JOINT CITY COUNCIL & PLANNING COMMISSION
AGENDA

Monday, June 10, 2019
5:15 p.m.
Council Chambers, City Hall
333 Broadalbin Street SW

1. CALL TO ORDER

2. PLEDGE OF ALLEGIANCE

3. ROLL CALL

4. SCHEDULED BUSINESS
   a. Project Update & Overview
   b. Presentation / Key Issues (see attached memorandum)
   c. Discussion of Other Issues of Concern to Planning Commission and/or City Council
   d. Next steps

5. ADJOURNMENT

The location of this meeting is accessible to the disabled. If you have a disability that requires accommodation, please notify the City Manager's Office in advance of the meeting: CMadmin@cityofalbany.net | 541-704-2307 or 541-917-7519.
MEMORANDUM

Summary of Draft Code Amendments: Public Review Draft #1.1  
Two-track System, Multifamily Housing, Infill & Other Housing Types  
Albany Development Code Amendments Project

DATE       May 31, 2019  
TO          City of Albany Planning Commission and City Council  
FROM        Cathy Corliss, Angelo Planning Group  
CC           David Martineau and Jeff Blaine, City of Albany  
             Ben Weber and Matt Arnold, SERA Architects

INTRODUCTION

Since September 2018, the project team has been working with the Task Force and community on Phase 1 of the Albany Development Code Update Project.

The project objectives for Phase 1 are to:

- Establish a “two-track system” for land use review
  - Clear and objective track that provides certainty and a faster review
  - Discretionary track that provides flexibility and opportunities for creative solutions
- Provide clear and objective standards for residential development

The attached Public Review Draft #1.1 implements these objectives and provides an opportunity to move the discussion from general code concepts to specific code language. As such, it should be considered a starting place for discussion.

Draft 1 vs Draft 1.1. Draft 1 was reviewed by the Task Force at its May 15th meeting. Draft 1.1 includes a limited number of changes that were made subsequently, primarily for clarification and consistency. Draft 2, which will follow this worksession, must be completed at the end of June to coincide with the completion of Phase 1. However, additional refinements to the Phase 1 amendments are possible as adoption is not scheduled until the end of Phase 2 in June 2020.

Clear and objective standards have definitions and/or measurement that provide for consistent interpretation of the standard. In other words, any two people applying the same standard to a development would get the same result, and there is no need for the reviewer to use their discretion in applying the standard.
OVERVIEW OF AMENDMENTS

Draft 1.1 identifies potential amendments to the articles listed below. The amendments in Draft 1.1 are shown in track changes: proposed new text is in red bold underlined and deleted text is shown in strikeout. Commentary boxes, which are intended to serve as a staff report have been added to provide background and explanations.

The amendments are summarized very briefly below. There are four policy items which we would like to discuss at the worksession. These are described beginning on page 5 of this memorandum and the related code items are shown in blue italics below.

ARTICLE 2 REVIEW CRITERIA
  • Expanded adjustment review to serve as a “flexible” track in two-track system
    o Allows modification to the design standards in Article 8 and the buffering and screening standards of Article 9
    o No limit on the size of the adjustment or the number of adjustments
    o The applicant must show that the adjustment equally or better meets the purpose of the regulation to be modified, but doesn’t necessarily have to prove that there is something unique in the physical circumstances of the site
  • New Type I Site Plan Review (SPR)
    o For residential developments that meet all of the clear and objective standards
    o Provides a process through which staff can review the application to confirm that the clear and objective standards are satisfied
  • Current adjustment review process renamed “Minor Variances” and moved to ADC 2.692 – 2.696
  • “Variances” renamed “Major Variances”

ARTICLE 3 RESIDENTIAL ZONING DISTRICTS
  • Schedule of Permitted Uses updated to indicate those residential applications that may qualify for new Type I SPR
  • Height Transition Note 15 deleted as redundant to Note 6, which refers to height transition in Article 8 (see Discussion Item #1 on page 5 of this summary)
  • Bonus Provisions section amended to clarify how the density bonuses and transfers are determined
  • Accessory structure standards amended to clarify that garage access means vehicular access from an alley
  • Alternative Setbacks revised to be non-discretionary
  • Parking and Other Restrictions in Setback or Yard Areas reorganized and reworded to improve clarity

ARTICLE 4 COMMERCIAL AND INDUSTRIAL ZONING DISTRICTS
  • Schedule of Permitted Uses updated to indicate those residential applications that may qualify for new Type I SPR
• Zero Lot Line section amended to allow the required easement to be less than 6 feet in width if the required setbacks are less than 6 feet
• Parking Restrictions section revised to simply refer to Section 3.250

ARTICLE 5 MIXED USE ZONING DISTRICTS
• Schedule of Permitted Uses updated to indicate those residential applications that may qualify for new Type I SPR
• Standard discouraging dwelling units at the street level in MS and ES districts deleted
• Accessory structure standards amended to clarify that garage access means vehicular access from an alley
• Alternative Setbacks revised to be non-discretionary
• Zero Lot Line section amended to allow the required easement to be less than 6 feet in width if the required setbacks are less than 6 feet
• Parking Restrictions section revised to simply refer to Section 3.250

ARTICLE 8 DESIGN STANDARDS - SINGLE-FAMILY HOMES
• Purpose - Deleted the overall purpose for the Single-Family Homes section and added purpose statements to sections 8.130, 8.133, and 8.140
• Home Orientation - Added subsection to clarify that when the home is on a corner lot or has more than one public street frontage, the applicant can choose on which frontage to meet the standards
• Street-Facing Windows – Amended to allow windows in both garage and pedestrian doors to count toward the 15% minimum coverage requirement
• Infill Standards – Amend to simplify and make them easier to administer (see Discussion Item #2 on page 7 of this summary)

ARTICLE 8 DESIGN STANDARDS - MULTIPLE FAMILY DEVELOPMENT
• Recreation and Open Space Areas section revised to add more specificity, in order to make the requirements clear and objective, as well as more flexibility for developers (see Discussion Item #3 on page 9 of this summary)
• Maximum Setback and Orientation standards amended to provide two options: the “Street Orientation” option (which is largely similar to the existing standards in ADC 8.240 and 8.260), and the “Enhanced Landscaping” option. (see Discussion Item #4 on page 11 of this summary)
• Functional Design and Building Details Amendments
  o Section 8.250 Functional Design and Building Details deleted
  o Menu based approach in Section 8.255 (which currently applies only to the downtown zones) applied to all multi-family development
  o Purpose statement in 8.255 updated
  o Street-Facing Windows - multi-family development outside of the downtown zones would require 15% instead of 25%, which is required in downtown zones
• Amendments to the standards for transitions to lower density uses (see Discussion Item #1 on page 5 of this summary)
• Pedestrian Connections Amendments
  o Proposed changes clarify which areas of the site require pedestrian connections
  o Standards for walkways, crossings and pedestrian connections are included
  o Connections are required every 200 feet of street frontage and to adjacent parks, schools, retail areas, bus stops, and other pedestrian ways

• Vehicle Circulation System Amendments
  o Requirements for internal vehicle circulation systems to mimic public streets and block patterns have been deleted
  o Design standards for interior travel aisles have been added

• Parking Amendments
  o Most of the Parking section has been deleted as the standards are redundant to other standards
  o Remaining standard requiring that parking be within 100 feet of building entrances has been amended to only apply to 50% of the units

ARTICLE 8 DESIGN STANDARDS - SUPPLEMENTAL STANDARDS IN VILLAGE CENTERS
• More detail added to the purpose statement to provide adequate guidance for an Adjustment
• Minimum requirement for façade materials reduced to 75% (from the existing 100% requirement)
• Added more options for roofline treatments to meet the standard
• Creation of alleys remains an encouraged, but not required feature

ARTICLE 9 ON-SITE DEVELOPMENT AND ENVIRONMENTAL STANDARDS
• Landscaping – new purpose statement added
• Tree Protection
  o Director already has the ability to attach conditions so subsection (4) deleted
  o Subsection (5) is proposed to be moved from a subsection to a new section (9.206)
  o NOTE: The Project Team will be working with the Tree Commission to develop clear and objective Tree Protection standards. These potential changes were not identified in time to be included in Draft 1.1 but are expected to be available in Draft 2.
• Buffering and Screening Amendments
  o New purpose statement added
  o Type II Adjustment to allow director discretion
  o The project team explored amendments to Table 9-4 below which would regulate buffers by abutting district, rather than abutting use. Such amendments would have made the Code easier to apply but would change some outcomes significantly

NOTE: Minor amendments may be needed to other articles to bring them into conformance with changes to these articles; however, these articles represent the focus of the Phase 1 work. Additional amendments to these articles and others will also likely occur as a result of Phase 2
(Commercial development and other Non-Residential Development) which is scheduled for July 2019 through June 2020.

WORKSESSION DISCUSSION ITEMS

There are four key policy areas that we would like to discuss with the Planning Commission and City Council at the worksession in order to get further guidance. These items will be the focus of our presentation at the worksession. However, we realize that there are likely many more questions and concerns with the draft amendments and will reserve time in the agenda for other issues.

Discussion Item 1: Single-family / Multifamily Transition

While preserving single family neighborhoods is a priority, a few challenges with the existing transition standards were identified in the Audit.

The current standard in 8.270 applies when a multi-family building is proposed abutting a single-family home. The multi-family buildings must be set back at least 1 ft for each foot in building height from the property line. The current standards create uncertainty for the developer because they apply even if the house is built after a developer buys the adjacent land for apartments. The setbacks can also be quite large (1 ft for each foot in building height) resulting in inefficient use of land and potentially keeping the City from achieving planned densities in its multifamily zones.

DRAFT 1.1. For the purposes of Draft 1.1, the following amendments were proposed:

Applicability. Amended requirements would apply the additional transition setback when the multifamily development is abutting single-family zones (no matter what is developed on the abutting site), and to pre-existing single-family homes in all other districts except Neighborhood Commercial (NC), Community Commercial (CC), Regional Commercial (RC), Light Industrial (LI), Heavy Industrial (HI) or Industrial Park (IP). A majority of Task Force members supported this concept; however, among community survey respondents (17) responses were mixed. Also, keep in mind that a different standard in Table 3-1, which requires buildings in the RM and RMA zones with more than three floors to have a setback of 10 feet plus 3 feet for each story over 3 floors, would continue to apply.

The amendments would apply the transition setback only to examples a – f in the graphic on the following page. Example e, which is represents a new house in a non-single-family residential zone.
that is built after the code changes take effect, would no longer trigger the transition setback requirement for adjacent multi-family developments that might be built in the future.

**Cap on transition setback.** For the purposes of the first draft of the code amendments, the maximum transition setback has been capped at 30 feet—a concept that was also supported by most Task Force members (9 supported capping the setback, and 7 of these specifically supported a 30-foot cap). However, this idea was supported by only four out of 17 survey respondents.

**Placement of smaller-scale buildings and vehicle areas.** The requirement for smaller-scale buildings to be sited adjacent to single-family districts has also been deleted, since it was worded as a discretionary guideline (“Smaller-scale buildings *should* be sited...”) and is redundant to the transition setback requirement. The prohibition on vehicle areas adjacent to single-family homes has also been deleted, since it was noted that it may be preferable to have screened parking adjacent to a single-family home, as compared to a multi-family building. However, active recreation areas, loading areas and dumpsters would still not be allowed between multiple-family buildings and abutting pre-existing single-family homes.

**Discussion Item 1 Questions:**

- Do the proposed changes to applicability improve certainty for multifamily developers while still protecting single-family neighborhoods?
- Does the proposed cap of 30 feet on the setback allow for more efficient use of multi-family land while still protecting single-family neighborhoods?
- Do the changes to standards for the placement of smaller-scale buildings and vehicle areas provide clear and objective standards that will help ensure compatibility?
Discussion Item 2: Infill Standards

The Additional Standards for Infill and Redevelopment in Section 8.140 currently apply to all new houses, manufactured homes, duplex, and attached houses sited as infill development, except in the HD, DMU, CB, and WF zones. These standards also apply where a home is removed to make way for a new house, manufactured home, duplex, and attached house. As currently defined, “infill development” means a dwelling that is proposed:

- On land that is zoned for residential use
- Where at least 75 percent of the abutting parcels have a dwelling, but not counting any parcel that is too small for a residence and any parcel that is large enough that it can be divided into four or more lots.

Once a proposed dwelling is defined as “infill”, it is subject to several additional requirements which create uncertainty and complexity for the project and can add to the cost. Requirements include:

- Submittal of information about development on lots within 150 feet on either side of the subject property.
- Special front setbacks which may be more (or less) restrictive than the front setback in base zone depending on the average of homes within 150 feet.
- Required carport or garage depending on average of homes within 150 feet.
- Height limit which may be more restrictive than the height limit in the base zone depending on the height of the homes on either side of the subject site.

The current standards are confusing to applicants and have been difficult to administer. For example, there is confusion over how to handle corner properties or lots that lie within 150 feet of the subject parcel but are located in the next block over. When applying the standards there are questions about how to calculate garages on properties within 150 feet if the garage is within 150 feet but the home itself is further than 150’ or if the garage has been converted to living space.

Based on the current code, development on Parcel A would be Infill and development on Parcel B would not.
DRAFT 1.1. For the purposes of Draft 1.1, the following amendments were proposed:

For the Infill and Redevelopment section below, there were mixed responses regarding whether these standards should be retained as-is, modified to make them easier to administer, or deleted altogether. Staff also expressed support for deleting infill standards but expressed concerns about how that might impact historic districts. Among Task Force members 11 out of 12 questionnaire respondents indicated that this section should be deleted. However, among community survey respondents, 80% indicated that the standards should be either retained as-is or modified. Direction from Planning Commission and City Council was to retain the standards in the first draft, but to simplify and clarify them so that they’re easier to apply.

Applicability. The proposed approach starts by providing a simpler definition for “infill.” Public Review Draft #1.1 would apply the infill standards to single-family residential zones or the HM zone only within designated historic districts. Because the historic districts include well-established neighborhoods that are mostly built out, the exception related to parcels that are too small for a residence or large enough to be divided into four or more lots is proposed to be deleted.

Submittal requirements. In order to simplify the submittal requirements, the amended Code would require that applicants provide information about the dwellings on either side of the subject property rather than all of those within 150 feet. The rationale for this change is that consistency is most important with the immediately neighboring properties.

Home setback standards. In order to simplify these standards, the amended Code only takes into account the dwellings on either side of the subject property rather than all of those within 150 feet. The standard would require that an infill house be set no more than five feet closer to the street than the closest home, and no more than five feet farther from the street than the farthest home when compared with existing front setbacks of homes on abutting parcels facing the same street. While the proposed change would be easier to administer, it could be somewhat more restrictive than the current regulations. For example, under the current regulations, if a house two-doors down has an unusually small front setback, the infill house can be even closer to the street.

Garage and Carport Requirements. In order to simplify these standards, the amended Code only takes into account the dwellings on either side of the subject property rather than all of those within 150 feet. Rather than using a discretionary standard requiring the garage or carport to be “like materials and color as the home,” the revised standard simply precludes the use of temporary or portable garages or carport to meet this standard. The standard establishing setbacks for garages and carports based on other properties within the vicinity (existing subsection (iii)) could lead to inadequate setbacks that don’t allow parking in the driveway and cause vehicles to overhang the sidewalk. Therefore, this standard is proposed to be deleted.
Building Height requirements. The existing standard already considers just the houses on either side of the subject site. The proposed amendment uses more precise language that is consistent with changes to the other requirements in this section.

Discussion Item 2 Questions:

- Does applying the Infill Standards to only within that portion of the Hackleman-Monteith District (HM) that is within a Historic District help simplify and clarify requirements or should the infill standards apply to other neighborhoods as well?
- Should carports be allowed (or required) in historic districts? Should garages be required? What if there is not enough room to construct a garage? Should that be justification for an Adjustment?
- Only considering the houses on either side of the infill house, rather than within 150 feet, when applying the setback and garage/carport standards simplifies the standards, but does it still ensure compatibility? Does it make the standards too strict? How should corner houses be taken into account?

Discussion Item 3: Recreation and Open Space for Multifamily

Currently, for multi-family projects of 10 or more units, the Section 8.220(1) requires common open space at a ratio of 0.25 square feet for each 1.0 square feet of living space (e.g., a 20-unit project with 700 square feet units would have to provide 3,500 square feet of common open space). Within this common open space, the development must include one or more amenities. The Code includes a list of amenities, but some are not very well defined, and some (e.g., swimming pools and community centers) cost much more to provide than other (e.g., natural areas).

Multi-family developments with ten or more units (excluding one-bedroom and studio units) are currently required by Section 8.220(2) to designate one or more children’s play areas, each with a minimum size of 20 feet by 20 feet. The play area(s) can be located within the required common open space, but don’t count as one of the required amenities and some of the siting requirements are confusing and hard to apply.

All apartments must also have between 80 and 96 square feet of private open space each, depending on whether they are above-grade (upper units) or at-grade (ground-floor units). Section 8.230 also includes minimum dimension and privacy requirements for these private open spaces. Having private open space for each unit is a desirable amenity, but large balconies can be difficult to build and maintain on upper floors, and it may not be possible or desirable to provide a back patio for every ground-floor unit.
DRAFT 1.1. For the purposes of Draft 1.1, the following amendments were proposed:

Generally speaking, the Recreation and Open Space Areas requirements have been consolidated, standards have been revised to add more specificity and to make the requirements clear and objective and additional flexibility has been provided. One of the potential code concepts to implement a points system (or similar) to quantify amenities and to require less total open space if higher-value/higher-quality amenities are provided. This idea was supported by the Task Force (all 11 questionnaire respondents supported it). We explored a points system, but eventually determined that it was too difficult to calibrate, too complicated to implement, and that it wouldn’t work with the overall open space area requirement. Instead, we propose clarifying the list of potential amenities, and allowing a credit toward the minimum open space requirements if developments include “higher value” recreation amenities.

Common Open Space. The requirement was changed from a percentage of living space (0.25 square feet of open space for each 1.0 square feet of living space) to a percentage of the site area (15% of total site area). This should be simpler to apply and should make it more feasible to develop higher-density multi-family developments. The required common open space areas must be entirely improved with one or more of the listed amenities. There is a new credit for high value amenities that would let a developer reduce the area of the open space if they spend more money on outdoor recreation facilities.

Children’s Play areas. Multifamily developments with more than ten units (excluding one-bedroom and studio units) would still be required to provide children’s play areas, but they could be counted as one of the required common open space amenities. New standards ensure that required play areas provide a play structure and that the equipment meets minimum standards.

Private open space. The requirement to provide balconies and patios has been reduced from 100% of multi-family units to 80% of units. The minimum area requirement was reduced from 96 sf to 80 sf for at-grade units and from 80 sf to 72 sf for above-grade units. This was supported by a majority of Task Force members. In the community survey, only 3 out of 15 respondents indicated that all apartments should be required to have a private patio or balcony.

Discussion Item 3 Questions:

• Does the proposed approach succeed in improving clarity and certainty, while providing increased flexibility?
• Does the suggested common open space credit based on the dollar value of outdoor recreation amenities provide a clear and objective means recognizing and rewarding “high value amenities”? Should any outdoor amenities be excluded from the calculation (e.g. vegetated stormwater facilities)?
• There is an existing common open space credit of up to 25% for sites within ¼ miles of an improved public park or school playground. An additional credit of up to 20% would be available for “high value” improvements. This would allow a total credit of 45% on some sites. Should the maximum credit possible on a site be restricted to a lower percentage (e.g., 35% or 40%)?

Discussion Item 4: Maximum Setback and Orientation for Multifamily

The current Maximum Setbacks for Street Orientation (8.240) and Building Orientation and Entries (8.260) standards are closely related. Multi-family developments located on local or collector streets are subject to maximum setback requirements. For sites with 100’ or more of street frontage, at least 50% of the frontage must be occupied by a building with a maximum front setback of 25’. For sites with less than 100’ of frontage, only 40% of the frontage must meet the 25’ maximum setback. The building orientation standards are intended to ensure that buildings “...contribute positively to the streetscape and neighborhood by carefully relating building mass, entries, and yards to public streets.” While the current maximum setback standards are clear and objective, the building orientation standards are largely subjective and need to be clarified. For both sections, the standards are more appropriate for more urban-style or pedestrian-oriented settings, but may not be appropriate for more suburban, lower-density developments, such as garden-style apartments. There was interest from the Task Force in providing a wider variety of site configurations that are still attractive and contribute positively to the pedestrian realm.

DRAFT 1.1. For the purposes of Draft 1.1, the following amendments were proposed:

The proposed Maximum Setbacks and Building Orientation section below combines existing ADC Section 8.240 Maximum Setbacks and Section 8.260 Building Orientation & Entries and would provide two options for meeting the Setback and Orientation standards.

“Street Orientation” option. These requirements are largely similar to the existing standards in ADC 8.240 and 8.260.

“Enhanced Landscaping” option. This would be a new alternative to the existing building orientation and setback standards. The intent is to provide more flexibility for multi-family development in less urban settings, while still ensuring a pleasant experience for pedestrians by requiring additional landscaping along the site frontage. Parking would be allowed between the building and the street on up to 25% of the frontage provided at least 25 feet of landscaping is provided. Allowing this second option was supported by the majority of Task Force members (8 out of 12 questionnaire respondents). In the community survey, about half of respondents supported allowing the option on all multi-family sites, and about half thought it should only be an option on certain sites. The first draft of the Code allows this option for all multi-family development, except in the downtown zones.
Discussion Item 4 Questions:

- Even though the front of buildings would not necessarily be oriented to the street, does the proposed Enhanced Landscaping option still provide for attractive and pedestrian-friendly street frontages?
- Should the Enhanced Landscaping option be an allowed option everywhere except in the downtown zones or are there other locations in the City where multifamily buildings should be oriented to the street?
ARTICLE 2
REVIEW CRITERIA

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

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

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

2.020 Function of Review Criteria.

(1) Review criteria describe the issues the applicant must address and that the City or affected parties may raise. A proposal that complies with all of the criteria will be approved. A proposal that can comply with the criteria with mitigation measures or limitations will be approved with conditions. A proposal that cannot comply with the criteria outright or with mitigation measures will be denied.

(2) The review criteria are derived from the Comprehensive Plan. Reviews against the goals and policies of the Comprehensive Plan are not required unless specifically stated. The proposal conforms to the Comprehensive Plan if it fulfills the review criteria.

(3) When review criteria require an application to meet a specific standard, such as adequate services or no negative offsite impacts, all proposed improvements and mitigation measures must be identified before the review body will make a final decision.

[Ord. 5720, 8/12/09]

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

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

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

Draft code amendments are written as follows: additions **bold underlined** and deletions in **strike-out**. Sections not amended are omitted unless needed for context. Omitted sections are indicated by asterisks: ***

Commentary

Albany currently allows adjustments to design and development standards, but only on a very limited basis. The proposed amendments would expand adjustment review so that it can serve as a second “flexible” track. The current adjustment review has been renamed “minor variances” and moved to Section 2.692 immediately following variances (renamed “major variances”).

As the purpose statement below is written, Adjustments would only be available for modification to the design standards in Article 8 and the buffering and screening standards of Article 9. Applicants would use a major variance or minor variance for modifications to other standards (e.g., the standards to the base zones, etc.).

ADJUSTMENTS

2.060 Purpose. The Adjustment review allows the Director to approve modifications to the application of the design standards in Article 8 and buffering and screening standards in Article 9. The Adjustment review process provides a mechanism by which the regulations in the ADC may be modified if the proposed development continues to meet the intended purpose of those regulations. Adjustment reviews provide flexibility for unusual situations. They also allow for alternative ways to meet the purposes of the code, while allowing the ADC to continue to provide certainty and rapid processing for land use applications. Limited modifications to the application of numeric standards for unusual situations specific to the site or for existing commercial or mixed-use infill sites. Adjustments will not be considered to avoid a review process or standard in this Code. Adjustments are typically for request less than 10 percent of a numeric standard.

[Ord. 5720, 08/12/09; Ord. 5832, 4/9/14]

Alternative setbacks in developed areas are addressed in Sections 3.240, 4.130, and 5.130.

Commentary

The section below has been amended so that Adjustment reviews are subject to Type II review. The Significant Natural Resource Overlay Districts section (ADC 6.450) will need to be amended separately to change the Adjustment process mentioned in that section to a minor variance. Therefore, the reference to that section has been deleted below.

2.070 Procedures. Adjustment applications are processed through a Type II I-L procedure with a notice area of 1,000 feet. Adjustments to the standards in Significant Natural Resource Overlay Districts are processed using the review criteria in Section 6.450. Requests not meeting the purpose of Adjustments may be processed as Major Variances through a Type II procedure (Sections 2.660-2.690) or as a Minor Variance through a Type I-L procedure. The Director will determine whether an application is processed as an adjustment or a variance.

[Ord. 5720, 08/12/09; Ord. 5832, 4/9/14]
Amendments to the Albany Development Code (ADC)

Draft code amendments are written as follows: additions bold red underlined and deletions in strike-out. Sections not amended are omitted unless needed for context. Omitted sections are indicated by asterisks: ***

Commentary

The section below has been amended to include new approval criteria for Adjustments. There is no limit on the size of the Adjustment or the number of Adjustments that can be requested. Unlike a variance, the applicant doesn’t necessarily have to prove that there is something unique in the physical circumstances of the site that necessitates the Adjustment. Adjustments also allow for alternative ways to meet the purposes of the code. The focus of the Adjustment is on achieving better design outcomes. The applicant must show that the Adjustment equally or better meets the purpose of the regulation to be modified.

2.080 Review Criteria. For each standard for which an Adjustment is requested, the applicant must show that the following criteria have been met:

(1) The Adjustment is not requested to avoid a land use review process or increase density; AND

(2) The need for the Adjustment is created by the unusual configuration of the property, to protect natural features, due to the location of an existing structure on the site, or the site is an infill or redevelopment site less than one acre with development on both sides; AND

[Ord. 5832, 4/9/14]

(3) The Adjustment is the minimum necessary to address the unusual circumstance, generally no more than 10 percent from a numeric standard, and the request is still consistent with the purpose of the zoning district and any applicable overlay districts.

[Ord. 5338, 1/28/98; Ord. 5720, 08/12/09; Ord. 5832, 4/9/14]

(1) Granting the Adjustment will equally or better meet the purpose of the regulation to be modified; and

(2) The proposal will be consistent with the desired character of the base zone; and

(3) Any detrimental impacts resulting from the Adjustment are mitigated to the extent practical; and

(4) The proposal will not significantly detract from the livability or appearance of the surrounding area; and

(5) If more than one Adjustment is being requested, the cumulative effect of the Adjustments results in a project which is still consistent with the overall purpose of the zone.

(3) Setbacks adjustments for bathroom retrofits moved to Section 3.263 per Ord. 5832, 4/9/14.

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SITE PLAN REVIEW

2.400 Purpose. Site Plan Review is intended to promote functional, safe, and attractive developments that maximize compatibility with surrounding developments and uses and with the natural environment. It mitigates potential land use conflicts through specific conditions attached by the review body. The review focuses on the layout of a proposed development, including building placement, setbacks, parking areas, external storage areas, open areas, and landscaping.

[Ord. 5445, 4/12/00; Ord. 5767, 12/7/11]

2.410 Section removed by Ordinance 5767 adopted December 7, 2011.
Commentary
The section below has been amended to include a new Type I Site Plan Review for residential developments that meet all of the standards (i.e., no adjustments needed). This approach is predicated on all applicable standards being clear and objectives. Under a Type I procedure, the Director processes an application without need for public hearing or notification. Lot line adjustments, final planned developments, final subdivision plats are examples of Type I applications.

Some very straightforward development types are just required to submit a building permit. For example, applicants for single family dwellings submit a building permit application and that application is reviewed by planning staff for compliance with the standards (e.g., setbacks, etc.) with no SPR required. However, for more complicated projects (e.g., multi-family) compliance with the applicable standards in Article 8 may be somewhat more difficult to evaluate and additional information will need to be provided by the applicant (e.g., landscape plans), the proposed Type I SPR process would provide a process through which staff can review the application to confirm that the clear and objective standards have been met. If Adjustments are requested, the site plan review application would be processed concurrently with the Type II Adjustment application. This is necessary since the proposed site plan review can’t be approved unless the Adjustments are also approved.

The existing requirement that Hillside Development be subject to Type III review is incorrect. It is proposed to be deleted.

NOTE: Following Phase 2 of this project, this section could be further changed to allow the Type I review of some non-residential developments.

2.415 Procedure.
(1) A Site Plan Review application for a residential development which complies with all of the applicable clear and objective development standards shall be reviewed as a Type I procedure. Site Plan Review applications for residential developments which do not comply with all applicable clear and objective standards require concurrent approval of one or more Type II Adjustments.

(2) A Site Plan Review application for non-residential development is reviewed as a Type I-L limited land use procedure is followed for a Site Plan Review application with the Director acting as the review body.

A Site Plan Review application that includes Hillside Development is reviewed as a Type III procedure (See Sections 6.170 through 6.230).

[Ord. 5832, 4/9/14]

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

[Ord. 5445, 4/12/00]
2.430 Applicability. In general, Site Plan Review is intended for all new development within the city that specifically requires Site Plan Review as listed in Articles 3, 4 and 5. It applies to new construction, additions or expansions, site modifications, and changes in land use categories. Sites that contain a legal nonconforming use will be processed in accordance with Section 2.350.

[Ord. 5445, 4/12/00; Ord. 5767, 12/7/11; Ord. 5832, 4/9/14]

(1) Any development that requires Site Plan Review, unless specifically exempt in Section 1.070.

(2) A change of use or reuse of a building or site when the use is allowed through Site Plan Review, and that requires construction of three or more new parking spaces, additional loading areas, or that modifies site circulation or access.  

[Ord. 5832, 4/9/14]

(3) Building additions or use expansions greater than 2,000 square feet or greater than 50 percent of existing building area, whichever is less, or any expansion that requires three or more new parking spaces, additional loading areas, or modifies site circulation or access.  

[Ord. 5767, 12/7/14; Ord. 5832, 4/9/14; Ord. 5886, 1/6/17]

(4) New parking areas or expansions to existing parking areas greater than 1,000 square feet or modifications that change site circulation or access.  

[Ord. 5767, 12/7/11; Ord. 5832, 4/9/14]

(5) Temporary placement of a manufactured home for: (a) night watchman; (b) business office space during construction or remodeling; (c) building space for education, non-profit, and government agencies. (See Sections 10.470-10.490.)  

[Ord. 5445, 4/12/00; Ord. 5767, 12/7/11]

2.440 Section removed by Ordinance 5767 adopted December 7, 2011.

Commentary
The approval criteria for Type I Site Plan Reviews must be clear and objective. The criteria in 2.450 have been updated so that they can be applied to both Type I and Type I-L Site Plan Reviews. The criteria can require compliance with the standards if the standards themselves are clear and objective. Existing approval criteria that require the use of discretion have been moved to 2.455 and would only apply to Type I-L Site Plan Reviews.

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

(1) The application is complete in accordance with the applicable requirements.

(2) The application complies with all applicable provisions of the underlying zoning district including, but not limited to, setbacks, lot dimensions, density, lot coverage, building height, and other applicable standards.

(3) Activities and developments within special purpose districts must comply with the regulations described in Articles 4 (Airport Approach), 6 (Natural Resources), and 7 (Historic), as applicable.

(4) The application complies with all applicable Design Standards of Article 8.

(5) The application complies with all applicable On-Site Development and Environmental Standards of Article 9.
Amendments to the Albany Development Code (ADC)

Draft code amendments are written as follows: additions **bold red underlined** and deletions in **strike-out**. Sections not amended are omitted unless needed for context. Omitted sections are indicated by asterisks: ***

(6) (1) Public utilities can accommodate the proposed development. **Public facilities and utilities are available to serve the proposed development in accordance with Article 12 or will be made available at the time of development.**

(7) **Transportation improvements are available to serve the proposed development in accordance with Article 12 or will be available at the time of development.**

(8) (2) The proposed post-construction stormwater quality facilities (private and/or public) can accommodate the proposed development, consistent with Title 12 of the Albany Municipal Code.

(3) The transportation system can safely and adequately accommodate the proposed development.

(4) Parking areas and entrance-exit points are designed to facilitate traffic and pedestrian safety and avoid congestion.

(5) The design and operating characteristics of the proposed development are reasonably compatible with surrounding development and land uses, and any negative impacts have been sufficiently minimized.

(6) Activities and developments within special purpose districts must comply with the regulations described in Articles 4 (Airport Approach), 6 (Natural Resources), and 7 (Historic), as applicable.

(9) (7) The proposal meets all existing conditions of approval for the site or use, as required by prior land use decision(s), as applicable. The site is in compliance with prior land use approvals. [Ord. 5832, 4/9/14]

(10) (8) Sites that have lost their nonconforming status must be brought into compliance, and may be brought into compliance incrementally in accordance with Section 2.370.

[Ord. 5445, 4/12/00; Ord. 5635, 1/11/06; Ord. 5720, 08/12/09; Ord. 5764, 12/1/11; Ord. 5767, 12/7/11; Ord. 5832, 4/9/14; Ord. 5842, 1/01/15]

**Commentary**

Existing approval criteria that require the use of discretion have been moved to 2.455 and would only apply to Type I-L Site Plan Reviews. These criteria would apply in addition to those in 2.450.

2.455 **Review Criteria – Additional Criteria for Type I-L Applications.** Site Plan Review approval will be granted if the review body finds that, in addition to meeting the review criteria in 2.450, the application meets all of the following criteria that are applicable to the proposed development.

(1) The transportation system can safely and adequately accommodate the proposed development.

(2) Parking areas and entrance-exit points are designed to facilitate traffic and pedestrian safety and avoid congestion.

(3) The design and operating characteristics of the proposed development are reasonably compatible with surrounding development and land uses, and any negative impacts have been sufficiently minimized.

