engineers; architects; telecommunication service providers; data processing; television, video, radio, and internet studios and broadcasting; scientific and technical services; medical and dental labs, and similar uses with similar impacts. [Ord. 5832, 4/9/14]
- (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 Facility

- (1) The Parking Facility use is a site and/or structure that provides parking for vehicles as the primary use. The Parking Facility use category does not include parking that is required for a primary use on the same or adjacent property in the same ownership as the primary use. A fee may or may not be charged to park at the facility. [Ord. 5742, 7/14/10]
- (2) *Use Examples.* Types of uses include, but are not limited to: off-site parking lots or structures that are leased or available to the public, commercial district shared parking lots or structures, park-and-ride lots. [Ord. 5742, 7/14/10]
- (3) *Exceptions.*
- (a) Required parking that is accessory to a use is not considered a Parking Facility. [Ord. 5742, 7/14/10]

22.125 Recreational Vehicle Park

- (1) A Recreational Vehicle Park is a site providing space and facilities for motor homes or other recreational vehicles for recreational use or transient lodging. There is no minimum required stay in a recreational vehicle park.
- (2) *Exceptions.*
- (a) Uses where unoccupied recreational vehicles are offered for sale or lease, or are stored, are not included as a Recreational Vehicle Park. See also Manufactured Dwelling Park. [Ord. 5742, 7/14/10]

22.130 Restaurants

- (1) Restaurants are businesses that primarily prepare and sell food and beverages to the general public. Businesses may also provide alcoholic beverages and entertainment in addition to food sales. [Ord. 5742, 7/14/10]
- (2) *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).
- (3) *Exceptions.* Food sales at events and entertainment centers are accessory uses to the primary use type. [Ord. 5728, 1/27/10]

22.140 Retail Sales and Service

- (1) Retail Sales and Service businesses sell, lease or rent 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. [Ord. 5742, 7/14/10]

- (2) *Use Examples.* Types of uses include, but are not limited to, uses from the four subgroups listed below:
- (a) Convenience-oriented: Businesses that sell products that are generally necessary or desirable for everyday living and often purchased at a convenient nearby location such as grocery stores, pharmacies, video rentals, and convenience marts.
 - (b) Personal service-oriented: Branch banks; Laundromats; photographic studios; photocopy and blueprint services; hair, tanning, and personal care services; private lodges or clubs; galleries; martial arts, dance or music studios; taxidermists; and mortuaries; small animal daycare or training; and animal grooming.
 - (c) Sales and service-oriented: Businesses 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, plants, printed material, stationery, sports equipment, toys, videos and any store selling a variety of products or services; sales or leasing of consumer vehicles including passenger vehicles, motorcycles, light and medium trucks, and other recreational vehicles; and hotels, motels, and other temporary lodging with an average length of stay of less than 30 days.
 - (d) Repair-oriented: Businesses that 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. [Ord. 5742, 7/14/10]
- (3) *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) When hotels or motels are used for short-term housing or homeless shelters, they are 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) 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. [Ord. 5742, 7/14/10]
- (2) *Use Examples.* Examples include single-story and multi-story facilities that provide individual storage areas for rent. These uses are also called mini-warehouses or self-serve storage.
- (3) *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.

22.155 Taverns, Bars, Brewpubs, Nightclubs

- (1) A business or part of a business that sells alcoholic beverages to be consumed on the premises, and which prohibits minors for a portion of the operating hours per Oregon Administrative Rules (845-006-0340) as established by the Oregon Liquor Control Commission. Businesses may also provide entertainment. [Ord. 5472, 7/14/10]
- (2) *Use Examples.* Types of uses include, but are not limited to: taverns, bars, sports bars, brewery pubs, night clubs, and businesses that have hours of operation or space within the business restricted to minors. [Ord. 5832, 4/9/14]
- (3) *Exceptions.* Beverage and/or food sales at events and entertainment centers are accessory uses to the primary use. [Ord. 5728, 1/27/10; Ord. 5832, 4/9/14]

22.160 Vehicle Repair

- (1) Businesses that service 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. [Ord. 5742, 7/14/10]
- (2) *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.
- (3) *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) 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. [Ord. 5742, 7/14/10]
- (2) *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.
- (3) *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) 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. [Ord. 5742, 7/14/10]

- (2) *Use Examples.* Types of uses include, but are not limited to: water and sewer pump stations; sewage disposal and conveyance systems; electrical substations; water towers and reservoirs; water quality and flow control facilities; water conveyance systems; 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.
- (3) *Exceptions.*
 - (a) Public Works projects, such as streets, utility lines, and pump stations.
 - (b) Services where people are generally present, other than transit stops and park-and-ride facilities are classified as Community Services or Offices.
 - (c) Utility offices where employees or customers are generally present are classified as Offices.
 - (d) Bus and light-rail barns are classified as Warehousing and Distribution.
 - (e) Public or private passageways, including easements, for the express purpose of transmitting or transporting electricity, gas, oil, water, sewage, communication signals, or other similar services on a regional level are classified as Rail and Utility Corridors.
 - (f) Energy production facilities are classified as Manufacturing uses; see Section 22.040.

22.190 Community Services

Community Services are a public, nonprofit, or charitable organization that provides 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. [Ord. 5742, 7/14/10]

- (1) *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.
- (2) *Exceptions.*
 - (a) Private lodges, clubs, and private or commercial athletic or health clubs are classified as Indoor Entertainment and Recreation. [Ord. 5742, 7/14/10]
 - (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 Facility

- (1) A daycare facility is defined in Oregon Revised Statutes (ORS) as a “child care” or “adult care” facility that provides regular care, supervision and guidance in a place other than the child’s or adult’s home, is operated with or without compensation, and is certified by the state for the care of children, teenagers or adults who need assistance or supervision for a portion of the day. [Ord. 5742, 7/14/10]
- (2) *Use Examples.* Types of uses include, but are not limited to: day nurseries or daycare centers, nursery schools, preschools, before- and after-school care facilities, child development centers and adult care programs that do not provide 24-hour care. [Ord. 5742, 7/14/10]

