PLANNING COMMISSION

AGENDA

Monday, August 17, 2020

This meeting will be conducted remotely.

At 5:15 p.m., join the meeting from your computer, tablet, or smartphone,

by clicking the link below:

https://www.gotomeet.me/CommunityDevelopmentCityofAlbany/pc

You can use your microphone or dial in using your phone.

Call: 1-571-317-3122 (long distance charges may apply)

Access code/Meeting Id: 498-239-709

Microphones will be muted and webcams will be turned off for presenters and members of the public unless called upon to speak.

If participant(s) disrupt the meeting, the participant(s) microphone and webcam will be turned off.

If disruption continues, the participant(s) will be removed from the meeting.

1. Call to order and pledge of allegiance
2. Roll call
3. Approval of Minutes
   - July 27, 2020
4. Business from the public
   Persons wanting to address the commission during "business from the public" must send their written comments by email to CDAA@cityofalbany.net. Please limit comments to one page and include your name and address. Emails received before 3:00 p.m. on the day of the meeting will be read aloud during "business from the public."
5. Public hearing, Type III – Quasi-judicial review process
   Persons wanting to address the commission during public hearings have two options:

   1. *Mail or email your comments to the planner in charge of the project (see projects and planners listed below). Please include your name, address, and subject of the public hearing. Written comments will be received by City staff until 5:00 p.m. on Friday, August 14, 2020, in order to be considered by the commission.*

   2. *To testify virtually during a public hearing, register by emailing cdaa@cityofalbany.net before 3:00 p.m. on the day of the meeting with your name and if you are speaking for, against, or neutral on the project. During the public testimony, the chair will call upon those who have registered to speak first, followed by any others.*

- DC-02-20; Code amendments to improve clarity and consistency with state law, establish clear and objective standards and criteria for residential development and a two-track system for review of residential applications, and improve the overall functionality of the design standards applicable to commercial and institutional development. (Planner in charge – David Martineau at david.martineau@cityofalbany.net)

6. Business from the commission

7. Next meeting dates
   Monday, August 31, 2020
   Monday, September 14, 2020

8. Adjournment

Due to Governor Brown's Executive Orders limiting public gatherings during the COVID-19 pandemic, this meeting is accessible to the public via phone and video connection. Remote access information is listed at the top of this agenda.

CITY OF ALBANY
PLANNING COMMISSION

MINUTES

Monday, July 27, 2020
Virtual Meeting
Approved: DRAFT

CALL TO ORDER 5:15 p.m.

Chair Larry Tomlin called the meeting to order at 5:15 p.m.

ROLL CALL

Commissioners Present

Dala Rouse, JoAnn Miller, Diane Hunsaker, Ann Ketter, Ralph Menweg, Cordell Post, Therese Waterhous, Carol Canham, Larry Tomlin

Commissioners Absent

None

Staff Present

David Martineau, Planning Manager; Travis North, Planner II; Shelley Shultz, Contracting Assistant

Business from the Public 5:18 p.m.

None.

Public Hearing - Type IV Quasi-judicial review process 5:18 p.m.

File ZC-01-20

Zoning Map Amendment from the NC (Neighborhood Commercial) zoning district to the OP (Office Professional) zoning district.

Chair Tomlin opened the public hearing at 5:18 p.m.

Declarations by the Commission 5:19 p.m.

None

Staff Report 5:21 p.m.

Travis North, planner II, presented staff report and outlined the proposed project.

Questions from the Commission 5:28 p.m.

None

Applicant Testimony 5:28 p.m.

Dan Watson with K & D Engineering, 710 East Thornton Lake Drive, Albany, OR, representing the applicant; No additional input at this time.

Public Testimony 5:29 p.m.

None.

Procedural Questions 5:30 p.m.

None.

Chair Tomlin closed the public hearing at 5:31 p.m.

Discussion 5:31 p.m.

None.

Motion 5:32 p.m.

Commissioner Post moved that the planning commission recommend that the city council approve land use application ZC-01-20, as described in the July 20, 2020, staff report to the planning commission. This motion is based on the findings and conclusions in the staff report, and the findings in support of the application made by the planning commission during deliberations on this matter. Commissioner Rouse seconded. A vote was taken, and the motion passed 9-0.

BUSINESS FROM THE COMMISSION 5:35 p.m.

Chair Tomlin introduced two new members of the planning commission, Therese Waterhous and Carol Canham. Each gave a brief biography.

NEXT MEETING DATES 5:58 p.m.

Monday, August 3, 2020 – two public hearings
Thursday, July 30. 2020 – Hearings Board meeting at 4:00 p.m.
Monday, August 17, 2020 – Development Code Amendments
Monday, August 31, 2020 - Banks Apartments appeal

ADJOURNMENT 5:43 p.m.

Hearing no further business, Chair Tomlin adjourned the meeting at 5:43 p.m.

Respectfully submitted,

Shelley Shultz
Contracting Assistant

Reviewed by,

David Martineau
Planning Manager

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

Staff Report

Albany Development Code Text Amendments

File: DC-02-20 August 10, 2020

HEARING BODIES:	Planning Commission	City Council
HEARING DATES:	Monday, August 17, 2020	Wednesday, September 9, 2020
HEARING TIMES:	5:15 p.m.	7:15 p.m.

HEARING LOCATION: Due to Governor Brown's Executive Orders limiting public gatherings during the COVID-19 pandemic, this meeting is accessible to the public via phone and video connection.

At the scheduled start of the hearing, join with the GoToMeeting app on your computer, tablet, or smartphone (using your device's microphone and speakers):

PLANNING COMMISSION, Monday, August 17, 2020
https://www.gotomeet.me/CommunityDevelopmentCityofAlbany/pc
If you wish to dial in using your phone:
Call 1-571-317-3122 and when prompted enter access code 498-239-709

CITY COUNCIL, Wednesday, September 9, 2020
https://www.gotomeet.me/cityofalbany/ccm
If you wish to dial in using your phone:
Call 1-646-749-3129 and when prompted enter access code 491-970-829

Application Information

Proposal: Code amendments to improve clarity and consistency with state law, establish clear and objective standards and criteria for residential development and a two-track system for review of residential applications, and improve the overall functionality of the design standards applicable to commercial and institutional development. Affected Code articles are: 1 - Administration and Procedures, 2 - Review Criteria, 3 - Residential Zoning Districts, 4 - Commercial and Industrial Zoning Districts, 5 - Mixed Use Zoning Districts, 6 - Natural Resource Districts, 7 - Historic Overlay District, 8 - Design Standards, 9 - On-Site Development & Environmental Standards, 10 - Manufactured Home Development Standards, 11- Land Divisions and Planned Developments, 12 - Public Improvements, 13 - Signs, 22 - Use Categories and Definitions.

Review Bodies: Planning Commission and City Council (Type IV - Legislative review process)

Applicant:	City of Albany, Community Development Department, 333 Broadalbin Street SW, Albany, OR 97321.
Address/Location:	Not applicable; the code amendment is not site specific
Staff Report Reviewed by:	David Martineau, Planning Manager

Overview

The proposal includes legislative text amendments to the Albany Development Code (ADC) intended to improve clarity and consistency with state law, establish clear and objective standards and criteria for residential development and a two-track system for review of residential applications, and improve the overall functionality of the design standards applicable to commercial and institutional development. The proposal is processed in accordance with the Type IV process, with notice to intergovernmental agencies and the public, with public hearings before the Planning Commission and City Council prior to a final decision.

The applicable criteria for the proposed development code text amendments are listed under ADC 2.290, "Development Code Amendments." These review criteria must be met for the proposed amendments to be approved.

Following the Notice and Appeals information below, staff has provided a summary of the proposed amendments intended to orient the Planning Commission to key changes and intended outcomes of the proposed amendments. Staff's analysis of consistency with relevant approval criteria follows the summary, beginning on page 7.

Proposal Background

In 2017, the city council, planning commission, staff, and development community participated in a development code audit. The audit identified several potential code amendments that council further considered and ultimately directed staff to pursue with consultant support and guidance from a code amendment task force on design standards. During Phase 1 the task force focused on creating clear and objective standards and a two-track review system for multifamily, infill, and other housing types. During Phase 2 the task force focused on improving the commercial/non-residential design standards. In total between September 2018 and January 2020, the 12-member task force held 12 individual meetings. There were also five joint work sessions with the planning commission and council to consider code amendment approaches. Public input was also sought through online and in-person open houses and surveys.

Most of the proposed amendments were developed in conjunction with the original project scope identified in the code audit and described above; however, some of the proposed amendments result from an expanded project scope. As the project team considered amendments to Article 1, Administration and Procedures, it became clear that a complete update would improve the efficiency and user-friendliness of city's land use review processes; thus, this task was added to the project scope. In addition, to comply with recent changes in annexation regulations, proposed amendments to Article 2 for annexations are also included. Finally, Articles 7, 10, 11, 13, and 22 have been amended to provide minor updates to terminology, figure and table numbers, and section cross-references as needed.

"Commentary boxes" are included in the draft code amendments (Attachment A) to provide additional background and context related to the sections where amendments are proposed. Should the proposed amendments be approved, these commentary boxes will be removed prior to adoption.

Overview of Key Changes

<u>Article 1, Administration and Procedures</u> – Amendments to Article 1 are intended to improve the overall usability and clarity of the City's land use procedures, address errors and inconsistencies, and ensure they are up-to-date with the most recent changes in state law. The proposed amendments replace the current Article 1 in its entirety. In some sections, the current wording has been completely revised, but with the goal of retaining current practices where possible. In other sections, current language has been retained entirely, or only includes minor clarifications.

Staff and consultants worked closely with the City Attorney to update the procedures in Article 1 in a manner generally consistent with current processes and review types. Some procedures were modified to reflect the City's current practices. For example, the amended Code specifies which applications are required to have a pre-application conference; this updates the current Code's blanket statement that pre-application conferences are mandatory for all applications unless waived by the Director. In addition, some of the procedures were updated to ensure clear and objective procedures for residential development, as required by Oregon Revised Statutes (ORS) 197.307(4). For example, for neighborhood meetings, rather than leaving it to the discretion of the Director as to whether the notification distance should be extended up to 1,000 feet, for larger residential developments a clear and objective standard of 1,000 feet is proposed. This is consistent with past practice.

Another minor substantive change was made to the Type II review procedure. The amended Code is generally consistent with Albany's current requirements, but has been adjusted for consistency with the procedures for land use decisions made without a hearing per ORS 227.175. In the amended notice requirements for Type II reviews, notice of decision would be sent to all persons entitled to notice rather than just the applicant and those who commented as required by ORS 227.175. A local appeal is required for this type of decision. A city may not establish an appeal period that is less than 12 days from the date the written notice of decision was mailed. The proposed amendments indicate 14 days for consistency with the Type I-L application. Additional changes are identified in the commentary boxes of the proposed amendments.

Article 2, Review Criteria – The most significant changes in Article 2 center on implementing a secondary discretionary review track through a Type III Adjustment process and providing clear and objective review criteria and notice requirements where required.

- Adjustments – As part of the two-track review system, the new Type III Adjustment review is a discretionary alternative to the clear and objective review track and is only available for modification to the design standards in Article 8 and the buffering and screening standards of Article 9. Adjustment review allows flexibility and opportunities for creative solutions instead of meeting all the clear and objective design standards. Article 2 has been amended to develop a new set of review criteria for the adjustment process. As a key criterion, the applicant must show the Adjustment equally or better meets the purpose of the regulation to be modified. City staff recommends Adjustments be decided by the Hearings Board or the Planning Commission due to the level of discretion allowed by the approval criteria.
- Minor and Major Variance – The City has an existing Adjustment process that allows limited modifications to numeric standards. Because the term "Adjustment" has been repurposed for the new "flexible" track, the City's existing Adjustment review process has been renamed as "Minor Variance." The existing "Variance" review has been renamed as "Major Variance."
- Site Plan Review – The proposed amendments provide a new path for Type I Site Plan Review for small-scale residential developments up to four units that meet all of the standards (e.g., no Adjustments needed). Larger and more complicated residential developments would still require Type I-L Site Plan Review. Because the approval criteria for residential development must be clear and objective (per state law), the Site Plan Review criteria have been reworked to apply only clear and objective criteria to residential applications, and additional discretionary criteria to non-residential applications.
- Annexations – To comply with current regulations, proposed amendments are also included for annexations. Council had previously deferred annexation amendments due to legal appeals and potential legislative amendments during the last session. The appeals ultimately failed and legislative amendments did not move forward. Code amendments are proposed to bring Albany into compliance.

Article 3, Residential Zoning Districts – Proposed amendments in this Article are consistent with what was reviewed with the planning commission and council through the task force process. Proposed amendments include minor clarifications for the Schedule of Permitted Uses and Development Standards Tables and for a few other sections; revisions to the Bonus Provisions section to clarify how the density bonuses and transfers are determined; adding larger density bonuses for residential projects with deeper affordability requirements; and minor revisions to several other sections to make the standards clear and objective. Proposed amendments also include removing the 125-foot Setback for Properties Adjacent to Designated Farmlands. This setback requirement was identified in Albany's Housing Needs Analysis Project as being unnecessary and a potential barrier to meeting the city's housing development needs and was recommended to be removed.

Article 4, Commercial and Industrial Zoning Districts – Proposed amendments in this Article are consistent with what was reviewed with the planning commission and council through the task force process, and are limited to minor clarifications to a few Code sections, including the Zero Lot Line standards, and updating cross-references and figure and table numbers.

Article 5, Mixed Use Zoning Districts – Proposed amendments in this Article are consistent with what was reviewed with the planning commission and council through the task force process. Proposed amendments include a minor revision to the Schedule of Permitted Uses and associated Special Conditions to account for the new Type III Adjustment review, removing discretionary language related to residential development in the MS and ES districts, and additional minor revisions to make standards clear and objective.

Article 6, Natural Resource Districts – Proposed amendments are limited to those required for a clear and objective review path for needed housing projects. The Code has been amended for compliance while preserving landowners' ability to develop their property under the same guidelines they do today. The proposed approach has been vetted with the Department of Land Conservation and Development (DLCD).

Article 7, Historic Overlay District – Proposed amendments are limited to cross reference and formatting updates and removing the word "Advisory" from the Landmarks Commission.

Article 8, Design Standards – Article 8 contains most of the Task Force's work for Phases 1 and 2 of the project. The biggest impetus for amending Article 8 is – and for the Development Code Amendments project overall – is to provide a completely clear and objective review track for residential development, as required by state law. Clear and objective standards have definitions and/or measurement that provide for consistent interpretation of the standard and that require no discretion on the part of the reviewer. Design standards for Single Family and Multiple Family residential development have been amended to make them entirely clear and objective, while also adding flexibility to many of the standards. Proposed amendments to the Commercial and Institutional design standards focus on clarifying and improving the standards (but not necessarily making them fully clear and objective) and adding flexibility. Key proposed amendments to Article 8 are summarized below.

- **Throughout**: Purpose statements were added to numerous sections to provide guidance for Adjustment requests as part of the two-track review system.
- **Single Family Homes**
    - 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 – This section has been largely reworked, with the intent of making the standards clear and objective and clarifying them so they are easier to apply, while generally achieving the same outcomes.

- **Multiple Family Development**
  - Applicability – Amended to simplify the applicability of the multi-family standards for Units Above or Attached to a Business.
  - Recreation and Open Space Areas – Revised to add more specificity as well as more flexibility for developers. For Common Open Space, the list of possible open space amenities expands on the list in the existing ADC, while providing more specificity for each amenity. Added new credit toward the minimum required open space area for providing "high value" outdoor open space amenities, based on the cost of the amenities as a percentage of the total project cost. Reduced the requirements for Private Open Space, both in terms of the amount required and minimum dimensions.
  - Setback and Building Orientation – Combined these sections and amended them to add flexibility by providing 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.
  - Functional Design and Building Details – Deleted Section 8.250 and revised Section 8.255 (which currently applies only to the downtown zones) so it applies to all multi-family development.
  - Transitions to Lower Density Uses – Amended to clarify when the additional transition setback applies and capped it at 30 feet.
  - Pedestrian Connections Amendments – Amendments were needed to make the requirements clear and objective. The proposed changes include requiring pedestrian connections be built to a minimum standard to ensure they are "clear," "easily identifiable," "safe," and "convenient" and clarifying which areas of the site require pedestrian connections.
  - Vehicle Circulation System – This section was largely reworked to remove requirements that were challenging to interpret and to replace them with simpler design standards for interior travel aisles.
  - Parking Location – Most of the Parking section has been deleted as the standards are redundant to other standards. The remaining parking location standard has been revised so that it only applies to 50% of the units in a development.
- **Commercial and Institutional Site Design**
  - Applicability – Amended to exempt all development in the Heavy Industrial (HI) District as well as utility substations and other facilities that do not have on-site personnel from meeting the design standards.
  - Entrance Orientation and Parking Location – Amended to limit applicability only to new buildings; replaced vague language for main entrance requirements with standards that are easier to implement; clarified and added to the list of exceptions the requirement that parking areas be to the side or rear of a building; added a parking lot buffer requirement for when parking is located in front of the building.
  - Façade Design, Articulation, and Windows – Deleted Section 8.340 and updated Section 8.345 (which currently applies only to the downtown zones) so it applies to all commercial and institutional development. Reduced window coverage requirements for secondary façades on lots with more than one street-facing façade, and added exceptions to when the secondary façade must meet the standard.
  - Street Connectivity and Internal Circulation – Reworked the requirement to mimic a local street network and break the development into blocks to make the standards clearer and easier to interpret. Proposed design standards for internal travel aisles are the same as for multi-family development.
  - Pedestrian Amenities – Created a revised sliding scale and weighted "menu" to provide flexibility and give preference to higher-benefit amenities. Revised standards allow amenities in the public right-of-way and existing amenities on a site to count toward the requirement.
  - Pedestrian and Bicycle Connections – Added references to bicycle connections; added definitions to clarify standards; revised standards to specify where connections are required in order to make the standards easier to interpret.

  - Large Parking Areas – The applicability for this section was revised to be consistent with current practices. Parking "pods" were renamed as "subareas" and standards were clarified and simplified.
  - Compatibility Standards – Standards have been updated to make them clearer and more objective, where possible.
- **Supplemental Standards in Village Centers** – These standards were amended to make them clear and objective and to add flexibility by reducing the façade materials requirement and add roofline treatment options.

Article 9, On - Site Development and Environmental Standards – Proposed amendments are summarized below.

- Tree Protection – These standards required updates to accommodate a clear and objective track for needed housing. Proposed amendments retain the existing Site Plan Review criteria for tree felling that are currently working, but provide a new, optional, clear and objective track for housing development. The clear and objective track outright allows removal of trees that are impacted by proposed development but prohibits removal of those that are not; however, applicants can opt for the existing discretionary criteria. Public Works Engineering and Community Development Director Jeff Blaine and Parks & Recreation Department staff reviewed the proposed amendments with the Tree Commission and City Council. Amendments to Albany Municipal Code (AMC) 7.98 are required in tandem with these development code amendments and will be adopted by City Council through a separate ordinance. Proposed AMC amendments are provided in the planning commission packet for reference only.
- Buffering and Screening – Minor revisions are proposed to make these standards clear and objective and to allow the waiver of buffering/screening requirements through the Type III Adjustment process.

Article 10, Manufactured Home Development Standards – Proposed amendments are limited to cross reference and formatting updates.

Article 11, Land Divisions and Planned Developments – Proposed amendments to the cluster development standards (specifically Section 11.460 Designation of Permanent Natural Areas) are intended to prioritize preservation of Oregon White Oaks throughout the city, not just in South Albany, and provide more specificity for measurements that is consistent with other sections of the Code. Proposed amendments to other sections of this article are limited to cross reference and formatting updates.

Article 12, Public Improvements – Proposed amendments are limited to clarifying how public improvement standards relate to clear and objective requirements for needed housing and other minor housekeeping items.

Article 13, Signs – Proposed amendments are limited to cross reference and formatting updates.

Article 22, Use Categories and Definitions – One definition ("Crime Prevention Through Environmental Design [CPTED]") has been added in support of proposed amendments to Article 8 and gender-neutral language corrections are proposed in two locations.

Proposed Amendments

Proposed amendments as they would appear in the ADC are included as an attachment (Attachment A). In this report and attached section amendments, proposed new text is in red font and proposed deleted text is in black strike-out font. The amended sections of the ADC contain commentary text boxes that explain proposed changes. Should the proposed amendments be approved, the text boxes with the explanations will be removed and the approved amendments made part of the ADC.

Notice Information

Public notice was issued in accordance with legislative amendment requirements. Notice was provided to the Oregon Department of Land Conservation and Development (DLCD) on July 9, 2020, at least 35 days before the first evidentiary hearing, in accordance with Oregon Administrative Rule (OAR) OAR 660-018-0020 and the Albany Development Code (ADC) 1.640.

Intergovernmental project review notice was also provided on August 7, 2020, to various agencies, including Benton County and Linn County Planning, the Oregon Department of Transportation, and Greater Albany Public Schools.

Notice to landowners required by ORS 227.186 was provided on July 27, 2020, more than 20 days and less than 40 days before the public hearing on August 17, 2020.

Notice of the public hearing was also published in the *Albany Democrat-Herald* on August 10, 2020, at least one week before the public hearing on August 17, 2020, in accordance with ADC 1.600.

In addition, the staff report for the proposed development code amendments was posted on the City's website on August 10, 2020, at least seven days before the first evidentiary public hearing.

As of the date of this report, the Community Development Department has received no written comments.

Review Process and Appeals

Amendments to the ADC are made through a Type IV legislative land use review process. Following this process, the Planning Commission will hold a public hearing to consider proposed amendments and will make a recommendation to the City Council. The Planning Commission's recommendation cannot be appealed. The City Council will hold a subsequent public hearing to consider the proposed amendments. After closing the public hearing, the City Council will deliberate and make a final decision. Within five days of the City Council's final action on the proposed amendments, the Community Development director will provide written notice of the decisions to any parties entitled to notice. A City Council decision can be appealed to the Oregon Land Use Board of Appeals (LUBA) if a person with standing files a Notice of Intent to Appeal within 21 days of the date the decision is reduced to writing and bears the necessary signatures of the decision makers.

Analysis of Development Code Criteria

Development Code Text Amendment (file no. DC-01-20)

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

Development Code Amendment - Review Criterion 2.290(1)

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

Findings of Fact

1.1 Legislative amendments must be consistent with goals and policies outlined in Albany's Comprehensive Plan, and any relevant plan adopted by City Council.

1.2 The Comprehensive Plan defines a goal as, "a general statement indicating a desired end, or the direction the City will follow to achieve that end" (Comprehensive Plan, page ii).

1.3 The Comprehensive Plan describes the City's obligation regarding goals as follows: "The City cannot take action which opposes a goal statement unless: 1) It is taking action which clearly supports another goal, and

2) There are findings indicating the goal being supported takes precedence (in the particular case) over the goal being opposed," (Comprehensive Plan, page ii).

1.4 The Comprehensive Plan (page 2) defines a policy as, "a statement identifying a course of action or City position."

1.5 The Comprehensive Plan describes the City's obligation regarding policies as follows: "The City must follow relevant policy statements in making a land use decision … [I]n the instance where specific Plan policies appear to be conflicting, then the City shall seek solutions which maximize each applicable policy objective within the overall content of the Comprehensive Plan and in a manner consistent with the statewide goals. In balancing and weighing those statements, the City can refer to general categories of policies and does not have to respond to each applicable policy. Also, in this weighing process, the City shall consider whether the policy contains mandatory language (e.g., shall, require) or more discretionary language (e.g., may, encourage)," (Comprehensive Plan, page iii).

1.6 The following Comprehensive Plan goals and policies are applicable to the proposed Development Code amendments. Goals and polices are shown below in **bold** print followed by findings of fact and conclusions.

COMPREHENSIVE PLAN CHAPTER 1: NATURAL RESOURCES

Goal 5: Open Spaces, Scenic & Historic Areas, & Natural Resources

Vegetation and Wildlife Habitat

Goal 1: Ensure native vegetation remains an integral part of Albany's environment.

Goal 2: Protect and enhance significant wildlife habitat in the urban growth boundary.

Applicable Policies:

Policy 1: Protect existing vegetation that possesses significant environmental, wildlife and fish habitat, aesthetic qualities, or educational and recreational values, particularly along the Willamette and Calapooia Rivers, their tributaries, and associated floodplains, wetlands, and drainageways

Policy 2: Encourage the protection of trees of significant size that represent a visual and aesthetic resource to the community and recognize that the vegetation resources of Albany's Historic Districts are an important element of Albany's historic and cultural heritage.

Policy 3: Where possible, retain the environmental and aesthetic qualities of existing wooded areas by incorporating them into public park and open space plans, and ensure the maximum preservation of vegetation during the development review and construction process.

Open Space and Riparian Resources

Goal 1: Ensure the provision of open space and protection of natural and scenic resources.

Goal 2: Maintain a healthy environment and natural landscape in riparian corridors.

Wetland Resources

Goal: Protect wetlands to ensure their continued contribution as natural areas, open space, wildlife and vegetative habitat, and storm water retention and conveyance.

COMPREHENSIVE PLAN CHAPTER 2: SPECIAL AREAS

Goal 7: Flood Hazards and Hillsides

Goal: Protect life and property from natural disasters and hazards.

Applicable Policies:

> **Policy 2: Review any development that could potentially affect the floodway or increase the area subject to the Special Flood Hazard Area (100-year floodplain), unless otherwise exempted.**
>
> **Policy 3: Restrict new development (including fencing, grading, fill, excavation, and paving) from locating within floodways that would result in an increase in base-year flood levels. If it can be determined that there will be no increase in base-year flood levels, then the following uses may be considered: …**
>
> **Policy 4: Concurrent with new development, and when appropriate, secure dedications and easements adequate for channel maintenance and conveyance of storm water along natural drainageways and where identified on adopted master plans, secure easements for public open space, and future recreation use along all floodways and natural permanent drainageways.**
>
> **Policy 5: Recognize that development within areas subject to flooding is subject to regulations to protect life and property and that certain types of development may not be allowed.**
>
> **Policy 13: Prior to annexation of hillside areas, adopt hillside development regulations for slope areas in excess of 12% in order to protect against geologic mass movement, excessive erosion and storm water runoff, and protection of important natural vegetation.**

Goal 15: Willamette River Greenway

Goal: Protect, conserve, enhance and maintain the natural, scenic, historic, economic, and recreational qualities of the Willamette River, its banks, and adjacent lands.

Findings of Fact and Conclusions

1.1 The proposed code amendments to the tree protection standards are intended to create a new review track for housing applications with entirely clear and objective review criteria, while retaining the existing criteria for the discretionary track.

1.2 The proposed code amendments to the cluster development standards (specifically Section 11.460 Designation of Permanent Natural Areas) are intended to prioritize preservation of Oregon White Oaks throughout the city.

1.3 Article 6 of the ADC provides specific standards and review criteria for development within natural resource overlay districts and serve to protect and enhance significant wildlife habitat, ensure protection of natural resources, maintain a healthy environment and natural landscape in riparian corridors, protect wetlands, protect life and property within hillside areas and areas subject to flooding, and protect and enhance the scenic and natural qualities of the Willamette River Greenway. The proposed development code amendments to Article 6 are intended to provide a clear and objective review track for housing development, while preserving a landowner's ability to develop their property under the same guidelines they do today. As such, the proposed amendments do not change the consistency of Article 6 with the applicable Comprehensive Plan goals and policies.

1.4 The proposed development code amendments are consistent with the noted goals and policies because they support the preservation of trees through the development review process; support the preservation of Oregon

White Oaks citywide, which are native trees that hold significant environmental and aesthetic value; and continue to protect and enhance significant wildlife habitat, ensure protection of natural resources, maintain a healthy environment and natural landscape in riparian corridors, protect wetlands, protect life and property within hillside areas and areas subject to flooding, and protect and enhance the scenic and natural qualities of the Willamette River Greenway.

Goal 5: Open Spaces, Scenic & Historic Areas, & Natural Resources

Goal: Protect Albany's historic resources and utilize and enhance those resources for Albany residents and visitors.

Applicable Policy:

Policy 1: Support the identification, recognition, development, and promotion of Albany's historic buildings and districts through City programs or other organizations.

Policy 3: Within the city limits, maintain historic review ordinances for historic structures and districts which incorporate the following: …

Findings of Fact and Conclusions

1.5 Article 7 of the ADC provides specific standards and review criteria for new construction within historic districts. Proposed changes to Article 7 are limited to deleting the word "Advisory" from the Landmarks Commission name, and updating cross-references and figure numbers. No substantive changes are proposed.

1.6 The proposed development code text amendments are consistent with the noted goal and policies, because they continue to support the protection of Albany's historic resources within designated historic districts.

COMPREHENSIVE PLAN CHAPTER 3: ECONOMIC DEVELOPMENT

Albany's Economy

Goal 2: Provide a supportive environment for the development and expansion of desired businesses.

Applicable Policy:

Policy 10: Cooperate with business and industry to examine measures to reduce the cost of starting or expanding a business.

Findings of Fact and Conclusions

1.7 The proposed code amendments remove obstacles to business development by clarifying, improving, and adding flexibility to the design standards applicable to commercial uses found in Article 8. The proposed amendments are intended to allow more flexibility for commercial development while also providing more certainty through the land use review process. Specific code changes are included in Attachment A.

1.8 The proposed amendments are consistent with the goal and policy noted above because they support development and provide more certainty for businesses seeking to locate or expand their operations in Albany.

Land Use

Goal 3: Create village centers that offer housing and employment choices.

Goal 4: Promote infill development and redevelopment throughout the City.

Goal 5: Improve community appearance and establish attractive gateways into Albany and visually appealing highway corridors.

Applicable Policy:

Commercial Policy 2: Discourage future strip commercial development and promote clustered commercial opportunities and the infilling of existing commercial areas that will foster:

a. **Efficient and safe utilization of transportation facilities.**
b. **A variety of attractive and comfortable shopping opportunities that encourage shopping in a number of stores without auto use.**
c. **Compatibility between land uses, particularly adjacent residential neighborhoods.**
d. **Efficient extension of public facilities and services.**

Findings of Fact and Conclusions

1.9 The proposed code amendments facilitate development of housing in Village Centers by revising the Supplemental Residential Design Standards in Village Centers to be clear and objective, thereby providing greater certainty through the land use review process.

1.10 The proposed code amendments promote infill development and redevelopment by simplifying and adding flexibility to the design standards in Article 8, thereby removing barriers to development.

1.11 In general, the proposed amendments to design standards in Article 8 are intended to improve the land use process rather than significantly changing design outcomes resulting from application of the standards. The existing design standards are intended to "promote quality design" and to contribute to residential and commercial districts that are "attractive, active, and safe" and that "facilitate easy pedestrian movement." The proposed amendments are intended to ensure consistency with these purposes by making the standards easier to interpret and apply.

1.12 The existing design standards discourage strip commercial development by requiring commercial buildings be oriented to the street and generally requiring parking to be located to the side or rear of buildings. The proposed code amendments retain these requirements, and while they do provide greater flexibility, they continue to allow parking in front of the building only under certain circumstances and require parking lot landscape buffers to mitigate any impacts on the pedestrian environment.

1.13 The proposed development code text amendments are consistent with the goal and policy noted above, because they facilitate development in Village Centers, remove barriers to infill development and redevelopment, and are consistent the existing purposes of design standards intended to improve community appearance and promote clustered commercial development.

COMPREHENSIVE PLAN CHAPTER 4: HOUSING

Goal 10: Housing

Goals:

Provide a variety of development and program opportunities that meet the housing needs of all Albany's citizens.

Create a city of diverse neighborhoods where residents can find and afford the values they seek.

Applicable Policies:

Policy 3: Encourage innovation in housing types, densities, lot sizes and design to promote housing alternatives. Examples include:

f. Other actions directed at reducing housing costs which conform to the Comprehensive Plan, including innovative Development Code regulations.

Policy 6: Encourage residential development on already serviced vacant residential lots or in areas where services are available or can be economically provided.

Policy 16: Encourage the development of affordable housing in a range of types and appropriate sizes to meet Albany's housing needs. Examples include accessory apartments, manufactured housing, and attached single-family houses.

Findings of Fact and Conclusions

1.14 The proposed code amendments facilitate development of housing in Albany by ensuring all standards and review criteria applicable to residential development are clear and objective. This provides more certainty for housing developers during land use review by guaranteeing that a proposal will be approved if it meets all the applicable standards and criteria. This type of certainty can help reduce housing costs by streamlining the land use review process and reducing the likelihood that an application will be appealed.

1.15 The proposed code amendments also facilitate housing development by adding flexibility to many of the residential design standards in Article 8, thereby making them easier to meet.

1.16 The proposed code amendments preserve land for housing by removing the 125-foot setback for residential sites adjacent to Exclusive Farm Use properties and capping the transition setback to 30 feet. By making more land developable on a site these changes could reduce housing costs.

1.17 The proposed code amendments facilitate and reduce costs for housing by allowing small-scale residential projects of four units or less to be reviewed through a Type I Site Plan Review process.

1.18 The proposed code amendments encourage innovation in housing design by providing a new flexible Adjustment review process, which allows housing designs to deviate from the design standards as long as they equally or better meet the purpose of the standards.

1.19 The proposed development code text amendments are consistent with the goals and policies noted above because they remove obstacles to the types of housing identified in the policies.

COMPREHENSIVE PLAN CHAPTER 5: TRANSPORTATION

Goal 12: Transportation

Goal 3: ***Provide a diversified transportation system that ensures mobility for all members of the community and provides alternatives to automobile travel.***

Applicable Policies:

Policy 5: Encourage development design that emphasizes safety and does not create unnecessary conflicts.

Policy 7: Develop bicycle and pedestrian facilities that encourage non-vehicular travel to/from home, school, work, and other activity centers

Findings of Fact and Conclusions

1.20 The transportation standards in Article 12 are consistent with the Comprehensive Plan transportation goals and policies. Proposed amendments to Article 12 are limited to making the standards clear and objective (where necessary) and clarifying language, and therefore do not alter these standards' consistency with the Comprehensive Plan.

1.21 The proposed code amendments clarify and improve the pedestrian and bicycle connections standards for multi-family, commercial, and institutional development. By making the standards clearer and easier to apply, the proposed amendments will help ensure that the standards achieve their intended outcomes: safety and convenience for people walking and biking.

1.22 The proposed code amendments encourage non-vehicular travel by improving the pedestrian amenities standards for commercial and institutional development. Pedestrian amenity features make walking more pleasant by providing shade, visual interest, and places to sit and gather in locations near or accessible from a public sidewalk. Improvements to these standards give preference to higher-benefit amenities, thereby encouraging features that will be most conducive to walking.

1.23 The proposed development code text amendments are consistent with the policies noted above because they support a diversified transportation system with high-quality pedestrian and bicycle facilities.

COMPREHENSIVE PLAN CHAPTER 7: SOCIAL AMENITIES

Goal 5: Open Spaces, Scenic and Historic Areas, & Natural Resources

Goal: Improve Albany's image, livability, appearance, and design quality through aesthetic enhancement.

Applicable Policies:

Policy 1: Expansion and new development projects shall be designed and landscaped to complement and enhance the appearance of the development site and surrounding area.

Findings of Fact and Conclusions

1.24 The design standards in Article 8 are intended to ensure attractive and pedestrian-oriented development that will complement and enhance the surrounding area. The proposed code amendments are primarily intended to clarify and simplify the standards, and to offer flexibility in some cases, but the standards remain consistent with that intent.

1.25 The proposed development code text amendments are consistent with the policies noted above.

COMPREHENSIVE PLAN CHAPTER 8: URBANIZATION

Goal 14: Urbanization

Goal: Achieve stable land use growth which results in a desirable and efficient land use pattern.

Applicable Policies:

Policy 8: Require annexations to be logical and efficient extensions of city limit boundaries to facilitate the economic provision of services.

Policy 12: Discourage future strip commercial development and promote clustered commercial opportunities and the infilling of existing commercial areas which will foster:

a. **Efficient and safe utilization of transportation facilities.**
b. **A variety of attractive and comfortable shopping opportunities that encourage shopping in a number of stores without auto use.**
c. **Compatibility between land uses, particularly adjacent residential neighborhoods.**
d. **Efficient extension of public facilities and services.**

Findings of Fact and Conclusions

1.26 Annexation is the first step in converting land in the Albany Urban Growth Boundary to urban land. Annexation and subsequent development provides economic and social benefits to the City of Albany through the creation of housing; business and commercial enterprise; creation of construction and permanent jobs; and expansion of the City's tax base. When annexations are properly timed, they allow for orderly expansion of City boundaries and contribute to logical extensions of public infrastructure.

1.27 The existing design standards discourage strip commercial development by requiring commercial buildings be oriented to the street and generally requiring parking to be located to the side or rear of buildings. The proposed code amendments retain these requirements, and while they do provide greater flexibility, they continue to allow parking in front of the building only under certain circumstances and require parking lot landscape buffers to mitigate any impacts on the pedestrian environment.

1.28 The proposed development code text amendments are consistent with the policy noted above.

COMPREHENSIVE PLAN CHAPTER 9: LAND USE PLANNING

Goal 1: Citizen Involvement

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

Applicable Policies:

2. When making land use and other planning decisions:

a. Actively seek input from all points of view from citizens and agencies and assure that interested parties from all areas of the Urban Growth Boundary have the opportunity to participate.

b. Utilize all criteria relevant to the issue.

c. Ensure the long-range interests of the general public are considered.

d. Give particular attention to input provided by the public.

e. Where opposing viewpoints are expressed, attempt to reach consensus where possible.

4. Ensure information is made available to the public concerning development regulations, land use, and other planning matters including ways they can effectively participate in the planning process.

Findings of Fact and Conclusions

1.29 This application is reviewed according to the Type IV land use review process. In accordance with that procedure, input from all points of view from citizens and agencies was solicited to ensure interested parties have the opportunity to participate. Public participation was solicited in the following ways.

Notice was provided to the Oregon Department of Land Conservation and Development (DLCD) on July 9, 2020, at least 35 days before the first evidentiary hearing, in accordance with Oregon Administrative Rule (OAR) OAR 660-018-0020 and the Albany Development Code (ADC) 1.640.

Intergovernmental project review notice was also provided on August 7, 2020, to various agencies, including Benton County and Linn County Planning and the Oregon Department of Transportation.

Notice of the public hearing was also published in the *Albany Democrat-Herald* on August 10, 2020, at least one week before the public hearing on August 17, 2020, in accordance with ADC 1.600.

1.30 Information was made available to the public regarding the proposed development code amendments to enable public participation in the planning process by posting the staff report for the proposed development code amendments on the City's website on August 10, 2020, at least seven days before the first evidentiary public hearing.

1.31 Public hearings to consider the proposed development code amendments are held by the Planning Commission and City Council. Through the notification and public hearing process all interested parties are afforded the opportunity to review the application, comment on the proposal, attend the public hearing, and participate in the land use process.

1.32 Five joint work sessions with the Planning Commission and City Council were held on November 19, 2018, March 11, 2019, June 10, 2019, November 4, 2019, and January 13, 2020 to discuss working concepts and draft code amendments. All work sessions were open to the public, with notification to stakeholders and interested parties.

1.33 Staff and consultants held 12 meetings with a project Task Force composed of 12 stakeholders and discussed specific feedback on the draft code concepts and draft code amendments between September 2018 and January 2020.

1.34 Public open houses were held on February 25, 2019, March 4, 2019, and October 22, 2019, to present draft code concepts and provide an opportunity for feedback from the public.

1.35 Two surveys were made available in both online and hard copy formats to attendees of the open houses and to interested parties City-wide in February-March 2019 and October-November 2019. Forty-seven people participated.

1.36 The proposed code amendments were refined several times based on input from the public and the Task Force in an effort to achieve support for the amendments and address concerns.

1.37 The proposed development code text amendments are consistent with the policies noted above, because they were developed through a process that provided notice and information to all affected properties, solicited input from the public at multiple times and in multiple ways, and included refinements to reflect the input provided by participants.

Conclusions: Development Code Amendments Criterion 1

1-1 The process of crafting the proposed development code text amendments included multiple outreach efforts to the public and stakeholders, and incorporated input from a variety of perspectives. The process to review and adopt the proposed code amendments, which includes issuing notices and making information available prior to the public hearings, also ensures the public can effectively participate in the decision-making process. In addition, public hearings are held before the Planning Commission and the City Council to take into account public comments prior to making a final decision. These procedures meet the requirements of citizen involvement in the land use planning process.

1-2 The proposed code amendments support goals of the Comprehensive Plan regarding natural resource and historic resource protection, business development, pedestrian-oriented design, variety of housing opportunities, and attractive development.

1-3 The proposed code amendments support use of alternative modes of transportation by clarifying standards for pedestrian and bicycle facilities associated with multi-family, commercial, and institutional development.

1-4 In summary, the proposed development code amendments are consistent with the Comprehensive Plan goals and policies.

1-5 Given the above analysis, this review criterion is met.

Development Code Amendment - Review Criterion 2.290(2)

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

Findings of Fact

2.1 ADC 2.290(2) requires ADC amendments to be consistent with ADC policies and purpose statements for the affected base zones. Below are purpose statements from Article 1 – Administration and Procedures, Article 2 – Review Criteria, Article 3 – Residential Zoning Districts, Article 4 – Commercial and Industrial Zoning Districts, Article 5 – Mixed Use Zoning Districts, Article 6 – Natural Resource Districts, Article 7 – Historic Overlay District, Article 8 – Design Standards, Article 9 – On-site Development and Environmental Standards, Article 10 – Manufactured Home Development Standards, Article 11 – Land Divisions and Planned Development, Article 12 – Public Improvements, Article 13 – Signs, and Article 22 – Use Categories and Definitions.

Article 1 – Administration and Procedures

Introduction

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

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

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

Article 1 Purposes – Findings of Fact and Conclusions

2.2 The proposed amendments support the Comprehensive Plan goals and policies, as demonstrated in Findings 1.1-1.34. The amendments will strengthen the Development Code as an implementing tool of these Plan goals and policies.

2.3 The proposed development code text amendments provide clear and objective standards for review of housing, consistent with Oregon Revised Statutes (ORS) 197.307(4) and Oregon Administrative Rule (OAR) 660-008-0015.

2.4 The proposed development code text amendments facilitate prompt review of development proposals by streamlining land use review processes for certain uses where potential concerns can be addressed through clear and objective development standards.

2.5 The proposed development code text amendments facilitate the application of clear and specific standards by providing more clear and specific standards for design and development of housing and also of commercial and institutional uses.

2.6 The proposed development code text amendments to Article 1 continue to allow opportunity for public review and comment on development proposals.

2.7 The proposed development code text amendments continue to protect and enhance the beauty and character of Albany through refinements to development and design standards that ensure attractive, pedestrian-oriented development in the city.

2.8 Specific code changes are included in Attachment A and a summary of how these code changes address these issues are included in the Overview of Key Changes beginning on page 2.

2.9 The proposed development code text amendments are consistent with the purposes noted above.

Article 2 Review Criteria Purpose Statement

2.010 <u>Overview</u>. 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: …

Article 2 Purposes – Findings of Fact and Conclusions

2.10 The proposed development code text amendments include a new Type III Adjustment review, which includes discretionary criteria that provide flexibility and allows modification of regulations in response to specific site conditions.

2.11 The proposed code amendments create a set of nondiscretionary criteria for residential Site Plan Review, which provide clear and objective standards for the review of housing applications.

2.12 The proposed amendments regarding annexations will bring Albany's Code into compliance with current regulations that were put in place by SB 1573 in 2016.

2.13 The proposed development code text amendments are consistent with the purpose statement for Article 2.

Article 3 Residential Zoning Districts Purpose Statement

3.010 <u>Overview</u>. 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.

Article 3 Purposes – Findings of Fact and Conclusions

2.14 The proposed code amendments enhance certainty for property owners, developers, and neighbors by refining the development standards in Article 3 and ensuring that they are all clear and objective.

2.15 The proposed code amendments preserve land for housing by removing the unnecessary 125-foot setback for residential sites adjacent to Exclusive Farm Use properties, which has been identified as a barrier to housing development.

2.16 The proposed development code text amendments are consistent with the purpose statement for the Residential Zoning Districts.

Article 4 Commercial and Industrial Zoning Districts Purpose Statement

4.010 <u>Overview</u>. 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.

Article 4 Purposes – Findings of Fact and Conclusions

2.17 The proposed code amendments to Article 4 are minor and generally not substantive, and the standards continue to allow for flexibility of development while minimizing impacts on surrounding uses.

2.18 The proposed development code text amendments are consistent with the purpose statement for the Commercial and Industrial Zoning Districts.

Article 5 Mixed Use Zoning Districts Purpose Statement

5.000 <u>Purpose</u>. 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.

Article 5 Purposes – Findings of Fact and Conclusions

2.19 Proposed code amendments to Article 5 are intended to remove discretionary language and ensure all standards applicable to housing are clear and objective; substantive changes to the development standards are not proposed.

2.20 The proposed development code text amendments are consistent with the purpose statement for the Mixed Use zoning districts.

Article 6 Natural Resource Districts Purpose Statements

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

Floodplain

6.070 Purpose. The Floodplain overlay district (/FP) standards are intended to manage development in the floodplain in a way that promotes public and environmental health and safety and minimizes the economic loss and social disruption caused by impending flood events.

Hillside Development

6.170 Purpose. The Hillside Development overlay district (/HD) is intended to regulate the development of potentially hazardous terrain, minimize public and private losses due to earth movement hazards in specified areas, and minimize erosion and related environmental damage. It is not the intent of Hillside Development standards to transfer density within a development.

Significant Natural Resource Overlay Districts

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

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

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

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

B. Significant Wetland overlay district (/SW): To protect and enhance the integrity, function and value of Albany's significant wetlands and fish-bearing waterways. Wetlands and waterways provide hydrologic and ecologic functions; and reduce adverse effects of flooding. The vast majority of significant wetlands are in riparian areas. There are a small number of isolated significant wetlands.

The higher quality isolated wetlands will be regulated locally (as identified in the Citywide ESEE Analysis); and the lower quality isolated wetlands will not be regulated locally, but must comply with state and federal wetland regulations.

C. Habitat Assessment overlay district (/HA): To protect habitat for northwestern pond and western painted turtles in and around Thornton Lakes by reviewing and limiting the impacts of development activities on their habitat. This was the only area in Albany where there is a documented presence of a species listed by either the federal government or the State of Oregon. The State lists the species as "sensitive, critical." The overlay identifies an area of high likelihood of turtle nesting, foraging, or migration routes. The overlay district regulations provide a limited level of protection (as identified in the Thornton Lakes ESEE Analysis). Voluntary methods of turtle habitat protection and enhancement are encouraged and essential.

Willamette River Greenway

6.500 Purpose. The Willamette River Greenway district is intended to guide development along the Willamette River so as to preserve the existing scenic, use and natural features.

Article 6 Purposes – Findings of Fact and Conclusions

2.21 The proposed code amendments to Article 6 are intended to provide a clear and objective review track for housing development, while preserving a landowner's ability to develop their property under the same guidelines they do today.

2.22 The approach for the Floodplain Overlay District (/FP) clarifies that the clear and objective standard is that applicants not develop new dwelling units or create new residential lots or parcels within the Special Flood Hazard Area. Applications for residential development within the Special Flood Hazard Area would be required to comply with the existing standards and criteria as is currently the case. Therefore, the existing standards remain in place, and are already consistent with the Floodplain purpose statement.

2.23 The approach for the Hillside Development Overlay District (/HD) allows applicants to opt to provide a "certification" rather than a geotechnical report, because basing a permit on a report is not considered a "clear and objective standard." Certification removes the discretion from the City's decision, while still ensuring a proposed development will not impact or be impacted by stability problems associated with the hillside location, consistent with the Hillside Development purpose statement.

2.24 The approach for the Significant Natural Resource Overlay Districts (/RC, /SW, and /HA) clarifies that the clear and objective standard is that applicants do not develop new dwelling units or create new residential lots or parcels within the Natural Resource Overlays. Applications for residential development within the overlays would be required to comply with the existing standards and criteria as is currently the case. Additional minor changes are proposed to improve the clarity of the standards. Therefore, the existing standards remain in place, and are already consistent with the Significant Natural Resource Overlay Districts purpose statements.

2.25 The approach for the Willamette River Greenway Overlay District (/WG) clarifies that the Willamette Greenway statute (which requires consideration of certain discretionary criteria) take precedence over the requirement to provide clear and objective standards. Therefore, the existing standards remain in place, and are already consistent with the Willamette River Greenway purpose statement.

2.26 The proposed development code text amendments are consistent with the purpose statements for the Natural Resource Districts.

Article 8 Design Standards Purpose Statements

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

Single Family Homes

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

Findings of Fact

2.27 The proposed code amendments to the Single Family Homes focus on making the standards clear and objective and clarifying language where needed. The intent is that the outcomes resulting from the amended standards

will be generally consistent with the existing standards, but that the standards will be easier and more straightforward to apply. As such, the proposed amendments to not alter the standards' consistency with the Single Family Homes purpose statement and should help ensure consistency with purpose by making the standards easier to interpret and apply.

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.

Findings of Fact

2.28 The proposed code amendments to the Multiple Family design standards focus on making the standards clear and objective, but also add flexibility by providing a wider range of options or reducing requirements for some standards. These improvements and refinements should result in relatively minor changes to the outcomes resulting from application of the amended standards. Further, the proposed amendments should help ensure consistency with the purpose of the multi-family standards by making the standards easier to interpret and apply.

2.29 Proposed amendments to the recreation and open space standards help ensure quality designs for multi-family development by establishing more specific standards for acceptable common open space amenities. Proposed amendments also encourage high quality open space amenities through a new credit option based on the value of the amenities.

2.30 Proposed amendments to the setback and building orientation standards offer two paths to meeting the standards, and to ensuring multi-family development contributes to an attractive, active, and safe environment. One option enhances the pedestrian environment by orienting buildings to the street, limiting parking adjacent to the street, and requiring design treatments for entries. The other option enhances the pedestrian environment by requiring enhanced landscaping in the setback area to create a park-like appearance along the sidewalk, and continuing to limit parking between the building and the street. Tree spacing standards for the enhanced landscaping option are intended to promote safety by reducing available hiding places.

2.31 Proposed code amendments will apply the façade design standards of Section 8.255 to all multi-family development. The proposed amendments will continue to require minimum window coverage on street-facing façades and will apply clearer and more straightforward standards for how to meet the façade design and articulation requirements. These features promote visual interest and compatibility with adjacent buildings and neighborhoods by ensuring buildings have design details that create a sense of quality and permanence. These features also contribute to an attractive, active, and safe environment by engaging the interest of pedestrians and providing "eyes on the street."

2.32 Proposed amendments to the transition standards continue to promote compatibility with adjacent neighborhoods by requiring larger setbacks adjacent to single-family zoning districts or pre-existing single-family homes in other districts, but by capping the setback at 30 feet will allow for the more efficient use of multi-family development sites.

2.33 Proposed amendments to the pedestrian connections standards continue to promote an active and safe district by clarifying standards for pedestrian walkways and ensuring they are designed to a minimum standard.

2.34 Proposed amendments to the vehicle circulation system standards promote safety and quality design by establishing minimum design standards for interior drive aisles and by clarifying the traffic calming standards.

Commercial and Institutional Site Design

8.310 Purpose. These sections are intended to set threshold standards for quality design in new commercial, mixed-use, and institutional development. Good design results in buildings that are visually compatible with one another and adjacent neighborhoods and contribute to a commercial district that is attractive, active and

safe. These qualities, in turn, contribute to the creation of commercial districts that facilitate easy pedestrian movement and a rich mixture of land uses.

Findings of Fact

2.35 The proposed code amendments to the Commercial and Institutional Site Design Standards focus on improving the standards, making them easier to apply, and adding flexibility. These improvements and refinements should result in relatively minor changes to the outcomes resulting from application of the amended standards. Further, the proposed amendments should help ensure consistency with the purpose of the commercial and institutional standards by making the standards easier to interpret and apply.

2.36 Proposed amendments to the building orientation standards continue to enhance the pedestrian environment by orienting buildings to the street, limiting parking adjacent to the street, and requiring design treatments for entries. While proposed amendments allow more flexibility for parking to be in the front of buildings, new landscape buffer standards will ensure that impacts to the pedestrian are minimized.

2.37 Proposed code amendments will apply the façade design standards of Section 8.345 to all multi-family development. The proposed amendments will continue to require minimum window coverage on street-facing façades and will apply clearer and more straightforward standards for how to meet the façade design and articulation requirements. These standards achieve similar outcomes and support the same purposes as the equivalent multi-family standards, as noted in Finding 2.30.

2.38 Proposed amendments to the street connectivity and internal circulation standards promote safety and quality design by establishing minimum design standards for interior drive aisles and by clarifying the traffic calming standards.

2.39 Proposed amendments to the pedestrian amenities standards continue to promote an active and safe district and facilitate easy pedestrian movement by improving the pedestrian amenities standards. Pedestrian amenity features make walking more pleasant by providing shade, visual interest, and places to sit and gather in locations near or accessible from a public sidewalk. Improvements to these standards give preference to higher-benefit amenities, thereby encouraging features that will be most conducive to walking.

2.40 Proposed amendments to the pedestrian connections standards continue to promote an active and safe district and facilitate easy pedestrian movement by clarifying standards for pedestrian walkways and ensuring they are designed to a minimum standard.

2.41 Proposed amendments to the large parking area standards continue to promote quality design and an attractive and safe district by establishing landscaping standards that enhance the appearance of large parking areas and pedestrian walkway standards that ensure safety for crossing a parking area.

2.42 Proposed amendments to the compatibility standards continue to promote compatibility with adjacent buildings and neighborhoods by minimizing impacts associated with glare, noise, odors, dust, and unsightly exterior improvements.

Supplemental Residential Design Standards in Village Centers

8.485 <u>Purpose</u>. 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

Findings of Fact

2.43 The proposed code amendments to the village center design standards focus on making the standards clear and objective and adding some flexibility. These refinements should result in relatively minor changes to the outcomes resulting from application of the amended standards. Further, the proposed amendments should help ensure consistency with the purpose of the village center standards by making the standards easier to interpret and apply.

2.44 The proposed amendments continue to promote human-scale, pedestrian-oriented design by establishing standards for external building materials, roofline design, screening of equipment, and by encouraging alley access.

Article 8 Purposes – Conclusions

2.45 The proposed development code text amendments are consistent with the purpose statements for Design Standards.

Article 9 On-site Development and Environmental Standards Purpose Statements

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: …

Tree Protection

9.205 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.

Article 9 Purposes – Findings of Fact and Conclusions

2.46 The proposed code amendments to the tree protection standards in Article 9 retain the existing Site Plan Review criteria for tree felling, but provide a new clear and objective track for housing development. The proposed amendments continue to protect trees as part of residential development, but allow tree removal where necessary for the development. As such, the proposed amendments continue to balance the preservation of significant trees with individual property rights.

2.47 The proposed amendments to the buffering and screening standards are intended to make these standards clear and objective and to replace the use of Director discretion with the new Adjustment review process. These refinements do not change the standards' consistency with the Article 9 purpose of minimizing adverse effects on surrounding property owners or the general public.

2.48 The proposed development code text amendments are consistent with the purpose statements for On-Site Development and Environmental Standards.

Article 11 Land Divisions and Planned Developments Purpose Statements

11.000 Overview. The most permanent feature of a community is the way land is divided into parcels. This article describes the process of converting raw land into building sites. The primary goals of this design review are to better ensure that natural features have been taken into account; that roads and utilities are properly designed and installed, and that adequate open space has been provided. This article establishes the standards and procedures for property line adjustments, partitions, subdivisions, planned developments, and condominiums.

Article 11 Purposes – Findings of Fact and Conclusions

2.49 Proposed amendments to the cluster development standards prioritize preservation of Oregon White Oaks throughout the city, not just in South Albany, and provide more specificity for measurements that is consistent with other sections of the Code. These amendments better ensure that natural features have been taken into account through the cluster development process.

2.50 The proposed development code text amendments are consistent with the purpose statements for Land Divisions and Planned Developments.

Article 12 Public Improvements Purpose Statement

12.010 Purpose. The provisions for new public improvements in this article are intended to address the City's concerns relative to public health, safety, and welfare.

Article 12 Purposes – Findings of Fact and Conclusions

2.51 Proposed amendments to Article 12 are limited to clarifying how public improvement standards relate to clear and objective requirements for needed housing and other minor housekeeping items, including clarifying the City's authority to exercise discretion over the use of, and access to, City-owned property for the protection of public health, safety, and welfare. As such, the proposed amendments do not alter the standard's consistency with the purpose of Article 12.