2.460 **Conditions of Approval.** The City may attach conditions to the approval of a Site Plan Review application in order to ensure that the proposal will conform to the applicable review criteria. Conditions of approval should be specific to the proposal and the facts set in the staff report for the application. In addition to conditions of approval, a list of general Code provisions that apply to the application may be attached.
Amendments to the Albany Development Code (ADC)

Draft code amendments are written as follows: additions bold red underlined and deletions in strike-out.

Sections not amended are omitted unless needed for context. Omitted sections are indicated by asterisks: ***

2.465 Approved Plans are Final. Projects shall be completed according to the approved site plan and landscape plan. Modifications to approved plans are subject to the standards in Section 1.226.

2.490 Application Contents. A Site Plan Review application must include:

1. A completed application form. The application shall be signed by the subject property's owner(s) and/or the owner's legal representative(s). If a legal representative is used as a signatory, written proof of ability to be a signatory shall be furnished to the City. The owner's name(s) and address, and the applicant's name, address, and signature shall also be provided.

2. A written narrative describing the proposed development and explanation of how the development satisfies applicable Albany Development Code standards and review criteria, including information required by Article 6 – Natural Resource Districts.

3. One set of conceptual drawings, including floor plans, lighting details, and building elevations and materials.

4. A conceptual landscape plan showing the type and location of proposed landscaping and screening, including any vegetated post-construction stormwater quality facilities.

5. A site plan showing the following applicable information:
   a. Assessor’s map and tax lot number and lot and block description or other legal description.
   b. Lot dimensions and total lot area.
   c. North arrow.
   d. Location of all existing and proposed structures, including minimum distances from all structures to property lines.
   e. Percentage of the lot covered by all existing and proposed structures and paved areas. Clearly identify the boundaries and total square footage of all new and/or replaced impervious surfaces.
   f. Adjacent zoning designations and land uses including approximate location of buildings, accesses, streets, sidewalks, curbs, easements, and utilities.
   g. Locations and dimensions of rights-of-way of all abutting streets (whether public or private) and existing and proposed driveways.
   h. Size and location of all utilities.
   i. Locations, dimensions, and nature of any existing and proposed easements.
   j. Location of any non-access strips.
   k. Natural drainage patterns, flow arrows showing existing and proposed drainage patterns, and existing and proposed finished grade contours at 1-foot intervals, or at a larger interval if approved by the City Engineer.
   l. Clearly identify any existing and proposed swales, ditches, or other drainage ways.
   m. Location, size, type and capacity of the existing and proposed drainage system including pipe size, slope, and detention facilities. Show existing and proposed finished grade
Amendments to the Albany Development Code (ADC)

Draft code amendments are written as follows: additions **bold red underlined** and deletions in **strike-out**. Sections not amended are omitted unless needed for context. Omitted sections are indicated by asterisks: ***

Section 2.400 Elevation and Drainage Systems

- Elevations at collection points and property lines. Include the location, size, and capacity of the downstream drainage system that would serve the proposed development. Also provide any supporting calculations. [Ord. 5842, 1/01/15]

- Location, size, type and capacity of all existing and proposed post-construction stormwater quality facilities. Clearly identify all impervious surfaces and contributing areas draining to each facility. [Ord. 5842, 1/01/15]

- Typical cross sections at adjacent property boundaries showing pre-and post-development conditions and clearly identify any changes in elevation at the property line not captured in the typical section. [Ord. 5842, 1/01/15]

- Location and species of trees larger than 25 inches in circumference (approximately 8 inches in diameter) measured at 4-1/2 feet above mean ground level from the base of the trunk. To obtain the circumference of a tree with multiple trunks, add the individual trunks circumferences, which are greater than 6 inches in circumference. Identify any trees proposed for protection and the method of protection. [Ord. 5842, 1/01/15]

- Location and dimensions of delivery and loading areas.

- Location and dimensions of parking and circulation areas.

- Location and dimensions of trash disposal areas.

- Location of proposed signs. [Ord. 5338, 1/28/98; Ord. 5445, 4/12/00]

- Location and type of proposed pedestrian amenities and common areas (when applicable).

- Location of airport height restrictions.

- Location of floodplains.

- Location of hillsides with slopes greater than 12 percent.

- Location of wetlands.

- Location of riparian corridors.

- Location of Willamette Greenway.

- Location of historic districts, structures and sites on the City’s adopted Local Historic Inventory, including individually designated National Register Historic Landmarks and archaeological sites. [Ord. 5720, 08/12/09]

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

2.510 through 2.580 Repealed by Ordinance 5767 adopted December 7, 2011.

***

Commentary

To avoid confusion with the newly renamed “minor variance” procedure, “variances” have been renamed “major variances.”
**MAJOR VARIANCES**

2.660 **Purpose.** When a practical difficulty, unusual hardship, or the literal interpretation of a provision of this Code results in rendering a property incapable of reasonable economic use or causes specific hardships unintended by the Comprehensive Plan or this Code, a variance may be granted as provided in this article. [Ord. 5720, 08/12/09]

2.670 **Procedure.** A major variance request shall be reviewed as a Type II procedure. The Director will determine whether applications for minor changes from a numeric standard may be processed as adjustments through the Type I-L procedure. [Ord. 5720, 08/12/09]

2.680 **Regulations That May and May Not Be Varied.**

1. Unless listed in Subsection (2) below, all regulations in this Code may be modified using the variance process.

2. Variances are prohibited for the following items:
   
   (a) To allow a primary or accessory use that is not allowed by the regulations.
   
   (b) As an exception to any restrictions on uses or development that contain the word “prohibited.”
   
   (c) As an exception to going through a review process or meeting standards required by a review process in this Code, such as minimum lot size. [Ord. 5720, 08/12/09]
   
   (d) As an exception to a definition or classification.
   
   (e) As an exception to the steps of a procedure or to change assigned procedures.

2.690 **Review Criteria.** The review criteria for sign variances are stated in Sections 13.710 and 13.711 of the Sign Code. All other major variance requests will be approved if the review body finds that the applicant has shown that all of the following criteria have been met:

1. The property has unique or peculiar physical circumstances or conditions such as, irregular shape, width or depth; or exceptional natural or physical conditions such as topography, trees, native vegetation, wetlands, riparian areas, wildlife habitat, or drainage ways. [Ord. 5720, 08/12/09; Ord. 5764, 12/1/11]

2. The proposal will be consistent with the purpose, overview, and description for the zone in which the property is located, and with the purpose of the Significant Natural Resource Districts, if applicable; and [Ord. 5720, 08/12/09; Ord. 5764, 12/1/11]

3. If more than one variance is requested, the cumulative effect of the variances results in a project that is still consistent with the purpose, overview and description of the zone; and

4. The requested variance is the minimum necessary to address the peculiar or unusual conditions of the site; and [Ord. 5720, 08/12/09]

5. Any impacts resulting from the variance are mitigated to the extent practical; or

6. Application of the regulation in question would preclude all reasonable economic use of the site.
Amendments to the Albany Development Code (ADC)

Draft code amendments are written as follows: additions bold red underlined and deletions in strike-out. Sections not amended are omitted unless needed for context. Omitted sections are indicated by asterisks: ***

Commentary

In the section below, the Type I-L process that was previously referred to as an “adjustment” has been renamed “minor variances” and moved to follow the newly renamed major variances.

MINOR VARIANCES

2.692 Purpose. The minor variance review allows the Director to approve limited modifications to the application of numeric standards for unusual situations specific to the site. Minor variances will not be considered to avoid a review process or standard in this Code. Minor variances are typically for requests that are 10 percent or less of a numeric standard. Alternative setbacks in developed areas are addressed in Sections 3.240, 4.130, and 5.130.

2.694 Procedures. Minor variance applications are processed through a Type I-L procedure with a notice area of 100 feet. Requests not meeting the purpose of minor variances may be processed as major variances. The Director will determine whether an application is processed as a minor variance or a major variance.

2.696 Review Criteria. The applicant must show that the following criteria have been met:

(1) The minor variance is not requested to avoid a land use review process or increase density; AND

(2) The need for the minor variance is created by the unusual configuration of the property, to protect natural features, due to the location of an existing structure on the site, or the site is an infill or redevelopment site less than one acre with development on both sides; AND

(3) The minor variance is the minimum necessary to address the unusual circumstance, generally no more than 10 percent from a numeric standard, and the request is still consistent with the purpose of the zoning district and any applicable overlay districts.

***
ARTICLE 3
RESIDENTIAL ZONING DISTRICTS

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

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

- Zoning Districts
- Schedule of Permitted Uses
- Development Standards

ZONING DISTRICTS

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

1. RR—RESIDENTIAL RESERVE DISTRICT. The RR District is intended to recognize areas which, because of topography, level of services, or other natural or development factors are best served by a large lot designation. This district may be applied on an interim basis until urban services become available. The minimum lot size is five acres.

2. RS-10—RESIDENTIAL SINGLE FAMILY DISTRICT. The RS-10 District is intended primarily for a lower density single-family residential environment. The average minimum lot size is 10,000 square feet.

3. RS-6.5—RESIDENTIAL SINGLE FAMILY DISTRICT. The RS-6.5 District is intended primarily for low-density urban single-family residential development. The average minimum lot size is 6,500 square feet.

4. RS-5—RESIDENTIAL SINGLE FAMILY DISTRICT. The RS-5 District is intended primarily for low- to moderate-density single-family development. The average minimum detached single-family lot size is 5,000 square feet. [Ord. 5673, 6/27/07]

5. RM—RESIDENTIAL MEDIUM DENSITY DISTRICT. The RM District is primarily intended for medium-density residential urban development. New RM districts should be located on a collector or arterial street or in Village Centers. Development may not exceed 25 units per gross acre. [Ord. 5673, 6/27/07]

6. RMA—RESIDENTIAL MEDIUM DENSITY ATTACHED DISTRICT. The RMA District is intended primarily for medium- to high-density urban residential development. All units, whether single- or multiple-family, shall be attached. New RMA districts should be located on a collector or arterial street or in Village Centers. Development may not exceed 35 units per gross acre. [Ord. 5673, 6/27/07]

7. HM—HACKLEMAN-MONTEITH DISTRICT. The HM district is intended primarily to preserve the existing single-family residential character of the Hackleman and Monteith National Register Historic Districts. Conversion of single-family residential structures to other uses, including multi-family residential, is not allowed. [Ord. 5555, 2/7/03; Ord. 5673, 6/27/07]

3.030 Establishment of Special Purpose Districts. Special purpose districts are overlay districts that may be combined with a major zoning district. The regulations of a special purpose district are supplementary
Amendments to the Albany Development Code (ADC)

Draft code amendments are written as follows: additions bold red underlined and deletions in strike-out.
Sections not amended are omitted unless needed for context. Omitted sections are indicated by asterisks: ***

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

<table>
<thead>
<tr>
<th>Special Purpose District</th>
<th>Applicable Articles</th>
</tr>
</thead>
<tbody>
<tr>
<td>Airport Approach</td>
<td>Article 4</td>
</tr>
<tr>
<td>Floodplain</td>
<td>Article 6</td>
</tr>
<tr>
<td>Hillside Development</td>
<td>Article 6</td>
</tr>
<tr>
<td>Significant Wetlands</td>
<td>Article 6</td>
</tr>
<tr>
<td>Riparian Corridors</td>
<td>Article 6</td>
</tr>
<tr>
<td>Wildlife Habitat</td>
<td>Article 6</td>
</tr>
<tr>
<td>Willamette Greenway</td>
<td>Article 6</td>
</tr>
<tr>
<td>Historic Overlay</td>
<td>Article 7</td>
</tr>
</tbody>
</table>

[Ord. 5764, 12/1/11]

**SCHEDULE OF PERMITTED USES**

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

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

2. Where a development proposal involves a combination of uses other than accessory uses, the more restrictive provisions of this Code shall apply. For example, if a portion of a development is subject to conditional use approval and the balance is subject only to Site Plan Review, the entire development shall be reviewed using the conditional use criteria if concurrent approval of all uses is requested.

3. A change in the use of a property is subject to review as specified by the schedule of permitted uses:
   (a) When the change involves a change from one use category to another in the schedule of permitted uses and the Director has not waived review under the provisions of Section 1.070,
   or
   (b) When a property that has been unoccupied for more than one year. [Ord. 5673, 6/27/07]

**Commentary**

Article 2 includes a new Type I Site Plan Review application. The Schedule of Permitted Uses has been updated to indicate those residential applications that may qualify for this Type I application. These are proposed to be noted with an asterisk “**” following the SPR.
Amendments to the Albany Development Code (ADC)

Draft code amendments are written as follows: additions **bold red underlined** and deletions in **strike out**.

Sections not amended are omitted unless needed for context. Omitted sections are indicated by asterisks: ***

| NOTE: Throughout Article 3 tables have been renamed in a format which is consistent with other articles in the ADC (“article # - table #). |

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

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

The abbreviations used in the schedule have the following meanings:

- **Y**  Yes; use allowed without land use review procedures but must meet development standards in this article and may be subject to special conditions.
- **S**  Use permitted that requires a site plan approval prior to the development or occupancy of the site or building. An asterisk “**” following the “S” indicates that the development may qualify for Type I site plan review.
- **CU**  Use permitted conditionally under the provisions of Sections 2.230-2.260 through a Type III procedure.
- **CUII**  Uses permitted conditionally through the Type II procedure.
- **PD**  Use permitted only through planned development approval.
- **CD**  Use permitted only through cluster development approval.
- **N**  No; use not permitted in the zoning district indicated.

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

[Ord. 5673, 6/27/07]
## SCHEDULE OF PERMITTED USES

### Uses Allowed in Residential Zoning Districts

<table>
<thead>
<tr>
<th>Use Categories</th>
<th>Spec. Cond.</th>
<th>RR</th>
<th>RS-10</th>
<th>RS-6.5</th>
<th>HM</th>
<th>RS-5</th>
<th>RM</th>
<th>RMA</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>RESIDENTIAL SINGLE FAMILY: One Unit per Property</strong></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
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<tr>
<td>Single-Family, detached</td>
<td>19</td>
<td>Y</td>
<td>Y</td>
<td>Y</td>
<td>Y</td>
<td>Y</td>
<td>Y</td>
<td>N</td>
</tr>
<tr>
<td>Single-Family, attached (zero lot line)</td>
<td>N</td>
<td>PD/CD</td>
<td>PD/CD</td>
<td>N</td>
<td>Y</td>
<td>Y</td>
<td>Y</td>
<td></td>
</tr>
<tr>
<td><strong>RESIDENTIAL TWO FAMILY: Two Units per Property</strong></td>
<td></td>
<td></td>
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<td></td>
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<td></td>
<td></td>
<td></td>
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<tr>
<td>2 attached units (Duplex)</td>
<td>3</td>
<td>N</td>
<td>Y-1, PD/CD-20</td>
<td>Y-1, PD/CD-20</td>
<td>N</td>
<td>Y-1, PD/CD-20</td>
<td>Y</td>
<td>Y</td>
</tr>
<tr>
<td>2 detached units</td>
<td>2</td>
<td>N</td>
<td>PD/CD</td>
<td>PD/CD</td>
<td>S*</td>
<td>PD/CD</td>
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<td>Y</td>
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<td>Primary Residence with one accessory unit</td>
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<td>Y</td>
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<td>Y</td>
<td>Y</td>
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<tr>
<td><strong>RESIDENTIAL MULTI-FAMILY: Three or More Units per Property</strong></td>
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<td>3 or More Single-Family Attached Units</td>
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<td>PD/CD</td>
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<td>S*</td>
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<tr>
<td>3 or More Multi-Family Units</td>
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<td>Manufactured Home Parks (see Article 10)</td>
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<tr>
<td><strong>RESIDENTIAL: Care or Treatment</strong></td>
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<tr>
<td>Assisted Living</td>
<td>CU</td>
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<td>Child or Adult Care Home</td>
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<td>Daycare Facility</td>
<td>CU</td>
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<td>CU</td>
<td>S</td>
<td></td>
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<tr>
<td>Residential Care or Treatment Facility (6 or more residents)</td>
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<td>CU</td>
<td>CU</td>
<td>CU</td>
<td>CU</td>
<td>S</td>
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</tr>
<tr>
<td>Residential or Group Care Home (5 or fewer residents)</td>
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<td>Y</td>
<td>Y</td>
<td>Y</td>
<td>Y</td>
<td>Y</td>
<td>Y</td>
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</tr>
<tr>
<td><strong>RESIDENTIAL: Miscellaneous</strong></td>
<td></td>
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<td><strong>COMMERCIAL – Limited Use Types</strong></td>
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</table>

**Amendments to the Albany Development Code (ADC)**

Draft code amendments are written as follows: additions **bold red underlined** and deletions in strike-out.

Sections not amended are omitted unless needed for context. Omitted sections are indicated by asterisks: ***
Amendments to the Albany Development Code (ADC)

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Sections not amended are omitted unless needed for context. Omitted sections are indicated by asterisks: ***

<table>
<thead>
<tr>
<th>Use Categories</th>
<th>Spec. Cond.</th>
<th>RR</th>
<th>RS-10</th>
<th>RS-6.5</th>
<th>HM</th>
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<td>member of Amateur Radio Service</td>
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<td>Satellite Dish and Other Antennas</td>
<td>12</td>
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<td>Y</td>
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</tbody>
</table>

Y = Yes, allowed, no Site Plan review required    
CD = Cluster Development, see Art. 11
CU = Conditional Use approval required, Type III procedure
CDU = Conditional Use approval required, Type II procedure

<table>
<thead>
<tr>
<th>SPECIAL CONDITIONS</th>
<th></th>
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<td>3.060 – 3.070, Open Space district moved to Article 6; Ord. 5764, 12/1/11.</td>
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</table>

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

1. In the RS-6.5, RS-5, and RS-10 Districts, one duplex is permitted outright on a corner lot that meets the minimum lot size for a duplex in the zone. Exception for non-corner lots created between May 1, 2000 and January 11, 2006: A duplex is allowed on a non-corner lot created in this time period provided that the lot is at least 1.5 times the single-family minimum lot size in the zone. The lot size threshold may be reduced by use of the 10 percent transportation bonus provided the lot is not a flag lot and it meets the standards in Section 3.220.

2. When more than one single-family detached residence is located on a property of record in a residential zoning district and the buildings were legally constructed, the property may be divided in conformance with Article 11, even if the resulting lots do not meet the required minimum lot area and dimensional standards for the zoning district, if required setbacks and lot coverage can be met.

3. Duplexes and multi-family development may be divided so that each can be individually owned by doing a land division in conformance with Article 11. The total land area provided for the development as a whole must conform with the requirements of Article 3, Table 3-1, however, the amount of land on which each unit is located does not need to be split equally between the individual units - one may be larger and one smaller.

4. One accessory apartment is permitted per primary single-family residence, called the “primary residence.” The accessory apartment may be:

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

Accessory apartments shall be incidental in size and appearance to the primary residence and meet the following standards:
Amendments to the Albany Development Code (ADC)

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(a) One of the residences is owner occupied.

(b) The size of an accessory apartment does not exceed 50 percent of the gross floor area of the primary residence (excluding garages or carports) or 750 square feet, whichever is less. (Note: Accessory apartments greater than 750 square feet that were legally constructed before July 1, 2007, may remain.)

(c) At least three off-street parking spaces are provided on the property to serve the two residences. [Ord. 5338, 1/28/98]

(d) All required building permits have been obtained. If the primary residence is on the Local Historic Inventory, historic review may be required.

(e) The size of the property meets the minimum single-family lot area requirements for the zoning district in which the lot is located. [Ord. 5338, 1/28/98; Ord. 5673, 6/27/07]

Detached accessory apartment units must also meet the following development standards:

- **Front Setback:** Greater than or equal to the location of the front wall of the primary residence; and
- **Interior Setback:** 5 feet for one-story; 8 feet for two-story; and
- **Maximum Height:** 24 feet to the ridge of the roof. [Ord. 5673, 6/27/07]

(5) In the RM District, the following criteria must be met in addition to the Conditional Use criteria for permitting RV overnight parks:

(a) The entire site must be located within 750 feet of the Interstate 5 right-of-way.

(b) The RV park access is limited to the Interstate 5 frontage road or streets servicing primarily industrial or commercial development.

(6) “Child Care Homes” that includes the day or night time care of no more than sixteen children, including the children of the provider or the care and treatment of adults for less than 24-hours are considered a residential use of the property and are allowed outright in zones that allow single-family homes per the Oregon Revised Statutes (ORS). See ADC Section 22.200. [Ord. 5673, 6/27/07]

(7) Bed and Breakfast facilities shall:

(a) Be owner occupied.

(b) Be limited to a maximum of four guest bedrooms.

(c) Except for driveway spaces, not contain guest parking facilities in the front setback area or within 10 feet of any interior residential lot line. [Ord. 5742, 7/14/10]

(d) Provide at least one off-street parking space for each rental room, except in the HM zone, where on-street parking along the frontage of the property line(s) may count toward the parking requirements. To count towards this standard, each on-street space must be at least 25 feet long. [Ord. 5673, 6/27/07, Ord. 5768, 12/7/11]

(8) Temporary residences in conjunction with construction, emergency repair, or a night watchman are permitted but are limited to one year in duration. [Ord. 5673, 6/27/07]

(9) The definitions of “Accessory Building” and “Accessory Use” in Article 22 shall apply. The Director shall have authority to initially interpret application of these terms to any proposed activity. See also Table 23-4, Section 3.190 for Accessory Structure Standards.

Accessory buildings in residential districts that are 750 square feet or larger and/or with walls taller than 11 feet that meet the following standards are not subject to Site Plan Review. They will be processed as Type I staff decisions. Information must be submitted that shows the standards are met. The information shall be submitted at the time the applicant applies for building
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permits. The determination of whether the standards are met will be made by the Community Development Director or his/her designee. [Ord. 5767, 12/7/11]

(a) The proposed building does not exceed the height of the tallest building on adjacent property. For this section, height means the height of the building at its highest point, usually the ridge of the roof.

(b) The square footage of the footprint of the proposed building does not exceed the square footage of the footprint of the foundation of the largest building on adjacent property.

(c) The amount of land that will be covered by buildings if the proposed building is constructed does not exceed the applicable lot coverage restrictions of the Development Code.

(d) The proposed building meets or exceeds the applicable setback requirements for the primary residence as listed in Table 23-4.

(e) The materials used on the proposed building (e.g. siding and roofing), and the color of those materials, shall be similar to those used on the primary residential structure (e.g. cement board lap siding is similar to wood lap siding).

(f) If the proposed building is located in any of the special purpose districts listed in Articles 6 and 7 of the Development Code, the building must also be reviewed for conformance with the requirements of the applicable district.

Accessory buildings not meeting the standards in this section require Site Plan Review.

A garage or other non-residential building on a property without a residence cannot be the primary use of a residentially-zoned property except as described below. The purposes of this limitation are to preserve the opportunity for residential land to be used for housing, and to avoid a non-residential building on residential property for use as commercial storage. Non-residential structures on residentially-zoned land will be allowed when the following conditions are met:

(eg) The structure will not preclude the use of the property for housing;

(h) The structure must meet the requirements of Section 3.080(9) or be approved through the Site Plan Review process;

(i) The structure is not used for a commercial purposes; and

(j) Exception in RR: Buildings used for farm or agricultural product or equipment storage are permitted in the RR zone. [Ord. 5281, 3/26/97; Ord. 5673, 6/27/07]

(10) Manufactured home and RV park standards are located in Article 10. Manufactured home parks, RV parks and manufactured homes on individual lots are not allowed within the National Register Historic Districts or on land within 100 feet of a historic district, or on land adjacent to a property on the Local Historic Inventory. [Ord. 5673, 6/27/07]

(11) Kennels in residential districts shall be restricted to properties containing a minimum of two acres. This restriction does not apply to indoor veterinary hospital kennels. [Ord. 5673, 6/27/07]

(12) Antennas and satellite dishes are subject to the following standards:

(a) Antenna or antenna supports may not be located within any front setback area or within any required landscape buffer yard. [Ord. 5742, 7/14/10]

(b) Antennas shall not extend higher than fifteen feet above the peak of the roof.

(c) Dish antennas exceeding 12 feet in diameter are not permitted.

(d) Dish antennas exceeding 36 inches in diameter may not be roof mounted.

(e) Dish antennas shall not exceed 15 feet in height from surrounding grade to the highest point of the structure or dish.
Amendments to the Albany Development Code (ADC)

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(f) Dish antennas located within ten feet of a residential lot line or located so as to be visible from a public street shall be screened up to a height of six feet with a solid screen fence, wall, hedge, or other landscaping.

(g) Antenna used to display sign messages shall conform to all district sign regulations in addition to the above.

(h) Antenna not in conformance with the above may be considered by Conditional Use review, Type II process. [Ord. 5886, 1/6/17]

(13) Original Conditional Use approval for education and religious institutions includes the following secondary uses: educational activities; sports and other recreational activities; religious activities; political activities; meals programs; before and after school or full-time child care activities; fundraising activities; and cultural programs. Such uses will not be required to go through the land use process if all of the activities which constitute the use (excluding parking and travel to and from the site) take place on the site and there is no external noise audible or light visible between 10:30 p.m. and 7:00 a.m.

Expansion of an education or religious institution includes the addition of building area, increase in parking lot coverage, or expansion of athletic facilities. Any expansion must be reviewed through the Conditional Use Type II process (CUII). [Ord. 5673, 6/27/07]

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

(15) Self-Serve Storage is subject to the following standards:
   (a) Freestanding facilities shall be limited to sites of one to three acres in size and maximum building coverage shall be limited to 50 percent of the parcel.
   
   (b) Building setbacks shall be as follows: front - 25 feet, interior - 20 feet. No fencing is permitted in front setbacks and a minimum ten-foot landscape buffer yard is required adjacent to all residential zones. No barbed wire fencing is permitted in residential districts. [Ord. 5742, 7/14/10]
   
   (c) The minimum driveway width between buildings shall be 20 feet for one-way drives and 24 feet for two-way drives.
   
   (d) The maximum storage unit size shall be 500 square feet.
   
   (e) All outdoor lighting shall be shielded to prevent reflection on adjacent properties.
   
   (f) Repair of autos, boats, motors and furniture, and the storage of flammable materials shall be prohibited on the premises and rental contracts shall so specify.
   
   (g) Outside storage of vehicles and materials is prohibited within this use category and no other business activity other than the rental of storage units shall be conducted on the premises. [Ord. 5673, 6/27/07]

(16) Public and Commercial Communication Facilities are not allowed in residential zoning districts, except when the applicant can provide supportive documentation or evidence, to the satisfaction of the Community Development Director, that, if such a facility is not allowed, there will be a gap in service that denies service to an area within the community. (This decision is a Conditional Use, Type III land use decision.) Article 8 for telecommunication facility design standards also apply. [Ord. 5886, 1/6/17]
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Such a tower will also be subject to the following conditions:

(a) The base of the antenna and any structures associated with the antenna shall be set back from the property lines of the property on which they are sited a distance of not less than 30 feet.

(b) The land on which the facility is sited shall be screened from adjacent land along its full perimeter, by providing screening, as defined in ADC Section 9.250.  
[Ord. 5281, 3/26/97; Ord. 5445, 4/12/00]

(17) Planned Developments allow for limited commercial uses to serve the residents within the development; see Section 11.270. Cluster Developments greater than 50 acres may develop up to 2 acres with neighborhood commercial and office uses through a Conditional Use review. [See Section 11.500(2).]  
[Ord. 5673, 6/27/07]

(18) In all residential zones, indoor entertainment and recreation uses are limited to athletic, exercise or health clubs, gyms or spas, and similar uses. Examples of outdoor entertainment and recreation uses include sports fields, clubhouses, tennis and golf facilities, swimming pools, and similar uses.  
[Ord. 5673, 6/27/07]

(19) One subdivision sales office is allowed in a subdivision for two years from the date it opens if the following requirements are met:  
[Ord. 5767, 12/7/11; Ord. 5886, 1/6/17]

Standards

(a) The purpose of the office must be to sell lots or houses in the subdivision.  
[Ord. 5886, 1/6/17]

(b) The sales office must be placed on one or more of the lots in the subdivision.  
[Ord. 5887, 1/6/17]

(c) The sales office lot must be established within one year of the date the final subdivision plat is signed.  
[Ord. 5887, 1/6/17]

(d) At the time an application for the sales office is submitted, the owner of the subdivision must own all of the lots within 100 feet of the lot where the sales office will be located. The “owner of the subdivision” is the owner of more than 50 percent of the lots in the subdivision.  
[Ord. 5886, 1/6/17]

(e) The building must be placed in accordance with Section 3.190, Table 3-1 Development Standards.  
[Ord. 5886, 1/6/17]

(f) A manufactured building, a modular building, or a building constructed on the site is allowed for the office use. If a manufactured building is used, it must be placed in accordance with the standards for “Placement on Individual Lots” listed in Article 10. If a modular building is used, it must be removed from the property within two years of the date a building permit is issued for the sales office. If manufactured or site-built building is used, the building does not have to be removed from the lot.

(g) Building permits must be obtained for the building. Manufactured and modular buildings must have the appropriate State of Oregon insignia that shows the appropriate construction standards are met.

(h) and (i) removed by Ordinance 5886, adopted January 6, 2017

(h) The sales office permit may be renewed once up to a year.  
[Ord. 5673, 6/27/07; Ord. 5886, 1/6/17]

(20) Within the South Albany Area Plan boundary, attached single-family and duplexes will be permitted in the RS-5, RS-6.5 and RS-10 zoning districts for up to 25 percent of the total units provided when transferring density within the Oak Creek Transition Area or when transferring density of the area necessary to preserve significant tree groves identified on the South Albany
Amendments to the Albany Development Code (ADC)

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Area Plan Organizational Framework map in the Comprehensive Plan (Figure 1), and oak trees over 25-inches in diameter measured at 4.5 feet from the ground. Developments may not exceed the maximum density by zoning district in 11.495 and must meet all applicable standards in the Code. [Ord. 5801, 2/13/13]

SPECIAL STATUS

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

Notwithstanding the restrictions or terms of any other section of the Albany Development Code (ADC), properties on the Special Status List shall be deemed to be conforming to the Hackleman Monteith (HM) and RS-5 Residential Single-Family (RS-5) zoning districts, as applicable. If any building on these properties is substantially destroyed, as defined in ADC Section 2.335(3), it can be rebuilt to the same size (square feet) and density as existed on the property at the time the HM or RS-5 zoning was first applied, but will be subject to the regulations of any applicable overlay zone.

[Ord. 5886, 1/6/17]

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

[Ord. 5789, 10/10/12]

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

[Ord. 5673, 6/27/07]

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

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

[Ord. 5789, 10/10/12]

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

HOME BUSINESSES

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

[Ord. 5832, 4/9/14]

3.092 Applicability. The provisions of this section apply to all home businesses except for the following:
Amendments to the Albany Development Code (ADC)

Draft code amendments are written as follows: additions **bold red underlined** and deletions in *strike out.* Sections not amended are omitted unless needed for context. Omitted sections are indicated by asterisks: ***

(1) Garage, yard or estate sales from the site that comply with Albany Municipal Code Section 7.84.190.

(2) Open houses and other events involving the sale of goods or services as long as they comply with the frequency of garage sales allowed in Albany Municipal Code Section 7.84.190.

(3) Hobbies.

(4) Registered or certified family child care homes per ORS 657A.440. [Ord. 5832, 4/9/14]

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

(1) Storage and/or distribution of toxic or flammable materials, and spray painting or spray finishing operations that involves toxic or flammable materials which in the judgment of the Fire Marshal pose a dangerous risk to the residence, its occupants, and/or surrounding properties.

(2) Junk and salvage operations.

(3) Storage and/or sale of fireworks in quantities judged by the Fire Marshal to be dangerous.

(4) Storage or display of more than one motor vehicle for sale. [Ord. 5673, 6/27/07; Ord. 5832, 4/9/14]

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

3.100 Procedures.

(1) Home Business Allowed Outright. Home businesses shall be allowed outright as a permitted accessory use to a residence provided that the business or businesses cumulatively meet all of the standards in Section 3.110 and 3.120. [Ord. 5832, 4/9/14]

(2) Home Business as a Conditional Use. Applications for a home business that cannot meet the standards in Section 3.120 will be processed as a Conditional Use Type III. The business shall meet the standards in Section 3.110 and the Conditional Use review criteria in Article 2, Section 2.250. [Ord. 5832, 4/9/14]

3.110 Standards that Apply to All Home Businesses. [Ord. 5832, 4/9/14]

(1) One window or wall sign is allowed, not larger than 12 inches by 18 inches.

(2) There is no visible outside storage of materials or commodities other than plant materials.

(3) There is no display, other than the allowed sign, which would indicate from the exterior that the building is being used for any purpose other than a residential use.

(4) No customers or employees may enter the premises between the hours of 8:00 p.m. and 7:00 a.m. [Ord. 5832, 4/9/14]

(5) All required building and other permits pertaining to the proposed business must be obtained. A home business that is classified as commercial or industrial occupancies by the building codes must comply with the applicable requirements of the Uniform Building Code and Uniform Fire Code. [Ord. 5832, 4/9/14]

3.120 Standards for Home Businesses Allowed Outright. In order to be allowed outright, a home business shall meet all of the following standards. If more than one business is proposed at the same residence, then all businesses must cumulatively meet these standards. [Ord. 5832, 4/9/14]

(1) Employees. The business is carried on only by residents and not more than two outside employees or volunteers. [Ord. 5832, 4/9/14]

(2) Offsite Impacts. The business operation results in no vibration, smoke, dust, odors, heat, glare or noise more than 60 decibels noticeable at or beyond the property line sustained for more than 10 minutes between the hours of 7:00 a.m. and 6:00 p.m. [Ord. 5832, 4/9/14]
Amendments to the Albany Development Code (ADC)

Draft code amendments are written as follows: additions **bold red underlined** and deletions in strike-out.