- (3) *Exceptions.*
 - (a) Daycare Facility use does not include care given by the parents, guardians, or relatives of the children, or by babysitters; or by a person who cares for children from only one family other than the person's own family; or by a person who cares for no more than three children other than the person's own children, or as noted in ORS 657A.250.
 - (b) Daycare Facility use also does not include care given by a "registered or certified family child care home" provider as defined by ORS 657A.440 if the care is given to no more than 16 children at any one time, including the children of the provider. Family child care homes are single-family dwellings in residential, mixed use and commercial districts. These homes may require a license from the State of Oregon Children's Services Division.
 - (c) Daycare Facility use does not include a facility that primarily provides education to a pre-school child or that is operated by a school district.
 - (d) Residential care, treatment, or training facilities for six or more individuals on a 24-hour basis are classified as a Residential Care or Treatment Facility. Care for five or fewer individuals are group or residential care homes, which are considered single-family dwellings. Refer to ORS443.400 to 443.455. [Ord. 5742, 7/14/10]

22.210 Educational Institutions

- (1) Educational Institutions provide educational instruction to students. This category includes schools, colleges and other institutions of higher learning that offer courses of general or specialized study leading to a degree, and public and private schools at the primary, elementary, middle, junior high, or high school level that provide state-mandated basic education. This category also includes trade schools and vocational schools that provide on-site training of trade skills. [Ord. 5742, 7/14/10]
- (2) *Use Examples.* Types of uses include, but are not limited to: universities, liberal arts colleges, community colleges, nursing and medical schools not accessory to a hospital, seminaries, public and private daytime schools, boarding schools, military academies, and trade/vocational schools. [Ord. 5742, 7/14/10]
- (3) *Exceptions.*
 - (a) Preschools are classified as a Daycare Facility.

22.220 Hospitals

- (1) Hospitals provide medical or surgical diagnosis and care to patients and offer overnight care. Hospitals tend to be on multiple blocks or in campus settings. [Ord. 5742, 7/14/10]
- (2) *Use Examples.* Examples include hospitals and medical complexes that include hospitals or emergency care facilities.
- (3) *Exceptions.*
 - (a) Uses that provide exclusive care and planned treatment or training for psychiatric, alcohol, or drug problems, where patients are residents of the program, are classified in the Group Living category.
 - (b) Medical clinics that provide care where patients are generally not kept overnight are classified as Office.
 - (c) Urgent medical care clinics are classified as an Office use in 22.110.

22.230 Jails and Detention Facilities

- (1) Jail and Detention Facilities detain or incarcerate persons while being processed for arrest or detention by law enforcement. Inmates and detainees are under 24-hour supervision by sworn officers, except when on approved leave. [Ord. 5742, 7/14/10]
- (2) *Use Examples.* Types of uses include, but are not limited to: prisons, jails, probation centers, and juvenile detention homes.
- (3) *Exceptions.* Programs that provide care and training or treatment for psychiatric, alcohol, or drug problems, where patients are residents of the program, but where patients are not supervised by sworn officers, are classified as Group or Assisted Living. Programs that provide transitional living experience for former offenders, such as halfway houses, where sworn officers do not supervise residents, are also classified as Group or Assisted Living.

22.240 Parks, Open Areas and Cemeteries

Parks, Open Areas and Cemeteries uses are natural areas or land consisting mostly of vegetative landscaping or outdoor recreation, community gardens, or public squares. Land tends to have few structures. [Ord. 5742, 7/14/10]

- (1) *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) Religious Institutions primarily provide meeting areas for religious worship and activities. [Ord. 5742, 7/14/10]
- (2) *Use Examples.* Churches, temples, synagogues, and mosques.

RESIDENTIAL USE CATEGORIES

22.260 Residential Care or Treatment Facility

- (1) A Residential Care or Treatment Facility is a public or private facility for six or more unrelated persons who reside on site and who are physically, mentally or socially handicapped, delinquent, or drug- or alcohol-dependent; with a person residing on site who is not related by blood, marriage, legal adoption or guardianship to the residents, and who may be responsible for supervising, managing, monitoring them and/or providing care, training or treatment to them. Larger facilities may offer shared facilities for eating, hygiene and/or recreation. Tenancy is for longer than one month. Group or Residential Care Facilities includes the state definition of residential care, training or treatment facility in ORS 443. [Ord. 5742, 7/14/10]
- (2) *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.
- (3) *Exceptions.*
 - (a) “Residential Care or Treatment Homes” providing care for or housing five or fewer physically, mentally or socially handicapped, delinquent persons or persons in need of treatment by a person who is not the parent or guardian of, and who is not related by blood, marriage, or legal adoption of, such persons are allowed in zones that allow 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-Family and Two-Family Homes.
- (c) A place providing care and treatment on less than a 24-hour basis is classified as a Daycare Facility.
- (d) Hospitals and medical treatment facilities with overnight care are classified as Hospitals.
- (e) Nursing homes and hospice care facilities for elderly or disabled persons are classified as Assisted Living.
- (f) Lodging where tenancy may be arranged on a short-term basis may be classified as a Community Service use (such as short-term housing or mass shelters).
- (g) Lodging where the residents meet the definition of a household, and where tenancy is arranged on a month-to-month basis, or for a longer period, is classified as Single-Family and Two-Family, or Three or More Units.
- (h) Correctional or detention facilities for people who are under judicial detainment and are under the supervision of sworn officers are included in the Jails and Detention Facilities category. [Ord. 5742, 7/14/10]

22.270 Assisted Living Facility

Assisted Living facilities are places that provide housing, personal care or assistance to unrelated residents that need help with activities of daily living, who are usually elderly or disabled persons. At least one person resides on the site that 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.

[Ord. 5742, 7/14/10]

- (1) *Use Examples.* Types of uses include, but are not limited to: nursing and convalescent homes; life care or continuing care services, hospice care facility, dementia care and assisted living facilities.
 - (a) Retirement housing units that are separate units and are owner-occupied or rented are classified as Single-Family and 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 homeless shelters).

[Ord. 5742, 7/14/10]

22.280 Single-Family and Two-Family Units

- (1) Single-family units are one 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 a building with two separate households, on the same property. [Ord. 5742, 7/14/10]
- (2) *Use Examples.* Single-family units, duplexes, manufactured housing, and other structures with self-contained dwelling units on individual lots.
- (3) *Exceptions.*
 - (a) In certain situations, lodging where tenancy may be arranged for periods less than one month, such as short-term housing or homeless shelter, may be classified as Community Service uses.