2.52 The proposed development code text amendments are consistent with the purpose statement for Public Improvements.

Article 7 Historic Overlay District Purpose Statement

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

Article 10 Manufactured Home Development Standards Purpose Statement

10.000 Overview. This article contains the standards of development for manufactured housing placed on individual lots and in manufactured home parks within the City. Manufactured homes provide a wide choice of housing types suitable for a variety of households, lifestyles and income levels. The standards contained in this article are intended to provide a suitable living environment for residents of manufactured homes and establish development standards that will increase compatibility with adjacent land uses. The following is a list of the main headings in this article. …

Article 13 Signs Purpose Statement

13.110 Purpose

1.1 While signs communicate all types of helpful information, unregulated signs obstruct views, distract motorists, displace alternative uses for land, and pose other problems that legitimately call for regulation. The purpose of this article is to regulate the size, illumination, movement, materials, location, height, and condition of all signs placed on private property for exterior observation, thus ensuring the protection of property values; the character of the various neighborhoods; the creation of a convenient, attractive, and harmonious community; protection against destruction of or encroachment on historic convenience to citizens and encouraging economic development. This article allows adequate communication through signage while encouraging aesthetic quality in the design, location, size, and purpose of all signs. This article shall be interpreted in a manner consistent with the First Amendment guarantee of free speech. If any provision of this article is found by a court of competent jurisdiction to be invalid, such finding shall not affect the validity of other provisions of this article which can be given effect without the invalid provision.

1.2 A sign placed on land or on a building for the purpose of identification, protection, or directing persons to a use conducted therein must be deemed to be an integral, but accessory and subordinate, part of the principal use of land or building. Therefore, the intent of this article is to establish limitations on signs to ensure they are appropriate to the land, building, or use to which they are appurtenant and are adequate for their intended purpose while balancing the individual and community interests identified in subsection (1) of this section.

1.3 These regulations are intended to promote signs that are compatible with the use of the property to which they are appurtenant, landscape and architecture of surrounding buildings, are legible and appropriate to the activity to which they pertain, are not distracting to motorists, and are constructed and maintained in a structurally sound and attractive condition.

1.4 These regulations do not regulate every form and instance of visual communication that may be displayed anywhere within the jurisdictional limits of the City. Rather, they are intended to regulate those forms and instances that are most likely to meaningfully affect one or more of the purposes set forth above.

1.5 These regulations do not entirely eliminate all of the harms that may be created by the installation and display of signs. Rather, they strike an appropriate balance that preserves ample channels of communication by means of visual display while still reducing and mitigating the extent of the harms caused by signs.

Article 22 – Definitions

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

22.400 <u>Definitions</u>. As used in this Code, the following words and phrases shall have the following meanings:
…

Article 7, 10, 13, and 22 Purposes - Findings of Fact and Conclusions

2.53 The proposed amendments to Articles 7, 10, 13, and 22 are limited to updating terminology, figure and table numbers, cross references, and adding one definition to Article 22 in support of proposed Code amendments.

2.54 The proposed development code text amendments are consistent with the purpose statements for Articles 7, 10, 13, and 22.

Conclusions: Development Code Amendment Criterion 2

2-1 The proposed amendments are consistent with Article 1–General Administration–Purpose by removing obstacles to development, clarifying code standards, ensuring consistency within the development code, streamlining the review processes for some uses while ensuring public review and comment on potentially impactful uses. Specific code changes are included in Attachment A.

2-2 The proposed Development Code amendments are consistent with applicable purpose statements in Articles 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, 13, and 22, as described in Findings 2.10 through 2.53.

2-3 Based on the above analysis, this criterion is satisfied.

Overall Conclusion

Based on the analysis in this report, the proposed Development Code text amendments meet all of the applicable review criteria as outlined in this report.

The Planning Commission has three options with respect to the proposed Development Code amendments:

Option 1: Recommend that the City Council approve the amendment request; or

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

Option 3: Deny the amendment request. The City Council will only consider the proposal on appeal by the applicants.

Staff Recommendation

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

I move that the Planning Commission recommend that the City Council approve the proposed Development Code text amendments under planning file DC-02-20. This motion is based on the findings and conclusions in the August 10, 2020, staff report, and the findings in support of the application made by the Planning Commission during deliberations on this matter.

Attachments

A. Proposed Development Code Text Amendments
B. Written Testimony

Acronyms

ADC	Albany Development Code
AMC	Albany Municipal Code
CPTED	Crime Prevention Through Environmental Design
DC	Development Code Text Amendment File Designation
DLCD	Oregon Department of Land Conservation and Development
ESEE	Economic, Social, Environmental, and Energy (Analysis)
LUBA	Oregon Land Use Board of Appeals
OAR	Oregon Administrative Rule
ODOT	Oregon Department of Transportation
ORS	Oregon Revised Statutes
SB	Senate Bill

MEMO

TO: Albany City Council & Planning Commission

VIA: Peter Troedsson, City Manager

FROM: Jeff Blaine, P.E., Public Works Engineering and Community Development Director

DATE: July 6, 2020

SUBJECT: Albany Development Code Amendment Package

In 2017, the City Council, planning commission, staff, and development community participated in a development code audit. The audit identified several potential code amendments that council further considered and, ultimately, directed staff to pursue with consultant support and guidance from a code amendment task force on design standards. Between September 2018 and January 2020, the 12-member task force held 12 individual meetings and 5 joint work sessions with the planning commission and council to consider code amendment approaches for the first two phases of the code amendment project. *(Phase III will start later this year.)* Public input was also sought through online and in-person open houses and surveys.

With Phases I and II of the task force's work complete, it is time for the City to consider adoption of those amendments through the standard Type IV legislative decision process that involves public hearings with both the planning commission and city council. The volume of proposed code amendments is significant and would be difficult to review on a standard public hearing schedule. Consequently, staff is providing the draft amendments for your consideration through this transmittal well ahead of your packets. Advance copies will also be available to the task force, development community, and public on the City's website. Public hearings with the planning commission and council are tentatively scheduled for August 17, 2020, and September 9, 2020, respectively.

In a legislative decision process, it is acceptable to discuss the proposed amendments prior to the hearing. In fact, by providing the proposed amendments in advance, staff is requesting that you do so. Staff encourages you to review the proposed amendments and **ask questions of staff prior to the public hearings**. This should help focus comments and manage the length of the meeting. Additionally, it is not realistic for staff to remember three years' worth of background and input provided by various stakeholders on each amendment. If questions cannot be answered in advance, staff will at least be better prepared for the hearing.

As you review the proposed amendments, please keep in mind that the final proposal does contain several compromises resulting from the task force/planning commission/council review processes. This is important to understand, because as with any compromise, the final product likely does not represent each of your individual preferred approaches. Rather, the proposed code should reflect a balance of opinions provided from a cross-section of the community.

Attachment A provides an amendment overview and identifies major code sections within the amendment package that you have not yet considered. *Attachment B* (see Planning Webpage https://www.cityofalbany.net/cd/adc-amendments/proposed) provides the complete amendment package to be provided in your meetings packets. Commentary boxes are provided throughout the materials providing additional background and explanatory information about proposed amendments.

JJB:kc
Attachment A – Amendment Overview
Attachment B – Proposed Albany Development Code Amendments (Planning Webpage)

Attachment A – Amendment Overview

The following sections provide a brief overview of the amendments made in each Article. They are not meant to replace your full review of the amendments provided in Attachment B. Locations of major sections that you have not reviewed previously are identified. This is done only to draw your attention to those locations that staff believes will be of interest to all involved. There are other locations throughout the proposed amendments where new language has been incorporated. Therefore, it is still important for you to review the complete package and not rely solely on the summary below.

As a reminder, Phase III of this project will address clear and objective standards for Articles 10 and 11, as well as evaluate Albany's standards for modifying existing development sites and non-conforming situations.

Article 1, Administration and Procedures – Significant amendments to Article 1 were not within the original project scope. However, upon further review, it was apparent a complete overhaul was required to address errors, inconsistencies, and compliance with current program requirements. The project team worked closely with the City Attorney to update the procedures in a manner generally consistent with current processes and review types. The proposed amendments have not undergone prior council or planning commission review.

Article 2, Review Criteria – The most significant changes in Article 2 center on implementing a secondary discretionary review track through a Type III Adjustment process and providing clear and objective review criteria and notice requirements where required. To comply with current regulations, proposed amendments are also included for annexations. Council had previously deferred annexation amendments due to legal appeals and potential legislative amendments during the last session. The appeals ultimately failed and legislative amendments did not move forward. Code amendments are proposed to bring Albany into compliance. The annexation language has not undergone prior council or planning commission review.

Article 3, Residential Zoning Districts – Proposed amendments in this Article are consistent with what was reviewed with the planning commission and council through the task force process.

Article 4, Commercial and Industrial Zoning Districts – Proposed amendments in this Article are consistent with what was reviewed with the planning commission and council through task force process.

Article 5, Mixed Use Zoning Districts – Proposed amendments in this Article are consistent with what was reviewed with the planning commission and council through task force process.

Article 6, Natural Resource Districts – Proposed amendments are limited to those required for a clear and objective review path for needed housing projects. The code has been amended for compliance while preserving landowner's ability to develop their property under the same guidelines they do today. The proposed approach has been vetted with the Department of Land Conservation and Development (DLCD). Concepts were previously reviewed with the planning commission and council; however, specific language has not undergone prior review.

Article 7, Historic Overlay District – Proposed amendments are limited to cross reference and formatting updates and removing the word "Advisory" from the Landmarks Commission.

Article 8, Design Standards – Article 8 contains most of the task force's work for Phases I and II. Proposed amendments in this Article are consistent with what was reviewed with the planning commission and council through the task force process.

Article 9, On-Site Development and Environmental Standards – In addition to amendments considered through the task force process, tree protection standards within Article 9 also required updates to accommodate a clear and objective track for needed housing. Parks & Recreation Department staff reviewed the proposed amendments with the tree commission and city council. With one exception, the proposed amendments are consistent with council's prior review. The prior draft included an option for council's consideration that involved payment of additional fees when removing an Oregon White Oak. That concept was not broadly supported and was removed from the proposed amendment package. If such a concept is desired in the future, the code can be easily adapted to incorporate it.

Amendments to Albany Municipal Code (AMC) 7.98 are required in tandem with these development code amendments. Proposed AMC amendments are also provided in your packet.

Article 10, Manufactured Home Development Standards **–** Proposed amendments are limited to cross reference and formatting updates.

Article 11, Land Divisions and Planned Developments – Proposed amendments to the cluster development standards (specifically Section 11.460 Designation of Permanent Natural Areas) are intended to prioritize preservation of Oregon White Oaks throughout the city, not just in South Albany, and provide more specificity for measurements that is consistent with other sections of the code. Proposed amendments to other sections of this article are limited to cross reference and formatting updates.

Article 12, Public Improvements – Proposed amendments are limited to clarifying how public improvement standards relate to clear and objective requirements for needed housing and other minor housekeeping items. Concepts were previously reviewed with the planning commission and council; however, specific language has not undergone prior review.

Article 13, Signs – Proposed amendments are limited to cross reference and formatting updates.

Article 22, Use Categories and Definitions – One definition has been added in support of proposed code amendments and gender-neutral language corrections are proposed in two locations.

Article 1 - Procedures

Amendments to the Albany Development Code (ADC)

The proposed draft of Article 1 would replace the current Article 1 (Administration and Procedures) in its entirety. Additions are shown in plain text for legibility.

ARTICLE 1
ADMINISTRATION AND PROCEDURES

Commentary

The provided Article one language is intended to replace the current Article 1 in its entirety. Rather than show the entire chapter in bold underline red text, it is shown in plain text for ease of reading. The goal of updating Article 1 is to improve the overall usability and clarity of the land use procedures and ensure they are up to date with the most recent changes in State law. In some sections, the current wording has been completely revised, but with the goal of retaining current practices where possible. In other sections, current language has been retained. Commentary boxes are provided as necessary for further explanation of proposed changes.

1.000 Overview. This Article establishes the framework for the review and processing of land use applications and legislative land use proposals, as well as ministerial actions. This Article is intended to enable the City, applicants, and the public, where applicable, to reasonably review applications and participate in the local decision-making process in a timely and effective way.

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

- General Administration of Title 20
- Review Procedures Generally
- Pre-Application Conferences and Neighborhood Meetings
- Application Submittal and Completeness Review
- Review Type Procedures
- Expirations, Extensions, and Modifications
- Appeals
- Conduct of Quasi-Judicial Hearings
- Conduct of Legislative Hearings
- Enforcement

These headings precede subtopics that can help the user locate information. The table of contents contains a complete listing of the material covered in this Article.

GENERAL ADMINISTRATION OF TITLE 20

Commentary: Sections 1.010 through 1.080

These sections are based on the current Code with only a few minor clarifications.

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

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

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(1) Serve as the principal vehicle for implementation of the City's Comprehensive Plan in a manner that protects the health, safety, and welfare of the citizens of Albany.

(2) Satisfy relevant requirements of federal law, state law, statewide goals, and administrative rules.

(3) Facilitate prompt review of development proposals and the application of clear and specific standards.

(4) Provide for public information, review, and comment on development proposals that may have a significant impact on the community.

(5) Guide public and private planning policies and actions to ensure provision of adequate water, sewer, transportation, drainage, parks, open space and other public facilities and services for each development, as applicable.

(6) Establish procedures and standards requiring that the design of site improvements and building improvements are consistent with applicable standards and design guidelines.

(7) Provide for review and approval of the relationship between land uses and traffic circulation in order to minimize congestion.

(8) Require that permitted uses and site designs provide reasonable protection from fire, flood, landslide, erosion, or other natural hazards, as well as prevent the spread of blight, and help prevent crime.

(9) Protect and enhance the city's beauty and character.

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

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

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

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

1.040 Interpretation.

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

(2) The Director shall have the initial authority and responsibility to interpret all terms, provisions, and requirements of this ordinance. For quasi-judicial interpretations, the Type II procedure set forth in Section 1.230 shall be followed. For legislative interpretations, the procedures as set forth in Section 1.260 shall be followed. A person requesting such an interpretation shall do so in writing to the Director.

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

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

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

1.055 Fees. The City Council shall establish application review fees, and fee policies by separate resolution for the performance of the actions and reviews required by this Code.

1.060 Official Action. All officials, departments, and employees of the City vested with authority to issue permits, certificates, or licenses shall adhere to and require conformance with this Title.

1.070 Certificate of Occupancy. It shall be unlawful to use or occupy any new building or premises until a certificate of occupancy has been issued by the Building Official stating that the proposed use of the building or land conforms to the requirements of the adopted building code, this ordinance, and any other City conditions attached to the development or use of the building or land.

1.080 Approval Runs with the Land. Unless expired, approval of a land use or development permit decision runs with the land. The approval transfers to a new owner if the property is sold.

LAND USE REVIEW PROCEDURES GENERALLY

Commentary: Section 1.100

The approach taken in this section reflects the general organizing principles of numerous other development codes around the State. However, the review types are consistent with the review types which are currently employed by the city of Albany.

1.100 Applicability of Review Procedures. Except for those activities and developments listed in Section 1.105, all land use and development permit decisions will be made by using the procedures contained in this Article. The procedure "type" assigned to each application governs the decision-making process for that permit or application. There are six types of permit/application procedures as described in subsections (1) through (6) below. Table 1.100-1 lists the City's land use and development applications and corresponding review procedure(s).

(1) Type I Procedure (Ministerial Staff Review). A Type I procedure is used in applying City land use standards and criteria that do not require the use of discretion, interpretation, or the exercise of policy or legal judgment (i.e., clear and objective standards). Type I decisions are made by the Director without public notice and without a public hearing. Appeals of Type I decisions are to Circuit Court under writ of review.

(2) Type I-L Procedure (Staff Review with Notice). A Type I-L procedure is used for some tentative plats and when applying discretionary land use standards that regulate the physical characteristics of a use which is permitted outright. Type I-L decisions are made by the Director and require public notice and an opportunity for appeal to a local hearing body. With the exception of Historic Resource decisions which are appealed to the Landmarks Commission, appeals of Type I-L decisions are heard by the Planning Commission.

(3) Type II Procedure (Staff Review with Notice of Decision). A Type II procedure is used when the land use standards and criteria require some discretion, interpretation, or policy or legal judgment. The Director is the person designated in accordance with ORS 227.175 to make Type II decisions. Type II decisions require public notice and an opportunity for appeal to a local hearing body. With the exception of Historic Resource decisions which are appealed to the Landmarks Commission, appeals of Type II decisions are heard by the Planning Commission.

(4) Type III Procedure (Quasi-Judicial Review—Public Hearing). A Type III procedure is used when the land use standards and criteria require discretion, interpretation, or policy or legal judgment or for large projects. Quasi-Judicial decisions implement established policy but typically involve discretion. Type III decisions are made by the Planning Commission, Hearings Board or Landmarks Commission and require public notice and a public hearing, with an opportunity for appeal to the City Council.

(5) Type IV-Q Procedure (Quasi-Judicial Review—City Council Public Hearing). The Type IV-Q procedure is used when the land use standards and criteria require discretion, interpretation, or policy or legal judgment and is the procedure used for site-specific land use actions initiated by an applicant. The application is heard by the Planning Commission, Hearings Board, or Landmarks Commission . If the recommending body makes a favorable recommendation, the City Council will hold a hearing and make a final decision. If the Planning Commission, Hearings Board, or Landmarks Commission recommends against a proposal, the City Council will only consider the proposal on appeal by the applicant. Appeal of the City Council's Type IV-Q decisions are heard by the state Land Use Board of Appeals.

(6) Type IV-L Procedure (Legislative Review). Legislative review procedures are used to review proposals to amend the Albany Comprehensive Plan, the City's land use regulations, and large-scale changes to the Comprehensive Plan or Plan Maps, and involve the creation, revision, or implementation of broad public policy. Legislative proposals are first considered by the Planning Commission, which makes a recommendation to City Council. City Council makes the final decision on a legislative proposal through the enactment of an ordinance. Appeals of legislative decisions are heard by the state Land Use Board of Appeals.

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Amendments to the Albany Development Code (ADC)

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Table 1.100-1 – Procedure by Application Type

Application / Action	Procedure Type	Decision Body	Pre-App Conference Required	Neighbor-hood Mtg Req.	Applicable Section
Adjustments	III	HB or PC	No	No	2.070
Annexations					
• Annexations mandated by state law	I	CDD	No	No	2.095
• All other annexations	IV-Q and IV-L	See 2.095	Yes	No	2.095
Comprehensive Plan and Map Amendments					
• Quasi-Judicial	IV-Q	PC or CC	Yes	No	2.210
• Legislative	IV-L	CC	Yes*	No	2.210
• Corrections to Comp Plan map	I	CDD	No	No	2.225
Conditional Use	II or III	CDD HB or PC	Yes	See 1.140	2.240
Development Code Amendments					
• Corrections to Development Code	I	CDD	No	No	2.280
• All other amendments	IV-L	CC	Yes*	No	2.280
Interpretations	I, I-L, II, III	See 1.040	Yes*	No	1.040
Land Divisions and Planned Developments					
• Cluster development	III	PC	Yes	Yes	11.430
• Land division (partition or subdivision) < 20 Lots – preliminary plat	I-L	CDD	Yes	See 1.140	11.170
• Land division (subdivision) of 20 or more lots – preliminary plat	III	PC	Yes	See 1.140	11.170
• Land division – final plat	I	CDD	No	No	11.170
• Planned development – preliminary review	III	PC	Yes	Yes	11.260
• Planned development – final approval	I	CDD	No	No	11.260
• Planned development – major changes	III	PC	Yes	Yes*	11.350

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Amendments to the Albany Development Code (ADC)

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Application / Action	Procedure Type	Decision Body	Pre-App Conference Required	Neighbor-hood Mtg Req.	Applicable Section
• Planned development – minor changes	I	CDD	No	No	11.350
• Property line adjustment	I	CDD	No	No	11.110
• Expedited land divisions	I (ORS 197.360)	CDD	Yes	See 1.140	11.145
Manufactured Home Park (excluding Planned Developments)	I-L	CDD	Yes	See 1.140	10.210
Modifications					
• Modification of Approved Site Plan Review and Conditional Use Applications	Same procedure and decision body as original decision		Yes*	No	1.330
• Modification of Condition of Approval	Same procedure and decision body as original decision		Yes*	No	1.340
Nonconforming Situations					
• Nonconforming use review – change of use within same category; nonconforming residential densities	I	CDD	No	No	2.350
• Nonconforming use review – all other situations	II	CDD	Yes	No	2.350
Recreational vehicle park	I-L or III	CDD or PC	Yes		10.530
Signs					
• Standard Sign Permit	I	CDD	No	No	13.610
• Sign Variance	II	CDD	Yes	No	13.710
Site Plan Review	I or I-L	CDD	Yes*	See 1.140	2.415
Vacations	IV-Q or IV-L	CC	Yes*	No	2.620
Variance					
• Major Variance	II	CDD	Yes	No	2.670
• Minor Variance	I-L	CDD	Yes*	No	2.670, 2.694
Zoning Map Amendments					
• Quasi-judicial zoning map amendments	IV-Q	PC or CC	Yes	No	2.720
• Legislative zoning map	IV-L	CC	Yes*	No	2.720

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Amendments to the Albany Development Code (ADC)

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Application / Action	Procedure Type	Decision Body	Pre-App Conference Required	Neighbor-hood Mtg Req.	Applicable Section
amendments					
OTHER APPLICATION TYPES					
Floodplain					
• Floodplain Appeals	II	See 6.091	Yes*	No	6.091
• Floodplain Development Permit	I, I-L, II, III	See 6.093	Yes*	See 1.140	6.093
• Floodplain Variance	II	CDD	Yes*	No	6.092
Hillside Development					
• Hillside review for development that only requires a building permit	I	CDD	No	No	6.190
• Hillside review for all other	I, I-L, II, III	See 6.190	No	See 1.140	6.190
Historic Resources**					
• Designation of a resource or district	IV-Q or IV-L	LC and CC	No	No	7.040
• Amendments to Exist. Districts	IV-L	CC	No	No	7.040
• Local Historic Inventory Removal (outside districts, not on National Register, demolished or removed resources)	I	CDD	Yes*	No	7.040
• Individual Property Re-Rating	III	LC	Yes*	No	7.040
• Historic review of Ext. Alterations – no change in character; not visible)	I	CDD	No	No	7.120
• Historic review of Ext. Alterations – all other, including all non-residential	III	LC	Yes*	See 1.140	7.120
• Substitute materials	III	LC	Yes*	See 1.140	7.180
• New construction	I-L	CDD	Yes*	No	7.240
• Demolitions / Relocations – contributing structures	III	LC	Yes*	See 1.140	7.310

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Amendments to the Albany Development Code (ADC)

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Application / Action	Procedure Type	Decision Body	Pre-App Conference Required	Neighbor-hood Mtg Req.	Applicable Section
Natural Resource Impact Review					
• Natural Resource review without concurrent land use review	I or I-L	CDD	No	No	6.300
• Natural Resource review for all other	I, I-L, II, III	See 6.300	Yes*	See 1.140	6.300
• Natural Resource minor variance	I-L	CDD	No	No	6.450
• Natural Resource major variance	II	CDD	Yes*	No	6.450
Tree Removal					
Site Plan Review for tree removal (5 or more trees 8' in diameter on contiguously owned property 20,000 sf or greater)	I-L	CDD	Yes*	No	9.204 and 9.205
Willamette River Greenway					
• Greenway development review	II	CDD	Yes	No	6.520
LEGEND: City Council (**CC**), Director (**CDD**), Hearings Board (**HB**), Landmarks Commission (**LC**), Planning Commission (**PC**).					
* Unless waived by the Community Development Director. ** Additional application review procedures applicable to Historic Resources are found in Article 7. In cases of conflict with the procedures in Article 1, the procedures in Article 7 shall prevail.					

Commentary: Section 1.105 and 1.110

These sections are based on the current Code with only a few clarifications.

1.105 <u>When a Type I - IV Application is Not Required</u>. Activities and developments listed below do not require a Type I - IV land use application but are nevertheless subject to the provisions of the Code, including, but not limited to setbacks, lot coverage, building height, design standards, on-site development standards, and public improvement and environmental standards.

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

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

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(1) Agricultural uses permitted outright in Articles 3, 4 and 5.

(2) New detached single-family dwellings or two-family dwellings and additions to existing single-family dwellings or two-family dwellings, except where specifically identified as requiring conditional use or site plan approval.

(3) Residential accessory buildings up to 750 square feet and walls not greater than 11 feet tall or that meet the standards in Section 3.080(9).

(4) Non-residential accessory buildings of any size in the NC, CC, RC, IP, LI, HI and PB zones and non-residential accessory buildings up to 750 square feet in the CB, HD, ES, LE, MS, MUC, MUR, OP and WF zoning districts.

(5) Routine property maintenance.

(6) New parking areas or expansions to existing parking areas that are less than 1,000 square feet in area, excluding restriping an existing lot, and do not modify site circulation or access, do not require Site Plan Review as stated in Section 2.430.

(7) Additions to an existing building or use expansions that are less than 2,000 square feet or less than 50 percent of existing building area, whichever is less, and that do not:

(a) Add dwelling units; or

(b) Require three or more parking spaces or additional loading areas; or

(c) Modify site circulation or access.

For building additions greater than 2,000 square feet, see Site Plan Review applicability in Section 2.430.

(8) A change internal to a building or other structure or use that is allowed through Site Plan Review, and the new use does not:

(a) Add dwelling units; or

(b) Require three or more new parking spaces or additional loading areas; or

(c) Modify site circulation or access.

(9) An emergency measure necessary for the safety or protection of property when authorized by the City Manager with written notice to the City Council.

(10) Any temporary use of land of up to a 30-day duration (such as a promotional event, festival, carnival, or outdoor sale) that conforms with all other requirements of this Code and other applicable City regulations, public health, and safety requirements, some of which may further limit such uses in terms of location, scope, and duration.

(11) The establishment, construction, alteration, or maintenance of a public facility authorized by the Director of Public Works, including streets, highways, traffic control devices, drainage ways, sanitary and storm sewers, pump stations, water lines, electrical power or gas distribution lines, or telephone or television cable systems. This includes construction of staging areas of less than six months' duration but does not include major substations, treatment facilities, storage tanks, reservoirs, and towers.

(12) Excavation and fill for foundations and all other excavation or filling of land involving 50 cubic yards or less that does not adversely affect drainage patterns and is not located in the special flood hazard area.

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1.110 Determination of Review Type.

(1) Unless specified in Table 1.100-1 or elsewhere in this Code, the Director will determine whether a permit or application is processed as Type I, I-L, II, III, IV-Q, or IV-L based on the descriptions in ADC 1.100.

(2) When there is a question as to the appropriate type of procedure, the Director shall determine the type of procedure to be used based upon the most similar land use application procedure specified by this Code or other established policy.

(3) When a proposal involves more than one application for the same property, the applicant(s) may submit concurrent applications that shall be processed simultaneously in accordance with the highest numbered procedure specified. When concurrent applications are received and accepted as complete, the requirements of Section 1.120 shall apply as if a single application had been made.

Commentary: Section 1.120

This section is generally based on example code language with updates to reflect the specific requirements of the City of Albany.

1.120 Time to Process Complete Applications.

(1) Time Limit—120-day Rule. The City must take final action on all Type I-L, II, Type III, and Type IV-Q land use applications, as provided by ORS 227.178, including resolution of all local appeals, within 120 days after the application has been deemed complete under ADC 1.170, unless the applicant provides written request or consent to an extension in compliance with ORS 227.178. (Note: The 120-day rule does not apply to Type IV-L decisions.)

(2) Time Limit—100-day Rule. The City must take final action including resolution of all local appeals on qualifying applications under ORS 227.180 within 100 days after the application is deemed complete. An application qualifies if it is submitted under ORS 227.175 and meets the following criteria:

(a) The application is for development of a multiple-family residential building containing five or more residential units within the urban growth boundary;

(b) At least 50 percent of the residential units included in the development will be sold or rented as affordable housing. For the purposes of this section, "affordable housing" means housing that is affordable to households with incomes equal to or less than 60 percent of the median family income for the county in which the development is built or for the state, whichever is greater; and

(c) The development is subject to a covenant appurtenant that restricts the owner and each successive owner of the development or a residential unit within the development from selling or renting any residential unit described in paragraph (b) of this subsection as housing that is not affordable housing for a period of 60 years from the date of the certificate of occupancy.

(3) Time Periods. "Days" means calendar days unless otherwise specified. In computing time periods prescribed or allowed by this Article, the day of the act or event from which the designated period of time begins is not included. The last day of the period is included, unless it is a Saturday, Sunday, or a federal holiday, in which case the period runs until the end of the next day that is not on a weekend or City recognized legal holiday.

PRE-APPLICATION CONFERENCES AND NEIGHBORHOOD MEETINGS

Commentary: Section 1.130

The current Code states that pre-application conferences are mandatory for all applications unless waived by the Director. The proposed approach would specify in Table 1.100-1 which applications are actually required to have a pre-application conference. In addition, the proposed language clarifies that, if required, a pre-application conference must: be requested in writing, take place before a required neighborhood meeting, and be valid for one year.

1.130 Pre-Application Conference.

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

(2) When Mandatory. Pre-application conferences are mandatory for all land use actions identified as requiring a pre-application conference in Table 1.100-1. An applicant may voluntarily request a pre-application conference for any land use action even if it is not required.

(3) Timing of Pre-Application Conference. When mandatory, a pre-application conference must be held with City staff before an applicant submits an application and before an applicant conducts a Neighborhood Meeting (if applicable).

(4) Requesting a Pre-Application Conference.

(a) Request Form. Pre-application conference requests must be made on forms provided by the Director.

(b) Submittal Requirements. Pre-application conference requests must be made in writing and include:

i. A description of the development proposal along with a list of any questions the applicant has for staff related to the proposal.

ii. A sketch of the development plan. The sketch shall indicate the approximate location of the property boundaries, existing structures, and proposed improvements.; and

iii. Any additional information the applicant deems necessary to demonstrate the nature and scope of the proposal in sufficient detail to allow City staff to review and comment.

(5) Scheduling of Pre-Application Conference. Upon receipt of a complete pre-application request, the Director will schedule the pre-application conference. The Director will coordinate the involvement of city departments, as appropriate, in the pre-application conference. Pre-application conferences are not open to the general public.

(6) Validity Period for Mandatory Pre-Application Conferences; Follow-Up Conferences. Unless waived by the Director, a follow-up conference is required for those mandatory pre-application conferences that have previously been held when:

(a) An application relating to the proposed development that was the subject of the pre-application conference has not been submitted within one year of the pre-application conference;

(b) The proposed use, layout, and/or design of the proposal have significantly changed; or

(c) The owner and/or developer of a project changes after the pre-application conference and prior to application submittal.

(7) Written Summary. Upon the applicant's request, the Director shall provide the applicant with a written summary of the conference.

Commentary: Section 1.140

This section is based on the city's existing requirements with some updates to ensure clear and objective procedures for residential development. Rather than leave it to the discretion of the Director as to whether the notification distance should be extended up to 1,000 feet, for larger residential developments a clear and objective standard of 1,000 feet is proposed. This is consistent with past practice.

1.140 Neighborhood Meeting.

(1) Purpose. The purpose of a neighborhood meeting is to ensure that applicants pursue early and effective public participation in conjunction with their applications, giving them the opportunity to understand and try to mitigate any real or perceived impacts their application may have on the neighborhood. The meeting is not intended to produce complete consensus on all applications. It is intended to encourage applicants to be good neighbors.

(2) When Mandatory. Neighborhood meetings are mandatory for all land use actions identified in Table 1.100-1 as requiring a neighborhood meeting. In addition, the applicant shall hold a neighborhood meeting before submitting the following types of land use applications:

(a) Multiple-family development proposing more than four units that abuts a single-family zoning district.

(b) Commercial or industrial development that abuts any residential zoning district and the addition of outside seating areas to restaurants or bars/taverns/breweries/night clubs within 300 feet of a residence.

(c) Manufactured home park adjacent to any residential zoning district.

(d) Subdivision with more than ten lots.

(e) Cluster and planned development.

(f) Retail Sales and Services Uses proposed in existing buildings in the Light Industrial zone that require Conditional Use approval per Section 4.060(11)(b).

(g) For other non-residential applications or revisions to applications that the Director determines may have a neighborhood impact, such as conditional uses. In these cases, the Director shall determine the minimum notice area for the neighborhood meeting.

(3) Time and Location. The applicant shall consult with City staff to determine an appropriate meeting date, time, and place given the location of the proposed development and availability of staff to attend.

(4) Notice. The applicant shall send mailed notice of the public meeting to the Director and all property owners and designated representative(s) of City Council-recognized neighborhood association(s) within the minimum notice area specified below. The broadest notice area applicable to a proposal shall apply.

Proposals for:	**Notice Area based on minimum distance from the boundaries of the subject property***
Non-residential development (including the non-residential portion of a mixed-use development)	300 feet**
Residential development proposing 50 or less dwelling units, lots or spaces	300 feet
Any development which proposes more than 50 dwelling units, lots or spaces	1,000 feet

** Additional notice area requirements applicable to Historic Resources are found in Article 7. In cases of conflict with the procedures in Article 1, the procedures in Article 7 shall prevail.*
*** For applications which include non-residential development, the Director may increase the notice area based on the project scale, land use and transportation patterns or anticipated public interest in the project, up to a maximum of 1,000 feet.*

The property owner list shall be compiled from county tax assessor's property owner list from the most recent property tax assessment roll. The address for the designated representative(s) of the affected neighborhood association(s) shall be obtained from the City. The notice shall be sent a minimum of 10 days and no more than 30 days before the meeting, and shall include:

(a) Date, time, and location of the public meeting.

(b) A brief written description of the development proposal and proposed use(s) with enough specificity so that the project is easily discernible.

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(c) The location of the subject property(ies), including address (if applicable), nearest cross streets and any other easily understood geographical reference, and a map (such as a tax assessor's map) that depicts the subject property.

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

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

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

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

(a) The dates and locations of all meetings where citizens were invited to discuss the applicant's proposal;

(b) The method(s) by which each meeting was publicized;

(c) Sign in sheet indicating the number of people who attended the meeting and a list of people who otherwise contacted the applicant;

(d) A summary of the concerns, issues, and problems raised by neighbors;

(e) A discussion of how the applicant has addressed or intends to address concerns, issues, and problems; and

(f) A discussion of any concerns, issues, and problems the applicant is unable or unwilling to address and why.

APPLICATION SUBMITTAL AND COMPLETENESS REVIEW

Commentary: Section 1.150 – 1.185

These sections are generally based on example code language with updates to reflect the specific requirements of the City of Albany; however, the submittal requirements in 1.160(1) are from Albany's current Code.

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Amendments to the Albany Development Code (ADC)

The proposed draft of Article 1 would replace the current Article 1 (Administration and Procedures) in its entirety. Additions are shown in plain text for legibility.

1.150 Initiation of Applications.

(1) Type I, Type I-L, Type II, Type III, and Type IV-Q applications. Type I, Type I-L, Type II, Type III, and Type IV-Q applications may be submitted by one or more of the following persons:

(a) The owner of the subject property;

(b) The contract purchaser of the subject property, when the application is accompanied by proof of the purchaser's status as such and by the seller's written consent;

(c) A lessee in possession of the property, when the application is accompanied by the owners' written consent; or

(d) The agent of any of the foregoing, when the application is duly authorized in writing by a person authorized to submit an application by subsections (a), (b) or (c), and accompanied by proof of the agent's authority.

(e) A public entity that has the right of eminent domain for projects the entity has the authority to construct.

(2) Type IV-L (Legislative Applications). Legislative applications shall be initiated in accordance with ADC 1.260(1).

1.160 Application Submittal.

(1) Submittal Requirements. Type I – IV-Q land use applications must be submitted on forms provided by the City. A land use application may not be accepted in partial submittals. All information supplied on the application form and accompanying the application must be complete and correct as to the applicable facts. Unless otherwise specified, all of the following must be submitted to initiate completeness review under ADC 1.170:

(a) Explanation of intent, nature and proposed use(s) of the development, pertinent background information, and other information that may have a bearing in determining the action to be taken, including detailed findings when required by the provisions of this Code.

(b) Signed statement that the property affected by the application is in the exclusive ownership or control of the applicant, or that the applicant has the consent of all partners in ownership of the affected property.

(c) Property description and assessor map parcel number(s).

(d) Additional information required by other sections of this Code because of the type of proposal or the area involved.

(e) Duplicates of the above information as required by the Director.

(f) Application fees.

(g) A report documenting the results of any mandatory neighborhood meeting prepared in accordance with ADC 1.140(5).

(2) Application Intake. Each application, when received, will be date-stamped with the date the application was received by the City, and designated with a receipt number and a notation of the staff person who received the application.

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(3) Administrative Standards for Applications. The Director is authorized to establish administrative standards for application forms and submittals, including but not limited to plan details, information detail and specificity, number of copies, scale, and the form of submittal.

1.170 Completeness Review.

(1) Duration. Except as otherwise provided under ORS 227.178, the Director must review an application for completeness within 30 days of its receipt.

(2) Considerations. Determination of completeness will be based upon receipt of the information required under ADC 1.160 and will not be based on opinions as to quality or accuracy. Applications that do not respond to relevant Code requirements or standards can be deemed incomplete. A determination that an application is complete indicates only that the application is ready for review on its merits, not that the City will make a favorable decision on the application.

(3) Complete Applications. If an application is determined to be complete, review of the application will commence.

(4) Incomplete Applications. If an application is determined to be incomplete, the Director must provide written notice to the applicant identifying the specific information that is missing and allowing the applicant the opportunity to submit the missing information. An application which has been determined to be incomplete must be deemed complete for purposes of this section upon receipt of:

(a) All of the missing information;

(b) Some of the missing information and written notice from the applicant that no other information will be provided; or

(c) Written notice from the applicant that none of the missing information will be provided.

(5) Vesting. If an application was complete at the time it was first submitted, or if the applicant otherwise responds as provided in subsection (4) of this section within 180 days of the date the application was first submitted, approval or denial of the application must be based upon the standards and criteria that were in effect at the time the application was first submitted.

(6) Void Applications. An application is void if the application has been on file with the City for more than 180 days and the applicant has not provided the missing information or otherwise responded, as provided in subsection (4) of this section.

1.180 Revised Applications. Revisions or alterations of an application may be made following the determination that an application is complete, provided such revisions or alterations address applicable requirements and do not render the application incomplete. Revisions or alterations desired by the applicant may impact the application processing timelines outlined in Section 1.120.

1.185 Withdrawal of Application.

(1) Withdrawn by Applicant. An application may be withdrawn by the applicant at any time prior to the issuance of the decision if the owner or contract purchaser consents in writing to withdraw the application.

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(2) Notice. If an application is withdrawn after the mailing of public notice, the Director must send written notice stating the application has been withdrawn to all persons who were provided mailed notice of the application or public hearing.

REVIEW TYPE PROCEDURES

Commentary: Section 1.210

The format of this section is generally based on example code language but the specific requirements for Type I reviews are consistent with Albany's current requirements.

1.210 Type I Procedure (Ministerial). The Director makes ministerial decisions through the Type I procedure without public notice and without a public hearing.

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

(2) Notice of Application Submittal. No public notice of review is required.

(3) Notice of Decision. Written notice of the decision must be provided to the applicant and property owner of record.

(4) Appeal of a Type I Decision. The decision of the Director on a Type I application shall be the final decision of the City. Appeal shall be to the Circuit Court under writ of review.

(5) Effective Date of a Type I Decision. A Type I decision is final on the date it is signed by the Director.

Commentary: Section 1.220

The format of this section is generally based on example code language but the specific requirements for Type I-L reviews are consistent with the procedures for Limited Land Use Decisions in ORS 197.195 and are generally consistent with Albany's current requirements. The key substantive change from current practice is that all Type I-L decisions would have a local appeal with a 14-day appeal period. Currently, just those Type I-L applications which are required to have a neighborhood meeting have a local appeal process, other Type I-L applications can only be appealed to LUBA. Albany currently provides a 10 day appeal period for local appeals and 21 days for decisions that go straight to LUBA.

1.220 Type I-L Procedure (Administrative Review with Notice). Type I-L decisions are made by the Director with public notice and an opportunity for review and comment.

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

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

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

(a) Recipients:

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

Proposals for:	**Notice Area based on minimum distance from the boundaries of the subject property***
• Non-residential development subject to Site Plan Review (including the non-residential portion of a mixed-use development)	300 feet**
• Subdivision, 50 lots or less • Manufactured home park, 50 spaces or less • Multi-family development, 50 units or less	300 feet
• Any development which proposes more than 50 dwelling units, lots or spaces	1,000 feet
• All other Type I-L decisions not listed above, including, but not limited to, Site Plan Review of Residential Accessory Structures and Minor Variances	100 feet**

** Additional notice area requirements applicable to Historic Resources are found in Article 7. In cases of conflict with the procedures in Article 1, the procedures in Article 7 shall prevail.*
*** For applications which include non-residential development, the Director may increase the notice area based on the project scale, land use and transportation patterns or anticipated public interest in the project, up to a maximum of 1,000 feet.*

ii. Any person who submits a written request to receive a notice;

iii. Any governmental agency that is entitled to notice under an intergovernmental agreement entered into with the City and any other affected agencies, including but not limited to: school districts; fire district; the Oregon Department of Transportation, where the project either adjoins or directly affects a state highway or a railway; the County, where the project site would access a County road or otherwise be subject to review by the County. The failure of another

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agency to respond with written comments on a pending application does not invalidate an action or permit approval made by the City under this Code; and

iv. Utility companies (as applicable).

(b) The mailed notice of filing, at a minimum, must contain all of the following information:

i. The names of the applicant(s), any representative(s) thereof, and the owner(s) of the subject property;

ii. The street address if assigned, if no street address has been assigned then Township, Range, Section, Tax Lot or Tax Lot ID or other easily understood geographic reference to the subject property;

iii. The proposed site plan;

iv. Statement noting if a railroad-highway grade crossing provides or will provide the only access to the subject property;

v. The type of application and a concise description of the nature of the land use action;

vi. A list of the approval criteria by ADC section for the decision and other ordinances or regulations that apply to the application at issue;

vii. Brief summary of the local decision making process for the land use decision being made;

viii. The date, place, and time where comments are due and that comments are due no later than 5:00 p.m. on the 14th calendar day after the notice was mailed;

ix. A statement indicating that issues which may provide the basis for an appeal to the Land Use Board of Appeals must be raised in writing prior to the expiration of the comment period and with sufficient specificity to enable the applicant and local appeal body to respond to the issue;

x. A statement that after the comment period closes, the City will issue its decision and the decision will be mailed to the applicant, property owner, anyone who submitted written comments on the application, and to anyone else is otherwise legally entitled to notice;

xi. A statement that comments received after the close of the public comment period will not be considered;

xii. The name of a City representative to contact and the telephone number where additional information may be obtained; and

xiii. Statement that the application and all documents and evidence submitted by the applicant are available for review and that copies can be obtained at a reasonable cost from the City.

(c) Failure of a person or agency identified in ADC 1.220(3)(a) to receive the notice required in ADC 1.220(3)(b) does not invalidate any proceeding in connection with the application provided the City can demonstrate by affidavit that notice was given in accordance with this section.

(d) Written comments must be received by the City no later than 5:00 p.m. on the 14th calendar day after the notice was mailed in order for comments to be considered.

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(4) Decision. At the conclusion of the comment period, the Director must review the comments received and approve, approve with conditions, or deny the application. The decision must be in writing and include a statement that:

(a) Explains the criteria and standards considered relevant to the decision;

(b) States the facts relied upon in issuing the decision; and

(c) Explains the justification for the decision based on the criteria, standards and facts set forth.

(5) Notice of Type I-L Decision. Notice of the decision must be provided to the property owner, applicant, and any person who submitted written comments in accordance with ADC 1.220(3)(d). The Type I-L Notice of Decision must contain all of the following information:

(a) A description of the applicant's proposal and the City's decision on the proposal, which may be a summary, provided it references the specifics of the proposal and conditions of approval in the public record;

(b) The address or other geographic description of the property proposed for development, including a map of the property in relation to the surrounding area;

(c) A statement that the complete case file, including findings, conclusions, and conditions of approval, if any, is available for review and how copies can be obtained;

(d) The date the decision becomes final, unless an appeal is submitted; and

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

(6) Appeal of a Type I-L Decision. Appeals may be made in accordance with ADC 1.410.

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

Commentary: Section 1.230

The format of this section is generally based on example code language but the specific requirements for Type II reviews are consistent with the procedures for land use decisions made without a hearing per ORS 227.175 and are generally consistent with Albany's current requirements. The key substantive change is that notice of decision would be sent to all persons entitled to notice rather than just the applicant and those who commented as required by ORS 227.175. A local appeal is required for this type of decision. A city may not establish an appeal period that is less than 12 days from the date the written notice of decision was mailed. We're proposing 14 days for consistency with the Type I-L application.

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

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

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

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

(a) Recipients:

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

Proposals for:	**Minimum distance from the boundaries of the subject property***
• Non-residential development (including the non-residential portion of a mixed-use development)	300 feet**
• Residential development proposing 50 or less dwelling units, lots or spaces	300 feet
• Any development which proposes more than 50 dwelling units, lots or spaces	1,000 feet

** Additional notice area requirements applicable to Historic Resources are found in Article 7. In cases of conflict with the procedures in Article 1, the procedures in Article 7 shall prevail.*
*** For applications which include non-residential development, the Director may increase the notice area based on the project scale, land use and transportation patterns or anticipated public interest in the project, up to a maximum of 1,000 feet.*

ii. Any person who submits a written request to receive a notice;

iii. Any governmental agency that is entitled to notice under an intergovernmental agreement entered into with the City and any other affected agencies, including but not limited to: school districts; fire district; the Oregon Department of Transportation, where the project either adjoins or directly affects a state highway or railway; the County, where the project site would access a County road or otherwise be subject to review by the County. The failure of another agency to respond with written comments on a pending application does not invalidate an action or permit approval made by the City under this Code; and

iv. Utility companies (as applicable).

(b) The mailed notice of filing, at a minimum, must contain all of the following information:

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i. The names of the applicant(s), any representative(s) thereof, and the owner(s) of the subject property;
ii. The street address if assigned, if no street address has been assigned then Township, Range, Section, Tax Lot or Tax Lot ID or other easily understood geographic reference to the subject property;
iii. The proposed site plan
iv. Statement noting if a railroad-highway grade crossing provides or will provide the only access to the subject property;
v. The type of application and a concise description of the nature of the land use action;
vi. A list of the approval criteria by ADC section for the decision and other ordinances or regulations that apply to the application at issue;
vii. Brief summary of the local decision making process for the land use decision being made, including the process to appeal a decision;
viii. The date, place, and time where comments are due and that comments are due no later than 5:00 p.m. on the 14th calendar day after the notice was mailed;
ix. A statement that after the comment period closes, the City will issue its decision and the decision will be mailed to the applicant, property owner, anyone who submitted written comments on the application, and to anyone else who is legally entitled to notice;
x. A statement that comments received after the close of the public comment period will not be considered in the Director's decision;
xi. The name of a City representative to contact and the telephone number where additional information may be obtained; and
xii. Statement that the application and all documents and evidence submitted by the applicant are available for review and that copies can be obtained at a reasonable cost from the City.

(c) Failure of a person or agency identified in ADC 1.230(3)(a) to receive the notice required in ADC 1.230(3)(b) does not invalidate any proceeding in connection with the application provided the City can demonstrate by affidavit that notice was given in accordance with this section.

(d) Written comments must be received by the City no later than 5:00 p.m. on the 14th calendar day after the notice was mailed in order for comments to be considered.

(4) Decision. At the conclusion of the comment period, the Director must review the comments received and approve, approve with conditions, or deny the application. The decision must be in writing and include a statement that:

(a) Explains the criteria and standards considered relevant to the decision;

(b) States the facts relied upon in issuing the decision; and

(c) Explains the justification for the decision based on the criteria, standards and facts set forth.

(5) Notice of Type II Decision. Notice of the decision must be provided to the property owner, applicant, any person who submitted written comments in accordance with ADC 1.230(3)(d)

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and all persons and agencies entitled to notice pursuant to ADC 1.230(3)(a). The Type II Notice of Decision must contain all of the following information:

(a) A description of the applicant's proposal and the City's decision on the proposal, which may be a summary, provided it references the specifics of the proposal and conditions of approval in the public record;

(b) The address or other geographic description of the property proposed for development, including a map of the property in relation to the surrounding area;

(c) A statement that the complete case file, including findings, conclusions, and conditions of approval, if any, is available for review and how copies can be obtained;

(d) The date the decision becomes final, unless an appeal is submitted;

(e) A statement that all person entitled to notice of the decision may appeal the decision within 14 days in accordance with ADC 1.410 and that issues which may provide the basis for an appeal must be raised in writing and with sufficient specificity to enable the applicant and local appeal body to respond to the issue;

(f) A statement that a person who is mailed written notice of the decision cannot appeal the decision directly to the state Land Use Board of Appeals under ORS 197.830; and

(g) A statement that the decision will not become final until the period for filing a local appeal has expired.

(6) Appeal of a Type II Decision. Appeals may be made in accordance with ADC 1.410. A de novo appeal hearing is required for Type II decisions.

(7) Effective Date of Type II Decision. A Type II Decision becomes effective 14 days after the City mails the Notice of Decision, unless an appeal is submitted pursuant to ADC 1.410 or unless the conditions of approval specify otherwise.

Commentary: Section 1.240

The format of this section is generally based on example code language but the specific requirements for Type III reviews are consistent with the procedures specified by statute for quasi-judicial procedures and are generally consistent with Albany's current requirements.

1.240 Type III Procedure (Quasi-Judicial Review—Public Hearing). Type III decisions are made by the Planning Commission, Hearings Board, or the Landmarks Commission after a public hearing with an opportunity for appeal to the City Council. The decision body for each application type is specified in Table 1.100-1. A hearing under these procedures provides a forum to apply standards to a specific set of facts to determine whether the facts conform to the applicable criteria.

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

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

(3) Written Notice of Public Hearing—Type III. Once the application has been deemed complete, the City must mail by regular first class mail Notice of a Public Hearing to the following individuals and agencies no fewer than 20 days before the hearing.

(a) Recipients:

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

Proposals for:	**Minimum distance from the boundaries of the subject property***
Non-residential development (including the non-residential portion of a mixed-use development)	300 feet**
Residential development proposing 50 or less dwelling units, lots or spaces;	300 feet
Any development which proposes more than 50 dwelling units, lots or spaces	1,000 feet

** Additional notice area requirements applicable to Historic Resources are found in Article 7. In cases of conflict with the procedures in Article 1, the procedures in Article 7 shall prevail.*
*** For applications which include non-residential development, the Director may increase the notice area based on the project scale, land use and transportation patterns or anticipated public interest in the project, up to a maximum of 1,000 feet.*

ii. Any person who submits a written request to receive a notice;

iii. Any governmental agency that is entitled to notice under an intergovernmental agreement entered into with the City and any other affected agencies, including but not limited to: school districts; fire district; the Oregon Department of Transportation, where the project either adjoins or directly affects a state highway or railway; the County, where the project site would access a County road or otherwise be subject to review by the County. The failure of another agency to respond with written comments on a pending application does not invalidate an action or permit approval made by the City under this Code; and

iv. Utility companies (as applicable).

(b) The Notice of a Public Hearing, at a minimum, will contain all of the following information:

i. The names of the applicant(s), any representative(s) thereof, and the owner(s) of the subject property;

ii. The street address if assigned, if no street address has been assigned then Township, Range, Section, Tax Lot or Tax Lot ID or other easily understood geographic reference to the subject property;

iii. The type of application and a concise description of the nature of the land use action;

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iv. A list of the approval criteria for the decision and other ordinances or regulations that apply to the application at issue;

v. Brief summary of the local decision making process for the land use decision being made and a general explanation of the requirements for submission of testimony and the procedure for conduct of hearings;

vi. The reviewing body, the date, time, and place of the hearing;

vii. Disclosure statement indicating that if any person fails to address the relevant approval criteria with enough detail, he or she may not be able to appeal to City Council or the state Land Use Board of Appeals on that issue, and that only comments on the relevant approval criteria are considered relevant evidence and that only those persons making an appearance of record, either in person or in writing, shall be entitled to appeal;

viii. The name of a City representative to contact and the telephone number where additional information may be obtained;

ix. Statement that the application and all documents and evidence submitted to the City are in the public record and available for review, and that copies can be obtained at a reasonable cost from the City; and

x. Statement that a copy of the staff report will be available for inspection at no cost at least seven days prior to the hearing and will be provided at a reasonable cost.

(c) Failure of a person or agency identified in ADC 1.240(3)(a) to receive the notice required in ADC 1.240(3)(b) does not invalidate any proceeding in connection with the application, provided the City can demonstrate by affidavit that required notice was given.

(4) Posted Notice. Development sites that are the subject of Type III public hearings shall be posted unless otherwise noted in this Code. Posted notice is deemed given on the day the sign is first posted. The applicant shall be responsible for providing a sign frame for the notice and also for posting the notice at the correct time and location. The actual notice to be posted on the sign shall be provided by the City. The posting shall meet the following requirements:

(a) The notice shall be at least 2 feet by 3 feet.

(b) The notice shall be posted in a location visible from a traveled public road or street abutting the property. (If no public street abuts the property, the notice shall be placed so as to be generally visible to the public.)

(c) The notice shall be posted for at least seven consecutive days before any public hearing on the matter.

(d) If the subject property is a corner lot, then two signs are required in locations defined in (b) above.

(e) At least five days before any hearing (or decision made by the Director), an affidavit of posting shall be filed with the Director.

(f) If the subject property is not properly posted as set forth in this section, the Director may postpone the hearing until such provisions are met.

(g) The posted notice shall display the nature of the application and a telephone number for more information. The posted notice shall also include a photocopy of the original mailed notice sent to affected property owners.

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(5) Hearings. Type III hearings shall be conducted in accordance with the procedures in ADC 1.510 through 1.590.

(6) Notice of a Type III Decision. Notice of Decision must be provided to the property owner, applicant, and any person who provided testimony at the hearing or in writing. The Type III Notice of Decision must contain all of the following information:

(a) A description of the applicant's proposal and the City's decision on the proposal, which may be a summary, provided it references the specifics of the proposal and conditions of approval in the public record;

(b) The address or other geographic description of the property proposed for development, including a map of the property in relation to the surrounding area;

(c) A statement that a copy of the decision and complete case file, including findings, conclusions, and conditions of approval, if any, is available for review and how copies can be obtained;

(d) The date the decision becomes final, unless a request for appeal is submitted; and

(e) The notice must include an explanation of rights to appeal the decision to the City Council in accordance with ADC 1.410.

(7) Appeal of a Type III Decision. Appeals may be made to the City Council in accordance with ADC 1.410.

(8) Effective Date of a Type III Decision.

(a) Unless a local ordinance specifies that the decision becomes final at a later time than defined in this section, a Type III decision becomes final when it is reduced to writing and bears the necessary signatures of the decision maker.

(b) A final decision becomes effective when the appeal period expires unless:

i. A written appeal is received at the City offices within 10 calendar days of the date notice of the final decision is mailed; or

ii. The City Council requests a review of the decision within 10 calendar days of the date notice of the final decision is mailed.

Commentary: Section 1.250

The format of this section is generally based on example code language but the specific requirements for Type IV (quasi-judicial) reviews are consistent with the procedures specified by statute for quasi-judicial procedures and are generally consistent with Albany's current requirements.

1.250 Type IV-Q Procedure (Quasi-Judicial Review—City Council Public Hearing). Type IV-Q decisions are quasi-judicial decisions. The application is first heard by the Planning Commission (PC), Hearings Board (HB), or Landmarks Commission (LC) as specified in Table 1.100-1, through a public hearing. If the recommending body makes a favorable recommendation, the City Council

will hold a second public hearing and make a final decision. If the PC, HB, or LC recommends against a proposal, the City Council will only consider the proposal on appeal by the applicant, through a second public hearing. Hearing under these procedures provides a forum to apply standards to a specific set of facts to determine whether the facts conform to the applicable criteria.

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

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

(3) Written Notice of Public Hearing—Type IV-Q. Once the application has been deemed complete, the City must mail by regular first class mail Notice of a Public Hearing to the following individuals and agencies no fewer than 20 days before the initial hearing.