Sections not amended are omitted unless needed for context. Omitted sections are indicated by asterisks: ***

(3) Deliveries. The business will not average more than three deliveries and pickups by trucks or other commercial vehicles per day, excluding deliveries from the post office. [Ord. 5832, 4/9/14]

(4) Customer Vehicles. No more than three customer or client vehicles are permitted on the property or in the right-of-way at one time. [Ord. 5832, 4/9/14]

(5) Sales. On-site sales shall be by appointment only. [Ord. 5832, 4/9/14]

(6) Size and Scale. Home businesses located in accessory buildings may not exceed 1,000 square feet including storage. [Ord. 5832, 4/9/14]

3.125 Home Businesses Requiring Conditional Use Approval. In addition to home business that cannot meet the standards to be allowed outright per Section 3.100 (2), the following uses may only be considered through a Conditional Use review and approval: [Ord. 5832, 4/9/14]

(1) Auto body repair and painting for compensation. [Ord. 5832, 4/9/14]

(2) Mechanical repair conducted outside of an entirely enclosed building. [Ord. 5832, 4/9/14]

(3) Headquarters or dispatch center where employees and/or vehicles come to the site and are dispatched to other locations. [Ord. 5832, 4/9/14]

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

3.150 Review Procedures for Complaints. An investigation of the complaint will be performed accordingly:

(1) If the Director finds that a home business allowed outright does not meet the standards in Sections 3.110 and 3.120, the Director will:

   (a) Require the business be brought into compliance with the applicable standards; or

   (b) Require the business be processed as a Conditional Use; or

   (c) Order the business to be terminated. [Ord. 5832, 4/9/14]

(2) If the complaint is regarding a home business approved as a Conditional Use, the Director will review the complaint against the standards in Sections 2.250 and 3.110, and any conditions of approval in the notice of decision. If the Director determines the business is in violation of applicable standards or conditions of approval, the Director will:

   (a) Require the business be brought into compliance with applicable standards and the conditions of approval; or

   (b) Order the business to be terminated. [Ord. 5832, 4/9/14]

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

**Amendments to the Albany Development Code (ADC)**

*Draft code amendments are written as follows: additions **bold red underlined** and deletions in strike-out.*

*Sections not amended are omitted unless needed for context. Omitted sections are indicated by asterisks: ****

### DEVELOPMENT STANDARDS

3.190 **Purpose.** Development standards are intended to promote site planning and design that consider the natural environment, site intensity, building mass, and open space. The standards also promote energy conservation, needed privacy, safe and efficient parking areas for new development, and improve the general living environment and economic life of a development. Table 3-1, on the following page, summarizes the basic development standards. It should be used in conjunction with the sections immediately succeeding the table, which address special circumstances and exceptions. See Article 8 for design standards for single-family and multiple-family developments.

[Ord. 5445, 4/12/00, Ord. 5768, 12/7/11]

#### TABLE 3-1

**RESIDENTIAL DISTRICT DEVELOPMENT STANDARDS**

<table>
<thead>
<tr>
<th>STANDARD</th>
<th>RR</th>
<th>RS-10</th>
<th>RS-6.5</th>
<th>HM</th>
<th>RS-5</th>
<th>RM</th>
<th>RMA</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Minimum Property Size or Land Requirements by Unit Type(1)</strong></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Single-family detached, (1)</td>
<td>5 acres (16)</td>
<td>10,000 sf</td>
<td>6,500 sf</td>
<td>5,000 sf</td>
<td>5,000 sf</td>
<td>3,500 sf</td>
<td>N/A</td>
</tr>
<tr>
<td>Single-family, attached (14)(1)</td>
<td>N/A</td>
<td>N/A</td>
<td>N/A</td>
<td>N/A</td>
<td>2,800 sf</td>
<td>2,400 sf</td>
<td>1,800 sf</td>
</tr>
<tr>
<td>Duplex (1)</td>
<td>N/A</td>
<td>14,000 sf Corner lot</td>
<td>8,000 sf Corner lot</td>
<td>N/A</td>
<td>7,000 sf Corner lot</td>
<td>4,800 sf</td>
<td>3,600 sf</td>
</tr>
<tr>
<td>Multi-family, Studio and 1-bedroom units</td>
<td>N/A</td>
<td>N/A</td>
<td>N/A</td>
<td>N/A</td>
<td>N/A</td>
<td>2,000 sf/ unit</td>
<td>1,500 sf/ unit</td>
</tr>
<tr>
<td>2-and 3 bedroom units</td>
<td>N/A</td>
<td>N/A</td>
<td>N/A</td>
<td>N/A</td>
<td>N/A</td>
<td>2,400 sf/ unit</td>
<td>1,800 sf/ unit</td>
</tr>
<tr>
<td>4+ bedroom units</td>
<td>N/A</td>
<td>N/A</td>
<td>N/A</td>
<td>N/A</td>
<td>N/A</td>
<td>3,000 sf/ unit</td>
<td>2,200 sf/ unit</td>
</tr>
<tr>
<td><strong>Minimum Lot Widths:</strong></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Detached S-F Attached Units</td>
<td>N/A</td>
<td>65 ft</td>
<td>50 ft</td>
<td>35 ft</td>
<td>40 ft</td>
<td>30 ft</td>
<td>None</td>
</tr>
<tr>
<td><strong>Minimum Lot Depth</strong></td>
<td>N/A</td>
<td>100 ft</td>
<td>80 ft</td>
<td>65 ft</td>
<td>70 ft</td>
<td>60 ft</td>
<td>None</td>
</tr>
</tbody>
</table>

**Setbacks (4):**

| Minimum Front (4) | 20 ft | 20 ft | 15 ft | 15 ft | 15 ft | 15 ft | 12 ft |
| Maximum Front Setback | None | None | None | None | None | None | (14) |
| Minimum Interior: single-story (4) | 5 ft | 5 ft | 5 ft | 5 ft | 5 ft | 10 ft (5) | 10 ft (5) |
| Minimum Interior: two or more stories (4) | 8 ft | 8 ft | 8 ft | 6 ft | 6 ft | 10 ft (5)(6) | 10 ft (5)(6) |
| Minimum Building Separation | N/A | N/A | N/A | N/A | (12) | (12) | (12) |
| Min. Garage or carport vehicle entrance (10) | 20 ft | 20 ft | 20 ft (7) | 20 ft (7) | 20 ft (7) | 20 ft (7) | 20 ft (7) |
| Maximum Height (8) | 30 ft | 30 ft | 30 ft | 30 ft | 30 ft | 45 ft | 60 ft (15) |
| Maximum Lot Coverage (9) | 20%(11) | 50% | 60% | 60% | 60% | 70% | 70% |
| Minimum Open Space | N/A | N/A | N/A | N/A | N/A | (13) | (13) |
| Min. Landscaped Area | None | (2) | (2) | (2) | (2) | (3) | (3) |
Amendments to the Albany Development Code (ADC)

Draft code amendments are written as follows: additions bold red underlined and deletions strike out.
Sections not amended are omitted unless needed for context. Omitted sections are indicated by asterisks: ***

N/A means not applicable.

(1) Section 3.220 bonus provisions may reduce minimum lot size and area, such as alley access.
(2) All yards adjacent to streets.
(3) All yards adjacent to streets plus required open space.
(4) Additional setbacks may be required, see Sections 3.230-3.330 and the buffer matrix at 9.210; exceptions to Setbacks for Accessibility Retrofits are in Section 3.263; Zero-Lot Line standards are in Sections 2.365 and 2.370. [Ord. 5832, 4/9/14]
(5) Except for single-family homes (attached and detached) or duplexes, which must have a minimum setback of 3 feet for one-story dwellings and 5 feet for two-story dwellings.
(6) More than 3 stories = 10 feet plus 3 feet for each story over 3 per unit requirements. Multiple-family developments must also meet the setbacks in Section 8.270(1).
(7) Garage front setback for non-vehicle-entrance = 15 feet, except in RR and RS-10 zoning districts where the setback shall be 20 feet.
(8) See exceptions to height restrictions, Section 3.340.
(9) Lot coverage for single-family detached development shall only include the area of the lot covered by buildings or structures.
(10) See Table 23-4 for garages with alley access.
(11) Maximum lot coverage for parcels 20,000 square feet or less is 50%. The configuration of any development on a lot 20,000 square feet in size, or less, in an RR zoning district that covers more than 20 percent of the parcel on which it is proposed, should be located such that it does not preclude a later division of the parcel.
(12) The minimum separation between multi-family buildings on a single parcel shall be 10 feet for single-story buildings and 20 feet for two-story or taller buildings.
(13) Ten or more units require open space. See Section 8.220.
(14) See Section 8.240 for standards.

**Commentary**

Note 15 below appears in Table 3-1 above, next to the maximum height standard for the RMA district. However, this note pointing to ADC Section 8.270 Transition to Lower Density Uses is not needed, since Note 6 already indicates that multiple-family developments are subject to the additional setback standards of that section.

(15) When multiple-family developments abut a single-family use or zone, the setback shall be one foot for each foot of building height. See Section 8.270(1).
(15) A property line adjustment between two existing RR properties may be allowed as long as no new lots are created and the resulting properties are at least 20,000 square feet and approval of a septic system has been obtained by Benton County.

[Table and footnotes amended by Ord. 5281, 3/26/97; Ord. 5338, 1/28/98; Ord. 5445, 4/12/00; Ord. 5555, 2/7/03; Ord. 5673, 6/27/07, Ord. 5768, 12/7/11; Ord. 5832, 4/9/14]

3.200 Lot Size Variation Within a Land Division. Up to 50 percent of the total number of detached single-family lots in a land division may have lot sizes up to 30 percent smaller than the standard permitted in any zone provided that the average lot size for lots in the development is at least the standard required in the zone after accounting for all density bonuses. No reduction in the minimum lot size is permitted for lots created for attached housing units. In such cases, the recorded plat shall indicate that the larger lots may not be further divided or deed restrictions shall be established indicating the same. [Ord. 5673, 6/27/07]

3.210 Lot Size Variation Within Planned and Condominium Developments. In the RS-6.5, RS-5, RM, RMA, and OP districts; lot area, lot coverage, and setback requirements may be reduced for individual lot or building sites created by a filed and recorded subdivision or condominiums developed in accordance
Amendments to the Albany Development Code (ADC)

Draft code amendments are written as follows: additions bold red underlined and deletions in strike-out. Sections not amended are omitted unless needed for context. Omitted sections are indicated by asterisks: ***

with the Oregon Revised Statutes; provided the difference in square footage between the standard lot area established in this Article and the square footage of lots created is secured for common use in open space by covenants or associations to be in effect for at least 20 years. [Note: Cluster developments see Section 11.400.] [Ord. 5673, 6/27/07; Ord. 5742, 7/14/10]

Commentary

For the Bonus Provisions section below, the general code concept was to amend the language to make it clear how the density bonuses and transfers are determined, and to eliminate any discretionary language. All 13 respondents to the Task Force questionnaire supported this concept. Amendments to applicable subsections are explained below.

3.220 Bonus Provisions for Reduction in Standard Lot Size Requirements. The following standards may be applied to development sites resulting in allowed reductions in the average minimum lot size and area per unit requirements as indicated. In no instance shall the combined total of all bonus provisions applied to a development result in an overall reduction of more than 30 percent in the standard site size or lot area per unit requirements, or result in a density that exceeds the allowed density in the zone by more than 20 percent. Some bonuses are available for lot design only, with additional bonuses available due to building design or construction. [Ord. 5338, 1/28/98; Ord. 5673, 6/27/07]

Relationship to Transportation

(1) A 10 percent reduction in the average minimum lot size required in a zoning district is allowed for proposed lots that meet the following qualifications:

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

   For example, if the average minimum lot size for the zone is 10,000 square feet, the average lot size may be 9,000 square feet for those properties within 200 feet of the collector or arterial. The remaining lots in the development must average 10,000 square feet. [Ord. 5673, 6/27/07]

(2) For multi-family developments, condominiums, and townhouses; when any portion of a building is located within 200 feet of a designated arterial, the area per unit requirements in those buildings can be reduced by 10 percent. [Ord. 5673, 6/27/07]

Commentary

The existing language in the Significant Natural Resources Overlays subsection below makes it unclear as to who determines what amount of density could be transferred from overlay districts—whether the Planning Director or the applicant decides. The proposed amendment clarifies that the applicant decides what amount of density to transfer, up to the maximum of 50 percent.

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

Draft code amendments are written as follows: additions **bold red underlined** and deletions in strike-out. Sections not amended are omitted unless needed for context. Omitted sections are indicated by asterisks: ***

(3) Development Density to Transfer from Overlay Districts. The land area that density can be transferred from excludes developed and unbuildable areas, such as water bodies, areas below ordinary high water mark, floodways, significant wetlands, riparian corridors slopes 12% or greater, and easements.

- Residential Zoning – Up to 50 percent of the development density can be transferred. **The applicant may choose to transfer up to 50 percent of the development density if the above standard is met.** For example, if the base zoning would have allowed 8 single-family units (net), 4 units can be transferred; if it would have allowed 20 multi-family units (net), 10 units can be transferred.

- Open Space Zoning – If the lot was legally created prior to July 1, 1991, and the area is of sufficient size and dimension to comply with the development standards for a single-family home, one single-family unit can be transferred.

(4) Development Density in Receiving Area. Up to a maximum 20 percent reduction in average minimum lot size, or lot area per unit requirements, is allowed in order to accommodate the density transfer.  
[Ord. 5764, 12/1/11]

### Commentary

The existing language in the Energy Conservation section below states that “the amount of bonus depends on the restrictiveness of the covenant and the percentage of units affected.” However, the Code does not indicate what level of bonus would be possible if less than 80% of lots or units were protected. The code concept was to consider permitting a smaller density bonus for developments that meet the standards to a lesser degree. All 13 respondents to the Task Force questionnaire supported this concept. The proposed amendments allow a lesser bonus of 5% if 60-80% of lots or units meet the solar access protection standard. The amendments also clarify that the allowed bonus is a density bonus and restructure the standards to provide additional clarity and readability.

### Energy Conservation

(5) **Solar Access Protection.** If buildings are sited (either by site design or defining buildable areas) and covenants or other mechanisms are established that protect solar access of south building walls from shading by structures and vegetation, a **density bonus of up to 10 percent** may be allowed. The amount of bonus depends on the restrictiveness of the covenant and the percentage of units affected. Table 3-2 indicates the amount of bonus that shall be given, based on the percentage of lots or multiple-family units that are protected. In **For subdivisions,** **to receive a bonus,** a covenant or other mechanism **shall be established** that provides and protects solar access for the southerly building area of 80 percent or more of the protected lots from 9:30 a.m. to 2:30 p.m. on December 21 shall be given the full 10 percent bonus. In **For multiple unit developments to receive a bonus,** if 80 percent or more of the protected units **shall** receive this same **solar access** protection for south facing walls, and the south facing glass of those units **shall** totals at least 7 percent of the conditioned area, the full bonus may be allowed. (South facing is defined as being within 25 degrees of true south.)
Amendments to the Albany Development Code (ADC)

Draft code amendments are written as follows: additions bold red underlined and deletions in strike-out.
Sections not amended are omitted unless needed for context. Omitted sections are indicated by asterisks: ***

### TABLE 3-2

<table>
<thead>
<tr>
<th>Development Type</th>
<th>Percentage of Lots or Units Protected</th>
<th>Density Bonus Permitted</th>
</tr>
</thead>
<tbody>
<tr>
<td>Subdivision</td>
<td>80 percent or more of lots</td>
<td>10 percent</td>
</tr>
<tr>
<td></td>
<td>At least 60 percent and up to 80 percent</td>
<td>5 percent</td>
</tr>
<tr>
<td>Multiple-unit Development</td>
<td>80 percent or more of units</td>
<td>10 percent</td>
</tr>
<tr>
<td></td>
<td>At least 60 percent and up to 80 percent</td>
<td>5 percent</td>
</tr>
</tbody>
</table>

**Commentary**

The proposed amendments to the Moderate-Cost Housing section below clarifies that a density bonus is available to developments that are at least 50% affordable and clarifies that a bonus shall be permitted if standard (a) or (b) is met (the word “may” suggests that discretion is involved).

An additional “Affordable Housing” section has also been added as Subsection (7), per suggestions from Albany City staff, to allow density bonuses for projects that include units with deeper affordability requirements (80% and 50% of area median income), but provide fewer units at these affordability levels (5 to 20 percent of units). These new provisions will replace the density bonus offered in Subsection (6)(c), which has been struck out.

**Moderate-Cost and Affordable Housing**

(6) **Provision of Moderate-Cost and Affordable Housing.** For the provision of housing that is affordable to low- and moderate-income households earning 120% or less of the area median income (AMI), a density bonus through lot size reductions is permitted as provided in Table 3-3.

(a) For the purposes of this section, “AMI” means the area median income for the county in which the project is located in.

(b) “Affordable” means that the sales price or rental amount is within the means of a household that may occupy moderate- and low-income housing. In the case of dwelling units for sale, affordable means housing in which mortgage, amortization, taxes, insurance, and condominium or association fees, if any, constitute no more than 30 percent of such gross annual household income for a household of the size that are most likely to or intended to occupy the unit in question. In the case of dwelling units for rent, affordable means housing for which the rent and utilities constitute no more than 30 percent of such gross annual household income for a household of the size that are most likely to or intended to occupy the unit in question. Projects must include contractual obligations for continued availability to low-and moderate-income persons for a period of at least 30 years.
If 50 percent of the units meet the following performance standards, a density bonus may be permitted as follows:

(a) Affordable for persons whose income is 1.2 times the median income for Linn or Benton Counties—5% density increase.

(b) For projects that are affordable for persons whose income is equal to the median income for Linn or Benton Counties—10 percent density increase.

(c) For projects that are affordable for persons whose income is equal to, or less than, .8 times the median income for Linn or Benton Counties—15 percent density increase.

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

**TABLE 3-3**

<table>
<thead>
<tr>
<th>Affordability Level</th>
<th>Percent of units set aside for persons whose household income is less than or equal to the affordability level</th>
<th>Density Bonus Permitted</th>
</tr>
</thead>
<tbody>
<tr>
<td>120% AMI</td>
<td>50 percent of units</td>
<td>5 percent</td>
</tr>
<tr>
<td>100% AMI</td>
<td>50 percent of units</td>
<td>10 percent</td>
</tr>
<tr>
<td>80% AMI</td>
<td>5 percent of units</td>
<td>5 percent</td>
</tr>
<tr>
<td></td>
<td>10 percent of units</td>
<td>10 percent</td>
</tr>
<tr>
<td></td>
<td>20 percent of units</td>
<td>20 percent</td>
</tr>
<tr>
<td>50% AMI</td>
<td>5 percent of units</td>
<td>10 percent</td>
</tr>
<tr>
<td></td>
<td>10 percent of units</td>
<td>20 percent</td>
</tr>
<tr>
<td></td>
<td>20 percent of units</td>
<td>30 percent</td>
</tr>
</tbody>
</table>

Alley Access

(7) Lots with alley access may be up to 10 percent smaller than the minimum lot size for the zone.

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

SETBACKS

3.230 Setback Measurements. All setbacks must meet the minimum standards as set forth in Tables 3-1 and 3-4 in this Article, as appropriate. Setback distances shall be measured perpendicular to all portions of a property line. In addition to the setbacks in this article, all development must comply with Section 12.180, Clear Vision Area. See also Table 3-4, Accessory Structure Standards. [Ord. 5673, 6/27/07]

**Commentary**

In Table 3-4 below, the existing language for garages or carports with access to an alley does not specify whether the alley setback applies if the alley access is blocked off; or if the garage/carport could access the alley, but the driveway actually accesses a different street. The
Amendments to the Albany Development Code (ADC)

Draft code amendments are written as follows: additions **bold red underlined** and deletions in **strike-out**. Sections not amended are omitted unless needed for context. Omitted sections are indicated by asterisks: ***

---

The proposed amendment clarifies that the alley setback only applies if the garage/carport is **actually accessed from** the alley. In the Task Force questionnaire, 12 out of 13 respondents supported this change.

---

### TABLE 23-4

**ACCESSORY STRUCTURE STANDARDS**

<table>
<thead>
<tr>
<th>STRUCTURE</th>
<th>STANDARD</th>
</tr>
</thead>
<tbody>
<tr>
<td>All Accessory Structures</td>
<td>Front setback, see Table 3-1, by zone if not noted below</td>
</tr>
<tr>
<td>Detached Structure walls less than or equal to 8 feet</td>
<td>Interior setback = 3 feet (1)</td>
</tr>
<tr>
<td>Attached Structure</td>
<td>Interior setback = 5 feet (1)</td>
</tr>
<tr>
<td>Detached Structure walls greater than 8 feet tall</td>
<td>Interior setback = 5 feet</td>
</tr>
<tr>
<td>Accessory Apartment Building</td>
<td>Front setback is equal or greater than primary residence</td>
</tr>
<tr>
<td></td>
<td>Interior setback, one-story = 5 feet (1)</td>
</tr>
<tr>
<td></td>
<td>Interior setback, two-story = 8 feet (1)</td>
</tr>
<tr>
<td>Garage or carport with <strong>vehicular access</strong> <strong>from</strong> to an alley</td>
<td>Alley setback = 20 feet, less the width of the alley right-of-way, but at least 3 feet. Other interior setbacks = see Table 3-1</td>
</tr>
<tr>
<td>Structures, including fences, intended for housing</td>
<td>Interior setback = 10 feet</td>
</tr>
<tr>
<td>animals</td>
<td></td>
</tr>
<tr>
<td>Fences greater than 6 feet tall</td>
<td>See Table 3-1, by zone; building permit required.</td>
</tr>
<tr>
<td>Outdoor swimming pools with depths greater than or</td>
<td>Interior setback = 10 feet</td>
</tr>
<tr>
<td>equal to 24 inches</td>
<td></td>
</tr>
<tr>
<td>Decks less than or equal to 30 inches from grade, with</td>
<td>No setback from property lines</td>
</tr>
<tr>
<td>no rails or covers</td>
<td></td>
</tr>
<tr>
<td>Decks greater than 30 inches from grade</td>
<td>Interior setback = 5 feet</td>
</tr>
</tbody>
</table>

(1) Zero-lot line provisions are in Sections 3.265 and 3.270. [Ord. 5832, 4/9/14]
(2) The slab or foundation of accessory structures is not included in the wall height unless it is greater than 24-inches from the ground. [Ord. 5673, 6/27/07]

---

**Commentary**

The way the Alternative Setbacks section below is currently written, it appears to allow the Director discretion in determining whether an alternative setback would be approved; however, clear and objective standards should not permit any discretion by the reviewer. The proposed amendments make this section non-discretionary by indicating that the Director shall approve a request for alternative setbacks provided all the criteria are met. In the Task Force questionnaire, 6 out of 12 respondents supported this change. The other 6 were either neutral or supported adjusting the language to provide clarity about when and how the Director could/should deny
Amendments to the Albany Development Code (ADC)

Draft code amendments are written as follows: additions **bold underlined** and deletions in strike-out.
Sections not amended are omitted unless needed for context. Omitted sections are indicated by asterisks: ***

The alternative setbacks request. For the purposes of the first draft, we have revised this section to be non-discretionary. However, the Task Force may wish to discuss this further.

The amendments also clarify that the applicable “abutting properties” are those facing the same street (i.e., not abutting properties to the rear of the subject property).

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

1. **Additions to the front of a dwelling.** The front setback of the dwelling does not exceed the average of the setbacks for the same uses on the abutting properties facing the same street.

2. **Addition of a garage or carport.** The front setback for a garage or carport shall meet the current setback standard and the driveway to it shall be paved. [Ord. 5742, 7/14/10]

3. **Additions to the side or rear of a dwelling.** An addition to an existing structure may or shall not encroach any further into a setback than the existing structure.

4. **New structures.** New structures shall be setback no less than the setbacks for structures on abutting properties facing the same street. See infill design standards in Section 8.140. [Ord. 5742, 7/14/10]

5. **No wall of a dwelling is closer than six feet from a window of another dwelling including attached garages.**

(5)(6) All other provisions of this Code and the applicable building code must be met.

[Ord. 5446, 5/10/00; Ord. 5673, 6/27/07]

**Commentary**

The existing standards in the Parking and Other Restrictions in Setback or Yard Areas section below standards are not clear and objective and have been problematic for staff to administer. The code concept for this section was to reorganize and reword this section to clarify the standards and make them more specific. In the Task Force questionnaire, 11 out of 12 respondents supported this concept. City staff provided suggestions for how to amend this section in order to provide more clarity.

The current regulations differ in terms of the requirements for the front yard vs. the front setback.

*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.
3.250 Parking and Other Restrictions in Setback or Yard Areas.

(1) Vehicles in daily use may not park in the front yard, except on the paved driveway leading to a garage, carport, or a driveway that provides required parking spaces. Trailers, boats, campers, and other vehicles not in daily use may not park in the required front setback for more than 48 consecutive hours. Recreational vehicle, trailer and miscellaneous storage pads or buildings are not allowed in the required front setbacks. (See Section 22.400 for the definition of yard.)

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

(2) Required parking spaces, driveways or travel aisles for residential development shall not be located in a required front or interior setback except that circular driveways providing drop-off service to the front door and driveways providing access to garages and carports or driveways that serve as required parking for any residential development may be used to fulfill the requirements. For an area to count as required parking, each space must be a paved surface at least 10 feet wide and 20 feet long.

[Ord. 5673, 6/27/07; Ord. 5742, 7/14/10]

3.250 Parking Standards in Setback or Yard Areas.

(1) Vehicles in daily use shall not park in the front yard, except on a paved driveway that leads to a garage, carport, or on a driveway that provides required parking spaces.

(2) Parking spaces shall not be located in a required front setback, except:

a) Circular driveways providing drop-off service to the front door.

b) Driveways used to fulfill parking requirements for single-family and two-family residences. Each space must be a paved area at least 10 feet wide and 20 feet long.

c) Required parking shall not be located in interior setback areas.

(3) RV’s, trailers, boats, campers, and vehicles not in daily use are not allowed in the required front setback for more than 48 consecutive hours.

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

(1) Depressed Areas. In any district, open work fences, berms, hedges, guard railings, or other landscaping or architectural devices for safety protection around depressed areas, ramps, stairs, or retaining walls, may be located in required setbacks, provided that such devices are not more than 3-1/2 feet in height.

[Ord. 5742, 7/14/10]

(2) Projecting Building Features. The following building features may encroach up to five feet into the required front setback and up to two feet into the required interior setbacks:

[a] Awnings, eaves, buttresses, architectural appendages (such as, but not limited to, bay windows, planters, cantilevered stairways).

[b] Chimneys and fireplaces provided they do not exceed eight feet in width.

[c] Porches, steps, platforms or landings, raised patios, decks or other similar structures over 30 inches in height. (Structures, patios or concrete pads 30 inches or less in height are not subject to setback provisions).

[d] Signs conforming to applicable ordinance requirements.

[Ord. 5673, 6/27/07]
Exceptions to Setbacks for Accessibility Retrofits. An encroachment into the interior setback for the purpose of retrofitting an existing residential bathroom to accommodate mobility impairments is permitted if the following criteria are met:

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

[Ord. 5832, 4/9/14]

Commentary
For the Zero Lot Line section below, the proposed amendment would allow the required easement to be less than 6 feet in width if the required setbacks are less than 6 – 10 feet. If the adjacent lot does not require an interior setback, then no setback or maintenance easement would be required. Any development would also be subject to Building Code standards for building separation. The same amendment is proposed for Section 4.150.

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

1. There are no openings or windows in the lot line wall and a 6-foot setback and maintenance easement must be recorded on the adjoining property deed or plat for accessory structures and a 10-foot setback and maintenance easement for dwellings. **Additionally, a setback and maintenance easement must be recorded on the adjoining property deed or plat. The width of the easement shall be 6 feet or the width of the required setback of the adjoining property, whichever is less. If the adjoining property is not subject to an interior setback, then no maintenance agreement is required.** This easement is not revocable without City approval. **OR**

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

[Ord. 5673, 6/27/07]

Setbacks for Attached Single-Family Dwellings. The interior setback requirements for attached single-family units shall be zero where the units adjoin; however, all other setbacks shall conform to this Code.

Setbacks for Properties Adjacent to Designated Farmlands. For properties adjacent to designated and zoned productive farmland outside the Urban Growth Boundary, the habitable portion of new residential dwelling units shall be setback 125 feet from the property line on land zoned Exclusive Farm Use (EFU). This requirement does not apply to the residential development if the adjacent EFU-zoned property is a golf course, contains locally significant wetlands adjacent to the residential development, residential land uses on 5 acres or less, or where the separation cannot be achieved due to lot size constraints or other physical factors beyond the control of the property owner. Screening and buffering are encouraged to be incorporated into the site design in addition to the 125-foot separation. Road and right-of-way widths may be included in the required separation distance where appropriate. **[Ord. 5673, 6/27/07]**
Amendments to the Albany Development Code (ADC)

Draft code amendments are written as follows: additions bold red underlined and deletions in strike-out. Sections not amended are omitted unless needed for context. Omitted sections are indicated by asterisks: ***

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

[Ord. 5673, 6/27/07]

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

Ord. 5673, 6/27/07; Ord. 5742, 7/14/10

3.310 Special Willamette River Setback & Height Restrictions. Except for water-related and water-dependent uses (see definitions Article 22); all construction must be located outside the floodway line as defined for a 100-year storm. Development structure heights and setbacks south of the Willamette River shall not extend above a plane, which begins at the floodway line and extends directly south, unless the property is exempt in Section 5.207.

The angle of this plane shall be as follows:

(1) For river-oriented uses, the angle shall be 30 degrees.

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

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

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

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

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

[Ord. 5673, 6/27/07]

BUILDING HEIGHT

3.340 Height Exceptions. Height limitations are shown in Table 3-1, Development Standards. See also Table 2-3-4, Accessory Structure Standards.
(1) **Roof Structures and Architectural Features.** Roof structures for the housing of elevators, stairways, tanks, ventilating fans and similar equipment required to operate and maintain the building, fire walls, skylights, towers, flagpoles, chimneys, smokestacks, wireless masts, antennas, steeples, and similar structures may be erected above the height limits prescribed in this Article provided that no roof structure, feature, or any other device above the prescribed height limit shall be allowed or used for the purpose of providing additional floor space.

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

**OFF-STREET PARKING AND LOADING REQUIREMENTS**

3.350 **Minimum Space Requirements.** Off-street parking shall be provided for all residential development in the amounts indicated in Article 9, Section 9.020, Table 9-1. All parking lots in residential districts must comply with applicable requirements in Article 9.

[Ord. 5445, 4/12/00; Ord. 5673, 6/27/17; Ord. 5832, 4/9/14]

*Table 3 - Parking Standards moved to Article 9, Ord. 5832, 4/9/14.*

**LANDSCAPING**

3.360 **Requirements.** All front yards shall be landscaped in accordance with Section 9.140.

[Ord. 5673, 6/27/07]

**BUFFERING AND SCREENING**

3.370 **General.** Buffering and screening may be required to offset the impact of development. See Sections 9.280 through 9.325.

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

**OUTSIDE STORAGE**

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

3.390 **Screening of Refuse Containers.** The following standards apply to all residential development, except for one- and two-family dwellings. Any refuse container or refuse disposal area which would otherwise be visible from a public street, customer or resident parking area, any public facility, or any residential area, shall be screened from view by placement of a sight-obscuring fence, wall or hedge at least 6 feet in height. All refuse materials shall be contained within the screened area. No refuse container or refuse disposal area shall be placed within 15 feet of a dwelling window.

[Ord. 5673, 6/27/07]

*3.400 and 3.410 - Fence standards moved to Article 9, Ord. 5751, 3/9/11.*
ARTICLE 4
COMMERCIAL AND INDUSTRIAL ZONING DISTRICTS

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

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

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

ZONING DISTRICTS

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

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

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

3. CC – COMMUNITY COMMERCIAL DISTRICT. The CC district recognizes the diversity of small to medium-scale businesses, services and sites mostly located on arterial streets and highways. Design guidelines, building location and front-yard landscaping will provide a coordinated and enhanced community image along these major transportation corridors as they develop or redevelop. Sound and visual buffers should be used to mitigate impacts on nearby residential areas.
Amendments to the Albany Development Code (ADC)

Draft code amendments are written as follows: additions **bold red underlined** and deletions in *strike-out*. Sections not amended are omitted unless needed for context. Omitted sections are indicated by asterisks: ***

(4) **RC – REGIONAL COMMERCIAL DISTRICT.** The RC district is intended primarily for developments that serve the wider Albany region. RC allows a wide range of retail sales and service uses, and is typically appropriate for developments that require large sites near Interstate 5. Design guidelines, building location and front-yard landscaping will provide an enhanced community image along major transportation corridors. These uses often have significant impacts on the transportation system. Sound and visual buffers may be required to protect nearby residential areas. RC districts may not be appropriate in all locations.

(5) **TD – TRANSIT DISTRICT.** The TD district is intended primarily for regional transit facilities and related uses. This district is suitable as a major office employment center because of easy access to mass transit. Mixed-use development including a multi-modal transportation facility, a park-and-ride facility, and office space should be developed within this district.

(6) **IP – INDUSTRIAL PARK DISTRICT.** The IP district is intended primarily for light manufacturing, high-tech, research and development, institutions and offices in a quality environment. Uses are characterized by attractive building architecture and landscaped yards and streetscapes, and the absence of objectionable external effects. The district is designed for industrial and business parks containing offices together with clean, non-polluting industries. IP is located along or near highly visible corridors to provide a positive image and a transition to residential or natural areas from heavier industrial uses.

(7) **LI – LIGHT INDUSTRIAL DISTRICT.** The LI district is intended primarily for a wide range of manufacturing, warehousing, processing, assembling, wholesaling, specialty contractors and related establishments. Uses will have limited impacts on surrounding properties. This district is particularly suited to areas having good access to highways and perhaps to rail. LI may serve as a buffer around the HI district and may be compatible with nearby residential zones or uses.