22.290 Deleted per Ord. 5742, adopted on July 14, 2010.

22.300 Multiple Family: Three or More Units

- (1) A Multiple Family development is three or more units on one property or development site, attached or detached, including a building or collection of buildings under single or common ownership designed and used for occupancy by three or more families, all living independently of each other, and having separate housekeeping facilities for each family.
[Ord. 5742, 7/14/10; Ord. 5801, 2/13/13]
- (2) *Use Examples.* Three or more detached dwelling units on one property, triplexes, fourplexes, single-room occupancy development, a building containing three or more dwelling units in any vertical or horizontal arrangement often called an apartment building, and any other similar configuration of 3 or more units on one property or development site. [Ord. 5801, 2/13/13]
- (3) *Accessory Uses.* Accessory uses commonly found are recreational activities, raising of pets, hobbies, and parking of the occupants' vehicles. Home occupations, accessory dwelling units, and bed and breakfast facilities are accessory uses that are subject to additional regulations.
- (4) *Exceptions.*
 - (a) Lodging in a dwelling unit or Single Room Occupancy (SRO) unit where less than two thirds of the units are rented on a monthly basis is considered a hotel or motel use and is classified in the Retail Sales and Service category.
 - (b) Single-room occupancy situations where is classified as a Group or Residential Care Home or Residential Care or Treatment Facility. [Ord. 5801, 2/13/13]

22.310 Unit(s) Above or Attached to a Business

- (1) One or more residential dwelling units located above, behind or contiguous to a business or office on the ground floor(s), where the business has street frontage. [Ord. 5742, 7/14/10]
- (2) *Use Examples.* Apartments, condominiums, retirement center apartments, and other structures with self-contained dwelling units located above a business.
- (3) *Exceptions.*
 - (a) Lodging in a dwelling unit or Single Room Occupancy (SRO) unit where less than two thirds of the units are rented on a monthly basis is considered a hotel or motel use and is classified in the Retail Sales and Service category.
 - (b) SROs that contain programs that include common dining are classified as a Group or Residential Care Home or Residential Care or Treatment Facility.

22.320 Residential Accessory Buildings

- (1) A detached building that is subordinate to and consistent with the principal use of the property located on the same property as the principal dwelling. Residential accessory buildings are permitted in residential and mixed use zones if they meet the following standards:
 - (a) Detached residential accessory buildings, garages and carports are allowed outright if they are less than 750 square feet and have walls equal to or less than eleven feet in height. Larger buildings may be permitted through site plan review, refer to the following standards:
 - In residential zoning districts in Article 3, refer to Section 3.080(9).
 - In commercial or industrial zones in Article 4, refer to Section 4.060(21).
 - In mixed use zones in Article 5, refer to Section 5.070(18).
 - (b) Accessory apartments have special conditions in Articles 3 and 5, Sections 3.080(4) and 5.070(15) respectfully. [Ord. 5742, 7/14/10]

OTHER USE CATEGORIES

22.325 Non-Residential Accessory Buildings

- (1) A detached building that is subordinate to and consistent with the principal use of the property. Depending on the size and zoning district, non-residential accessory buildings may require site plan review. See Article 4, the Schedule of Permitted Uses in 4.050, and 4.060 (18) and Article 5, the Schedule of Permitted uses in 5.060 and 5.070(24). [Ord. 5742, 7/14/10]

22.330 Agriculture

- (1) Agriculture includes activities that raise, produce or keep plants or animals. [Ord. 5742, 7/14/10]
- (2) *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.
- (3) *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 Facility

- (1) A Communication Facility use provides signals or messages through the use of electronic and telephonic devices. It includes 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. [Ord. 5742; 7/14/10]
- (2) *Use Examples.* Types of uses include, but are not limited to: broadcast towers, telecommunication towers or poles or antennae, and point-to-point microwave towers.
- (3) *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) Kennels provide overnight boarding, training or breeding of three or more dogs and/or other domestic animals older than six months, typically for compensation. [Ord. 5742, 7/14/10; Ord. 5832, 4/9/14]
- (2) *Exceptions.*
 - (a) Veterinary hospitals or clinics that keep animals overnight are classified as Offices.
 - (b) Small animal daycare or training facilities that do not provide overnight care are classified as Personal Services under the Retail Sales and Services use category. [Ord. 5742, 7/14/10]

22.360 Passenger Terminals

- (1) Passenger Terminals provide places for loading and unloading passengers from trains, buses, and airplanes. It 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. [Ord. 5742, 7/14/10]
- (2) *Use Examples.* Airports, bus passenger terminals, railroad passenger stations for regional rail service, and helicopter landing facilities.
- (3) *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) This use provides railroad tracks and lines for the movement of trains, or 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. [Ord. 5742, 7/14/10]
- (2) *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 that is attached to or a part of a single-family dwelling, or constructed within a detached accessory structure built before February 1, 1998, or constructed in a subdivision platted after July 1, 2007, and that is incidental and subordinate to the principal dwelling unit. [Ord. 5338, 1/28/98; Ord. 5801, 2/13/13]

Accessory Building: A detached building or set of buildings that is subordinate in size and purpose to the principal structure on the same property or development site under the same ownership. The use of the accessory building serves an incidental purpose to the permitted principal use in the main building(s). [Ord. 5742, 7/14/10]

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

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

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

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

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

Alley: A public way not over 30 feet wide that provides a secondary means of access to private property. An alley is not considered a “street” as used in this Code. [Ord. 5742, 7/14/10]

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

Amendment: A change in the 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.

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

Animal Daycare or Training: A place where small animals are cared for on a limited basis or where training classes are provided. Animals are not kept overnight. [Ord. 5742, 7/14/10]

Animal Grooming: A place where animals are bathed, clipped, or combed for compensation. Animals are not boarded overnight. [Ord. 5742, 7/14/10]

Animal Hospital/Veterinary Clinic: A business that provides care, observation, or treatment veterinary services, clipping, bathing, boarding, and other related services are rendered to dogs, cats, and other small animals and domestic pets. [Ord. 5742, 7/14/10]

Annexation: The incorporation of land area into the City of Albany, with a resulting change in the boundaries of the City. [Ord. 5742, 7/14/10]

Apartment House: See Dwelling, Multiple Family.

Approval Authority: The Director, Hearings Board, Landmarks Advisory Commission, Planning Commission, or City Council, whichever has jurisdiction for making a determination under the various provisions of this Code. [Ord. 5742, 7/14/10]

Arterial Street: A major street that functions primarily to move large amounts of traffic and is identified as such in the Transportation System Plan.

Attached Structure. A structure that is attached to another structure by a common wall, by a roof, or by structural connections that allow pedestrian access to both structures. A garage may be attached to another structure by sharing a wall or by a covered breezeway. Structures connected by an uncovered, "I" beam or similar connections are not considered attached. [Ord. 5742, 7/14/10]

Bed and Breakfast Home: An owner-occupied single-family dwelling that provides temporary lodging and breakfast for compensation. [Ord. 5742, 7/14/10]

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 that provides a separation between potentially conflicting land uses.