(a) Recipients:

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

Proposals for:	**Minimum distance from the boundaries of the subject property***
• Non-residential development (including the non-residential portion of a mixed-use development)	300 feet**
• Residential development proposing 50 or less dwelling units, lots or spaces	300 feet
• Any development which proposes more than 50 dwelling units, lots or spaces	1,000 feet

** Additional notice area requirements applicable to Historic Resources are found in Article 7. In cases of conflict with the procedures in Article 1, the procedures in Article 7 shall prevail.*
*** For applications which include non-residential development, the Director may increase the notice area based on the project scale, land use and transportation patterns or anticipated public interest in the project, up to a maximum of 1,000 feet.*

ii. Any person who submits a written request to receive a notice;

iii. Any governmental agency that is entitled to notice under an intergovernmental agreement entered into with the City and any other affected agencies, including but not limited to: school districts; fire district; the Oregon Department of Transportation, where the project either adjoins or directly affects a state highway or railway; the County, where the project site would access a County road or otherwise be subject to review by the County. The failure of another agency to respond with written comments on a pending application does not invalidate an action or permit approval made by the City under this Code; and

iv. Utility companies (as applicable).

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(b) The Notice of a Public Hearing, at a minimum, must contain all of the following information:

i. The names of the applicant(s), any representative(s) thereof, and the owner(s) of the subject property;
ii. The street address if assigned, if no street address has been assigned then Township, Range, Section, Tax Lot, or Tax Lot ID or other easily understood geographic reference to the subject property;
iii. The type of application and a concise description of the nature of the land use action;
iv. A list of the approval criteria by ADC section for the decision and other ordinances or regulations that apply to the application at issue;
v. Brief summary of the local decision making process for the land use decision being made and a general explanation of the requirements for submission of testimony and the procedure for conduct of hearings;
vi. The review body, date, time, and location of the hearing;
vii. Disclosure statement indicating that if any person fails to address the relevant approval criteria with enough detail, he or she may not be able to appeal to City Council or the state Land Use Board of Appeals on that issue, and that only comments on the relevant approval criteria are considered relevant evidence and that only those persons making an appearance of record, either in person or in writing, shall be entitled to appeal;
viii. The name of a City representative to contact and the telephone number where additional information may be obtained;
ix. Statement that the application and all documents and evidence submitted to the City are in the public record and available for review, and that copies can be obtained at a reasonable cost from the City; and
x. Statement that a copy of the staff report will be available for inspection at no cost at least seven days prior to the hearing and will be provided at a reasonable cost.

(c) Failure of a person or agency to receive a notice does not invalidate any proceeding in connection with the application, provided the City can demonstrate by affidavit that required notice was given.

(4) Additional Notice Requirements for Certain Type IV-Q Application Types. The following additional notice requirements apply to Type IV-Q Hearings where the City Council will be considering the application or removal of a Historic Landmark Designation or a Plan Text or Map Amendment for a particular property or discrete set of properties.

(a) The Director will notify in writing the Oregon Department of Land Conservation and Development (DLCD) in accordance with the minimum number of days required by ORS Chapter 197.

(b) At least 14 calendar days before the scheduled City Council public hearing date, the Director will provide public notice by publication in a newspaper of general circulation in the City.

(c) At least 14 calendar days before the scheduled City Council public hearing date, the Director will post public notice in two public and conspicuous places within the City.

(5) Posted Notice. Development sites that are the subject of Type IV-Q quasi-judicial public hearings shall be posted unless otherwise noted in this Code. Posted notice is deemed given on the day the sign is first posted. The applicant shall be responsible for providing a sign frame for the notice

and also for posting the notice at the correct time and location. The actual notice to be posted on the sign shall be provided by the City. The posting shall meet the following requirements:

(a) The notice shall be at least 2 feet by 3 feet.

(b) The notice shall be posted in a location visible from a traveled public road or street abutting the property. (If no public street abuts the property, the notice shall be placed so as to be generally visible to the public.)

(c) The notice shall be posted for at least seven consecutive days before any public hearing on the matter.

(d) If the subject property is a corner lot, then two signs are required in locations defined in (b) above.

(e) At least five days before any hearing (or decision made by the Director), an affidavit of posting shall be filed with the Director.

(f) If the subject property is not properly posted as set forth in this section, the Director may postpone the hearing until such provisions are met.

(g) The posted notice shall display the nature of the application and a telephone number for more information. The posted notice shall also include a photocopy of the original mailed notice sent to affected property owners.

(6) Hearings. Type IV-Q hearings shall be conducted in accordance with the procedures in ADC 1.510 through 1.590. The Hearings Board, Landmarks Commission, or Planning Commission as specified in Table 1.100-1 will hold an initial hearing.

(a) For a proposal on which the Hearings Board, Landmarks Commission, or Planning Commission has made a favorable recommendation, the City Council shall hold a second public hearing and make a final decision.

(b) If the Planning Commission, Landmarks Commission, or Hearings Board decides against a proposal, the City Council will only consider the proposal on appeal by the applicant(s).

(7) Notice of a Type IV-Q Decision. Notice of Decision must be provided to the property owner, applicant, and any person who provided testimony at the hearing or in writing. The Type IV-Q Notice of Decision must contain all of the following information:

(a) A description of the applicant's proposal and the City's decision on the proposal, which may be a summary, provided it references the specifics of the proposal and conditions of approval in the public record;

(b) The address or other geographic description of the property proposed for development, including a map of the property in relation to the surrounding area;

(c) A statement that a copy of the decision and complete case file, including findings, conclusions, and conditions of approval, if any, is available for review and how copies can be obtained;

(d) The date the decision becomes final; and

(e) The notice must include an explanation of rights to appeal a Planning Commission, Landmarks Commission, or Hearings Board denial to the City Council or a City Council decision to the state Land Use Board of Appeals pursuant to ORS 197.805—197.860.

(8) Appeal of a Type IV-Q Decision. A Planning Commission, Hearings Board, or Landmarks Commission Type IV-Q decision denying an application may be appealed to the City Council in

accordance with ADC 1.410. A decision of the City Council may be appealed to the state Land Use Board of Appeals.

(9) Effective Date of a Type IV-Q Decision.

(a) Unless a local ordinance specifies that the decision becomes final at a later time than defined in this section, a Type IV-Q decision becomes final when it is reduced to writing, bears the necessary signatures of the decision maker.

(b) A final decision of the Planning Commission, Hearings Board, or the Landmarks Commission denying a proposal become effective when the appeal period expires unless:

i. A written appeal is received at the City offices within 10 calendar days of the date notice of the final decision is mailed; or

ii. A member of the City Council requests a review of the decision within 10 calendar days of the date notice of the final decision is mailed.

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

Commentary: Section 1.260

The format of this section is generally based on example code language but the specific requirements for Type IV (legislative) reviews are consistent with the procedures specified by statute for legislative procedures and are generally consistent with Albany's current requirements.

1.260 Type IV-L (Legislative Decisions). Legislative land use decisions are made by the City Council after a recommendation from the Planning Commission or Landmarks Commission. Legislative land use proceedings include proposals to amend the Comprehensive Plan and Development Code text and/or maps, and involve the creation, revision, or implementation of broad public policy generally impacting more than one property owner or a large number of individual properties. Legislative requests are not subject to the 120-day review period under ORS 227.178. In most cases a public hearing is required. However, no public hearing is required in a legislative land use proceeding if the purpose of the amendment is to conform to new requirements in state land use statutes, Statewide Land Use Planning Goals, or administrative rules of the Oregon Land Conservation and Development Commission implementing state land use statutes or Statewide Land Use Planning Goals, if the Oregon Department of Land Conservation and Development confirms in writing that the only effect of the proposed change is to conform the City's Comprehensive Plan or land use regulations to the new state requirements. The Council may, in its discretion, hold a public hearing although one is not required.

(1) Submittal Requirements.

(a) The City Councilor Director may initiate a review on any legislative matter.

(b) The Planning Commission, Landmarks Commission or any property owner or resident of the City may request that the City Council initiate a review of any legislative matter (such as an amendment to the Development Code text). The City Council shall review the proposal and determine whether the proposal warrants processing as a legislative amendment.

(2) Notice of Public Hearing—Legislative. Hearings on Legislative Land Use requests must conform to state land use laws (ORS 227.175), as follows:

(a) DLCD Pre-Adoption Notice. The Director will notify in writing the Oregon Department of Land Conservation and Development (DLCD) of legislative amendments (zone change, rezoning with annexation, or Comprehensive Plan amendment) in accordance with the minimum number of days required by ORS Chapter 197.

(b) Notice of Rezone and Limitations of Land Use (Measure 56 Notice). When the proposed legislative decision affects the base zoning classification of a property or limits or prohibits a land use previously allowed, the City must provide notice to the owners of such property at least 20 days, but not more than 40 days, before the date of the first hearing on an ordinance. The notice must comply with ORS 227.186.

(c) Other Public Notice. In addition to any other notice required, at least 14 calendar days before the scheduled public hearing date, the City must mail by regular first class mail Notice of a Public Hearing to the following individuals and agencies.

i. Any affected governmental agency;
ii. Any person who requests notice in writing;
iii. For a zone change affecting a manufactured home or mobile home park, all mailing addresses within the park, in accordance with ORS 227.175;
iv. For an amendment which affects the State highway system, ODOT, and an amendment which affects the County road system, Linn and/or Benton Counties; and
v. For a plan amendment or land use regulation amendment that significantly impacts school capacity, the Albany School District.

(d) At least 14 calendar days before the scheduled public hearing date, public notice must be provided by publication in a newspaper of general circulation in the city.

(e) At least 14 calendar days before the scheduled public hearing date, public notice must be posted in two public and conspicuous places within the City.

(3) Mailed Notice. If required, the mailed Notice of a Public Hearing, at a minimum, must contain all of the following information:

(a) A concise description of the proposal;

(b) A map identifying the properties affected by the proposal, if applicable, in relation to major streets or other landmarks;

(c) A list of the applicable standards or criteria;

(d) The date, time, and location of the public hearing;

(e) Brief summary of the local decision making process for the land use decision being made and a general explanation of the requirements for submission of testimony and the procedure for conduct of hearings;

(f) A statement that all interested persons may appear either in person or with representation by an attorney and provide testimony and that only those participating at the hearing, in

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person or by submission of written testimony, have the right to appeal the decision to the state Land Use Board of Appeals;

(g) The information required under ORS 227.186 (Measure 56 Notice), if the hearing changes the base zoning classification of a property or limits or prohibits a land use previously allowed;

(h) A statement that subsequent to the close of the hearing, notice of a decision adopting a new land use regulation will be mailed to all neighborhood associations, anyone who participated in the hearing, either in person or in writing, and anyone who requested to receive notice;

(i) The name and contact information for the City representative responsible for collecting comments or responding to questions; and

(j) Statement that all documents are available for review and that copies can be obtained at a reasonable cost from the City.

(4) Conduct of the Hearing—Legislative. A legislative land use hearing will follow the City's legislative hearing procedures.

(5) Planning Commission or Landmarks Commission Recommendation. In preparing its recommendation to the City Council, the Planning Commission or Landmarks Commission shall do the following:

(a) Evaluate the proposal based on the relevant Development Code criteria.

(b) Prepare a recommendation and make findings in support of such recommendation.

(6) City Council Action.

(a) In reaching a decision on a legislative matter, the Council shall adopt findings applicable to the relevant policies and criteria in support of the decision.

(b) The City Council may:

i. Enact, amend, or deny all or part of the proposal under consideration, or

ii. Refer some or all of the proposal back to the Planning Commission, or Landmarks Commission for further consideration.

(7) Effective Date of a Legislative Decision and Notice of Adoption.

(a) A Legislative Land Use decision, if approved, takes effect and becomes final as specified in the enacting ordinance.

(b) Within 5 business days following adoption of an amendment or new land use regulation, the Director shall forward to the Department of Land Conservation and Development a copy of the adopted text and findings and notify the Department of any substantial changes that may have occurred in the proposal since any previous notification to the Department.

(c) Within 5 business days, the Director shall also notify any person who participated in the proceedings leading to the decision. The notice shall briefly describe the final action taken, state the date and effective date of the decision, and explain the requirements for appealing the action under ORS 197.830 to 197.845.

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(8) Appeal. A legislative land use decision not related to periodic review may be appealed to the state Land Use Board of Appeals. Persons who participated in periodic review, as outlined by state law, may appeal or object to a legislative land use decision made as part of periodic review to the Department of Land Conservation and Development as outlined in Oregon Administrative Rules 660-025-0140.

EXPIRATIONS, EXTENSIONS, AND MODIFICATIONS

Commentary: Section 1.310 – 1.340

These sections are based on the current Code with only a few minor clarifications.

1.310 Expiration of Land Use Approvals. All land use approvals, except Type IV approvals, shall expire three years from the date of approval, unless:

(1) The applicant has installed all of the required public infrastructure related to the development and the infrastructure has been accepted by the City, or the applicant has provided financial assurance for all required public infrastructure per Section 12.600 or the first phase, if the development was approved for phased construction; or

(2) If the development did not require public infrastructure, a valid approved building permit exists for new construction or improvements, and work has commenced; or

(3) In the case of Phased Subdivisions or Planned Developments, when an applicant desires to develop and record final subdivision plats covering portions of an approved tentative plat in phases, the City may authorize a time schedule for platting and otherwise developing the various phases not to exceed five years for all phases. Each phase that is platted and developed shall conform to the applicable requirements of this title; or

(4) An extension has been filed before the expiration date, and subsequently granted approval pursuant to Section 1.320.

1.320 Extension of a Land Use Approval. These provisions apply to all land use approvals that have not expired.

(1) Whenever the decision requires exercise of approval rights or satisfaction of conditions of approval within a particular period of time, the approval period may be extended one time for two years for all land use approvals, except for phased or planned developments, a second two-year extension may be granted. Applicants shall apply for an extension by filing an application for extension before the expiration date. For the purposes of this sub-section the expiration date shall be the applicable anniversary date of the Notice of Decision previously given to the applicant.

(2) Requests for extensions shall be processed as a Type I application and shall be granted if there has been no change to all applicable local, state or federal standards since the original approval, or the development complies with any changes or can meet the current standards with limited modifications to the approved development.

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(3) If the Type I application for the extension request is not approved, the subject land use approval shall expire on the applicable anniversary date of the Notice of Decision previously issued to the applicant.

While an application for extension is pending, no further action to develop the subject property or expand any use dependent upon the approval shall be taken subsequent to the expiration of the approval period; but existing legally established uses may continue during the time the extension request is pending.

1.330 Modification of Approved Site Plan Review and Conditional Use Applications. When a property owner wants to make changes to the approved plans and the approval has not expired, the following procedures shall be used to review the proposed modifications.

(1) Definitions: When "property owner" is used in this section, it means the property owner, or the property owner's authorized agent. When "site plan" is used here, it means the site plan approved through either a Site Plan Review application or review of a Conditional Use application.

(2) The property owner must submit an application to modify the approved site plan that identifies the areas of the plan or approval proposed to be modified. The application fee will be determined by the Director and will be based on the scope of the modification(s) and review.

(3) The review body shall be the same one that granted the final approval (including a decision on an appeal, if applicable) for which modification is sought. The same procedures shall be used as for the original approval. The Development Code regulations in effect at the time the application for modification is submitted will be used to review the proposed modification(s).

(4) Only the area proposed to be modified will be reviewed.

(5) A modification shall not be filed:

(a) as a substitute for an appeal, or

(b) to seek the reduction or elimination of a condition of approval for infrastructure requirements, or

(c) to provide a new timeline for appealing a previously-accepted infrastructure obligation, or

(d) to apply for a substantially new proposal, or

(e) if it would have significant additional impacts on surrounding properties.

If any of the above conditions exist, a new application must be submitted.

(6) The modified plan must compensate for any negative effects caused by the requested changes from approved plans such that the intent of the original approval is still met.

(7) The modification(s) shall be consistent with the approved site plan. If the review body determines that the modified site plan meets the standards in 1.330 (6) and is consistent with the original approval as outlined in 1.330 (8), a modification to the site plan may be allowed. If the modified site plan is consistent with the approved site plan and meets the review criteria specified in this section, the modified plan shall be approved. If the review body determines that the modified site plan is not consistent with the original approval, then

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

(8) The review body's determination on consistency shall be based on a comparison of the approved site plan and the modified site plan, taking into account:

(a) The land use category;

(b) The size and scale of the proposed building(s);

(c) The number of dwelling units;

(d) Traffic and other off-site impacts;

(e) Compatibility with surrounding development;

(f) Capacity of available infrastructure; and

(g) Unusual obstacles and opportunities associated with the property.

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

(9) Conditions of approval:

(a) When reviewing a modified site plan that has different impacts than the approved site plan, the decision-maker may modify conditions or impose new ones. Only conditions related to the impact of the modified site plan may be imposed on the modified site plan approval. "Impact" means characteristics of the development such as traffic, wastewater discharge, noise, etc.

(b) The original conditions of approval imposed for the approved site plan may remain in effect or be increased as necessary to address additional impact. Conditions related to improving existing infrastructure or building new infrastructure (such as streets, sewers, etc.) may be reduced only if the modification substantially reduces the infrastructure burden created by the development.

(10) The property owner may choose to either accept approval of the modified site plan or to retain the original approval. If the property owner accepts approval of the modified site plan and any conditions that may be imposed, the property owner must give written notice to the Planning Division within 14 days of the date on the notice of decision for approval of the modified site plan. If the property owner accepts approval of the modified site plan, the new approval supersedes and voids the original approval.

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

(11) When a modified site plan is approved and accepted, the approval is valid for one year beyond the date that the original site plan approval would have expired. (For example, if the original approval would have expired on July 1, 2001, the approval of the modified site plan is extended to July 1, 2002.) No additional extensions of time will be allowed for subsequent modifications.

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1.340 Request to Modify a Condition of Approval. A request to modify a condition of approval is processed using the procedure assigned to the land use review and the approval criteria for the original land use review.

APPEALS

Commentary: Section 1.410 -1.470

The table in Section 1.410 is new. . Sections 1.420, , 1.440 1.450 and 1.460 are based on the current Code with only a few minor clarifications. Section 1.430 is new but reflects current City practice with regard to notice of appeals. In 1.470, the process to withdraw an appeal is based on language from example code language . Albany's current Code doesn't address this contingency.

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

Table 1.410-1 – Reviewing Bodies For Appeals

Decision	Decision Body	Reviewing Body
Type I	CDD	Circuit Court
Type I-L – Historic Resource Reviews	CDD	LC
Type I-L – All other review	CDD	PC
Type II – Historic Resource Reviews	CDD	LC
Type II – All other review	CDD	PC
Type III – Historic Resource Reviews	LC	CC
Type III – All other review	PC or HB	CC
Type IV-Q	PC, HB, or LC	CC
Type IV-Q	CC	LUBA
Type IV-L	CC	LUBA
LEGEND: City Council (**CC**), Director (**CDD**), Hearings Board (**HB**), Landmarks Commission (**LC**), Planning Commission (**PC**).		
NOTE: Required timelines for filing appeals are identified under each review type.		

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

(1) Identification of the decision sought to be reviewed, including the date of the decision.

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(2) A statement of the interest of the person seeking review and that they were a party to the initial proceedings.

(3) The specific policy or criteria relied upon for review.

(4) If de novo review is requested or required, a statement summarizing the new evidence that will be offered and the criteria to which it will relate.

(5) Decisions appealed to circuit court or LUBA must follow those body's appeal procedures and criteria.

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

(1) Written Notice. Notice of a Planning Commission, Landmarks Commission or City Council appeal hearing must be provided to the property owner, applicant, and any person who provided testimony at the hearing or in writing at least 10 days prior to the hearing.

(2) Posted Notice. A development site that is the subject of a Planning Commission, Landmarks Commission or City Council appeal hearing shall be posted unless otherwise noted in this Code. Posted notice is deemed given on the day the sign is first posted. The applicant shall be responsible for providing a sign frame for the notice and also for posting the notice at the correct time and location. The actual notice to be posted on the sign shall be provided by the City. The posting shall meet the following requirements:

(a) The notice shall be at least 2 feet by 3 feet.

(b) The notice shall be posted in a location visible from a traveled public road or street abutting the property. (If no public street abuts the property, the notice shall be placed so as to be generally visible to the public.)

(c) The notice shall be posted for at least seven consecutive days before any public hearing on the matter.

(d) If the subject property is a corner lot, then two signs are required in locations defined in (b) above.

(e) At least five days before any hearing (or decision made by the Director), an affidavit of posting shall be filed with the Director.

(f) If the subject property is not properly posted as set forth in this section, the Director may postpone the hearing until such provisions are met.

(g) The posted notice shall display the nature of the application and a telephone number for more information. The posted notice shall also include a photocopy of the original mailed notice sent to affected property owners.

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

(1) Restricted to the record made on the decision being appealed.

(2) Limited to such issues as the reviewing body determines necessary for a proper resolution of the matter.

(3) A de novo hearing on the merits.

(4) Decisions appealed to circuit court or LUBA will be subject to those body's review policies and procedures.

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Amendments to the Albany Development Code (ADC)

The proposed draft of Article 1 would replace the current Article 1 (Administration and Procedures) in its entirety. Additions are shown in plain text for legibility.

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

(1) Review on the Record. Unless otherwise required by law, the reviewing body may hear the entire matter on the record.

(a) When the reviewing body requests a review on the record, the record shall include:

i. A factual report prepared by the Director.

ii. All exhibits, materials, pleadings, memoranda, stipulations, and motions submitted by any party and received or considered in reaching the decision under review.

iii. The minutes of the hearing.

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

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

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

1.470 Withdrawing an Appeal.

(1) At any time before the close of an appeal hearing, any appellant may withdraw the appeal. The appellant must provide written notice of the withdrawal prior to 5:00 p.m. the day of the hearing, or orally at the hearing.

(2) If the withdrawal is made before public notice of the hearing is sent, the City will refund the appeal fee.

(3) Where multiple people or parties sign and file a single Notice of Appeal, all parties to the original filing must consent to the withdrawal of the appeal.

(4) A withdrawn appeal cannot be refiled by any party subject to the original appeal.

(5) If all appeals are withdrawn, the Director must issue a Notice of Appeal Withdrawal to the applicant, the appellant, and the parties who received a Notice of Final Decision.

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Amendments to the Albany Development Code (ADC)

The proposed draft of Article 1 would replace the current Article 1 (Administration and Procedures) in its entirety. Additions are shown in plain text for legibility.

CONDUCT OF QUASI-JUDICIAL HEARINGS

Commentary: Section 1.510 -1.590

These sections are based on the current Code with minor updates.

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

(1) Schedule and assign the matter for review and hearing;

(2) Conduct the correspondence of the review body;

(3) Provide notices of public hearings as required by this Code and state law;

(4) Maintain a record and enter into the record relevant dates such as those of giving notice, hearings, postponement, and continuances and a summary of action taken by the review body;

(5) Prepare minutes to include the decision on the matter heard and the reasons given for the decision;

(6) Reduce the decisions of the review body to writing and maintain permanent record of such; and

(7) Provide advance notice of all hearings and written decisions to persons requesting the same and not entitled to them by this section (applicant excepted), provided that such persons pay the actual cost for the service provided as established by the City.

1.520 Hearings Record. When practical, the recorder to the review body will be present at each hearing and shall cause the proceedings to be recorded either stenographically or electronically. If the recorder is absent, proceedings will be recorded electronically and minutes will be taken from the tape.

(a) The review body shall, when practical, retain as part of the hearing record each item of physical or documentary evidence presented and shall have the items marked with the identity of the person offering them and whether presented on behalf of a proponent or opponent. Exhibits received into evidence shall be retained in the hearing file until after all appeal periods have expired, when they may be released. Any physical evidence presented at the public hearing shall be submitted to the review body recorder, distributed to members, returned to the recorder, and shall become part of the record.

(b) The staff report and recommendation shall be included in the record.

(c) The public shall have access to the record of the proceedings at reasonable times, places, and circumstances. The public shall be entitled to purchase copies of the record.

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

1.540 Disqualification. No member of a review body shall participate in a discussion of the proposal without removing himself or herself from the bench and shall not vote on the proposal when any of the following conditions exist:

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(a) A direct or substantial financial interest in the proposal by any of the following: the review body member or the member's spouse, brother, sister, child, parent, father-in-law, mother-in-law, any business in which the member is then serving or has served within the previous two years, or is otherwise in a position of conflict of interest as determined by state law.

(b) The member has a direct private interest in the proposal.

(c) Any other valid reason for which the member has determined that participation in the hearing and decision cannot be impartial.

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

1.560 Ex Parte Contacts. A member of a review body should limit communication, directly or indirectly, with any person interested in the outcome concerning the decision or action pending before the review body. "Person interested in the outcome" means a person who has some concern, interest in, or relationship to the decision or action pending before the review body. Should such communication occur, at the beginning of the first hearing after which the communication occurs, the member of the review body shall:

(1) Publicly announce the content of the communication and provide any person an opportunity to rebut the substance of the communication; and

(2) If the communication was in written or tangible form, place a copy of the communication into the record.

If such contacts have not impaired the member's impartiality or ability to vote on the matter, the member shall so state and shall participate or abstain in accordance with the following section.

1.570 Abstention or Disqualification.

(1) An abstaining or disqualified member of the review body may be counted for purposes of forming a quorum. A member who represents personal interest at a hearing may do so only by making full disclosure of his or her status and position at the time of addressing the review body and physically removing himself or herself from the proceedings.

(2) If a quorum of a review body abstains or is disqualified, at least enough members to achieve a quorum shall state their reasons for abstention or disqualification and shall, by so doing, be requalified and proceed to resolve the issues.

(3) A member absent during the presentation of evidence in a hearing may not participate in the deliberations or final decision on the matter of the hearing unless the member has reviewed the evidence received and so states on the record.

1.580 Burden and Nature of Proof. The burden of proof is upon the applicant or appellant. The proposal must be supported by proof that it conforms to the applicable provisions of this Code.

1.590 Hearing Procedures. Quasi-judicial hearing procedures will depend in part on the nature of the hearing. The following subsections may be supplemented by appropriate rules announced by the presiding officer. For the purposes of this section, "Argument" means assertions and analysis regarding the satisfaction or violation of legal standards or policies the proponent believes relevant to a decision. "Argument" does not include facts. "Evidence" means facts, documents, data, or other information offered to demonstrate compliance or noncompliance with the standards the proponent believes to be relevant to the decision.

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(1) The presiding officer will state the case and call the public hearing to order, informing those present that testimony, arguments and evidence is to be directed towards the applicable criteria for the case or other criteria in the plan or land use regulation which the person believes to apply to the decision and that failure to raise an issue accompanied by statements or evidence sufficient to afford the decision-makers and other parties an opportunity to respond to the issue precludes appeal to the state Land Use Board of Appeals on that issue. The presiding officer may establish the time allowed for presentation of information.

(2) Any objections on jurisdictional grounds shall be noted in the record.

(3) Any abstentions or disqualifications shall be determined. Members shall announce all conflicts of interest and shall disclose the time, place, and nature of any ex-parte contacts they have had. Parties to the case shall have the opportunity to rebut any information contained in the ex-parte contact.

(4) The review body may view the area under consideration for purposes of evaluating the proposal, but shall state the place, time, manner, and circumstances of such viewing in the record.

(5) The presiding officer at the hearing may take official notice of known information related to the issue, such as provisions of federal or state law, or of an ordinance, resolution, official policy, or charter of the City.

(6) Matters officially noticed need not be established by evidence and may be considered by the review body in the determination of the matters. Parties requesting official notice shall do so on the record.

(7) Presentation of staff report, including a list of the criteria applying to the issue(s) being heard. City staff may also present additional information whenever allowed by the presiding officer during the proceedings.

(8) Presentation of information by the applicant or those representing the applicant.

(9) Presentation of evidence or inquiries by those who support the proposed change.

(10) Presentation of evidence or inquiries by those who oppose the proposed change.

(11) Presentation of evidence or inquiries by those who do not necessarily support or oppose the proposed change.

(12) If additional documents or evidence are provided in support of an application, any party shall, upon request, be entitled to a continuance of the hearing to allow for adequate preparation of rebuttal. Such a continuance shall not be subject to the limitations of ORS 227.178.

(13) Only the applicant shall have the right to present rebuttal testimony. If the presiding officer allows rebuttal by an opponent, the proponent or applicant shall have a right to an additional and final rebuttal.

(14) The presiding officer may approve or deny a request to ask a question from a person attending the hearing. Unless the presiding officer specifies otherwise, the presiding officer will direct the question to the person who has submitted testimony.

(15) At the close of presentation of information the presiding officer shall declare that the hearing is closed unless, before the conclusion of the initial evidentiary hearing, any participant has requested an opportunity to present additional evidence, arguments, or testimony regarding the application. The local hearings authority shall grant such a request by continuing the

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public hearing pursuant to paragraph (a) of this subsection, or leaving the record open for additional written evidence, arguments, or testimony pursuant to paragraph (b) of this subsection.

(a) If the hearings authority grants a continuance, the hearing shall be continued to a date, time, and place certain at least seven days from the date of the initial evidentiary hearing. An opportunity shall be provided at the continued hearing for persons to present and rebut new evidence, arguments, or testimony. If new written evidence is submitted at the continued hearing, any person may request, prior to the conclusion of the continued hearing, that the record be left open for at least seven days to submit additional written evidence, arguments or testimony for the purpose of responding to the new written evidence.

(b) If the hearings authority leaves the record open for additional written evidence, arguments or testimony, the record shall be left open for at least seven days. Any participant may file a written request with the local government for an opportunity to respond to new evidence submitted during the period the record was left open. If such a request is filed, the hearings authority shall reopen the record pursuant to subsection (e) of this section.

(c) A continuance or extension granted pursuant to this section shall be subject to the limitation of ORS 227.178, unless the continuance or extension is requested or agreed to by the applicant.

(d) Unless waived by the applicant, the hearings authority shall allow the applicant at least seven days after the record is closed to all other parties to submit final written arguments in support of the application(s). The applicant's final submittal shall be considered part of the record, but shall not include any new evidence. This seven-day period shall not be subject to the limitations of ORS 227.178.

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

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

(17) If the hearing is closed, it shall be reopened only upon a majority vote of the review body.

CONDUCT OF LEGLISLATIVE HEARINGS

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

1.615 The following requirements applicable to quasi-judicial hearings generally apply to legislative hearings as well.

1.510 Responsibility for Hearings.

1.520 Hearings Record.

1.530 Challenges to Impartiality

1.540 Disqualification.

1.550 Participation by Interested Officer or Employees.

1.570 Abstention or Disqualification.

1.620. Pre-hearing Contact. There can be pre-hearing contact between citizens and the decision makers on legislative matters. "Ex parte contact" is not a concern.

1.630 Hearings Procedures. Legislative hearing procedures will depend in part on the nature of the hearing. The following subsections may be supplemented or superseded by appropriate rules announced by the presiding officer. For the purposes of this section, "Argument" means assertions and analysis regarding the satisfaction or violation of legal standards or policies the proponent believes relevant to a decision. "Argument" does not include facts. "Evidence" means facts, documents, data, or other information offered to demonstrate compliance or noncompliance with the standards the proponent believes to be relevant to the decision

(1) The presiding officer will state the case and call the public hearing to order, informing those present that testimony, arguments and evidence is to be directed towards the applicable criteria for the case or other criteria in the plan or land use regulation which the person believes to apply to the decision.

(2) Any objections on jurisdictional grounds shall be noted in the record.

(3) The presiding officer at the hearing may take official notice of known information related to the issue, such as provisions of federal or state law, or of an ordinance, resolution, official policy, or charter of the City.

(4) Matters officially noticed need not be established by evidence and may be considered by the review body in the determination of the matters. Parties requesting official notice shall do so on the record.

(5) Presentation of staff report, including a list of the criteria applying to the issue(s) being heard. City staff may also present additional information whenever allowed by the presiding officer during the proceedings.

(6) Presentation of information by the applicant or those representing the applicant.

(7) Presentation of evidence or inquiries by those who support the proposed change.

(8) Presentation of evidence or inquiries by those who oppose the proposed change.

(9) Presentation of evidence or inquiries by those who do not necessarily support or oppose the proposed change.

(10) The presiding officer may approve or deny a request to ask a question from a person attending the hearing. Unless the presiding officer specifies otherwise, the presiding officer will direct the question to the person who has submitted testimony.

(11) At the close of presentation of information, the presiding officer shall declare that the hearing is closed.

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

(13) If the hearing is closed, it shall be reopened only upon a majority vote of the review body.

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Amendments to the Albany Development Code (ADC)

The proposed draft of Article 1 would replace the current Article 1 (Administration and Procedures) in its entirety. Additions are shown in plain text for legibility.

ENFORCEMENT

Commentary: Section 1.710 -1.790

These sections are based on the current Code with minor changes for clarity.

1.710 Inspections. The Director or designee may make periodic and routine inspections of properties and premises within the corporate limits of Albany. The purpose of these inspections shall be to determine whether there is compliance with the laws, rules, and regulations designed to protect the health, safety, and welfare of the public. The Director is also empowered to make such inspections upon receiving complaints, specific or general information, or observations indicating the existence of hazardous conditions or non-compliance with such rules, regulations, and laws. If any authorized officer or employee of the City of Albany is denied access to any property or premises for the purposes of making an inspection provided for in this ordinance, then the officer or employee shall not inspect the premises unless and until he has obtained from the City's municipal judge a search warrant for the inspection of the premises.

1.720 Search Warrants. A search warrant for inspections can only be issued under the terms of this ordinance when an affidavit has been filed with the City's municipal court showing probable cause for the inspection by stating:

(1) The purpose and extent of the proposed inspection;

(2) The ordinance or ordinances that form the basis for the inspection; and

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

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

1.730 Abatement. The location, erection, construction, maintenance, repair, alteration or use of a building or other structure in violation of this ordinance shall be deemed a nuisance and may be abated as such.

1.740 Code Enforcement. The Director or designee may enforce the provisions of this ordinance using the remedies provided in Sections 1.610 through 1.690 herein and elsewhere within the Albany Municipal Code. The enactment of this ordinance shall not invalidate any prior, existing, or future prosecutions for violation of the Development Code regulations committed under a previous ordinance.

1.750 Legal Proceedings by City Attorney. In addition to the remedies prescribed herein, the City Attorney, upon request from the City Council or Director, shall cause to be instituted any civil action, suit, or other legal means considered appropriate to remedy violations of this ordinance.

1.760 Suits in Equity to Enjoin Violations. If any existing or proposed structure or use violates this ordinance, the City Attorney or any affected person may sue to enjoin the violation.

1.770 Enforcement by Chief of Police. The Chief of Police or his or her designee(s) shall have the power to help enforce the provisions of this ordinance.

1.780 Penalty. In addition to the remedies set forth above, the general penalties and procedures set forth in Chapter 1.04 of the Albany Municipal Code apply to any and all violations of this Development

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Code. The City may elect to pursue such procedure instead of or in addition to any remedy set forth above.

1.790 Violation of a Land Use Approval. Violation of any condition or requirement of any land use approval constitutes a civil infraction when that violation does not, in and of itself, constitute a separate violation of the Albany Municipal Code.

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Article 2 - Review Criteria

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: ****

ARTICLE 2
REVIEW CRITERIA

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

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

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

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.

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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

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 ~~a~~**A**djustment review allows the Director to approve **modifications to the application of most design standards in Article 8 and buffering and screening standards in Article 9, as noted in those articles. The Adjustment review process provides a mechanism by which the standards in the ADC may be modified if the proposed development continues to meet the intended purpose of those regulations. Adjustment reviews provide flexibility for unusual situations. They also allow for alternative ways to meet the purposes of the Code.** ~~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 III review. The Significant Natural Resource Overlay Districts section (ADC 6.450) has been amended 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 **III** ~~I-L~~ procedure**.** ~~with a notice area of 100 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 Variances through a Type II procedure (Sections 2.660-2.690). 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]~~

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** ~~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 negative impacts resulting from the Adjustment are mitigated to the extent practical; and

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

(5) If more than one Adjustment is being requested, the cumulative effect of the Adjustments results in a project which is still meets criteria (1) through (4), above.

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

ANNEXATIONS

Commentary

In 2016, the legislature passed SB 1573 amending ORS 222 regarding annexations. The primary purpose of the amendments was to prohibit voter approval of annexations in some instances. In 2018, following an unfavorable ruling by the Benton County Circuit Court, the legislation was challenged by the City of Corvallis and Philomath as well as the League of Oregon Cities to the Oregon Court of Appeals. However, the Oregon Court of Appeals in a May 13, 2020 ruling rejected the challenge. The proposed amendments will bring Albany's Code into compliance with current annexation regulations that were put in place by SB 1573 in 2016.

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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: ****

2.090 Purpose. Annexation is the first step in converting land in the Albany Urban Growth Boundary to urban land. Annexation and subsequent development may provide economic and social benefits to the City of Albany through the creation of housing; business and commercial enterprise; creation of construction and permanent jobs; and expansion of the City's tax base. When annexations are properly timed, they allow for orderly expansion of City boundaries and contribute to logical extensions of public infrastructure. An ill-conceived annexation may impose burdens on the community that could outweigh the benefits. An annexation application must meet the quasi-judicial and legislative requirements of this Code and state law.

2.095 Procedure. Annexation applications are reviewed as a Type IV procedure. **An annexation shall not be effective unless it is approved by the Albany City Council at its discretion. The procedure and standards established in this chapter are required for review of proposed annexations in order to:** ~~If the Albany City Council determines the application meets the review criteria, the annexation will be set for a citywide vote. Annexation shall only be approved by a majority vote among the electorate.~~

(1) Provide adequate public notice, information, and sufficient time for public review before annexation hearings and elections; and

(2) Maximize citizen involvement in the annexation process; and

(3) Provide information to the public concerning the physical, environmental, financial, and related social effects of annexation.

~~(1)~~ Exception. These procedures do not apply to an annexation mandated by state law, which is a Type I procedure~~ and not subject to voter approval~~.

2.100 Voting in Island Annexations. When considering the annexation of "island" territory as authorized by ORS 222.750, the City Council shall authorize the electors within the annexation territory to vote on the question of annexation. In such event, the votes of the electors in the annexation territory shall be counted with the votes of the electors within the city. This section shall not authorize the votes of the electors within the annexation territory to be considered separately from those of the citizens within the city, except that an annexation will not be approved unless the majority of votes cast by the city electors approve the annexation.

2.105 Annexation Agreement. The annexation applicant and the City of Albany may enter into an Annexation Agreement for the purpose of addressing the annexation-related quasi-judicial or legislative concerns of the City of Albany. The agreement may contain proffers made by the applicant to address quasi-judicial or legislative criteria or concerns. The annexation agreement may provide the basis for the City Council to determine that the proposed annexation is in the public interest. The terms of the annexation agreement may help the applicant meet applicable review criteria for annexation or enhance the public benefits that will result from the annexation. The terms of an annexation agreement may include, but are not limited to, timing of the submittal of an application for zoning, dedication of land for future public facilities, construction of public improvements, waiver of compensation claims, waiver of nexus or rough proportionality objections to future exactions, or other commitments deemed valuable to the City of Albany. The annexation agreement shall be recorded as a covenant running with the land, binding on the landowner's successors in interest.

2.110 Review Criteria. **When an annexation application has been properly initiated pursuant to ORS 222.111, 222.115, 222.125, 222.170, or 222.840, the** ~~The~~ review body shall make a quasi-judicial land use decision as to whether the proposed annexation complies with all of the following criteria:

(1) Eligibility Criteria. The City shall determine that property is eligible for annexation based on the following criteria:

(a) The property is contiguous to the existing city limits; and

(b) The property is located within the Albany Urban Growth Boundary as established by the

Amendments to the Albany Development Code (ADC)

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Albany Comprehensive Plan.

(2) Infrastructure Criteria. The City shall determine that it is timely to annex property based on the following criterion:

(a) An adequate level of urban services and infrastructure is available, or will be made available in a timely manner.

(b) As used in this section:

i. "Adequate level" means conforms to adopted plans and ordinances.

ii. "Urban services" means police, fire, and other City-provided services.

iii. "Infrastructure" means sanitary sewer, water, storm drainage, and streets.

iv. "Be made available in a timely manner" means that improvements needed for an adequate level of urban services and infrastructure will be provided at the time and place needed to serve the anticipated development. Improvements may be secured by a development agreement, annexation agreement, or other funding mechanism that will place the primary economic burden on the territory proposed for annexation and not on the City of Albany generally.

(3) Planning Criteria. The City shall determine that adequate planning has occurred based on the following criterion:

Sufficient planning and engineering data have been provided, and necessary studies and reviews have been completed so that there are no significant unresolved issues regarding appropriate Comprehensive Plan and implementing ordinances. Examples of needed studies may include public infrastructure plans, buildable lands inventories, area refinement plans, or any task in an approved work program for Periodic Review.

(4) Reasonableness Criteria. The City shall determine that it is reasonable to annex the property.

2.115 Legislative Review. The City has been entrusted by the people of Albany to make decisions affecting the livability of the community. The people rely on the City to consider factors it deems appropriate in making quality of life determinations on their behalf~~, including whether to place annexation requests before the voters of the City of Albany~~.

~~(1)~~ **The City Council may approve an annexation request if it finds that the annexation is in the best interest of the City based on the staff report, testimony, and evidence presented at the public hearing; and any other information , evidence, or analysis the City Council deems relevant to the application. However, the** ~~The City is not obligated to reach a legislative decision to either place an annexation on the ballot or to refrain from doing so. The~~ City is not obligated to approve the annexation **in its legislative capacity** even if it determines that the quasi-judicial review criteria have been met. Following the quasi-judicial land use determination, the City may decline to take legislative action, or make a legislative determination to approve or deny the proposed annexation if it deems such action to be in the public interest. **The legislative decision to approve, deny, or to decline to take such action, shall be at the sole discretion of the City and shall be made by resolution. A decision to deny an annexation shall be specifically stated in the record and noted as a legislative act separate and apart from the quasi-judicial land use decision.**

~~(a) The legislative decision to place the matter on the ballot for election, or to decline to take such action, shall be at the discretion of the City and shall be made by resolution. If authorized, the matter shall be placed before the voters of the City in the manner prescribed by the City.~~

~~(b) An annexation application denied by the City shall not be placed on the ballot for election.~~

Amendments to the Albany Development Code (ADC)

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2.120 Proclamation of Annexation. If the annexation is approved by ~~the electorate,~~ the City Council, **the City Council** by ordinance, shall set the final boundaries of the area to be annexed by a legal description of the annexation boundary **report all changes in the boundaries of the City as required by** ~~and proclaim the annexation in accordance with state~~ **State** law.

ZONING OF ANNEXATION TERRITORY

2.125 Interim Zoning. Any area annexed to the City shall retain the zoning classification of the county until changed by the City. During the period between the proclamation of annexation and application of City zoning, the City shall enforce the current zoning regulations of the county along with any conditions, limitations or restrictions applied by the county as though they were part of the Code, except that the provisions of this Code shall supersede comparable provisions of the county zoning regulations.

2.130 Procedure. Applying initial City zoning to annexation territory is subject to the provisions of ADC 2.700 through 2.760.

2.135 Application of Initial City Zoning. The City may exercise full discretion in determining the initial City zoning of annexation territory.

(1) The City may initiate a zoning map amendment as provided by ADC 2.710 to apply the initial City zoning to the annexation territory.

(2) The City may approve the zoning requested by the applicant.

(3) The City may select a zoning district other than that requested by the applicant in order to best satisfy the criteria for a zoning map amendment set forth in ADC 2.740. In this event, the applicant may withdraw the annexation application by written notice to the City within ten (10) days of the City's action~~, or forty-eight (48) hours prior to the filing date and time required by the County Clerk for inclusion in the election, whichever shall first occur~~.

2.140 Concurrent Applications. The City does not have authority to zone land or to regulate development under this Code until land is annexed. However, the applicant for annexation may request zone change and development-related applications filed for concurrent review with an annexation request. As used in this section, "development-related application" includes, but is not limited to, ~~site plan review~~**Site Plan Review**, ~~conditional use~~ **Conditional Use**, land division, or **Major Variance** ~~variance~~.

(1) If the applicant for annexation desires concurrent, pre-annexation determinations for related land use applications, those applications shall be processed concurrently through a Type IV-**Q** procedure.

(2) In order to be eligible for filing zone change and development-related applications for concurrent review with an annexation request, the applicant shall waive the provisions of state law and this Code that require a final decision within 120 days.

(3) The determination on all land use applications filed for concurrent review with an annexation application shall not be final for the purposes of administrative or judicial review until the date that the annexation is proclaimed.

(4) All land use applications filed for concurrent review shall result in a single decision for purposes of appeal, such that all applications, excluding annexation, are subject to review on appeal if any one application is challenged.

(5) If any land use decision concurrent with annexation is reversed on appeal, all concurrent applications, excluding annexation, are void.

(6) Concurrent, development-related applications, once approved, may be modified pursuant to the procedures in ADC ~~1.226~~ **1.330**, or the development-related application may be withdrawn and a new application submitted for review.

(7) In the event land is not developed in substantial conformance with a concurrent, development-

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related approval and the decision is no longer valid, the City may initiate a zone change pursuant to ADC 2.710 to revert all or a portion of the annexation territory to the previous county zoning classification. Such a reversionary stipulation may be included in the annexation agreement.

[Ord. 5635, 1/11/06]

COMPREHENSIVE PLAN AMENDMENTS

2.190 Purpose. The Comprehensive Plan is the City's official and controlling land use document, guiding public and private activities that affect Albany's growth, development, and livability. The Plan is intended to be a flexible document, reflecting changing circumstances and community attitudes through occasional amendments. This section provides a process for amending the Comprehensive Plan without violating its integrity or frustrating its purposes. This process applies to proposed changes to the Comprehensive Plan Map designations, text and the Urban Growth Boundary.

2.200 Frequency of Plan Amendments. Applications for Comprehensive Plan amendments submitted by property owners shall be reviewed semi-annually in April and October by the Planning Commission. The City Council, Planning Commission, Landmarks Advisory Commission, or Director may also initiate Plan amendments. These initiations are made without prejudice towards the outcome.

2.210 Procedure. If the Director determines a request for a Plan amendment is legislative, the request will be reviewed through the **Type IV-L** legislative procedures in Section~~s 1.580-1.660~~ **1.260**. Quasi-judicial requests are reviewed through the Type IV**-Q** procedures of Section ~~1.370~~ **1.250**. Area specific amendments, including Map amendments outside of the City limits, are processed in accordance with the City-County Urban Growth Management Agreement.

2.220 Review Criteria. Amendments to the Comprehensive Plan will be approved if the Council finds that the application meets the following applicable criteria:

(1) A legislative amendment is consistent with the goals and policies of the Comprehensive Plan, the statewide planning goals, and any relevant area plans adopted by the City Council.

(2) A legislative amendment is needed to meet changing conditions or new laws.

(3) The requested designation for a quasi-judicial map amendment meets all of the following tests:

(a) The requested designation for the site has been evaluated against relevant Comprehensive Plan policies and on balance is more supportive of the Comprehensive Plan as a whole than the old designation.

(b) The requested designation is consistent with any relevant area plans adopted by the City Council.

(c) The requested designation is consistent with the Comprehensive Plan Map pattern.

(d) The requested designation is consistent with the statewide planning goals.

2.225 Corrections to the Comprehensive Plan Map. The Director may initiate a review through the Type I procedure for these types of corrections to the Comprehensive Plan Map:

(1) A map line that was intended to follow a topographical feature does not do so. Topographical features include the tops and bottoms of hillsides, the banks of water bodies, and center lines of creeks or drainage ditches;

(2) The line on the map does not match the legal description or the map shown or referenced in the ordinance that applied the designation; or

(3) There is a discrepancy between maps, and there is clear legislative intent for where the line should be.

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(4) The map line is based on the location of a reference item that has since been moved. Reference items are rights-of-way, tentative rights-of-way, utility easements and similar items. Map line changes in these cases must not be more than a minor change to the map pattern and must not significantly affect abutting lots.

CONDITIONAL USES

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

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

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

2.250 Review Criteria. Requests for ~~conditional uses~~ **Conditional Uses** will be approved if the review body finds that the application conforms with the Albany Development Code and all of the following criteria, either outright or with conditions that bring the proposal into compliance: [Ord. 5886, 1/6/17]

(1) The proposed use is consistent with the intended character of the base zone and the operating characteristics of the neighborhood.

(2) The proposed use will be compatible with existing or anticipated uses in terms of size, building scale and style, intensity, setbacks, and landscaping or the proposal mitigates difference in appearance or scale through such means as setbacks, screening, landscaping or other design features.

(3) The transportation system can support the proposed use in addition to the existing uses in the area. Evaluation factors include street capacity and level of service, on-street parking impacts, access requirements, neighborhood impacts and pedestrian safety. [Ord. 5720, 08/12/09]

(4) Public services for water, sanitary and storm sewer, water management, and for fire and police protection, can serve the proposed use. [Ord. 5720, 08/12/09]

(5) The proposal will not have significant adverse impacts on the livability of nearby residentially zoned lands due to:

(a) Noise, glare, odor, litter, or hours of operation.

(b) Privacy and safety issues.

(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. [Ord. 5265, 12/18/96; Ord. 5764, 12/1/11]

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

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

2.265 Application Contents. As applicable, application contents shall be the same as those required for ~~site plan review~~ **Site Plan Review** in Section 2.490. [Ord. 5842, 1/01/15]

DEVELOPMENT CODE AMENDMENTS

2.270 Purpose. The Development Code implement**s** the goals and policies of the Comprehensive Plan, which reflect**s** community values and needs. Because these values may change with time and because new techniques for implementing the Plan may become more appropriate, the Code must have some mechanism for response to those changes. Amendments to the Code should occur as needed to maintain a close relationship between it and the Comprehensive Plan.

2.280 Procedures. Code amendments shall be processed as a Type IV**-L** procedure in accordance with the legislative procedures of Section~~s 1.580-1.660~~ **1.260**. Exception: The Director may initiate and approve amendments for the following types of corrections through a Type I procedure: typographical, grammatical, and cross-referencing errors. [Ord. 5635, 1/11/06]

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

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

(2) The proposed amendments are consistent with Development Code policies on purpose and with the purpose statement for the base zone, special purpose district, or development regulation where the amendment is proposed.

NONCONFORMING SITUATIONS

2.300 Purpose. Some lots, developments, and uses in the City of Albany were lawful before this Code was adopted or amended, but would no longer be allowed under the current terms of this Code. These provisions are intended to permit such nonconforming situations to continue, but not to encourage their perpetuation.

2.310 Status and Documentation of a Nonconforming Situation. Nonconforming situation regulations apply only to situations that were legally established. Nonconforming uses that were not allowed when established have no grandfather rights and must be removed. The property owner or applicant must document that a nonconforming situation was legally established and was maintained over time. Evidence that it was maintained over time might consist of building permits, utility hookups, tax records, business licenses, lease agreements, business receipts, or telephone directory listings.
[Ord. 5832, 4/9/14]

2.320 Types of Nonconforming Situations. A lot of record may be nonconforming because it does not meet the dimensional or area standards currently required in a particular zoning district. A specific site may be nonconforming because it contains either a nonconforming use, an allowed residential use that exceeds the allowed density, a nonconforming development, or a combination of these.
[Ord. 5338, 1/28/98]

2.325 Nonconforming Lots of Record. Legally established lots of record that do not meet the dimensional or

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area requirements of the zoning district in which they are located may be developed. Any new structure built on the lot must conform to the development standards (such as setbacks, lot coverage, etc.) for that zoning district. [Ord. 5338, 1/28/98; Ord. 5832, 4/9/14]

2.330 Certain Residential Uses Granted Special Status. Special status has been granted to ~~existing~~ single-family dwellings **built before January 1, 2002** in commercial, office, **mixed use,** and industrial zones. Special status has **also** been granted for **certain properties with** two or more units ~~constructed prior to November 20, 1996,~~ in the Hackleman Monteith **and RS-5 Residential Single-Family** zoning district**s**. Notwithstanding the restrictions or terms of any other section of this Code, these properties shall be deemed to be conforming to the base zoning district. See Sections ~~3.080~~ **3.085**, 4.075, and 5.080. [Ord. 5555, 2/7/03]

2.333 Compliance with Former Regulations. Every nonconforming use, structure, development site or situation shall maintain compliance with all applicable regulations, including conditions of approval on land use actions by which it was governed at the time it became nonconforming. [Ord. 5832, 4/9/14]

2.335 Loss of Nonconforming Status.

(1) The nonconforming status of a building, structure, or land shall be deemed to have terminated excluding building height, setbacks or lot coverage, if the building, structure, or land is not occupied by a permitted or legally nonconforming use for one continuous year. The "vacancy clock" stops when a land use application on the property is deemed complete. A request may be submitted to the Community Development Department for reinstatement of nonconforming status within one year from April 9, 2014, or for an extension of up to two additional years prior to the site being vacant for one year. The extension or reinstatement may be granted under the Type II procedure only if the Director finds that:

(a) Converting to a conforming use will result in a substantial economic loss; AND

(b) The proposed use will result in greater or equal conformance with the development standards of the zone than the previous use; OR

(c) Immediately surrounding properties are similarly nonconforming, and the proposed use will be compatible with both the nonconforming and conforming uses in the review area. [Ord. 5832, 4/9/14]

(2) Any nonconforming use or development dependent upon a building or structure that has been declared a "dangerous building" and ordered demolished pursuant to the Albany Dangerous Building Code (AMC Title 18) will be considered terminated upon that declaration and order.

(3) Any nonconforming use or development dependent upon a building or structure that has been substantially damaged to the extent that repair or restoration of the building or structure would cost more than 70 percent of its fair market value will be considered terminated.

(a) Cost of repair or restoration shall be determined by the Building Official. Fair market value shall be determined by an independent appraisal acceptable to the City. The owner or applicant may appeal these determinations of value and cost to the Building Board of Appeals, or may apply for an exception under the Type II procedure.

(b) The Director may allow additional reconstruction upon finding that:

i. Conversion to a conforming use will result in substantial economic loss, and

ii. The proposed use will result in greater conformance with the development standards, or

iii. Immediately surrounding land uses are similarly nonconforming and the reconstructed use will be compatible with both the nonconforming and conforming uses in the review area.

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(4) Rebuilding structures that contained nonconforming uses and which have been intentionally destroyed is prohibited.

2.340 Allowances That Apply to All Nonconforming Situations. [Ord. 5832, 4/9/14]

(1) Their status is not affected by changes in ownership.

(2) They may be changed to conforming situations by right or with an applicable land use approval. Once a conforming situation occupies a site, the nonconforming rights are lost and a nonconforming situation may not be re-established. [Ord. 5832, 4/9/14]

(3) Normal maintenance and repair is allowed.

(4) Changes that conform to the base zone development standards of the site may be made.

(5) Legal nonconforming uses may continue to operate. [Ord. 5832, 4/9/14]

(6) A change from a legal nonconforming use to a use in the same use category or to a use not otherwise permitted in the zone may be considered through a Nonconforming Use Review in accordance with Section 2.350. [Ord. 5832, 4/9/14]

2.350 Nonconforming Use Review Procedure. A nonconforming use is reviewed through either a Type I or Type II procedure as described below.

(1) Type I Procedure. The following situations will be processed through a Type I procedure, as established in Section ~~1.320~~ **1.210**. [Ord. 5832, 4/9/14]

(a) Changes of use within the same use category. A change of use within the same land use category if the nonconforming use was not created unlawfully, and the new use requires no more than two new parking spaces. [Ord. 5832, 4/9/14]

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

(2) Type II Land Use Review. The following nonconforming situations will be processed through a Type II procedure as established in Section ~~1.350~~ **1.230**: [Ord. 5832, 4/9/14]

(a) Extension or reinstatement of nonconforming status per Section 2.340.

(b) A change to another use in the same use category that requires three or more new parking spaces or has increased hours, staffing, traffic, outside storage areas, or off-site impacts.

(c) A change from a legal nonconforming use to a use in a category not otherwise permitted in the base zone may be permitted if it meets the applicable review criteria in Section 2.360.

(d) Changes in operational characteristics such as increased hours, staffing, or expansions to outside storage areas.

(e) New construction or structural expansions of nonconforming uses.

2.360 Nonconforming Use Review Criteria for Type II Decisions. A request will be approved for nonconforming uses if the review body finds that the application meets all of the following criteria: [Ord. 5832, 4/9/14]

(1) The nonconforming use was not created unlawfully. See Section 2.310.