(8) **HI – HEAVY INDUSTRIAL DISTRICT.** The HI district is intended primarily for industrial uses and support activities that are potentially incompatible with most other uses and which are characterized by large amounts of traffic, extensive shipping of goods, outside storage or stockpiling of raw materials, by-products, or finished goods, and a controlled but higher level of noise and/or pollution. This district is located away from residential areas and has easy access to highways and perhaps to rail.  [Ord. 5555, 2/7/03]

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

<table>
<thead>
<tr>
<th>Special Purpose District</th>
<th>Applicable Articles</th>
</tr>
</thead>
<tbody>
<tr>
<td>Floodplain</td>
<td>Article 6</td>
</tr>
<tr>
<td>Wetlands</td>
<td>Article 6</td>
</tr>
<tr>
<td>Willamette Greenway</td>
<td>Article 6</td>
</tr>
<tr>
<td>Airport Approach</td>
<td>Article 6</td>
</tr>
<tr>
<td>Hillside Development</td>
<td>Article 6</td>
</tr>
<tr>
<td>Historic Overlay</td>
<td>Article 7</td>
</tr>
</tbody>
</table>

[Ord. 5555, 2/7/03]
Amendments to the Albany Development Code (ADC)
Draft code amendments are written as follows: additions bold red underlined and deletions in strike-out.
Sections not amended are omitted unless needed for context. Omitted sections are indicated by asterisks: ***

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

SCHEDULE OF PERMITTED USES

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

(1) The schedule of permitted uses cannot anticipate all uses that may be located within the city. There are also situations where proposed uses may relate to more than one type of use. In both instances, the Director will determine the appropriate use category based on operating characteristics and land use impacts. Where ambiguity exists concerning the appropriate classification of a particular use, the use may be reviewed as a Conditional Use where the Director determines that the proposed use is consistent with other uses allowable within the subject district due to similar characteristics.

(2) Where a development proposal involves a combination of uses other than accessory uses, the more restrictive provisions of this Code shall apply. For example, if a portion of a development is subject to Conditional Use approval and the balance is subject only to Site Plan review, the entire development shall be reviewed utilizing the conditional use criteria if concurrent approval of all uses is sought.

(3) A change in the use of a property is subject to review as specified by the schedules of permitted uses:

(a) When the change involves a change from one use category to another in the schedule of permitted uses and the Director has not waived review under the provisions of Section 1.070, OR

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

Commentary
Article 2 includes a new Type I Site Plan Review application. The Schedule of Permitted Uses has been updated to indicate those residential applications that may qualify for this Type I application. These are proposed to be noted with an asterisk “*” following the SPR. In the case of Article 4, this only applies to Single Family and Two Family Units in the NC zone.

4.050 Schedule of Permitted Uses. The specific uses listed in the following schedule (Table 4-1) are permitted in the zones as indicated, subject to the general provisions, special conditions, additional restrictions, and exceptions set forth in this Code. A description of each use category is in Article 22, Use Categories and...
Amendments to the Albany Development Code (ADC)

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

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

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

[Ord. 5555, 2/7/03]
### TABLE 4-1

**SCHEDULE OF PERMITTED USES**

<table>
<thead>
<tr>
<th>Use Categories (See Article 22 for use category descriptions)</th>
<th>Spec. Cond.</th>
<th>OP</th>
<th>NC</th>
<th>CC</th>
<th>RC</th>
<th>TD</th>
<th>IP</th>
<th>LI</th>
<th>HI</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>INDUSTRIAL</strong></td>
<td></td>
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<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Contractors and Industrial Services</td>
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<td>N</td>
<td>S-1</td>
<td>N</td>
<td>S-1</td>
<td>S-1</td>
<td>S-1</td>
<td>S</td>
<td>S</td>
</tr>
<tr>
<td>Railroad Yard</td>
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<td>N</td>
<td>S</td>
<td>N</td>
<td>S</td>
<td>S</td>
<td>S</td>
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<td>Warehousing and Distribution</td>
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<td>N</td>
<td>N</td>
<td>CU</td>
<td>S</td>
<td>S</td>
<td>S</td>
</tr>
<tr>
<td>Waste and Recycling Related</td>
<td>4</td>
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<td>CU</td>
<td>N</td>
<td>N</td>
<td>N</td>
<td>S/CU</td>
<td>S/CU</td>
</tr>
<tr>
<td>Wholesale Sales</td>
<td>N</td>
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<td>N</td>
<td>N</td>
<td>N</td>
<td>S-5</td>
<td>S</td>
<td>S</td>
<td>N</td>
</tr>
<tr>
<td><strong>COMMERCIAL</strong></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
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<tr>
<td>Adult Entertainment</td>
<td>N</td>
<td>N</td>
<td>S-6</td>
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<td>N</td>
<td>N</td>
<td>N</td>
<td>CU-6</td>
<td>N</td>
</tr>
<tr>
<td>Entertainment and Recreation: Indoor Outdoor</td>
<td>7</td>
<td>N</td>
<td>N</td>
<td>N</td>
<td>S-7</td>
<td>S-7</td>
<td>S</td>
<td>S</td>
<td>S/CU-7</td>
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<td>Offices: Traditional</td>
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<td>S</td>
<td>S</td>
<td>S</td>
<td>S</td>
<td>S</td>
<td>S</td>
<td>S/CU-8</td>
<td>S/CU-7/11</td>
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<tr>
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<td>N</td>
<td>N</td>
<td>N</td>
<td>S</td>
<td>S</td>
<td>S</td>
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<td>Recreational Vehicle Park</td>
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<td>CU</td>
<td>N</td>
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<td>Restaurants, no drive-thru w/ drive-thru or mostly delivery</td>
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<td>S-11</td>
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<td>S</td>
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<td>N</td>
<td>S</td>
<td>S</td>
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<tr>
<td>Taverns, Bars, Breweries, Nightclubs</td>
<td>25</td>
<td>CUII</td>
<td>CUII</td>
<td>S</td>
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<td>S</td>
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<td>S/CU</td>
<td>S/CU</td>
<td>S/CU</td>
<td>S/CU</td>
<td>CU</td>
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<td>CU</td>
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<td>S</td>
<td>N</td>
<td>N</td>
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<td>C</td>
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<td>Y/CU</td>
<td>Y/CU</td>
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<td>N</td>
<td>N</td>
<td>N</td>
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*Bold underlined text indicates additions, and strike-out indicates deletions.*
Amendments to the Albany Development Code (ADC)

Draft code amendments are written as follows: additions *bold red underlined* and deletions *strike-out*. Sections not amended are omitted unless needed for context. Omitted sections are indicated by asterisks: ***

<table>
<thead>
<tr>
<th>Three or More Units</th>
<th>Use Categories (See Article 22 for use category descriptions.)</th>
<th>Spec. Cond.</th>
<th>OP</th>
<th>NC</th>
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<th>RC</th>
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<th>IP</th>
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<th>HI</th>
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<tr>
<td></td>
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<td>S</td>
<td>S</td>
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<td>S</td>
<td>S</td>
<td>S</td>
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<td>Residential Accessory Buildings</td>
<td>21</td>
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<td>N</td>
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**OTHER CATEGORIES**

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<tr>
<td>N</td>
<td>Y</td>
<td>N</td>
<td>N</td>
<td>S</td>
<td>N</td>
<td>CU</td>
</tr>
<tr>
<td>N</td>
<td>Y</td>
<td>N</td>
<td>N</td>
<td>N</td>
<td>N</td>
<td>S</td>
</tr>
<tr>
<td>N</td>
<td>Y</td>
<td>S</td>
<td>CU</td>
<td>Y</td>
<td>N</td>
<td>CU</td>
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<td>Y</td>
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<tr>
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<td>Y</td>
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<td>Y</td>
<td>Y</td>
<td>Y</td>
</tr>
</tbody>
</table>

Y = Yes, allowed, no Site Plan Review required
CU = Conditional Use review, Type III procedure
S = Site Plan Review required, asterisk “*” means development may qualify for Type I SPR

[Ord. 5555, 2/7/03; Ord. 5728, 1/27/10; Ord. 5742, 7/14/10, Ord. 5767, 12/7/11; Ord. 5832, 4/9/14, Ord. 5886, 1/6/17]

**SPECIAL CONDITIONS**

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

1. Contractors and Industrial Services in the CC, TD, IP and LI zones.

   (a) Limited Uses. Salvage or wrecking operations are prohibited in the CC, TD, IP, and LI zones. See Section 4.290 for outside storage standards.

2. Manufacturing and Production. The environmental performance standards of Article 9 may limit the placement of certain uses in some districts. If the site is located within 300 feet of residentially zoned land, the use may require a Conditional Use approval.

3. Manufacturing in the CC zone. Manufacturing uses in CC must have a retail storefront and sell their products to the public on site.


   (a) Limited uses in CC. Only processing and sorting operations conducted within enclosed structures less than 5,000 sq. ft. in total area are considered with a conditional use review.

   (b) Limited uses in LI. Processing and sorting operations conducted within enclosed structures less than 5,000 sq. ft. in total area are allowed with Site Plan Review. Salvage yards, junkyards, and refuse transfer stations are not permitted. All other material and recycling operations are considered through a conditional use review.

   (c) Limited uses in HI. Processing and sorting operations conducted within enclosed structures less than 5,000 sq. ft. in total area and all other material and recycling operations, excluding...
Amendments to the Albany Development Code (ADC)

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Sections not amended are omitted unless needed for context. Omitted sections are indicated by asterisks: ***

salvage yards and junkyards, are allowed with Site Plan Review. Salvage yards, junkyards, sanitary landfills, and refuse transfer stations require a conditional use review.

5) **Wholesale Sales in the IP zone.** This use is allowed in IP only if all operations and storage are conducted entirely within enclosed buildings.

6) **Adult Entertainment.** Where allowed, Adult Entertainment uses shall meet the following standards:
   a) An adult entertainment use shall not be established or expanded within 300 feet of the district boundary line of any residential zoning district.
   b) An adult entertainment use shall not be established or expanded within 300 feet of any other adult entertainment use.
   c) An adult entertainment use shall not be established or expanded within 300 feet of the property line of a church, school, or public park.
   d) Exceptions to the above may be considered by the Variance procedures.

7) **Indoor Entertainment and Recreation in the CC, RC, IP, LI and HI zones.**
   a) **Limited uses in CC.** Indoor firing ranges or gun clubs, coliseums, and stadiums are not permitted.
   b) **Limited uses in RC.** Indoor firing ranges or gun clubs are not permitted.
   c) **Limited uses in IP.** Exercise and health clubs or gyms are permitted through Site Plan Review. Convention centers, coliseums and stadiums are considered through a Conditional Use Type III review. All other indoor entertainment uses are not permitted.
   d) **Limited uses in LI.** Indoor firing ranges or gun clubs, pool halls, paint gun facilities, cheerleading, tumbling, gymnastics, fairgrounds, coliseums and stadiums are considered through a Conditional Use Type II review. Exercise and health clubs or gyms are considered through a Conditional Use Type III review and must meet the additional criteria in Special Condition (11)(b). All other indoor entertainment uses are not permitted.
   
   e) **Limited uses in HI.** Indoor firing ranges or gun clubs, pool halls, paint gun facilities, motor racetrack, coliseums and stadiums are considered through a conditional use review. All other indoor entertainment uses are not permitted.

8) **Offices in the IP zone.** Traditional Offices intended to serve customers on site are considered through the Conditional Use Type II review. Industrial Offices are permitted through Site Plan Review. See Article 22 for Office examples.

9) **Offices in the LI zone.** Traditional Offices intended to serve customers on site are not allowed. Industrial Offices are permitted through Site Plan Review. See Article 22 for Office examples.

10) **Restaurants in the NC zone.** Drive-through restaurants are allowed in NC provided there are no more than two drive-through windows, and there is no speaker service (for ordering).

11) **Retail Sales and Services in the OP, NC, IP and LI zones.**
   a) **Limited uses in OP, NC and IP.** The only retail uses allowed are convenience-oriented retail and personal services-oriented retail intended to serve nearby residences and employees. Businesses are limited to a 5,000-square-foot maximum business footprint, except for
Amendments to the Albany Development Code (ADC)

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businesses located within buildings in the OP and NC zones constructed prior to February 7, 2003 there is no business footprint limit. See Article 22 for examples of convenience-oriented and personal service-oriented businesses. Vehicle repair-oriented services, motor vehicle sales, large equipment sales, and bulk sales are prohibited. [Ord. 5923, 2/8/19]

(b) Retail Sales and Service Uses in Existing Buildings in the LI zone. To encourage the reuse of buildings constructed prior to April 9, 2014 in the LI zone, Repair-Oriented Retail Sales and Service uses as described in Section 22.140 will be permitted through Site Plan Review. Personal Service-Oriented uses and Sales and Service-Oriented Retail Sales uses as described in Section 22.140 may be permitted through a Conditional Use review. Retail Sales and Service uses permitted in accordance with this subsection are subject to the following additional review criteria:

i. The street system has adequate capacity to accommodate the use through the horizon year of the current Transportation Systems Plan;

ii. The site has adequate on-site parking to accommodate the development, or adequate parking will be provided; and

iii. The development will not alter the existing building or site in a way that would discourage or preclude its later conversion back to an industrial use.

iv. The new commercial user shall acknowledge that industrial uses have a right to operate free from the new use complaining about externalities typical of industrial uses.

[Ord. 5832, 4/9/14]

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

(a) The minimum driveway width between buildings is 20 feet for one-way drives and 24 feet for two-way drives.

(b) The maximum storage unit size is 1,000 square feet.

(c) All outdoor lighting shall be shielded to prevent glare and reflection on adjacent properties.

(d) Repair of autos, boats, motors, and furniture and the storage of flammable materials are prohibited on the premises, and rental contracts shall so specify.

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

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

(15) Community Service Uses. Community Service uses that may have significant off-site impacts, such as public swimming pools, public safety facilities, and homeless shelters, may be considered through the conditional use process.

(16) Educational and Religious Institutions.

(a) Vocational or trade schools in IP, LI and HI are allowed through Site Plan Review. All other educational and religious institutions are reviewed as a conditional use. [Ord. 5742 7/14/10]

(b) The conditional use approval for educational and religious institutions includes the following secondary uses: educational activities; sports and other recreational activities; religious activities; political activities; meals programs; before- and after-school childcare activities; fund raising activities; and cultural programs. Such uses will not be required to go through the land use process if all of the activities that constitute the use (excluding parking and travel to and from the site) take place on the site and no external noise is audible or light visible between
Amendments to the Albany Development Code (ADC)

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10:30 p.m. and 8:00 a.m.

Any expansion to an existing educational or religious institution shall be reviewed through the conditional use Type II process. Expansion of a school or church includes addition of building area, increase in parking lot coverage, or expansion of athletic facilities. [Ord. 5742 7/14/10]

Note: There are special setbacks for educational institutions in 4.210 and loading standards in 4.260(2). [Ord. 5742 7/14/10]

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

(18) **Non-Residential Accessory Buildings** over 750 square feet in the OP zone require Site Plan Review. [Ord. 5742, 7/14/10]

(19) **Single-Family and Two-Family Units in the OP zone.** Single-family residences are allowed outright. Attached single-family and two-family residences require a conditional use review. [Ord. 5742, 7/14/10]

(20) **Existing Single Family Homes.** Single-family homes built before December 11, 2002, in any commercial or industrial zone may remain as a permitted use without being nonconforming. New single-family homes are not permitted unless allowed in the zoning district. See Section 4.075. Single-family includes attached units, one unit per lot.

(21) **Residential Accessory Buildings** are permitted outright with residential uses if they meet the following conditions:

(a) Detached accessory buildings, garages and carports are less than 750 square feet and have walls equal to or less than 11 feet tall.

(b) All other residential district accessory buildings, garages or carports require a site plan review. [Ord. 5767, 12/7/11]

(22) **Agriculture.** All agricultural uses established before January 8, 2003, are allowed to remain. New agriculture uses are limited to the raising of crops and plants on vacant land. The raising of livestock as a new use is not permitted. Regulations governing the keeping of animals/livestock are found in the Albany Municipal Code Title 6. [Ord. 5742, 7/14/10]

(23) **Communication Facility Placement Standards.** Where allowed, Communication Towers and Poles over 50 feet in height when measured from the ground or over 15 feet above a rooftop are not permitted in front yard setbacks and must meet the standards in Section 8.500. [Ord. 5886, 1/6/17]

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

(a) Antennas or antenna supports. Satellite dishes and monopoles shall not be located within any front yard setback area or within any required landscape buffer yard. [Ord. 5886, 1/6/17]

(b) Dish antennas larger than three feet in diameter, and located within ten feet of a residential lot
Amendments to the Albany Development Code (ADC)

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line or visible from a public street shall be screened with a six-foot solid screen fence, wall, hedge, or other landscaping.

(c) Antennas used to display sign messages shall conform to all district sign regulations in addition to the above.

(d) Antennas satellite dishes, monopoles and other communication structures less than 50 feet in height when measured from the ground or over 15 feet above a rooftop, and not in conformance with the above may be considered by conditional use review, Type II process.

[Ord. 5886, 1/6/17]

(e) See Section 8.500 for additional design standards for all telecommunications facilities.

[Ord. 5445, 4/12/00]

(24) Kennels adjacent to residential districts are restricted to sites containing a minimum of two acres. This restriction does not apply to care and boarding provided indoors by veterinary hospitals.

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

(25) Hours of Operation. Hours of operation for establishments or outdoor seating areas within 300 feet of a residence may be restricted through conditions of approval to be compatible with neighbors.

[Ord. 5728, 1/27/10]

SPECIAL STATUS FOR SINGLE FAMILY RESIDENCES

4.075 Existing Uses Granted Special Status (Allowed) in the Commercial and Industrial Districts. Notwithstanding the restrictions of any other section of the Albany Development Code (ADC), all single-family residential dwellings built before January 1, 2002, on commercial or industrially zoned properties shall be deemed conforming to the base zoning district. If any building on these properties is substantially destroyed, as defined in ADC 2.340(4), it may be rebuilt to the same size (in square feet) as existed when it was destroyed, subject to the regulations of any applicable overlay district. If an existing single-family residence is converted to a permitted use in the base zoning district, the special status granted here is rescinded, and the use of the property must thereafter conform to the requirements of Article 4. [Ord. 5789, 10/10/12; Ord. 5555, 2/7/03]

DEVELOPMENT STANDARDS

4.090 Purpose. Development standards are intended to promote site planning and design that consider the natural environment, site intensity, building mass, and open space. The standards also promote energy conservation, needed privacy, safe and efficient parking areas for new development, and improve the general living environment and economic life of a development. Table 4-2, on the following page, summarizes the basic development standards. It should be used in conjunction with the sections immediately succeeding the table, which address special circumstances and exceptions. See Article 8 for design standards for single-family and multiple-family developments.

[Ord. 5445, 4/12/00, Ord. 5555, 2/7/03; Ord. 5742, 7/14/10, Ord. 5768, 12/7/11]
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### TABLE 4-2

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<th>STANDARD</th>
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<td>10’(5)</td>
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<td>None</td>
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</tr>
<tr>
<td>Lot Coverage (7)</td>
<td>70%</td>
<td>80%</td>
<td>90%</td>
<td>90%</td>
<td>None</td>
<td>80%</td>
<td>None</td>
<td>None</td>
</tr>
<tr>
<td>Landscaped Area (3)</td>
<td>100%</td>
<td>100%</td>
<td>100%</td>
<td>100%</td>
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<td>100%</td>
<td>100%</td>
<td>100%</td>
</tr>
<tr>
<td>Open Space</td>
<td>(9)</td>
<td>(9)</td>
<td>(9)</td>
<td>N/A</td>
<td>N/A</td>
<td>N/A</td>
<td>N/A</td>
<td>N/A</td>
</tr>
</tbody>
</table>

N/A means not applicable.

(1) The minimum lot size for residential units is 1,600 s.f. per unit. No minimum lot size is required for non-residential development.

(2) New NC zones may be no more than 30,000 s.f. of contiguous land.

(3) All yards adjacent to streets. Approved vegetated post-construction stormwater quality facilities are allowed in landscaped areas. [Ord. 5842, 1/01/15]

(4) The minimum lot size for supporting commercial uses may be smaller than 3 acres.

(5) Structures on property abutting residential districts and/or uses require 1 foot of setback for each foot of finished wall height with a minimum setback of 10 feet.

(6) No setbacks are required for buildings abutting railroad rights-of-way.

(7) 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]

(8) Unless in Airport Approach Overlay District. See Sections 4.400 to 4.440.

(9) Ten or more multiple-family units require common open space. See Section 8.220.

(10) The maximum business footprint for supporting commercial uses allowed in IP is 5,000 square feet. The maximum business footprint for convenience-oriented and personal service-oriented retail uses in NC and OP is 5,000 square feet. Convenience-oriented and personal service-oriented retail uses in buildings constructed prior to February 7, 2003 in the NC and OP districts are exempt from the maximum business footprint. [Ord. 5742, 7/14/10; Ord. 5923, 2/8/19]

(11) When adjacent to or across the street from residually zoned land, the setback shall be 1 foot for each foot of building height over 30 ft. Buildings may increase in height (“step” up) as the setback increases. For example, at the minimum setback in LI, a building may be 30 feet tall but may increase in height up to 50 feet when setback back 50 feet from the property line.

(12) Higher structures permitted by Conditional Use approval.

(13) The maximum building size may be exceeded for non-commercial and non-office uses when the building is multi-story.

[Table and footnotes amended by Ord. 5445, 4/12/00; Ord. 5555, 2/7/03; Ord. 5556, 2/21/03; Ord. 5742, 7/14/10; Ord. 5768, 12/7/2011; Ord. 5842, 1/01/15; Ord. 5923, 2/8/19]
Amendments to the Albany Development Code (ADC)

Draft code amendments are written as follows: additions **bold red underlined** and deletions in strike-out.

Sections not amended are omitted unless needed for context. Omitted sections are indicated by asterisks: ***

SETBACKS

4.100 Minimum Standards. All setbacks must meet the minimum standards in Table 4-2, Development Standards. In addition to the setbacks in this Article, all development must comply with Section 12.180, Clear Vision Area. For residential accessory structures, see also Article 3, Table 2, Accessory Structure Standards. [Ord. 5555, 2/7/03; Ord. 5742, 7/14/10]

4.110 Measurements. Setback distances must be measured perpendicular to all portions of a property line. [Ord. 5555, 2/7/03]

4.130 Setback Alternative in Developed Areas. When an addition or new development is proposed in an area containing the same types of uses that were developed to a previous setback standard, the Director or review body may approve setbacks that are the same as those for the existing buildings on the site for additions, or the same as those for buildings on abutting parcels for new development. In such instances, the Type I procedure will be used to process requests, and approval will be based upon the following criteria:

1. The area between buildings is sufficient for adequate property maintenance and rear yard access.

2. If there are primary structures on both abutting lots with front setbacks less than the required setback, the proposed front setback for a structure is not less than the average of the abutting structures. [Ord. 5742, 7/14/10]

3. If only one abutting property contains a primary structure, the proposed front setback is no less than the setback of the abutting structure on that property. [Ord. 5742, 7/14/10]

4. A driveway extending at least 20 feet from the street right-of-way must precede on-site parking spaces or parking structures.

5. For detached dwellings, no wall of a dwelling unit may be closer than 10 feet to a window of another dwelling unit. [Ord. 5555, 2/7/03]

6. All other provisions of this Code must be met.

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

1. Depressed Areas. In any zoning district, open-work fences, berms, hedges, guard railings, or other landscaping or architectural devices for safety protection around depressed areas, ramps, stairs, or retaining walls may be located in required setbacks, provided that the devices are not more than 3-1/2 feet tall. [Ord. 5742, 7/14/10]

2. Projecting Building Features. The following may project into the required front setback up to 5 feet and into the required interior setbacks up to 2 feet: [Ord. 5742, 7/14/10]

   a. Awnings, eaves, buttresses, architectural appendages (such as, but not limited to, bay windows, planters, cantilevered stairways).

   b. Chimneys and fireplaces, provided they do not exceed 8 feet in width.

   c. Porches, steps, platforms or landings, raised patios or decks (applies only to structures above 30 inches in height: structures 30 inches or less are not subject to setback provisions).
Amendments to the Albany Development Code (ADC)

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(d) Projecting signs must conform to applicable ordinance requirements. See Article 13, Sign Code.

[Ord. 5555, 2/7/03]

Commentary

For the Zero Lot Line section below, the proposed amendment would allow the required easement to be less than 6 feet in width if the required setbacks are less than 6 feet. If the adjacent lot does not require an interior setback, then no setback or maintenance easement would be required. Any development would also be subject to Building Code standards for building separation.

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

(1) There are no openings or windows in the wall abutting the property line. Additionally, a minimum 6-foot setback and maintenance easement must be recorded on the adjoining property deed or plat. **The width of the easement shall be 6 feet or the width of the required setback of the adjoining property, whichever is less. If the adjoining property is not subject to an interior setback, then no maintenance agreement is required.** This easement shall be written so it is not revocable without City approval.

[Ord. 5742, 7/14/10]

OR

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

[Ord. 5555, 2/7/03]

4.160 Interior Setbacks for Attached Dwellings. The interior setback requirement for attached single-family dwellings is zero where the units adjoin; however, all other setbacks must conform to the requirements of this Code. The setback requirements for residential uses do not apply to a dwelling legally located above a commercial use.

[Ord. 5445, 4/12/00]

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

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

[Ord. 5742, 7/14/10]

4.190 **Section removed by Ord. 5742, on July 14, 2010.**

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

Draft code amendments are written as follows: additions **bold red underlined** and deletions in **strike-out**.
Sections not amended are omitted unless needed for context. Omitted sections are indicated by asterisks: ***

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

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

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

**Commentary**
The Parking Restrictions section below has been revised to simply refer to Section 3.250 rather than repeating the standards here.

4.220 **Parking Restrictions in Setback Areas.** Refer to Section 3.250 for parking restrictions in setback areas for single family dwellings and duplexes. Parking and loading spaces may not be located in a required front or side setback, except:

1. Driveways meeting dimensional standards may be used to fulfill parking requirements for single-family and two-family residences. Each space must be a paved area at least 10 feet wide and 20 feet long. [Ord. 5555, 2/7/03; Ord. 5742, 7/14/10]

**HEIGHT**

4.230 **Height Standards.** See Table 4-2 for height restrictions. [Ord. 5555, 2/7/03]

4.240 **Height Exceptions.**

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

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

4.250 Parking Standards moved to Article 9 per Ord. 5832, 4/9/14.

4.260 Loading Standards. Loading spaces for all uses except office and residential uses shall be off the street. Loading spaces shall be provided in addition to the required vehicle parking spaces, and shall meet the following requirements:

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

1. Vehicles in the berths shall not protrude into a public right-of-way or sidewalk. Loading berths shall be located so that vehicles are not required to back or maneuver in a public street.

2. A school having a capacity greater than 25 students shall have a driveway designed for continuous forward flow of passenger vehicles for the purpose of loading and unloading children.

3. The minimum required loading area is as follows:

   a. 250 square feet for buildings of 5,000 to 20,000 square feet of gross floor area.
   b. 500 square feet for buildings of 20,000 to 50,000 square feet of gross floor area.
   c. 750 square feet for buildings in excess of 50,000 square feet of gross floor area.

4. The required loading area shall not be less than 10 feet wide by 25 feet long and shall have an unobstructed height of 14 feet.

5. Required loading facilities shall be installed prior to final building inspection and shall be permanently maintained as a condition of use.

6. Loading areas shall be subject to the same provisions as parking areas relative to plan information, setbacks, buffering/screening requirements, and lighting.

LANDSCAPING

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

BUFFERING AND SCREENING

4.280 General. Buffering and screening may be required in addition to the minimum landscaping to offset the impact of development. See Sections 9.210 through 9.320. [Ord. 5445, 4/12/00, Ord. 5555, 2/7/03; Ord. 5742, 7/14/10]

OUTSIDE STORAGE

4.290 General.

1. In the NC, OP, TD and IP zoning districts, outside storage or display of materials, junk, parts, or merchandise is not permitted, except for automobile sales (where allowed).

2. In the PB and CC zones, outside storage is allowed if screened from the public rights-of-way with a sight-obscuring fence, wall, hedge, or berm, which must be constructed of non-combustible material. This provision excludes automobile and plant sales. Display of goods is not permitted.
(3) In the RC zone:

(a) Exterior display of goods is permitted except in the required front setback or buffer yard. Display is limited to a sample of goods offered for sale by the establishment. Display areas may not be used for storage. Display areas may not expand beyond 25 percent of the primary street frontage and must be designated on the site plan. Display areas adjacent to residential districts or uses must be set back at least 10 feet and must be screened from view with a sight-obscuring fence, wall, hedge, or berm, which must be constructed of non-combustible material. [Ord. 5742, 7/14/10]

(b) Exterior storage is permitted in interior yards, except in required buffer yards and setbacks. Storage areas adjacent to residential districts or uses must be screened from view with a sight-obscuring fence, wall, hedge, or berm, which must be constructed of non-combustible material. This enclosure must be located on the property at the required setback line as if the berm, fence, wall, or hedge were a building. [Ord. 5742, 7/14/10]

(4) In the LI and HI zones, outside storage is permitted in interior yards outside of the required setback. Outside storage is allowed in front yards outside the front setback provided that it is enclosed with a sight-obscuring fence, wall, hedge, or berm, which must be constructed of non-combustible material. This enclosure must be located on the property at the required setback line as if the berm, fence, wall, or hedge was a building. [Ord. 5742, 7/14/10]

(5) Where outside storage is permitted,

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

(b) Outside storage over six feet tall must be screened in accordance with 9.250. [Ord. 5555, 2/7/03; Ord. 5886, 1/6/17]

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

4.310 to 4.320 Fence standards moved to Article 9, Ord. 5751, 3/9/11.
ARTICLE 5
MIXED USE ZONING DISTRICTS

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

5.020 Overview. The mixed-use zoning districts are the center of neighborhood and commercial activity, providing a horizontal or vertical mix of retail and residential uses to serve nearby neighborhoods. Other uses may include offices, and community and personal services. Centers are easily accessible to nearby residences, are pedestrian-friendly, and relate to adjacent land uses. Commercial uses must fit the scale of adjacent neighborhoods and the desired character envisioned for each Village Center or mixed-use area. The mixed-use zones differ in permitted uses, development standards, and design based on the unique objectives of each area. Design standards may be adopted to define the unique architectural and streetscape features of each area. [Ord. 5894, 10/14/17]

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

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

- Zoning Districts
- Schedule of Permitted Uses
- Development Standards

[Ord. 5673, 6/27/07]

ZONING DISTRICTS

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

1) HD – HISTORIC DOWNTOWN DISTRICT. The HD district is intended for a dense mixture of uses with an emphasis on entertainment, theaters, restaurants, nightlife and specialty shops. High-density residential infill on upper floors is encouraged, as is the continued presence of the government center and supporting uses. [Ord. 5894, 10/14/17]

2) DMU – DOWNTOWN MIXED USE DISTRICT. The DMU district is intended for a mix of retail, services, institutions, offices, and housing that supports businesses in and around the Historic Downtown District. Mixed uses are encouraged both horizontally and vertically. High-density residential infill and office employment are both encouraged. [Ord. 5894, 10/14/17]

3) CB – DOWNTOWN CENTRAL BUSINESS DISTRICT. The CB district is intended for a broad mix of residential and non-residential uses. Mixed uses are encouraged both horizontally and vertically. High-density residential infill is encouraged to support nearby businesses. [Ord. 5894, 10/14/17]
Key points:

4. **MUR – MIXED USE RESIDENTIAL DISTRICT.** The MUR district is intended primarily to create a residential district that allows a mixture of neighborhood commercial uses that meet the daily needs of area residents.

5. **WF – WATERFRONT DISTRICT.** The WF district is intended to transition Albany’s Willamette River waterfront into a vibrant center characterized by a variety of housing choices and a mixture of housing, office, and retail uses. Infill and redevelopment are encouraged, as well as adaptive reuse of existing buildings until the area is redeveloped. Development and design standards will result in great neighborhoods, a pedestrian-friendly environment, and an enhanced community image.

6. **LE – LYON-ELLSWORTH DISTRICT.** The LE district is intended primarily as a location for development that serves the Historic Downtown district and Downtown Central Business district. This district is the most desirable location in the Central Albany area for parking structures with ground-floor commercial uses.

7. **MS – MAIN STREET DISTRICT.** The MS district is intended primarily as an employment center with supporting commercial and retail services for residents and employees in the area. Infill and redevelopment are encouraged provided there is no adverse impact to surrounding residences.

8. **ES – ELM STREET DISTRICT.** The ES district is intended primarily to provide enough land for Albany General Hospital and associated medical uses while maintaining compatibility with adjacent residences in scale and design. Light commercial and personal services are encouraged to serve the nearby residents. Removal of existing residences and landscapes is discouraged. New parking facilities should be underground or completely screened. Only the amount of parking that is necessary should be allowed for uses in this district, to minimize the amount of land consumed by parking.

9. **PB – PACIFIC BOULEVARD DISTRICT.** The PB district is intended as an auto-oriented commercial area along Pacific Boulevard in the Central Albany area. Design guidelines and front-yard landscaping will provide a coordinated look and enhance the community image along this major corridor as it develops or redevelops. Commercial infill and redevelopment are encouraged. Sound and visual buffers should be used to protect nearby residential areas.

10. **MUC – MIXED USE COMMERCIAL DISTRICT.** The MUC zoning district is intended primarily to provide a mix of convenience commercial, personal services, offices and medium density residential uses. The district would typically be anchored by a grocery store and may include a mix of smaller retailers, offices, live-work units, and residences. The MUC district is easily accessible to nearby residences, and commercial uses are compatible in scale and design with adjacent neighborhoods. Uses in the MUC zone will serve area residents and should not draw from the region.

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

Draft code amendments are written as follows: additions **bold underlined** and deletions in **strike-out**. Sections not amended are omitted unless needed for context. Omitted sections are indicated by asterisks: ***

Floodplain Article 6
Wetlands Article 6
Willamette Greenway Article 6
Hillside Development Article 6
Historic Overlay Article 7

[Ord. 5555, 2/7/03]

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

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

SCHEDULE OF PERMITTED USES

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

[Ord. 555, 2/7/03]

(1) The schedule of permitted uses cannot anticipate all uses that may be located within the city. There are also situations where proposed uses may relate to more than one type of use. In both instances, the Director will determine the appropriate use category based on operating characteristics and land use impacts. Where ambiguity exists concerning the appropriate classification of a particular use, the use may be reviewed as a conditional use where the Director determines that the proposed use is consistent with other uses allowable within the subject district due to similar characteristics.