Buildable Land: Property that is unconstrained by dimensional, locational, environmental, topographical, legal, or regulatory impediments that would otherwise render it unbuildable. [Ord. 5764, 12/1/11]

Building: Any structure used or intended for supporting or sheltering any use or occupancy.

Building Footprint: The outline of total area covered by a building's perimeter at the ground level, with or without a roof covering. [Ord. 5742, 7/14/10]

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.

Change of Use: Change of the primary use on a property from one use category to another or a change in use that may result in the need for additional parking or loading facilities, or other building or development standards to be brought into conformance with current regulations. [Ord. 5742, 7/14/10]

Child Care Home: A residence within which care is provided for children (including the children of the provider) under the age of fifteen years as permitted by ORS Chapter 657, and may require a license from the State of Oregon Children's Services Division. [Ord. 5742, 7/14/10]

Child Care Facility: An institution, establishment, or place in which care or supervision is regularly given to children apart from their parents or guardians per ORS Chapter 657A. See Section 22.200 for a description of this use category. [Ord. 5742, 7/14/10]

City: The City of Albany.

City Council: The Council of the City of Albany.

City Engineer: The Director of 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.

Cluster Development: A development design technique that concentrates buildings in specific areas on a site to allow remaining land to be used for recreation, common open space, or the preservation of environmentally or historically sensitive features. See Article 11, 11.400 through 11.510. [Ord. 5742, 7/14/10]

Code: Shall mean the City of Albany Development Code.

Collector Street: A major street that transports traffic from local streets to the arterial street system and is identified as such on the Transportation System Plan.

Commission: The Albany City Planning Commission.

Comprehensive Plan: An official document that 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 Chapter 100).

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 that 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.

Daycare: See Daycare Facility, Section 22.200. [Ord. 5742, 7/14/10]

Day(s): Shall mean calendar days, unless working days are specified, which shall mean Monday through Friday. If the last day of a time period addressed in the Albany Development Code, such as a 10-day appeal period, falls on a weekend or holiday, the final day of the timer period is the first business day thereafter. [Ord. 5768, 12/7/11]

De Novo: A new hearing usually without consideration of any previous hearing testimony.

Density, Gross: The number of living units or jobs per gross acre of land (for example, units/acre or jobs/acre). [Ord. 5742, 7/14/10]

Density, Net: The average number of dwelling units per net acre of land, which is calculated by taking the total gross acreage and subtracting the area in right-of-way for streets and roads and any undevelopable areas such as water bodies and open space. [Ord. 5742, 7/14/10]

Developed Property: Property that has significant site improvements, such as utility installations, paving, and, in many instances, the construction of one or more structures. [Ord. 5764, 12/1/11]

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 that 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 Community Development 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.

Duplex: 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. [Ord. 5801, 2/13/13]

Dwelling, Multiple Family: Three or more units on one property or development site, attached or detached, including a building or collection of buildings under single or common ownership designed and used for occupancy by three or more families, all living independently of each other, and having separate housekeeping facilities for each family.

[Ord. 5742, 7/14/10; Ord. 5801, 2/13/13]

Dwelling, Single-Family Detached: A building designed or used exclusively for the occupancy of one family and having housekeeping facilities for only one family on one property.

[Ord. 5742, 7/14/10]

Dwelling, Single-Family Attached: A dwelling for one-family located on an individual lot that is joined horizontally to another dwelling at one or more sides by a party wall or walls, lot, also known as a zero-lot line dwelling, townhouse, or row house.

[Ord. 5742, 7/14/10]

Dwelling Unit: One or more habitable rooms that are occupied or intended or designed to be occupied by one family with housekeeping facilities for living, sleeping, cooking, and eating.

Dwelling Unit, Quint definition was removed February 13, 2013 per Ord. 5801

Easement: A recorded interest in land owned by another that entitles its holder to a specific limited use or enjoyment such as for access or to locate utilities.

Employees: All persons, including proprietors, working on the premises during the largest shift at peak season.

Façade: The plane of a wall of a structure that is visible from one side or perspective. [Ord. 5742, 7/14/10]

Façade, Front: The walls or any part of an exterior wall or elevation on a building that faces a public street.

[Ord. 5742, 7/14/10]

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) that 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.

Flag Lot: A lot that is located behind another lot and has access to a public street by a narrow strip of land or easement.

[Ord. 5742, 7/14/10]

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.

Floor Area Ratio: The ratio of gross floor area of all structures on a lot to total lot area.

[Ord. 5742, 7/14/10]

Fourplex: A single structure containing four dwelling units.

[Ord. 5801, 2/13/13]

Frontage: That portion of a property that abuts a street right-of-way.

Frontage Street: A local street parallel and adjacent to a major arterial street providing access to abutting properties and protection from through traffic.

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 levels used for parking vehicles 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 levels, used for parking vehicles 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 that 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 5 feet from the building, between the building and a line 5 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 Home or Residential 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. These homes are regulated the same as single-family dwellings. See Oregon Revised Statutes Chapter 443. [Ord. 5742, 7/14/10]

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 (Figure 22-1). The “grade” measurement is taken from the highest adjoining sidewalk to ground surface within a 5-foot horizontal distance of the exterior wall of the building, when such sidewalk or ground surface is not more than 10 feet above grade. When the sidewalk or ground surface is more than 10 feet above the lowest grade, the “grade” measurement is taken 10 feet above the lowest grade (Figure 22-2). The height of a stepped or terraced building is the maximum height of any segment of the building. [Ord. 5742, 7/14/10]