(2) With mitigation measures, there will not be a net increase in overall adverse impacts (over the impacts of the previous use or development) on the surrounding area taking into account factors such as:

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(a) Noise, vibration, dust, odor, fumes, glare, and smoke;

(b) Potential for increased litter;

(c) The amount, location, and nature of any outside displays, storage, or activities;

(d) The appearance of the new use or development will not detract from the desired function and character of the zone.

(e) The operating characteristics of the proposed use are compatible with the existing and anticipated uses. The hours of operation in residential zones cannot be extended into the period of 11 p.m. and 6 a.m.;

(f) The street system has adequate capacity to accommodate the use through the horizon year of the current TSP;

(g) The site has adequate on-site parking to accommodate the development or adequate parking will be provided in accordance with Article 9;

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

(i) Public services for water, sanitary sewer, stormwater, water management, and for fire and police protection, can serve the proposed use;

(j) Activities and developments within overlay districts must comply with the regulations described in Article 4 (Airport Approach), 6 (Natural Resources), ~~(~~and 7 (Historic), as applicable;

(k) If a commercial use is proposed in an existing building in an industrial zone, the development shall not alter the existing building or site in a way that would discourage or preclude its later conversion back to an industrial use; and

(l) Any applicable criteria in (3) and (4) below. [Ord. 5832, 4/9/14]

(3) Structural Expansions shall be limited to the following:

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

(a) Nonconforming uses and buildings may expand one time only and must comply with current development standards.

(b) Expansion of a nonconforming use onto another site is prohibited, except when:

i. The expansion site abuts the site of the nonconforming use; and

ii. The expansion site was in the same ownership as the nonconforming site when it became nonconforming; and

iii. Prior zoning regulations on the expansion site would have allowed the use; and

iv. The expansion is approved through a nonconforming use review.

(c) Addition of new residential units to a nonconforming residential use is prohibited.

(4) Nonconforming Uses or Expansions in Residential Areas. If the nonconforming use is in a residential zone or in a mixed-use zone with residential uses adjacent to the site, the appearance

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of the new use or development will not lessen the residential character of the area. This is based on taking into account factors such as: [Ord. 5832, 4/9/14]

(a) Building scale, placement, and facade;

(b) Parking area placement;

(c) Buffering and the potential loss of privacy to abutting residential uses; and

(d) Lighting and signs.

2.370 Nonconforming Site Review Criteria. Sites that are nonconforming with the current development standards and that have lost their nonconforming status are required to bring the site into compliance with current Code standards. Incremental improvements are allowed in accordance with Subsection (1). [Ord. 5832, 4/9/14]

(1) Incremental Improvements to Nonconforming Sites. Once the cumulative value of one or more building improvements, expansions or site modifications exceeds $25,000, excluding the costs associated with voluntarily bringing the site into compliance with applicable development standards, 10% of the cost of all improvements proposed thereafter must be allocated toward improvements that bring the site into compliance with standards in this Code unless all of the standards listed below can be met at lesser cost. The value of a proposed building or site investment will be the value stated on the application for building permits or calculated by the Building Official, whichever is higher. Improvements that bring the site into compliance with the standards of this Code shall be implemented in the following order of priority, unless a greater benefit is achieved by implementing a lower order of priority item first: [Ord. 5832, 4/9/14]

(a) If the site is within the Willamette River Greenway, funds will be used to enhance the natural areas closest to the waterfront in accordance with the criteria in Section 6.540.

(b) Access to public streets in accordance with Section 12.100.

(c) Front yard landscaping standards in accordance with Article 9, unless there is not enough physical room and ~~an Adjustment~~ **a Minor Variance** is approved;

(d) Buffering and screening standards in accordance with Article 9, unless there is not enough physical room and ~~an Adjustment~~ **a Minor Variance** is approved;

(e) Parking space and lot improvement standards in accordance with Sections 9.120 and 9.130;

(f) Parking lot landscaping improvement standards in accordance with Section 9.150;

(g) Screening of refuse containers; and

(h) Other improvements necessary to bring the site into compliance with the standards of this Code. [Ord. 5720, 08/12/09; Ord. 5832, 4/9/14]

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.

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Commentary

The proposed amendments would provide the Type I SPR path for small-scale residential developments up to four units that meet all of the standards (i.e., no adjustments needed). If Adjustments are requested, the site plan review application would be processed concurrently with the Type III Adjustment application. This is necessary since the proposed site plan review can't be approved unless the Adjustments are also approved. More complicated residential developments—larger multi-family developments, units above or attached to a business, and mobile home parks—would still require Type I-L SPR. This would ensure that neighboring property owners of these more complicated (and potentially controversial) developments would still be notified and have the opportunity to testify and appeal decisions locally.

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

2.415 Procedure. **An application for Site Plan Review shall be reviewed through either a Type I or Type I-L procedure, as indicated below.**

(1) Single-family, two-family, and multi-family development up to and including four (4) units: Type I procedure.

(2) Multi-family development of five (5) or more units, units above or attached to a business, and manufactured home parks: Type I-L procedure.

(3) Non-residential development: Type I-L procedure.

~~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~~ **1.105**.

(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]

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(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 residential Site Plan Reviews must be clear and objective. The criteria in 2.450 have been updated so that they can be applied to both residential and non-residential 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 non-residential 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 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 Design Standards of Article 10.

(6) The application complies with all applicable On-Site Development and Environmental Standards of Article 9.

(7) The Public Works Director has determined that public facilities and utilities are available to serve the proposed development in accordance with Article 12 or will be made available at the time of development.

(8) The Public Works Director has determined that transportation improvements are available to serve the proposed development in accordance with Article 12 or will be available at the time of development.

~~(1) Public utilities can accommodate the proposed development~~

(9) ~~(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. [Ord. 5842, 1/01/15]

~~(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.~~

(10) ~~(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]~~

(11) ~~(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 non-residential Site Plan Reviews, or portions thereof. These criteria would apply in addition to those in 2.450.

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

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

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

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

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

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~~ **1.330**. [Ord. 5720, 08/12/09]

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.

[Ord. 5886, 1/6/17]

(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.

[Ord. 5767, 12/7/11; Ord. 5886 1/7/17]

(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.

[Ord. 5842, 1/01/15]

(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. [Ord. 5842, 1/01/15]

(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 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]

(n) 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]

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(o) 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.

(p) 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]

(q) Location and dimensions of delivery and loading areas.

(r) Location and dimensions of parking and circulation areas.

(s) Location and dimensions of trash disposal areas.

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

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

(v) Location of airport height restrictions.

(w) Location of floodplains.

(x) Location of hillsides with slopes greater than 12 percent.

(y) Location of wetlands.

(z) Location of riparian corridors.

(aa) Location of Willamette Greenway.

(bb) 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 Sections **1.220 and 1.410** ~~1.330~~. [Ord. 5445, 4/12/00]

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

VACATIONS

2.600 Purpose. This section states the procedures and review criteria for vacation of an easement, right-of-way, or plat.

2.610 Initiation. A vacation proposal may be initiated by the City Council or by petition of adjoining and area owners in accordance with Oregon Revised Statutes (ORS) 271.080.

2.620 Procedure. Type IV**-Q** procedures as outlined in Section ~~1.370~~ **1.250** shall be used as supplemented by the provisions of ORS Chapter 271. State law defines the affected area and mandates notice requirements that are more stringent than the City's Type IV**-Q** procedure.

2.630 Review Criteria. A vacation request may be approved if the review body finds that the applicant has shown that all of the following review criteria are met:

(1) The requested vacation is consistent with relevant Comprehensive Plan policies and with any street plan, city transportation or public facility plan.

(2) The requested vacation will not have a negative effect on access between public rights-of-way or to

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existing properties, potential lots, public facilities or utilities.

(3) The requested vacation will not have a negative effect on traffic circulation or emergency service protection.

(4) The portion of the right-of-way that is to be vacated will be brought into compliance with Code requirements, such as landscaping, driveway access, and reconstruction of access for fire safety.

(5) The public interest, present and future, will be best served by approval of the proposed vacation.

2.640 Zoning of Vacated Rights-of-Way. Except as otherwise provided in the vacation ordinance or when the official City Zoning Map is not clear as to the zoning of vacated right-of-way, the zoning of the vacated territory shall be the same as the adjoining property to which the ownership of the parcel automatically reverts.

2.650 Conditions of Approval. The City may attach conditions to the approval of a vacation request to ensure that the proposal will conform to the review criteria.

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 **Major Variance** ~~variance~~ may be granted as provided in this article. [Ord. 5720, 08/12/09]

2.670 Procedure. A **Major Variance** ~~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 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 **Major Variance** ~~variance~~ process.

(2) **Major** 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. **The review criteria for variances from floodplain management regulations are**

stated in Section 6.092. All other **Major Variance** ~~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 **Major Variance** ~~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 **Major Variance** ~~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 **Major Variance** ~~variance~~ are mitigated to the extent practical; or

(6) Application of the regulation in question would preclude all reasonable economic use of the site.

Commentary

In the section below, the previous adjustment process 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 and may not require a Minor Variance.

2.694 Procedures. Minor Variance applications are processed through a Type I-L procedure . 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.

ZONING MAP AMENDMENTS

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

2.710 Initiation.

(1) Quasi-judicial zoning map amendments may be initiated by a property owner, a representative of the owner, the Director, the Planning Commission, or the City Council.

(2) Legislative zoning map amendments may be initiated by the Director, Planning Commission or City Council. Citizens may request that the Planning Commission initiate a legislative amendment. This type of initiation is addressed in Section ~~1.580~~ **1.260**.

(3) Initiations by a review body are made without prejudice towards the outcome.

2.720 Procedure. Zoning Map amendments will be reviewed through the Type IV-**Q** procedures as outlined in Section ~~1.370~~ **1.250** or by legislative action as provided for in Sections~~ 1.580 - 1.660~~ **1.260**.

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

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

(1) The proposed base zone is consistent with the Comprehensive Plan map designation for the entire subject area unless a Plan map amendment has also been applied for.

(2) Existing or anticipated transportation facilities are adequate for uses permitted under the proposed zone designation.

(3) Existing or anticipated services (water, sanitary sewers, storm sewers, schools, police and fire protection) can accommodate potential development in the subject area without adverse impact on the affected service area.

(4) The intent and purpose of the proposed zoning district best satisfies the goals and policies of the Comprehensive Plan.

(5) The land use and transportation pattern recommended in any applicable City-contracted or funded land use or transportation plan or study has been followed, unless the applicant demonstrates good cause for the departure from the plan or study. [Ord. 5635, 1/11/06, Ord. 5764, 12/1/11]

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

(1) A map line that was intended to follow a topographical feature does not do so. Topographical features include the tops and bottoms of hillsides, the banks of water bodies, and center lines of creeks or drainage ditches.

(2) The line on the map does not match the legal description or the map shown or referenced in the

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ordinance that applied the designation.

(3) There is a discrepancy between maps and there is clear legislative intent for where the line should be.

(4) It can be clearly shown that a map line is based on the location of a reference item that has since been moved. Reference items are rights-of-way, tentative rights-of-way, utility easements and similar items. Map line changes in these cases must not be more than a trivial change to the map pattern and must not result in any significant impacts to abutting lots.

2.760 Zoning. For rezoning and annexation zoning requests, the zoning of the property shall be compatible with the Comprehensive Plan designation as provided in the Table 2.**760**-1, Plan Designation Zoning Matrix. Zoning other than that shown in the matrix requires approval of a Comprehensive Plan Map and/or Zoning Map amendment.

TABLE 2.760-1
PLAN DESIGNATION ZONING MATRIX

Comprehensive Plan Designation	Compatible Zoning Districts
Light Industrial	Industrial Park (IP), Light Industrial (LI), Transit District (TD)
Heavy Industrial	Light Industrial (LI), Heavy Industrial (HI)
General Commercial	Neighborhood Commercial (NC), Community Commercial (CC), Regional Commercial (RC), Office Professional (OP)
Light Commercial	Neighborhood Commercial (NC), Office Professional (OP)
Village Center	Historic Downtown (HD), Downtown Mixed Use (DMU), Central Business (CB), Lyon-Ellsworth (LE), Pacific Boulevard (PB), Elm Street (ES), Main Street (MS), Waterfront (WF), Mixed Use Commercial (MUC), Residential Medium Density (RM), Residential Medium Density Attached (RMA), Mixed Use Residential (MUR), Office Professional (OP), Community Commercial (CC)
Medium Density Residential	Residential Single Family (RS-5), Residential Medium Density (RM), Residential Medium Density Attached (RMA), Mixed Use Residential (MUR), Office Professional (OP), Neighborhood Commercial (NC)
Low Density Residential	Residential Single Family (RS-10, RS-6.5, RS-5), Hackleman-Monteith (HM), Residential Reserve (RR), Office Professional (OP), Neighborhood Commercial (NC)
Urban Residential Reserve	Residential Single Family (RS-10, RS-6.5, RS-5), Residential Reserve (RR), Residential Medium Density Attached (RMA), Residential Medium Density (RM), Mixed Use Residential (MUR), Neighborhood Commercial (NC), Office Professional (OP)
Public and Semi-Public	All zones
Open Space	Open Space (OS)

[Ord. 5555, 2/7/03; Ord. 5556, 2/21/03; Ord. 5673, 6/27/07; 10/12/17]

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Article 3 - Residential Zoning Districts

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: ****

ARTICLE 3
RESIDENTIAL ZONING DISTRICTS

Commentary: Table numbers

Throughout Article 3, tables have been renumbered in a new format to make them easier to identify and locate ("Section # - table #").

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]

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(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 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:

Special Purpose District	Applicable Articles
Airport Approach	Article 4
Floodplain	Article 6
Hillside Development	Article 6
Significant Wetlands	Article 6
Riparian Corridors	Article 6
Wildlife Habitat	Article 6
Willamette Greenway	Article 6
Historic Overlay	Article 7

[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~~ **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~~ **Conditional Use** approval and the balance is subject only to Site Plan Review, the entire development shall be reviewed using the ~~conditional use~~ **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~~ **1.105**, or

(b) When a property that has been unoccupied for more than one year. [Ord. 5673, 6/27/07]

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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: ****

Commentary: 3.050 Schedule of Permitted Uses

Minor changes are proposed for the Schedule of Permitted Uses table: clarifying that the "RESIDENTIAL MULTI-FAMILY: Three or More Units" group of uses should not specify "per property," since Single-Family Attached Units are on individual lots; and moving Recreational Vehicle Parks to the COMMERCIAL group of uses, consistent with the use definition in Article 22.

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.

CU Use permitted conditionally under the provisions of Sections 2.230-2.265~~0~~ 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								
Use Categories (See Article 22 for use descriptions.)	**Spec. Cond.**	**RR**	**RS-10**	**RS-6.5**	**HM**	**RS-5**	**RM**	**RMA**
RESIDENTIAL SINGLE FAMILY: One Unit per Property								
Single-Family, detached	19	Y	Y	Y	Y	Y	Y	N
Single-Family, attached (zero lot line)		N	PD/CD	PD/CD	N	Y	Y	Y
RESIDENTIAL TWO FAMILY: Two Units per Property								
2 attached units (Duplex)	3	N	Y-1, PD/CD-20	Y-1, PD/CD-20	N	Y-1, PD/CD-20	Y	Y
2 detached units	2	N	PD/CD	PD/CD	S	PD/CD	Y	Y
Primary Residence with one accessory unit	4	Y	Y	Y	Y	Y	Y	Y

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: ****

RESIDENTIAL MULTI-FAMILY: Three or More Units ~~per Property~~								
3 or More Single-Family Attached Units	3	N	PD/CD	PD/CD	N	S	S	S
3 or More Multi-Family Units **per property**	3	N	N	N	N	N	S	S
Manufactured Home Parks (see Article 10)	10	N	N	S	N	S	S	S
RESIDENTIAL: Care or Treatment								
Assisted Living		CU	CU	CU	CU	CU	CU	CU
Child or Adult Care Home	6	Y	Y	Y	Y	Y	Y	Y
Daycare Facility		CU	CU	CU	CU	CU	CU	S
Residential Care or Treatment Facility (6 or more residents)		CU	CU	CU	CU	CU	CU	S
Residential or Group Care Home (5 or fewer residents)		Y	Y	Y	Y	Y	Y	Y
RESIDENTIAL: Miscellaneous								
Accessory Buildings, Garages or Carports	9	Y/S	Y/S	Y/S	Y/S	Y/S	Y/S	Y/S
Bed & Breakfast	7	CUII	CUII	CUII	CUII	CUII	CUII	S
Home Businesses (See 3.090-3.160 to determine if CU)		Y/CU	Y/CU	Y/CU	Y/CU	Y/CU	Y/CU	Y/CU
~~Recreational Vehicle Parks (See Article 10)~~	~~5, 10~~	~~N~~	~~N~~	~~N~~	~~N~~	~~N~~	~~CU~~	~~CU~~
Rooming or Boarding Houses		N	N	N	CU	N	S	S
Subdivision Sales Office	19	N	Y	Y	N	Y	Y	Y
Unit(s) Above or Attached to a Business	17	N	N	N	N	N	N	N
Temporary Residence	8	S	S	S	S	S	S	S
INSTITUTIONAL								
Basic Utilities		CU	CU	CU	CU	CU	CU	CU
Community Services		CU	CU	CU	CU	CU	CU	CU
Educational Institutions	13	CU	CU	CU	CU	CU	CU	CU
Hospitals		N	N	N	N	N	CU	CU
Jails & Detention Facilities		N	N	N	N	N	N	N
Parks, Open Areas and Cemeteries	14	S/CU	S/CU	S/CU	CU	S/CU	S/CU	S/CU
Religious Institutions	13	CU	CU	CU	CU	CU	CU	CU
COMMERCIAL – Limited Use Types								
Entertainment and Recreation: Indoor Outdoor	18	CU CU	CU CU	CU CU	CU N	CU CU	CU CU	CU CU
Offices	17	PD/CD	PD/CD	PD/CD	PD/CD	PD/CD	PD/CD	PD/CD
Recreational Vehicle Parks (See Article 10)	**5, 10**	**N**	**N**	**N**	**N**	**N**	**CU**	**CU**
Restaurants, no drive-thru	17	PD/CD	PD/CD	PD/CD	PD/CD	PD/CD	PD/CD	PD/CD
Retail Sales and Service	17	PD/CD	PD/CD	PD/CD	PD/CD	PD/CD	PD/CD	PD/CD
Self-Serve Storage	15	N	N	N	N	N	S	N
OTHER CATEGORIES								
Agriculture: Crop Production On-site Sales of Site-Produced Seasonal Goods Plant Nurseries and Greenhouses		Y Y S	Y S S	Y CU S	N N N	Y CU S	Y CU S	Y CU S
Antennas, owned and operated by FCC licensed member of Amateur Radio Service		Y	Y	Y	Y	Y	Y	Y
Communication Facilities	16	N	N	N	N	N	N	N
Kennels	11	S	CU	CU	N	CU	CU	N
Satellite Dish and Other Antennas	12	Y	Y	Y	Y	Y	Y	Y

Y = Yes, allowed, no Site Plan review required
CD = Cluster Development, see Art. 11
CU = Conditional Use approval required, Type III procedure
CUII = Conditional Use approval required, Type II procedure
N = No, not allowed
PD = Planned Unit Development, see Art. 11
S = Site Plan Review required

[Ord. 5281, 3/26/97; Ord. 5555, 2/7/03; Ord. 5673, 6/27/07; Ord. 5742, 7/14/10; Ord. 5801, 2/13/13; Ord. 5832, 4/9/14; Ord. 5886, 1/6/17]

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

SPECIAL CONDITIONS

3.080 General. Where numbers appear in the column labeled "special conditions" or in a cell in the Schedule of Permitted Uses, the corresponding numbered conditions below 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.
[Ord. 5445, 4/12/2000; Ord. 5635, 1/11/06; Ord. 5673, 6/27/07]

(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. [Ord. 5338, 1/28/98; Ord. 5673, 6/27/07]

(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 **3.190-**1, however, the amount of land on which each unit is located does not need to be split equally between the individual units - one may be larger and one smaller. [Ord. 5673, 6/27/07]

(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:

(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:

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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 ~~2~~**3.230-1**~~, 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 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 ~~2~~**3.230-1**.

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(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:

(~~a~~**g**) The structure will not preclude the use of the property for housing;

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

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

(~~d~~**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.

(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

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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~~ **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]

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~~**510**(2).] [Ord. 5673, 6/27/07]

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(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.

(b) The sales office must be placed on one or more of the lots in the subdivision. [Ord. 5886, 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 **3.190-**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 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

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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

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DEVELOPMENT STANDARDS

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

RESIDENTIAL DISTRICT DEVELOPMENT STANDARDS							
STANDARD	**RR**	**RS-10**	**RS-6.5**	**HM**	**RS-5**	**RM**	**RMA**
Minimum Property Size or Land Requirements by Unit Type(1)							
Single-family detached, (1)	5 acres (**15**~~16~~)	10,000 sf	6,500 sf	5,000 sf	5,000 sf	3,500 sf	N/A

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: ****

RESIDENTIAL DISTRICT DEVELOPMENT STANDARDS							
Single-family, attached (14)(1)	N/A	N/A	N/A	N/A	2,800 sf	2,400 sf	1,800 sf
~~Duplex~~ **Two primary units on one property** (1)	N/A	14,000 sf Corner lot	8,000 sf Corner lot	N/A	7,000 sf Corner lot	4,800 sf	3,600 sf
Multi-family, Studio and 1-bedroom units	N/A	N/A	N/A	N/A	N/A	2,000 sf/ unit	1,500 sf/ unit
2-and 3 bedroom units	N/A	N/A	N/A	N/A	N/A	2,400 sf/ unit	1,800 sf/ unit
4+ bedroom units	N/A	N/A	N/A	N/A	N/A	3,000 sf/ unit	2,200 sf/ unit
Minimum Lot Widths: Detached S-F Attached Units	 N/A N/A	 65 ft N/A	 50 ft N/A	 35 ft N/A	 40 ft 20 ft	 30ft 20 ft	 None None
Minimum Lot Depth	N/A	100 ft	80 ft	65 ft	70 ft	60 ft	None
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	(14)	(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)

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~~ **3.265** and ~~2.370~~ **3.270**. [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)~~**(3)**.
(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.

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(9) Lot coverage for single-family detached development shall only include the area of the lot covered by buildings or structures.
(10) See Table ~~2~~**3.230-1** 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: 3.190, Note (15)

Note 15 below appears in Table 3.190-1 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)~~(16)~~ 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 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: 3.220 Bonus Provisions for Reduction in Standard Lot Size Requirements

The proposed amendments for this section are intended to make it clear how the density bonuses and transfers are determined, and to eliminate any discretionary language. 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: 3.220(3) Significant Natural Resource Overlays

The existing language in this subsection 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:

(3) Development Density to Transfer from Overlay Districts. The land area ~~that~~ **from which** density can be transferred ~~from~~ excludes developed and unbuildable areas, such as water bodies, areas below ordinary high water mark, floodways, **the unbuildable portions of lands within the Significant Natural Resource Overlay Districts,** ~~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: 3.220(5) Energy Conservation

The existing language in this subsection 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 proposed amendments are intended to allow a smaller density bonus for developments that meet the standards to a lesser degree. 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 restructures 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 3.220-1 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** total~~s~~ 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.)

TABLE 3.220-1

ENERGY CONSERVATION BONUS STANDARDS		
Development Type	**Percentage of Lots or Units Protected**	**Density Bonus Permitted**
Subdivision	**80 percent or more of lots**	**10 percent**
	At least 60 percent and up to 80 percent	**5 percent**
Multiple-unit Development	**80 percent or more of units**	**10 percent**
	At least 60 percent and up to 80 percent	**5 percent**

Commentary: 3.220(6) Moderate-Cost and Affordable Housing

The existing Moderate-Cost Housing subsection has been reworked in a few ways: (1) discretionary language was removed; (2) larger density bonuses were added for projects that include units with deeper affordability requirements (50% of area median income); and (3) options were added that allow a range of density bonuses (5%, 10%, 20% bonus), depending on

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the percentage of units with affordability requirements. These proposed new provisions are organized into a table (Table 3.220-2) for the sake of legibility.

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 3.220-2.**

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

(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 the mortgage, amortization, taxes, insurance, and condominium or association fees, if any, constitute no more than 30 percent of such gross annual household income for a household of the size that are most likely to or intended to occupy the unit in question. In the case of dwelling units for rent, affordable means housing for which the rent and utilities constitute no more than 30 percent of such gross annual household income for a household of the size that are most likely to or intended to occupy the unit in question. Projects must 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.~~

~~[Ord. 5673, 6/27/07]~~

~~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 3.220-2

AFFORDABLE HOUSING DENSITY BONUS STANDARDS		
Affordability Level	**Percent of units set aside for persons whose household income is less than or equal to the affordability level**	**Density Bonus Permitted**
120% AMI	**50 percent of units**	**5 percent**
100% AMI	**50 percent of units**	**10 percent**
80% AMI	**5 percent of units**	**5 percent**

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	10 percent of units	**10 percent**
	20 percent of units	**20 percent**
50% AMI	**5 percent of units**	**10 percent**
	10 percent of units	**20 percent**
	20 percent of units	**30 percent**

Alley Access

(7) Lots with **vehicular access from an** 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 ~~1~~**3.190-1** and **3.230-1** ~~2 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 ~~2~~**3.230-1**, Accessory Structure Standards.

[Ord. 5673, 6/27/07]

Commentary: Table 3.230-1 Accessory Structure Standards

In the existing table, the 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 ~~2~~3.230-1

ACCESSORY STRUCTURE STANDARDS	
STRUCTURE	**STANDARD**
All Accessory Structures	Front setback, see Table **3.190-**1, by zone if not noted below
Detached Structure walls less than or equal to 8 feet tall (2)	Interior setback = 3 feet (1)
Attached Structure	Interior setback = 5 feet (1)
Detached Structure walls greater than 8 feet tall (2)	Interior setback = 5 feet
Accessory Apartment Building	Front setback is equal or greater than primary residence Interior setback, one-story = 5 feet (1) Interior setback, two-story = 8 feet (1)
Garage or carport with **vehicular** access **from** ~~to~~ an alley	Alley setback = 20 feet, less the width of the alley right-of-way, but at least 3 feet. Other interior setbacks = see Table **3.190-**1

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Amendments to the Albany Development Code (ADC)

Draft code amendments are written as follows: additions ***bold red underlined*** *and deletions in* ~~*strike out*~~*.*
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ACCESSORY STRUCTURE STANDARDS	
Structures, including fences, intended for housing animals	Interior setback = 10 feet
Fences greater than 6 feet tall	See Table **3.190-**1, by zone; building permit **may be** required.
Outdoor swimming pools with depths greater than or equal to 24 inches	Interior setback = 10 feet
Decks less than or equal to 30 inches from grade, with no rails or covers	No setback from property lines
Decks greater than 30 inches from grade	Interior setback = 5 feet

(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: 3.240 Alternative Setbacks in Developed Areas

The way this section 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.

The proposed 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~~ **shall** not encroach any further into a setback than the existing structure **and shall not exceed the height of the existing structure within that setback.**

(4) 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.

Amendments to the Albany Development Code (ADC)

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

Commentary: 3.250 Parking Standards in Setback or Yard Areas

The existing standards in the Parking and Other Restrictions in Setback or Yard Areas section are not clear and objective and have been problematic for staff to administer. City staff provided suggestions for how to amend this section in order to provide more clarity.

The regulations differ in terms of the requirements for the front yard vs. the front setback. For reference the definitions of "setback" and "front yard" are included below.

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.

Yard, Front: The area between the front property line and the nearest point of any building on that same parcel.

~~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.

(3) Required parking shall not be located in interior setback areas, except:

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

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

Amendments to the Albany Development Code (ADC)

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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: [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, 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]

3.263 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: 3.265 Zero Lot Line

The proposed amendment for this section 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, applicable to Commercial and Industrial Zoning Districts.

Current code uses the term "adjoining." Proposed (revised) language uses the term "Abutting," which is defined in the Code as follows: *"Abut: Contiguous to; for example, two lots with a common property line. However, "abut" does not apply to buildings, uses, or properties separated by public right-of-way."*

3.265 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 abutting property deed or plat. The width of the easement shall be 6 feet or the width of the required setback of the abutting property, whichever is less. If the abutting 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]

3.270 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.

Commentary: 3.275 Setbacks for Properties Adjacent to Designated Farmlands

As part of the Albany Housing Needs Analysis project, Section 3.275 was identified as a potential barrier to meeting the city's housing development needs. The large setback is unnecessary and poses a barrier to efficient development of buildable land near the edges of the city. In addition, if in the future the urban growth boundary is expanded beyond a property that has implemented the setback, this would potentially leave a large swath of undeveloped land that may be difficult to infill. For these reasons, the proposed amendment would delete this section entirely.

~~3.275 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]~~

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:

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

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

3.330 Special Setbacks for 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 **3.190-**1, Development Standards. See also Table ~~2~~ **3.230-1**, 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~~ **Conditional Use** approval, the height restrictions may be waived as a part of the ~~conditional use~~ **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

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Amendments to the Albany Development Code (ADC)

*Draft code amendments are written as follows: additions **bold red underlined** and deletions in ~~strike out~~.*
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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 **9.020-**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~~**9.210** through ~~9.325~~**9.270**. [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 setbacks 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.

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Article 4 - Commercial and Industrial Zoning Districts

Amendments to the Albany Development Code (ADC)
Draft code amendments are written as follows: additions ***bold red underlined*** *and deletions in* ~~*strike-out*~~*.*
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ARTICLE 4
COMMERCIAL AND INDUSTRIAL ZONING DISTRICTS

Commentary: Table and Figure numbers

Throughout Article 4, tables and figures have been renumbered in a new format to make them easier to identify and locate ("Section # - table #" / "Section # - figure #").

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

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enhanced community image along these major transportation corridors as they develop or redevelop. Sound and visual buffers should be used to mitigate impacts on nearby residential areas.

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

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

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

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

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

4.030 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:

Special Purpose District	Applicable Articles
Floodplain	Article 6
Wetlands	Article 6
Willamette Greenway	Article 6
Airport Approach	Article 6
Hillside Development	Article 6

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[Ord. 5555, 2/7/03]

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

SCHEDULE OF PERMITTED USES

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

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

(2) Where a development proposal involves a combination of uses other than accessory uses, the more restrictive provisions of this Code shall apply. For example, if a portion of a development is subject to Conditional Use approval and the balance is subject only to Site Plan review, the entire development shall be reviewed utilizing the ~~conditional use~~ **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~~**1.105**,

OR

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

4.050 Schedule of Permitted Uses. The specific uses listed in the following schedule (Table 4**.050**-1) are permitted in the zones as indicated, subject to the general provisions, special conditions, additional restrictions, and exceptions set forth in this Code. A description of each use category is in Article 22, Use Categories and Definitions. The abbreviations used in the schedule have the following meanings:

Y Yes; use allowed without review procedures but may be subject to special conditions.
S Use permitted that requires a site plan approval prior to the development or occupancy of the site or building.
CU Use considered conditionally through the Type III procedure under the provisions of Sections 2.230-2.260.

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: ****

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]

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TABLE 4.050-1
SCHEDULE OF PERMITTED USES

Commercial, Office and Industrial Zoning Districts									
Use Categories (See Article 22 for use category descriptions)	**Spec. Cond.**	**OP**	**NC**	**CC**	**RC**	**TD**	**IP**	**LI**	**HI**
INDUSTRIAL									
Contractors and Industrial Services		N	N	S-1	N	S-1	S-1	S-1	S
Manufacturing and Production	2	S/CU	N	S/CU,3	N	S/CU	S/CU	S/CU	S
Small-scale Manufacturing	2	S/CU	N	S/CU	S/CU	S/CU	S/CU	S/CU	S/CU
Railroad Yard		N	N	N	N	S	N	S	S
Warehousing and Distribution		N	N	N	N	N	CU	S	S
Waste and Recycling Related	4	N	N	CU	N	N	N	S/CU	S/CU
Wholesale Sales		N	N	N	N	N	S-5	S	N
COMMERCIAL									
Adult Entertainment		N	N	S-6	N	N	N	CU-6	N
Entertainment and Recreation: Indoor Outdoor	7	N N	N N	S-7 S	S-7 S	S N	S/CU-7 N	CUII-7 CU-7, 11 N-7	CU-7 CU
Offices: Traditional Offices Industrial		S S	S N	S S	S N	S N	CUII-8 S-8	N S-9	N S
Parking		N	N	S	S	S	S	S	S
Recreational Vehicle Park		N	N	CU	N	S	N	S	N
Restaurants, no drive-thru w/ drive-thru or mostly delivery	25	CUII N	S CU-10	S S	S S	S N	S CU	N N	N N
Retail Sales and Service		S-11	S-11	S	S	S	S-11	S/CU/ N-11	N
Self-Serve Storage	12	N	N	S	S	N	CU	S	S-13
Taverns, Bars, Breweries, Nightclubs	25	CUII	CUII	S	S	S	CUII	CUII	CUII
Vehicle Repair		N	N	S	S	N	N	S	N
Vehicle Service, Quick-gas/oil/wash		N	N	S	S	N	CU	N-14	N
INSTITUTIONAL									
Basic Utilities		CU	CU	CU	CU	CU	S	S	S
Community Services	15	S/CU	S/CU	S/CU	S/CU	S/CU	CU	CU	N
Daycare Facility		CU	CU	S	N	N	S	CU	N
Educational Institutions	16	N	N	CU	N	CU	S/CU	S/CU	N
Hospitals		CU	N	N	N	N	CU	CU	N
Jails and Detention Facilities		N	N	N	N	N	N	CU	N
Parks, Open Areas and Cemeteries	17	CU	CU	CU	N	CU	CU	CU	N
Religious Institutions	16	CU	CU	S	N	N	CU	CU	N
RESIDENTIAL									
Assisted Living Facility		CU	CU	CU	N	N	N	N	N
Home Businesses (see 3.090-3.180 to determine if CU)		Y/CU	Y/CU	Y/CU	Y/CU	Y/CU	Y/CU	Y/CU	Y/CU
Residential Care or Treatment Facility		S	S	S	N	N	N	N	N
Single Family and Two Family Units	20	Y/CU-19	S	N	N	N	N	N	N

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Commercial, Office and Industrial Zoning Districts									
Use Categories (See Article 22 for use category descriptions)	**Spec. Cond.**	**OP**	**NC**	**CC**	**RC**	**TD**	**IP**	**LI**	**HI**
Three or More Units		CU	N	N	N	N	N	N	N
Units Above or Attached to a Business		S	S	S	CU	S	S	S	N
Residential Accessory Buildings	21	Y/S	Y/S	N	N	N	N	N	N
OTHER CATEGORIES									
Agriculture (on Vacant Land)	22	N	N	N	Y	N	Y	Y	Y
Satellite Dish, Other Antennas, & Communication Facilities <50 ft.	23	Y	Y	Y	Y	Y	Y	Y	Y
Communication Facilities >= 50 ft.	23	N	N	CU	S	CU	CU	S	Y
Kennels	24	N	N	N	CU	N	N	S	N
Non-Res'l Accessory Buildings		S-18	Y	Y	Y	Y	Y	Y	Y
Passenger Terminals		N	N	S	CU	S	CU	CU	N
Rail And Utility Corridors		CU	CU	CU	CU	S	CU	S	S

Y = Yes, allowed, no Site Plan Review required
CU = Conditional Use review, Type III procedure
CUII = Conditional Use review, Type II procedure
N = No, not allowed
S = Site Plan Review required

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

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.

(4) Waste and Recycling Related Uses in the CC, LI, and HI zones.

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

(c) Limited uses in HI. Processing and sorting operations conducted within enclosed structures

less than 5,000 sq. ft. in total area and all other material and recycling operations, excluding salvage yards and junkyards, are allowed with Site Plan Review. Salvage yards, junkyards, sanitary landfills, and refuse transfer stations require a ~~conditional use~~ **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 **Major** 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.
[Ord. 5742, 7/14/10; Ord. 5832, 4/9/14]

(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~~ **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. [Ord. 5832, 4/9/14]

(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.
[Ord. 5832, 4/9/14]

(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

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and personal services-oriented retail intended to serve nearby residences and employees. Businesses are limited to a 5,000-square-foot maximum business footprint, except for businesses located within buildings in the OP and NC zones constructed prior to February 7, 2003 there is no business footprint limit. See Article 22 for examples of convenience-oriented and personal service-oriented businesses. Vehicle repair-oriented services, motor vehicle sales, large equipment sales, and bulk sales are prohibited. [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~~ **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~~ **Conditional Use**. [Ord. 5742 7/14/10]

(b) The ~~conditional use~~ **Conditional Use** approval for educational and religious institutions includes the following secondary uses: educational activities; sports and other recreational activities; religious activities; political activities; meals programs; before- and after-school

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

Any expansion to an existing educational or religious institution shall be reviewed through the ~~conditional use~~ **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~~ **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~~ **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~~ **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

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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 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~~ **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)~~ **2.335(3)**, 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**.090-1** ~~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 4.090-1 ~~2~~

Commercial and Industrial District Development Standards								
STANDARD	**OP**	**NC**	**CC**	**RC**	**TD**	**IP**	**LI**	**HI**
MINIMUMS								
Lot size (sq. ft.)(1)	None	None(2)	None	None	None	3 acres(4)	None	None
Lot width	None	None	None	None	None	None	None	None
Lot depth	None	None	None	None	None	None	None	None
Front setback	10’	10’	10’	10’	10’	15’(11)	15’(11)	15’
Interior setbacks -abutting non-res’l	5’	None	None	None	None	15’(6)	None	None
Interior setbacks - abutting res’l district	10’(5)	10’(5)	10’(5)	10’ (5)(6)	10’ (5)(6)	30’(11)	40’(11)	50’
MAXIMUMS								
Building Size	None(10)	None(10)	100,000 (13)	None	None	None(10)	None	None
Lot size (sq. ft.)	None	30,000(2)	None	None	None	None	None	None
Height (8)	30’	30’	50’	None	None	50’(12)	None	None
Lot Coverage (7)	70%	80%	90%	90%	None	80%	None	None
Landscaped Area (3)	100%	100%	100%	100%	100%	100%	100%	100%
Open Space	(9)	(9)	(9)	N/A	N/A	N/A	N/A	N/A

N/A means not applicable.

(1) The minimum lot size for residential units is 1,600 ~~s.f.~~ **sq. ft.** 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.~~ **sq. ft.** 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 residentially 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 set 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]

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SETBACKS

4.100 Minimum Standards. All setbacks must meet the minimum standards in Table 4**.090-1** ~~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~~**3.230-1**, 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).

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(d) Projecting signs must conform to applicable ordinance requirements. See Article 13, Sign Code. [Ord. 5555, 2/7/03]

Commentary: 4.150 Zero Lot Line

The proposed amendments for this section 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.

Current code uses the term "adjoining." Proposed (revised) language uses the term "Abutting," which is defined as follows: *"Abut: Contiguous to; for example, two lots with a common property line. However, "abut" does not apply to buildings, uses, or properties separated by public right-of-way. Abut: Contiguous to; for example, two lots with a common property line. However, "abut" does not apply to buildings, uses, or properties separated by public right-of-way."*

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~~ **abutting** property deed or plat. **The width of the easement shall be 6 feet or the width of the required setback of the abutting property, whichever is less. If the abutting 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]

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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:

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

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

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

Commentary: 4.220 Parking Restrictions in Setback Areas

This section has been revised to use objective language ("must" instead of "may") and to be consistent with the equivalent standards in Section 3.250.

4.220 Parking Restrictions in Setback Areas. Parking and loading spaces ~~may~~**must** not be located in a required front or ~~side~~**interior** setback, except:

(1) **Paved** ~~D~~**d**riveways ~~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.**090-1** ~~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

***

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~~**9.270**.

[Ord. 5445, 4/12/00, Ord. 5555, 2/7/03; Ord. 5742, 7/14/10]

OUTSIDE STORAGE

***

AIRPORT APPROACH

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

4.410 Applicability. The regulations below apply to those areas indicated on Figures 4**.410**-1 and 4**.410**-2.

4.420 Height Restrictions. No structure, mast, antenna, or wire shall be erected, altered, or maintained, and no tree shall be allowed to grow to a height in excess of the height limit established within each of the following described zones (which are also graphically represented in Figure 4**.410**-1):

(3) Visual Approach Area. Slopes 20 feet outward for each foot upward beginning at the ends of the primary surface (200 feet from the end of the pavement) and at the same elevation as the primary surface, and extending to a horizontal distance of 5,000 feet along the extended runway centerline.

(4) Transitional Areas. Slopes 7 feet outward for each foot upward beginning at the sides of and at the same elevation as the primary surface and the approach surface, and extending to a height of 150 feet above the airport elevation, which is 222 feet above mean sea level. In addition, there are height limits sloping 7 feet outward for each foot upward beginning at the sides of and at the same elevation as the approach surface, and extending to where they intersect the conical surface.

(5) Horizontal Area. One hundred fifty (150) feet above the airport elevation or at a height of 372 feet above mean sea level.

(6) Conical Area. Slopes 20 feet outward for each foot upward beginning at the periphery of the horizontal zone and at 150 feet above the airport elevation and extending to a height of 350 feet above the airport elevation.

4.430 Other Interference Prohibited. Notwithstanding any other provisions of this ordinance, no use may be made of land or water within any zone established by this ordinance in such a manner as to create

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electrical interference with navigational signals or radio communication between the airport and aircraft, make it difficult for pilots to distinguish between airport lights and others, result in glare in the eyes of pilots using the airport, impair visibility in the vicinity of the airport, create bird strike hazards, or otherwise in any way endanger or interfere with the landing, takeoff, or maneuvering of aircraft intending to use the airport.

4.440 Noise Construction Standards. Within the designated airport noise contours indicated in Figure 4.**410**-2, the following regulations shall apply:

(1) In the 55 to 60 Day-Night Sound Level (ldn) area, a declaration of anticipated noise levels shall be attached to any land use application and recording of such declaration may be required for approval on each parcel within such area.

(2) Development of "noise sensitive property" (e.g. residentially zoned areas, group quarters used for sleeping, motels, hotels, schools, churches, hospitals, libraries) within the 55 to 60 ldn area and above shall be subject to the provisions of Site Plan Review outlined in Article 2 and may be required to include additional sound buffering features within the development as a condition of approval.

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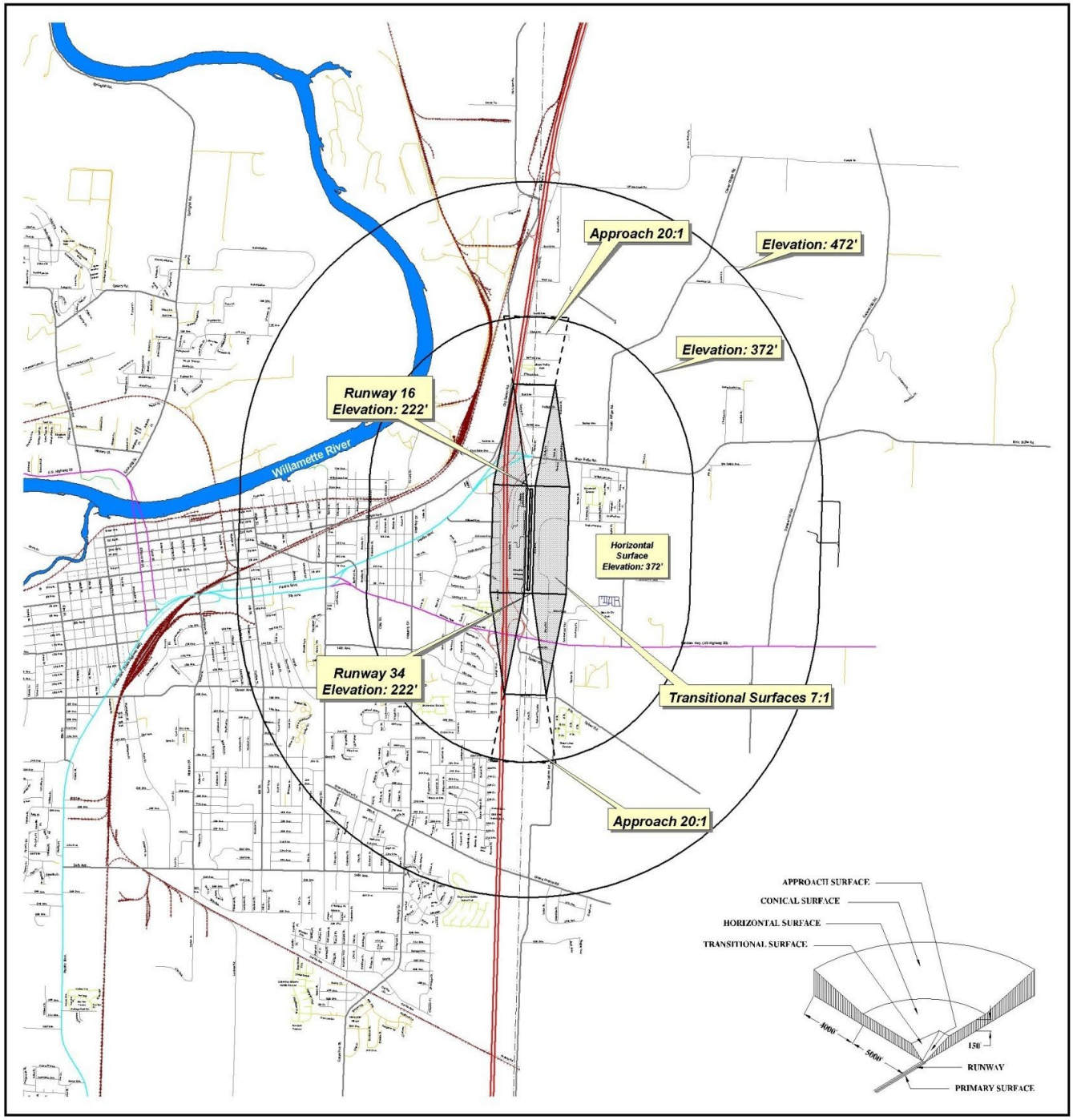


N

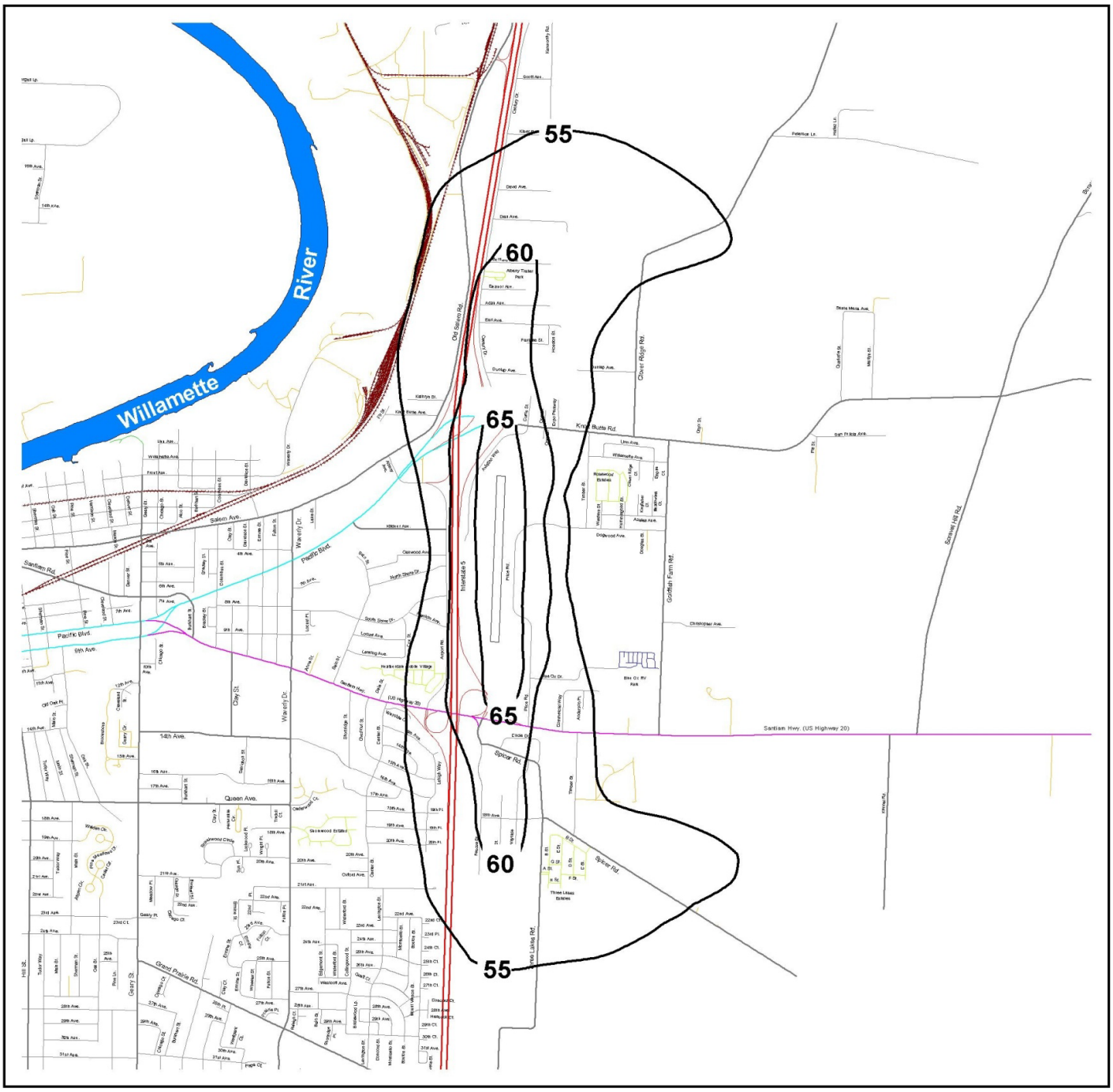
Albany Municipal Airport
Approach and Clear Zone Plan

4000 0 4000 Feet

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

Geographic Information Services 917-7676
Planning Division 917-7550

Figure 4.410-1: Albany Airport Approach District



Projected Year 2000 Ldn (Day and Night Sound Level)

N

4000 0 4000 Feet

Projected Year 2000 Loudness Contours
Loudness Contour
Runway

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

Geographic Information Services 917-7676
Planning Divison 917-7550

Figure 4.410--2: Albany Projected year 2000 Ldn Contours

Article 5 - Mixed Use Zoning Districts

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: ****

ARTICLE 5
MIXED USE ZONING DISTRICTS

Commentary: Table numbers

Throughout Article 5, tables have been renumbered in a new format to make them easier to identify and locate ("Section # - table #").

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]

(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. [Ord. 5673, 6/27/07]

(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. [Ord. 5635, 1/11/06; Ord. 5832, 4/9/14]

(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. [Ord. 5832, 4/9/14]

(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. [Ord. 5832, 4/9/14]

(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. [Ord. 5556, 2/21/03; Ord. 5577, 7/28/04; Ord. 5555, 2/7/03]

5.040 Establishment of Special-Purpose Districts. Special-purpose districts are overlay districts that may be combined with a major zoning district. The regulations of a special-purpose district are supplementary to

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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:

Special Purpose District	Applicable Articles
Airport Approach	Article 4
Floodplain	Article 6
Wetlands	Article 6
Willamette Greenway	Article 6
Hillside Development	Article 6
Historic Overlay	Article 7

[Ord. 5555, 2/7/03]

5.045 Relationship to State, Federal and Other Local Regulations. In addition to the regulations of this Code, each use, activity, or operation in the City of Albany must comply with applicable state and federal standards. Other local regulations 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~~ **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~~**1.105**; or

(b) When a property that has been unoccupied for more than one year and is non-conforming

under the provisions of Article 2 is proposed to be occupied.

Commentary: 5.060 Schedule of Permitted Uses

For Single- and Two-Family Units and Three or More Units in the CB, WF, and DMU zoning districts, the requirement for Conditional Use review in certain situations has been removed. This is described further in the commentary for Special Conditions (16) and (17) below.

5.060 Schedule of Permitted Uses. The specific uses listed in the following schedule (Table 5.**060**-1) are permitted in the zones as indicated, subject to the general provisions, special conditions, additional restrictions, and exceptions set forth in this Code. A description of each use category is in Article 22, Use Categories and Definitions. The abbreviations used in the schedule have the following meanings:

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

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

TABLE 5.060-1
SCHEDULE OF PERMITTED USES

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

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Use Categories (See Article 22 for use category descriptions)	**Spec. Cond.**	**MUC**	**WF**	**HD**	**DMU**	**CB**	**LE**	**PB**	**MS**	**ES**	**MUR**
Wholesale Sales		N	N/ CU-24	N	N	CU	N	N	N	N	N
COMMERCIAL											
Adult Entertainment	4	N	N	S	S	S	N	N	N	N	N
Entertainment and Recreation Indoor Outdoor		S-5 CU	S-5/ CU-24 CU-6	S N	S N	S CU-6	S N	S-5 S	S-5 N	S-5 N	CU N
Offices Traditional Industrial		S CU	S S	S S	S S	S S	S S	S S	S S	S N	S N
Parking		S	CU	CU	CU	CU	S	S	S	CU-**7**	CU
Recreational Vehicle Park		N	N	N	N	N	N	N	N	N	N
Restaurants, no drive-thru with drive-thru or mostly delivery	23	S CU	S N	S N	S N	S N	S S	S S	S N	CUII N	S N
Retail Sales and Service		S-8	S-8/ CU-24	S-8	S-8	S	S	S	S-8	S-8	S-8
Self-Serve Storage	9	N	N	N	N	N	N	N	N	N	N
Taverns, Bars, Breweries, Nightclubs	23	CUII	CUII	S	S / CUII (25)	S / CUII (25)	S	S	CUII	CU	CUII
Vehicle Repair		N	N/ CU-24	N	N	CU	N	S	N	N	N
Vehicle Service, Quick (gas/oil/wash)		S	N	N	N	N	N	S	S	S	N
INSTITUTIONAL											
Basic Utilities	10	CU	CU	CU	CU	CU	CU	CU	CU	CU	CU
Daycare Facility		S	S	S	S	S	N	CU	S	S	S
Community Services	11	CU	CU	S	S	S	S	S	S	S	CU
Educational Institutions	12	CU	CU	CU	CU	CU	CU	N	CU	CU	CU
Hospitals		N	CU	CU	CU	S	S	CU	N	CU	CU
Jails & Detention Facilities		N	N	N	N	N	N	N	N	N	N
Parks, Open Areas and Cemeteries	13	CU	CU	CU	CU	CU	CU	CU	CU	CU	CU
Religious Institutions	12	CU	CU	CU	CU	S	S	CU	CU	CU	CU
RESIDENTIAL											
Residential Care or Treatment Facility	14	S	CU	S	**S**	S	S	N	S	S	S
Assisted Living Facility		CU	CU	CU	CU	CU	CU	CU	CU	CU	CU
Single Family and Two Family Units	15	Y-17	S/~~CU~~ 16	N/Y- 16	S/~~CU~~ 16	S/~~CU~~ 16	N-16	N	N-16	CU-16	Y
Three or More Units	17	S-17	S/~~CU~~ 17	N	S/~~CU~~ 17	S/~~CU~~ 17	S	N	CU	CU	S
Units Above or Attached to a Business		S-17	S	S-17	S	S	S	S	S	S	S

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

Y = Yes, allowed, no Site Plan review required
CU = Conditional Use approval required, Type III procedure
CUII = Conditional Use approval required, Type II procedure
N = No, not allowed
S = Site Plan Review required

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

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 **Major** Variance procedures.

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

(a) Limited Uses in PB and MUC. The following indoor entertainment and recreation uses are prohibited in PB and MUC: movie theaters, indoor firing ranges, paint gun, coliseums, stadiums and similar facilities. [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.

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All other retail uses are prohibited. See Article 22 for descriptions of convenience-oriented and personal service-oriented commercial uses.

(b) Limited Uses in MUC. The following retail uses are prohibited: sale, leasing, and rental of vehicles and trucks; hotels and motels. [Ord. 5556, 2/21/03; Ord. 5894, 10/14/17]

(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. 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.

(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~~ **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~~ **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

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includes five or fewer residents is permitted outright in any zone that allows single-family residences. [Ord. 5673, 6/27/07; Ord. 5742, 7/14/10]

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

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

The accessory apartment may be:

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

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

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

Commentary: 5.070(16)(d) Single- and Two-Family Units in CB, WF, and DMU districts.

The design standards in Article 8 can be modified with an Adjustment. Therefore, the option for Conditional Use review for a development that does not comply with the driveway standards in ADC 8.150(1) is unnecessary. Such development can instead request an Adjustment.