(2) Where a development proposal involves a combination of uses other than accessory uses, the more restrictive provisions of this Code shall apply. For example, if a portion of a development is subject to Conditional Use approval and the balance is subject only to Site Plan Review, the entire development shall be reviewed utilizing the Conditional Use criteria if concurrent approval of all uses is sought.

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

Article 2 includes a new Type I Site Plan Review application. The Schedule of Permitted Uses has been updated to indicate those residential applications that may qualify for this Type I application. These are proposed to be noted with an asterisk “***” following the SPR.
5.060 Schedule of Permitted Uses. The specific uses listed in the following schedule (Table 5-1) are permitted in the zones as indicated, subject to the general provisions, special conditions, additional restrictions, and exceptions set forth in this Code. A description of each use category is in Article 22, Use Categories and Definitions. The abbreviations used in the schedule have the following meanings:

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

A number appearing opposite a use in the “special conditions” column indicates that special provisions apply to the use in all zones. A number in a cell particular to a use and zone(s) indicates that special provisions apply to the use category for that zone(s). These conditions are found following the schedule in Section 5.070. [Ord. 5555, 2/7/03; Ord. 5673, 6/27/07]

**TABLE 5-1**

**SCHEDULE OF PERMITTED USES**

<table>
<thead>
<tr>
<th>Use Categories (See Article 22 for use category descriptions)</th>
<th>Spec. Cond.</th>
<th>MUC</th>
<th>WF</th>
<th>HD</th>
<th>DMU</th>
<th>CB</th>
<th>LE</th>
<th>PB</th>
<th>MS</th>
<th>ES</th>
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<td><strong>INDUSTRIAL</strong></td>
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<tr>
<td>Contractors and Industrial Services</td>
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<td>N</td>
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<td>N</td>
<td>CU</td>
<td>S</td>
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<td>Manufacturing and Production</td>
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<td>N/ CU-24</td>
<td>CU-3</td>
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<td>S/CU</td>
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<tr>
<td>Small-scale Manufacturing - less than 5,000 sq. ft. -5,000 to 10,000 sq. ft.</td>
<td>2</td>
<td>S/CU</td>
<td>CU</td>
<td>S/CU</td>
<td>CU</td>
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</tr>
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<td>Warehousing and Distribution</td>
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<td>Waste and Recycling</td>
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<td><strong>COMMERCIAL</strong></td>
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<td></td>
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<td></td>
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<td></td>
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</tr>
<tr>
<td>Adult Entertainment</td>
<td>4</td>
<td>N</td>
<td>N</td>
<td>S</td>
<td>S</td>
<td>S</td>
<td>N</td>
<td>N</td>
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</table>
### Use Categories (See Article 22 for use category descriptions)

<table>
<thead>
<tr>
<th>Spec. Cond.</th>
<th>MUC</th>
<th>WF</th>
<th>HD</th>
<th>DMU</th>
<th>CB</th>
<th>LE</th>
<th>PB</th>
<th>MS</th>
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<tr>
<td>Offices Traditional</td>
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<td>S</td>
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<td>S</td>
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<td>S</td>
<td>S</td>
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<tr>
<td>Industrial</td>
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<td>S</td>
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<td>Parking</td>
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<td>CU</td>
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<td>S</td>
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<td>Recreational Vehicle Park</td>
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<td>N</td>
<td>N</td>
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<tr>
<td>Restaurants, no drive-thru with drive-thru or mostly delivery</td>
<td>23</td>
<td>S</td>
<td>CU</td>
<td>N</td>
<td>N</td>
<td>N</td>
<td>N</td>
<td>N</td>
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<td>Retail Sales and Service</td>
<td>S-8</td>
<td>S-8/CU-24</td>
<td>S-8</td>
<td>S-8</td>
<td>S</td>
<td>S</td>
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<td>Self-Serve Storage</td>
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<td>N</td>
<td>N</td>
<td>N</td>
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<tr>
<td>Taverns, Bars, Breweries, Nightclubs</td>
<td>23</td>
<td>CUII</td>
<td>CUII</td>
<td>S</td>
<td>S/CUII (25)</td>
<td>S/CUII (25)</td>
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<td>S</td>
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<td>Vehicle Repair</td>
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<td>N/CU-24</td>
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<td>N</td>
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<td>Vehicle Service, Quick (gas/oil/wash)</td>
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### INSTITUTIONAL

<table>
<thead>
<tr>
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<th>DMU</th>
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<tr>
<td>Basic Utilities</td>
<td>10</td>
<td>CU</td>
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<tr>
<td>Daycare Facility</td>
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<td>S</td>
<td>S</td>
<td>S</td>
<td>S</td>
<td>N</td>
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<td>Community Services</td>
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<tr>
<td>Educational Institutions</td>
<td>12</td>
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<td>CU</td>
<td>CU</td>
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<td>Hospitals</td>
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<td>Jails &amp; Detention Facilities</td>
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<td>N</td>
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<tr>
<td>Parks, Open Areas and Cemeteries</td>
<td>13</td>
<td>CU</td>
<td>CU</td>
<td>CU</td>
<td>CU</td>
<td>CU</td>
<td>CU</td>
<td>CU</td>
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<tr>
<td>Religious Institutions</td>
<td>12</td>
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<td>S</td>
<td>S</td>
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### RESIDENTIAL

<table>
<thead>
<tr>
<th>Spec. Cond.</th>
<th>MUC</th>
<th>WF</th>
<th>HD</th>
<th>DMU</th>
<th>CB</th>
<th>LE</th>
<th>PB</th>
<th>MS</th>
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<tr>
<td>Residential Care or Treatment Facility</td>
<td>14</td>
<td>S</td>
<td>CU</td>
<td>S</td>
<td>S</td>
<td>S</td>
<td>S</td>
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<tr>
<td>Assisted Living Facility</td>
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<td>CU</td>
<td>CU</td>
<td>CU</td>
<td>CU</td>
<td>CU</td>
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<tr>
<td>Single Family and Two Family Units</td>
<td>15</td>
<td>Y-17</td>
<td>S*/CU-16</td>
<td>N/Y-16</td>
<td>S*/CU-16</td>
<td>S*/CU-16</td>
<td>N-16</td>
<td>N</td>
<td>N-16</td>
<td>CU-16</td>
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<tr>
<td>Three or More Units</td>
<td>17</td>
<td>S*-17</td>
<td>S*/CU-17</td>
<td>N</td>
<td>S*/CU-17</td>
<td>S*/CU-17</td>
<td>S*</td>
<td>N</td>
<td>CU</td>
<td>CU</td>
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<tr>
<td>Units Above or Attached to a Business</td>
<td>S-17</td>
<td>S</td>
<td>S-17</td>
<td>S</td>
<td>S</td>
<td>S</td>
<td>S</td>
<td>S</td>
<td>S</td>
<td>S</td>
</tr>
<tr>
<td>Home Business (See 3.090-3.180 to determine if CU)</td>
<td>Y/CU</td>
<td>Y/CU</td>
<td>Y/CU</td>
<td>Y/CU</td>
<td>Y/CU</td>
<td>Y/CU</td>
<td>Y/CU</td>
<td>Y/CU</td>
<td>Y/CU</td>
<td>Y/CU</td>
</tr>
</tbody>
</table>
Amendments to the Albany Development Code (ADC)

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<table>
<thead>
<tr>
<th>Use Categories (See Article 22 for use category descriptions)</th>
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<th>PB</th>
<th>MS</th>
<th>ES</th>
<th>MUR</th>
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<tr>
<td><strong>OTHER CATEGORIES</strong></td>
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<td></td>
<td></td>
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<tr>
<td>Agriculture (on Vacant Land)</td>
<td>19</td>
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<td>N</td>
<td>N</td>
<td>N</td>
<td>N</td>
<td>N</td>
<td>N</td>
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<tr>
<td>Satellite Dish, Other Antennas, &amp; Communication Facility &lt;50 ft.</td>
<td>20</td>
<td>Y</td>
<td>Y</td>
<td>Y</td>
<td>Y</td>
<td>Y</td>
<td>Y</td>
<td>Y</td>
<td>Y</td>
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<tr>
<td>Communication Facility &gt;= 50 ft.</td>
<td>21</td>
<td>CU</td>
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<td>N</td>
<td>N</td>
<td>CU</td>
<td>CU</td>
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<td>CU</td>
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<tr>
<td>Kennels</td>
<td>22</td>
<td>N</td>
<td>N</td>
<td>N</td>
<td>N</td>
<td>N</td>
<td>N</td>
<td>N</td>
<td>N</td>
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</tr>
<tr>
<td>Non-Res’l Accessory Buildings, larger than 750 sq. ft.</td>
<td></td>
<td>S</td>
<td>S</td>
<td>S</td>
<td>S</td>
<td>S</td>
<td>S</td>
<td>S</td>
<td>S</td>
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<tr>
<td>Passenger Terminals</td>
<td></td>
<td>CU</td>
<td>N</td>
<td>CU</td>
<td>CU</td>
<td>CU</td>
<td>S</td>
<td>CU</td>
<td>N</td>
<td>N</td>
<td></td>
</tr>
<tr>
<td>Rail And Utility Corridors</td>
<td></td>
<td>CU</td>
<td>CU</td>
<td>N</td>
<td>N</td>
<td>CU</td>
<td>CU</td>
<td>CU</td>
<td>CU</td>
<td>CU</td>
<td>N</td>
</tr>
</tbody>
</table>

Y = Yes, allowed, no Site Plan review required
N = No, not allowed
CU = Conditional Use approval required, Type III procedure
S = Site Plan Review required, asterisk “*” means development may qualify for Type I SPR
CUII = Conditional Use approval required, Type II procedure

[Schedule of Uses amended by Ord. 5555, 2/7/03; Ord. 5556, 2/21/03; Ord. 5635, 1/11/06; Ord. 5673, 6/27/07; Ord. 5728, 1/27/10, Ord. 5742, 7/14/10; Ord. 5767, 12/7/11; Ord. 5832, 4/9/14; Ord. 5886, 1/6/17; Ord. 5894, 10/14/17]

**SPECIAL CONDITIONS**

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

1. **Contractors and Industrial Service Uses in CB, LE and PB zones.**
   (a) **Limited Uses in CB, LE and PB zones.** Salvage or wrecking operations are prohibited. See Section 5.360 for outside storage standards by zone. [Ord. 5894, 10/14/17]

2. **Manufacturing.** Manufacturing and Production. The environmental performance standards of Article 9 may further limit the placement of certain uses in some districts. Developments on sites located within 300 feet of residentially zoned land may require a Conditional Use approval. [Ord. 5894, 10/14/17]

3. **Manufacturing and Production in the CB and HD zones.**
   (a) **Limited uses in the CB zone.** The following manufacturing and production uses are prohibited in the CB zone: slaughterhouses, meat packing, and concrete and asphalt production.
   (b) **Limited uses in the HD zone.** Expansion of existing Small-Scale Manufacturing uses into more than 10,000 square feet of floor area is allowed with a Conditional Use approval, subject to the following limitations. All other manufacturing and production uses are prohibited.
     i. Retail must be included as an accessory use.
Amendments to the Albany Development Code (ADC)

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ii. The Small-Scale Manufacturing Use must have occupied the space for at least 12 months prior to applying to expand.

iii. The use shall occupy no more than 30,000 square feet of floor area on the first story.

(4) **Adult Entertainment.**

(c) An adult entertainment use or store may not be established or expanded within 300 feet of the district boundary line of any residential zoning district.

(d) An adult entertainment use may not be established or expanded within 300 feet of any other adult entertainment use.

(e) An adult entertainment use may not be established or expanded within 300 feet of the property line of a church, school, or public park.

(f) Exceptions to the above may be considered by the Variance procedures.

(5) **Indoor Entertainment and Recreation in the WF, PB, MS, ES and MUC zones.**

(a) **Limited Uses in PB and MUC.** The following indoor entertainment and recreation uses are prohibited in PB and MUC: movie theaters, indoor firing ranges, paint gun, coliseums, stadiums and similar facilities. [Ord. 5894, 10/14/17]

(b) **Limited Uses in MS and ES.** Only the following indoor entertainment and recreation uses are allowed in MS and ES: athletic or exercise facilities, bowling alleys, skating rinks, pool halls, games, amusements, arcades and uses with similar impacts. All other indoor entertainment and recreation uses are prohibited.

(c) **Limited Uses in WF.** The following indoor entertainment and recreation uses are prohibited in WF, except as specified for Special Status sites pursuant to ADC Section 5.085: indoor firing ranges, coliseums, stadiums and similar facilities. [Ord. 5894, 10/14/17]

(6) **Outdoor Entertainment and Recreation in the CB zone.**

(a) **Conditional Uses in CB and WF.** The following Outdoor Entertainment and Recreation uses are allowed with a Conditional Use approval: tennis courts, miniature golf, skateboard parks and similar uses. All other uses in the Outdoor Entertainment and Recreation use category are prohibited. [Ord. 5894, 10/14/17]

(7) **Parking in the ES zone.** [Ord. 5894, 10/14/17]

(a) **Limited Uses.** Parking that is required for a primary use on the same or adjacent property is allowed. Fee parking for people not connected to the primary use is limited to parking structures. [Ord. 5635, 1/11/06]

[(8) Retail Sales and Service in the WF Zone, Repealed with Ord. 5894, 10/14/17]

(8) **Retail Sales and Service in the MS, ES, HD, WF, DMU, MUC and MUR zones.** Ord. 5894, 10/14/17

(a) **Limited Uses in MS, ES, and MUR.** The following retail uses are permitted: convenience and personal service-oriented commercial intended to serve nearby residents and employees; specialty retail stores and studios; small appliance rental and repair, shoe repair, and tailoring. All other retail uses are prohibited. See Article 22 for descriptions of convenience-oriented and personal service-oriented commercial uses.

(b) **Limited Uses in MUC.** The following retail uses are prohibited: sale, leasing, and rental of
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vehicles and trucks; hotels and motels.  

(c) **Limited Uses in HD, WF, and DMU zones.** The following retail uses are prohibited, except as specified for Special Status sites pursuant to ADC Section 5.085: sale, leasing, and rental of vehicles and trucks.  

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

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

(a) The minimum driveway width between buildings is 20 feet for one-way drives and 24 feet for two-way drives.

(b) The maximum storage unit size is 1,000 square feet.

(c) All outdoor lighting shall be shielded to prevent glare and reflection on adjacent properties.

(d) Repair of autos, boats, motors and furniture and storage of flammable materials are prohibited on the premises, and rental contracts shall so specify.

[Ord. 5894, 10/14/17]

(10) **Basic Utilities.** In all mixed-use village center zones, new regional/community utilities including treatment plants, major power generation and storage facilities, major overhead power lines requiring tower support structures, and utilities with potential visual or off-site impacts are prohibited. All other Basic Utilities are considered through the Conditional Use review.

(11) **Community Service Uses.** Community Service uses that may have significant off-site impacts, such as public swimming pools, public safety facilities, and homeless shelters may be considered through the Conditional Use Process.

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

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

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

[Ord. 5673, 6/27/07]

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

(14) **Residential Care or Treatment Facility.** A residential care facility (six or more residents) requires a Site Plan Review. A “residential home” (as defined in ORS Chapter 443) or group home that includes five or fewer residents is permitted outright in any zone that allows single-family residences.  

[Ord. 5673, 6/27/07; Ord. 5742, 7/14/10]
Amendments to the Albany Development Code (ADC)

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(15) **Existing Single- and Two-Family.** Single-family and two-family units built before December 11, 2002, may remain as a permitted use in any zone without being nonconforming. See Section 5.080.
[Ord. 5673, 6/27/07]

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

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

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

(a) One of the residences is owner-occupied.
(b) The size of an accessory apartment may not exceed 50 percent of the gross floor area of the primary residence (excluding garages or carports) or 750 square feet, whichever is less.
(c) The size of the property meets the minimum single-family lot area requirements for the zoning district in which the lot is located.
(d) The front door of an accessory apartment may not be located on the same façade as the front door of the primary residence unless the door already exists or the wall that contains the apartment front door is set back at least five feet from the front facade of the primary residence.
(e) At least three off-street parking spaces are provided on the property to serve the two residences.
(f) Exterior additions must substantially match the existing materials, colors, and finish of the primary structure.
(g) All required building permits must be obtained. If the primary residence is on the Local Historic Inventory, historic review may be required.
(h) The front setback shall be greater than or equal to the location of the front wall of the primary residence.
[Ord. 5673, 6/27/07]

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

(a) **Limited Uses in DMU, CB, ES, LE, and WF.** New construction of single-family units is limited to attached units (one unit per lot or condominiums) and two-family units (a duplex).
[Ord. 5742, 7/14/10; Ord. 5894, 10/14/17]

(b) **In CB, ES, DMU, and LE:** Buildings originally built as a single-family house or church may be converted to a single-family residential use without requiring a land use application.
[Ord. 5673, 6/27/07; Ord. 5894, 10/14/17]

(c) **Limited Uses in HD:** Buildings originally built as a single-family house or church may be converted to a single-family residential use without requiring a land use application. All other single-family and two-family units are prohibited.

(d) **In CB, WF, and DMU:** Single-family attached units and two-family units with driveways that meet the standards in ADC 8.150(1) are permitted subject to site plan review. All other single-family attached units and two-family units may be considered through a Conditional Use review.
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Commentary

In subsection (a) below regarding the MS (Main Street) and ES (Elm Street) districts, the use of the word “discouraged” is subjective and needs to be made objective. The original code concept was to apply similar location criteria for street-level dwelling units as those in the HD district [5.070(17)(c)]. However, the Task Force was not supportive of restricting street-level units in these districts, especially in ES. The ES and MS districts do not have the same commercial patterns as the HD district, so similar restrictions on street-level dwelling units may be less appropriate and could discourage housing development.

The proposed amendment simply deletes this standard and removes any restrictions on street-level dwelling units in the MS and ES districts.

**Task Force:** If it’s important to enforce commercial patterns along Main Street and/or Elm Street themselves, a potential alternative could be to prohibit street-level dwelling units only when facing Main Street and and/or Elm Street, but to allow street-level units in the rest of the MS and ES districts. This would be similar to the prohibition on street-level dwelling units facing First or Second Avenues in the HD (Historic Downtown) district. However, this would be more restrictive than the existing code.

(17) Residential Development in CB, HD, MS, ES, and MUC. [Ord. 5894, 10/14/17]

(a) In MS and ES, dwelling units at the street level are discouraged unless located behind a retail, service or office storefront. [Ord. 5894, 10/14/17]

(b) In MUC, residential development shall develop at a minimum gross density of 10 units an acre. Residences above a business or office are exempt from meeting the minimum density. [Ord. 5556, 2/21/03]

(c) In HD, dwelling units above or attached to a business are limited as follows. For the purposes of this section, the non-residential portion of a live/work dwelling unit is regulated as part of the dwelling unit and subject to all of the standards below. [Ord. 5894, 10/14/17]

   i. Units above a business: Dwelling units on the second story or above are permitted. [Ord. 5894, 10/14/17]

   ii. Units behind a business: Dwelling units on the first story that are separated from the front lot line by a non-residential use are permitted. The non-residential use may be located within the same building or in another building. [Ord. 5894, 10/14/17]

   iii. Units attached to a business on a multiple frontage lot: On a lot with three or more street frontages, dwelling units are permitted on the first story facing a street line that is considered an interior lot line pursuant to the definition of front lot line in Article 22; however, in no case shall first-story dwelling units face onto First or Second Avenue. Street-facing first-story dwelling units shall meet all applicable setbacks and design standards in Articles 5 and 8 as if the street line that the units are facing were a front lot line. [Ord. 5894, 10/14/17]

   iv. All other units above or attached to a business are prohibited. [Ord. 5894, 10/14/17]
Amendments to the Albany Development Code (ADC)

Draft code amendments are written as follows: additions **bold underlined** and deletions in **strike-out**.

Sections not amended are omitted unless needed for context. Omitted sections are indicated by asterisks: ***

(d) In CB, WF, and DMU, multifamily units with individual driveways that do not meet the standards of 8.150(1) may be considered through a Conditional Use review. All other multifamily units are permitted subject to site plan review. [Ord. 5894, 10/14/17]

(18) Residential Accessory Buildings. Accessory buildings are permitted outright in MUC, MUR, WF, HD, DMU, CB, ES, LE, and MS if they meet the following conditions: [Ord. 5894, 10/14/17]

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

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

[Ord. 5556, 2/21/03; Ord. 5767, 12/7/11; Ord. 5894, 10/14/17]

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

Accessory apartments see Special Condition 15. [Ord. 5673, 6/27/07]

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

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

(a) No antennas, antenna supports, satellite dishes or monopoles shall be located within any front yard setback area or within any required landscape buffer yard. [Ord. 5886, 1/6/17]

(b) Dish antennas larger than three feet in diameter, and located within ten feet of a residential lot line or visible from a public street, shall be screened with a six-foot solid screen fence, wall, hedge, or other landscaping.

(c) Antennas used to display sign messages shall conform to all district sign regulations in addition to the above.

(d) Antennas, satellite dishes, monopoles, and other communication structures less than 50 feet in height, when measured from the ground or over 15 feet above a rooftop, and not in conformance with the above, may be considered through a Conditional Use review, Type II process. [Ord. 5445, 4/12/00, Ord. 5886, 1/6/17]

(21) Communication towers and poles at least 50 feet in height when measured from the ground or over 15 feet above a rooftop, may be considered through a Conditional Use review, Type II process No communication structure is allowed in any front setback. Article 8 for telecommunication facility design standards also apply.

[Ord. 5742, 7/14/10; Ord. 5886, 1/6/17]

(22) Kennels. Kennels do not include indoor veterinary hospital kennels. [Ord. 5555, 2/7/03]
(23) **Hours of Operation.** Hours of operation for establishments or outdoor seating areas within 300 feet of a residence may be restricted through conditions of approval to be compatible with neighbors. [Ord. 5728, 1/27/10]

(24) **Additional uses for Special Status List sites in the WF zone.** Limited additional uses may be considered through the Conditional Use process for Special Status List sites, pursuant to ADC Section 5.085.

(25) Developments on sites located within 300 feet of residentially zoned land require a Type II Conditional Use approval.

**SPECIAL STATUS**

5.080 *Existing Single-Family Uses Granted Special Status.*

*Single-Family Homes.* Notwithstanding the restrictions or terms of any other section of the Albany Development Code (ADC), all single-family residential units legally established before January 1, 2002, shall be deemed to be conforming to the base zoning district. If any building on these properties is substantially destroyed, as defined in ADC Section 2.340(4), it may be rebuilt to the same density, size (square feet) and setbacks as existed on the property at the time it was destroyed, but will be subject to the regulations of any applicable overlay zone. If any single-family dwelling is converted to non-residential use, the special status granted here is rescinded, and the use of the property shall thereafter conform to the requirements of Article 5. The special status granted herein shall be lost if it is determined that the residence was not legally established prior to January 1, 2002.

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

5.085 *Special Status List properties in the WF Zone.* The regulations below apply to properties on the Special Status List in the Waterfront (WF) zoning district. The Special Status List is maintained by the Community Development Director.

(1) **Purpose.** The purpose of the Special Status List is to recognize existing buildings in the WF zone that pre-date the current zoning (applied in 2006) that were typically designed for industrial uses and may not readily convert to non-industrial uses permitted in the WF zone. Special standards are imposed to ensure that the additional industrial and commercial uses permitted on these sites because of their special status listing do not detract from the desirability of existing or future residential uses in the Waterfront zone and to encourage conversion of Special Status List sites to permitted uses.

[Ord. 5894, 10/14/17]

(2) **Additional uses.** The Industrial and Commercial uses listed in (a) through (f), below, will be considered through the Conditional Use process for Special Status List sites. Any lawfully established use not listed below and not otherwise permitted in the WF zone shall be regulated as a non-conforming use, pursuant to ADC Sections 2.300-2.370.

(a) Contractors and Industrial Services: Salvage or wrecking operations and dry cleaning plants are prohibited. All other Industrial Services may be considered through a Conditional Use review.

[Ord. 5894, 10/14/17]

(b) Manufacturing and Production: Slaughterhouses, meat packing, and concrete and asphalt production are prohibited. All other manufacturing and production uses may be considered through a Conditional Use review.

[Ord. 5894, 10/14/17]

(c) Warehousing and Distribution: Only storage and warehousing uses may be considered through a Conditional Use review. All other warehousing and distribution uses are prohibited.

[Ord. 5894, 10/14/17]
Amendments to the Albany Development Code (ADC)

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(d) Wholesale sales: All wholesale sale uses may be considered through a Conditional Use review. [Ord. 5894, 10/14/17]

(e) Indoor Entertainment and Recreation: indoor firing ranges may be considered through a Conditional Use review. For all other Indoor Entertainment and Recreation uses, see Table 5-2. [Ord. 5894, 10/14/17]

(f) Retail Sales and Service: sales and leasing of consumer vehicles may be considered through a Conditional Use review. All other retail sales and service uses are permitted with site plan review approval. [Ord. 5894, 10/14/17]

(g) Vehicle Repair: All vehicle repair uses may be considered through a Conditional Use review. [Ord. 5894, 10/14/17]

(3) Special Standards. The uses listed in (2), above, are subject to the following special standards: [Ord. 5894, 10/14/17]

(a) All activities associated with the use must be fully enclosed within a building, except for parking and loading, employee break areas, and outside storage or display in conformance with ADC Section 5.360. Storage and warehousing as a primary use must be enclosed within a building. [Ord. 5894, 10/14/17]

(b) Uses are limited to the square footage of the existing building(s) on site, plus up to a 50 percent expansion, in total, from the size as of the effective date of the WF zone (1/11/06). [Ord. 5894, 10/14/17]

(c) Existing buildings may be expanded, remodeled and rebuilt, up to the limits in (b), above. All expansions, remolds, and redevelopment are subject to current development standards. [Ord. 5894, 10/14/17]

(4) Review Procedures. Changes of use and modifications to Special Status list sites shall be reviewed as follows: [Ord. 5894, 10/14/17]

(a) An existing use lawfully established prior to the effective date of the WF zone (1/11/06) does not require a conditional use review to continue operations within an existing building, and shall not be considered a non-conforming use. [Ord. 5894, 10/14/17]

(b) A site modification or expansion of less than 15 percent of the square footage of the existing building(s) that does not include a change of use shall be reviewed as a Type II Conditional Use, subject to the standards in (3), above, except as excluded under ADC Section 1.070. [Ord. 5894, 10/14/17]

(c) A change of use to a different use listed in (2), above, or an expansion of 15 percent or more of the square footage of the existing building(s), up to the limits in (3)(b), above, shall be reviewed as a Type III Conditional Use, subject to the standards in (3), above. [Ord. 5894, 10/14/17]

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

HOME BUSINESS STANDARDS

5.087 **Home Businesses.** See Article 3, Residential Zoning Districts, Sections 3.090 to 3.180, for home business standards. [Ord. 5555, 2/7/03; Ord. 5894, 10/14/17]

DEVELOPMENT STANDARDS

5.090 **Purpose.** Development standards are intended to promote site planning and design that consider the natural environment; site intensity, building mass and open space. The standards also promote energy conservation, needed privacy, and safe and efficient parking areas for new development; and improve the general living environment and economic life of a development. Table 5-2 summarizes the basic
Amendments to the Albany Development Code (ADC)

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Sections not amended are omitted unless needed for context. Omitted sections are indicated by asterisks: ***

development standards. It should be used with the sections immediately following the table, which addresses special circumstances and exceptions. Additional design standards are located in Article 8.

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

**TABLE 5-2**

<table>
<thead>
<tr>
<th>STANDARD</th>
<th>MUC</th>
<th>WF</th>
<th>HD</th>
<th>DMU</th>
<th>CB</th>
<th>LE</th>
<th>PB</th>
<th>MS</th>
<th>ES</th>
<th>MUR</th>
</tr>
</thead>
<tbody>
<tr>
<td>Minimum Lot Size (sq.ft) (3)</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Single-family (20)</td>
<td>None</td>
<td>None</td>
<td>None</td>
<td>None</td>
<td>None</td>
<td>N/A</td>
<td>N/A</td>
<td>N/A</td>
<td>5,000</td>
<td>None</td>
</tr>
<tr>
<td>Attached single-family, Per lot</td>
<td>None</td>
<td>1,600</td>
<td>N/A</td>
<td>None</td>
<td>None</td>
<td>N/A</td>
<td>N/A</td>
<td>None</td>
<td>None</td>
<td>None</td>
</tr>
<tr>
<td>Two-family</td>
<td>None</td>
<td>3,600</td>
<td>N/A</td>
<td>None</td>
<td>None</td>
<td>N/A</td>
<td>N/A</td>
<td>7,000</td>
<td>3,600</td>
<td></td>
</tr>
<tr>
<td>3 or more 1-bedroom</td>
<td>None</td>
<td>1,600/u</td>
<td>N/A</td>
<td>None</td>
<td>None</td>
<td>1,600/u</td>
<td>1,600/u</td>
<td>3,300/u</td>
<td>1,600/u</td>
<td></td>
</tr>
<tr>
<td>3 or more 2+bedroom</td>
<td>None</td>
<td>1,800/u</td>
<td>N/A</td>
<td>None</td>
<td>None</td>
<td>1,600/u</td>
<td>1,800/u</td>
<td>3,300/u</td>
<td>1,800/u</td>
<td></td>
</tr>
<tr>
<td>All other uses</td>
<td>6,000</td>
<td>5,000</td>
<td>1,000</td>
<td>1,000</td>
<td>1,000</td>
<td>2,000</td>
<td>15,000</td>
<td>6,000</td>
<td>5,000</td>
<td>10,000</td>
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<td>Maximum Building Size (sq. ft) (16)</td>
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<td></td>
<td></td>
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<tr>
<td>Non-grocery (16)</td>
<td>20,000</td>
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<td>None</td>
<td>None</td>
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<td>None</td>
<td>None</td>
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<td>Grocery-anchored</td>
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<td>None</td>
<td>None</td>
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<td>None</td>
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<td>Maximum Business Footprint (sq. ft) (16)(17)</td>
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<td></td>
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<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Non-grocery (16)</td>
<td>20,000</td>
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<td>None</td>
<td>None</td>
<td>None</td>
<td>None</td>
<td>None</td>
<td>None</td>
<td>None</td>
<td>None</td>
</tr>
<tr>
<td>Grocery-anchored</td>
<td>80,000 (13)</td>
<td>None</td>
<td>None</td>
<td>None</td>
<td>None</td>
<td>None</td>
<td>None</td>
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</tr>
<tr>
<td>Lot Width, minimum</td>
<td>None</td>
<td>None</td>
<td>20'</td>
<td>None</td>
<td>None</td>
<td>20'</td>
<td>None</td>
<td>None</td>
<td>None</td>
<td>None</td>
</tr>
<tr>
<td>Lot Depth, minimum</td>
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<td>50'</td>
<td>None</td>
<td>None</td>
<td>50'</td>
<td>None</td>
<td>None</td>
<td>None</td>
<td>None</td>
</tr>
<tr>
<td>Landscaped Area</td>
<td>100% (2)</td>
<td>None</td>
<td>None</td>
<td>None</td>
<td>None</td>
<td>100%</td>
<td>25,000</td>
<td>10,000</td>
<td>10,000</td>
<td>10,000</td>
</tr>
<tr>
<td>Maximum Front Setbacks: (10)</td>
<td>10' (15)</td>
<td>5'/15' (18)</td>
<td>0'</td>
<td>5'/15' (18)</td>
<td>5'/15' (18)</td>
<td>None</td>
<td>20'</td>
<td>10'</td>
<td>10'</td>
<td>20'</td>
</tr>
<tr>
<td>Minimum Setbacks:</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
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</tr>
<tr>
<td>Front (5) (14)</td>
<td>5'</td>
<td>0'</td>
<td>0'</td>
<td>0'</td>
<td>0'</td>
<td>0'</td>
<td>0'</td>
<td>0'</td>
<td>5'</td>
<td>5'</td>
</tr>
<tr>
<td>Interior (5) (14)</td>
<td>(1)(4)</td>
<td>0'</td>
<td>1(4)</td>
<td>0(4)</td>
<td>0'</td>
<td>1(4)</td>
<td>0'</td>
<td>1(4)</td>
<td>5'</td>
<td>5'</td>
</tr>
<tr>
<td>Garage Entrance (9)</td>
<td>20' (8)</td>
<td>5' or 20' (8)(7)</td>
<td>None</td>
<td>5' or 20' (8)(7)</td>
<td>5' or 20' (8)(7)</td>
<td>20'</td>
<td>20'</td>
<td>20'</td>
<td>20'</td>
<td>20'</td>
</tr>
<tr>
<td>Height, maximum</td>
<td>50'</td>
<td>55'</td>
<td>85' (19)</td>
<td>55' (19)</td>
<td>85' (19)</td>
<td>65'</td>
<td>60'</td>
<td>50'</td>
<td>50'</td>
<td>50'</td>
</tr>
<tr>
<td>Lot Coverage, maximum (6)</td>
<td>80%</td>
<td>100%</td>
<td>100%</td>
<td>100%</td>
<td>100%</td>
<td>100%</td>
<td>80%</td>
<td>90%</td>
<td>80%</td>
<td>70%</td>
</tr>
</tbody>
</table>

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

[Ord. 5894, 10/14/17]

(1) Single-family homes and duplexes, where permitted, must have a 3’ interior setback for single-story buildings, and a five-foot interior setback for two-story buildings. See Sections 5.150 and 5.160 for zero lot line options and attached dwelling units.

[Ord. 5742, 7/14/10; Ord. 5894, 10/14/17]

(2) All yards adjacent to streets. Approved vegetated post-construction stormwater quality facilities are allowed in
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landscaped areas. [Ord. 5842, 1/01/15]

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

(4) See ADC Section 5.115 for special interior setback standards abutting residential zones and uses. [Ord. 5894, 10/14/17]

(5) Minimum front and interior setbacks are not required for buildings abutting railroad rights-of-way.