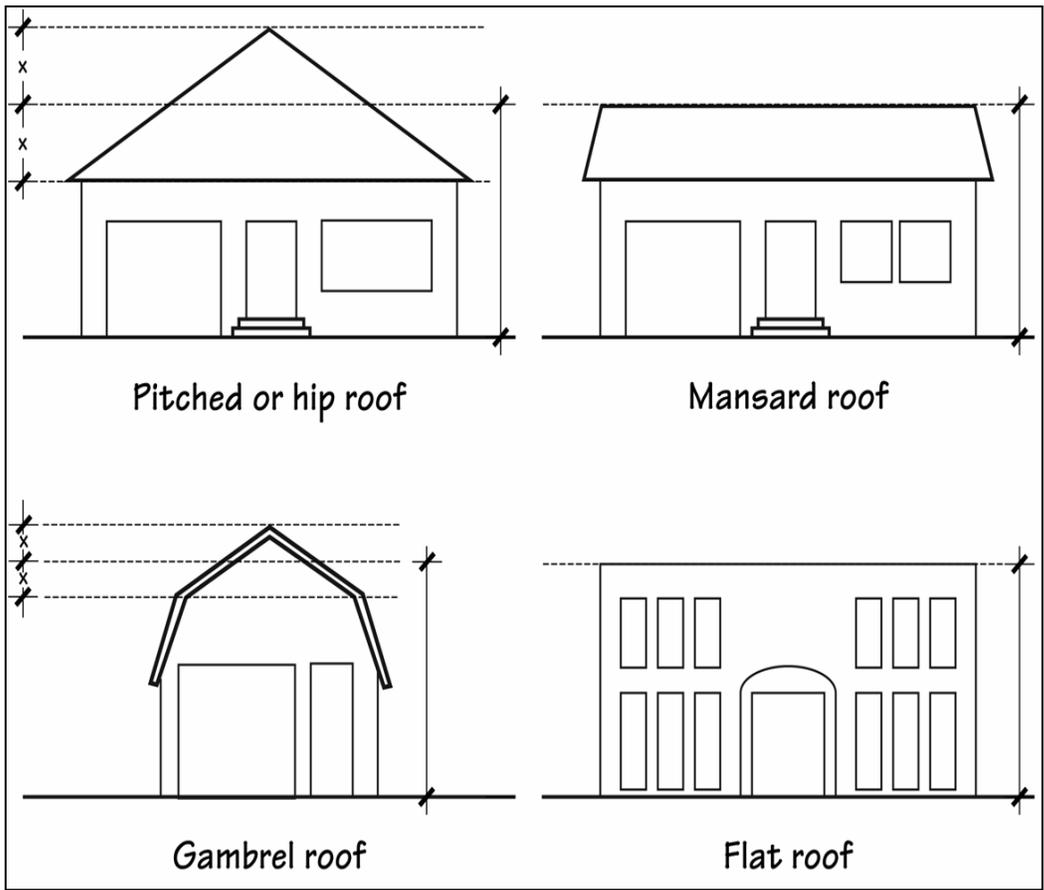


FIGURE 22-1. Measure building height by roof types.

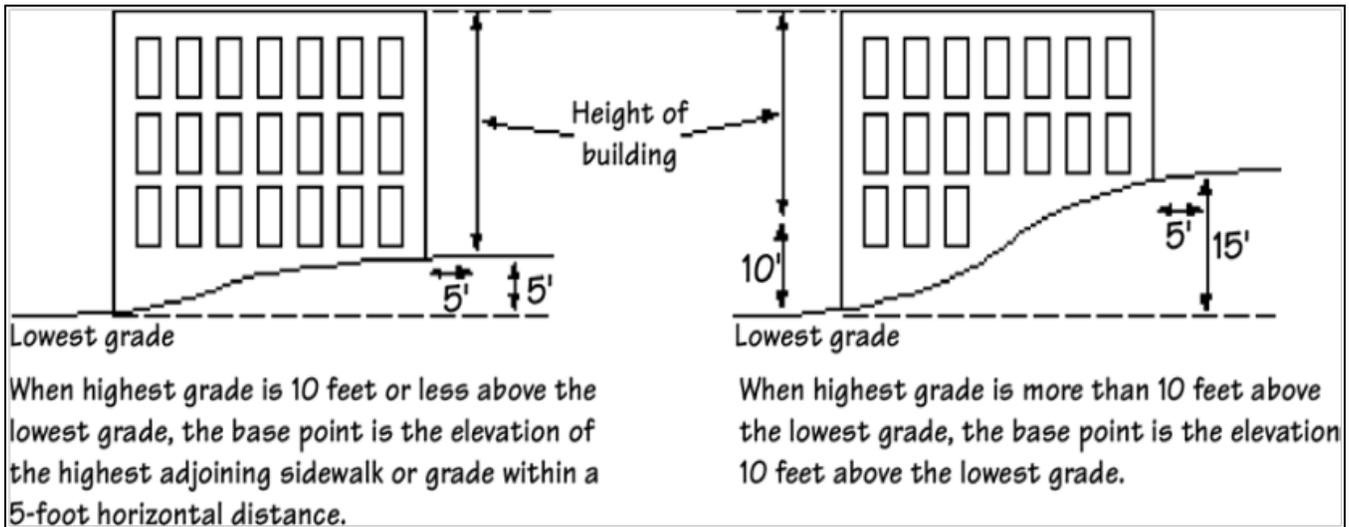


FIGURE 22-2. Measuring height of buildings that have a portion below grade.

[Ord. 5742, 7/14/10]

Hobby: An activity or interest pursued outside one's regular occupation and engaged in primarily for pleasure. [Ord. 5832, 4/9/14]

Home Business: A business carried on within a dwelling or residential accessory building 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. Home businesses do not include hobbies as defined in this Code. [Ord. 5832, 4/9/14]

Homeless Shelter: A facility providing temporary housing to indigent, needy, homeless, or transient persons and that may provide ancillary services such as counseling, vocational training. See Section 22.170, Community Services. [Ord. 5742, 7/14/10]

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.

Hospice Care: Any coordinated program of home care with provision for inpatient care for terminally ill patients and their families. [Ord. 5742, 7/14/10]

Hospice Care Facility: A freestanding licensed hospice facility that provides palliative and supportive medical and other health services to meet the needs of terminally ill patients and their families. [Ord. 5742, 7/14/10]

Hotel (Motel, Motor Hotel, Tourist Court): A building or group of buildings with six or more guest rooms that provides lodging to the public for compensation.

Household: Person or persons who live together in one dwelling unit [Ord. 5742, 7/14/10]

Housing: See Dwelling types. [Ord. 5742, 7/14/10]

Impervious surface: An improved, altered, or constructed surface which generally prevents infiltration of surface water including, but not limited to, paved streets, graveled or paved areas such as parking lots and driveways, oiled, macadam or other treated surfaces, walkways, roof surfaces and patios. [Ord. 5842, 1/01/15]

Indoor Recreation Area: A room or rooms within an enclosed building designed and used for recreational purposes by the public and/or occupants of a residential development. Activities provided 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. See ADC 22.100.

Infill: Development of land that has been bypassed, remained vacant, and/or is underused in otherwise built-out areas, or the intensification of an existing use due to redevelopment. Generally, water, sewer, and streets and other public services are readily available. [Ord. 5742, 7/14/10]

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 overnight, 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.