(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~~ **Site Plan Review**. **An Adjustment may be requested for units with driveways that do not meet the standards in ADC 8.150(1).** ~~All other single-family attached units and two-family units may be considered through a Conditional Use review.~~

Commentary: 5.070(17) Residential Development in CB, HD, MS, ES, and MUC

(a) This subsection discourages dwelling units at the street level in the MS (Main Street) and ES (Elm Street) districts. The use of the word "discouraged" is subjective. The proposed amendment simply deletes this standard and removes any restrictions on street-level dwelling units in the MS and ES districts.

(d) Similar to single- and two-family development noted under subsection (16) above, the option for Conditional Use review for a multi-family development that does not comply with the driveway standards in ADC 8.150(1) is unnecessary. Such development can instead request an Adjustment.

(17) Residential Development in CB, **WF, DMU,** 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~~**a**) 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~~**b**) 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]

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(d) In CB, WF, and DMU, multifamily units with individual driveways that ~~do not~~ meet the standards of 8.150(1) **are permitted subject to Site Plan Review. An Adjustment may be requested for units with driveways that do not meet the standards in ADC 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]

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(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)~~ **2.335(3)**, 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 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. [Ord. 5894, 10/14/17]

(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. [Ord. 5894, 10/14/17]

(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

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a Conditional Use review. All other warehousing and distribution uses are prohibited. [Ord. 5894, 10/14/17]

(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.**060-1** ~~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~~ **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, remodels, 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~~ **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~~**1.105**. [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~~**3.160**, 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.**090-1** ~~2~~ summarizes the basic 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.**090-1** ~~2~~
MIXED-USE VILLAGE CENTER DEVELOPMENT STANDARDS

STANDARD	MUC	WF	HD	DMU	CB	LE	PB	MS	ES	MUR
Minimum Lot Size (sq.ft.) (3)										
Single-family (20)	None	None	None	None	None	N/A	N/A	N/A	5,000	None
Attached single-family, Per lot	None	1,600	N/A	None	None	N/A	N/A	None	None	None
Two-family	None	3,600	N/A	None	None	N/A	N/A	N/A	7,000	3,600
3 or more 1-bedroom	None	1,600/u	N/A	None	None	None	1,600/u	1,600/u	3,300/u	1,600/u
3 or more 2+bedroom	None	1,800/u	N/A	None	None	None	1,600/u	1,800/u	3,300/u	1,800/u
All other uses	6,000	5,000	1,000	1,000	1,000	2,000	15,000	6,000	5,000	10,000
Maximum Building Size (sq. ft.)(16)										
Non-grocery (16)	20,000	None	None	None	None	None	None	None	None	None
Grocery-anchored	80,000 (13)	None	None	None	None	None	None	None	None	None
Maximum Business Footprint (sq. ft.)(16)(17)										
Non-grocery (16)	20,000	None	None	None	None	None	25,000	10,000	10,000	10,000
Grocery-anchored	80,000 (13)	None	None	None	None	None	60,000	60,000	60,000	60,000
Lot Width, minimum	None	None	20'	None	None	20'	None	None	None	None
Lot Depth, minimum	None	None	50'	None	None	50'	None	None	None	None
Landscaped Area	100% (2)	None	None	None	None	100% (2)	100% (2)	100% (2)	100% (2)	100% (2)
Minimum Open Space	(12)	(12)	(12)	(12)	(12)	(12)	(12)	(12)	(12)	(12)
Maximum Front Setbacks: (10)	10' (15)	5'/15' (18)	0'	5'/15' (18)	5'/15' (18)	None	20'	10'	10'	20'
Minimum Setbacks:										
Front (5) (14)	5'	0'	0'	0'	0'	0'	5'	5'	5'	15'
Interior (5) (14)	(1)(4)	0' (1)(4)	0'(4)	0' (1) (4)	0' (1) (4)	(4)	(4)	(1)(4)	5'	10'(1)
Garage Entrance (9)	20' (8)	5' or 20' (8)(7)	None	5' or 20' (8) (7)	5' or 20' (8) (7)	20'	20'	20'(8)	20'	20'
Height, maximum	50'	55'	85' (19)	85' (19)	65'	60'	50'	50'	50'	45'
Lot Coverage, maximum (6)	80%	100%	100%	100%	100%	100%	80%	90%	80%	70%

"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,

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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 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.**100-1**~~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 Section 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~~**8.305** 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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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: ****

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SETBACKS

5.100 Minimum Standards. Primary structures must meet the minimum setback standards in Table 5.**090-1** ~~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.**100-1** ~~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: Table 5.100-1 Accessory Structure Standards

Similar to the equivalent Table in Article 3 (Table 3.230-1), 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 5.100-1 ~~3~~
ACCESSORY STRUCTURE STANDARDS

STRUCTURE	SETBACK STANDARD
All Accessory Structures	See Table 5.**090-1** ~~2~~ for minimum front setbacks.
Detached, walls less than or equal to 8 ft. tall	Interior setback = 3 feet
Detached, walls greater than 8 ft. tall	Interior setback = 5 feet
Attached structure	Interior setback = 5 feet
Garage with **vehicular** access ~~to~~ **from** an alley	Alley setback = 20 feet, less the width of the alley right-of-way, but at least 3 feet. Other interior setbacks, see Table 5.**090-1** ~~2~~
Structures, including fences, intended for housing animals	Interior setback = 10 feet
Fences more than 6 ft. high	District setback standard; building permit required.
Outdoor swimming pools with depths greater than or equal to 24 inches	Interior setback = 10 feet
Decks less than 30 in. off grade, no rails, covers	No setback from property line
Decks greater than or equal to 30 in. off grade	Interior setback = 5 feet

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

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**.120**-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]

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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.**120**-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]

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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]

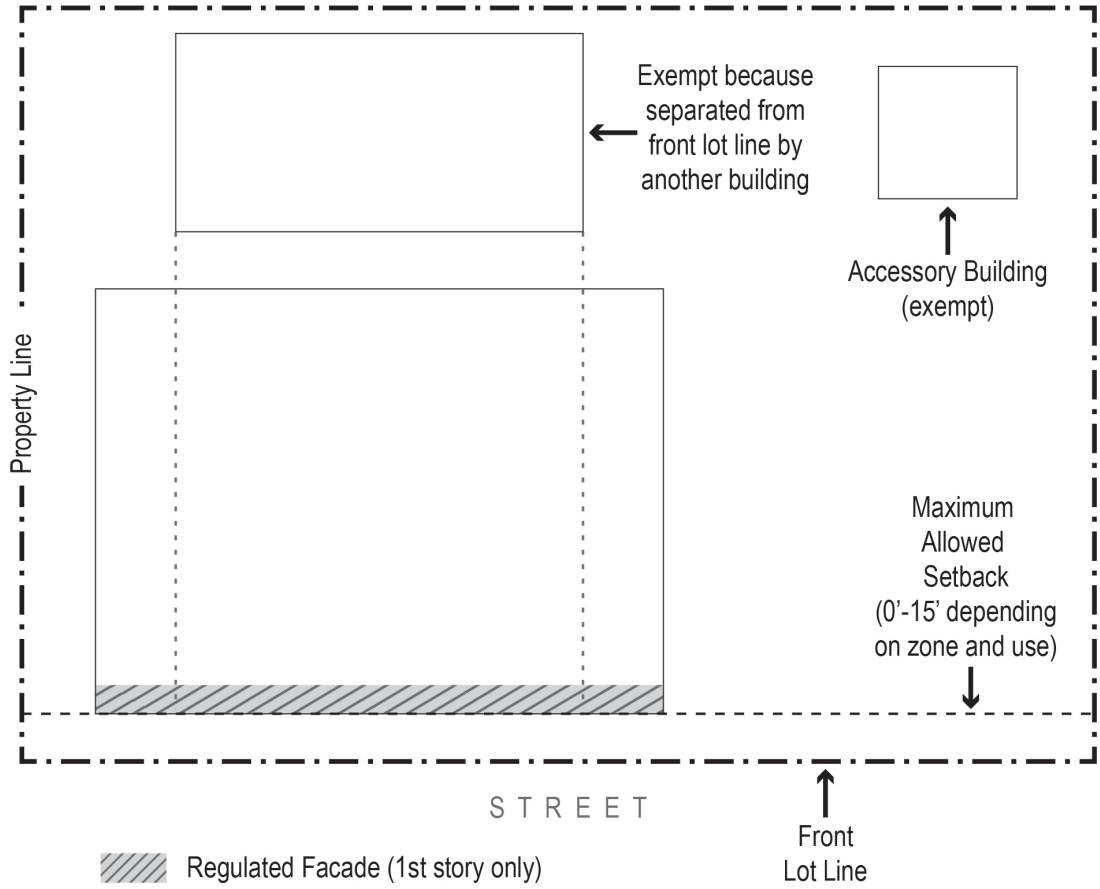

FIGURE 5.120-1. Regulated façades for maximum setback.

Commentary: 5.130 Alternative Setbacks in Developed Areas

This section 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

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: 5.150 Zero Lot Line

Similar to Article 4, the proposed amendment to resolve issues with this section is to allow the easement to be less than 6 feet in width if the required setbacks are less than 6 feet.

Current code uses the term "adjoining." Proposed (revised) language uses the term "Abutting," which is defined as follows: *"Abut: Contiguous to; for example, two lots with a common property line. However, "abut" does not apply to buildings, uses, or properties separated by public right-of-way. Abut: Contiguous to; for example, two lots with a common property line. However, "abut" does not apply to buildings, uses, or properties separated by public right-of-way."*

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: ****

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~~ **abutting** property deed or plat. **The width of the easement shall be 6 feet or the width of the required setback of the abutting property, whichever is less. If the abutting 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 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:

Waterway	Setback
Calapooia River	100 feet

5.180 Setback and Fencing for Swimming Pools. Swimming pools must conform to the setback regulations for main buildings, except that outdoor swimming pools must be set back at least 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**.205**-1):

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(1) 35 feet for a building two stories or less, and

(2) 45 feet for a building three or more stories. [Ord. 5627, 7/27/05]

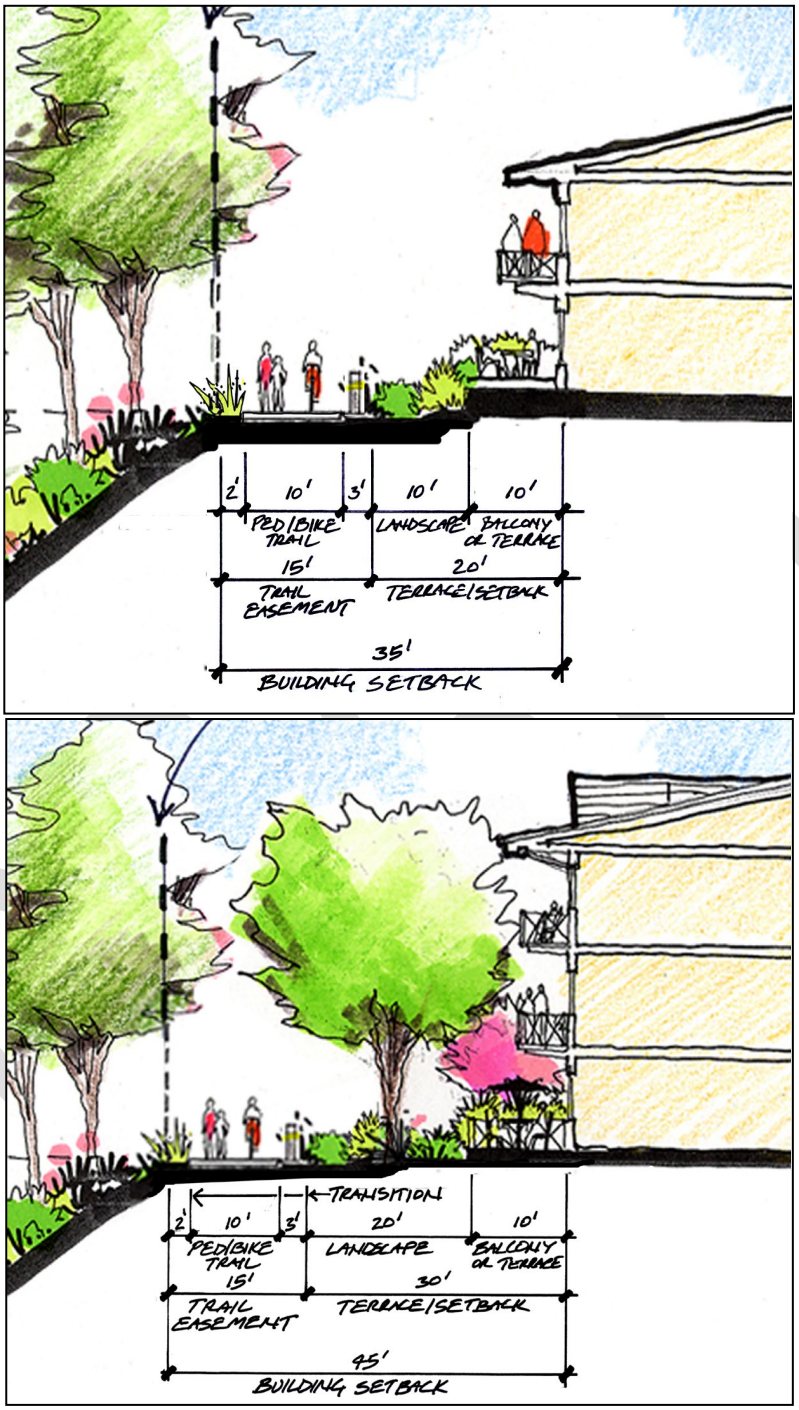

FIGURE 5.205-1. Minimum building setback requirements inside the Willamette River Waterfront Zone.

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.

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: ****

Common Name	Assessor's Property Identification Number	
Willamette Seed Site	11S-03W-6DC #100	
Permawood Site	11S-03W-5BD #200, #300 and 11S-03W-5CA #1001, #1100, #6805	[Ord. 5555, 2/7/03]
"Buzzsaw"	Site11S-03W-6CD #11500	[Ord. 5627, 7/27/05]

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

Area	Minimum Setback
West of Lafayette	5 feet
East of Lafayette	15 feet

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

(1) Property line along the river, or

(2) City multi-use path easement, or

(3) Top of the river embankment. [Ord. 5627, 7/27/05]

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

(1) Property line along the river, or

(2) City multi-use path easement, or

(3) Top of the river embankment. [Ord. 5559, 3/26/03]

5.210 Special Setbacks for Schools, Churches, Public and Semi-Public Buildings. Any new construction of a school, church, or public or semi-public building must be set back at least 25 feet from any property line abutting any residential district. No required front or interior setback of the lot on which such building or use is located may be used for stockpiling or storing materials or equipment. All other setbacks of the district where the property is located continue to apply.

Commentary: 5.220 Parking Restrictions in Setback Areas

This section has been slightly reworded to be consistent with the standards applied in the residential districts (Section 3.250).

5.220 Parking Restrictions in Setback Areas. Parking and loading spaces ~~may~~ **shall** not be located in a required front or ~~side~~ **interior** setback, except:

(1) **Paved** ~~D~~**d**riveways ~~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. [Ord. 5445, 4/12/00; Ord. 5555, 2/7/03]

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

HEIGHT

5.240 Height Standards. See Table **5.090-**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

***

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~~**9.210** through ~~9.325~~**9.270** for requirements.
[Ord. 5445, 4/12/00; Ord. 5742, 7/14/10]

OUTSIDE STORAGE

***

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Article 6 - Natural Resource 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: ****

ARTICLE 6
NATURAL RESOURCE DISTRICTS

Commentary

Floodplain Overlay District (/FP), Hillside Development Overlay District (/HD), and the Significant Natural Resource Overlay Districts (/RC, /SW, and /HA) have been amended to create a clear and objective track for residential development as required by ORS 197.307(4).

The approach for Willamette River Greenway Overlay District (/WG) is different from that proposed for the other overlay districts. New language has been added to the purpose statement clarifying that the Willamette Greenway statute (which requires consideration of certain discretionary criteria) take precedence over the requirement to provide clear and objective standards.

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

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

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

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

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

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

OPEN SPACE ZONING DISTRICT (OS)

[No changes proposed to Open Space Zoning District (OS)]

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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: ****

FLOODPLAIN

6.070 Purpose. The Floodplain overlay district (/FP) standards are intended to manage development in the floodplain in a way that promotes public and environmental health and safety and minimizes the economic loss and social disruption caused by impending flood events. [Ord. 5746, 9/29/10]

6.075 Definitions. As used in this Article the following words and phrases have the following meanings: [Ord. 5746, 9/29/10]

***

Flood Fringe: Those areas on either side of the floodway within the Special Flood Hazard Area (100-year floodplain). This area is subject to inundation by the base flood but conveys little or no velocity flows. Zone designations on Flood Insurance Rate Maps for Albany include A and AE. Note Floodplain Relationships diagram (Figure 6.**075**-1).

***

Floodplain: The combined area of the floodway and the flood fringe. Also known as the 100-year floodplain, and the Special Flood Hazard Area. Note Floodplain Relationships diagram in Figure 6.**075**-1.

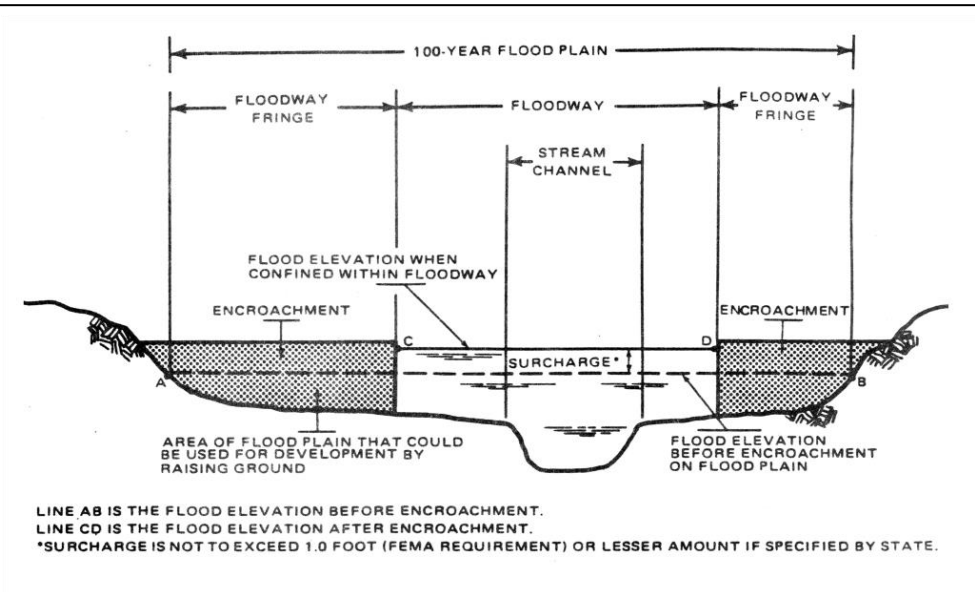

FIGURE 6.075-1. Floodplain Relationships

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Floodway: The regulatory floodway is the stream channel plus that portion of the overbanks that must be kept free from encroachment in order to discharge the 1-percent-annual-chance flood without increasing flood levels by more than 1.0 foot. Note Floodplain Relationships diagram in Figure 6.**075**-1.

***

GENERAL PROVISIONS

[No changes proposed to General Provisions]

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: ****

ADMINISTRATION

***

6.091 Appeals. Appeals to the interpretations of the Floodplain Administrator shall be reviewed by the Hearings Board as a Type II procedure in accordance with Sections 1.040 and ~~1.520~~**1.410** of this Code. Appeals to the land use decisions (Types I-L, II, and III) resulting from the Floodplain Development Permit applications shall be reviewed in accordance with Section ~~1.520~~**1.410** of this Code. [Ord. 5746, 9/29/10]

6.092 Variances. Variances from the terms of this section shall be granted only, when because of special circumstances applicable to the property, including size, shape, topography, location or surroundings, the strict application of this section deprives such property of privileges enjoyed by other property in vicinity and under identical zoning classifications. Variances as interpreted in the National Flood Insurance Program are based on the physical characteristics of the land and are not dependent upon the occupants, type, or use of a structure. They primarily address small lots in densely populated residential neighborhoods. As such, variances from the flood elevations should be quite rare. [Ord. 5746, 9/29/10]

No variance will be given to the standards for development in a floodway.

Variances from the floodplain management regulations of this section shall be reviewed ~~as a Type II~~ **using the Major Variance** procedure **(see Article 2)** and shall be approved if the review body finds that all of the following criteria have been met:

[Ord. 5746, 9/29/10]

(1) The applicant can show good and sufficient cause; and

(2) Failure to grant the variance would result in exceptional hardship to the applicant; and

(3) Issuing the variance will not result in increased flood heights, additional threats to public safety, extraordinary public expense, create nuisances, cause fraud on or victimization of the public, or conflict with existing local laws or ordinances; and

(4) The variance is the minimum necessary, considering the flood hazard, to afford relief.

(5) Variances from the required lowest floor elevation for new construction and substantial improvements may be granted if the review body find that the request meets criteria (1)-(4) and the parcel is one-half acre or less in size contiguous to and surrounded by lots with existing structures constructed below the base flood level. As the lot size increases the technical justification required for issuing the variance increases.

(6) Variances may be granted for a water dependent use provided that the structure or other development meets criteria (1)-(4) and is protected by methods that minimize flood damages during the base flood and create no additional threats to public safety

(7) Variances may be granted for the reconstruction, rehabilitation, or restoration of structures listed on Albany's Local Historic Inventory or the National Register of Historic Places, without regard to the procedures set forth in this section. [Ord. 5875, 10/28/16]

(8) Variances may be granted for nonresidential buildings in very limited circumstances to allow a lesser degree of floodproofing than watertight or dry-floodproofing, where it can be determined that such action will have low damage potential, complies with all other variance criteria and otherwise complies with Building Codes.

Upon issuing the variance, the Floodplain Administrator will notify the applicant in writing that the issuance of a variance to construct a structure below the base flood level will result in increased premium rates for flood insurance, and that such construction below the base flood level increases risks to life and property. [Ord. 5746, 9/29/10]

6.093 Floodplain Development Permit Required. A Floodplain Development Permit is required prior to initiating floodplain development activities, as defined in Section 6.075, in the Special Flood Hazard Area. This Article cannot anticipate all development activities that may be located within the Special Flood Hazard Area. The floodplain development permit shall expire 180 days after issuance unless the permitted activity has been substantially begun and thereafter pursued to completion.

[Ord. 5746, 9/29/10]

All development activities that require a Floodplain Development Permit shall be processed in accordance with ADC Section ~~1.200~~**1.100**, Land Use Application Procedures. When ambiguity exists concerning the appropriate classification of a particular activity, the use may be reviewed as a conditional use when the Floodplain Administrator determines that the proposed activity is consistent with other activities allowable within the subject district due to similar characteristics and impacts. When a development proposal involves a combination of activities, the more restrictive provisions of this Code shall apply.

[Ord. 5746, 9/29/10]

A. The following activities will be processed through a Type I procedure as established in ADC ~~1.320~~**1.210**:

(1) Any structure 200 square feet or more.

(2) Any substantial improvement to an existing structure as defined in this code.

(3) Placement of a recreational vehicle more than 180 consecutive days, as described in 6.124(2)-(3).

(4) Solid fences and walls that require a permit as listed in Section 6.125.

(5) Any site improvement for development in the floodplain pursuant to Section 6.110 that is not exempt under Section 6.094 and does not already require a permit elsewhere in this Section of the Code. [Ord. 5875, 10/28/16]

B. The following activities will be processed through a Type I-L procedure as established in ADC ~~1.330~~**1.220**:

(1) Any development in the floodway allowed by Sections 6.100-6.101.

(2) Grading, excavation, fill, and paving pursuant to Section 6.111 that cumulatively impacts more than 50 cubic yards of the native elevation and contours of the site or that otherwise requires a permit per this Article, and any associated retaining walls.

(3) Mining and drilling operations that result in sledge, slag, or other materials remaining in the Special Flood Hazard area will be considered fill for the purposes of this Article, and will be reviewed through the applicable criteria in Section 6.111.

(4) Additions or expansions of Continuous Storage Operations pursuant to Section 6.112.

(5) New Continuous Storage Operations pursuant to Section 6.112.

(6) Land Divisions of 19 lots or less pursuant to Section 6.110.

[Ord. 5767, 12/7/11; Ord. 5875, 10/28/16]

C. The following activities will be processed through a Type II procedure as established in ADC ~~1.350~~**1.230**:

(1) Any alteration of a Watercourse, pursuant to 6.101 and the applicable criteria in Section 6.111.

D. The following will be processed through a Type III procedure as established in ADC ~~1.360~~**1.240**:

(1) Land Divisions of 20 or more lots, Cluster Developments and Planned Developments pursuant to Section 6.110. [Ord. 5875, 10/28/16]

(2) Manufactured home parks pursuant to Section 6.110 will be reviewed through the Manufactured Home Park application process.

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PROVISIONS FOR FLOOD HAZARD REDUCTION

***Commentary

Section 6.109, below, has been added to create a clear and objective track for residential development as required by ORS 197.307(4). It is intended to clarify that the clear and objective standard is that applicants not develop new dwelling units or create new residential lots or parcels within the Special Flood Hazard Area. Applications for residential development within the Special Flood Hazard Area would be required to comply with the existing standards and criteria as is currently the case.

6.109 Residential Development Standards. Applications proposing new residential dwelling units or the creation of residential lots or parcels on property with Special Flood Hazard Area (100-year floodplain) on it must comply with either the clear and objective standard in subsection (1) or the discretionary standard in subsection (2), below.

(1) Clear and objective standard. No new dwelling units or new residential lots or parcels are allowed within the floodplain. An application to develop property that has floodplain on it, but where no development is proposed within the boundaries of that floodplain will be processed as otherwise required in this Code. In case of land divisions, "no development" means the floodplain area has been excluded from the land division. This can be done by setting the property aside for some other purpose than later development (for example, as a public drainage right-of-way).

(2) Alternative review. Residential development is allowed within the floodplain subject to the provisions of this Floodplain overlay district and the standards in Sections 6.100 through 6.125.

6.110 Site Improvement, Land Division and Manufactured Home Park Standards. Site improvements, land divisions, and manufactured home parks in the Special Flood Hazard Area (100-year floodplain) shall be reviewed by the Planning Division as a part of the land use review process. An application to develop property that has floodplain on it, but where no development is proposed in that floodplain will be processed as otherwise required in this Code. In the case of a land division, "no actual development" means the floodplain area has been excluded from the land division. This can be done by setting the property aside for some other purpose than later development (for example, as a public drainage right-of-way). [Ord. 5746, 9/29/10]

In addition to the general review criteria for site improvements, land divisions and manufactured home parks, applications that propose actual development within the Special Flood Hazard Area shall also be subject to the following standards: [Ord. 5338, 1/28/98; Ord. 5746, 9/29/10]

(1) All proposed new development and land divisions shall be consistent with the need to minimize flood damage and ensure that building sites will be reasonably safe from flooding.

(2) All new development and land division proposals shall have utilities and facilities such as sewer, gas, electrical, and water systems located and constructed to minimize flood damage.

(3) On-site waste disposal systems shall be located and constructed to avoid functional impairment, or

contamination from them, during flooding.

(4) All development proposals shall have adequate drainage provided to reduce exposure to flood damage.

(5) Any lot created for development purposes must have adequate area created outside of the floodway to maintain a buildable site area meeting the minimum requirements of this Article.

(6) Any new public or private street providing access to a residential development shall have a roadway crown elevation not lower than one foot below the 100-year flood elevation.

(7) All development proposals shall show the location of the 100-year flood contour line followed by the date the flood elevation was established. When elevation data is not available, either through the Flood Insurance Study or from another authoritative source, and the development is four or more acres or results in four or more lots or structures, the elevation shall be determined and certified by a registered engineer. In addition, a statement located on or attached to the recorded map or plat shall read as follows: "Development of property within the Special Flood Hazard Area as most currently established by the Federal Emergency Management Agency or City of Albany may be restricted and subject to special regulations by the City." [Ord. 5338, 1/28/98]

(8) In addition to the general review criteria applicable to manufactured home parks in Article 10, applications that propose actual development within a Special Flood Hazard Area shall include an evacuation plan indicating alternate vehicular access and escape routes.

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6.125 Flood Fringe Fencing and Wall Standards. Certain types of fences and garden walls may be allowed in the flood fringe of the Special Flood Hazard Area (100-year floodplain). All fences and garden walls constructed within the flood fringe must not obstruct the entry and exit of floodwater, through their design and construction. All fences and walls are prohibited in the floodway. [Ord. 5746, 9/29/10]

Table 6.**125**-1 below is provided to assist in selecting appropriate fencing in the flood fringe. All fences and walls also must meet the standards in other sections of the Code. [Ord. 5746, 9/29/10]

TABLE 6.125-1. Fence type selection for flood fringe areas.

Fence Type	Flood Fringe Areas
Open barbless wire; Open pipe or rail; Other wire, pipe or rail (e.g. field fence, chicken wire, etc.); Chain link (1)	No permit required
Wood fences (2)	No permit required
Solid fences and freestanding walls, such as masonry (3)	Permit required, must have openings at and below BFE
Other fences (4)	Permit required, must have openings at and below BFE

(1) Acceptable are materials and installation methods that allow for the entry and exit of floodwater.

(2) Wood fence boards should be spaced to allow for the entry and exit of floodwater.

(3) Solid fences and freestanding walls must include a flap or opening in the areas at or below the Base Flood Elevation at least once every three fence panels or 24 feet, whichever is less. Fences less than 24 feet in length shall have at least one flap or opening in the areas at or below the Base Flood elevation. The minimum dimensions of the flap or opening shall not be less than 12"x12" or 8"x18". Openings shall not include any screening of any type or size. If flaps are used, they may be secured to allow closure during normal use, but must be capable of self release and opening to full dimensions when under pressure of no greater than 30 pounds

per sq. ft. These standards do not apply to retaining walls which shall meet the same standards as other building, paving, and grading activities.

Solid fences and walls constructed within Zone A, where the base flood elevation has not been determined, can use other sources of floodplain and floodway data to determine base flood elevations and boundaries as described in Section 6.080, or the openings can be placed within one foot of the finished grade along the fence alignment.

(4) Other fence materials and construction that would restrict the flow of floodwaters will require a permit so they can be reviewed and adapted to meet the intent of this section of the Code.

HILLSIDE DEVELOPMENT

6.170 Purpose. The Hillside Development overlay district (/HD) is intended to regulate the development of potentially hazardous terrain, minimize public and private losses due to earth movement hazards in specified areas, and minimize erosion and related environmental damage. It is not the intent of Hillside Development standards to transfer density within a development. [Ord. 5668, 4/11/2007]

6.180 Applicability. **Except as specified below, the** ~~The~~ Hillside Development standards apply to any property proposed for development that has slopes of 12 percent or greater as shown on Plate 7 of the Albany Comprehensive Plan. Where Plate 7 shows that there are slopes 12 percent or greater on a property, the applicant may choose to submit a topographic survey, prepared and stamped by a licensed surveyor or civil engineer, showing two-foot contour intervals for the entire site. If the applicant chooses to submit survey information, and the survey indicates that the property does not contain slopes 12 percent or greater, the Hillside Development standards will not apply. [Ord. 5668, 4/11/2007]

The interior remodeling of existing buildings, including the creation of additional dwellings units within an existing dwelling, is exempt from the requirements of the Hillside Development overlay District provided there is no increase in the building footprint.

6.190 Procedure. Hillside Development is reviewed concurrently with the land use application(s) required for the development and is processed using the same procedure as the primary land use application. ~~Development~~ **Hillside development** that only requires a building permit is reviewed administratively as a Type I procedure.

[Ord. 5668, 4/11/2007; Ord. 5886, 1/6/17; Ord. 5923, 2/8/19]

6.200 Geotechnical Report Required. For any development subject to the applicability criterion in ADC 6.180, an applicant shall provide a geologic and soils report prepared and stamped by a certified engineering geologist or a licensed civil engineer, licensed in the specialty of geotechnical engineering with the State of Oregon.

The report must identify the following:

(1) All geologic and soils hazards and certify that the site, and each individual lot if land division is proposed, are suitable for the proposed development.

(2) Area(s) suitable for building and describe how slopes will be stabilized.

(3) Suitable building footprint(s) for development on each lot.

(4) Any requirements that must be met from the time construction begins to the time construction is completed.

(5) Any requirements that must be met after construction is completed (e.g., maintenance requirements for continued slope stabilization). [Ord. 5668, 4/11/07]

6.210 Drainage. In all slope areas, impervious surface drainage from roofs, driveways, and parking areas must be

directed to a City storm drain or other City-approved drainage system. Development activities must not block the flow of stormwater in natural drainageways without prior approval from the Public Works Director. [Ord. 5265, 12/18/96]

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

6.230 Modification of Standards. The following Development Code standards may be modified through the application process, if approved by the review body:

(1) Front, side and rear yards may be reduced if the geotechnical report explains why the reduction is warranted. The reduction must be approved by the review body. A variance application is not required, but a developer must make a specific written request for the reduction to the City for consideration.

(2) Building height limitations may be exceeded on hillside lots, if the geotechnical report explains why the additional height is warranted. The additional height requires approval by the review body, provided it does not exceed 45 feet. [Ord. 5668, 4/11/07]

Commentary

The current approach is to require a geotechnical report; however, basing a permit on a report is not considered a "clear and objective standard." Section 6.335, below, has been added to create a clear and objective track for residential development as required by ORS 197.307(4). It allows applicants to opt to provide a "certification" rather than a geotechnical report. Certification removes the discretion from the City's decision -- the City must accept the certification if it is provided as required.

6.235 Applications for Residential Development. For the construction of new residential dwelling units within the Hillside Development overlay district that meet the applicability criteria in ADC 6.180, in lieu of compliance with sections 6.200 through 6.230, applicants may choose to provide a certification from an Oregon licensed Engineering Geologist (CEG) or an Oregon licensed Geotechnical Engineer (GE) stating:

(1) That the proposed development activity will not impact or be impacted by existing or potential stability problems or any of the following site conditions: springs or seeps, depth of soil bedrock, variations in soil types, or a combination of these conditions; or

(2) If proposed development activity will impact or be impacted by any of the conditions listed in (1), the methods for safely addressing the impact of the conditions.

If a certification is submitted under subsection (2), the certification shall also include a signed and notarized statement from the property owner, and applicant, that all development will occur in accordance with the Engineer's certification.

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: ****

SIGNIFICANT NATURAL RESOURCE OVERLAY DISTRICTS

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

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

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

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

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

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

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

B. Significant Wetland overlay district (/SW): To protect and enhance the integrity, function and value of Albany's significant wetlands and fish-bearing waterways. Wetlands and waterways provide hydrologic and ecologic functions; and reduce adverse effects of flooding. The vast majority of significant wetlands are in riparian areas. There are a small number of isolated significant wetlands.

The higher quality isolated wetlands will be regulated locally (as identified in the Citywide ESEE Analysis); and the lower quality isolated wetlands will not be regulated locally, but must comply with state and federal wetland regulations.

C. Habitat Assessment overlay district (/HA): To protect habitat for northwestern pond and western painted turtles in and around Thornton Lakes by reviewing and limiting the impacts of development activities on their habitat. This was the only area in Albany where there is a documented presence of a species listed by either the federal government or the State of Oregon. The State lists the species as "sensitive, critical." The overlay identifies an area of high likelihood of turtle nesting, foraging, or migration routes. The overlay district regulations provide a limited level of protection (as identified in the Thornton Lakes ESEE Analysis). Voluntary methods of turtle habitat protection and enhancement are encouraged and essential.

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

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

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

(1) The Riparian Corridor boundary applies to the following Albany water resources (and in-stream lakes):

- Calapooia River
- Burkhart Creek
- Cathey Creek
- Cox Creek
- Crocker Creek
- Horseshoe Creek
- Oak Creek
- Periwinkle Creek
- Thornton Lakes
- Truax Creek

(2) The Willamette River Riparian Corridor is located within the Willamette River Greenway District boundary. All development on properties within the Willamette River Greenway District is subject to the regulations beginning in Section 6.500, but is not subject to the riparian corridor overlay regulations.

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

C. Habitat Assessment overlay district (/HA): This overlay district extends 75 feet from the Ordinary

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High Water mark upland from East and West Thornton Lakes.

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

(1) Emergency procedures necessary for the immediate safety or protection of life or property, including removing hazardous trees and stream bank stabilization.

(2) Removal of refuse or any fill that is in violation of local, state or federal regulations or in-channel erosion or flood control measures approved by City of Albany Public Works, DSL, ACE and any other applicable state or federal regulatory agency. Removal or placement of material in waters of the State must be consistent with State of Oregon Removal-Fill regulations (ORS 196.795-990) and the ACE fill regulations.

(3) City construction of public infrastructure, such as transportation, stormwater, sewer, and water utilities. This exemption requires unimproved but disturbed areas to be replanted with native vegetation.

(4) Private construction of public infrastructure. The location and construction of public transportation and utility facilities and structures as identified in a City-adopted master plan. This exemption requires that unimproved but disturbed areas are replanted with native vegetation.

(5) The use of pre-existing right-of-way or easements for public infrastructure, franchise utilities, and railroads. Planting and maintaining native vegetation is encouraged.

(6) Implementation of erosion prevention or flood control measures provided the measures have received any required approvals and permits from local, state or federal regulatory agencies with jurisdiction over the proposed activity.

(7) Farming practices such as grazing, plowing, planting, cultivating and harvesting, that either existed on the property prior to the date of adoption of these provisions or do not include new or expanded structures, roads, or other facilities involving grading, excavation, fill, native vegetation removal, or new drainage measures.

(8) Maintenance of existing structures, impervious surfaces, and landscaped areas as described below:

(a) Ongoing maintenance of pre-existing landscaped areas, including perimeter mowing, as long as natural vegetation is not disturbed and there is no excavation, filling or reduction of natural resource area. Use of integrated pest management methods is encouraged.

(b) Ongoing maintenance of existing development, such as repair, replacement, and use of existing buildings, roads, paths, utilities, bridges, culverts, fences, flood control structures, drainageways or facilities, detention facilities, water quality facilities, and other structures and impervious surfaces, provided that such practices avoid sedimentation and other discharges into streams, lakes, or wetlands and do not add impervious surface or remove additional vegetation.

(9) Removal of live vegetation for the following purposes:

(a) Restoration and enhancement projects that have received required approvals from the appropriate local, state, or federal agency.

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(b) Removal of non-native and invasive plants, including noxious weeds if consistent with local, state, and federal regulations, and replanted with species on the City's native plant list.

(c) Planting native vegetation on the City's native plant list.

(d) Felling of trees planted as Christmas trees or orchard trees.

(10) Residential development activities, such as construction of home additions, decks, patios, sheds, gardens, landscaping, etc., that impact no more than 2,000 square feet (cumulatively), or 20 percent of the Habitat Assessment overlay district area within a property, whichever is less. Development activities will be reviewed at the time of application for building permits when applicable.

Regardless of the exemption to the local Natural Resource Impact Review requirements, protection of the turtle species is regulated by the State of Oregon.

This exemption only applies to the Habitat Assessment overlay district. If the proposed activity is also located within other Significant Natural Resource overlay districts the requirements of those districts still apply.

(11) Construction of an approved, vegetated post-construction stormwater quality facility (e.g. swale), located in a portion of the Riparian Corridor that is in Degraded Quality condition and planted with native plants. [Ord. 5842, 1/01/15]

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

A. Activities subject to review include:

(1) Land divisions;

(2) New structures, or exterior expansion of the footprint of any structure or driveways (Type I);

(3) Increases in impervious surfaces (Type I-L);

(4) Site modifications, including grading, excavation, fill or native vegetation removal (Type I-L);

(5) Private construction of public and privately owned transportation facilities and utilities not exempt through 6.290(4) or 6.290(11) (Type I-L); and

(6) Activities within the Habitat Assessment overlay district not exempt under ADC 6.290 (Type I).

B. When a proposed use or activity requires a Natural Resource Impact Review, in addition to what is required for any concurrent land use applications or building permits, the applicant shall submit a scaled site plan to the City that that shows:

(1) Topographic contours at two-foot intervals;

(2) Ordinary high water (OHW) mark of all lakes, streams, or other waterways;

(3) Location of Riparian Corridor and Habitat Assessment overlay districts based on OHW;

(4) Location of Significant Wetland overlay district based on the LWI or DSL-approved delineation or determination;

(5) The 100-year flood boundary and elevation;

(6) Existing vegetative cover and species composition;

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(7) Existing and proposed site improvements;

(8) How the requirements of the applicable review standards in ADC 6.310 will be met; and

(9) A mitigation plan if required per ADC 6.400-6.410.

Commentary

Section 6.305, below, has been added to create a clear and objective track for residential development as required by ORS 197.307(4). It is intended to clarify that the clear and objective standard is that applicants not develop new dwelling units or create new residential lots or parcels within the Natural Resource Overlay. Applications for residential development within the overlay would be required to comply with the existing standards and criteria, as is currently the case.

6.305 Residential Development Standards. Applications subject natural resource review that are proposing new residential dwelling units or the creation of residential lots or parcels on properties that include one or more Significant Natural Resource overlay districts must comply with either the clear and objective standard in subsection (1) or the discretionary standard in subsection (2), below. As used in these subsections, the proposed division of land with a Significant Natural Resource overlay district on it is considered development "within a Significant Natural resource overlay district".

(1) Clear and objective standard. No development, including creation of lots or parcels, is permitted within a Significant Natural Resource overlay district. An application to develop property that has one or more Significant Natural Resource overlay districts on it, but where no development is proposed within the boundaries of a Natural Resource Overlay will be processed as otherwise required in this Code.

(2) Alternative review. Residential development is permitted within a Significant Natural Resource overlay district subject to the provisions of the applicable overlay district(s) and the standards in Sections 6.300 through 6.460.

6.310 Natural Resource Impact Review Standards

A. General Requirements for Significant Natural Resource overlay districts. A proposed activity will not be approved unless all of the following are true:

(1) The proposed activity is allowed under the requirements of the base zone.

(2) There are no other reasonably feasible options or locations outside the Significant Natural Resource overlay districts for the proposed activity on the subject parcel.

(3) The proposed activity is designed, located and constructed to minimize excavation, grading, structures, impervious surfaces, loss of native vegetation, erosion, and adverse hydrological impacts on water resources. All activities are located as far from the water resources, and use as little of the surface area of the Significant Natural Resource overlay districts, to the extent reasonably feasible.

(4) Any proposed impacts to significant natural resources will be mitigated per the standards in Sections 6.400 and 6.410.

(5) Any applicable local, state, and federal permits are secured.

(6) The additional requirements of ADC 6.310 (B) will be met.

B. Additional Requirements, Limitations, and Exceptions for Specific Activities in Riparian Corridor and Significant Wetland overlay districts. In addition to the general requirements listed above, the following requirements, limitations, and exceptions apply to development activities within the **Riparian Corridor and Significant Wetland** ~~Significant Natural Resource~~ overlay districts.

Commentary:

Language added to (1), below, addresses land partially situated in one of the overlays. In order to make the standard clear and objective, the use of the word "sufficient" has been defined to mean at least 2,000 square feet of land outside of any Significant Natural Resource overlay district. This is consistent with the assumptions used in the City's recent Buildable Lands Inventory.

(1) Land Divisions. In addition to the regulations in Article 11, land partially situated in one of the City's natural resource districts can be divided only if there is sufficient land outside of any Significant Natural Resource overlay district to establish a development site area and/or separate a developed area from the natural resource areas. **For the purposes of this section, for residential land divisions, "sufficient land" means a minimum of 2,000 square feet per proposed lot or parcel.** Applicants may also elect to follow the Cluster Development standards for land divisions in Article 11.

(2) Structures and Land Altering Activities. The placement of structures and other impervious surfaces, as well as grading, excavation, placement of fill, and vegetation removal, are prohibited. Exceptions may be made for the purposes identified in items a-f of this Section, provided they are necessary to accommodate an approved activity and comply with any stated requirements for the activity or use.

(a) Water-Related and Water-Dependent Uses. Development of water-related and water-dependent uses.

(b) Permanent Alteration Within the Riparian Corridor. Disturbance or development within the Riparian Corridor overlay district shall be allowed under the following circumstances:

(i) The resource is characterized as 'marginal' or 'degraded' using the standards found in 6.410(5).

(ii) Demonstration that equal or better protection will be ensured through riparian corridor restoration and enhancement within the remaining overlay district area per the mitigation requirements in Sections 6.400 and 6.410. If the site is encumbered by easements or rights-of-way that would preclude onsite restoration or enhancement, an "in-lieu of payment" may be made to the City in the amount equal to the cost of onsite mitigation.

Residentially zoned lots that were created prior to December 1, 2011, that are less than 20,000 square feet and can't be further subdivided are allowed to encroach up to 25 feet into the Riparian Corridor overlay district without the requirement for restoration or enhancement of the remaining 25 feet. The mitigation requirements in Section 6.400 still apply.

(iii) In no case shall the site improvements be any closer than 25 feet from the Ordinary High Water mark or upland edge of the wetland, unless the improvements are otherwise allowed or exempted per this Section of the Code.

(c) Vegetation Removal. Removal of live vegetation that is not exempt under 6.290(9) is only

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allowed to accommodate an approved use or development activity under this section of the Code.

(d) Private Construction of Public Non-Master Planned Transportation Facilities and Privately Owned Transportation Facilities. In addition to other City standards, the following standards shall apply to the location and construction of public non-master planned and/or private transportation facilities and structures, such as driveways, local streets, bridges, bridge crossing support structures, culverts, and pedestrian and bike paths. In addition to other City standards, the following standards shall apply to privately constructed transportation facilities and structures:

(i) The facility is designed to be the minimum width necessary to allow for safe passage of vehicles, bicycles and/or pedestrians, and to meet minimum width requirements.

(ii) Where reasonably feasible, crossings of significant natural resources shall be aligned to minimize impact area.

(iii) The number of crossings is the minimum amount necessary to afford safe and efficient access.

(iv) The number of crossings is minimized where reasonably feasible through use and creation of shared access for abutting lots and access through easements for adjacent lots.

(v) Crossing structures have a natural bottom or other design that meets ODFW fish passage requirements.

(e) Private Construction of Public Non-Master Planned Utilities and Privately Owned Utilities. In addition to other City standards, the following standards shall apply to permitted crossing, trenching, or boring for the purpose of developing a corridor for public non-master planned utilities and private utilities, within or crossing parcels in Significant Natural Resource overlay districts, as well as any above-ground utility structures.

In addition to other City standards, the following standards shall apply to privately constructed utility projects:

(i) Boring under the waterway, directional drilling, or aerial crossing is preferable to trenching. If trenching is the only feasible alternative, it shall be conducted in a dry or dewatered area with stream flow diverted around the construction area to prevent turbidity.

(ii) Common trenches for private utilities, to the extent allowed by the building code, shall be required where reasonably feasible in order to minimize disturbance of the protected resource.

(iii) Topsoil and sod shall be conserved during trench construction or maintenance, and replaced on top of the trench. Side-casting and storage of excavated material prior to replacement on top of trench is permitted. Any side-cast material not placed back on top of the trench shall be removed and may not be stored in the Significant Natural Resource overlay district after the construction or maintenance work is completed.

(iv) Hydraulic impacts on protected resources are minimized.

(v) Where reasonably feasible, crossings of significant natural resources shall be aligned to minimize impact area.

(vi) Above-ground utilities that cause ground disturbance in the Significant Natural Resource overlay district and are not within an existing right-of-way or easement, and

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are not shown in an approved master plan, will only be allowed in limited circumstances, and if they meet the general requirements in 6.310(A).

(f) ~~Adjustment~~ **Minor** or **Major** Variance. Development associated with an approved ~~adjustment~~ **Minor or Major Variance** ~~or variance~~.

Commentary

Minor changes are proposed to improve the clarity of subsection C(2).

C. Activities within Habitat Assessment overlay district. A wildlife habitat assessment is required if proposed development exceeds the minimum thresholds in 6.290(10). If the wildlife habitat assessment finds evidence of habitat for either the northwestern pond turtle or the western painted turtle within the overlay district, the following standards apply:

(1) New development, expansion of existing development, landscaping and other ground disturbances shall be located outside of the designated turtle habitat areas as determined by the habitat assessment; or

(2) If impacts are approved, the development/use has been proposed in a manner that will minimize the impact of the development on wildlife habitat. The Oregon Department of Fish and Wildlife (ODFW) ~~will~~ **has** review**ed** and approve**d** a mitigation plan for **any impacts to the habitat area for** the proposed development. Local mitigation is not required in addition to that required by ODFW or other state and federal agencies.

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6.410 Local Mitigation Plan. When a local mitigation plan for impact to a significant natural resource is proposed or required as part of a development application, the applicant shall submit a mitigation plan prepared by a qualified professional with demonstrated experience in developing mitigation plans for the specific impacted resource.

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(5) Table ~~6-2~~ **6.410-1** below summarizes the quality levels, mitigation requirements and expected condition of the significant wetlands and riparian corridor areas after successful completion of the mitigation plan; ODFW will solely determine the requirements for mitigation of significant wildlife habitat.

TABLE ~~6-2~~ 6.410-1

Quality levels, mitigation requirements and expected condition of the significant wetlands and riparian corridor areas after successful completion of the mitigation plan.

Existing Resource Quality	Mitigation Requirements/ Expected Future Resource Quality
Waterways & Significant Wetlands (riparian and isolated)	
Good Quality: Little enhancement potential per the Local Wetland Inventory assessment or other wetland assessment by a qualified professional. City staff will verify existing condition.	Preserve or enhance per approved mitigation plan; Invasive species are removed and are not persisting.

Marginal Quality: Moderate enhancement potential per the Local Wetland Inventory assessment or other wetland assessment by a qualified professional. City staff will verify existing condition.	Restore to Good Quality per approved mitigation plan; Invasive species are removed and are not persisting.
Degraded Quality: High enhancement potential per the Local Wetland Inventory assessment or other wetland assessment by a qualified professional; Farmed or otherwise converted. City staff will verify existing condition.	Enhance to at least Marginal Quality; A smaller ratio of 1.0 (impact area) to 0.5 (mitigation area) may be allowed for restoration to Good Quality.
Riparian Corridor Overlay	
Good Quality: Combination of native trees, shrubs, and groundcover are at least 80% of the overlay area, and there will be more than 50% tree canopy coverage at maturity.	Preserve or enhance per approved mitigation plan; Invasive species are removed and are not persisting.
Marginal Quality: Combination of native trees, shrubs, and groundcover are at least 80% of the overlay area, and there will be 25%-50% tree canopy coverage at maturity.	Restore to Good Quality with an approved plan (mature overlay area coverage will be estimated); Invasive species are removed and are not persisting;
Degraded Quality: Less vegetation and canopy coverage than Marginal Quality, and/or greater than 10% coverage of any non-native species.	Enhance to at least Marginal Quality with an approved plan (mature overlay area coverage will be estimated); A smaller ratio of 1.0 (impact area) to 0.5 (mitigation area) may be allowed for restoration to Good Quality.

Commentary

Minor changes proposed to improve the clarity of Section 6.420.

6.420 Native Plant List. The City ~~shall~~ **will** ~~maintain~~ **establish** a native plant list, which includes plants that were historically found in the area at the time of European contact. ~~Any modifications to the list will be processed administratively as a Type I process.~~ If a modification is requested, the Director will determine if the modification is warranted based on consultation with knowledgeable people with backgrounds in botany or landscape architecture, as well as scientific documents.

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

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

District boundary corrections and refinements will be processed administratively. District corrections will be made to correct map errors, such as when the map does not properly reflect the Local Wetland Inventory data. A district boundary refinement is an ~~adjustment~~ **alteration** made, based on professional analyses, to refine the boundary of the Significant Natural Resource overlay districts. District refinements

must be made in accordance with the provisions in this code to determine the location and extent of the following:

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

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Commentary

The Adjustment process referred to below has been renamed "Minor Variance" and "Variances" are now "Major Variances." Currently, the Adjustments described below are subject to Type I review. However, the criteria involve discretion so Type I-L is appropriate and consistent with the Minor Variance process.

6.450 **Minor Variances** ~~Adjustments~~ and **Major** Variances. The City may grant ~~adjustments~~ **Minor Variances or Major Variances** ~~variances~~ to the standards in the Significant Natural Resource overlay districts in order to avoid rendering a property not buildable through application of this ordinance. Requests that cannot meet the provisions and review criteria for ~~adjustments~~ **Minor Variances** will be processed as a **Major Variance** ~~variance~~. ~~Adjustment~~ **Minor Variance** applications will be processed through the Type I**-L** land use process using the criteria in Section 6.450(2) below. **Major** Variance applications will be processed through the Type II process using the criteria in Section 2.690. The proposed activity or use must be allowed within the base zoning district in order to be considered for **a Minor or Major Variance.** ~~an adjustment or variance.~~

(1) General Standard. In evaluating any ~~adjustment or variance~~ **Minor or Major Variance** request, the decision maker may require the applicant to incorporate design options to reduce the impact on the protected resource. These may include, without limitation, multi-story construction, alternate siting of structures, limiting the length of impervious driveway and other surfaces, and maximizing the use of native landscape materials.

(2) ~~Adjustments~~ **Minor Variances**. In order for the Director to approve an ~~adjustment~~ **Minor Variance** application, the applicant shall demonstrate that all the following criteria are fully satisfied:

(a) It is an existing legal lot and there is insufficient space outside the resource area to construct a use permitted in the underlying zoning district.

(b) The development site area, including all structures and impervious surfaces, encroaches on the resource area a total of 3,000 square feet or less.

(c) The ~~adjustment~~ **Minor Variance** is the minimum necessary to allow a permitted use or achieve the minimum buildable area outlined above, while at the same time minimizing disturbance to the significant natural resources. The Director may require ~~adjustments~~ **modifications** to site development standards to enable avoidance of the resource.

(d) The encroachment does not result in a new structure or impervious surface being located closer than 25 feet from the Ordinary High Water mark. Bridges are an exception to this requirement.

(3) **Major** Variances. For any existing lot or parcel whose hardship cannot be alleviated with ~~an Adjustment~~ **a Minor Variance** application, the property owner may apply for a **Major** Variance per Section 2.690.

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WILLAMETTE RIVER GREENWAY

Commentary:

The approach for Willamette River Greenway Overlay District (/WG) is different from that proposed for the other overlay districts. New language has been added to the purpose statement clarifying that the Willamette Greenway statute (which requires consideration of certain discretionary criteria) take precedence over the requirement to provide clear and objective standards.

6.500 Purpose. The Willamette River Greenway district is intended to guide development along the Willamette River so as to preserve the existing scenic, use and natural features. **The procedures and criteria of this district implement the requirements of Goal 15 and ORS 390.314. Pursuant to ORS 174.020(2), the requirements of ORS 390.314 (and by extension Goal 15) take precedence over the requirement for clear and objective standards for housing in ORS 197.307.**

6.510 Applicability. The area of the City within the Willamette River Greenway District is the area so designated by the boundary shown on Figure ~~6-~~2 **6.510-1**.

FIGURE ~~6-2~~ 6.510-1. Willamette River Greenway.

***

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: ****

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

(1) Lands designated on the Comprehensive Plan as Open Space are preserved and maintained in open space use.

(2) Significant air, water and land resources including but not limited to natural and scenic areas, viewpoints, vistas, fish and wildlife habitats, etc. in and adjacent to the Willamette River Greenway are protected, preserved, restored, or enhanced to the maximum extent possible.

(3) Areas of annual flooding, floodplains, and wetlands are preserved in their natural state to the maximum possible extent to protect water retention, overflow, and other natural functions.

(4) The natural vegetative fringe along the river is maintained to the maximum extent that is practical in order to assure scenic quality, protection of wildlife, and protection from erosion.

(5) The harvesting of timber will be done in a manner which ensures that wildlife habitat and the natural scenic qualities of the Willamette River Greenway are maintained or will be restored.

(6) The proposed development, change, or intensification of use is compatible with existing uses on the site and the surrounding area and provides the maximum possible landscaped area, open space, or vegetation between the activity and the river.

(7) Extraction of aggregate deposits shall be conducted in a manner designed to minimize adverse effects on water quality, fish and wildlife, vegetation, bank stabilization, stream flow, visual quality, noise and safety, and necessary reclamation will be guaranteed.

(8) Any public recreational use of facility will be developed, maintained, and operated in such a way as to minimize adverse effects on adjacent properties.

(9) Building setbacks from the floodway line shall be determined by the setback and height plane as defined in Sections 5.200 ~~and 5.205~~ **through 5.207** of this Code.