(6) Achievement of maximum lot coverage is subject to meeting all other standards of the ADC, including, but not limited to, landscaping, buffering and setback requirements. Lot coverage for single-family detached development shall only include the area of the lot covered by buildings or structures. [Ord. 5768, 12/7/11, Ord. 5894, 10/14/17]

(7) To prevent parked vehicles from intruding in the right-of-way, garage entrances shall be set back five feet or at least 20 feet. A setback of more than 5 feet and less than 20 feet is not permitted. Garage entrances may not be located closer to the front lot line than the front façade of the building. [Ord. 5894, 10/14/17]

(8) Garage setback for non-vehicle entrance must conform to the requirements for interior setbacks.

(9) For garages with alley access, see Table 5-3. [Ord. 5894, 10/14/17]

(10) The maximum setback may be increased with the condition that 100 percent of the increased setback is used for pedestrian amenities associated with the building use, such as patio dining for a restaurant, sidewalk café, plaza, or courtyard; or to accommodate changes in elevation due to road and site grading or natural slopes. See ADC Section 5.120 for additional exceptions and calculation methodology for the HD, CB, DMU, and WF zoning districts. [Ord. 5894, 10/14/17]

(11) For multi-family and commercial developments, no parking or circulation will be allowed between the building with the primary entrance and the adjacent street. [Ord. 5742, 7/14/10]

(12) Ten or more residential units require common open space. See Sections 8.220. [Ord. 5894, 10/14/17]

(13) The building and business footprint maximum is 80,000 square feet if a grocery store occupies at least fifty percent (50 percent) of the total square footage. This footprint may include one or more businesses or attached buildings. For purposes of this section, a grocery store is defined as a business that sells primarily food and household supplies. Ancillary grocery uses include uses such as pharmacy, bakery, and florist.

(14) Properties adjacent to the Willamette River see also the Willamette Greenway standards in Sections 5.200 - 5.207 and Sections 6.500-6.560.

(15) Except for residential development, which has a maximum setback of 25 feet. See Sections 8.200 – 8.300 for multiple-family residential design standards.

(16) The maximum building size and business footprint size may be exceeded for non-commercial and non-office uses when the building is multi-story.

(17) In shopping centers with multiple tenants, “business” refers to each individually leasable space. “Footprint” refers to the amount of area covered by the first floor. Businesses may build on additional floors.

(18) The maximum setback for non-residential and mixed-use development is five feet. The maximum setback for residential development is 15 feet. See ADC Section 5.120 for exceptions and calculation methodology. [Ord. 5894, 10/14/17]

(19) In order to maintain compatibility with existing historic structures and the character of designated historic districts, maximum building heights in the HD and DMU zones are limited within designated historic districts. Within the Downtown Commercial National Register Historic District (see Article 7, Figure 7-1), the maximum building height in the HD and DMU zones is 65 feet. Within the Hackleman and Monteith National Register Historic Districts (see Article 7, Figure 7-1), the maximum building height in the HD and DMU zones is 45 feet. [Ord. 5894, 10/14/17]

(20) Where new single-family detached housing is not permitted in a given Mixed Use zone, minimum lot size for single-family refers to legally established existing single-family uses with special status. [Ord. 5894, 10/14/17]

[Table and footnotes amended by Ord. 5555, 2/7/03; Ord. 5556, 2/21/2003; Ord. 5627, 7/27/05; Ord. 5673, 6/27/07; Ord. 5768, 12/7/2011; Ord. 5894, 10/14/17]
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SETBACKS

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

The Accessory Structure Standards (Table 5-3) apply to residential accessory structures in the MUR, WF, MS, ES, and MUC districts. [Ord. 5555, 2/7/03; Ord. 5556, 2/21/03]

**Commentary**

Regarding Table 5-3 below, similar to the equivalent Table in Article 3 (Table 3-4), the existing language for garages or carports with access to an alley does not specify whether the alley setback applies if the alley access is blocked off; or if the garage/carport could access the alley, but the driveway actually accesses a different street. The proposed amendment clarifies that the alley setback only applies if the garage/carport is actually accessed from the alley.

**TABLE 5-3 ACCESSORY STRUCTURE STANDARDS**

<table>
<thead>
<tr>
<th>STRUCTURE</th>
<th>SETBACK STANDARD</th>
</tr>
</thead>
<tbody>
<tr>
<td>All Accessory Structures</td>
<td>See Table 5-2 for minimum front setbacks.</td>
</tr>
<tr>
<td>Detached, walls less than or equal to 8 ft. tall</td>
<td>Interior setback = 3 feet</td>
</tr>
<tr>
<td>Detached, walls greater than 8 ft. tall</td>
<td>Interior setback = 5 feet</td>
</tr>
<tr>
<td>Attached structure</td>
<td>Interior setback = 5 feet</td>
</tr>
<tr>
<td>Garage with vehicular access to from an alley</td>
<td>Alley setback = 20 feet, less the width of the alley right-of-way, but at least 3 feet. Other interior setbacks, see Table 5-2</td>
</tr>
<tr>
<td>Structures, including fences, intended for housing animals</td>
<td>Interior setback = 10 feet</td>
</tr>
<tr>
<td>Fences more than 6 ft. high</td>
<td>District setback standard; building permit required.</td>
</tr>
<tr>
<td>Outdoor swimming pools with depths greater than or equal to 24 inches</td>
<td>Interior setback = 10 feet</td>
</tr>
<tr>
<td>Decks less than 30 in. off grade, no rails, covers</td>
<td>No setback from property line</td>
</tr>
<tr>
<td>Decks greater than or equal to 30 in. off grade</td>
<td>Interior setback = 5 feet</td>
</tr>
</tbody>
</table>

[Ord. 5445, 4/12/00; Ord. 5673, 6/27/07; Ord. 5894, 10/14/17]

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

5.115 Special interior setbacks. In order to provide compatible transitions to residential zones and uses and to historic buildings, additional interior setbacks are required as follows. [Ord. 5894, 10/14/17]

1. Special interior setbacks in all Mixed Use Zones except HD, DMU, CB, and WF. Commercial or office buildings abutting residential districts and/or uses require one foot of setback for each foot of wall height with a minimum setback of ten feet. For developments abutting commercial or industrial
Amendments to the Albany Development Code (ADC)

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districts, no interior setback is required. [Ord. 5894, 10/14/17]

(2) Special interior setbacks in the HD, DMU, CB and WF zoning districts. New buildings and expansions to existing buildings must provide interior setbacks as follows. [Ord. 5894, 10/14/17]

(a) Setbacks abutting Residential Districts. [Ord. 5894, 10/14/17]
   i. Purpose: To provide for compatible transitions to adjacent neighborhoods. [Ord. 5894, 10/14/17]
   ii. Applicability: Properties in the HD, DMU, CB, and WF zoning districts abutting residential districts listed in Article 3. [Ord. 5894, 10/14/17]
   iii. Standard: The minimum interior setback shall be 10 feet from the lot line abutting the residential zone. [Ord. 5894, 10/14/17]

(b) Setbacks abutting Historic Residential Buildings. [Ord. 5894, 10/14/17]
   i. Purpose: To respect and respond to the character and scale of recognized historic residential buildings and ensure adequate light and air to such buildings, while allowing reasonable use of abutting properties consistent with the vision for Central Albany. [Ord. 5894, 10/14/17]
   ii. Applicability: Properties in the DMU, CB, and WF zoning districts abutting a historic Landmark, as defined in ADC 7.020 that was originally built for residential use. [Ord. 5894, 10/14/17]
   iii. Standard: For new buildings and expansions that exceed 35 feet in height, the minimum interior setback shall be 5 feet. [Ord. 5894, 10/14/17]

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

(1) Non-residential and mixed-use development:
   (a) Regulated façade: any façade between grade and the top of the first story of the building that faces toward or within 45 degrees of a front lot line, with the exceptions below. See definition of front lot line in Article 22 for application on lots with multiple frontages; however, a lot line abutting First or Second Avenue shall always be considered a front lot line for purposes of these standards. A Willamette River setback line established pursuant to ADC 5.200 through 5.207 may be considered a front lot line for purposes of these standards. [Ord. 5894, 10/14/17]
      i. Maximum setback standards do not apply to any portion of a building that is separated from the front lot line by another building, based on a line perpendicular to the front lot line (see Figure 5-1). [Ord. 5894, 10/14/17]
      ii. Accessory buildings less than 750 square feet are exempt from maximum setback standards. [Ord. 5894, 10/14/17]
   (b) Standard in the HD zoning district: 100 percent of regulated façades must meet the maximum setback required in the zone, with the exceptions listed below. [Ord. 5894, 10/14/17]
      i. The maximum setback may be increased for pedestrian amenities pursuant to ADC Section 5.090(10). [Ord. 5894, 10/14/17]
      ii. Windows may be recessed up to 18 inches from the building façade. [Ord. 5894, 10/14/17]
Amendments to the Albany Development Code (ADC)

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iii. Entrances (including up to four feet on either side of entrance doors) may be recessed up to six feet from the building façade. [Ord. 5894, 10/14/17]

iv. The maximum front setback may be increased by ten feet for properties that are separated from the street by a rail line. [Ord. 5894, 10/14/17]

v. On a site with an existing building(s), the maximum setback may be increased to a point which is no further from the front lot line than the portion of the existing regulated façade that is closest to the front lot line. [Ord. 5894, 10/14/17]

(c) **Standard in the CB, DMU and WF zoning districts:** At least 80 percent of regulated façades must meet the maximum setback required in the zone, with the exceptions listed below. [Ord. 5894, 10/14/17]

i. The maximum setback may be increased for pedestrian amenities pursuant to ADC Section 5.090(10). [Ord. 5894, 10/14/17]

ii. Windows may be recessed up to 18 inches from the building façade.[Ord. 5894, 10/14/17]

iii. Entrances (including up to 4 feet on either side of entrance doors) may be recessed up to 6’ from the building façade. [Ord. 5894, 10/14/17]

iv. The maximum front setback may be increased by 10 feet for properties that are separated from the street by a rail line. [Ord. 5894, 10/14/17]

v. On a site with an existing building(s), the maximum setback may be increased to a point which is no further from the front lot line than the portion of the existing regulated façade that is closest to the front lot line. [Ord. 5894, 10/14/17]

(2) **Residential development:** [Ord. 5894, 10/14/17]

(a) **Regulated façades:** any façade between grade and the top of the first story of the building that faces toward or within 45 degrees of a front lot line, with the exceptions listed below. See definition of front lot line in Article 22 for application on lots with multiple frontages; however, a lot line abutting First or Second Avenue shall always be considered a front lot line for purposes of these standards. A Willamette River setback line established pursuant to ADC 5.200 through 5.207 may be considered a front lot line for purposes of these standards. [Ord. 5894, 10/14/17]

i. Maximum setback standards do not apply to any portion of a building that is separated from the front lot line by another building, based on a line perpendicular to the front lot line (see Figure 5-1). [Ord. 5894, 10/14/17]

ii. Accessory buildings less than 750 square feet are exempt from maximum setback standards. [Ord. 5894, 10/14/17]

iii. Where permitted, a garage entrance that faces the front lot line and any building façade that encloses the garage is exempt from the maximum setback standard. [Ord. 5894, 10/14/17]

(b) **Standard:** At least 80 percent of regulated façades must meet the maximum setback required in the zone, with the exceptions listed below. [Ord. 5894, 10/14/17]

i. Buildings that provide a landscaped courtyard separating a portion of the regulated façade from the front lot line must meet the maximum setback standard on at least 40 percent of the regulated façade. [Ord. 5894, 10/14/17]

ii. Where units with individual garages facing the front lot line are permitted, such units may be set back up to 20 feet to match the garage entrance. [Ord. 5894, 10/14/17]
iii. On a site with an existing building(s), the maximum setback may be increased to a point which is no further from the front lot line than the portion of the existing regulated façade that is closest to the front lot line.  

[Ord. 5894, 10/14/17]

[5.120 Minimum Floor Area Ratio Required in CB District, Repealed by Ord. 5894, 10/14/17]

**Commentary**

The Alternative Setbacks section below has the same issues as the equivalent section in Article 3 (Section 3.240), wherein the Director appears to be allowed some discretion. Similar to Article 3, the proposed amendments make this section non-discretionary and clarify that the applicable “abutting properties” are those facing the same street.

5.130 Alternative Setbacks in Developed Areas. When an addition or new development is proposed in an area containing the same type of uses that have been developed to a previous setback standard, the Director or review body may approve setbacks that are the same as those for the existing buildings on the site for additions, or the same as those for buildings on adjoining abutting parcels for new development. (See
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Section 8.140 for new infill development.) **The Director or review body shall approve** Approval of an alternative setback request will be based on **if the applicant demonstrates that** the following criteria are met:

1. The front setback of the structure is not less than the average of the setbacks for the same uses on the abutting properties on either side **facing the same street.** If the same use is only on one abutting property, the proposed front setback may be no less than the setback of the abutting structures **facing the same street.**

   [Ord. 5742, 7/14/10]

2. **Addition of a garage or carport.** The front setback for a garage or carport meets the current front setback standard, and the driveway to it is paved.

   [Ord. 5742, 7/14/10]

3. **Additions to the side or rear of a dwelling.** The proposed structure does not encroach any further into the setback than the existing structure.

4. No wall of one dwelling unit is closer than ten feet to a window of another dwelling unit.

5. All other provisions of this Code must be met.

   [Ord. 5446, 5/10/00]

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

   [Ord. 5742, 7/14/10]

1. **Depressed Areas.** In any district, open-work fences, berms, hedges, guard railings, or other landscaping or architectural devices for safety protection around depressed areas, ramps, stairs, or retaining walls may be located in required setbacks, provided that the devices are not more than 3 1/2 feet tall.

   [Ord. 5742, 7/14/10]

2. **Projecting Building Features.** The following may project into the required front setback no more than five feet and into the required interior setbacks no more than two feet:

   [Ord. 5742, 7/14/10]

   a. Awnings, eaves, buttresses, architectural appendages (such as, but not limited to, bay windows, planters, cantilevered stairways.)
   
   b. Chimneys and fireplaces provided they do not exceed eight feet in width.
   
   c. Porches, steps, platforms or landings, raised patios or decks (applies only to structures above 30 inches in height; structures 30 inches or less are not subject to setback provisions).
   
   d. Signs conforming to applicable ordinance requirements.

**Commentary**

For the Zero Lot Line section below, similar to Article 4, the proposed amendment would allow the easement to be less than 6 feet in width if the required setbacks are less than 6 feet.

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

1. There are no openings or windows in the lot line wall. Additionally, a six-foot setback and maintenance easement must be recorded on the adjoining property deed or plat. **The width of the easement shall be 6 feet or the width of the required setback of the adjoining property, whichever is less.** If the adjoining property is not subject to an interior setback, then no
Amendments to the Albany Development Code (ADC)

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**maintenance agreement is required.** This easement is not revocable without City approval.

OR

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

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

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

[Ord. 5742, 7/14/10]

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

<table>
<thead>
<tr>
<th>Waterway</th>
<th>Setback</th>
</tr>
</thead>
<tbody>
<tr>
<td>Calapooia River</td>
<td>100 feet</td>
</tr>
</tbody>
</table>

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

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

[Ord. 5742, 7/14/10]

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

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

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

[Ord. 5555, 2/7/03]

5.205 **Special Willamette River Setbacks Inside the Waterfront Zone.** Setbacks for buildings south of the Willamette River shall meet the following minimum setbacks from the top of the river bank (Figure 5-1):

(1) 35 feet for a building two stories or less, and

(2) 45 feet for a building three or more stories.

[Ord. 5627, 7/27/05]
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FIGURE 5-1. Minimum building setback requirements inside the Willamette River Waterfront Zone.

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

<table>
<thead>
<tr>
<th>Common Name</th>
<th>Assessor’s Property Identification Number</th>
</tr>
</thead>
<tbody>
<tr>
<td>Willamette Seed Site</td>
<td>11S-03W-6DC #100</td>
</tr>
<tr>
<td>Permawood Site</td>
<td>11S-03W-5BD #200, #300 and 11S-03W-5CA #1001, #1100, #6805</td>
</tr>
</tbody>
</table>

[Ord. 5555, 2/7/03]
For these properties, the minimum setback for buildings and parking on the river side of property along the river is:

<table>
<thead>
<tr>
<th>Area</th>
<th>Minimum Setback</th>
</tr>
</thead>
<tbody>
<tr>
<td>West of Lafayette</td>
<td>5 feet</td>
</tr>
<tr>
<td>East of Lafayette</td>
<td>15 feet</td>
</tr>
</tbody>
</table>

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

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

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

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

5.210 Special Setbacks for Schools, Churches, Public and Semi-Public Buildings. Any new construction of a school, church, or public or semi-public building must be set back at least 25 feet from any property line abutting any residential district. No required front or interior setback of the lot on which such building or use is located may be used for stockpiling or storing materials or equipment. All other setbacks of the district where the property is located continue to apply.

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

Refer to Section 3.250 for parking restrictions in setback areas for single family dwellings and duplexes.

1. Driveways meeting dimensional standards may be used to fulfill parking requirements for single-family and two-family residences. Each space must be a paved area at least ten feet wide and 20 feet long.  

5.230 Dwellings Located Above Commercial Uses. The setback requirements for residential uses do not apply when a dwelling is legally located above a commercial use.  

Commentary
The Parking Restrictions section below has been reworded to be consistent with the standards applied in the residential districts (Section 3.250).
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HEIGHT

5.240 Height Standards. See Table 1 for height restrictions.

5.250 Height Exceptions.

(1) Roof structures for the housing of elevators, stairways, tanks, ventilating fans and similar equipment required to operate and maintain the building, firewalls, skylights, towers, flagpoles, chimneys, smokestacks, wireless masts, antennas, steeples, and similar structures may be erected above the height limits prescribed in this article, provided that no roof structure, feature, or any other device above the prescribed height limit may be allowed or used for the purpose of providing additional floor space. Antennas may exceed the minimum building height but must meet the standards outlined in 5.070(20). Towers must meet the standards in 8.500.

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

OFF-STREET PARKING AND LOADING STANDARDS

5.260 Parking Standards moved to Article 9 per Ord. 5832, 4/9/14.

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

(1) Vehicles in the berth shall not protrude into a public right-of-way or sidewalk. Loading berths shall be located so that vehicles are not required to back or maneuver in a public street.

(2) A school having a capacity greater than 25 students shall have a driveway designed for the continuous forward flow of passenger vehicles for the purpose of loading and unloading children.

(3) The minimum required loading area is as follows:

(a) 250 square feet for buildings of 5,000 to 20,000 square feet of gross floor area.
(b) 500 square feet for buildings of 20,000 to 50,000 square feet of gross floor area.
(c) 750 square feet for buildings in excess of 50,000 square feet of gross floor area. [Ord. 5742, 7/14/10]

(4) The required loading area shall not be less than ten feet wide by 25 feet long and shall have an unobstructed height of 14 feet.

(5) Required loading facilities shall be installed prior to final building inspection and shall be permanently maintained as a condition of use.

(6) Loading areas shall be subject to the same provisions as parking areas relative to plan information, setbacks, buffering/screening requirements, and lighting.
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**LANDSCAPING**

5.280 General. Developments must comply with site landscaping standards in Article 9 before occupancy in accordance with Section 9.140. [Ord. 5742, 7/14/2010]

**BUFFERING AND SCREENING**

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

**OUTSIDE STORAGE**

5.360 General.

(1) Outside Storage and Display in the LE, MS, ES and MUC districts. [Ord. 5894, 10/14/17]
   (a) Outside storage or display of materials, junk, parts, or merchandise is not permitted within required front setbacks or required buffer areas, except for automobile sales, where allowed. [Ord. 5556, 2/21/2003; Ord. 5894, 10/14/17]
   (b) Open storage is permitted in yards not listed in (a) above, provided that it is enclosed with a sight-obscuring fence, wall, hedge, or berm, which must be constructed of non-combustible material. This enclosure must be located on the property at the required setback line as if the berm, fence, wall, or hedge was a building. [Ord. 5556, 2/21/2003; Ord. 5894, 10/14/17]
      i. Materials and equipment stored as permitted in this subsection may be no more than 14 feet above the elevation of the storage area.
      ii. Open storage over 6 feet tall must be screened by landscaping. [Ord. 5555, 2/7/03; Ord. 5894, 10/14/17]

(2) Outside Storage and Display in the HD, DMU, CB, and WF districts. [Ord. 5894, 10/14/17]
   (a) Merchandise for sale may be displayed in front yards during business hours, except vehicles, equipment, or machinery for sale, lease or rental. [Ord. 5894, 10/14/17]
   (b) Outside display of items not for sale, and outdoor storage of materials, equipment, or other items are not permitted within required setback or buffer areas. In addition, a minimum five-foot front setback is required for outside storage or display areas not covered by (a), above. [Ord. 5894, 10/14/17]
   (c) Open storage is permitted in yards not listed in (b) above, provided that it meets the following standards:
      i. The storage area must be enclosed with a sight-obscuring fence, wall, or hedge. [Ord. 5894, 10/14/17]
      ii. Fence and wall enclosures must be located outside the areas specified in (b) above as if they were buildings; however, a hedge enclosure may extend into areas specified in (b), above, provided that the storage area itself does not extend into such areas. [Ord. 5894, 10/14/17]
      iii. Materials and equipment stored as permitted in this subsection may be no more than 14 feet tall, relative to the grade of the storage area. [Ord. 5894, 10/14/17]
      iv. Open storage of materials and equipment over 6 feet tall relative to the grade of the storage area must be screened by landscaping. [Ord. 5894, 10/14/17]
      v. Front setbacks for open storage areas under (b), above, shall be landscaped in accordance with Article 9. Hedges used for enclosure may be counted towards required landscaping under Article 9. [Ord. 5894, 10/14/17]
5.370 **Screening of Refuse Containers.** The following standards apply to all development, except for one and two-family dwellings. Any refuse container or disposal area that would otherwise be visible from a public street, customer or resident parking area, any public facility, or any residential area, must be screened from view by placement of a sight-obscuring fence, wall, or hedge at least 6 feet tall. Refuse disposal areas may not be located in required setback areas or buffer yards and must be contained within the screened area. No refuse container shall be placed within 15 feet of a dwelling window.

[Ord. 5555, 2/7/03]

5.380 to 5.410 Fence standards moved to Article 9, Ord. 5751, 3/9/11.
ARTICLE 8
DESIGN STANDARDS

Commentary:
As discussed, the proposed “two-track” system of review would allow applicants to request Adjustments to the clear and objective standards in Article 8. In Draft 1.1 only Sections 8.100 through 8.160 (Single Family Homes), Sections 8.200 through 8.305 (Multi-Family Development) and Sections 8.480 through 8.485 (Supplemental Residential Design Standards in Village Centers) are being amended to have clear and objective standards. Other sections are expected to be included in Phase 2.

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

An applicant for a development that does not meet the clear and objective standards in Article 8 Sections 8.100 through 8.160 (Single Family Homes), Sections 8.200 through 8.305 (Multi-Family Development) or Sections 8.480 through 8.485 (Supplemental Residential Design Standards in Village Centers) may apply for one or more Adjustments pursuant to ADC 2.060-2.080.

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

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

[S. 5445, 4/12/00, Ord. 5801, 2/13/13; Ord. 5832, 4/9/14]

SINGLE-FAMILY HOMES

Commentary:
As discussed, the proposed “two-track” system of review requires that each standard have a robust purpose statement. We have deleted the overall purpose for the Single-Family Homes section and added purpose statements to sections 8.130, 8.133, and 8.140.

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

8.110 Applicability.
(1) The standards of ADC Sections 8.110 through 8.160 apply to all new single-family detached units, manufactured homes, two-family units (duplexes), and single family attached units on individual lots in all zones that allow single-family housing, except as otherwise noted. [Ord. 5894, 10/14/17]

(2) In addition, except as otherwise noted, the standards of ADC Sections 8.110 through 8.160 apply to multifamily units with individual driveways permitted pursuant to ADC 12.100(2) that are located in the WF, CB, or DMU zone, or in the HD zone in a building where ground-floor residential use is permitted pursuant to ADC 5.070(17). [Ord. 5894, 10/14/17]

(3) These standards do not apply to existing structures, to new additions to existing structures, or to manufactured home parks. [Ord. 5894, 10/14/17]

(4) Development on flag lots or on lots that slope up or down from the street with an average slope of 20 percent or more is exempt from these standards. [Ord. 5445, 4/12/00; Ord. 5894, 10/14/17]

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

Commentary:

For the Home Orientation section below, we added a purpose statement to provide guidance for an Adjustment which emphasizes the need for an entrance which is visible or clearly identifiable from the street.

8.130 Home Orientation. **The purpose of these standards is to create pedestrian-friendly, sociable, safe and attractive single-family neighborhoods through human-scale design. By ensuring that the pedestrian entrance is visible or clearly identifiable from the street, these standards enhance public safety for residents and visitors and provide opportunities for community interaction.**

(1) At least one main entrance of each new home shall be within eight feet of the longest street-facing wall of the dwelling unit (excluding the garage); and either: [Ord. 5894, 10/14/17

  (a) Face the street (see Figure 8-1);
  (b) Be at an angle of up to 45 degrees from the street; or
  (c) Open onto a porch (see Figure 8-2). The porch must:
    i. Be at least 25 square feet in area;
    ii. Have at least one entrance facing the street; and
    iii. Have a roof that is:
        ▪ No more than 12 feet above the floor of the porch; and
        ▪ At least 30 percent solid. This standard may be met by covering 30 percent of the porch
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area with a solid roof, or by covering the entire area with a trellis or other open material if no more than 70 percent of the area of the material is open.  [Ord. 5445, 4/12/00]

Commentary:

On corner lots, there may be situations were having the door within 8 feet the longest street-facing wall of the dwelling unit doesn’t work. We’ve added subsection (2) to clarify that when the home is on a corner lot or has more than one public street frontage, the applicant can choose on which frontage to meet the standards. In the Task Force questionnaire, 10 out of 11 respondents supported this concept. This question was not asked in the community survey.

(2) On sites with frontage on both a private street and a public street, the standards apply to the site frontage on the public street. On all other sites with more than one street frontage, the applicant may choose on which frontage to meet the standards.

(2)(3) In the DMU, CB, HD, and WF zoning districts, in order to provide a transition between public space (the sidewalk) and private space (the home) while maintaining a visual and physical connection to the street, entrances to individual dwelling units must be set back at least five feet from the front lot line. The entrance must be covered for a depth of at least three feet.

[Ord. 5894, 10/14/17]

Commentary:

We added a purpose statement for the Street-Facing Windows section below to provide guidance for an Adjustment which emphasizes public safety and a more pleasant pedestrian environment. In the Task Force questionnaire, 8 out of 10 respondents supported the concept of adding public

![FIGURE 8-1. Front door facing the street](image1)

![FIGURE 8-2. Front door opening onto porch](image2)
Amendments to the Albany Development Code (ADC)

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safety-related concepts to the purpose statement. This question was not asked in the community survey.

8.133 Street-Facing Windows. The purpose of these standards is to create pedestrian-friendly, sociable, safe and attractive single-family neighborhoods through human-scale design. The standards enhance public safety by allowing people to survey their neighborhood from inside their residences; and also provide a more pleasant pedestrian environment by preventing large expanses of blank facades along streets.

**Commentary:**

Changes to the standards in this section are in response to the Task Force suggestion to allow windows in both garage and pedestrian doors to count toward the 15% minimum coverage requirement.

(1) At least 15 percent of the area of each façade that faces a street lot line, excluding the area of any street-facing garage doors for motor vehicle ingress/egress, must be windows or main pedestrian entrance doors. [Ord. 5894, 10/14/17]

(2) All windows on a street facing facade, including windows in garage and pedestrian doors, may be counted toward meeting this standard. Windows in garage doors for motor vehicle ingress/egress do not count toward meeting this standard, but windows in garage walls do count toward meeting this standard. [Ord. 5894, 10/14/17]

(3) For a pedestrian door to count toward meeting this standard, it must be the main entrance and face the street. [Ord. 5894, 10/14/17]

(4) For a corner lot, only one side of the unit must meet this standard. [Ord. 5445, 4/12/00; Ord. 5894, 10/14/17]

**Commentary:**

For the Infill and Redevelopment section below, there were mixed responses regarding whether these standards should be retained as-is, modified to make them easier to administer, or deleted altogether. Among Task Force members 11 out of 12 questionnaire respondents indicated that this section should be deleted. However, among community survey respondents, 80% indicated that the standards should be either retained as-is or modified. Direction from Planning Commission and City Council was to retain the standards in Draft #1, but to simplify and clarify them so that they’re easier to apply.

The proposed approach starts by providing a simpler definition for “infill.” Public Review Draft #1 would apply the infill standards to the HM zone within designated historic districts. For reference the historic districts are shown on the figure on the following page. Because the historic districts include well-established neighborhoods that are mostly built out, the exception related to parcels that are too small for a residence or large enough to be divided into four or more lots is proposed to be deleted.
8.140 Additional Standards for Infill and Redevelopment. The purpose of these standards is to protect the architectural character of existing historic neighborhoods, and preserve continuity in neighborhood appearance, so that new homes fit in with the existing homes in the neighborhood in terms of features such as setbacks, height, and garages.

(1) Applicability. These standards apply to every new house, manufactured home, duplex, and attached house sited as infill development within those areas of the Hackleman-Monteith (HM) zoning district that are also within a City-designated historic district, except in the HD, DMU, CB, and WF zones. For the purpose of this section, “infill development” means a dwelling that is proposed on land that is zoned for residential use where at least 75 percent of the abutting parcels have a dwelling, but not counting any parcel that is too small for a residence and any parcel that is large enough that it can be divided into four or more lots. These standards also apply where a home is removed to make way for a new house, manufactured home, duplex, and/or attached house within those areas of the Hackleman-Monteith (HM) zoning district that are also within a City-designated historic district. These standards do not apply to a dwelling that is proposed on land that is large enough that it can be divided into four or more lots. [Ord. 5894, 10/14/17]
Amendments to the Albany Development Code (ADC)

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Commentary:
In order to simplify the submittal requirements, the amended Code would require that applicants provide information about the dwellings on either side of the subject property rather than all of those within 150 feet. The rationale for this change is that consistency is most important with the immediately neighboring properties.

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

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

Commentary:
For the Home Setback standards below, only one community survey respondent indicated that these standards should be deleted. Planning Commission and City Council directed us to keep, but simplify, the standards.

While the proposed change would be easier to administer, it would be somewhat more restrictive than the current regulations. For example, under the current regulations, if a house two-doors down has an unusually small front setback, the infill house can be even closer to the street. The proposed amendment would only consider the abutting properties. If this is too restrictive, the Task Force could consider making the adjusted setback optional for the applicants. See alternative language below. [NOTE: Figure 8-3 will be updated to match the proposed code].

[Possible alternative: When the minimum front setback required by the base zoning district exceeds the existing setbacks of homes on abutting parcels facing the same street, the subject home may match the setbacks of those abutting parcels.]

**Key Task Force Question:** Should the alternative language above, which makes the adjusted setback optional for the applicant be proposed?

(a) **Home Setback.** A home shall be set no more than five feet closer to the street than the closest home, and no more than five feet farther from the street than the farthest home when compared with existing front setbacks of homes on abutting parcels facing the same street, other homes within 150 feet on either side of the lot. See Figure 8-3.
Amendments to the Albany Development Code (ADC)

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FIGURE 8-3. Existing House Setbacks: For this example, **two houses** (A, B and C) are **abutting and facing the same street**, located within 150 feet on either side of the lot. Of the three houses, **House B** is closest to the street. The minimum setback is 22-5=17 feet. **House C** is the farthest from the street. The maximum setback is 28+5=33 feet.

**Commentary:**

For the Garage and Carport standards below, 63% of community survey respondents indicated that these standards should be deleted. However, Planning Commission and City Council suggested these standards be kept, but simplified.

In order to simplify these standards, the amended Code only takes into account the dwellings on either side of the subject property rather than all of those within 150 feet. Rather than using a discretionary standard requiring the garage or carport to be “like materials and color as the home,” the revised standard simply precludes the use of temporary or portable garages or carport to meet this standard. The standard establishing setbacks for garages and carports based on other properties within the vicinity (existing subsection (iii)) could lead to inadequate setbacks that don’t allow parking in the driveway and cause vehicles to overhang the sidewalk. Therefore, this standard is proposed to be deleted.

(b) **Garage and Carport Requirements**

1. **If at least one home on an abutting parcel facing the same street has a garage, then a garage is required.** A garage is required if more than 50 percent of the homes within 150 feet on either side of the lot has a garage.
2. **If at least one home on abutting parcels facing the same street has a carport, then a carport or garage is required.** If more than 50 percent of the homes have a carport, then a carport or garage is required.
3. **If one home on an abutting parcel facing the same street has a garage and one has a carport, then a garage is required.** If there is a mixture of garages or carports for more than 50 percent of the homes, then a carport or garage is required.
Amendments to the Albany Development Code (ADC)

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iv. **Temporary or portable garages and carports cannot be used to meet this standard.**

The garage or carport shall be of like materials and color as the home.

v. **ii.** The garage or carport may be attached or detached from the dwelling.

iii. The garage or carport shall be set no more than five feet closer to the street than the closest garage or carport, and no more than five feet farther from the street than the farthest home, garage or carport when compared with other homes, garages and carports within 150 feet on either side of the lot.

---

Commentary:

For Building Height section, the existing standard already considers just the houses on either side of the subject site. The proposed amendment uses more precise language that is consistent with changes to the other requirements in this section.

(c) **Building Height.** A home shall be no more than one story higher than the lowest home when compared with homes on **butting parcels facing the same street** either side of the subject property. See Figure 8-4.