[Ord. 5742, 7/14/10]

Land Division: The legal creation of a lot or parcel of land through the process of subdividing or partitioning land per ORS 92.010; or through recording a condominium plat as defined in ORS Chapter 100.; or if there were no applicable planning, zoning or land division ordinances or regulations, by deed or land sales contract.

[Ord. 5742, 7/14/10]

Landscaping: The term “landscaping” includes ground cover, trees, grass, bushes, shrubs, flowers, and garden areas and ornamental concrete or stonework areas and artificial turf or carpeting.

[Ord. 5742, 7/14/10]

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 that abuts a street, alley, or other appropriate means of ingress and egress.

Lot: A single unit of land that is created by a subdivision. 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,” “parcel,” and “property” may be used interchangeably in this Code to refer to a separate property regardless of its derivation.

[Ord. 5742, 7/14/10]

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.

[Ord. 5768, 12/7/11]

Lot, Coverage: That portion of a lot which, when viewed directly from above, would be covered by a building, or structure, pavement, or any area not vegetated or in a naturally permeable state. 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]

Lot, Depth: The horizontal distance from the midpoint of the front lot line to the midpoint of the rear lot line excluding any “panhandles.”

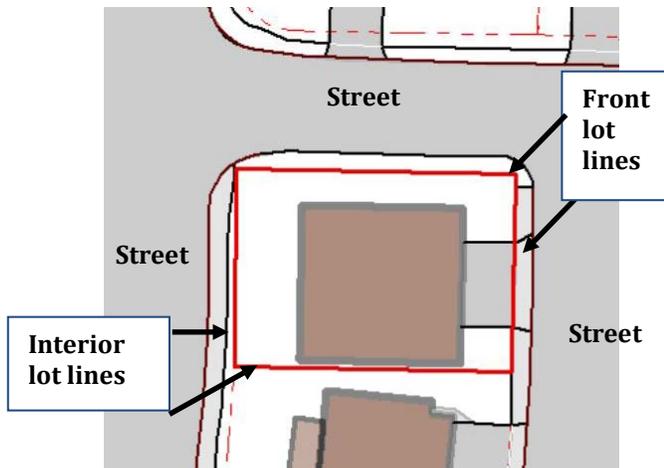
Lot Line: A line dividing one lot from another or from a street, alley or any public place. Any property line bounding a lot.

[Ord. 5742, 7/14/10]

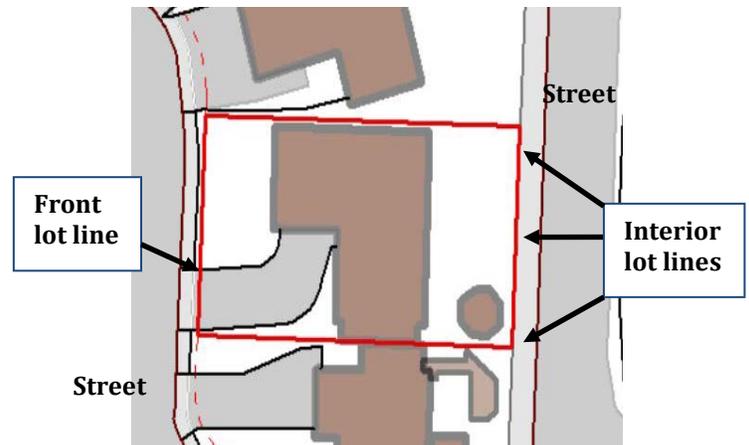
Lot Line, Front: A lot line abutting any street. For the purpose of determining setback requirements, all sides of an interior lot or corner lot adjacent to a street shall be considered frontage and setbacks shall be provided as required. For triple frontage lots, one frontage may be considered an interior lot line for calculating setbacks, as long as two frontage lines intersect. For double frontage lots, the lot line abutting the street on the back side of the house may be considered an interior lot line for setback purposes. See the following examples.

[Ord. 5768, 12/7/11]

Example 1: Triple Frontage Lot



Example 2. Double Frontage Lot



[Ord. 5742, 7/14/10, Ord. 5768, 12/7/11]

Lot Line, Interior: Any lot line other than a front lot line.

Lot 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.

Main Entrance: The entrance to a building that most pedestrians or customers are expected to use. Generally, each building has one main entrance. [Ord. 5742; 7/14/10]

Manager: The City Manager of the City of Albany or his designee or person otherwise appointed by the City Council.

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 that 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 11 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 adopted 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.

Multiple Family: See Dwelling, Multiple Family.

Nonconforming Building: Any building that lawfully existed prior to the effective date of this Code but due to the requirements adopted herein, no longer complies with the height, yard, area, and/or coverage regulations, off-street parking requirements, or other provisions of this Code.

Nonconforming Development: Any physical development of land that 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 lot or parcel of land that lawfully existed on the effective date of this Code or that was 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 that 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 districts by Conditional Use Permit but were existing on the effective date of this Code without a Conditional Use Permit shall also be considered as nonconforming.

OAR: Oregon Administrative Rules. [Ord. 5764, 12/1/11]

Opacity: The effectiveness of a buffer or screening method expressed as the percentage of vision that is blocked. [Ord. 5742, 7/14/10]

ORS: Oregon Revised Statutes. [Ord. 5764, 12/1/11]

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 the 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: When used in relationship to real property, “owner” means the legal owner of record or, when there is a recorded land sales contract in force, the purchaser of the land.

Parcel: a single unit of land that is created by a partition of land. [Ord. 5742, 7/14/10]

Parking Area, Private: Privately or publicly owned property, other than streets and alleys, on which parking spaces and travel aisles 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 and travel aisles 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 approved access for one standard-size automobile.

Partition: The process of dividing a single property to create not more than three parcels of land that does not include the creation of a road or street within a calendar year for sale, taxation, development, or other purpose. [Ord. 5742, 7/14/10]

Pedestrian Way/Walkway: Any paved public or private route intended to provide pedestrian access to adjacent streets and properties. [Ord. 5742, 7/14/10]

Person: A person, his heirs, executors, administrators, or assigns, and also includes a firm, partnership, or corporation, it's or their successors or assigns, or the agent of any of the aforesaid and the singular includes the plural.