(10) Public access will be provided to and along the Willamette River by appropriate legal means for all development in conformance with plans approved by the City.

****

CLUSTER DEVELOPMENT

6.570 Cluster Development. See Article 11, Land Divisions and Planned Developments, Sections 11.400 to ~~11.510~~ **11.530**, for Cluster Development standards. [Ord. 5668, 4/11/07]

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Article 7 - Historic Overlay District

Amendments to the Albany Development Code (ADC)

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ARTICLE 7
HISTORIC OVERLAY DISTRICT

Commentary

Cross-references have been checked and updated in Article 7, the figures have been renumbered to follow the new numbering protocol, and the word "Advisory" has been deleted from the Landmarks Commission name.

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

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

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

7.010 Applicability. This article is applied:

(1) To properties in the Downtown, Hackleman, Monteith or Albany Municipal Airport National Register Historic Districts as identified in Figure 7**.010**-1 and 7**.010**-2.

(2) To all other structures and sites that appear on the City's adopted Local Historic Inventory, including individually designated National Register Historic Landmarks. [Ord. 5463, 9/13/00]

7.015 Expiration of Historic Review Approval. See Article 1, Section ~~1.080 (2)~~ **1.310**. [Ord. 5720, 08/12/2009]

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

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

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

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

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

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can be easily reversed.

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

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

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

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

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

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

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

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

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

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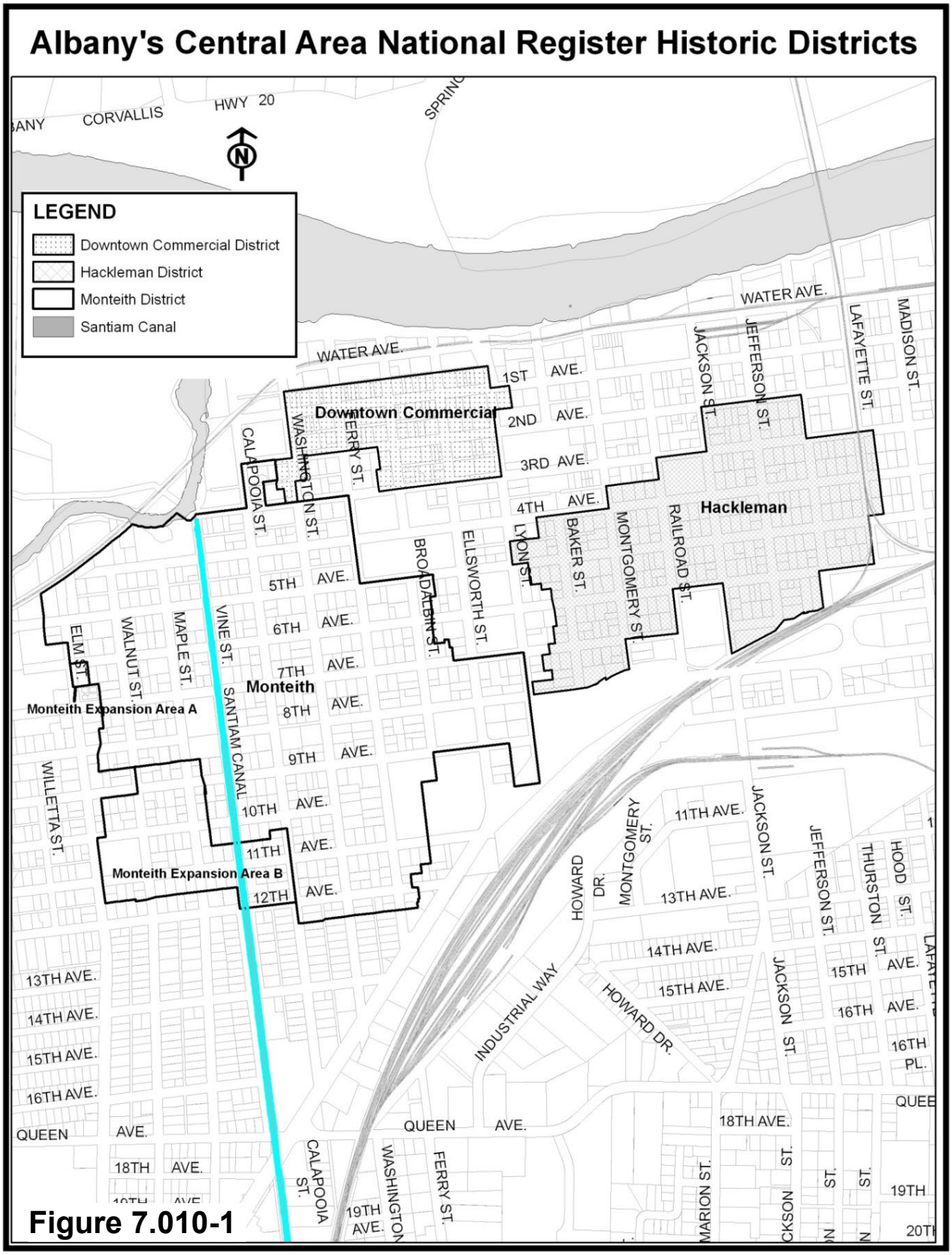

Figure 7.010-1

Amendments to the Albany Development Code (ADC)

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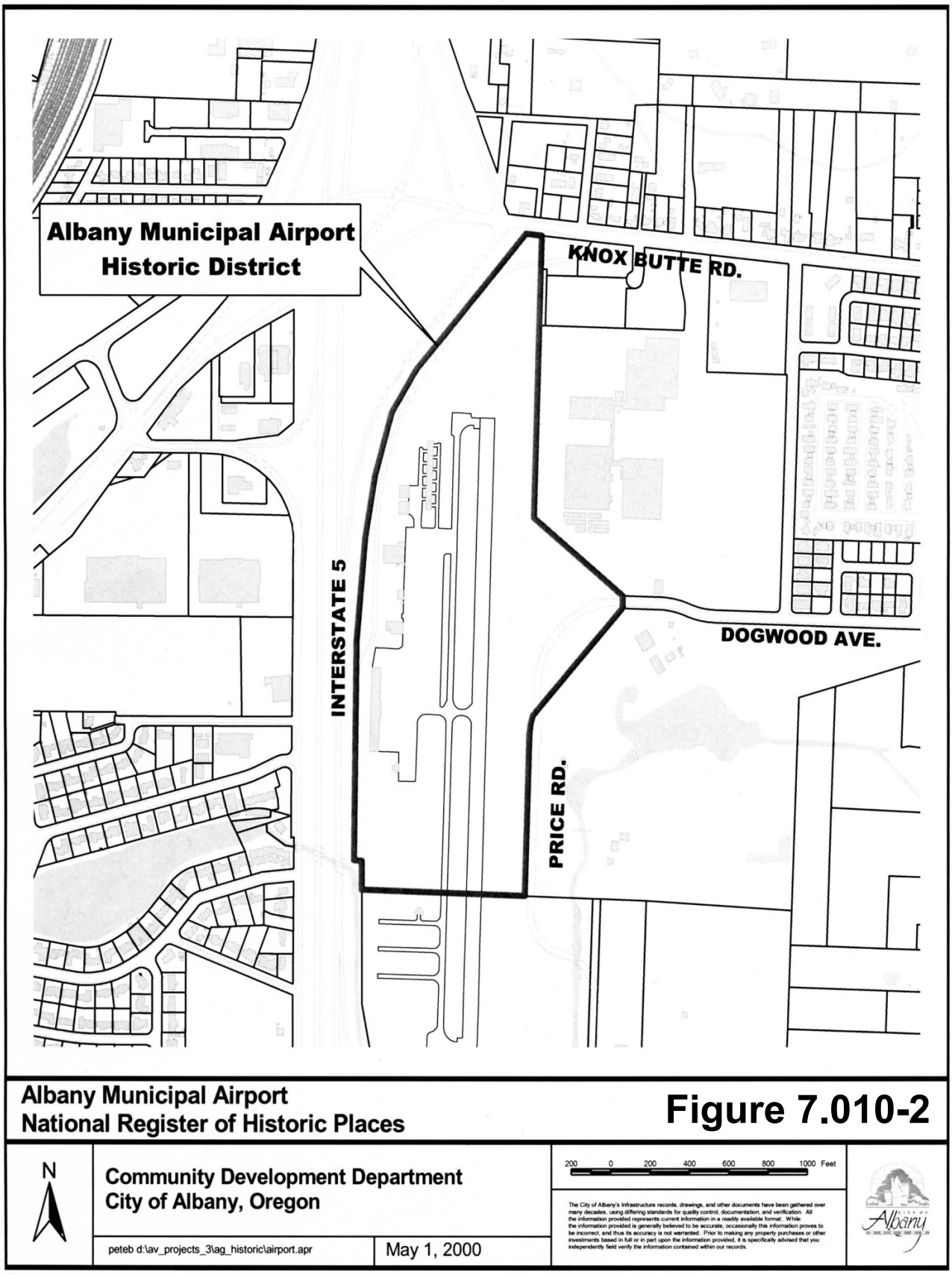

Amendments to the Albany Development Code (ADC)

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

7.030 Purpose. The designation of historic landmarks allows the City to formally recognize, rate and protect its historic and architectural resources. Properties listed on the National Register of Historic Places are eligible for automatic listing on the Local Historic Inventory. The Local Historic Inventory identifies buildings, sites, structures, objects and districts of historical importance or architectural significance that are considered exemplary of their time and style. The regulation of designated and rated historic landmarks provides a means to review proposed changes and encourage the preservation of historical or architectural values. Periodically it may be necessary to re-rate or remove the designation of a historic landmark to reflect changing conditions, community values or needs. [Ord. 5463, 9/13/00]

7.035 Initiation. The process for designating or removing a landmark or historic district may be initiated by the City Council, the Landmarks ~~Advisory~~ Commission, or by any other interested person. Initiations by the Landmarks ~~Advisory~~ Commission are made without prejudice towards the outcome. At the time of initiation, the Community Development Director shall provide the property owner and applicant with information regarding the benefits and obligations of designation. No historic resource shall be designated as a landmark without the written consent of the owner, or in the case of multiple ownership, a majority of the owners. Removal of properties from the National Register of Historic Places requires review and approval by the State Historic Preservation Office and State Advisory Committee. [Ord. 5463, 9/13/00]

7.040 Procedure.

(1) ***Designation***. Requests for designations of historic landmarks and districts are reviewed through the Type IV legislative or quasi-judicial procedure. The process is legislative when it affects a large number of persons or properties. The Landmarks ~~Advisory~~ Commission replaces the Planning Commission as the initial review body. The City Council makes the final determination of historic designation.

(2) ***Amendment to Existing Historic Districts***. Changes or additions to the period of significance statement, property rating structure, or boundaries of an existing historic district shall be reviewed under the Type IV legislative process. The Landmarks ~~Advisory~~ Commission replaces the Planning Commission as the initial review body. The City Council reviews and adopts any amendments to the historic districts.

(3) ***Local Historic Inventory Removal***. Only landmarks outside the National Register Historic Districts that are not listed on the National Register of Historic Places individually are eligible for removal from the Local Historic Inventory. The Director may delete any demolished or removed historic structure outside the historic districts from the Local Historic Inventory through the Type I procedure. In the event a National Register building or structure is demolished or moved, an application shall be made to the State Historic Preservation Office to remove and/or redesignate the property from the National Register.

(4) ***Individual Property Re-Rating***. The Landmarks ~~Advisory~~ Commission shall review requests for re-rating of individual properties. [Ord. 5463, 9/13/00]

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

(1) A written description of the boundaries of the proposed district or the location of the proposed

landmark or property to be evaluated.

(2) A map illustrating the boundaries of the proposed district or the location of the proposed landmark or the property to be evaluated.

(3) A statement explaining the following:

(a) The reason(s) why the proposed district, landmark or property should be designated.
(b) The reason(s) why the proposed boundaries of the proposed district are appropriate for designation.
(c) The potential impact, if any, that designation of the proposed district or landmark would have on the owners, surrounding residents or other property owners in the area.

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

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

(1) The proposed landmark or district has historic significance because:

(a) There is an association with the life or activities of a person, group, organization, or institution that has made a significant contribution to the city, county, state, or nation;
(b) There is an association with an event that has made a significant contribution to the city, county, state, or nation;
(c) There is an association with broad patterns of political, economic, or industrial history in the city, county, state, or nation;
(d) Existing land use surrounding the resource contributes to the integrity of the historic period represented; or
(e) The resource contributes to the continuity or historic character of the street, neighborhood, and/or community.

(2) The proposed landmark or district has architectural significance because:

(a) It is an example of a particular architectural style, building type and/or convention;
(b) It has a high quality of composition, detailing and/or craftsmanship;
(c) It is an example of a particular material and/or method of construction;
(d) The resource retains its original design features, materials and/or character;
(e) It is the only remaining, or one of a few remaining resources of a particular style, building type, design, material, or method of construction; or
(f) It is a visual landmark.

(3) The proposed landmark or district is listed on the National Register of Historic Places.

[Ord. 5463, 9/13/00]

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

(1) The inventory was in error.

(2) Additional research has uncovered an association with a person, group, organization, institution or events that have made a significant contribution to the city, county, state or nation or additional research has been compiled regarding the architectural significance of a structure or style.

(3) Alterations to the structure have caused it to more closely approximate the historical character, appearance, or material composition of the original structure.

(4) Alterations to the structure have removed distinguishing features or otherwise altered the exterior such that the existing rating is no longer justified.

(5) The reasons for designating the historic landmark no longer apply. [Ord. 5463, 9/13/00]

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

HISTORIC REVIEW OF EXTERIOR ALTERATIONS GENERALLY

7.100 Purpose. The purpose of reviewing alterations to historic landmarks is to encourage the preservation of characteristics that led to their designation as historic landmarks. Review is required for exterior alterations or additions to buildings or structures classified as historic contributing and historic non-contributing within the historic districts, and to landmarks outside the districts. [Ord. 5463, 9/13/00]

7.110 Exemptions from Review. Historic review is not required for buildings or structures originally constructed after 1945 or for changes to paint color to any home or structure. [Ord. 5463, 9/13/00, Ord. 5488, 7/11/01]

7.120 Procedure. A request for an exterior alteration is reviewed and processed by either the Community Development Director or the Landmarks ~~Advisory~~ Commission. The Landmarks ~~Advisory~~ Commission replaces the Hearings Board or Planning Commission as the review body.

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

(1) The Director will approve residential alteration requests if one of the following criteria is met:

(a) There is no change in historic character, appearance or material composition from the existing structure.
(b) The proposed alteration materially duplicates the affected exterior building features as determined from an early photograph, original building plans, or other evidence of original building features.
(c) The proposed alteration is not visible from the street.

(2) For all other requests, the Landmarks ~~Advisory~~ Commission will review and process the alteration proposal. The applicant and adjoining property owners within 100 feet will receive notification of

the Landmarks ~~Advisory~~ Commission public hearing on the proposal. The Commission will accept written and verbal testimony on the proposal. For buildings on the Special Assessment of Historic Property Program, the Landmarks ~~Advisory~~ Commission decision will be forwarded to the State Historic Preservation Office. [Ord. 5463, 9/13/00]

7.130 Relationship to Other Land Use Reviews. Projects that require historic review may also require other land use reviews. If other reviews are required, the review procedures may be handled concurrently. [Ord. 5463, 9/13/00]

7.140 Application Contents. Every application for an exterior alteration approval shall include information (e.g. drawings, photographs) which clearly shows the intended alteration and resulting appearance change of the structure. [Ord. 5463, 9/13/00]

7.150 Exterior Alteration Review Criteria. For applications other than for the use of substitute materials, the review body must find that one of the following criteria has been met in order to approve an alteration request: [Ord. 5488, 7/11/01]

(1) The proposed alteration will cause the structure to more closely approximate the historical character, appearance or material composition of the original structure than the existing structure, or

(2) The proposed alteration is compatible with the historic characteristics of the area and with the existing structure in massing, size, scale, materials and architectural features.

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

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

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

(1) A property shall be used for its historic purpose or be placed in a new use that requires minimal change to the defining characteristics of the building and its site and environment.

(2) The historic character of a property shall be retained and preserved. The removal of historic material or alteration of features and spaces that characterize a property shall be avoided.

(3) Each property shall be recognized as a physical record of its time, place, and use. Changes that create a false sense of historical development, such as adding conjectural features or architectural elements from other buildings, shall not be undertaken.

(4) Most properties change over time; those changes that have acquired historic significance in their own right shall be retained and preserved.

(5) Distinctive features, finishes, and construction techniques or examples of craftsmanship that characterize a historic property shall be preserved.

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(6) Deteriorated historic features shall be repaired rather than replaced. Where the severity of deterioration requires replacement of a distinctive feature, the new feature shall match the old in design, color, texture, and other visual qualities and, where possible, materials. Replacement of missing features shall be substantiated by documentary, physical, or pictorial evidence.

(7) Chemical or physical treatments, such as sandblasting, that cause damage to historic material shall not be used. The surface cleaning of structures, if appropriate, shall be undertaken using the gentlest means possible.

(8) Significant archeological resources affected by a project shall be protected and preserved. If such resources must be disturbed, mitigation measures shall be undertaken.

(9) New additions, exterior alterations, or related new construction shall not destroy historic materials that characterize the property. The new work shall be differentiated from the old and shall be compatible with the massing, size, scale, and architectural features to protect the historic integrity of the property and its environment.

(10) New additions and adjacent or related new construction shall be undertaken in such a manner that if removed in the future, the essential form and integrity of the historic property and its environment would be unimpaired. [Ord. 5463, 9/13/00]

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

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

7.170 Purpose. The purpose of reviewing the use of substitute materials is to encourage the preservation of characteristics and materials of the historic architectural style. Review is required for the application of substitute materials for siding, windows and trim on buildings or structures originally constructed before 1946 and on the Local Historic Inventory. If these sections (7.170-7.225) conflict with other provisions of the Code relative to substitute materials to be used for siding, windows and trim, this section will control. [Ord. 5463, 9/13/00, Ord. 5488, 7/11/01]

7.180 Procedure. Review of a request for the use of substitute materials is reviewed and processed by the Landmarks ~~Advisory~~ Commission. The Landmarks ~~Advisory~~ Commission replaces the Hearings Board or Planning Commission as the review body.

The applicant and adjoining property owners within 100 feet will receive notification of the Landmarks ~~Advisory~~ Commission meeting on the proposal. The Commission shall accept written and verbal testimony on the proposal.

The use of substitute materials on buildings participating in Oregon's Special Assessment of Historic Property Program will also require review and approval by the State Historic Preservation Office. The Landmarks ~~Advisory~~ Commission decision will be forwarded to the State Historic Preservation Office.
[Ord. 5463, 9/13/00]

7.185 Relationship to Other Land Use Reviews. Projects that require an historic review may also require other land use reviews. If other reviews are required, the review procedures may be handled concurrently.

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[Ord. 5463, 9/13/00]

7.190 Application Contents. Applications for the use of substitute materials for historic contributing and historic non-contributing structures and for Landmarks must include information (e.g. photographs) that clearly shows the current condition of the area intended to be altered. The types of substitute materials and proposed dimensions must be described. The application must also include the proposed methods of application of substitute materials and preservation of the original materials and architectural elements. The City may require a pest and dry rot inspection if necessary, and a report made and prepared by an entity whose primary business is pest and dry rot inspection or repair. The report must assess the condition of the structure. [Ord. 5463, 9/13/00, Ord. 5488, 7/11/01]

7.200 Eligibility for the Use of Substitute Materials. The City of Albany interprets the Secretary of Interior's Standards for Rehabilitation on compatibility to allow substitute siding and windows only under the following conditions:

(1) The building or structure is rated historic non-contributing OR, in the case of historic contributing buildings or structures, the existing siding, windows or trim is so deteriorated or damaged that it cannot be repaired and finding materials that would match the original siding, windows or trim is cost prohibitive. [Ord. 5488, 7/11/01]

Any application for the use of substitute siding, windows and/or trim will be decided on a case-by-case basis. The prior existence of substitute siding and/or trim on the historic buildings on the Local Historic Inventory will not be considered a factor in determining any application for further use of said materials. [Ord. 5463, 9/13/00]

7.210 Design and Application Criteria for Substitute Materials. For buildings or structures rated historic contributing or historic non-contributing, the application for the use of substitute materials on siding, windows or trim must follow these guidelines:

(1) The proposed substitute materials must approximate in placement, profile, size, proportion, and general appearance the existing siding, windows or trim.

(2) Substitute siding, windows and trim must be installed in a manner that maximizes the ability of a future property owner to remove the substitute materials and restore the structure to its original condition using traditional materials.

(3) The proposed material must be finished in a color appropriate to the age and style of the house, and the character of both the streetscape and the overall district. The proposed siding or trim must not be grained to resemble wood.

(4) The proposed siding, siding, windows or trim must not damage, destroy, or otherwise affect decorative or character-defining features of the building. Unusual examples of historic siding, windows and/or trim may not be covered or replaced with substitute materials.

(5) The covering of existing historic wood window or door trim with substitute trim will not be allowed if the historic trim can be reasonably repaired. Repairs may be made with fiberglass or epoxy materials to bring the surface to the original profile, which can then be finished, like the original material.

(6) Substitute siding or trim may not be applied over historic brick, stone, stucco, or other masonry surfaces;

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For the application of substitute siding and trim only:

(7) The supporting framing that may be rotted or otherwise found unfit for continued support shall be replaced in kind with new material.

(8) The interior surface of the exterior wall shall receive a vapor barrier to prevent vapor transmission from the interior spaces.

(9) Walls to receive the proposed siding shall be insulated and ventilated from the exterior to eliminate any interior condensation that may occur.

(10) Sheathing of an adequate nature shall be applied to support the proposed siding material with the determination of adequacy to be at the discretion of the planning staff.

(11) The proposed siding shall be placed in the same direction as the historic siding.

(12) The new trim shall be applied so as to discourage moisture infiltration and deterioration.

(13) The distance between the new trim and the new siding shall match the distance between the historic trim and the historic siding.

(14) A good faith effort shall be made to sell or donate any remaining historic material for architectural salvage to an appropriate business or non-profit organization that has an interest in historic building materials. [Ord. 5463, 9/13/00, Ord. 5488, 7/11/01]

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

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

HISTORIC REVIEW OF NEW CONSTRUCTION

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

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

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

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

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

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

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

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

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

(1) Within the Monteith and Hackleman Districts:

(a) The development maintains any unifying development patterns such as sidewalk and street tree location, setbacks, building coverage, and orientation to the street.
(b) The structure is of similar size and scale of surrounding buildings, and as much as possible reflects the craftsmanship of those buildings.
(c) Building materials are reflective of and complementary to existing buildings within the district.

(2) Within the Downtown District:

(a) The development maintains the horizontal elements of adjacent buildings. (These horizontal elements can include an alignment of window frames, roof lines, facades and clear distinction between first floors and upper floors.)
(b) The development maintains other historic patterns, such as the horizontal/vertical pattern of upper story windows and the pattern of entrances along the street.
(c) Building materials are reflective of and complementary to existing historic buildings within the district.
(d) Lot coverage, setbacks, and building orientation to the street are consistent with the surrounding development patterns.
(e) The development maintains the pedestrian scale and orientation of the downtown district.

[Ord. 5463, 9/13/00]

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

HISTORIC REVIEW OF DEMOLITIONS OR RELOCATIONS

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

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

(1) The Building Official shall issue a permit for relocation or demolition if any of the following

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conditions exist:

(a) The building or structure is designated non-contributing within an historic district.
(b) The building or structure has been damaged in excess of 70 percent of its previous value in a fire, flood, wind, or other Act of God, or vandalism.

(2) Those requests not meeting Building Official approval conditions shall be reviewed by the Landmarks ~~Advisory~~ Commission. The application shall be submitted at least 35 days in advance of the next regularly scheduled public hearing/meeting of the Landmarks ~~Advisory~~ **Commission**, unless waived by the Director when adequate notice can otherwise be achieved. [Ord. 5463, 9/13/00]

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

(1) A description of the previous and existing uses of the structure and the intended future use of the property.

(2) A drawing showing the location of the building on the property and any other buildings on the property.

(3) The overall height of the building and the general type of construction.

(4) A written statement addressing the review criteria and providing findings of fact in support of the request. [Ord. 5463, 9/13/00]

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

(1) No prudent or feasible alternative exists, or

(2) The building or structure is deteriorated beyond repair and cannot be economically rehabilitated on the site to provide a reasonable income or residential environment compared to other structures in the general area, or

(3) There is a demonstrated public need for the new use that outweighs any public benefit that might be gained by preserving the subject buildings on the site.

(4) The proposed development, if any, is compatible with the surrounding area considering such factors as location, use, bulk, landscaping, and exterior design.

(5) If the building or structure is proposed to be moved, moving to a site within the same historic district is preferred to moving it outside the district. [Ord. 5463, 9/13/00]

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

(1) Photographic, video or drawn recordation of the property to be demolished be submitted to the City, and/or

(2) Salvage and curation of significant elements, and/or

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(3) Other reasonable mitigation measures. [Ord. 5463, 9/13/00]

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

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

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Article 8 - Design 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: ****

ARTICLE 8
DESIGN STANDARDS

Commentary: Article 8 Generally

As discussed, the proposed "two-track" system of review would allow applicants to request Adjustments to the standards in Article 8. Adjustments are available for the residential standards and the commercial/institutional standards—i.e., all sections of Article 8 except for Telecommunications Facilities and Supplemental Design Standards for the Oak Creek Transition Area.

NOTE: Throughout Article 8, tables and figures have been renamed in a new format to make them easier to identify and locate ("Section # - table #", "Section # - figure #").

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

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

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

- Single-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

[Ord. 5445, 4/12/00, Ord. 5801, 2/13/13; Ord. 5832, 4/9/14]

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SINGLE-FAMILY HOMES

Commentary: 8.100 Purpose

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.

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

8.110 Applicability.

(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), **two detached primary units,** 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 multi**ple-**family 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: 8.130 Home Orientation

For the Home Orientation section below, we added a purpose statement to provide guidance for an Adjustment, which emphasizes the need for an entrance that 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.**130**-1);

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

(c) Open onto a porch (see Figure 8.**130**-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 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: 8.130(2) Sites with more than one street frontage

On corner lots, there may be situations where having the door within 8 feet of the longest street-facing wall of the dwelling unit does not work. We 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.

(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 decide on which frontage to meet the standards.

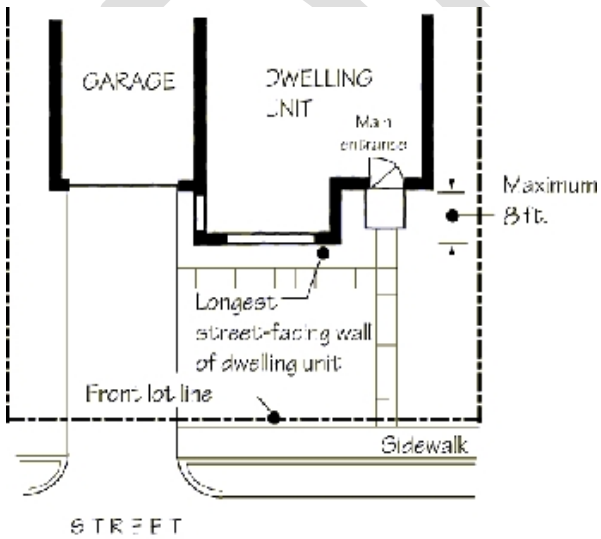

FIGURE 8.130-1. Front door facing the street

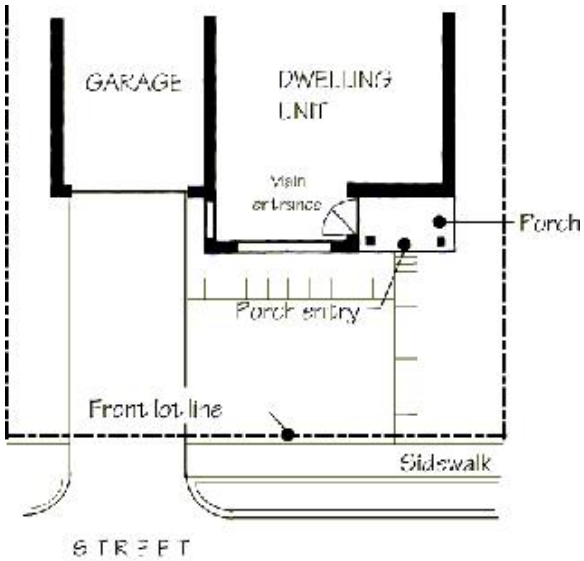

FIGURE 8.130-2. Front door opening onto porch

~~(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: 8.133 Street-Facing Windows

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.

8.133 Street-Facing Windows. **The purpose of these standards is to create pedestrian-friendly, sociable, safe, and attractive neighborhoods. 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: 8.133(1)-(2) Street-facing window standards

Changes to the standards in this section 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**~~1~~) **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**~~2~~) 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**~~3~~) 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: 8.140 Additional Standards for Infill and Redevelopment

For the Infill and Redevelopment section below, direction from Planning Commission and City Council was to retain most of the standards, but to simplify and clarify them so that they are easier to apply.

The proposed approach includes clearly defining some of the terms used in this section (e.g., "comparable dwelling," "comparable lot"); clarifying how to determine whether a development qualifies as "infill"; clarifying the standards for setbacks, garages/carports, and building height while retaining the essential requirements and outcomes of those standards; and adding several graphics to illustrate the standards. While the Infill and Redevelopment section in this draft is longer than in

the existing Code, it is intended to be easier for staff and applicants to interpret and apply. City of Albany planners have tested the revised Code using a real-world example and have indicated that it is indeed easier to use.

The introductory paragraph below is amended to include an infill-specific purpose statement based on the existing purpose statement for Single-Family Homes in Section 8.100. The applicability statement is deleted, but the applicability standards are retained in subsections (1) and (2).

8.140 Additional Standards for Infill and Redevelopment. **The purposes of these standards are to 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. These standards only apply to proposals for infill development in residential zoning districts that allow single-family housing.** ~~These standards apply to every new house, manufactured home, duplex, and attached house sited as infill development, 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 attached house. These standards do not apply to a dwelling that is proposed on land that is large enough that it can be divided into four or more lots.~~ [Ord. 5894, 10/14/17]

Commentary: 8.140(1) Definitions

The following definitions clarify the language in the existing introductory paragraph.

(1) Definitions. For the purposes of this section, the following terms are defined.

(a) "Comparable Dwelling" means an existing detached single-family dwelling (including manufactured dwellings), an attached single-family dwelling, or a duplex that is located on a comparable lot as defined below.

(b) "Comparable Lot" means a vacant or developed lot within a residential zoning district that allows detached single-family dwellings and that is not separated from the subject site by public right-of-way. Vacant lots smaller than one-fourth (1/4) the minimum lot size are not included within the definition of "comparable lots."

(c) "Subject Site" means a property within a residential zoning district that allows detached single-family dwellings that is the site of a proposed new detached single-family (including manufactured dwellings), an attached single-family dwelling or a duplex. Subject sites include both vacant sites and those sites where a dwelling was, or will be, removed to allow for the new development. Sites larger than four times the minimum lot size of the applicable zone are not included within the definition of "subject site."

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Commentary: 8.140(2) Determining "infill development"

Subsection (2) clarifies how to perform the calculation to determine whether a proposed development qualifies as "infill" (greater than 75% of abutting parcels have comparable dwellings). The outcome of the calculation will be consistent with the existing Code, but the process is clearer. The graphic in Figure 8.140-1 provides an example of how the calculation is performed.

(2) Determining whether a proposal is "infill development." To determine whether the proposed development on the subject site is infill development (see example in Figure 8.140-1):

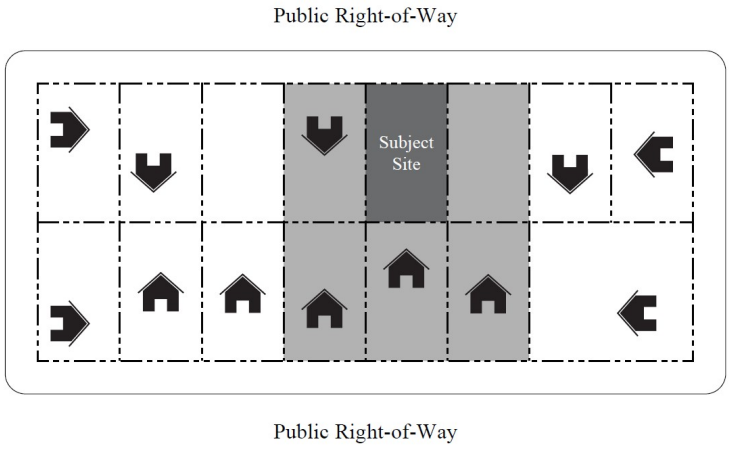
(a) Identify the total number of comparable lots that abut the subject site (i.e., share a common property line with the subject site, including those that touch at the corners).

(b) Identify the number of comparable lots abutting the subject site with comparable dwellings, excluding those lots that are larger than four times the minimum lot size of the applicable zone.

(c) If the number of lots with comparable dwellings identified in subsection (2)(b) is equal to or greater than 75% of the total number of comparable lots identified in subsection (2)(a), then the proposal is "infill development" and subject to the standards of subsections (3) through (6), below.

FIGURE 8.140-1. Determining whether a proposal is "infill development" (example)

In this example, four out of five comparable lots that abut the subject site have comparable dwellings (4 / 5 = 80%); therefore, the proposal in this example is infill development.



Commentary: 8.140(3) Submittal Requirements

The revised submittal requirements below require that applicants provide information only about "comparable" dwellings and lots, rather than all of those within 150 feet. This way, only those dwellings that are being compared for the sake of the infill standards need to be included in the vicinity/site plan.

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

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

(3) Submittal Requirements. At the time of application for a building permit, an applicant for infill development shall submit a vicinity/site plan that demonstrates how the proposed infill development on the subject site complies with standards in subsections (4) through (6) below. The vicinity/site plan must show the following for comparable lots: lot lines, footprints of dwellings, garages and carports, and the direction buildings are facing. Setbacks from the street shall be noted. Building heights must also be noted for those comparable dwellings used to demonstrate compliance with the infill height requirements in standard (6).

Commentary: 8.140(4) Minimum and Maximum Front Setbacks

The Home Setback section has been retitled as Minimum and Maximum Front Setbacks; however, few substantive changes have been made and most of the amended standards will have outcomes that are consistent with the existing standards. Following are the few exceptions—in general, these changes make the Code a bit less restrictive:

- The analysis to determine comparable dwellings only includes those dwellings with frontage and primary entrances oriented to the same street as the proposed dwelling. The rationale is that if a nearby home does not face the same street, its front setback should not be relevant in determining the new home's setback
- An exemption to the setback requirements is allowed when only one comparable dwelling meets the criteria to determine whether it is included in the setback evaluation. This is intended to avoid unintended consequences associated with having only one comparable dwelling that could potentially result in an unreasonable standard.
- There is an added provision in subsection (4)(a) that prohibits a new development from violating the minimum setback standards for the zoning district. This is intended to close an existing loophole that allows dwellings and garages to be too close to the street.
- The maximum setback for garages is deleted, since it is beneficial to the streetscape to have garages setback behind the dwelling.

In addition, setback standards are formatted in a table to make them easier to read, and Figures 8.140-2 and 8.140-3 are added to illustrate how to identify comparable dwellings for the analysis and how to apply the setback standards.

~~(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~~

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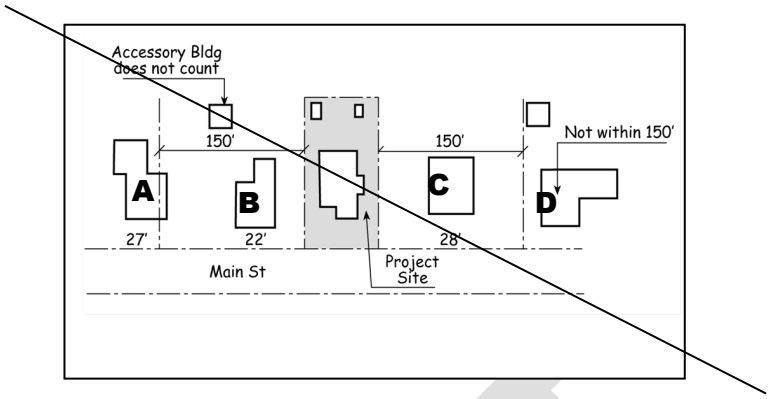
~~with other homes within 150 feet on either side of the lot. See Figure 8-3.~~



~~**FIGURE 8-3. Existing House Setbacks: For this example, three houses (A, B, C) are located within 150 feet on either side of the lot. Of the three houses, B is closest to the street. The minimum setback is 22-5=17 feet. House C is the farthest from the street. The maximum setback is 28+5=33 feet.**~~

(4) Minimum and Maximum Front Setbacks. The minimum and maximum front setbacks of an infill development are based on an evaluation of comparable dwellings that meet the following criteria (see example Figure 8.140-2):

- **All or a portion of the comparable dwelling's lot is within 150 feet of the subject site;**
- **The comparable dwelling's lot has frontage on the same street as the subject site and is not a flag lot;**
- **The comparable dwelling's lot is not larger than four times the minimum lot size of the applicable zone; and,**
- **The primary entrance of the comparable dwelling is oriented toward the same street as the proposed dwelling.**

If only one comparable dwelling meets the above criteria, the subject site is exempt from the infill setback standards in this subsection.

(a) Infill development is subject to the minimum and maximum setback standards in Table 8.140-1 (see example in Figure 8.140-3). Notwithstanding the foregoing, no development shall be located such that it violates minimum setback standards for the zoning district.

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TABLE 8.140-1: Minimum and Maximum Setback Standards for Infill Development

Proposed Infill Development	Minimum Setback	Maximum Setback
Dwelling	No more than 5 feet closer to the front property line than the closest comparable dwelling on a comparable lot meeting the criteria in 8.140(4)	No more than 5 feet farther from the front property line than the farthest comparable dwelling on a comparable lot meeting the criteria in 8.140(4)
Garage or Carport	No more than 5 feet closer to the front property line than the closest garage or carport of a comparable dwelling on a comparable lot meeting the criteria in 8.140(4)	None

FIGURE 8.140-2. Infill development setbacks – Identifying comparable dwellings (example)

In this example, minimum and maximum front setback on the subject site are determined based on comparable dwellings on Lots "2," "4," and "6."

Lot "1" is more than 150 feet from the subject site and the primary entrance of the dwelling on Lot "7" is oriented to a different street; therefore, the comparable dwellings on Lots "1" and "7" are not in the analysis.

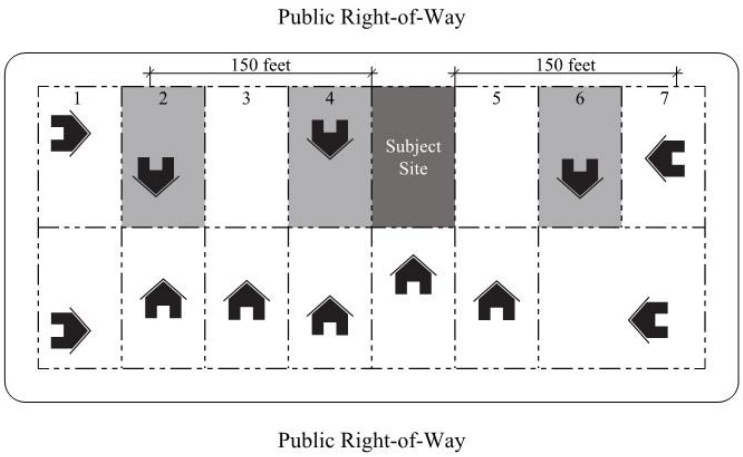

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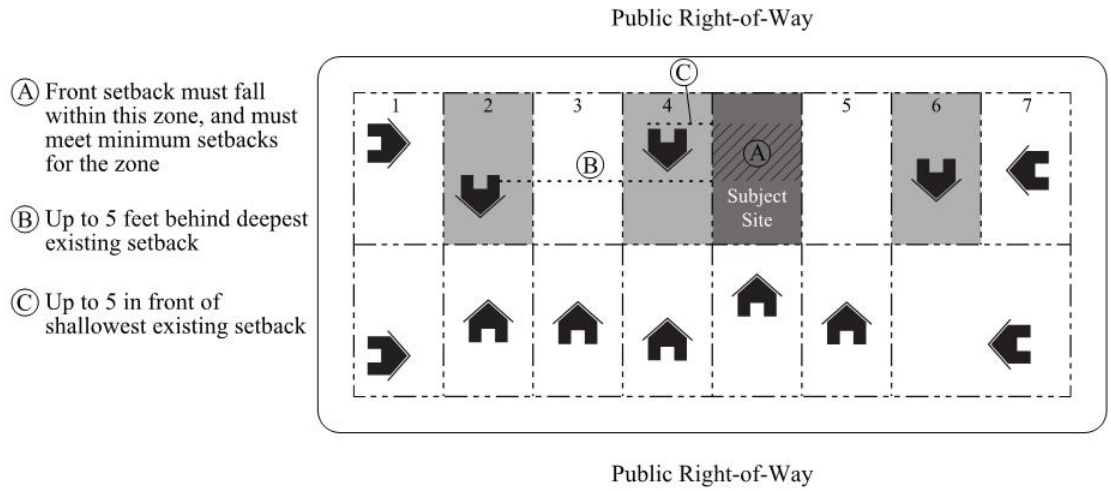
FIGURE 8.140-3. Infill development setbacks –Applying the setback standards (example)



Minimum setback - dwelling. Of the comparable dwellings on Lots "2," "4," and "6," the dwelling on Lot "4" is the closest to its front property line; therefore, a dwelling on the subject site can be no closer to its front property line than five feet closer than the dwelling on Lot "4," while still meeting the minimum setbacks for the zone.

Maximum setback - dwelling. Of the dwellings on Lots "2," "4," and "6," the dwelling on Lot "2" is the farthest from its front property line; therefore, a dwelling on the subject site can be no farther from its front property line than five feet farther than the dwelling on Lot "2," while still meeting the minimum setbacks for the zone.

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Commentary: 8.140(5) Required Garage or Carport

For the Garage/Carport standards below, few substantive changes have been made and most of the amended standards will result in outcomes that are consistent with the existing standards. Following are the few exceptions—as with the setback standards, these changes make the Code a bit less restrictive:

- Consistent with the setback standards, an exemption to the garage/carport requirements is allowed when only one comparable dwelling meets the criteria to determine whether it is included in the garage/carport evaluation. This is intended to avoid unintended consequences associated with having only one comparable dwelling that could potentially result in an unreasonable standard.
- The existing standard requiring the garage or carport to be of "like materials and color as the home" has been replaced because it is not clear and objective. The proposed language addresses the same issue in a clear and objective manner by listing the materials that are prohibited for garages/carports. Applicants may request an Adjustment if they wish to use one of the prohibited materials.

Also consistent with the setbacks section, standards in this section are formatted in a table to make them easier to read, and Figures 8.140-4 and 8.140-5 are added to illustrate how to identify comparable dwellings for the analysis and how to apply the garage/carport standards.

~~(b) Garage Setback.~~

~~i. A garage is required if more than 50 percent of the homes within 150 feet on either side of the lot has a garage. If more than 50 percent of the homes have a carport, then a carport or garage is required. If there is a mixture of garages or carports for more than 50 percent of the homes, then a carport or garage is required. The garage or carport shall be of like materials and color as the home.~~

~~ii. The garage or carport may be attached or detached from the dwelling.~~

~~iii. The garage or carport shall be set no more than five feet closer to the street than the closest garage or carport, and no more than five feet farther from the street than the farthest home, garage or carport when compared with other homes, garages and carports within 150 feet on either side of the lot.~~

(5) Required Garage or Carport. Infill development may be required to have a garage or carport based on an evaluation of comparable dwellings that meet the following criteria (see example in Figure 8.140-4):

- **All or a portion of the comparable dwelling's lot is within 150 feet of the subject site;**
- **The comparable dwelling's lot has frontage on the same street; and,**
- **The comparable dwelling's lot is not larger than four times the minimum lot size of the applicable zone.**

If only one comparable dwelling meets the above criteria, the subject site is exempt from the infill garage and carport standards in this subsection.

(a) A proposed infill development requires a garage or carport as specified in Table 8.140-2 (see example in Figure 8.140-5)

TABLE 8.140-2: Infill Garage and Carport Requirements

If more than 50 percent of the comparable dwellings on comparable lots meeting the criteria in subsection (5):	Proposed infill development requires:
i. have a garage	A garage
ii. have a carport	A carport or garage
iii. have either a carport or a garage	A carport or garage, provided that if (i) is true, a garage is required.

(b) The garage or carport may be attached or detached from the dwelling.

(c) The garage or carport's exterior walls and roof shall not be constructed of the following materials: polyethylene, plastic or vinyl (except vinyl residential siding), fabric, untreated wood (except cedar or redwood), corrugated metal, or sheet metal.

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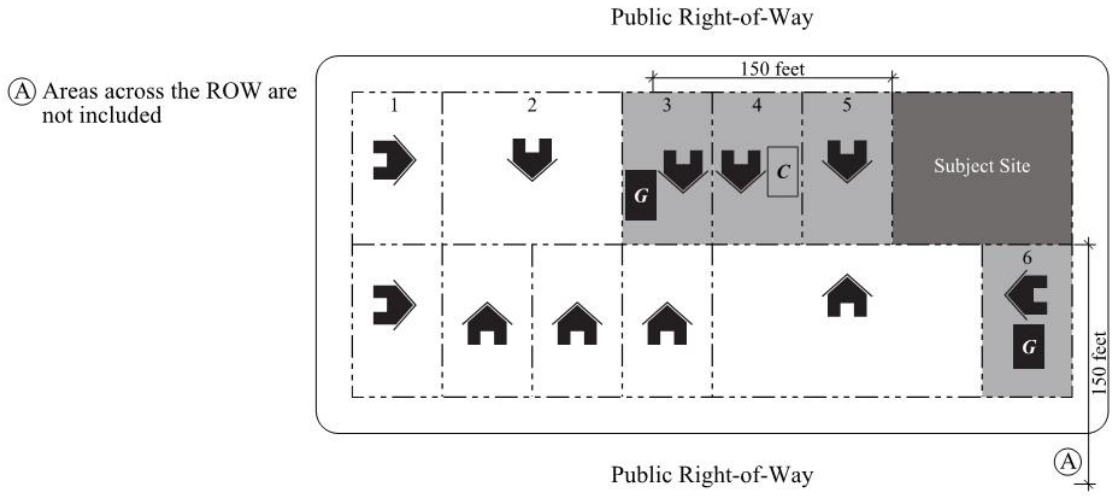
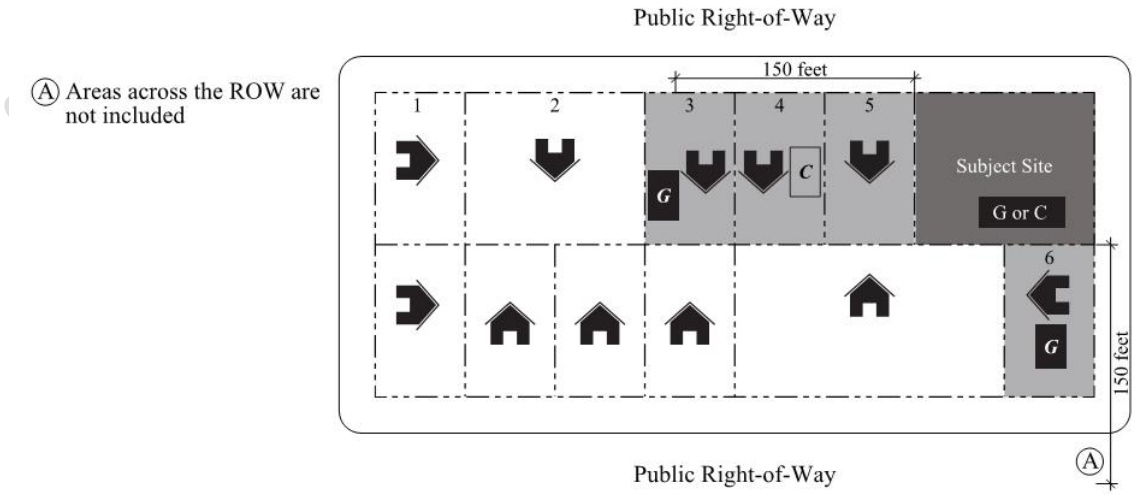
FIGURE 8.140-4. Infill Development garage / carport requirements – Identifying comparable lots (example)



In this example, garage / carport requirements for the subject site are determined based on an analysis of Lots "3," "4," "5," and "6."

Lots "1" and "2" are more than 150 feet from the subject site; therefore, these lots are not included in the analysis.

FIGURE 8.140-5. Infill Development – Applying the garage / carport requirements (example)



In this example, there are 4 comparable lots that meet the criteria in subsection (5). Of the 4 lots:

- **2 dwellings have garages (50%)**
- **1 dwelling has a carport (25%)**
- **3 dwellings have either a Carport or a Garage (75%)**

Because more than 50% of the dwellings on comparable lots have a garage or carport (and more

than 50% are not garages), the infill development on the subject site must have either a carport OR a garage.

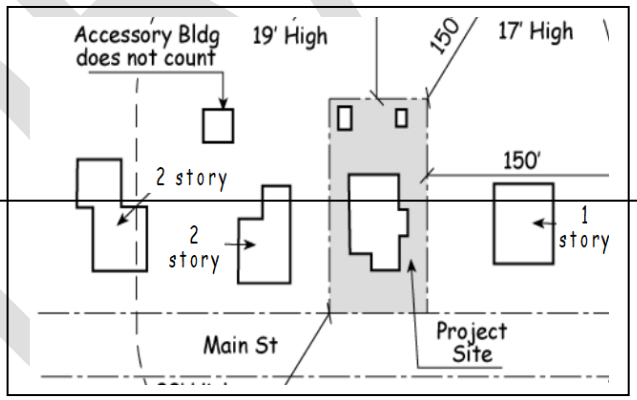
Commentary: 8.140(6) Maximum Building Height

For the Building Height section, few substantive changes have been made and most of the amended standards will result in outcomes that are consistent with the existing standards. Following are the few exceptions—as with the setback and garage/carport standards, these changes make the Code a bit less restrictive:

- Consistent with the setback and garage/carport standards, an exemption to the building height requirements is allowed when only one comparable dwelling meets the criteria to determine whether it is included in the building height evaluation. This is intended to avoid unintended consequences associated with having only one comparable dwelling that could potentially result in an unreasonable standard.
- There is an added provision in subsection (6)(b) that prohibits a new development from violating the height standards for the zoning district. This is intended to close an existing loophole that could allow dwellings to exceed the height limit.

Also consistent with the setbacks and garage/carport sections, Figure 8.140-6 is added to illustrate how to identify comparable dwellings for the analysis and how to apply the building height standards.

~~(c) Building Height. A home shall be no more than one story higher than the lowest home when compared with homes on either side of the subject property. See Figure 8-4.~~



~~**FIGURE 8-4. Existing House Heights: For this example, the maximum height is two stories.**~~

(6) Maximum Building Height. The maximum building height of an infill development is based on an evaluation of comparable dwellings on comparable lots that meet the following criteria:

- **The comparable dwelling's lot is abutting the subject site;**
- **The comparable dwelling's lot has frontage on the same street; and**
- **The comparable dwelling's lot is not larger than four times the minimum lot size of the**

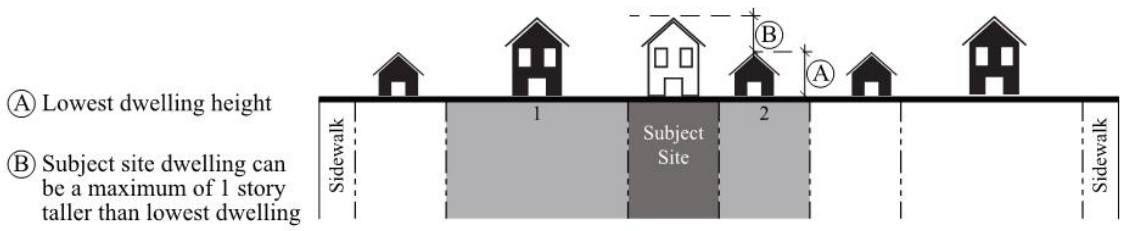
applicable zone.

If only one comparable dwelling meets the above criteria, the subject site is exempt from the infill height standards in this subsection (see example in Figure 8.140-6).

(a) Maximum Building Height. A proposed dwelling on the subject site shall be no more than one story higher above ground than the lowest comparable dwelling that meets the criteria in subsection (6).

(b) Notwithstanding the foregoing, no development shall be constructed such that it violates height standards for the zoning district.

FIGURE 8.140-6. Infill Development height requirement (example)



In this example, maximum building height requirements for the subject site are determined based on an analysis of the dwellings on Lots "1" and "2."

The dwelling on Lot "1" is two stories and the dwelling on Lot "2" is one story. Therefore, the proposed infill development on the subject site can be a maximum of two stories (i.e., one story higher above ground than the lowest dwelling).

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

(8~~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]

(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~~ **8.150-1**). The distance between driveways is measured along the front property line.
[Ord. 5894, 10/14/17]

Commentary: 8.150(2) Conditional review option

Text included in the introduction to Article 8 states that all standards in this section 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]~~

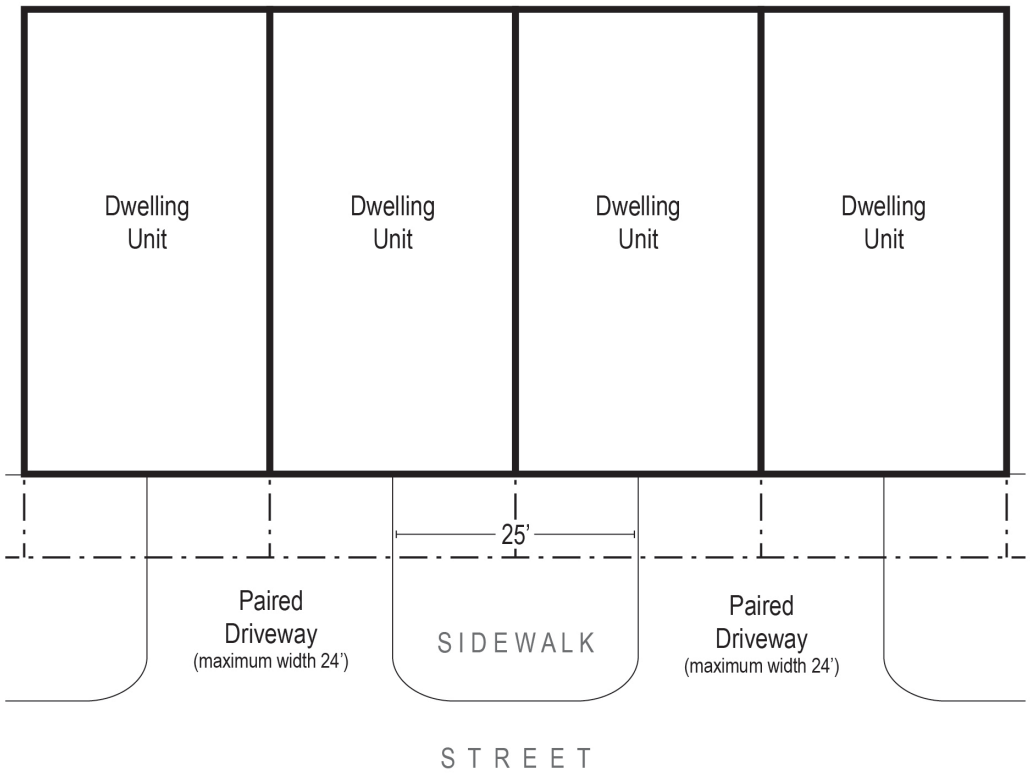


FIGURE ~~8-5~~ 8.150-1. Paired driveway example.