![Figure 8-4. Existing House Heights: For this example, the maximum height is two stories.](image)

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

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

8.150 **Parking and Access in the DMU, CB, HD, and WF Zoning Districts.** These standards are intended to support a pedestrian-friendly street environment by minimizing the visual and safety impacts of driveways, parking, and garages; and to preserve on-street parking. See Article 12 for additional access standards. [Ord. 5894, 10/14/17]

1. **Driveway standards.**

   (a) **Development sites abutting an alley:** Vehicle access shall be via the alley rather than the public street. [Ord. 5894, 10/14/17]
Amendments to the Albany Development Code (ADC)

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(b) Development sites that do not abut an alley: Vehicle access shall meet i or ii, below.
   i. Provide vehicle access from not more than one driveway to each public street abutting the development site. [Ord. 5894, 10/14/17]
   ii. Provide vehicle access to properties within the development site from shared or paired driveways with a minimum spacing between driveways of 25 feet (see Figure 8-5). The distance between driveways is measured along the front property line. [Ord. 5894, 10/14/17]

Commentary:
Draft #1 includes text in the introduction to Article 8 stating that all standards in this Article can be modified with an Adjustment, which makes subsection (2) unnecessary.

(2) Conditional review option. Developments that do not meet the standards of (1)(a) or (b), above, may be reviewed through a Conditional Use process, pursuant to ADC 2.230-2.265. [Ord. 5894, 10/14/17]

FIGURE 8-5. Paired driveway example.

(23) Parking location. Parking between the building façade and the front lot line is not permitted, except in driveways serving individual units (including shared or paired driveways), where permitted under (1), above. [Ord. 5894, 10/14/17]

(34) Garages. When parking is provided in a garage attached to the primary structure, and garage doors
Amendments to the Albany Development Code (ADC)

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Sections not amended are omitted unless needed for context. Omitted sections are indicated by asterisks: ***

for motor vehicle ingress/egress face a street, the following standards must be met. A garage door is considered to be facing a street where the opening is parallel to, or within 45 degrees of, a front lot line.  [Ord. 5894, 10/14/17]

(a) No more than one street-facing garage door for motor vehicle ingress/egress is permitted per dwelling unit. Each street-facing garage door for motor vehicle ingress/egress may not exceed 12 feet in width.  [Ord. 5894, 10/14/17]

(b) See ADC Table 5-2 for garage setback standards.  [Ord. 5894, 10/14/17]

(45) The standards of ADC Section 12.230 regarding design requirements abutting arterials do not apply. However, the standards of ADC 12.100 regarding limiting the location, width, and number of accesses to arterials do apply. [Ord. 5894, 10/14/17]

8.160 Façade design and articulation in the DMU, CB, HD, and WF Zoning Districts.  [Ord. 5894, 10/14/17]

(1) In order to promote buildings that provide visual interest and façade details that give a sense of quality and permanence, the front façade shall include a minimum of two of the architectural features listed below for each dwelling unit. For a corner lot, only one front façade of the dwelling unit(s) must meet these standards. Lots with frontage on First or Second Avenue shall meet this standard on the First or Second Avenue frontage.  [Ord. 5894, 10/14/17]

(a) Porch: must meet the standards in ADC 8.130(1)(c).  [Ord. 5894, 10/14/17]

(b) Dormer: minimum width of four feet, inset at least three feet from all side walls.  [Ord. 5894, 10/14/17]

(c) Balcony: facing the street and accessible from an interior room, with a minimum depth of three feet.  [Ord. 5894, 10/14/17]

(d) Eaves: overhang of not less than 12 inches.  [Ord. 5894, 10/14/17]

(e) Offset: offset in facade or roof of at least two feet that extends for at least four feet.  [Ord. 5894, 10/14/17]

(f) Bay window: projects from front elevation by 12 to 24 inches.  [Ord. 5894, 10/14/17]

(g) Other: feature not listed but providing visual relief or contextually appropriate design similar to options a-f.  [Ord. 5894, 10/14/17]

(2) To provide privacy for ground floor residential uses, for residential buildings within 5 feet of the front lot line, street-facing ground floor windows shall be separated from the front lot line with a landscaped buffer at least three feet deep extending the for at least the width of the window(s). The landscaped buffer shall meet at least one of the following standards.  [Ord. 5894, 10/14/17]

(a) For every three linear feet of width, provide at least one three-gallon shrub, with the remaining area treated with suitable living ground cover, lawn, or decorative treatment of bark, rock, or other attractive ground cover.  [Ord. 5894, 10/14/17]

(b) For every two linear feet of width, provide at least 1 one-gallon shrub or perennial that typically achieves a mature height of at least 3 feet, with the remaining area treated with suitable living ground cover, lawn, or decorative treatment of bark, rock, or other attractive ground cover.  [Ord. 5894, 10/14/17]

(c) Other suitable landscaping that provides both privacy and visual interest and includes living plants, shrubs, and/or trees.  [Ord. 5894, 10/14/17]

[Ord. 5801, 2/13/13]
ARTICLE 8
DESIGN STANDARDS

MULTIPLE-FAMILY DEVELOPMENT

8.200 **Purpose.** These sections are intended to set standards for quality designs in new multiple-family developments. Good design results when buildings are visually compatible with one another and adjacent neighborhoods and contribute to a residential district that is attractive, active and safe. 

[Ord. 5445, 4/12/00]

8.205 **Applicability.**

(1) Except as specified in ADC Section 8.110(2), the standards of ADC Sections 8.220 through 8.300 apply to the development of new Multiple Family residential buildings (accessory buildings are exempt). 

[Ord. 5894, 10/14/17]

(2) The standards of ADC Sections 8.220 through 8.300 apply to new buildings with Units Above or Attached to a Business (see ADC Section 22.310) as follows: 

(a) Dwelling units located on the first story facing a street line are subject to all standards in this section that apply within the relevant zoning district. 

[Ord. 5894, 10/14/17]

(b) In addition, certain standards are applicable to the development of units above or behind a business, where noted. 

[Ord. 5894, 10/14/17]

(3) Except as required to meet building code, fire code, or other regulations, expansions, and modifications to existing buildings and sites must not decrease conformance with these standards. 

[Ord. 5894, 10/14/17]

(4) Unless otherwise specified, these standards apply in all zoning districts. 

[Ord. 5894, 10/14/17]

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

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

**Commentary:**

Generally speaking, the Recreation and Open Space Areas section below has been reworked to add more specificity, in order to make the requirements clear and objective, as well as more flexibility for developers. Added flexibility was a desire expressed by both the Task Force and the Planning Commission/City Council. We also expanded the purpose statement for this section to provide better guidance for an Adjustment. Additional commentary is provided for each applicable subsection below.
8.220 Recreation and Open Space Areas. In all new multiple-family developments, a portion of the land not covered by buildings and parking shall be of adequate size and shape and in the proper location to be functional for outdoor recreation and relaxation. The standards are also intended to ensure that project open space is an integral part of the overall development design, not merely leftover space. In larger developments, there should be a variety of common space activities. **The purpose of these standards is intended to ensure that new multiple-family developments and mixed use developments with multiple-family units provide spaces for outdoor recreation and relaxation that are adequately sized, located, and functional. The standards are also intended to ensure that project open space is an integral part of the overall development design, not merely leftover space.**

The minimum requirements for common open space, common open space, children’s play areas, and private open space are stated in Table 8-1.

**Commentary:**

The proposed new Table 8-1 below indicates applicability and general requirements for each category of open space: common open space, children’s play areas, and private open space. We suggest switching the overall Common Open Space requirement from being based on a percentage of living space (0.25 square feet of open space for each 1.0 square feet of living space) to a percentage of the site area (15% of total site area). This should be simpler to apply and should make it more feasible to develop higher-density multi-family developments. This was in response to concerns from some Task Force members about meeting the open space standards on top of parking, stormwater, landscaping, etc.

Table 8-1 includes separate standards for the CB, HD, DMU, LE, WF and MUR districts, since those were updated more recently (in 2017), and since recreation requirements for more urban developments in downtown districts should not be equivalent to those in other districts. Multi-family development in the downtown districts is exempt from several of the recreation and open space standards, as outlined in the table.

Also note that the requirement for private open space has been reduced from 100% of multi-family units to 80% of units. This was supported by the majority of Task Force members (7 out of 10 questionnaire respondents). In the community survey, only 3 out of 15 respondents indicated that all apartments should have a private patio or balcony.

**NOTE:** There are existing tables (Table 8-1 and 8-2) in the Commercial and Institutional Site Design standards that will need to be renumbered during phase 2.
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TABLE 8-1: Recreation and Open Space Requirements by Zoning District

<table>
<thead>
<tr>
<th>Open Space</th>
<th>CB, HD, DMU, LE, WF and MUR Zoning Districts</th>
<th>All Other Zoning Districts</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Common Open Space</strong></td>
<td></td>
<td></td>
</tr>
<tr>
<td>• Projects with fewer than 10 units</td>
<td>Not required</td>
<td>Not required</td>
</tr>
<tr>
<td>• Projects with 10 or more units as part of a multiple-family development or ten or more units above or attached to a business</td>
<td>250 square feet (useable floor area) in size subject to ADC 8.220(1)</td>
<td>15% of the site, and subject to the standards in ADC 8.220(2)</td>
</tr>
<tr>
<td><strong>Children’s Play Area</strong></td>
<td></td>
<td></td>
</tr>
<tr>
<td>• Projects with fewer than 10 units (2 or more bedrooms in size)</td>
<td>Not required</td>
<td>Not required</td>
</tr>
<tr>
<td>• Projects with 10 or more units (2 or more bedrooms in size)</td>
<td>Not required</td>
<td>Required and subject to the standards in ADC 8.220(2)(a)(ix)</td>
</tr>
<tr>
<td><strong>Private Open Space</strong></td>
<td>Not required</td>
<td>Required on 80% of units and subject to the standards in ADC 8.220(3)</td>
</tr>
</tbody>
</table>

Commentary:

For ease of review, the Common Space and Children’s Play Areas sections (below) have been struck out entirely and replaced with new language.

For Common Space, the list of possible open space amenities expands on the list in the existing ADC, while providing more specificity for each amenity. The intent is to establish a firmer baseline for minimum requirements (in terms of size and features), and to ensure good outcomes, while allowing a wider range of possible amenities. Maximum percentages are included with some of the amenities (such as pools and sport courts) to ensure some variety, should these amenities be included. Lawns, rooftop gardens, and natural areas may occupy 100% of the required open space. Children’s play areas were added to the list of common open space amenities so that they may count toward the minimum requirement (which the current ADC doesn’t allow). Children’s play areas have also been better defined, and the requirements for them to be centrally located and within 300 feet of dwelling units have been removed, since those were deemed to be unnecessary and challenging to implement.

One of the potential code concepts to implement a points system (or similar) to quantify amenities and to require less total open space if higher-value/higher-quality amenities are provided. This idea was supported by the Task Force (all 11 questionnaire respondents supported it). We explored a points system, but eventually determined that it was too difficult to calibrate, too complicated to implement, and that it wouldn’t work with the overall open space area requirement. Instead, we propose clarifying the list of potential amenities (as discussed above),
Amendments to the Albany Development Code (ADC)

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and allowing a credit toward the minimum open space requirements if developments include “higher value” recreation amenities. The credit is further discussed below, with Subsection 8.220.2.c.ii.

(1) **Common Space.** For projects of 10 or more units, common open space shall be required at a ratio of 0.25 square feet for each 1.0 square feet of living space. In lieu of the common space standards below, new construction of ten or more units in the CB, HD, DMU, LE, WF and MUR zoning districts is subject to ADC Section 8.225. [Ord. 5832, 4/9/14; Ord. 5894, 10/14/17]

(a) Areas designated as common space shall be at least 500 square feet in size with no horizontal dimension less than 20 feet. The space shall be functional or protect natural features, and shall include one or more of the following types of uses:
- swimming pools, spas, and adjacent patios and decks
- developed and equipped adult recreation areas
- sports courts (tennis, handball, volleyball, etc.)
- community centers
- food and ornamental gardens
- lawn, deck or hard surface areas in which user amenities such as trees, shrubs, pathways, covered picnic tables, benches, and drinking fountains have been placed
- natural areas

(b) Developments shall provide a mix of passive and active recreational uses from the above list if the open space can accommodate more than one use.

(c) Indoor or covered recreational space may count towards 50 percent of the common open space requirement.

(d) No more than 20 percent of the common space requirement shall be on land with slopes greater than 20 percent.

(e) Areas Excluded. Streets and parking areas, including areas required to satisfy parking lot landscape standards, shall not be applied toward the minimum usable open space requirement. Required setback areas may be applied toward the minimum usable open space requirement, except active, noise-generating amenities must meet required setbacks.

(f) Designated on Site Plan. Areas provided to satisfy the minimum common space requirement shall be so designated on the development site plan and shall be reserved as common space. Adult recreation areas shall not be allowed in any required setback and shall be centrally located.

(g) Open Space and Recreation Area Credit. A credit, not to exceed 25 percent of the common space requirements, may be granted if there is direct access by a pedestrian path, not exceeding 1/4 mile, from the proposed multiple-family developments to an improved public park and recreation area or public school playground.

(h) Approved vegetated post-construction stormwater quality facilities are allowed in common open space areas. [Ord. 5832, 4/9/14; Ord. 5842, 1/01/15]

(2) **Children’s Play Areas.** Multiple family developments larger than ten units (excluding one-bedroom and studio units) shall designate one or more children’s play areas. Developments located in the CB, HD, DMU, LE, WF, and MUR zoning districts are exempt from this standard. [Ord. 5832, 4/9/14; Ord. 5894, 10/14/17]

(a) Children’s play areas shall be placed within 300 feet of the units they are intended to serve. More than one play area may be needed in larger developments.
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(b) No horizontal dimension of a children’s play area shall be less than 20 feet.
(c) Placement of children’s play areas shall not be allowed in any required setback and shall be centrally located.
(d) Children’s play areas may be part of the common open space area but do not count toward the use requirement as outlined in Section 8.220(1)(a). [Ord. 5445, 4/12/00]

(1) When required by Table 8-1, in the CB, HD, DMU, WF, LE, and MUR Zoning Districts, common open space shall provide a minimum of one indoor or outdoor common area amenity with no dimension less than 15 feet. Common area amenities must include fixed or movable seating.

(2) When required by Table 8-1, in all zoning districts except the CB, HD, DMU, WF, LE, and MUR Zoning Districts, the following standards apply.

(a) Areas designated as common space shall have no horizontal dimension less than 20 feet and all required common open space areas shall be entirely improved with one or more of the following amenities:

i. Inground permanent swimming pools with a minimum area of 400 square feet, inground spas or hot tubs. Patios and decks within 50 feet of the swimming pool, spa or hot tub may be included. These amenities may not account for more than 60% of the required common open space.

ii. Regulation sized and equipped sports courts for tennis, handball, volleyball, and/or basketball. These amenities may not account for more than 50% of the required common open space.

iii. Gardens for use by residents to grow food. Gardens must have irrigation available for use by the residents. This amenity may not account for more than 50% of the required common open space.

iv. Lawn, ornamental gardens and landscaped areas including trees and shrubs. Areas may include picnic tables, benches, and drinking fountains. This amenity may not account for more than 70% of the required common open space. Pathways, deck or other hard surface areas or covered areas may be included but may not exceed 30% of the landscaped area.

v. Rooftop terrace accessible to residents. Terrace must include barbeques, tables and seating that are available for use by residents.

vi. Areas within Significant Natural Resource overlay districts, per ADC 6.260, or stands of mature trees greater than or equal to 6 inches DBH that form a contiguous tree canopy (including areas within 10 feet of the drip line). These amenities may not account for more than 50% of the required common open space. Areas used for cluster development density transfers are not eligible for meeting common open space requirements.

vii. Indoor community room. This amenity may not account for more than 50% of the required common open space.
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viii. Approved vegetated post-construction stormwater quality facilities. This amenity may not account for more than 20% of the required common open space.

ix. Children’s Play Areas. Each children’s play area must include a play structure at least 100 square feet in area, and at least three (3) of the following: a swing structure with at least two (2) swings, a slide, permanent sand box, permanent wading pool, or other children's play equipment approved for use in a public playground. Required play equipment may or may not be attached to the primary play structure. Equipment must be manufactured to American Society for Testing and Materials (ASTM) F1487-11 standards or other comparable standards applicable to public playground equipment. Open space within 50 feet of the play structure may be included. Each children’s play area must be fenced along any perimeter which is within 10 feet of a street, alley, property line, or parking area.

(b) Areas Excluded from Common Open Space Areas.

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

ii. Required setback areas may be applied toward the minimum usable open space requirement, except that sport courts, swimming pools and spas, children’s play areas shall not be allowed in any required setback.

iii. No more than 20 percent of the common space requirement shall be on land with slopes greater than 20 percent.

(c) Common Open Space Area Credit.

Commentary:
Note: The credit in subsection (i) below is an existing open space credit provided in the ADC. As currently drafted, the two credits could be combined for a total credit of 45%.

i. A credit, not to exceed 25 percent of the required common space area, shall be granted if there is direct access by a pedestrian path, not exceeding 1/4 mile, from the proposed multiple-family developments to an improved public park and recreation area or public school playground.

Commentary:
Subsection (ii) below proposes a new credit toward the minimum required open space area for providing “high value” open space amenities. Rather than attempting to quantify the value of each amenity by assigning it a point value, we propose calculating value based on the dollar amount spent on recreation amenities. The idea is that amenities such as pools and sport courts will cost more to install than landscaping or patios and should count for more—but also that high-quality landscaping should count for more than low-quality landscaping. The intent is to provide flexibility for the type of high value amenities for which a developer receives the credit.
A credit toward the minimum open space area required by Table 8-1 shall be granted to development projects providing high value outdoor recreation amenities. Provision of high value amenities is determined by the dollar amount spent on the amenities as a proportion of the overall project value. The credit is calculated as follows: for each one percent (1%) of the overall project development cost that is spent on outdoor recreation facilities, the minimum amount of required open space shall be reduced by 10 percent. For example, if 1.5 percent of a project’s cost is spent on recreation facilities, the minimum required open space area shall be reduced by 15 percent. The total credit shall not exceed 20 percent of the minimum required open space area.

8.230 Private Open Space. In all newly constructed multiple family developments except in the CB, HD, DMU, WF, and LE zoning district and assisted living and nursing home developments, private open space shall be provided as follows: [Ord. 5832, 4/9/14; Ord. 5886, 1/6/17; Ord. 5894, 10/14/17]

(1) At-Grade Dwellings. Dwellings located at finished grade, or within five feet of finished grade, shall provide at least 96 square feet of private open space per unit, with no dimension less than eight feet. Private open space for at-grade dwellings may be provided within interior courtyards created within a single building or cluster of buildings. Private open space for at-grade dwellings shall be screened from view from public streets.

(2) Above-Grade Dwellings. Dwellings located more than five feet from finished grade shall provide a minimum of 80 square feet of private open space per dwelling unit (such as a yard, deck or porch), with no dimension less than six feet. Private open space for units located more than six feet above grade may be provided individually, as with a balcony or collectively by combining into a larger area that serves multiple units.

(3) Access to Private Open Space. All private open space shall be directly accessible from the dwelling unit through a doorway.

(4) Privacy Requirements. Private open space, excluding front porches, shall be physically and visually separated from common open space. [Ord. 5445, 4/12/00; Ord. 5832, 4/9/14]

Commentary:
Private Open Space is currently required for 100% of units. As indicated in Table 8-1, the proposed amendments would reduce this to 80% of units. They would also reduce the minimum area requirement from 96 sf for at-grade units and 80 sf for above-grade units to 72 sf for all units. Reducing minimum open space dimensions was supported by the majority of Task Force members (7 out of 10 questionnaire respondents). Requirements for access to private open space from dwelling units and separation from common open space have been retained. Based on Task Force comments, front porches have been exempted from requirements for screening from public streets.

(3) When required by Table 8-1, private open space shall be provided which meets the standards of this section. Development in the CB, HD, DMU, WF, LE, and MUR Zoning Districts and assisted-living and nursing home developments in all zoning districts are
exempt from these requirements.

(a) Each dwelling units located at finished grade, or within five feet of finished grade, shall have at least 80 square feet of private open space. All other dwelling units shall each have at least 72 square feet of private open space.

(b) No dimension of the required private open space shall be less than six feet.

(c) All required private open space shall be directly accessible from the dwelling unit through a doorway.

(d) Except for front porches, required private open space shall be physically and visually separated from common open space.

(e) Except for front porches, required private open space for at-grade dwellings shall be screened from view from public streets.

(f) Private open space that is provided at-grade may be within interior courtyards created within a single building or cluster of buildings.

(g) Private open space that is above grade may be provided individually, as with a balcony or collectively by combining into a larger area that serves multiple units.

(4) Open Space Designated on Site Plan. Areas provided to satisfy the minimum open space requirements shall be so designated on the development site plan and shall be reserved as common or private space, as applicable.

Commentary:
The proposed Maximum Setbacks and Building Orientation section below combines existing ADC Section 8.240 Maximum Setbacks and Section 8.260 Building Orientation & Entries. The second part of the purpose statement was moved from Section 8.260. The first part of the purpose statement has been fleshed out to provide better guidance for an Adjustment.

8.240 Maximum Setbacks for Street and Building Orientation. The purpose of the standards in this section is to create and maintain street frontages that are attractive; have human-scale design; create an environment that is conducive to walking; and provide natural surveillance of public spaces. The standards are also intended to promote building and site design that contributes positively to a sense of neighborhood and to the overall streetscape by carefully relating building mass, entries, and yards to public streets.

(1) Applicability. In all zoning districts except HD, CB, DMU, and WF, new multiple family developments shall meet the following maximum setback and building orientation standards of this section. New multiple-family development in the HD, CB, DMU and WF zoning districts is subject to maximum setback standards in ADC Section 5.120 and building orientation standards in ADC Section 8.265. [Ord. 5894, 10/14/17]

Commentary:
The sections below provide two options for meeting the Setback and Orientation standards: the “Street Orientation” option (which is largely similar to the existing standards in ADC 8.240 and
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Draft code amendments are written as follows: additions bold underlined and deletions in spike-out. Sections not amended are omitted unless needed for context. Omitted sections are indicated by asterisks: ***

8.260), and the “Enhanced Landscaping” option. Allowing this second option was supported by the majority of Task Force members (8 out of 12 questionnaire respondents). In the community survey, about half of respondents supported allowing the option on all multi-family sites, and about half thought it should only be an option on certain sites. Our initial proposal is to allow the option for all multi-family development, except in the downtown zones.

Note: While new to this section, standards in Subsections iv through vi were moved from Section 8.260 Building Orientation & Entries. However, subsection v is new. It provides a clear and objective standard for the design of front entries of ground floor units.

(2) Standards. Buildings shall either meet all the standards of section (a) or all the standards of section (b) below.

(a) Street Orientation Option.

(1) i. On sites with 100 feet or more of frontage on a collector or local public street, at least 50 percent of the site width shall be occupied by a building(s) placed no further than 25 feet from the front lot line. See Figure 8-6, Building A. [Ord. 5894, 10/14/17]

(2) ii. On sites with less than 100 feet of frontage on a collector or local public street, at least 40 percent of the site width shall be occupied by a building(s) placed no further than 25 feet from the front lot line. See Figure 8-6, Building B. Permitted flag lots are exempt from meeting this standard.

(3) iii. As used in these standards, “site width” does not include significant natural resources as mapped by the City, delineated wetlands, slopes greater than 20 percent, recorded easements, required fire lanes and other similar non-buildable areas as determined by the City.

iv. The primary entrance(s) of ground floor units of residential building(s) located within 25 feet of a collector or local public street shall face the street. Primary entrances shall provide access to individual units, clusters of units, courtyard dwellings, or common lobbies. The following exceptions to this standard are allowed:

- On corner lots, the main building entrance(s) may face either of the streets or be oriented to the corner.
- For buildings that have more than one entrance serving multiple units, only one entrance must meet this requirement.

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

![Diagram of setback for multiple family homes](image)

**FIGURE 8-6. Maximum setback for multiple family homes.**

**Commentary:**

As mentioned above, the Enhanced Landscaping Option is a new alternative to the existing building orientation and setback standards. The intent is to provide more flexibility for multi-family development in less urban settings, while still ensuring a pleasant experience for pedestrians by requiring additional landscaping along the site frontage. Parking would be allowed between the building and the street on up to 25% of the frontage provided at least 25 feet of landscaping is provided.

**(b) Enhanced Landscaping Option.**

**i. On sites with frontage on a collector or local public street, buildings shall be setback from the front lot line by a minimum of 15 feet in addition to the minimum front setback required in the zoning district. No maximum setback shall be required.**

**ii. The front setback shall be landscaped according to the following standards.**

- For street frontages with street trees, a minimum of one tree at least 6 feet tall shall be planted for every 30 lineal feet of street frontage. Required trees may be clustered within the front setback.

- For street frontages without street trees, a minimum of two rows of trees shall be required. Each row shall be planted with a minimum of one tree at least 6 feet tall for every 40 lineal feet of street frontage. Within the enhanced landscape area, trees shall be staggered between the two rows and separated by no more than 20 feet on center.

- A minimum of four one-gallon shrubs or accent plants shall be planted for every...
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10 lineal feet of street frontage. Required shrubs may be clustered within the front setback.

- The remaining area shall be planted with vegetative ground cover plantings except that rock, bark, or similar landscape cover materials may be used for up to 25 percent of the required landscape area.

iii. On sites with frontage on a collector or local public street, off-street parking and circulation areas may be located between the building and the street on a maximum of 25% of the street frontage if setback from the street by at least 25 feet and separated from the street by a landscaped area meeting the standards of ADC Section 8.240(3)(b)(ii).

Commentary:
For the Functional Design and Building Details section, the proposal is to remove Section 8.250 and to apply Section 8.255 (which currently applies only to the downtown zones) to all multi-family development. This concept was supported by all 11 respondents to the Task Force questionnaire, and by 13 out of 15 respondents to the community survey. The Planning Commission and City Council also supported the menu-based approach offered in Section 8.255.

8.250 Functional Design and Building Details. These standards are intended to promote functional design and building details in new construction that contribute to a high-quality living environment for residents and enhance compatibility with the neighborhood. These standards apply in all zoning districts except HD, DMU, CB, and WF, which are subject to ADC Section 8.255. [Ord. 5894, 10/14/17]

(1) The design of new buildings shall avoid long, flat, uninterrupted walls or roof planes. Changes in wall plane and height, and the inclusion of elements such as balconies, porches, arbors, dormers, gables and other human-scale design elements such as landscaping should be used to achieve building articulation.

(2) Buildings shall be massed so individual units or the common main entrance is clearly identifiable from the private or public street that provides access unless the units are located on upper floors above non-residential uses. [Ord. 5832, 4/914]

(3) Stairways shall be incorporated into the building design. External stairways, when necessary, should be recessed into the building, sided using the same siding materials as the building, or otherwise incorporated into the building architecture.

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

Commentary:
The purpose statement for Section 8.255 below is partly taken from the purpose statement from Section 8.250, partly from subsection 8.255(2), and the rest is new language.
Façade design, articulation, and windows in the HD, DMU, CB, and WF Zoning Districts. The purpose of the standards in this section is to promote functional design and building details in new construction that provide visual interest, contribute to a high-quality living environment for residents, give a sense of quality and permanence, and enhance compatibility with the surrounding community.

[Ord. 5894, 10/14/17]

(1) Regulated façades. These standards apply to any façade that faces toward or within 45 degrees of a front lot line, except as otherwise specified below. [Ord. 5894, 10/14/17]

(a) For a corner or multiple frontage lots, only one front façade must meet these standards. A Willamette River setback line established pursuant to ADC 5.200 through 5.207 may be considered a front lot line for purposes of these standards. For lots with frontage on First or Second Avenue, the front façade facing First or Second Avenue shall meet these standards. [Ord. 5894, 10/14/17]

(b) Where there is more than one building on the site, these standards do not apply to any portion of a building that is separated from the front lot line by another building, based on a line perpendicular to the front lot line (see Figure 8-7).

(Ord. 5894, 10/14/17)

(c) Accessory buildings less than 750 square feet are exempt from these standards.

[Ord. 5894, 10/14/17]
Facade design and articulation. In order to promote buildings that provide visual interest and facade details that give a sense of quality and permanence, regulated facades shall include a minimum of two of the architectural features listed below. [Ord. 5894, 10/14/17]

(a) Recessed entrance(s): three to six feet deep (relative to building facade). [Ord. 5894, 10/14/17]
(b) Eaves: overhang of not less than 12 inches. [Ord. 5894, 10/14/17]
(c) Offset: offset in facade or roof of at least two feet that extends for at least four feet. [Ord. 5894, 10/14/17]
(d) Bay window: projects from front elevation by 12 to 24 inches. [Ord. 5894, 10/14/17]
(e) Balcony: one per dwelling unit facing the street, with a minimum depth of three feet. [Ord. 5894, 10/14/17]
(f) Decorative top: e.g., cornice or pediment with flat roof or brackets with a pitched roof. [Ord. 5894, 10/14/17]
(g) Other: feature not listed but providing visual relief or contextually appropriate design similar to options a-g. [Ord. 5894, 10/14/17]

Street-Facing Windows. In the HD, DMU, CB, and WF zoning districts, at least 25 percent of the portion of the regulated facade between two and eight feet above grade and at least 25 percent of the total area of each regulated facade must contain windows or doors that meet all of the criteria in (a) through (c), below. In all other zoning districts, at least 15 percent of the total area of each regulated facade must contain windows or doors that meet all of the criteria in (a) through (c), below. [Ord. 5894, 10/14/17]

(a) Made of transparent material with a minimum visible transmittance of 0.4. (Only the transparent portion of doors may be counted towards required window areas.) Windows with a visible transmittance rating less than 0.4 and windows that are frosted, fritted, patterned, or obscure may be counted towards up to half of the required window area provided that the windows in total allow views from the building to the street. [Ord. 5894, 10/14/17]
(b) Located in any part of the building except garages and parking areas. [Ord. 5894, 10/14/17]
(c) Face towards or within 45 degrees of the front lot line. [Ord. 5894, 10/14/17]
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(4) In the DMU, CB, WF, and HD zoning districts, to provide privacy for ground floor residential uses, for residential buildings within five feet of the front lot line, street-facing ground floor windows shall be separated from the front lot line with a landscaped buffer at least three feet deep extending for at least the width of the window(s). The landscaped buffer shall meet at least one of the following standards. [Ord. 5894, 10/14/17]

(a) For every three linear feet of width, provide at least one three-gallon shrub, with the remaining area treated with suitable living ground cover, lawn, or decorative treatment of bark, rock, or other attractive ground cover. [Ord. 5894, 10/14/17]

(b) For every two linear feet of width, provide at least one one-gallon shrub or perennial that typically achieves a mature height of at least three feet, with the remaining area treated with suitable living ground cover, lawn, or decorative treatment of bark, rock, or other attractive ground cover. [Ord. 5894, 10/14/17]

(c) Other suitable landscaping that provides both privacy and visual interest and includes living plants, shrubs, and/or trees. [Ord. 5894, 10/14/17]

Commentary:
Note: The Building Orientation and Entries section has been combined with the Maximum Setbacks standards in Section 8.240 above.

8.260 Building Orientation and Entries. These standards are intended to promote building and site design that contributes positively to a sense of neighborhood and to the overall streetscape by carefully relating building mass, entries, and yards to public streets. These standards apply in all zoning districts except HD, DMU, CB, and WF, which are subject to ADC 8.265. [Ord. 5894, 10/14/17]

(1) As many of the dwelling unit entries as possible shall face public local residential streets and along the internal street system of larger scale developments. Internal units may face a courtyard or plaza, but not a parking lot. The use of front porches or entry patios and terraces is encouraged.

(2) Building entries and entries to individual units shall be clearly defined, visible for safety purposes, and easily accessible. Arches, gateways, entry courts, and awnings are encouraged to shelter entries.

(3) Individual entries are encouraged; the use of long access balconies and/or corridors that are monotonous and impersonal are discouraged.

(4) The primary entrance(s) of ground floor units of residential building(s) located within 25 feet of a local street may face the street. Primary entrances may provide access to individual units, clusters of units, courtyard dwellings, or common lobbies. No off-street parking or circulation shall be located between the front of the building and the street. The following exceptions to this standard are allowed:

(a) On corner lots, the main building entrance(s) may face either of the streets or be oriented to the corner.

(b) For buildings that have more than one entrance serving multiple units, only one entrance must meet this requirement. [Ord. 5445, 4/12/00]
Amendments to the Albany Development Code (ADC)

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### 8.265 Building Orientation and Entries in the HD, DMU, CB, and WF Zoning Districts

These standards are intended to promote building and site design that contributes positively to the overall streetscape by balancing connection to the street, transitions between public space and private space, and privacy. Providing appropriate transitions and privacy can make building occupants feel comfortable having windows uncovered and using outside space, which strengthens connections to the street and can help deter crime and vandalism.

[Ord. 5894, 10/14/17]

(1) The main entrance to individual dwelling units on the ground floor and to lobbies for buildings with internally-accessed units shall face a street, courtyard, or plaza (not a parking lot). For corner lots, the main entrance may face either street.

[Ord. 5894, 10/14/17]

(2) In order to provide a transition between public space (the sidewalk) and private space (the dwelling) while maintaining a visual and physical connection to the street, entrances to individual dwelling units on the first story must be set back at least five feet from the front lot line, and must be covered for a depth of at least three feet.

[Ord. 5894, 10/14/17]

**Commentary:**
The purpose statement for the Transition to Lower Density Uses section below has been expanded to provide better guidance for an Adjustment. The “impacts” that these standards are intended to reduce have been better defined to include concepts of privacy and of solar access.

### 8.270 Transition to Lower Density Uses

**Purpose.** The standards of this section are intended to incorporate into the design of multiple-family housing to create transitions between multiple-family developments and nearby, lower-density residential development, in order to reduce the impacts of building mass and scale. Impacts may include incompatible building mass and scale, reduced privacy, and loss of solar access for the lower-density development.

**Applicability.** These standards apply to multiple-family housing in all zoning districts except HD, DMU, CB, and WF, which are subject to special interior setbacks in ADC Section 5.115.