Pervious Pavement: A range of sustainable materials and techniques for permeable pavements that allow the movement of stormwater through the surface. Types of pervious pavement include porous asphalt, pervious concrete and paving stones. [Ord. 5842, 1/01/15]

Pharmacy: A business primarily devoted to the sale of prescription drugs, medicines, supplies and equipment related to health needs. [Ord. 5742, 7/14/10]

Planned Development (PD): A tract of land developed under provisions of this Code that provides for flexibility and innovation in design and placement of structures. The terms Planned Development (PD) and Planned Unit Development (PUD) may be used interchangeably. See Article 11 for Planned Development Standards. [Ord. 5742, 7/14/10]

Plat, Final: A final drawing or map and other writing containing all the descriptions, locations, specifications, dedications, provisions and information concerning a subdivision or a partition and includes a final subdivision plat, replat or partition plat. See ORS 92.010. [Ord. 5742, 7/14/10]

Post-construction stormwater quality: The quality of stormwater runoff, after construction is complete, from a development or redevelopment project. [Ord. 5842, 1/01/15]

Post-construction stormwater quality facility: Permanent stormwater infrastructure incorporated into a development or redevelopment project designed to reduce pollutant loads and runoff velocity from impervious surfaces and which may also include improvements constructed to reduce the quantity of stormwater runoff leaving the site. [Ord. 5842, 1/01/15]

Primary Structure: A structure or combination of structures of main importance or function on a site. In general, the primary use of the site is carried out in a primary structure. The difference between a primary and accessory structure is determined by comparing the size, placement, similarity of design, use of common building materials, and the orientation of the structures on a site. [Ord. 5742, 7/14/10]

Primary Use: An activity or combination of activities of chief importance on the site. One of the main purposes for which the land or structures are intended, designed, or ordinarily used. A site may have more than one primary use. [Ord. 5742, 7/14/10]

Private Driveway: A driveway to serve residential premises.

Property: When used in this Code, property refers to a piece of land, lot or parcel and all of the structures thereon. "Lot," "parcel," and "property" may be used interchangeably in this Code to refer to a separate property regardless of its derivation. [Ord. 5742, 7/14/10]

Property Line: See Lot Line. [Ord. 5742, 7/14/10]

Public Need: A conclusion based on presentation of factual evidence that demonstrates that a particular request for a change is in the best public interest for economic, social, and environmental reasons.

Qualified Professional: A person with extensive knowledge in the relevant subject matter, and whose combination of training, education, certification and experience qualify him/her to perform services of a professional nature and to make credible findings and recommendations. The Director has the authority to accept or reject the qualifications of a professional if they are not deemed suitable to the relevant subject matter. [Ord. 5764, 12/1/11]

Ramada: A structure having a roof extending over a manufactured home or manufactured home space designed for protection of the manufactured home from sun and rain.

Reasonably Feasible: Means that, under the circumstances, reasonable efforts have been undertaken to comply with the regulation, that the costs of compliance clearly outweigh the potential benefits to the public or would unreasonably burden the proposed project, and reasonable steps have been undertaken to minimize any potential harm or adverse impacts resulting from noncompliance with the regulation. [Ord. 5764, 12/1/11]

Redemption Center: An indoor retail facility approved by the Oregon Commission as provided for in ORS 459A that facilitates the return of empty beverage containers and serves dealers of beverages, at which any person may return empty beverage containers and receive payment of the refund value of such beverage containers. [Ord. 5831, 2/26/2014]

Replat: The act of platting the lots, parcels and easements in a recorded subdivision or partition plat to achieve a reconfiguration of the existing subdivision or partition plat. [Ord. 5742, 7/14/10]

Residential Care Facility: 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. See Section 22.260, Residential Care or Treatment Facility and ORS Chapter 443. [Ord. 5742, 7/14/10]

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, 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. See Section 22.170, Vehicle Service, Quick.

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: The minimum distance required between a structure or parking area and an abutting property line. Some zones have a maximum setback where a building may be located no farther from a property line. [Ord. 5742, 7/14/10]

Setback Line: The innermost line of any required yard area on a lot that is parallel to the corresponding property line. [Ord. 5742, 7/14/10]

Shelter, Temporary: A structure providing temporary shelter or sanctuary to homeless or abused persons. The shelter may or may not have food preparation or shower facilities. The shelter is managed by a public or non-profit agency to provide shelter, with or without a fee, on a daily basis. Shelters are considered a Community Facility, Section 22.340. [Ord. 5742, 7/14/10]

Single-Room Occupancy Dwellings: A building, that has separate sleeping and living quarters for four or more individuals that provides a common kitchen facility. For purposes of this Code, density shall be calculated as one unit for every 2 rooms or fraction thereof. [Ord. 5801, 2/13/13]

Solar Systems: Active or indirect solar heating or collector system that collects solar radiation and transforms it into thermal, chemical, or electrical energy. A passive solar system is any method that requires no external collector system to 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. [Ord. 5742, 7/14/10]

Special Purpose District: Overlay zone designations that set forth specific land use regulations in addition to the standards of the underlying base 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 next floor 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 6 feet above grade, such basement or cellar shall be considered a story.

Story, Half: A basement or cellar, except as provided in this Code, that has less than 6 feet of its height above grade.

Street: A public thoroughfare or right-of-way dedicated, deeded or condemned; other than an alley, that 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 property line abutting a street.

Structure: That which is built or constructed, including buildings, decks, fences, towers, flag poles, signs, and other similar objects. Structure does not include at grade paved areas or vegetative landscaping materials. [Ord. 5742, 7/14/10]

Subdivide Land: To divide a land into four or more lots within a calendar year. [Ord. 5742, 7/14/10]

Subdivision: Either an act of subdividing land or an area or a tract of land into four or more lots as defined in this Code.

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. See Article 10, Sections 10.420-10.510.

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. Townhouses are an attached single-family dwelling and are also called rowhouses and zero-lot line houses. [Ord. 5742, 7/14/10]

Trailer/Travel Trailer: A portable structure capable of being towed or driven, having a width of less than 10 feet, and that is designed to be used as a temporary dwelling unit.

Travel Aisle: An unobstructed way that provides vehicles ingress and egress to parking spaces. [Ord. 5742, 7/14/10]

Triplex: A single structure containing three dwelling units. [Ord.5801, 2/13/13]

Unbuildable Land: Property that due to its size, shape, frontage, location, topography, environmental constraints, easements, or regulations cannot be developed with site improvements even if assembled with adjacent property under the same ownership. [Ord. 5764, 12/1/11]

Undeveloped Property: Land in its natural state with no previous development activities or manmade changes. [Ord. 5764, 12/1/11]

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.