(2~~3~~) 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]

(3~~4~~) Garages. When parking is provided in a garage attached to the primary structure, and garage doors 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**.090-1**~~-2~~ for garage setback standards. [Ord. 5894, 10/14/17]

(**4**~~5~~) 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]

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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: ****

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~~ **neighborhood** that is attractive, active**,** and safe. [Ord. 5445, 4/12/00]

Commentary: 8.205 Applicability

Proposed revisions to this section are intended to simplify the applicability of the multi-family standards for Units Above or Attached to a Business. Per ADC Section 22.310 "Units Above or Attached to a Business" (i.e., the residential component of a mixed-use building) are defined as a separate use type from multi-family units. The current subsection (2) below states that all multiple-family design standards apply to first-story street-facing units, but that only certain standards apply to units above or behind a business. The current text in subsection (2) was added as part of the downtown Code amendments project in 2017; however, the distinction in this subsection may be unnecessarily complicated. The proposed amendments would simplify the applicability by applying all multiple-family design standards to all Units Above and Attached to a Business. While this would broaden the applicability language, some standards won't apply in some situations. For example, standards that apply only to the ground floor clearly would not apply to the "units above a business" since those units are not on the ground floor. Similarly, standards that apply only to the street-facing façade will not apply to "units behind a business."

For mixed-use development that contains residential and commercial uses, it is also important to define how the Multiple-Family and Commercial/Institutional design standards apply. This is important because all residential standards must be clear and objective, whereas commercial and institutional standards are not required to be. While the applicability section states that the multiple-family standards apply to the residential components of mixed-use (i.e., Units Above or Attached to a Business), the proposed amendments clarify that non-residential components of mixed-use are subject to the commercial and institutional design standards.

8.205 Applicability. [Ord. 5894, 10/14/17]

(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~~ **and** to **the residential components of** new buildings with Units Above or Attached to a Business (see ADC Section 22.310)**. Non-residential components of mixed-use development are subject to the Commercial and Institutional Site Design Standards of Sections 8.330 through 8.390.** ~~as follows: [Ord. 5894, 10/14/17]~~

~~(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]~~

(2~~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]

(3~~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: 8.220 Recreation and Open Space Areas

Generally speaking, the Recreation and Open Space Areas section 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 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 a development project's open space is an integral part of the overall development design, not merely leftover space.**

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

Commentary: Table 8.220-1. Recreation and Open Space Requirements by Zoning District

The proposed new Table 8.220-1 indicates applicability and general requirements for each category of open space: common open space, children's play areas, and private open space. The overall Common Open Space requirement has been switched 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 multi-family developments at desired densities while still complying with space-requiring standards for parking, stormwater, landscaping, etc.

Table 8.220-1 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.

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Amendments to the Albany Development Code (ADC)

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

Open Space	CB, HD, DMU, LE, WF and MUR Zoning Districts	All Other Zoning Districts
Common Open Space		
• Developments with fewer than 10 units	Not required	Not required
• Developments with 10 or more units as part of a multiple-family development or ten or more units above or attached to a business	250 square feet (useable floor area) in size subject to ADC 8.220(1)	15% of the total development site area, and subject to the standards in ADC 8.220(2)
Children's Play Areas		
• Developments with fewer than 10 units that each have 2 or more bedrooms	Not required	Not required
• Developments with 10 or more units that each have 2 or more bedrooms	Not required	Required and subject to the standards in ADC 8.220(2)(a)(ix)
Private Open Space	Not required	Required for at least 80% of units and subject to the standards in ADC 8.220(3)

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Commentary: 8.220(1)-(2) Common Open Space

For ease of review, the Common Space and Children's Play Areas sections have been struck out entirely and replaced with proposed new language.

For Common Open 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 does not 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.

The proposed amendments also allow 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.

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~~(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]~~

~~(i) 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.~~

~~(j) No horizontal dimension of a children's play area shall be less than 20 feet.~~

~~(k) Placement of children's play areas shall not be allowed in any required setback and shall be centrally located.~~

~~(l) 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]~~

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(1) Common Open Space in the CB, HD, DMU, WF, LE and MUR Zoning Districts. When required by Table 8.220-1, 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) Common Open Space in All Other Zoning Districts. When required by Table 8.220-1, in all zoning districts except the CB, HD, DMU, WF, LE, and MUR Zoning Districts, the following standards apply.

(a) Required common open space areas shall have no horizontal dimension less than 20 feet and 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, or 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. If this amenity accounts for more than 50% of the required common open space, at least one bench or picnic table must be provided. Pathways, decks, 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 diameter at breast height that form a contiguous tree canopy (including areas within 10 feet of the drip line). These amenities may not account for more than 50% 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.

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

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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 that is within 10 feet of a street, alley, property line, or parking area.

(b) Limitations to 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 open space requirement shall be on land with slopes greater than 20 percent.

(c) Common Open Space Area Credit.

Commentary: 8.220(2)(c)(i) Open space credit for path to park

Note: The credit in subsection (i) 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 open space area, shall be granted if there is direct access by a pedestrian path, not exceeding 1/4 mile, from the proposed multiple-family development to an improved public park and recreation area or public school playground.

Commentary: 8.220(2)(c)(ii) Open space credit for high value outdoor amenities

Subsection (ii) proposes a new credit toward the minimum required open space area for providing "high value" outdoor open space amenities. The proposed credit quantifies the value of the amenities based on the dollar amount spent on them, calculated as a percentage of the total project cost. 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.

ii. A credit toward the minimum common open space area required by Table 8.220-1 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 cost (including all construction costs except land cost). The credit is calculated as follows: if one percent (1%) of the

overall project development cost is spent on outdoor recreation facilities, the minimum amount of required common open space shall be reduced by 10 percent. Further reductions in the minimum required common open space area shall be proportional to spending. For example, if 1.5 percent of a project's cost is spent on outdoor recreation facilities, the minimum required common open space area shall be reduced by 15 percent. The total reduction shall not exceed 20 percent of the minimum required open space area. It is the responsibility of the applicant to document the overall project cost and the cost of the recreation amenities by providing cost estimates at the time of land use application.

~~8.225 Common Area Amenities in the CB, HD, DMU, WF, LE, and MUR Zoning Districts. New construction of ten or more units as part of a multiple-family development or ten or more units above or attached to a business shall provide one indoor or outdoor common area amenity at least 250 square feet in size (useable floor area), with no dimension less than 15 feet. Common area amenities must include fixed or movable seating. [Ord. 5894, 10/14/17]~~

~~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: 8.220(3) Private open space

The existing Code's requirements for private open space were identified as being excessive and presenting a barrier to housing development. The Code currently requires Private Open Space for 100% of units. As indicated in Table 8.220-1, the proposed amendments would reduce this to 80% of units. Amendments would also reduce the minimum area requirement from 96 sf to 80 sf for at-grade units and from 80 sf to 72 sf for above-grade units. Requirements for access to private open space from dwelling units and separation from common open space have been retained. Front porches have been exempted from requirements for screening from public streets.

(3) Private Open Space. When required by Table 8.220-1, private open space shall be provided that 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) For dwelling units providing required private open space, each dwelling unit 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 providing required private open space 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/or 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: 8.240 Setbacks and Building Orientation

This proposed section combines existing ADC Sections 8.240 Maximum Setbacks and 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**.

(1) Purpose. The purpose of the standards in this section is to create and maintain street frontages that are attractive, create an environment that is conducive to walking, and provide natural surveillance of public spaces. The standards are also intended to promote building and site design that contributes positively to a sense of neighborhood and to the overall streetscape by carefully relating building mass, entries, and yards to public streets.

(2) Applicability. In all zoning districts except HD, CB, DMU, and WF, new multiple-~~-~~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]

Amendments to the Albany Development Code (ADC)

Draft code amendments are written as follows: additions ***bold red underlined*** *and deletions in* ~~*strike-out*~~*.*
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Commentary: 8.240(3) Standards

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 8.260), and the "Enhanced Landscaping" option. The proposed amendments would allow these options for all multi-family development, except in the downtown zones.

Note: Standards in Subsections iv through vi appear as new text in this section, but were moved from Section 8.260 Building Orientation & Entries (which has been struck out). Subsection v is new; it provides a clear and objective standard for the design of front entries of ground floor units.

(3) Standards. On sites with frontage on a collector or local public street, buildings shall either meet all the standards of section (a) or all the standards of section (b) below.

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

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

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

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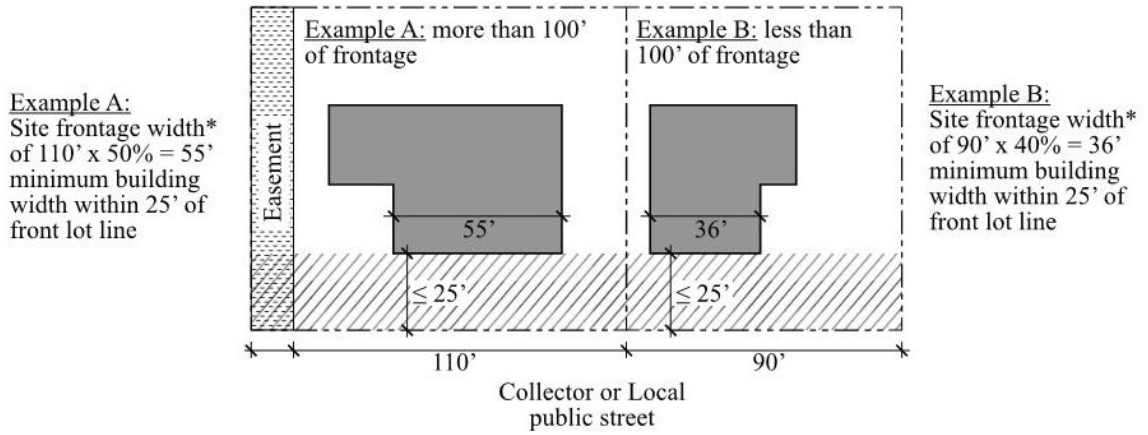
(a) Street Orientation Option.

~~(1)~~ **i. The applicable maximum building setback requirement is based on the site frontage width, as follows:**

- On sites with 100 feet or more of frontage on a collector or local public street, at least 50 percent of the site width shall be occupied by a building(s) placed no **farther** ~~further~~ than 25 feet from the front lot line. See Figure ~~8-6~~ **8.240-1**, ~~Building~~ **Example** A. ~~[Ord. 5894, 10/14/17]~~
- ~~(2)~~ On sites with less than 100 feet of frontage on a collector or local public street, at least 40 percent of the site width shall be occupied by a building(s) placed no **farther** ~~further~~ than 25 feet from the front lot line. See Figure ~~8-6~~ **8.240-1**, ~~Building~~ **Example** B. **Permitted flag lots are exempt from meeting this standard.**



*Site frontage width does not include: City-mapped natural resources, delineated wetlands, slopes greater than 20%, recorded easements, required fire lanes, and other similar non-buildable areas

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

~~(3)~~ **ii.** As used in these standards, "site width" does not include significant natural resources as mapped by the City, delineated wetlands, slopes greater than 20 percent, recorded easements, required fire lanes and other similar non-buildable areas as determined by the City.

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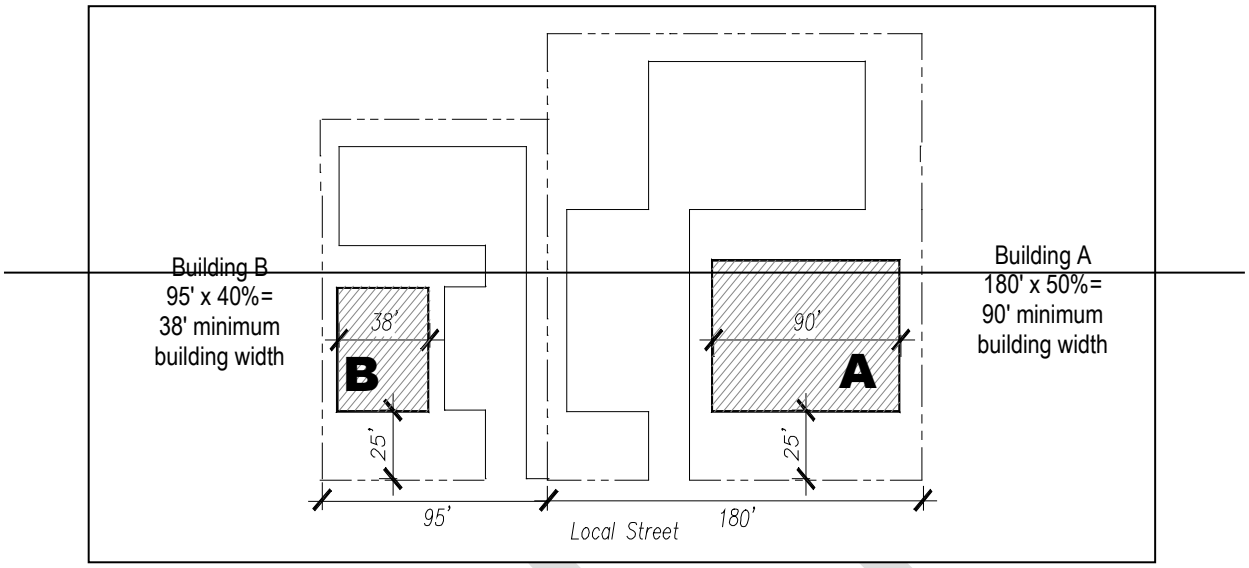

~~**FIGURE 8-6. Maximum setback for multiple family homes.**~~

iii. 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. (See Figure 8.240-2.)**

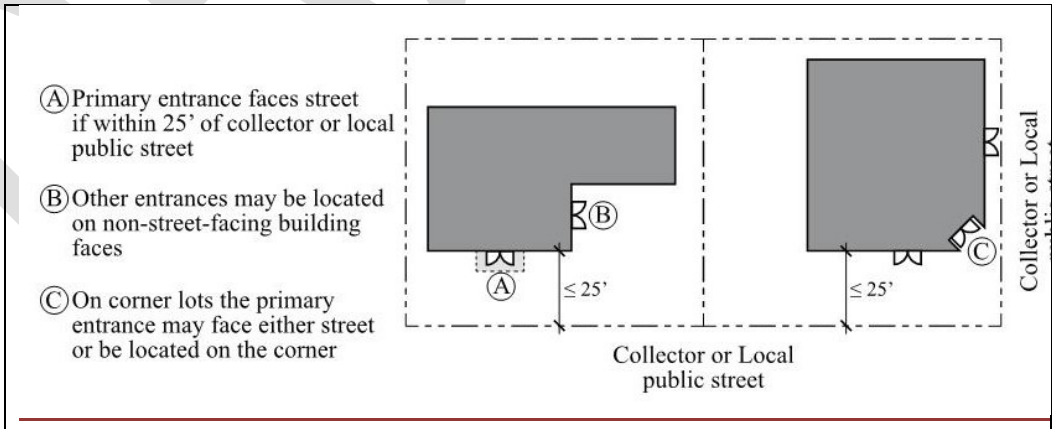

FIGURE 8.240-2: Primary Entrance Orientation - Street Orientation Option

iv. 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.

v. No off-street parking or circulation shall be located between the front of the building and the street. (See Figure 8.240-3.)

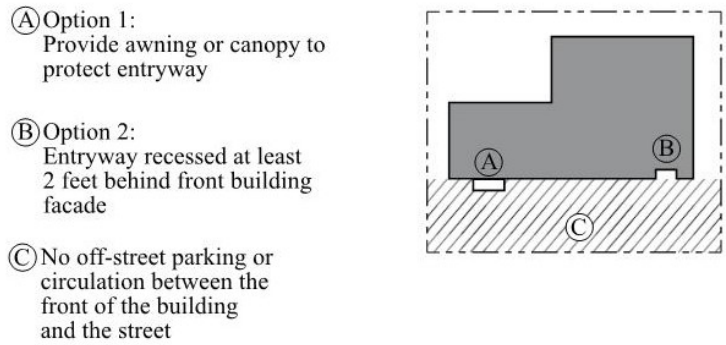

FIGURE 8.240-3: Entries Treatment and Parking Location - Street Orientation Option

Commentary: 8.240(3)(b) Enhanced Landscaping Option

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 an adequate interface with the streetscape by requiring additional landscaping along the site frontage. Parking is allowed between the building and the street on up to 25% of the building frontage, no maximum setback is required, and entries are not required to face the street, as long as "enhanced landscaping" is provided within the setback area. Proposed "enhanced landscaping" standards require more tree planting than is currently required in the front setback for multi-family development, as well as additional shrubs and ground cover.

(b) Enhanced Landscaping Option. The following standards apply to the lot line(s) abutting a collector or local public street.

i. Buildings and off-street parking and circulation areas shall be subject to the minimum setback for the zoning district plus an additional 15-foot setback (see Figure 8.240-4). The entire setback area shall be landscaped to meet the minimum standards in Table 8.240-2 (see Figures 8.240-5 and 8.240-6). There is no maximum setback.

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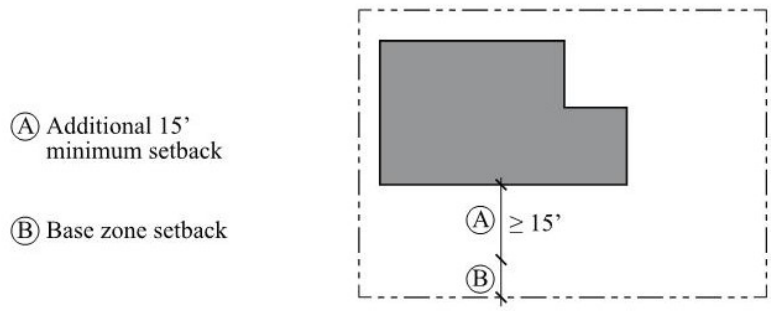

FIGURE 8.240-4: Minimum Setback – Enhanced Landscaping Option

ii. Off-street parking and circulation areas may be located between the building and the street for a maximum of 25% of the building's frontage (see Figure 8.240-5).

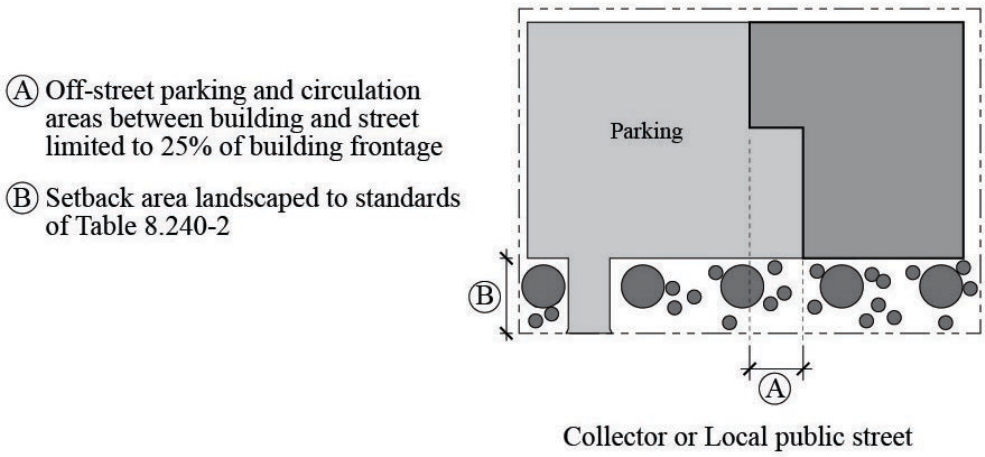

FIGURE 8.240-5: Parking and Circulation Location – Enhanced Landscaping Option

TABLE 8.240-2: Minimum Landscaping Required in Setback

Trees	• **Must be at least 6 feet tall at the time of planting** • **Trees must maintain a minimum spacing of 10 feet on center (see Note 1)** • **Mature height of planted shrubs and ground cover must not exceed 3 feet. The tree canopy of mature trees must be maintained at 6 feet or higher above ground**
• **Street Frontages with Street Trees (see Figure 8.240-6)**	• **1 tree for every 30 linear feet of street frontage**

Amendments to the Albany Development Code (ADC)

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• **Street Frontages without Street Trees (see Figure 8.240-6)**	• **Planted in at least two rows** • **Each row shall have a minimum of 1 tree for every 40 linear feet of street frontage** • **Maximum spacing of 30 feet on center for trees within different rows** • **Maximum spacing of 40 feet on center for trees within same row**
Shrubs	• **4 three-gallon shrubs or accent plants for every 10 linear feet of street frontage.** • **Required shrubs may be clustered**
Ground Cover	• **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**
(Note 1) Adjustments to the tree spacing standards, which would result in trees being planted closer than 10 feet on center, must receive a Crime Prevention Through Environmental Design (CPTED) review from the City of Albany Police Department.	

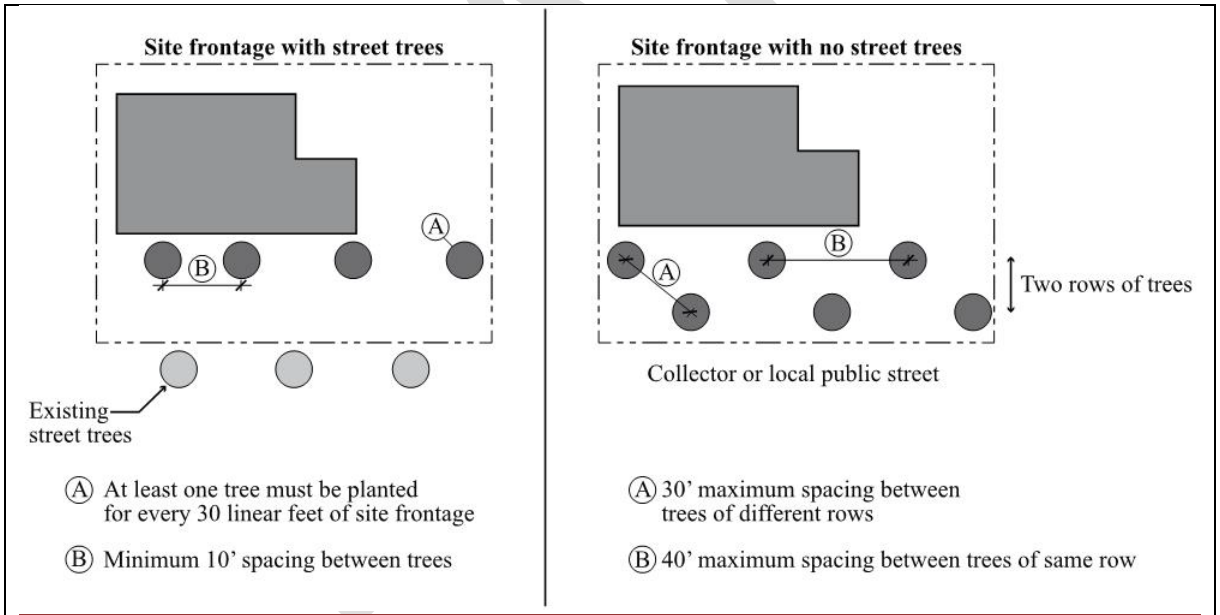

FIGURE 8.240-6: Required Tree Planting – Enhanced Landscaping Option

Commentary: 8.250 Functional Design and Building Details

The proposed amendments delete Section 8.250 and apply Section 8.255 (which currently applies only to the downtown zones) to all multi-family development. Section 8.255 was updated in 2017 and offers a clear and objective approach to building design standards that could also apply outside the downtown zones.

~~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]~~

~~(2) 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.~~

~~(3) 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]~~

~~(4) 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.~~

~~(5) Building facades shall be broken up to give the appearance of a collection of smaller buildings. [Ord. 5445, 4/12/00]~~

Commentary: 8.255 Façade design, articulation, and windows.

The purpose statement for this section is partly taken from the purpose statement from Section 8.250, partly from subsection 8.255(2), and the rest is new language.

8.255 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 lot~~s~~, 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.**255-1**~~7~~). [Ord. 5894, 10/14/17]

(c) Accessory buildings less than 750 square feet are exempt from these standards.

[Ord. 5894, 10/14/17]

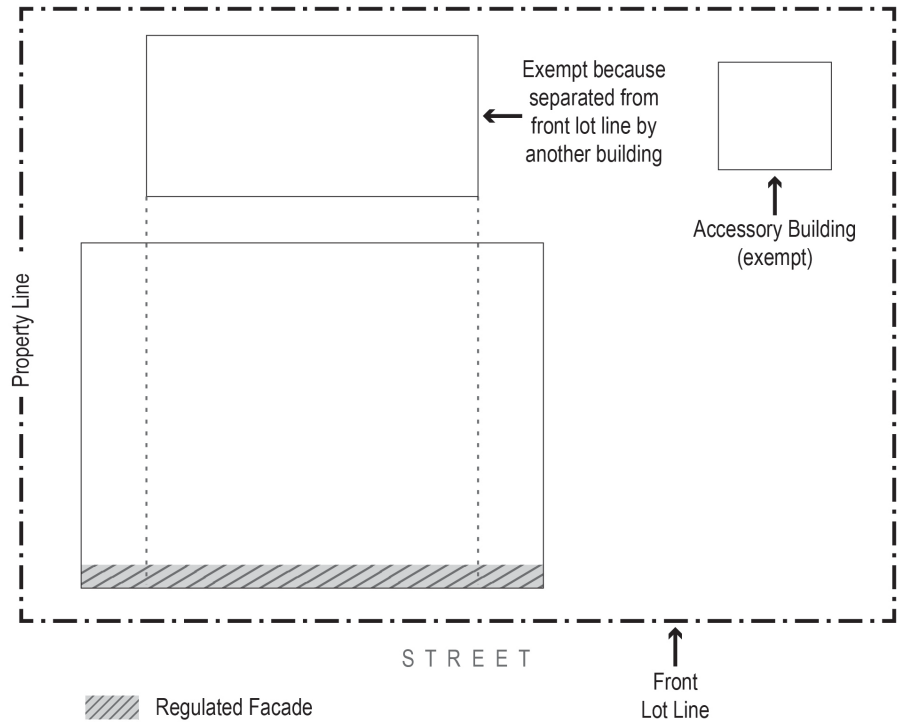

FIGURE ~~8-7~~ 8.255-1. Regulated façades for Façade Design, Articulation and Window Standards.
[Ord. 5894, 10/14/17]

Commentary: 8.255(2) Façade design and articulation

As mentioned above, the struck-out text in this section was moved to the purpose statement for Section 8.255. These standards will apply to all multi-family development.

(2) Façade design and articulation. ~~In order to promote buildings that provide visual interest and façade details that give a sense of quality and permanence, r~~**R**egulated façades 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 façade). [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~~**f**. [Ord. 5894, 10/14/17]

Commentary: 8.255(3) Street-Facing Windows

A different minimum window coverage standard is proposed for multi-family development outside of the downtown zones (15%).

(3) Street-Facing Windows. **In the HD, DMU, CB, and WF zoning districts,** ~~At~~ **at** least 25 percent of the portion of the regulated façade between two and eight feet above grade and at least 25 percent of the total area of each regulated façade must contain windows or doors that meet all of the criteria in (a) through (c), below. **In all other zoning districts, at least 15 percent of the total area of each regulated façade must contain windows or doors that meet all of the criteria in (a) through (c), below.**

[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]

(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]

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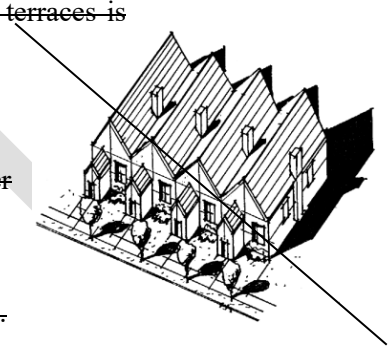
Commentary: 8.260 Building Orientation and Entries

Note: The Building Orientation and Entries section has been combined with the Maximum Setbacks standards in Section 8.240 above; therefore, it has been struck out.

~~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]~~

~~(6) 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:~~

~~(m) On corner lots, the main building entrance(s) may face either of the streets or be oriented to the corner.~~

~~(n) For buildings that have more than one entrance serving multiple units, only one entrance must meet this requirement. [Ord. 5445, 4/12/00]~~

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]

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Commentary: 8.270 Transition to Lower Density Uses

The purpose statement for this section 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.

(1) Purpose. The standards of this section are intended ~~The following design standards shall be incorporated 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.~~ **the multiple-family development on lower-density development. These impacts may include incompatible building mass and scale, reduced privacy, and loss of solar access for the lower-density development.**

(2) 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: 8.270 (3)-(4) Transition setback standards

The existing language in these subsections 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.

Whereas the existing transition setback is unlimited, the proposed amendments establish a cap so that the transition setback can be no larger than 30 feet.

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)~~**(3)** ~~When abutting single-family homes,~~ **Multiple-family** buildings shall be set back at least one foot for each foot in building height from ~~the~~ **a shared** property line**, up to a maximum required setback of 30 feet, when the abutting lot sharing the property line meets criteria (a) or (b) below, or both.** 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 abutting lot is in a residential single-family zoning district or in the HM zoning district.

(b) The abutting lot has a pre-existing single-family home and is in a zoning district other than the NC, CC, RC, LI, HI or IP. For the purposes of this section a "pre-existing single-

family home" is one constructed prior to [*date of code adoption*].

~~(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)~~**(4)** ~~Parking and maneuvering areas, driveways, a~~ **A**ctive recreation areas, loading areas and dumpsters ~~should~~ **shall** not be located between multiple-family buildings and abutting **pre-existing** single-family homes.

[Ord. 5445, 4/12/00]

Commentary: 8.280 Pedestrian Connections

This 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."

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).

8.280 Pedestrian Connections.

(1) Purpose. The standards of this section are intended to ensure that ~~Pedestrian~~ **pedestrian** circulation systems ~~shall be~~ **are** designed to provide clear**,** ~~and~~ identifiable**, safe, and convenient** connections within the multiple-family development and to adjacent uses and public streets/sidewalks.

~~(1)~~**(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.

~~(2)~~**(3)** All pedestrian ways shall comply with the requirements of the Americans with Disabilities Act.

~~(3)~~**(4)** ~~The pedestrian circulation system shall be designed~~ **In order** 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~~ **reflective** striping ~~should be used at crossings to~~ **that emphasizes** the crossing under low light and inclement weather conditions.

~~(3)~~**(5)** ~~Safe, convenient, and attractive pedestrian~~ **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~~ **At least one connection** shall be made to ~~all~~ **each** adjacent street~~s~~ and sidewalk~~s at~~ **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: 8.290 Vehicle Circulation System

The standards in this section have been largely reworked in the proposed amendments. The requirement that internal vehicle circulation systems mimic public streets and block patterns—which were challenging to interpret—have been removed. These ambiguous standards have been replaced by simpler design standards for interior travel aisles that are longer than 100 feet and are not lined with parking stalls. Proposed standards include requirements for raised curbs and a sidewalk and landscaping on at least one side of the aisle. 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~~ **on-site vehicle** circulation ~~shall be~~ **is** clearly identifiable, safe, **and** pedestrian-friendly ~~and interconnected~~.

(2) Applicability. ~~Development in the~~ **These standards apply to multiple-family developments in all zoning districts except** HD, DMU, CB and WF ~~zoning districts 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 meeting the standards in subsections (3)(a) through (3)(c) are required when a connecting drive aisle is more than 100 feet in length. "Connecting drive aisles" provide a link between public or private streets and parking stalls and do not include those

drive aisles that 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, which is unobstructed by obstacles that would impede pedestrians, including overhanging cars.

(b) Drive aisles shall have a minimum 5-foot wide landscaped strip on at least one side of the drive aisle with trees planted in accordance with the standards in ADC 9.240(1).

(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 at a minimum interval of one every 300 feet of drive aisle. A minimum of one speed hump or speed bump must be provided if the drive aisle is less than 300 feet long.

iii. Providing parallel parking on at least one side for at least 50% of the length of the drive aisle.

iv. Planting trees on both sides along the full length of the drive aisle in accordance with the standards in ADC 9.240(1) to visually narrow the drive aisle.

Commentary: 8.300 Parking Location

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. 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]

~~(1) Parking lots, carports, and garages shall not be sited between multiple-family buildings and the public local street unless site size and configuration make this impossible. Where available, private access to parking is encouraged.~~

(3) ~~Parking areas shall be broken into numerous small parking bays and landscaped to minimize their visual impact. Large, uninterrupted rows of parking are prohibited.~~ Required parking must be located within 100 feet of the building entrance for ~~each~~ **a minimum of 50 percent of** units**s in a development.** ~~The integration of garages into residential buildings is encouraged.~~ [Ord. 5445, 4/12/00]

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]

DRAFT

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: ****

COMMERCIAL AND INSTITUTIONAL SITE DESIGN

Commentary: 8.310 Purpose

The overall purpose statement for Commercial and Institutional Site Design standards in Article 8 emphasizes the importance of the pedestrian environment. The proposed amendments would update 8.310 to remove the reference to "commercial districts" for clarity and consistency with the heading of the section.

8.310 Purpose. These sections are intended to set threshold standards for quality design in ~~new~~ commercial~~, mixed-use,~~ and institutional development**, and in the non-residential components of mixed-use development**. Good design results in buildings that are visually compatible with one another and adjacent neighborhoods and contribute to ~~a commercial district that is~~ **an** attractive, active**,** and safe **built environment**~~. These qualities, in turn, contribute to the creation of commercial districts~~ that facilitate**s** easy pedestrian movement and a rich mixture of land uses. [Ord. 5832, 4/9/14]

Commentary: 8.315 Applicability

Currently, the standards in this section apply to commercial (e.g. retail and service businesses, offices, etc.) and institutional **uses** (e.g., utilities, schools, religious institutions, and hospitals, etc.) in all **zones**. Proposed amendments to the Applicability statement would exempt utility substations and other facilities that do not have on-site personnel, since special site and building design standards would not be appropriate for these types of buildings, and all development in the Heavy Industrial (HI) District.

The HI zoning district is proposed to be exempted because only limited commercial uses (and no non-exempt institutional uses) are allowed, and industrial uses are not subject to design standards. However, the Light Industrial (LI) and Industrial Park (IP) zoning districts are not exempted because a range of commercial and institutional uses are allowed in these districts, and the Development Code and Comprehensive Plan emphasize the importance of visual appearance of these areas and compatibility with nearby residential areas.

8.315 Applicability. These standards apply to the design of new development and to the expansion of existing developments where commercial and/or institutional uses, as defined in Article 22, are existing or proposed, including when such uses are part of a mixed-use development or live/work dwelling unit**, with the following exceptions:**~~.~~

- Modifications to existing developments for which the Director has waived review under the provisions of ADC Section ~~1.070~~ **1.105** are not subject to these standards.
- **Utility substations and other utility facilities that do not have on-site personnel are not subject to these standards. However, telecommunication facilities are subject to other design standards in Article 8.**
- **Only the non-residential portion of a mixed-use development is subject to these standards. New residential Units Above or Attached to a Business are subject to Multiple Family Design Standards as stated in Section 8.205.**

Certain standards provide additional exemptions for modifications to existing sites or buildings. Unless otherwise specified, these standards apply in any **zoning** district **except the Heavy Industrial (HI) Zoning District**.

[Ord. 5445, 4/12/00; Ord. 5832, 4/9/14; Ord. 5894, 10/14/17]

Commentary: Section 8.320 Relationship to Historic Overlay Districts

No changes are proposed.

8.320 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: 8.330 Entrance Orientation and Parking Location

The title of the Building Orientation section has been updated to reflect that the standards also address entry orientation and design. The purpose statement has been expanded to reference CPTED principles.

As currently written, these standards apply to all "development." The amendments would limit applicability to new buildings (excluding accessory buildings), with existing buildings only required to "not decrease conformance."

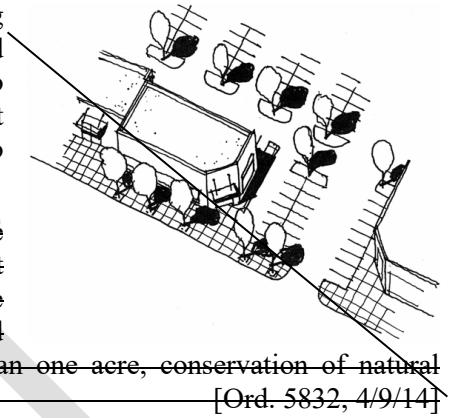
8.330 ~~Building~~ **Entrance** Orientation **and Parking Location**. ~~Building orientation and maximum setback standards are established~~ **The purpose of the entrance orientation and parking location standards is** to help create an attractive streetscape and pleasant pedestrian environment **that is conducive to walking, and to help further Crime Prevention Through Environmental Design (CPTED) principles such as natural surveillance of public spaces**. These standards apply **to new buildings (excluding accessory buildings)** in all zoning districts except HD, DMU, CB, and WF. Development in HD, CB, DMU, and WF shall demonstrate appropriate building orientation through compliance with maximum front setback standards in ADC Section 5.120. **Except as required to meet building code, fire code, or other regulations, expansions and modifications to existing buildings and sites shall not decrease conformance with these standards.** [Ord. 5894, 10/14/17]

Commentary: 8.330(1) Main Entrance.

This section has been updated and clarified. Existing more general language regarding building orientation has been replaced with an easier to implement standard for main entrances. "Main entrance" is defined in Article 22. A reference was added to the Pedestrian Connection standards in ADC 8.370 that require a connection between the building main entry and the street. The existing standard requiring

building entries to be "clearly defined" and "highly visible" was moved up from the end of the section and made clearer by specifying a menu of options.

(1) **Main Entrance.** New buildings shall be oriented to existing or new public streets. Building orientation is demonstrated by placing buildings and their public entrances close to streets ~~so~~ **and providing** pedestrians **with** ~~have~~ a direct **connection** ~~and convenient route~~ from the street sidewalk to building entrances **in conformance with ADC 8.370(2)(b)**.



~~(a) On sites smaller than three acres, new buildings shall be oriented to the public street/sidewalk and off-street parking shall be located to the side or rear of the building(s), except where it is not feasible due to limited or no street frontage, the site is an infill site less than one acre, conservation of natural resources, or where there are access restrictions. [Ord. 5832, 4/9/14]~~

~~(b) Buildings on sites larger than three acres may be setback from the public street and oriented to traffic aisles on private property if the on-site circulation system is developed like a public street with pedestrian access, landscape strips, and street trees.~~

~~(1) Customer entrances should be clearly defined, highly visible, using features such as canopies, porticos, arcades, arches, wing walls, and planters. [Ord. 5445, 4/12/00; Ord. 5832, 4/9/14]~~

(a) At least one main entrance, which is in compliance with subsection (1), must be designed to include at least three (3) of the following architectural features: canopy, portico, arcade, arch, wing wall, planters, recessed doorway, transom windows, ornamental light fixtures, larger or more prominent doors, pilasters or columns that frame the doorway, or other similar features that increase the visibility of the entrance for pedestrians.

(b) Buildings separated from the street by other buildings are exempt from this standard.

Commentary: 8.330(2) Parking Location.

The existing list of exceptions to the requirement for parking to be located to the side or rear of buildings was generally retained and new exceptions were added, including constraints caused by site dimensions, preservation of trees, and topography. The exception for large sites over three acres was updated to remove confusing language regarding the circulation system being developed like a public street. Instead, for the parking lot to be allowed in front of the building on a large site, it needs to meet the special landscape standards for Large Parking Areas in Section 8.380.

(2) Parking Location. Off-street parking must be located to the side or rear of the building(s) and not between the building and the street, except where the applicant demonstrates that one or more of the situations listed in (a)-(e) below applies and the buffer standard in subsection (3) is met (see Figure 8.330-1). Adjustments to this standard pursuant to ADC 2.060-2.080 to allow parking in front of the building may be approved upon finding that the proposed setbacks are comparable to the setbacks on adjacent developed non-residential sites

and steps have been taken to mitigate the impact of parking in order to meet the purpose of the standard.

(a) Locating parking to the side or rear of the building is not feasible due to the dimensions of the site including, but not limited to, the width, shape, or size of the site or the amount of site frontage.

(b) Locating parking to the rear or side of the building is not feasible due to the conservation of designated natural resources or the preservation of five or more trees over 25 inches in circumference (approximately 8 inches in diameter) or one or more individual trees equal to or greater than six and one-half feet in circumference (approximately 25 inches in diameter). Trees must be healthy specimens that can and will be retained and which are not exempt from site plan review for tree felling pursuant to ADC 9.204.

(c) Locating parking to the rear or side of the building is not feasible due to topographic constraints or natural hazards on the site.

(d) The site frontage is subject to access restrictions from a public street that would preclude placement of the parking to the side or rear of the building.

(e) The site is larger than three acres and the parking lot has been designed in accordance with the standards in Section 8.380, regardless of the number of parking spaces.

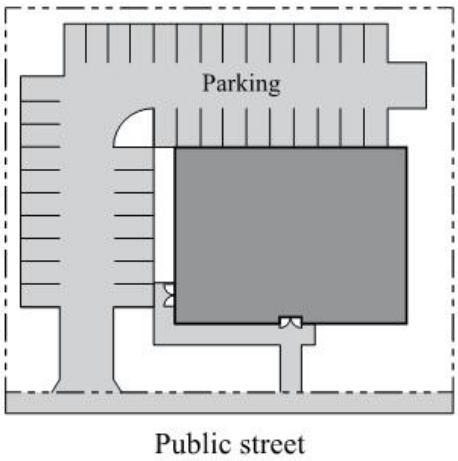


FIGURE 8.330-1. Parking to the Side or Rear of Buildings.

Commentary: 8.330(3) Parking lot buffer

The new standard below requires a parking lot buffer when parking is located in front of the building. The intent is to mitigate the negative impacts of a large parking area being adjacent to the sidewalk. The proposed standard is intended to balance pedestrian comfort and convenience (which community members have expressed is important) with the desire for additional flexibility for site layout.

The proposed standard would require a 10-foot strip extending the length of the parking lot where it is adjacent to the street. This is already a requirement for arterial street frontages. Also, the minimum front

setback in commercial and industrial zoning districts is 10 or 15 feet and parking is prohibited in that front setback. As such, a 10-foot buffer is consistent with existing standards.

(3) Parking Lot Buffer. Where a landscape buffer is required pursuant to subsection (2), a minimum ten-foot-wide landscape buffer meeting the landscaping standards in ADC 9.240 must be placed between the parking area and the street, running the length of the parking area. In zoning districts that require a landscaped front setback, the parking lot buffer requirement may be met by the required front setback standard if landscape plantings are provided at the same or greater density.

Commentary: 8.340 General Building Design

The proposal is to delete Section 8.340 and to update and apply Section 8.345 (which currently applies only to the downtown zones) to all commercial and institutional development.

~~8.340 General Building Design. The following standards apply in all zoning districts except HD, CB, DMU, and WF, which are subject to ADC Section 8.345. New commercial buildings shall provide architectural relief and interest, with emphasis at building entrances and along sidewalks, to promote and enhance a comfortable pedestrian scale and orientation. Blank walls shall be avoided except when not feasible.~~
~~[Ord. 5555, 2/7/03; Ord. 5894, 10/14/17]~~

~~(7) Ground floor windows shall be provided along frontages adjacent to sidewalks. The main front elevation(s) of buildings shall provide windows or transparency at the pedestrian level in the following minimum proportions:~~

~~**TABLE 8-1. Required window percentages by district.**~~

~~District~~	~~% **Ground Floor Windows**~~
~~RC, CC, NC, OP, MUC~~	~~25%~~
~~MS, LE, PB, ES, MUR, WF~~	~~50%~~

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

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

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

~~(3) Walls that are visible from a public street shall include a combination of architectural elements and features such as offsets, windows, entry treatments, wood siding, brick, stucco, synthetic stucco, textured concrete block, textured concrete), and landscaping. [Ord. 5445, 4/12/00]~~

Commentary: 8.345 Façade design, articulation, and windows

This section has been updated to apply to all zones (not just downtown). The approach taken in the downtown standards better defines which facades are regulated and uses a clearer and more objective menu-based approach. Community members have indicated that having ground floor windows is important but that the window requirements should vary depending on the type of building, use, street, or part of town. The proposed amendments would also mean that the statement limiting applicability to new buildings (with existing buildings only required to "not decrease conformance") would apply in all zones.

8.345 Façade design, articulation, and windows ~~in the HD, DMU, CB, and WF Zoning Districts~~. The following standards are intended to provide architectural relief and interest and to promote pedestrian-oriented design. These standards apply to new buildings (excluding accessory buildings). Except as required to meet building code, fire code, or other regulations, expansions and modifications to existing buildings and sites shall not decrease conformance with these standards. [Ord. 5894; 10/14/17]

(1) Regulated façades. The following standards apply to any façade that faces toward or within 45 degrees of a front lot line, with the exceptions below. See definition of front lot line in Article 22 for application on lots with multiple frontages; however, a lot line abutting First or Second Avenue 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]

(a) Where there is more than one building on the site, these standards do not apply to any portion of a building that is separated from the front lot line by another building, based on a line perpendicular to the front lot line (see Figure 8**.345-1** ~~7~~). [Ord. 5894; 10/14/17]

(b) Accessory buildings less than 750 square feet are exempt from these standards. [Ord. 5894; 10/14/17]

DRAFT

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: ****

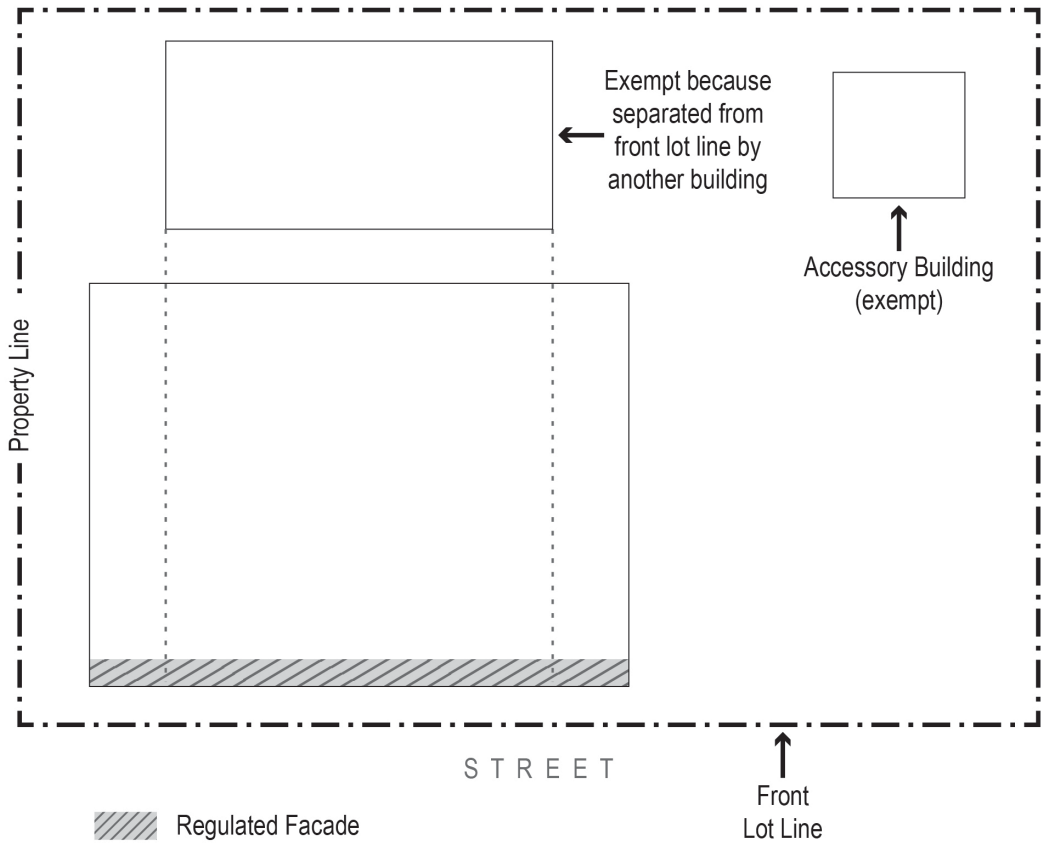

FIGURE 8.345-1~~7~~. Regulated façades for Façade Design, Articulation and Window Standards.
[Ord. 5894; 10/14/17]

(2) Façade design and articulation. In order to promote buildings that provide visual interest and façade details that give a sense of quality and permanence, regulated façades shall include a minimum of two types of architectural features from the list below. Buildings that include units above or attached to a business may use features listed in ADC 8.255(2) to meet this standard as well as those listed below; however, features included in both lists may only be counted once.
[Ord. 5894; 10/14/17]

(a) Recessed entrance(s): three to six feet deep. [Ord. 5894; 10/14/17]

(b) Inset windows: windows inset 4 inches to 18 inches from the adjacent building façade.
[Ord. 5894; 10/14/17]

(c) Weather protection: awnings or other weather protection constructed of durable materials that extend at least four feet in horizontal distance from the building wall ~~overall~~ **over all** public entrances.
[Ord. 5894; 10/14/17]

(d) Decorative top: e.g., cornice, pediment, or parapet with a flat roof. [Ord. 5894; 10/14/17]

(e) Other: feature not listed but providing visual relief or contextually appropriate design similar to options a-d. [Ord. 5894; 10/14/17]

(3) Ground Floor Windows. Ground floor windows or entrance doors shall be provided along regulated façades at the pedestrian level in accordance with the standards below.

[Ord. 5894; 10/14/17]

(a) The minimum required percentage of the ground floor façade~~, measured between 2 and 8 feet above grade,~~ that must contain windows is specified in Table 8**.345-1**~~-2~~ by zoning district. **The ground floor façade subject to this standard shall be the area measured between 2 and 8 feet above grade.**

[Ord. 5894; 10/14/17]

Commentary: Table 8.345-1 Required ground-floor window percentages by district

The proposed amendments for zoning districts outside the downtown area amounts to a reduced window coverage requirement compared to what is in the Code today. The amendments would keep the current minimum window coverage standards (25% or 50%, depending on the district) just for the "primary façade" and require a lesser coverage standard if there is a "secondary" regulated street-facing façade (e.g., on a corner lot). There are also exceptions to the secondary façade requirement in 8.345(3)(b) to allow additional flexibility.

TABLE 8.345-1~~-2~~. Required ground-floor window percentages by district~~: HD, CB, DMU and WF zoning districts~~.

District	% Windows
RC, CC, NC, OP, MUC (see 8.345(3)(b) (see Figure 8.345-2)	**25% – one primary façade 15% – one secondary façade**
MS, LE, PB, ES, MUR (see 8.345(3)(b))	**50% – one primary façade 25% – one secondary façade**
WF **(see 8.345(3)(c))**	50%
CB, DMU **(see 8.345(3)(c))**	60%
HD **(see 8.345(3)(c))**	75%

Commentary: 8.345(3)(b)

Subsection (b) below defines "primary façade" and "secondary façade." The primary façade is the one with the main building entrance, if applicable; if not, it is the longest regulated (i.e., street-facing) façade. The standards provide some flexibility to applicants in cases where there is no clear distinction between the primary and secondary facades. In these cases, the applicant can choose which façades to define as primary and secondary, or can distribute the window requirements between the two facades.

This subsection provides additional flexibility by allowing exceptions to the minimum window coverage standard for secondary facades. Exceptions are allowed when the secondary façade is more than 50 ft from the street, when it is used for loading, or when it is screened from the street.

(b) For the ground floor window requirements in the RC, CC, NC, OP, MUC, MS, LE, PB, ES, and MUR zones, "primary façade" means a regulated facade that includes a main

entrance pursuant to ADC 8.330. "Secondary façade" means a regulated façade on a lot with two or more frontages that is not the primary façade. If there is no façade which meets the definition of "primary façade," the primary façade shall be the longest regulated façade. If more than one facade meets the definition of "primary façade," then the applicant can choose which regulated façade shall be subject to the primary façade standard and which regulated façade shall be subject to the secondary façade standard or they can distribute the required windows across both facades. (See Figure 8.345-2, which illustrates minimum ground-floor window coverage on primary and secondary facades in the RC, CC, NC, OP, and MUC zoning districts.) No minimum ground-floor windows are required for secondary facades if an applicant demonstrates that one or more of the situations applies:

i. The façade is more than 50 feet from the street.

ii. More than 70 percent of the façade contains loading bays or docks.

iii. The façade is screened from the street by another structure or by a sight-obscuring hedge, wall, or fence with a minimum height of 6 feet.

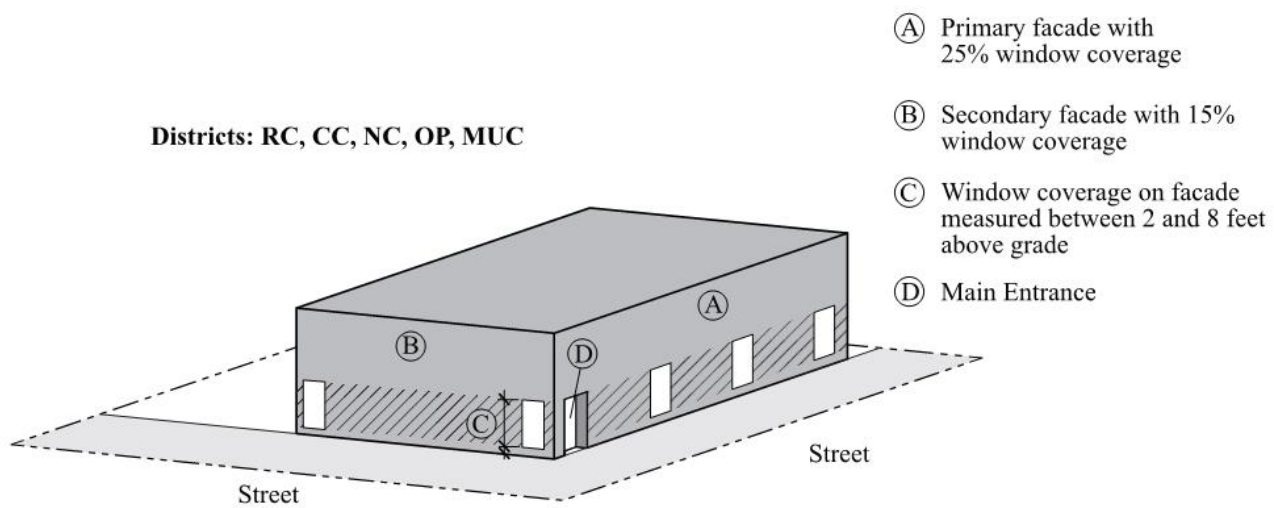

Figure 8.345-2. Minimum Ground-Floor Window Standards in the RC, CC, NC, OP, and MUC Zoning Districts.

(c) In the CB, DMU, and HD zoning districts, building elevations that are separated from the street by a rail line require at least 50 percent windows. [Ord. 5894; 10/14/17]

(d)~~(b)~~In order to count towards the required window area, windows must meet all of the criteria in (i) through (iii), below. [Ord. 5894; 10/14/17]

i. Made of transparent material with a minimum visible transmittance of 0.5. (The transparent portion of doors may count towards required window areas.) Windows with a visible transmittance rating less than 0.5 and windows that are frosted, fritted, patterned, or obscure may be counted towards up to half of the required window area provided that the ground-floor windows in total allow views from the building to the street. [Ord. 5894; 10/14/17]

ii. Located in any part of the building except garages and parking areas. [Ord. 5894; 10/14/17]

iii. Face towards or within 45 degrees of the front lot line. [Ord. 5894; 10/14/17]

Commentary: 8.345(4) Windows on upper stories

No change in current practice; added clarifying text only.

(4) Windows on upper stories. ~~Buildings~~ **In the HD, CB, DMU and WF zoning districts, buildings** with two or more stories shall provide windows occupying at least 25 percent of the regulated façade on the upper stories. Windows on upper stories must meet all of the criteria in (a) through (c), below. [Ord. 5894; 10/14/17]

(a) Made of transparent material with a minimum visible transmittance of 0.4. (The transparent portion of doors may count towards required window areas.) Windows with a visible transmittance rating less than 0.4 and windows that are frosted, fritted, patterned, or obscure may be counted towards up to half of the required window area provided that the windows in total allow views from the building to the street. [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]

Commentary: 8.350 Street Connectivity and Internal Circulation

The purpose statement has been expanded to provide better guidance for an Adjustment.

8.350 Street Connectivity and Internal Circulation. The following standards emphasize the importance of connections and circulation between uses and properties. **They are intended to promote efficient circulation between properties and a pedestrian-friendly street edge and to improve safety for both drivers and pedestrians.**

(1) Applicability. The standards apply to both public and private streets. Development in the HD, DMU, CB and WF zoning districts on sites under three acres is exempt from these standards. [Ord. 5894; 10/14/17]

Commentary: 8.350(2) Connectivity between sites

Subsection (2) has been reworded to make its intent a bit clearer.

(2)~~(1)~~ **Connectivity between sites.** To promote connectivity and dispersal of traffic and efficient circulation between properties, new development ~~New commercial buildings~~ may be required to provide street or driveway stubs and reciprocal access easements to**, and for, adjacent properties.** ~~promote efficient circulation between uses and properties, and to promote connectivity and dispersal of traffic.~~

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: 8.350(3) Internal circulation system

The requirement to mimic a local street network and break the development into blocks has been reworked to make it clearer and easier to interpret. The proposed amendments would require drive aisles longer than 100' to have design features that somewhat mimic a public street, including curbs, sidewalks on at least one side, and a landscape strip planted with trees on at least one side.