[Ord. 5894, 10/14/17]

**Commentary:**
The existing language in this section applies the additional transition setback when multi-family sites abut single-family homes. The proposed changes would instead apply the additional setback when abutting single-family zones (no matter what is developed on the abutting site), and to only pre-existing single-family homes in other districts. The majority of Task Force members supported this concept (9-10 out of 11 questionnaire respondents), although there was less clear consensus regarding situations in which multi-family development abuts a school or church in a single-family zone (6 out of 11 supported requiring the additional setback in this situation. Among community survey respondents, responses were mixed, but 40% of respondents supported protecting existing single-family homes, but not new homes built outside of single-family zones.
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For the purposes of the first draft of the code amendments, the maximum transition setback has been capped at 30 feet—a concept that was also supported by most Task Force members (9 supported capping the setback, and 7 of these specifically supported a 30-foot cap). However, this idea was supported by only 27% of survey respondents.

The requirement for smaller-scale buildings to be sited adjacent to single-family districts has also been deleted, since it is redundant to the transition setback requirement. And the prohibition on vehicle areas adjacent to single-family homes has been deleted, since it was noted that it may be preferable to have screened parking adjacent to a single-family home, as compared to a multi-family building.

(1) When abutting single-family homes, **Multiple-family** buildings shall be set back at least one foot for each foot in building height from the property line, **up to a maximum required setback of 30 feet**, when the adjacent lot sharing the property line meets either criteria **(a)** or **(b)** below. Building height is measured from the average grade to the top of the wall facing the property line or to the top of the highest window or door, whichever is higher.

**a** The adjacent lot is in a residential single-family zoning district or in the HM zoning district.

**b** The adjacent lot has an existing single-family home constructed prior to [date of code adoption] and is in a zoning district other than the NC, CC, RC, LI, HI or IP.

(2) Smaller-scale buildings should be sited in the area immediately adjacent to single-family zoning districts, and larger scale buildings sited at the interior of the development or adjacent to other multiple-family developments.

(3) Parking and maneuvering areas, driveways, a Active recreation areas, loading areas and dumpsters shall **not** be located between multiple-family buildings and abutting pre-existing single-family homes except when no other option exists.

[Ord. 5445, 4/12/00]

**Commentary:**

The Pedestrian Connections section needed to be revised to make the requirements clear and objective. The proposed changes include requiring that pedestrian connections be built to a minimum standard to ensure that they are “clear,” “easily identifiable,” “safe,” and “convenient.” There was general support from both the Task Force and community survey respondents for the proposed requirements. There wasn’t much support for requiring contrasting pavement for crosswalks, so that provision was made optional.

The proposed changes also clarify which areas of the site require pedestrian connections (per subsection (2)) and provide clarification and remove subjective language for subsection (5).
Amendments to the Albany Development Code (ADC)

Draft code amendments are written as follows: additions **bold underlined** and deletions in *strike-out*
Sections not amended are omitted unless needed for context. Omitted sections are indicated by asterisks: ***

8.280 Pedestrian Connections.

(1) **Purpose.** The standards of this section are intended to ensure that pedestrian circulation systems shall be designed to provide clear, easily identifiable, safe and convenient connections within the multiple-family development and to adjacent uses and public streets/sidewalks.

(2) Each multiple-family development shall contain an internal pedestrian circulation system that makes clear, easily identifiable and safe connections between individual units and parking areas, and shared common open space areas, children’s play areas, and public rights-of-way. In order to ensure that connections are clear, easily identifiable and safe, all pedestrian connections shall meet the following standards:

(a) Except as required for crosswalks, per ADC Section 8.280(4), where a walkway abuts a vehicle circulation area, it shall be physically separated by a curb that is raised at least six inches or by bollards.

(b) Walkways shall be constructed of concrete, asphalt, brick or masonry pavers, or other hard surface, and not less than five feet wide.

(3) All pedestrian ways shall comply with the requirements of the Americans with Disabilities Act.

(4) The pedestrian circulation system shall be designed to provide safe crossings of streets, and driveways, and parking areas, crossings shall be clearly marked with either contrasting paving materials (such as pavers, light-color concrete inlay between asphalt, or similar contrasting material) or. Reflective striping should be used at crossings to emphasize the crossing under low light and inclement weather conditions.

(5) Safe, convenient, and attractive pedestrian connections shall be provided between the multiple-family development and all adjacent uses such as parks, schools, retail areas, bus stops, and other pedestrian ways. Connections shall be made to all adjacent streets and sidewalks for every 200 linear feet of street frontage to 300-foot intervals. Sites with less than 200 linear feet of street frontage shall provide at least one connection to the street and/or sidewalk.

[Ord. 5445, 4/12/00]

Commentary:
The Vehicle Circulation System standards have been largely reworked. The Task Force generally supported removing the requirements for internal vehicle circulation systems to mimic public streets and block patterns in favor of defining design standards for interior travel aisles (8 out of 11 questionnaire respondents). Standards, which would only apply to drive aisles longer than 100 feet that are not lined with parking stalls, include requirements for raised curbs, and a sidewalks and landscaping on at least one side. Measures to slow traffic speeds were made into a list of clear and objective options, rather than a list of suggested measures.

8.290 Vehicle Circulation System.

(1) **Purpose.** The standards of this section are intended to ensure that on-site circulation shall be clearly identifiable, safe, pedestrian-friendly and interconnected.
Amendments to the Albany Development Code (ADC)

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(2) **Applicability.** Development in the **These standards apply to multiple-family developments in all zoning districts except HD, DMU, CB and WF zoning districts.** Development on sites under three acres is exempt from these standards. [Ord. 5894, 10/14/17]

(1) Internal vehicle circulation system of a multiple-family development shall be a continuation of the adjacent public street pattern wherever possible and promote street connectivity. Elements of the public street system that shall be emphasized in the internal circulation system include the block pattern, sidewalks, street trees, on-street parking and planter strips.

(2) The vehicle circulation system and building pattern shall mimic a traditional local street network and break the development into numerous smaller blocks with all of the public street system elements highlighted above. Private streets are acceptable unless a public street is needed to extend the public street grid. The connectivity and block length standards in Articles 11 and 12 apply to all public and private streets.

(3) The streets that form the primary internal circulation system may include parallel parking and accessways to parking bays or courts but should not be lined with head-in parking spaces.

(4) Interior roadways shall be designed to slow traffic speeds. This can be achieved by meandering the roadway, keeping road widths to a minimum, allowing parallel parking, and planting street trees to visually narrow the road. [Ord. 5445, 4/12/00]

(3) **Interior drive aisles.** Drive aisles that link public streets and/or private streets with parking stalls that are longer than 100 feet shall meet standards (a) through (c), below. **These standards do not apply where drive aisles are lined with angled or perpendicular parking stalls.**

(a) Drive aisles shall have raised curbs and a minimum 5-foot wide sidewalk on at least one side.

(b) Drive aisles shall have a minimum 5-foot wide landscaped strip on at least one side of the drive aisle.

(c) **Traffic calming shall be provided through at least one of the following techniques:**

   (i) Meandering the drive aisle to achieve a maximum design speed of 15 mph.

   (ii) Installing speed bumps or speed humps.

   (iii) Providing parallel parking.

   (iv) **Planting street trees to visually narrow the drive aisle.**

Commentary:

Much of the original Parking section has been deleted, since most of the standards are redundant to other standards in Articles 8 and 9. The only standard that remains is the one requiring that parking be within 100 feet of building entrances. While the Task Force mostly supported removing this requirement, some of the Planning Commission and City Council members wanted the standards to remain, to continue ensuring that parking areas are convenient and accessible to...
residents. The proposed change would only require that 50% of units meet the 100-ft location requirement.

8.300 Parking Location. Multiple-family development shall provide attractive street frontages and visual compatibility with neighborhoods by minimizing the placement of parking lots along public streets.

(1) Purpose. The standards of this section are intended to ensure that residents of multiple-family developments have convenient access to parking areas on-site.

(2) Applicability. See Article 9 for additional parking lot standards. These standards apply in all zoning districts except HD, DMU, CB, and WF, which are subject to ADC Section 8.305. See Article 9 for additional parking lot standards. [Ord. 5894, 10/14/17]

8.305 Parking and Access in the HD, DMU, CB, and WF Zoning Districts. These standards are intended to support a pedestrian-friendly street environment by minimizing the placement of parking lots along public streets and minimizing driveways that create the potential for pedestrian conflicts. They are also intended to preserve on-street public parking. See Article 9 for additional parking lot standards and Article 12 for additional access standards. [Ord. 5894, 10/14/17]

(1) Parking between the building façade and the front lot line is not permitted. [Ord. 5894, 10/14/17]

(2) Entrances to garages serving individual units shall not face a front lot line. [Ord. 5894, 10/14/17]

(3) The minimum spacing between driveways shall be 25 feet, where reasonably feasible. The distance between driveways is measured along the front property line. [Ord. 5894, 10/14/17]

(4) The standards of ADC Section 12.230 regarding design requirements abutting arterials do not apply. However, the standards of ADC 12.100 regarding limiting the location, width, and number of accesses to arterials do apply. [Ord. 5894, 10/14/17]

(5) Parking areas within a building shall provide screening (such as landscaping or decorative metal panels) that provides at least 25 percent opacity for any street-facing openings other than entries or exhaust fan vents. [Ord. 5894, 10/14/17]
Amendments to the Albany Development Code (ADC)

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ARTICLE 8
DESIGN STANDARDS

***

SUPPLEMENTAL RESIDENTIAL DESIGN STANDARDS IN VILLAGE CENTERS

Commentary
The proposed amendments to this section include adding more detail to the purpose statement to provide adequate guidance for an Adjustment, clarifying standards, and making them clear and objective.

For subsection (1), the minimum requirement for façade materials was reduced to 75% (from the existing 100% requirement). Subsection (2) adds more options for roofline treatments to meet the standard.

8.480 Applicability. These standards apply to residential development in mixed-use and residential zones within the Village Center Comprehensive Plan designation. They are in addition to the residential design standards for Single-Family Homes and Multiple Family Homes in this article.

[Ord. 5556, 2/21/03]

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

Standards.

(1) Building. A minimum of 75 percent of a building’s exteriors shall be surfaced with wood, brick, stucco, stone, masonry, or lap siding on all sides.

(2) Rooflines should be designed to reduce the exterior mass of multiple attached units and shall incorporate at least one of the following elements: such as parapets, cornices, gables, dormers, varied roof heights, or top level balconies, etc.

(3) All exterior HVAC equipment shall be screened from street-level view.

(4) Alleys are encouraged to provide a friendly street frontage and to set driveways and garages in the rear. [Ord. 5556, 2/21/03] Creation of alleys is not required as a development standard but is encouraged in order to provide a friendly street frontage and to set driveways and garages in the rear.

(4) Covered bike parking repealed by Ord. 5832, 4/9/14.
ARTICLE 9
ON-SITE DEVELOPMENT AND ENVIRONMENTAL STANDARDS

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

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

[Ord. 5764, 12/1/11; Ord. 5445, 4/12/00]

[No amendments are proposed for the Off-Street Parking standards, so that section has been omitted from this draft.]

LANDSCAPING

Commentary
A new purpose statement is proposed for the landscaping standards.

9.135 Purpose. These regulations are intended to enhance aesthetic value in new developments and the community as a whole; minimize erosion; slow the rate of surface water runoff and improve water quality; cool buildings and parking lots in summer months with shade; enhance ecological functions; and provide access to nature.

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

1. Landscaping Required – Residential. All front setbacks (exclusive of accessways and other permitted intrusions) must be landscaped or have landscaping guaranteed in accordance with ADC 9.190 before an occupancy permit will be issued or final building permit approved. In all residential districts except Rural Residential (RR), the minimum landscaping acceptable for every 50 lineal feet of street frontage (or portion thereof, deducting the width of the driveway) is:

   (a) One tree at least six feet tall.
   (b) Four one-gallon shrubs or accent plants.
   (c) The remaining area treated with attractive ground cover (e.g., lawn, bark, rock, ivy, and evergreen shrubs).

2. Landscaping Required – Non-Residential. All required front and interior setbacks (exclusive of accessways and other permitted intrusions) must be landscaped or have landscaping guaranteed in accordance with ADC 9.190 before an occupancy permit will be issued. Minimum landscaping acceptable for every 1,000 square feet of required setbacks in all commercial-industrial districts is as follows:

   [Ord. 5886, 1/6/17]
Amendments to the Albany Development Code (ADC)

Draft code amendments are written as follows: additions bold underlined and deletions strike-out.
Sections not amended are omitted unless needed for context. Omitted sections are indicated by asterisks: ***

(a) One tree at least six feet tall for every 30 feet of street frontage.
(b) Five 5-gallon or eight 1-gallon shrubs, trees or accent plants.
(c) The remaining area treated with suitable living ground cover, lawn, or decorative treatment of bark, rock, or other attractive ground cover.
(d) When the yard adjacent to a street of an industrially zoned property is across a right-of-way from other industrially or commercially zoned property, only 30 percent of such setback area must be landscaped.

(3) **Alternate Plan – Non-Residential** - The Director may approve placement of the required setback landscaping in public right-of-way when the following conditions are met:
   (a) The site contains existing development that includes substantial building(s), and is subject to ADC improvement requirements due to a change of use or vacancy; and
   (b) The appropriate government agency grants written permission for use of the right-of-way; and
   (c) The applicant provides written assurance that on-site setback landscaping will be installed within 90 days in the event permission to use the right-of-way is revoked; and
   (d) The Director finds that the required setback landscaping can feasibly be installed on the property without creating other violations of this Code; and
   (e) The Director finds that providing the landscaping in the public right-of-way in the interim fulfills the intent this Code for high-quality development (9.010) and the minimum landscaping requirements in Section 9.140(2)(a) through (c). [Ord. 5752, 3/9/11]

9.150 Parking Lot Landscaping. The purpose of landscaping in parking lots is to provide shade, reduce stormwater runoff, and direct traffic. Incorporation of approved vegetated post-construction stormwater quality facilities in landscaped areas is encouraged. Parking lots must be landscaped in accordance with the following minimum standards: [Ord. 5720, 8/12/09; Ord. 5842, 1/01/15]

(1) **Planter Bays.** Parking areas shall be divided into bays of not more than 12 parking spaces. At both ends of each parking bay, there shall be curbed planters at least five feet wide, excluding the curb. Gaps in the curb may be allowed for connections to approved post-construction stormwater quality facilities. Each planter shall contain one canopy tree at least ten feet high and decorative ground cover containing at least two shrubs for every 100 square feet of landscape area. Neither planter bays nor their contents may impede access on required public sidewalks or paths, or handicapped-accessible parking spaces. [Ord. 5720, 8/12/09; Ord. 5842, 1/01/15]

(2) **Entryway Landscaping.** Both sides of a parking lot entrance shall be bordered by a minimum five-foot-wide landscape planter strip meeting the same landscaping provisions as planter bays, except that no sight-obscuring trees or shrubs are permitted.

(3) **Parking Space Buffers.** Parking areas shall be separated from the exterior wall of a structure by pedestrian walkways or loading areas or by a five-foot strip of landscaping materials.

(4) **Alternate Plan.** An alternate plan may be submitted that provides landscaping of at least five percent of the total parking area exclusive of required landscaped yard areas and that separates parking areas of more than 100 spaces into clusters divided by landscape strips. Each planter area shall contain one tree at least ten feet tall and decorative ground cover containing at least two shrubs for every 100 square feet of landscape area. Landscaping may not impede access on required public sidewalks or paths, or handicapped-accessible parking spaces. [Ord. 5720, 08/12/09]

(5) **Landscape Protection.** Required landscaped areas adjacent to graveled areas must be protected,
Amendments to the Albany Development Code (ADC)

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Sections not amended are omitted unless needed for context. Omitted sections are indicated by asterisks: ***

either by railroad ties secured by rebar driven 18 inches into the ground, by large boulders, or by another acceptable means of protection.

FIGURE 9-1. Parking lot landscaping example.

9.160 **Irrigation of Required Landscaping.** All required landscaped areas must be provided with an irrigation system unless a licensed landscape architect, landscape construction professional, or certified nurseryman submits written verification that the proposed plants do not require irrigation. Irrigation systems installed in the public right-of-way require an encroachment permit.  [Ord. 5768, 12/7/11]

9.170 **Identification of Existing Trees.** In all proposed developments, existing trees over 25 inches in circumference (8 inches in diameter) as measured 4.5 feet above mean ground level from the base of the trunk shall be noted on all development plans, with notations indicating whether they are to be removed or utilized in the development. To obtain the circumference of a tree with multiple trunks, add the individual trunk circumferences, which are greater than six inches in circumference. Clusters of trees in open space and floodplain areas may be noted in approximate locations.  [Ord. 5842, 1/01/15]

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

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

9.182 **Street Trees Prohibited on Right-of-Ways.** Because of their potential negative impact on the public infrastructure, it is unlawful to plant any of the following trees in or on any street right-of-way or parking strip in the City: box elder, tree of heaven, golden chain, holly, silver maple, bamboo, poplar, willow, conifer, cottonwood, fruit trees (other than ornamental fruit trees), nut trees (other than ornamental nut trees), and ailanthus.

9.184 **Trees Requiring Approval.** It is unlawful to plant willow, cottonwood, or poplar trees anywhere in the City unless the Director of Public Works approves the site as one where the tree roots will not be likely
to interfere with public sewers.

9.186 Height Requirements in Rights-of-Way. Trees or shrubs growing in the right-of-way or on private property adjacent to a street right-of-way must be trimmed to maintain a minimum canopy height of eight feet above sidewalks or 14 feet above streets or alleys. No trees, shrubs, or plants more than 18 inches tall shall be planted in the public right-of-way abutting roads having no established curb and gutter.

9.188 Trimming, Removal. The city manager or duly authorized representative may cause any vegetation in or upon any parking strip, street right-of-way or other public place in the City to be trimmed, pruned, or removed.

9.189 Planting in Roadways Having No Gutter, Curb. No trees, shrubs, or plantings more than 18 inches tall shall be planted in the public right-of-way abutting roadways having no established curb and gutter.

9.190 Completion Guarantees. Final occupancy of a development that required land use approval may be allowed prior to the complete installation of all required landscaping and irrigation only under the following circumstances: [Ord. 5886, 1/6/17]

1. A security is provided to the City equal to 110 percent of the cost of the labor and materials (plants, ground covers, and any required irrigation) that have not been installed, as verified in writing by a landscape contractor. Security may consist of a performance bond payable to the City, cash, certified check, time certificate of deposit, or lending agency certification that funds are being held until completion or such other assurances as may be approved by the Director and City Attorney. Where a financial assurance is provided for landscaped areas with post-construction stormwater facilities under subsection (4) below, no additional security under this subsection is required for that part of the landscaping. [Ord. 5842, 1/01/15]

2. The required landscaping and irrigation shall be installed within six months of the date the final occupancy permit is issued. If an occupancy permit is not required, the landscaping and irrigation shall be installed within six months of the date of the land use approval. [Ord. 5886, 1/6/17]

3. To verify that the landscaping, and irrigation, if required, has been installed per the approved plan, an inspection shall be made prior to any security being returned. [Ord. 5446, 5/10/2000]

4. Required post-construction stormwater quality facilities incorporated into the required landscaped areas have been completed (or financially assured) consistent with Title 12 of the Albany Municipal Code and applicable post-construction stormwater quality permits. [Ord. 5842, 1/01/15]

[(1) repealed by Ord. 5886, 1/6/17]

9.200 Maintenance of Landscaped Areas. It shall be the continuing obligation of the property owner to maintain required landscaped areas in an attractive manner free of weeds and noxious vegetation. In addition, the minimum amount of required living landscape materials shall be maintained. Private post-construction stormwater quality facilities located in landscaped areas and required under Title 12 of the Albany Municipal Code shall be maintained consistent with the terms of any operation and maintenance agreements between the property owner and the City consistent with the requirements of Albany Municipal Code Title 12. [Ord. 5842, 1/01/15]
Amendments to the Albany Development Code (ADC)

Draft code amendments are written as follows: additions **bold red underlined** and deletions in *strike-out.*
Sections not amended are omitted unless needed for context. Omitted sections are indicated by asterisks: ***

## TREE PROTECTION

**Commentary**

The Project Team will be working with the Tree Commission to develop clear and objective Tree Protection standards. These potential changes were not identified in time to be included in Draft 1.1 but are expected to be available in Draft 2.

### 9.2052 Purpose

Trees of significant size represent a visual and aesthetic resource to the community. Trees provide benefits including shading, reduction in excess stormwater runoff, erosion control, and wildlife habitat. These standards are intended to balance the preservation of significant trees as a benefit to the community with the individual right to use and enjoy property.

[Ord. 5445, 4/12/00; Ord. 5764, 12/1/11]

### 9.2063 Definitions

For the purposes of the following sections, these definitions apply:

1. **Fell:** To remove or sever a tree or the intentional use of any procedure the natural result of which is to cause the death or substantial destruction of the tree. Fell does not in any context include normal pruning of trees.

2. **Tree:** A living, standing, woody plant.

3. **Tree Circumference:** The circumference of a tree is measured at 4-1/2 feet above mean ground level from the base of the trunk. To obtain the circumference of a tree with multiple trunks, add the individual trunk circumferences, which are greater than 6 inches in circumference.

[Ord. 5445, 4/12/00]

### 9.2074 Applicability

Site Plan Review approval is required for the felling of 5 or more trees larger than 25 inches in circumference (approximately 8 inches in diameter) on a lot or property in contiguous single ownership in excess of 20,000 square feet in any zone.

[Ord. 5767, 12/7/11]

The following activities are exempt from site plan review if they meet the applicable requirements of the Significant Natural Resource overlay districts in Article 6:

1. The action of any City official or of any public utility necessary to remove or alleviate an immediate danger to life or property; to restore utility service or to reopen a public street to traffic.

2. Felling of any tree that is defined as a nuisance under the Albany Municipal Code.

3. Any felling necessary to maintain streets or public or private utilities within a public right-of-way or utility easement provided the Tree Commission or City Forester approved the proposed tree felling.

[Ord. 5445, 4/12/2000]

4. Felling of trees planted as Christmas trees.

[Ord. 5635, 1/11/06]

5. Felling of trees on property under a Forest Stewardship Plan approved by the Oregon Department of Forestry.

[Ord. 5635, 1/11/06]

### 9.2085 Tree Felling Criteria

The following review criteria replace the Site Plan Review criteria found elsewhere
in this code for the purpose of reviewing tree felling. A Site Plan Review for tree felling will be processed as a Type I-L land use decision.

(1) The Community Development Director or his/her designee shall approve a Site Plan Review for tree felling when the applicant demonstrates that the felling of the tree(s) is warranted because of the condition of the tree(s) with respect to disease, hazardous or unsafe conditions, danger of falling, proximity to existing structures or proposed construction, or interference with utility services or pedestrian or vehicular safety. The Director, in consultation with the City Arborist, may also grant an exception to any of the tree cutting standards for industrial development on industrially zoned land. The Director may require the applicant to provide a Certified Arborist’s report. [Ord. 5767, 12/7/11; Ord. 5832, 4/9/14]

(2) For property where a site plan review, conditional use or land division application has been approved or is currently under review, the Community Development Director, City Forester, or his/her designee shall approve site plan review when the applicant demonstrates that all of the following review criteria are met:

   (a) It is necessary to fell tree(s) in order to construct proposed improvements in accordance with an approved site plan review or conditional use review, or to otherwise utilize the applicant’s property in a manner consistent with its zoning, this code, applicable plans adopted by the City Council, or a logging permit issued by the Oregon Department of Forestry.

   (b) The proposed felling is consistent with State standards, City ordinances, and the proposed felling does not negatively impact the environmental quality of the area, including but not limited to: the protection of nearby trees and windbreaks; wildlife; erosion; soil retention and stability; volume of surface runoff and water quality of streams; scenic quality, and geological sites.

   (c) The uniqueness, size, maturity, structure, and historic value of the trees have been considered and all other options for tree preservation have been exhausted. The Director may require that trees determined to be unique in species, size, maturity, structure, or historic values are preserved.

   (d) Tree felling in Significant Natural Resource Overlay Districts meets the applicable requirements in Article 6. [Ord. 5764, 12/1/11, Ord. 5767, 12/7/11]

(3) For property where tree felling has not been approved as part of a site plan review, conditional use, or land division application, the Community Development Director or his/her designee shall approve a tree felling permit, if the review criteria above are met, and the following criteria are met:

   (a) Trees shall be retained in significantly large areas and dense stands so as to ensure against wind throw.

   (b) Wooded areas that will likely provide an attractive on-site amenity to occupants of future developments shall be retained.

   (c) Wooded areas associated with natural drainage ways and water areas will be maintained to preserve riparian habitat and minimize erosion. The wooded area to be retained shall be at least 10 feet in width or as required elsewhere in this Code.

   (d) Wooded areas along ridges and hilltops will be retained for their scenic and wildlife value.

   (e) Tree felling on developable areas will be avoided to retain the wooded character of future building sites and so preserve housing and design options for future City residents.

   (f) Wooded areas along property lines shall be retained at a minimum width of ten feet to provide buffers from adjacent properties.
Amendments to the Albany Development Code (ADC)

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(g) The plan for tree felling shall be consistent with the preservation of the site’s future development potential and zoning. [Ord. 5767, 12/7/11]

Commentary
The Director already has the ability to attached conditions so subsection (4) has been deleted. Subsection (5) is proposed to be moved from a subsection to a new section (9.209).

(4) The Director may attach conditions to the approval of the tree felling permit to ensure the replacement of trees and landscape or otherwise reduce the effects of the felling, and may require an improvement assurance to ensure all conditions are met. [Ord. 5767, 12/7/11]

(5) 9.206 Protecting Residual Trees. Precautions shall be made to protect residual trees and tree roots from damaging agents during and after the removal process. The following tree protection specifications should be followed to the maximum extent feasible for all projects with protected existing trees.

(a)(1) Within the drip line of any protected existing tree, there shall be no cut or fill over a four-inch depth unless a qualified arborist or forester has evaluated and approved the disturbance.

(b)(2) Prior to and during construction, an orange fence shall be erected around all protected existing trees that is a minimum of 4 feet tall, secured with metal T-posts, no closer than six feet from the trunk or within the drip line, whichever is greater. There shall be no storage or movement of equipment, material, debris or fill within the fenced tree protection zone. [Ord. 5764, 12/1/11]

(e)(3) During the construction stage of development, the applicant shall prevent the cleaning of equipment or material or the storage and disposal of waste material such as paints, oils, solvents, asphalt, concrete, motor oil, or any other material harmful to the life of a tree within the drip line of any protected tree or group of trees.

(d)(4) No damaging attachment, wires, signs or permits may be fastened to any protected tree.

(e)(5) Large property areas containing protected trees and separated from construction or land clearing areas, road rights-of-way and utility easements may be “ribboned off,” rather than erecting protective fencing around each tree as required in subsection (5)(b) above. This may be accomplished by placing metal t-post stakes a maximum of 50 feet apart and tying ribbon or rope from stake-to-stake along the outside perimeters of such areas being cleared.

(f)(6) The installation of utilities, irrigation lines or any underground fixture requiring excavation deeper than six inches shall be accomplished by boring under the root system of protected existing trees at a minimum depth of 24 inches. The auger distance is established from the face of the tree (outer bark) and is scaled from tree diameter at breast height as described in Table 9-3 below. [Ord. 5445, 4/12/00]

<table>
<thead>
<tr>
<th>Tree Diameter at Breast Height (inches)</th>
<th>Auger Distance from Face of Tree (feet)</th>
</tr>
</thead>
<tbody>
<tr>
<td>8-9</td>
<td>5</td>
</tr>
<tr>
<td>10-14</td>
<td>10</td>
</tr>
<tr>
<td>15-19</td>
<td>12</td>
</tr>
<tr>
<td>Over 19</td>
<td>15</td>
</tr>
</tbody>
</table>

TABLE 9-3. Auger distances for installation of utilities.
Amendments to the Albany Development Code (ADC)

Draft code amendments are written as follows: additions bold red underlined and deletions strike-out.
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BUFFERING AND SCREENING

Commentary
A new purpose statement is proposed for the buffering and screening standards.

9.208 Purpose. These regulations provide screening and buffering between uses in order to reduce the potential objectionable impacts of higher intensity uses on adjacent lower intensity uses. These impacts include, but are not limited to light pollution and glare, noise, visual impacts and loss of privacy.

Commentary
Regarding the General Requirements section below, the use of Director’s discretion has been identified as a “clear and objective” issue. The proposed amendment would require the use of a Type II Adjustment to allow director discretion.

9.210 General Requirements/Matrix. In order to reduce the impacts on adjacent uses of a different type, buffering and screening are required in accordance with the matrix that follows Section 9.300. The property owner of each proposed development is responsible for the installation and maintenance of such buffers and screens. The Director may approve a Type II Adjustment to waive the buffering/screening requirements of this section where such has been provided on the adjoining property in conformance with this Code. Where a use would be abutting another use except for separation by right-of-way, buffering (but not screening) shall be required as specified in the matrix. Where a proposed use abuts undeveloped property, only one-half of the buffer width shall be required. [Ord. 5445, 4/12/00]

9.220 Delineation of Area. A buffer consists of an area within a required setback adjacent to a property line. It has a depth equal to the amount specified in the buffer matrix and contains a length equal to the length of the property line of the abutting use or uses.

9.230 Occupancy. A buffer area may only be occupied by utilities, screening, sidewalks, bikeways, landscaping, and approved vegetated post-construction stormwater quality facilities. No buildings, access ways or parking areas are allowed in a buffer area except where an access way has been approved by the City. [Ord. 5842, 1/01/15]

9.240 Buffering. The minimum improvements within a buffer area consist of the following:

(1) At least one row of trees. These trees will be not less than ten feet high at the time of planting for deciduous trees and spaced not more than 30 feet apart and five feet high at the time of planting for evergreen trees and spaced not more than 15 feet apart. This requirement may be waived by the Director when it can be demonstrated that such trees would conflict with other purposes of this Code (e.g. solar access).

(2) At least five five-gallon shrubs or ten one-gallon shrubs for each 1,000 square feet of required buffer area.
Amendments to the Albany Development Code (ADC)

Draft code amendments are written as follows: additions **bold red underlined** and deletions in *strike-out.* Sections not amended are omitted unless needed for context. Omitted sections are indicated by asterisks: ***

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

9.250 Screening. Where screening is required or provided, the following standards apply in addition to conditions (1) and (3) above:

(1) One row of evergreen shrubs that will grow to form a continuous hedge at least four feet tall within two years of planting, or

(2) A fence or masonry wall at least five feet tall constructed to provide a uniform sight-obscuring screen, or

(3) An earth berm combined with evergreen plantings or a fence that forms a sight and noise buffer at least six feet tall within two years of installation.

9.260 Clear Vision. Buffering and screening provisions are superseded by the clear vision requirements of Section 12.180 and by the fence and wall height restrictions of the zone when applicable.

[Ord. 5445, 4/12/2000]

9.270 Landscape Plan. In lieu of these standards a detailed landscape plan, which provides the same degree of desired buffering utilizing alternative designs, may be submitted for approval.

9.330 Repealed by Ord. 5445, 4/12/00.

**Commentary**

Updating the Buffering and Screening standards was noted as a City Council priority issue.

The project team explored amendments to Table 9-4 below which would regulate buffers by abutting district, rather than abutting use. Such amendments would have made the Code easier to apply but would change some outcomes significantly. For example:

- In cases where an applicant is proposing a relatively low intensity use within a zone that allows higher intensity uses, the change may result in a somewhat stricter outcome (e.g., a commercial use in an industrial park zone which is next to a commercial zone under the current regs would have a buffer of 0'; under the proposed amendments, it would be 20').

- However, the reverse is also true. Within a zone, no buffering would be required regardless of the adjacent uses (e.g., a school in a residential zone). This could be mitigated somewhat by requiring additional screening for conditional uses through the CU process.
Amendments to the Albany Development Code (ADC)

Draft code amendments are written as follows: additions bold red underlined and deletions in strike-out. Sections not amended are omitted unless needed for context. Omitted sections are indicated by asterisks: ***

Amendments to the Albany Development Code (ADC)

TABLE 9-4. Buffer and screening matrix.

<table>
<thead>
<tr>
<th>PROPOSED USE</th>
<th>BUFFER MATRIX</th>
</tr>
</thead>
<tbody>
<tr>
<td>ABUTTING USE OR ZONING DISTRICT</td>
<td>0'</td>
</tr>
<tr>
<td>Commercial or professional uses, or commercial and mixed use districts</td>
<td>0'</td>
</tr>
<tr>
<td>Any arterial street (2)</td>
<td>0'</td>
</tr>
<tr>
<td>Industrial Park District</td>
<td>0'</td>
</tr>
<tr>
<td>Light Industrial District</td>
<td>0'</td>
</tr>
<tr>
<td>Heavy Industrial District</td>
<td>0'</td>
</tr>
<tr>
<td>Any parking lot with at least 5 spaces</td>
<td>0'</td>
</tr>
<tr>
<td>Manufactured home park or subdivision in any district</td>
<td>0'</td>
</tr>
</tbody>
</table>

Buffer Standard:

- Buffer/screening required: (1) See Section 10.270(2)(c) for buffering and screening along arterials and collectors.
- The buffer/screening standard does not apply along arterial streets where it conflicts with other provisions of this code.
- Within the HD, CB, DL, and WP zoning districts, the "S" indicates screening required.
- Does not apply to abutting the HD, CB, DL, and WP zoning districts.
- Does not apply along arterial streets where it conflicts with other provisions of this code.
- Within the HD, CB, DL, and WP zoning districts, the buffer/screening standard does not apply to abutting the MUR district.
- Does not apply in the HD, CB, DL, and WP zoning districts.
- The buffer/screening standard does not apply along arterial streets where it conflicts with other provisions of this code.
No amendments are proposed for the Fences or Environmental sections, so those have been omitted from this draft.

[Ord. 5886, 1/6/17; Ord. 5894, 10/14/17; Ord. 5445, 4/12/00; Ord. 5886, 1/6/17; Ord. 5894, 10/14/17; Ord. 5894, 10/14/17]