Vocational or Trade School: A school established to teach business trades such as industrial, electrical, mechanical, clerical, managerial, accounting, data processing, and other trade technology or skills. [Ord. 5742, 7/14/10]

Water-Dependent: A use or activity that 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 that 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 that are not directly dependent upon access to a water body, but that 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 used motor vehicles, trailers, machinery and/or building materials, or parts.

Yard: Any open space that is required, created, or is maintained on a lot and 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, that is not a front yard and that 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.

NATURAL RESOURCE OVERLAY DISTRICT DEFINITIONS

22.500 Natural Resource Overlay District Definitions. The following definitions are specific to the Natural Resource Overlay Districts in Article 6.

Conflicting Use: A land use or other activity reasonably and customarily subject to land use regulations that could adversely affect a significant Goal 5 resource.

Development Site Area: The buildable portion of a property where the development of structures and other impervious surfaces is proposed.

ESEE Analysis: An analysis of economic, social, environmental, and energy consequences, positive or negative that could result from a decision to allow, limit, or prohibit a conflicting use per OAR 660-023-0040.

Fill or Filling: The deposition of organic or inorganic material in any amount, including the temporary stockpiling of fill material, by human action.

Function: A characteristic action or role provided by a resource. Wetland functions include fish and wildlife habitat, water quality improvement, hydrologic controls, and flood damage reduction. Riparian functions include water quality, thermal regulation, flood management, and wildlife habitat.

Impervious Surface: A surface that cannot be penetrated by water, such as pavement, rock, or a rooftop, and thereby prevents infiltration and generates runoff.

Invasive Species: The Oregon Invasive Species Council defines an invasive plant as a non-native species whose introduction does, or is likely to, cause economic or environmental harm or harm to human health. While not all non-native species are invasive, the few that are categorized as such threaten the habitat of native plants. An invasive plant can spread rapidly and displace other desired vegetation. The Oregon Invasive Species Council maintains a list of recognized invasive plants.

Local Wetlands Inventory (LWI): A systematic survey of an area to identify, classify, and map the approximate boundaries of wetlands over one half acre in size within the urban growth boundary, and supporting documentation required by OAR 141-086-0200. The inventories are approved by Oregon Department of State Lands (DSL) and adopted by the City. Any subsequent delineations or determinations approved by the DSL amend the LWI by reference.

Native Vegetation: A plant species that is indigenous to the area and identified as naturally occurring and historically found within the City of Albany. Lawn is not considered native vegetation regardless of the species used.

Natural Bottom: When a water crossing does not have a hard or paved surface. Naturally occurring soils and plants are at the bottom of the waterway.

Non-native Vegetation: A plant species that is not indigenous to the area.

Noxious Weeds: They include plants that are injurious to public health, agriculture, recreation, wildlife or any public or private property. The State noxious weed list is the official list for the State of Oregon. Maintained by the Oregon State Weed Board and Noxious Weed Control Program, the weed list is part of the noxious weed policy and classification system. The State noxious weed list is used to prioritize activities at the state level and provide direction for development of county weed lists, local control programs and guide the use of limited resources.

Ordinary High Water Mark (OHW): A line on the bank to which the high water ordinarily rises each year and is the waterward limit of upland vegetation and soil (Source: ORS 274.005). It is generally recognizable by a visible change in the soil and vegetation.

Reference Site: A specific sampling site selected for its relatively undisturbed conditions. It is representative of the expected biological integrity of other localities along or near the same waterbody.

Riparian Corridor: A Goal 5 resource that includes the water areas, fish habitat, riparian areas, adjacent wetland and upland areas that serve to protect water quality and the habitat functions of the water body.

Safe Harbor Goal 5 Process: An optional course of action that satisfies certain requirements under the standard Goal 5 process. For example, a jurisdiction may choose to identify “significant” riparian corridors using the safe harbor criteria outlined in OAR 660-23-0090(5) rather than follow the general requirements of determining “significance” in the standard Goal 5 process outlined in OAR 660-023-0030(4). Similarly, a jurisdiction may adopt a wetlands ordinance that meets the safe harbor requirements of OAR 660-023-0100(4)(b) in lieu of following the ESEE decision process in OAR 660-023-0040.

Sensitive-Critical Species: A species classification created under Oregon’s Sensitive Species Rule (OAR 635-100-040). The classification is applied to Oregon’s naturally reproducing fish and wildlife species, subspecies, or populations that are facing one or more threats to their population and/or habitats. The subcategory critical has the following meaning: “Critical” sensitive species are imperiled with extirpation from a specific geographic area of the state because of small population sizes, habitat loss or degradation, and/or immediate threats. Critical species may decline to a point of qualifying for threatened or endangered status if conservation actions are not taken.

Significant Wetland: A wetland identified in the Local Wetland Inventory and determined to be locally significant wetlands using the criteria in OAR 141-86-0300. These criteria include fish or wildlife habitat, hydrologic control, water quality improvement functions, presence of rare plant communities or sensitive, threatened or endangered species, or direct water connection to habitat for salmon species.

Significant Wildlife Habitat Areas: A land or water area where sustaining the natural resource characteristics is important or essential to the production and maintenance of aquatic life or wildlife populations that are listed by the state or federal governments, and shown on Plate 3 of the Albany Comprehensive Plan.

Standard Goal 5 Process: The standard Goal 5 process is outlined in OAR 660-023-0030 through 660-023-0050 and consists of procedures and requirements to guide local planning for all Goal 5 resource categories. This division also provides specific rules for each of the fifteen Goal 5 resource categories (see OAR 660-023-0090 through 660-023-0230). In some cases this division indicates that both the

standard and the specific rules apply to Goal 5 decisions. In other cases, this division indicates that the specific rules supersede parts or all of the standard process rules (i.e., local governments must follow the specific rules rather than the standard Goal 5 process). In case of conflict, the resource-specific rules set forth in OAR 660-023-0090 through 660-023-0230 shall supersede the standard provisions in OAR 660-023-0030 through 660-023-0050.

Upland: Land not characterized by the presence of riparian area, water bodies or wetlands.

Wetland: Those areas inundated or saturated by surface or ground water at a frequency and duration sufficient to support, and which, under normal circumstances, does support, a prevalence of vegetation typically adapted for life in saturated soil condition.

Wetland Boundary Delineation: A determination of wetland presence that includes marking the wetland boundaries on the ground and/or on a detailed map prepared by professional land survey or similar accurate methods. A delineation approved by the Division of State Lands is required for decision-making.

Wetland Determination: An identification of an area as wetland or non-wetland. A determination that is approved by DSL is required for decision-making.

[Ord. 5764, 12/1/11]