(3) Internal circulation system.

(a) Interior drive aisles meeting the standards in subsection (b) are required when a connecting drive aisle is more than 100 feet in length. "Connecting drive aisles" provide a link between public or private streets and parking stalls and do not include those drive aisles that are lined with angled or perpendicular parking stalls.

(b) Interior drive aisles required by subsection (a) shall meet standards (i) through (iv), below. See Figure 8.350-1.

i. Drive aisles shall have raised curbs and a minimum 5-foot wide sidewalk on at least one side, which is unobstructed by obstacles that would impede pedestrians, including overhanging cars.

ii. Drive aisles shall have a minimum 5-foot wide landscaped strip on at least one side of the drive aisle with trees planted in accordance with the standards in ADC 9.240(1).

iii. Traffic calming shall be provided through at least one of the following techniques:

- **Meandering the drive aisle to achieve a maximum design speed of 15 mph.**
- **Installing speed bumps or speed humps at a minimum interval of one every 300 feet of drive aisle. A minimum of one speed hump or speed bump must be provided if the drive aisle is less than 300 feet long.**
- **Providing parallel parking on at least one side for at least 50% of the length of the drive aisle.**
- **Planting trees on both sides along the full length of the drive aisle in accordance with the standards in ADC 9.240(1) to visually narrow the drive aisle.**

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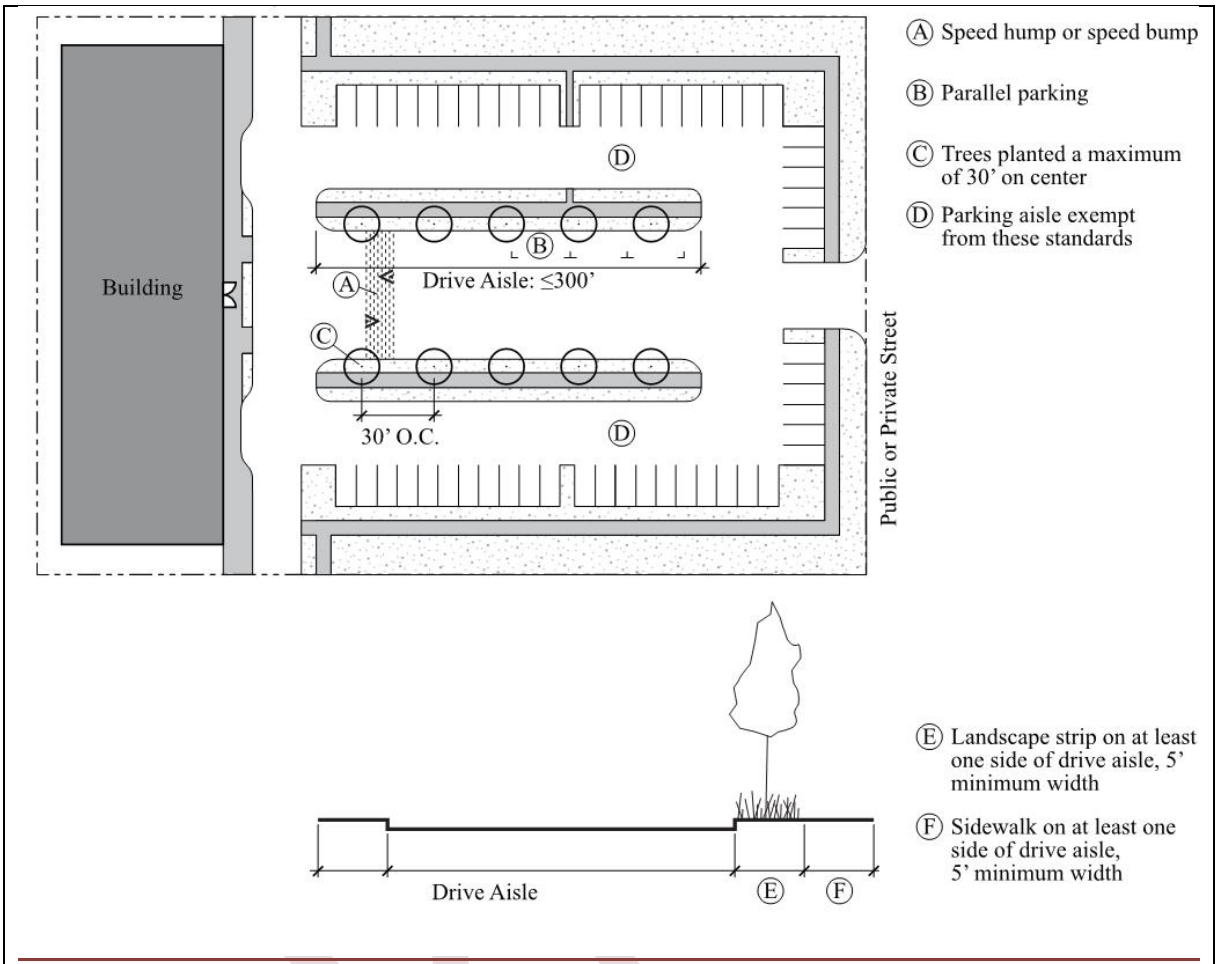

Figure 8.350-1. Interior Drive Aisles.

(4)~~(2) The internal vehicle circulation system of a commercial development~~ **Drive aisles** shall continue the adjacent public street pattern wherever possible~~ and promote street connectivity. The vehicle circulation system shall mimic a traditional local street network and break the development into numerous smaller blocks~~.

(5)~~(3) Traffic~~ **Drive** aisles shall not be located between the building(s) and the sidewalk(s), except as provided in ~~(4)~~**(a) or (b)** below**:**~~, or~~

(a) Where ~~where~~ drive-through windows are permitted, sites are constrained by natural resources, or are infill sites less than one acre. [Ord. 5832, 4/9/14]

(b) ~~(4)~~Where drop-off facilities are provided~~, they shall be~~ **that have been** designed to meet the requirements of the Americans with Disabilities Act but **that** still provide for direct pedestrian circulation.

~~(5) Internal roadways shall be designed to slow traffic speeds. This can be achieved by keeping road widths to a minimum, allowing parallel parking, and planting street trees to visually narrow the road.~~

[Ord. 5445, 4/12/00]

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8.360 Pedestrian Amenities. The following standards apply in all zoning districts except HD, CB, DMU, and WF, which are subject to ADC Section 8.365. ~~Amenities such as awnings, seating, special paving, and planters can have a dramatic effect on the pedestrian environment. Commercial developers should give as much thought to the pedestrian environment as they give to vehicle access, circulation, and parking.~~ **The purpose of the pedestrian amenity requirements is to enhance pedestrian comfort by providing awnings, seating, special paving, and planters and similar improvements.** The standards for pedestrian amenities are related to the scale of the development and also provide the flexibility for the developer to select the most appropriate amenities for the particular site and use.

[Ord. 5894, 10/14/17]

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

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

(1) Required number of amenities. New buildings or expansions or modifications to existing buildings except those where a land use application is not required pursuant to ADC Section 1.105 shall provide pedestrian amenities with a total point value not less than the amount shown in Table 8.360-1. The point value of each pedestrian amenity is specified in Table 8.360-2.

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TABLE 8.360-1: Required Pedestrian Amenities

Proposed New Building Area	Required Pedestrian Amenities Points
0 sf – 20,000 sf	1 point per 2,500 sf
More than 20,000 sf	1 point per 2,500 sf for the first 20,000 sf plus 1 point per 5,000 sf for new building area over 20,000 sf up to a maximum of 20 points

~~(8) Acceptable pedestrian amenities include the following improvements. No more than two of any item may be used to fulfill the requirement:~~

~~(o) Sidewalks at least 10 feet wide with ornamental treatments (e.g., brick pavers), or sidewalks that are 50 percent wider than required by the Code.~~

~~(p) Benches or outdoor public seating for at least four people.~~

~~(q) Sidewalk planter(s) enclosing a total of 8 square feet.~~

~~(r) Pocket parks or decorative gardens (minimum usable area of 300 square feet).~~

~~(s) Plazas (minimum usable area of 300 square feet).~~

~~(t) Street trees 50 percent larger than required by the Code.~~

~~(u) Weather protection (awnings, etc.).~~

~~(v) Other pedestrian amenities that are not listed but are similar in scale and benefit.~~

~~(3) Pervious pedestrian amenities can include approved vegetated post-construction stormwater quality improvements.~~ [Ord. 5842, 1/01/15]

(2) Value of amenities. The point value of acceptable pedestrian amenities is specified in Table 8.360-2. Pedestrian amenities shall be installed on private property except where otherwise noted.

TABLE 8.360-2: Point Value of Pedestrian Amenities

Amenity	Point Value
Sidewalks with ornamental treatments (e.g., brick pavers) that are either at least 10 feet wide or 50 percent wider than required by the Code, whichever is larger	1 point for every 10 lineal feet of sidewalk
Benches or outdoor public seating (maximum of 4 points)	1 point for seating for 4 people
Bicycle parking – standard spaces (maximum of 4 points)	1 point for every 5 spaces provided beyond the minimum Code requirement
Bicycle lockers (maximum of 10 points)	1 point for every locker

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Amendments to the Albany Development Code (ADC)

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Amenity	Point Value
Sidewalk planter(s) enclosing a minimum of 8 square feet (maximum of 4 points)*	1 point for every planter provided beyond the minimum Code requirement
Pocket parks or plazas with a minimum area of 300 square feet*	10 points for every park or plaza
Planting trees that are 50 percent larger than required by Code or planting more trees than required by Code. (maximum 4 points)	1 point for every 4 trees
Weather protection (awnings, etc.) which overhangs the sidewalk or walkway by a minimum of 4 feet. Awnings or other weather protection must be constructed of durable materials. (maximum of 10 points)	1 point for every 5 lineal feet of weather protection
Decorative fountain or other public art. Public art, including decorative fountains, must be approved by the City Arts Commission (maximum of 10 points)*	Point value to be determined by the City based on other amenities similar in scale and benefit
Other pedestrian amenities that are not listed above* (maximum of 10 points)	Point value to be determined by the City based on other amenities similar in scale and benefit.
* Approved vegetated stormwater quality facilities may be incorporated into the amenity.	

~~(4)~~**(3) Additional standards for pedestrian amenities.** Pedestrian amenities shall meet the following standards:

(a) Amenities shall be located outside the building main entrance, along pedestrian corridors, or ~~near transit stops~~ **within 50 feet of a transit stop**. Amenities shall be visible and accessible to the general public from an improved public or private street. **Amenities may be located within the public right-of-way if approved by the Public Works Director or designee. Public access must be provided to pocket parks, plazas, and sidewalks.** ~~Access to pocket parks, plazas, and sidewalks must be provided by a public right-of-way or a public access easement~~.

(b) Amenities are not subject to setback requirements.

(c) Amenities ~~are~~ **should be** consistent with the character and scale of surrounding developments. For example, the similarity in awning height, bench style, planter materials, street trees, and pavers is recommended to foster continuity in the design of pedestrian areas. Materials should be suitable for outdoor use **and permanently maintained.**~~, easily maintained, and have a reasonably long life cycle (e.g., ten years before replacement).~~ [Ord. 5445, 4/12/00]

(d) Amenities existing on the development site may be used to meet the requirement in subsection (1) for new building area provided that their point value is in excess of the number of points that would be required if the current standards were applied to the existing level of development on the site.

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8.365 Pedestrian Amenities in the HD, CB, DMU, and WF zoning districts. Pedestrian amenities are required in the HD, CB, DMU and WF zoning districts. The purpose of the pedestrian amenity requirements is to enhance the pedestrian environment. Because the sidewalk area is the most important element of the pedestrian environment in an urban setting, these standards focus primarily on sidewalk enhancements. The standards in (1)-(3), below, apply to the following development within the HD, CB, DMU, and WF zoning districts: new buildings (excluding accessory buildings); expansions or modifications to existing buildings that are not covered under ADC Section ~~1.070~~**1.105**(7); and any development that requires sidewalk improvements. The City Engineer may waive the requirement to provide pedestrian amenities where public streetscape improvement projects that include pedestrian amenities have been completed or are planned. [Ord. 5894, 10/14/17]

(1) Each development shall provide a minimum of one of the following improvements. [Ord. 5894, 10/14/17]

(a) Street trees in tree wells along the public street frontage, excluding any driveways. Development on lots with multiple frontages must meet this standard on all frontages. Street trees shall be selected from the list of approved street trees established by the City and meet all applicable spacing standards. [Ord. 5894, 10/14/17]

(b) Benches or outdoor public seating for at least four people. Benches or seating must be located in a public right of way or be accessible to the general public (including providing a public access easement) and visible from the sidewalk. [Ord. 5894, 10/14/17]

(c) Pocket parks or plazas with a minimum usable area of 100 square feet. Public access must be provided by a public right-of-way or a public access easement, and the pocket park or plaza must be visible from the sidewalk. [Ord. 5894, 10/14/17]

(d) Continuous weather protection (awnings, etc.) along all building façades adjacent to (within one foot of) the sidewalk. Awnings or other weather protection must be constructed of durable materials and extend at least 4 feet in horizontal distance from the building wall. [Ord. 5894, 10/14/17]

(e) Pedestrian-scale street lights along the full site frontage, excluding any driveways. Development on lots with multiple frontages must meet this standard on all frontages. Suitable light fixtures and spacing shall be determined by the City Engineer for consistency with publicly-installed light fixtures and lighting specifications. [Ord. 5894, 10/14/17]

(f) Other pedestrian amenities that are not listed but are similar in scale and benefit. [Ord. 5894, 10/14/17]

(2) Improvements within the public right of way require the approval of the City Engineer. [Ord. 5894, 10/14/17]

(3) Materials should be suitable for outdoor use, easily maintained, and have a reasonably long life cycle (e.g., ten years before replacement). [Ord. 5894, 10/14/17]

8.370 Pedestrian **and Bicycle** Connections. **The intent of these standards is to help ensure convenient pedestrian and bicycle access to nearby streets, adjacent uses, and transit stops in compliance with the Transportation Planning Rule (OAR 660-012).** The following standards apply in all zoning districts except HD, CB, DMU, and WF, where pedestrian connections are provided by existing sidewalks and small block sizes.

[Ord. 5894, 10/14/17]

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~~(1) New retail, office and institutional buildings at or near existing or planned transit stops shall provide convenient pedestrian access to transit.~~

~~(2) Walkways shall be provided that connect building entrances and streets adjoining the site.~~

~~(3) Pedestrian connections to adjoining properties shall be provided except where impractical. Pedestrian connections shall connect the onsite circulation system to existing or proposed streets, walkways, and driveways that abut the property. When adjacent properties are undeveloped or have the potential to be redeveloped, streets, accessways, and walkways on site shall be laid out or stubbed to allow for an extension to the adjoining property.~~

(1) Definitions. The following definitions shall apply for the purposes of this section:

(a) "Direct and convenient" means the route is not more than 120 percent of the straight-line distance except as necessary to accommodate topographic constraints, natural resources or hazards.

(b) "Major transit stop" means transit transfer stations and any additional stops designated as "major transit stops" in the Transportation System Plan.

(c) ~~For the purposes of this section, "impractical"~~ **"Impractical"** means where one or more of the following conditions exist:

i. ~~(a)~~ Physical or topographic conditions make a connection impracticable. Such conditions include but are not limited to freeways, railroads, steep slopes, wetlands or other bodies of water where a connection could not reasonably be provided;

ii. ~~(b)~~ Buildings or other existing development ~~on adjacent land~~ physically preclude a connection ~~now or in the future considering the potential for redevelopment~~; or

iii. ~~(c)~~ Where streets or accessways would violate provisions of leases, easements, covenants, restrictions or other agreements existing as of May 1, 1995, which preclude a required street or accessway connection.

(2) Pedestrian and bicycle connections required. Except where impractical, pedestrian and bicycle connections shall be provided in the following locations:

(a) Between an existing or planned transit stops and new development that is at, or within, 200 feet of the existing or planned transit stop. Development sites at major transit stops are also subject to subsection (3).

(b) A direct and convenient pedestrian route shall be provided between the building main entrance(s) and the nearest sidewalk abutting the site or roadway where there is no sidewalk. A direct and convenient bicycle route shall be provided between the bicycle parking and the nearest bicycle path abutting the site or roadway where there is no bicycle path.

(c) Between the development site and abutting properties. Pedestrian and bicycle connections shall connect the onsite circulation system to existing or proposed walkways and bicycle routes, respectively, that abut the property. When abutting properties are undeveloped or have the potential to be redeveloped, accessways and walkways on site shall be laid out or stubbed to allow for an extension to the abutting property.

(3) ~~On~~ **Major Transit Stops. Except where impractical,** sites at major transit stops **shall** provide

the following:

(a) Either locate buildings within 20 feet of the transit stop, a transit street or an intersecting street or provide a pedestrian plaza at the transit stop or a street intersection;

(b) A ~~reasonably~~ direct **and convenient** pedestrian connection between the transit stop and building entrances on the site;

(c) A transit passenger landing pad accessible to disabled persons;

(d) An easement or dedication for a passenger shelter, if requested by the transit provider; and

(e) Lighting at the transit stop. [Ord. 5281, 3/26/97; Ord. 5445, 4/12/00]

(4) Pedestrian and bicycle connections standard. Pedestrian and bicycle accessways shall be constructed of concrete, asphalt, brick or masonry pavers, or other hard surface, and not less than five feet wide.

8.380 Large Parking Areas. The amount of parking needed ~~for larger commercial development~~ **by some developments** can result in a large expanse of pavement. ~~Landscaping in a parking area shall be incorporated~~ **The purpose of these standards is to help ensure that landscaping is incorporated into parking lot design** in a manner that is both attractive and easy to maintain, **that** minimizes the visual impact of surface parking, and **that** improves environmental and climatic impacts (Figure 8**.380-1**~~.6~~). **These standards are also intended to help ensure pedestrian safety and comfort within large parking lots.** ~~In addition to the provisions of Article 9, the following standards apply to commercial development when more than 75 parking spaces are proposed and/or modified.~~
[Ord. 5886, 1/6/17]

(1) Applicability. In addition to the provisions of Article 9, the following standards apply when more than 75 new parking spaces are proposed or when the re-construction of a parking area with more than 75 spaces is proposed (i.e., when pavement, curbs, and planter bays are completely replaced).

~~(1) Walkways are necessary for persons who will access the site by walking, biking or transit. A continuous pedestrian walkway at least 7 feet wide shall be provided from the primary frontage sidewalk to the customer entrance for each building. This internal walkway shall incorporate a mix of landscaping, benches, drop-off bays and bicycle facilities for at least 50 percent of the length of the walkway. The walkways must be designed for access by disabled persons. If the walkway crosses a parking area or vehicle aisle, the standards in Subsection (2) below apply.~~

(2) Walkways. When a required pedestrian walkway connecting a main building entrance to the street, pursuant to ADC 8.370(2)(b), must cross a large parking area with more than 75 spaces, standards (a) and (b) below shall apply.

(a) The walkway shall be at least 7 feet wide and must meet standards for an accessible path of travel in accordance with the Americans with Disabilities Act (ADA).

(b) The walkway shall incorporate a mix of landscaping, benches, and drop-off bays for at least 50 percent of the length of the walkway.

(3)~~(2)~~ For the safety of pedestrians, parking lots shall be designed to separate pedestrians from vehicles and include protected pedestrian walkways from parking areas to building entrances. Walkways shall be protected by landscaping, curbs, or parking bumpers. Walkways may cross a vehicle aisle if distinguished by a color, texture or elevation different from the parking and driving areas. Walkways shall not share a vehicle aisle. [Ord. 5886, 1/6/17]

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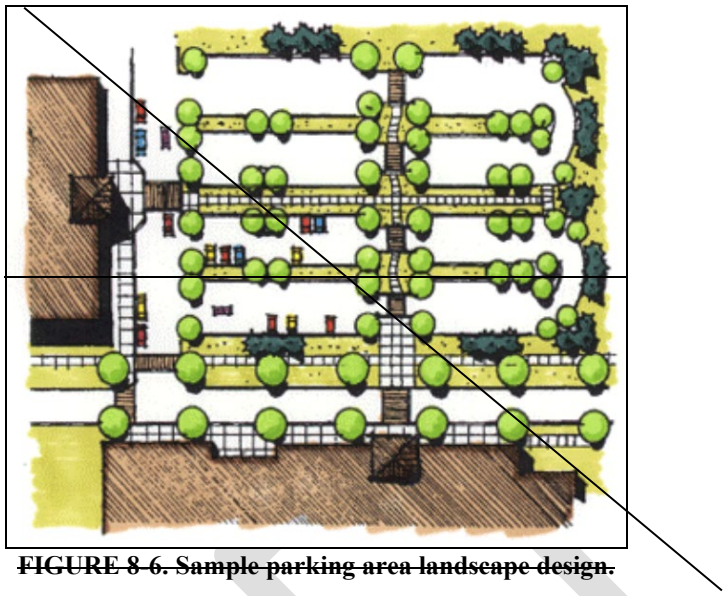

~~**FIGURE 8-6. Sample parking area landscape design.**~~

~~(3) The parking area shall be divided into pods of no more than 75spaces each with landscape strips, peninsulas, or grade separations to reduce the visual impact of large expanses of paving, to direct vehicular traffic through the parking lot, and to provide a location for pedestrian walkways.~~

[Ord. 5886, 1/6/17]

~~(4) Pods may have access at one or both ends. A pod may be U-shaped with double access at one end.~~

~~(5) Pods shall be separated with physical breaks by providing one or more of the following: building pads, pedestrian walkways, landscape strips, landscaped pedestrian walkways, interior streets or accessways.~~

~~(a) Pedestrian walkways used for pod separation shall have a minimum unobstructed width of five feet with no car overhang; 7' 6" wide for car overhang on one side; or ten feet wide with a car overhang on both sides.~~

(4) Parking Subareas. To reduce the visual impact of large expanses of paving, to direct vehicular traffic through the parking lot, and to provide a location for pedestrian walkways, parking areas shall be divided into subareas of no more than 75 parking spaces each. Parking subareas shall be separated from each other with physical breaks by providing one or more of the following: building pads, landscape strips, landscaped pedestrian walkways, interior streets, or accessways. Landscape strips or landscaped pedestrian walkways used for subarea separation shall meet the following standards.

(a)(b)Landscape strips ~~used for pod separation~~ shall have a minimum ~~landscape strip~~ width of five feet **that is unobstructed by obstacles that would impede landscape viability, including overhanging cars** ~~with no car overhang; 7' 6" wide for car overhang on one side; or ten feet wide with a car overhang on both sides~~.

(b)(c)Landscaped pedestrian walkways ~~used for pod separation~~ shall have a minimum unobstructed walkway width of five feet. Landscaping may be on one or both sides of a pedestrian walkway, with a minimum landscape strip width of five feet when provided.

[Ord. 5886, 1/6/17]

(5)~~(6)~~Landscaping for large parking areas shall consist of at least seven (7) percent of the total parking area plus one tree per eight parking spaces to create a canopy effect. The total parking area includes parking spaces, travel aisles, sidewalks and abutting landscaped areas.

[Ord. 5445, 4/12/00]

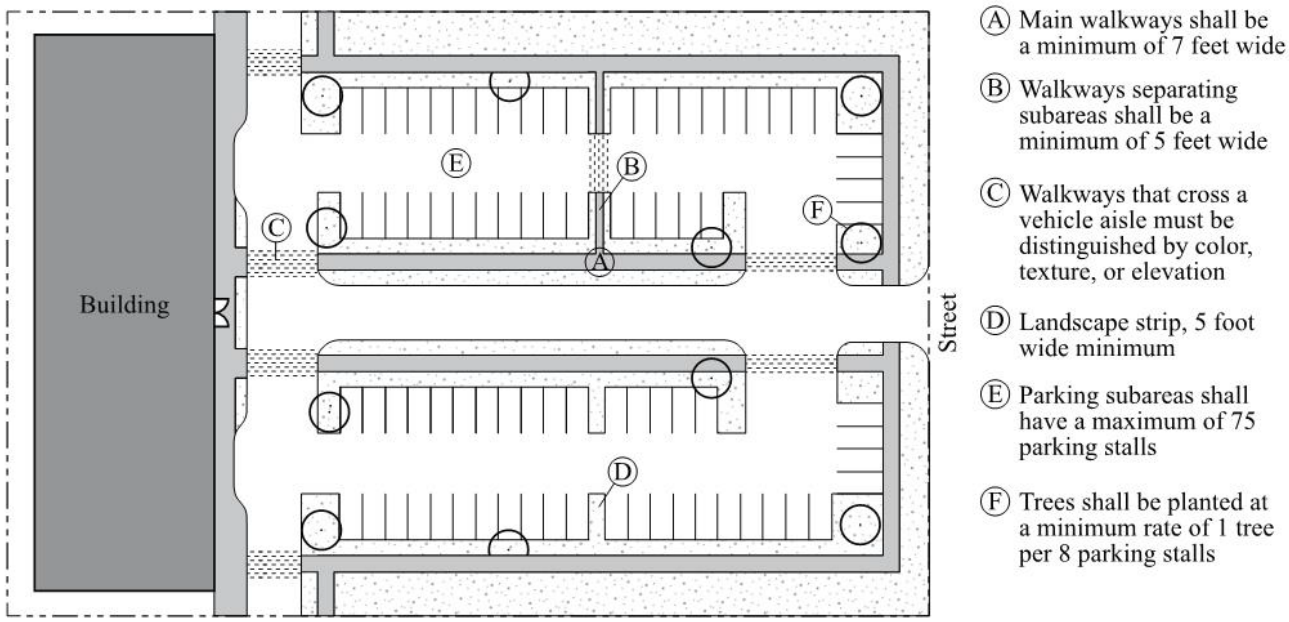

FIGURE 8.380-1. Sample Layout for Large Parking Area.

8.390 Compatibility **Standards** ~~Details~~. Attention to detail can significantly increase the compatibility of commercial **and institutional** development with adjacent uses. Commercial **and institutional** development shall be designed to comply with the following **compatibility standards and any other improvements needed to reduce negative impacts on adjacent uses** ~~applicable details and any other details warranted by the local conditions~~:

~~(1) On-site lighting is arranged so that light is reflected away from adjoining properties and/or streets.~~

(1) Light shielding. Any light source or lamp that emits more than 900 lumens (15 watt fluorescent/LED or 60 watt incandescent) shall be concealed or shielded with an Illumination Engineering Society of North America (IESNA) full cut-off style fixture with an angle not exceeding 90 degrees to minimize the potential for glare and unnecessary diffusion on adjacent property. Examples of shielded light fixtures are shown in Figure 8.390-1.

Figure 8.390-1: Examples of Shielded Light Fixtures

(2) **On site impacts.** Any undesirable impacts produced on the site, such as noise, glare, odors, dust, or vibrations have been adequately screened from adjacent properties.

(3) **Off site impacts.** The site is protected from any undesirable impacts that are generated on abutting properties.

~~(4) Unsightly exterior improvements and items such as trash receptacles, exterior vents, and mechanical devices have been adequately screened.~~

~~(5) Storage areas, trash collection facilities and noise generating equipment are located away from public streets, abutting residential districts or development, or sight obscuring fencing has been provided.~~

(4) Screening. Service areas, equipment, utilities and similar exterior improvements shall be screened as provided in (a) through (c) below and must meet the standards in (d).

(a) Service areas, such as waste and recycling containers, outdoor storage, and ground-level mechanical equipment shall be screened by a sight-obscuring fence, wall, or hedge.

(b) Roof-mounted equipment or utilities shall be screened by a parapet wall or sight-obscuring structure or located so that it is not visible from abutting public rights-of-way.

(c) Wall-mounted equipment or utilities shall be architecturally incorporated into the building or shall be screened by a sight-obscuring fence, wall, hedge, or structure.

(d) Screening required in subsections (a) through (c) above must be of appropriate height and width so that the item to be screened is not visible from a public sidewalk or from abutting residential districts or development. Hedge screens must be composed of evergreen shrubs that will grow to form a continuous hedge that is sight-obscuring within two years of planting.

~~(6) Where needed, loading facilities are provided on-site and are of sufficient size and number to adequately handle the delivery or shipping of goods or people. Where possible, loading areas should be designed so that vehicles enter and exit the site in a forward motion.~~

[Ord. 5445, 4/12/00]

SUPPLEMENTAL COMMERCIAL AND INSTITUTIONAL DESIGN STANDARDS IN VILLAGE CENTERS

Commentary:

Proposed amendments to this section are limited to updating cross-references.

8.405 Village Center Character. The purpose of these standards is to contribute to the desired character of Albany's village centers. They are intended to promote the design of an urban environment that is built to human scale with attractive street fronts and interconnected walkways that promote pedestrian usage and accommodate vehicles. Development in the village center must contribute to a cohesive, visually compatible and functionally linked pattern through street and sidewalk layout, building siting and

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character, and site design. Details count. [Ord. 5556, 2/21/03]

8.410 Applicability. These standards apply to development where commercial and/or institutional uses, as defined in Article 22, are existing or proposed, including when such uses are part of a mixed-use development or live/work dwelling unit. Modifications to existing developments for which the Director has waived review under the provisions of ADC Section ~~1.070~~ **1.105** are not subject to these standards. Certain standards provide additional exemptions for modifications to existing sites or buildings. These standards apply in all zoning districts within the Village Center Comprehensive Plan designation, except as otherwise specified. They are in addition to the Commercial and Institutional **Site** Design Standards in this article. Taken together, these design standards are intended to foster a mixed-use character for village centers. [Ord. 5556, 2/21/03; Ord. 5832, 4/9/14; Ord. 5894, 10/14/17]

8.415 Buildings Along Public Streets.

Purpose. Buildings along the public street define the street edge and frame the streetscape. In larger development, the locations of pad site buildings also provide opportunities to frame entries into the shopping centers and contribute to the visual interest of the site. These provisions are intended to avoid deep building setbacks behind large expanses of parking areas or vacant land. [Ord. 5894, 10/14/17]

Standards. The following standards apply in all zoning districts within designated Village Centers except HD, CB, DMU, and WF, which are subject to ADC Section 5.120.

(1) Buildings and plazas shall be located within the maximum setback area for at least 40 percent of one public street frontage.

(2) For sites with frontage on more than one public street (i.e., corner lots), this standard applies to one frontage only.

(3) The public street frontage is the length of the property as measured along the street right-of-way excluding the width of entrance driveways and/or streets.

(4) Building facades that face public streets shall be divided into human-scale proportions using at least two features such as windows, entrances, arcades, arbors, awnings, trellises with vines, or an equivalent element. A blank, uninterrupted wall shall not be longer than 30 feet.

(5) No parking, loading or travel aisles shall be located between the public street and buildings within 50 feet of the street, except that a designated park-and-ride lot or one drive-through lane may be permitted. See Section 8.420**(1)**(b).

(6) To count toward this standard, a plaza shall:

(w) Be well defined at the street edge by a low decorative architectural wall (no higher than three feet), or a line of shrubs or trees of the same species, or similar landscaped or built feature;

(x) Use materials that are similar in quality to the principal materials of the primary building(s) and landscape. Landscaping with drought-resistant native species is strongly encouraged;

(y) Have direct access to the public street sidewalk and be located the shortest distance to the nearest building main entrance; and

(z) Extend at least the full depth of the maximum setback. [Ord. 5556, 2/21/03]

***

8.430 Size Limitations. See building size limitations in ~~Articles 4 and 5, Table 1,~~ **Tables 4.090-1 and 5.090-1,**

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Development Standards.

[Ord. 5556, 2/21/03]

***

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SUPPLEMENTAL RESIDENTIAL DESIGN STANDARDS IN VILLAGE CENTERS

Commentary: 8.480-8.485 Supplemental Residential Design Standards in Village Centers

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.

(9) ~~Building~~ **A minimum of 75 percent of a building's** exterior~~s~~ shall be surfaced with wood, brick, stucco, stone, masonry, or lap siding ~~on all sides~~.

(10) 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~~ parapet**s**, **cornices,** gables, dormers**, varied roof heights, or top level balconies**~~, etc~~.

(11) 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.

TELECOMMUNICATION FACILITIES

Commentary

No amendments to the Telecommunication Facilities section are proposed.

DRAFT

***

SUPPLEMENTAL DESIGN STANDARDS FOR THE OAK CREEK TRANSITION AREA

Commentary

The only proposed amendment to this section is to renumber Figure 8-7 for the sake of consistency with the rest of Article 8.

8.600 Purpose and Intent. The purpose of the Oak Creek Transition Area (OCTA) is to guide development review and more detailed planning for the transitional areas between Oak Creek and adjacent developed and developable areas. The OCTA works in combination with the Open Space zone, natural resource overlay zones and the development review process to ensure that the larger Oak Creek corridor is protected for the long term and provides benefits to all of Albany. The OCTA is specifically intended to:

(1) Integrate open space areas, both public and private, near Oak Creek;

(2) Be the centerpiece of the South Albany open space system and provide multiple benefits including wetland protection and mitigation, habitat, flood storage, pathways, recreation, history, environmental education and visual identity for the area;

(3) Be South Albany's "front yard" - physically and visually accessible to adjacent development;

(4) Create a multitude of public spaces and connections (parks, trails, trailheads, visual, etc.) between "Oak Creek Parkway" (an east-west street) and the public edge of undeveloped areas;

(5) Include a continuous east-west pathway and other pathways that connect north and south to community destinations; and

(6) Preserve archeological and historical resources as heritage sites if feasible.

8.610 Applicability. The OCTA supplemental standards apply as follows:

(1) South of Oak Creek, the standards apply between the Riparian Corridor overlay boundary around Oak Creek and the north edge of the right-of-way for Oak Creek Parkway. Oak Creek Parkway's location is generally identified in the South Albany Area Plan chapter of the Comprehensive Plan, on Figure 2, Street Framework. NOTE: The southern boundary of the OCTA may need to deviate from the Oak Creek Parkway within the Area of Interest shown on the Street Framework if the Parkway is forced south due to development constraints.

(2) North of Oak Creek, the standards apply within 100 feet from the upland edge of the Riparian Corridor Overlay District (/RC).

8.620 OCTA Development Standards. Development within the Transition Area must satisfy all of the following standards.

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(1) The design and construction of the development, utilities, and trails shall limit disturbance to natural features as much as reasonably feasible.

(2) Fences are limited to within developed areas. All fences, posts and supporting structures shall be stained, painted, or powder-coated black or a neutral earth tone color to harmonize with the surrounding landscape. Sight-obscuring fences shall be no more than 3 feet tall.

(3) Once a wetland delineation is approved by the Oregon Department of State Lands for any area proposed for development, the City may seek to acquire, by negotiated purchase or exercise of the power of eminent domain, all or part of the developable area on the north side of the Parkway or take such other action as may be appropriate or required to compensate the landowner for any loss of use that exceeds that which the City may require by lawful regulation.

(4) Development between Oak Creek and the Oak Creek Parkway, and between 99E and Columbus Street must meet the following standards:

(a) The "development area" cannot exceed 50 percent of the subject site's frontage on the north side of Oak Creek Parkway. The "development area" shall include all residential lots and development, all areas taken up by buildings, private yards, paving, streets, grading and non-native landscaping, but does not include parks, low-impact outdoor recreation, trails, paths, wetland mitigation or restoration, City construction of public infrastructure such as transportation, stormwater, sewer, and water utilities, or the private construction of public transportation and utility facilities and structures as identified in a City-adopted master plan. The resulting undeveloped frontage along the north side of Oak Creek Parkway shall have a continuous view of the Oak Creek Corridor and associated open space that is not obstructed by the development area. See Figure 8.**620-1**~~7~~, 1–Permitted and 2 –Prohibited.

(b) Native vegetation, excluding any that are farmed for agricultural purposes, that is impacted in the developed area is mitigated through the enhancement or restoration of native vegetation in undeveloped areas per the relevant standards in ADC 6.400-6.420.

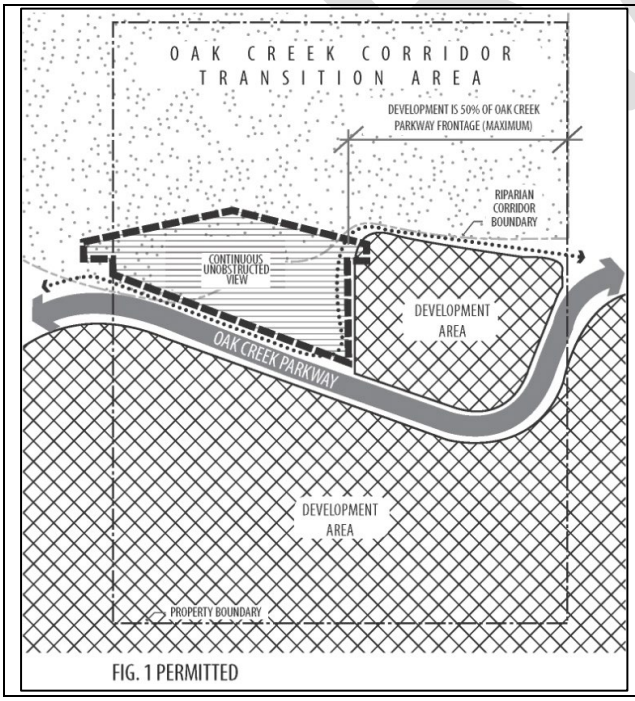

FIG. 1 PERMITTED

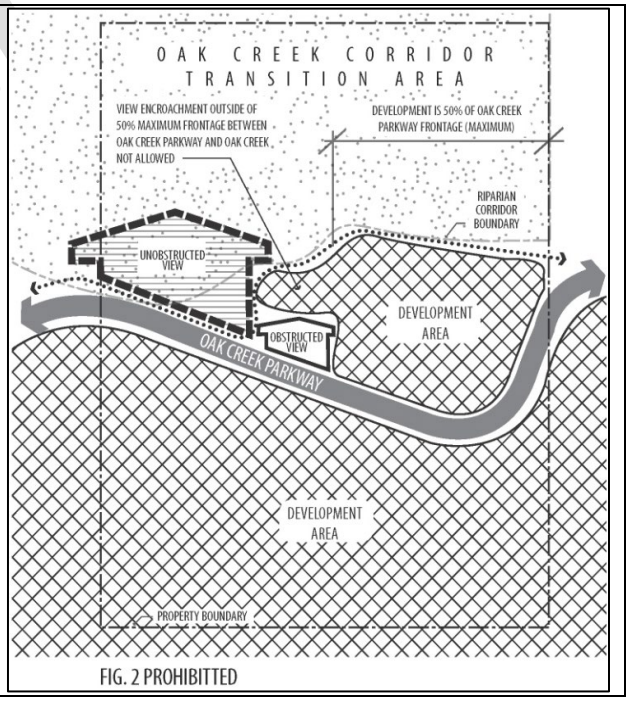

FIG. 2 PROHIBITTED

FIGURE 8.620-1 ~~7~~. Oak Creek Corridor Transition Area.

(5) In addition to the abovementioned standards, development shall meet the standards in either (a) or (b):

(a) Clear and Objective Standards (Type I-L Process).

i. Development shall avoid the Significant Wetland and Waterway Overlay District (/SW), the Riparian Corridor Overlay District (/RC), significant tree groves identified on the South Albany 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; and

ii. Trails or paths shall be provided that connect the development to any existing or proposed trails or paths shown on the Trails Framework in the South Albany Area Plan and to adjacent neighborhood parks, or other public and semi-public amenities in the vicinity.

iii. Neighborhood parks or trailheads shall be incorporated into proposed developments in the locations as generally shown on the Land Use Concept Map in the South Albany Area Plan.

(b) Subjective Standards (Type III Process). Development is consistent with the purpose and intent of the Oak Creek Transition Area in Section 8.600 and with the applicable policies in the South Albany Area Plan section of the Albany Comprehensive Plan.

[Ord. 5801, 2/13/13]

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Article 9 - On-Site Development and Env Standards

Amendments to the Albany Development Code (ADC)

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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]

*** As identified in Section 9.210, in limited circumstances, an applicant can apply for an Adjustment to the Buffering and Screening standards.**

OFF-STREET PARKING

Commentary:

Proposed amendments to the Off-Street Parking section are limited to renumbering tables and figures to follow the new numbering protocol (including Figure 9.020-1, which is at the end of Article 9). Tables and figures are renumbered throughout Article 9.

9.020 Space Requirements. Off-street parking and loading must be provided for all development in the amounts indicated in ~~the table below~~ **Table 9.020-1** subject to any applicable reductions permitted in this Article. All required parking must be developed in accordance with the standards in this Article.

[Ord. 5832, 4/9/14]

(1) Calculating Floor Area for Parking. The area measured is the combined floor area of each level of a building exclusive of vent shafts, courtyards, stairwells, elevator shafts, restrooms, storage rooms and rooms designed and used for the purpose of storage and operation of maintenance equipment, and covered or enclosed parking areas.

(2) Employees. The number of employees shall include those working on the premises, plus proprietors, during the largest shift at peak season.

(3) Fractional Space Requirements shall be counted to the nearest whole space; half spaces will be rounded up.

(4) Unspecified Uses and Alternative Standards. When a use is not specifically listed in Table 9**.020**-1: Parking Requirements, the Director will determine if the use is similar to a listed use in terms of parking needs. When a use is not similar to a use listed in Table 9**.020**-1 or the applicant has documentation that demonstrates a different parking demand, the Director may approve alternative parking standards. Acceptable documentation may include parking standards from other cities of similar size, company data on parking demand, parking demand studies, or the ITE Parking Generation Manual. [Ord. 5832, 4/9/14]

(5) Off-street parking for one use shall not be considered as providing parking facilities for any other use except through the provisions of Section 9.080, Joint Use of Parking Facilities.

(6) Downtown Assessment District. Parking spaces are not required for uses located within the Downtown Off-Street Assessment District as established by separate ordinance. (A map of the district is located at the end of this Article as Figure ~~9-2~~ **9.020-1**.) However, improvement of parking areas within this District must comply with the standards of this Article.

(7) Maximum Parking in the ES, Elm Street Medical District. Parking provided with new development in the ES zone shall be only the minimum required. No additional off-street parking will be allowed for development in this district.

(8) Site Plan Review may be required for new parking areas or expansions to existing parking areas unless specified in Section 2.430.

(9) Temporary uses of less than 120 days, as defined in AMC Chapter 5.10 Transient and Itinerant Merchants and Vendors, are not required to meet the standards in this section. [Ord. 5832, 4/9/14]

TABLE 9.020-1
PARKING REQUIREMENTS

USE	MINIMUM SPACES REQUIRED
COMMERCIAL AND RECREATION	
Animal hospitals and clinics and animal grooming salons	1 per 400 sq ft
Banks and financial institutions, real estate services, insurance	1 per 300 sq ft on the first floor plus 1 per 600 sq ft above the first floor
Beauty and barber shops and other personal services	1 per 200 sq ft plus 1 per 3 employees
Entertainment and Recreation: (a) Athletic/fitness gym, billiard or pool hall skating rinks with no grandstands, all other unspecified indoor recreation and entertainment (excluding restaurant, café or bar areas) (b) Bowling alleys (c) Golf courses (including clubhouses and accessory uses) (d) Stadiums, grandstands, coliseums, auditoriums, and theaters, and other sports facilities with seating (e) Swimming pools, aquatic centers	(a) 1 per 300 sq ft (b) 4 per lane (c) Subject to land use review (d) 1 per 4 seating capacity (e) 1 per 200 sq ft
Funeral houses and mortuaries	1 per 4 seats or 8 feet of bench length
Kennels, animal boarding	1 per employee plus 1 per 500 sq ft excluding exercise areas
Laundries and cleaners	1 per 300 sq ft
Motels and hotels	1 per rental unit plus additional as required for accessory uses
Office - Professional: (a) Medical and dental clinics (b) All other business and professional	(a) 1 per 250 sq ft (b) 1 per 400 sq ft
Vehicle repair and fuel or other service stations	1 per 2 employees plus 2 per each service stall
Private clubs, lodges and meeting rooms	1 per 200 sq ft

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USE	MINIMUM SPACES REQUIRED
Radio and television stations and studios	1 per 2 employees plus 1 per 300 sq ft over 2,000 sq ft
Restaurants: (a) Carry out, drive-thru or drive-in (b) Sit-down restaurants, taverns, bars, brewpubs, and nightclubs	(a) 1 per 100 sq ft (b) 1 per 200 sq ft including outdoor seating not exempt per 9.030(3).
Retail Sales: (a) Bulky items such as home or business furnishings, appliances, building materials, farm and agricultural equipment, machine and office equipment; (b) motor vehicles, trailers, mobile homes, boats, modular houses (c) Greenhouses and nurseries, garden supplies (d) All other retail sales	(a) 1 per 800 sq ft plus 1 per 3 employees (b) 2 per employee (c) 2 per employee (d) 1 per 300 sq ft sales floor area
Services and Repair: tailor, shoemaker, locksmith, printing, binding, publishing, framing, upholsterer, photography studio, dry cleaner, mailing, etc.	1 per 500 sq ft
Self-Serve Storage Units	1 per 100 units, with a minimum of 3, plus 1 per employee/caretaker
INDUSTRIAL	
Air, rail and motor freight terminals	Subject to land use review
Contractors and Industrial Services	1 per 1.25 employees plus 1 per company vehicle
Customer Service/Call Centers	1 per 250 sq ft
Industrial Offices, research or laboratory facilities	1 per 500 sq ft
Manufacturing, production or processing	1 per 2 employees plus 1 per company vehicle
Testing, repairing, cleaning, servicing of materials, goods or products	1 per 2 employees plus 1 per 300 sq ft of patron serving area, plus 1 per company vehicle
Warehousing and wholesale	1 per 2 employees plus 1 per 300 sq ft of patron serving area plus 1 per company vehicle
Wrecking yards and junkyards	1 per employee plus 1 per 10,000 sq ft lot area
INSTITUTIONAL, PUBLIC and SEMI-PUBLIC	
Daycare, Nursery Schools, Kindergarten and Daycare Homes or Facilities	1 per employee plus 1 per 10 persons being cared for
Education: Elementary, junior high and other children's day school	1 per classroom plus 1 per 2 employees
Education: high schools, colleges, universities, and trade or business schools	Subject to land use review
Hospitals	1 per 2 beds plus 1 per staff doctor plus 1 per 2 full-time employees
Jails and Detention Facilities	1 per 5 beds
Libraries, reading rooms, museums, and art galleries	1 per 2 employees plus 1 per 500 sq ft
Parks, open areas, and cemeteries	Subject to land use review
Religious assembly	1 per 6 seats or 12 feet of bench length
RESIDENTIAL	
Assisted Living, Residential Care facilities, Nursing or Convalescent homes	1 per 3 beds at capacity
Single-Family Units	2 spaces

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USE	MINIMUM SPACES REQUIRED
Duplex and Two Units on One Lot	4 total spaces
Multi-Family: Studio and 1-bedroom units	1 space per unit, plus 1 visitor space every 4 units
Multi-Family: 2-bedroom units	1.5 spaces per unit, plus 1 visitor space every 4 units
Multi-Family: 3 or more bedroom units	2 spaces per unit, plus 1 visitor space every 4 units
Multi-Family: Quad and quint units	0.75 space per unit
Senior housing	1 space per 2 units
Student housing	1 per 2 students at capacity
Boarding and rooming houses	1 space per 2 occupants at capacity
Group or residential care homes	1 space per employee plus 1 space per 5 beds

[Ord. 5555, 2/7/03; Ord. 5742, 7/14/10; Ord. 5832, 4/9/14]

***

9.030 Reductions or Exemptions to Minimum Parking Space Requirements. The following actions and situations can further reduce the minimum parking required on-site.
[Ord. 5832, 4/9/14; Ord. 5894, 10/14/17]

(1) Change of Use or Redevelopment. No additional parking shall be required when an existing structure is changed from one Use Category to another as listed in Article 22 when the new use requires no more than two additional vehicle and/or bicycle parking spaces. [Ord. 5832, 4/9/14]

(2) Tree Preservation. Minimum parking may be reduced by one parking space for each tree 8 inches in diameter and larger that is preserved within the developable area, for up to a maximum of 10 percent of the total parking space requirement. [Ord. 5832, 4/9/14]

(3) Outdoor Seating Areas. Seasonal outdoor seating up to 500 square feet shall be exempt from the parking calculations. Permanent outdoor seating is not exempt. [Ord. 5832, 4/9/14]

(4) Mixed-Use or Multi-Tenant Developments. In the case of mixed-use~~s~~ and multi-tenant developments, the total requirements for off-street parking are the sum of the requirements for the various uses, except that the total may be reduced by up to ten percent of the minimum total requirement. [Ord. 5832, 4/9/14; Ord. 5894, 10/14/17]

(5) Alternative Modes, Carpooling. For businesses that will employ ten or more people, the total number of required vehicle spaces may be reduced up to a maximum of ten percent based on the following incentives: [Ord. 5832, 4/9/14]

(a) Up to two vehicle spaces may be waived if sheltered bicycle parking is provided beyond the minimum requirements in Section 9.120 (13) at a rate of three bicycle spaces to one motor-vehicle space.
(b) One vehicle space may be waived for each shower and two lockers provided for employees who commute by bicycle.
(c) Each vehicle space designated for carpool/vanpool parking only that is also located closer to the building than other employee spaces will count as two required parking spaces. One carpool/vanpool parking space is permitted per 20 employees, with a minimum of 1 space. Spaces must be clearly marked "Reserved-Carpool/Vanpool Only".

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

(7) Reduced parking minimums in the HD, CB, DMU, and WF zoning districts. To promote more pedestrian-friendly development, minimum parking requirements in HD, CB, DMU, and WF are reduced as follows. [Ord. 5894, 10/14/17]

(a) All commercial and recreation uses listed in Table 9**.020**-1 shall provide parking at a minimum of one space per 600 square feet or the minimum stated in Table 9**.020**-1, whichever is less. [Ord. 5894, 10/14/17]

(b) Single-family attached dwellings, duplexes, and developments of up to 70 multiple-family dwelling units shall provide parking at the ratios in paragraphs i and ii below. Developments of more than 70 multiple-family dwelling units shall provide parking at the ratios listed in Table 9**.020**-1, except that visitor parking shall not be required. [Ord. 5894, 10/14/17]

i. Studio, one-bedroom, and two-bedroom units: one space per unit [Ord. 5894, 10/14/17]

ii. three or more bedroom units: 1.75 spaces per unit [Ord. 5894, 10/14/17]

***

9.090 Parking Plan. A parking plan, drawn to scale, must accompany land use applications. Depending on the nature and magnitude of the development, it may be possible to show the needed parking information on the site plan (See Section ~~8~~**9**.120). The plan must show the following elements, which are necessary to indicate that the requirements of this Code are being met.

(1) Delineation of individual parking spaces, including handicapped parking spaces.

(2) Loading areas and docks.

(3) Circulation area necessary to serve spaces.

(4) Location of bicycle and motorcycle parking areas.

(5) Access to streets, alleys, and properties to be served.

(6) Curb cuts.

(7) Type of landscaping, fencing or other screening materials.

(8) Abutting land uses.

(9) Grading, drainage, post-construction stormwater quality facilities, surfacing, and subgrading details. [Ord. 5842, 1/01/15]

(10) Location of lighting fixtures.

(11) Delineation of all structures and obstacles to circulation on the site.

(12) Specifications of signs and bumper guards.

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(13) Location of planter bays when required.

(14) Proposed number of employees and amount of floor area applicable to the parking requirements for the proposed use.

***

9.125 Occasional Overflow Parking Needs. The Director may approve for the use of gravel surfacing for parking above the minimum parking requirements intended for occasional needs. As used in this section, "occasional" means limited to a unique or an annually occurring event or condition or infrequent use. The application must demonstrate how the site and owners will meet the following minimum standards: [Ord. 5832, 4/9/14]

(1) The construction plans for the unpaved parking area must be approved by the Building Official and Public Works Director or their designees.

(2) The overflow parking area must conform to the dimensional standards in ~~Section~~ **Table** 9.130**-1** ~~Table 2~~ - Parking Lot Design, applicable Americans with Disabilities Act (ADA) requirements, and storm drainage requirements.

(3) Overflow parking areas may not exceed 15,000 square feet per property, site or use.

(4) Wheel stops shall be provided to designate and protect each parking space.

(5) Gravel parking and loading areas shall be screened from all adjacent uses by a sight-obscuring fence, wall, or hedge.

(6) A buffer area at least five feet in depth, which may include the required screening, shall be provided along the perimeter of each gravel parking area and be landscaped in accordance with Section 9.240.

(7) The overflow parking area must be at least 20 feet from a public right-of-way and have at least 20 feet of pavement travel distance to the right-of-way. Gravel is not permitted in or within 500 ft of the HD, DMU, LE, ES, CB, or any residential zone or use unless allowed through Conditional Use approval. [Ord. 5832, 4/9/14, Ord. 5894, 10/14/17]

9.130 Off-Street Parking Lot Design. All off-street parking lots must be designed in accordance with City standards for stalls and aisles as set forth in Table ~~9-2~~ **9.130-1**: Parking Lot Design and supplemental drawings. Stall dimensions are measured from inside the stripes. [Ord. 5720, 08/12/09]

(1) Compact spaces shall be at least 8 feet wide by 16 feet long.

(2) Accessible spaces shall be a minimum of 9 feet wide and 17 feet long and designed in accordance with the Oregon Structural Specialty Code (OSSC). An adjacent access aisle must be provided that is at least eight feet wide and 17 feet long for a van-accessible space, and six feet wide for a standard accessible space.

(3) Stall Width. Long-term parking spaces must be at least 8.5 feet wide. Parking stalls for grocery stores or adjacent to planter islands must be at least 9.5 feet wide.

(4) Minimum Aisle Widths. Aisles for two-way traffic and emergency vehicle operations must be at least 24 feet wide. One-way aisles and one-way emergency vehicle access must be at least 20 feet wide.

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(5) The design of driveways and on-site maneuvering and loading areas for commercial and industrial developments shall include 20 feet of storage length for entering and exiting vehicles, in order to prevent vehicles from backing into the flow of traffic on the public street or causing unsafe conflicts with on-site circulation.

TABLE ~~9-2~~ 9.130-1.
PARKING LOT DESIGN (in feet)

A Parking Angle	B Stall Width	C Curb Width	D Aisle Width	E Stall Depth	F Bumper Overhang	G Dead-end Backup
(Parallel)	8.0 feet	8.0 feet	N/A	25.0 feet	N/A	N/A
45°	8.5	12.0	13.0	17.5	2.0	5.0
	9.0	12.7	12.0	17.5	2.0	5.0
	9.5	13.4	11.0	17.5	2.0	5.0
	10.0	14.1	11.0	17.5	2.0	5.0
60°	8.5	9.8	18.0	19.0	2.5	5.0
	9.0	10.4	16.0	19.0	2.5	5.0
	9.5	11.0	15.0	19.0	2.5	5.0
	10.0	11.6	14.0	19.0	2.5	5.0
Compact	8.0 C	8.0 C	26.0 C	16.0 C	3.0	5.0
90°	8.5	8.5	26.0	18.5	3.0	5.0
	9.0	9.0	26.0	18.5	3.0	5.0
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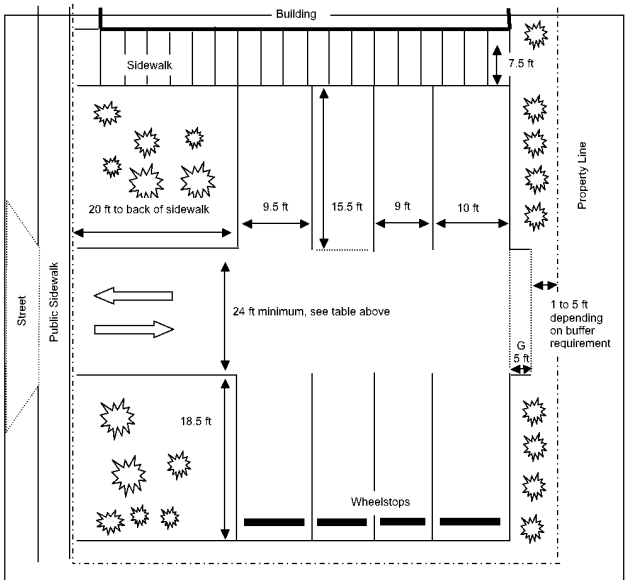
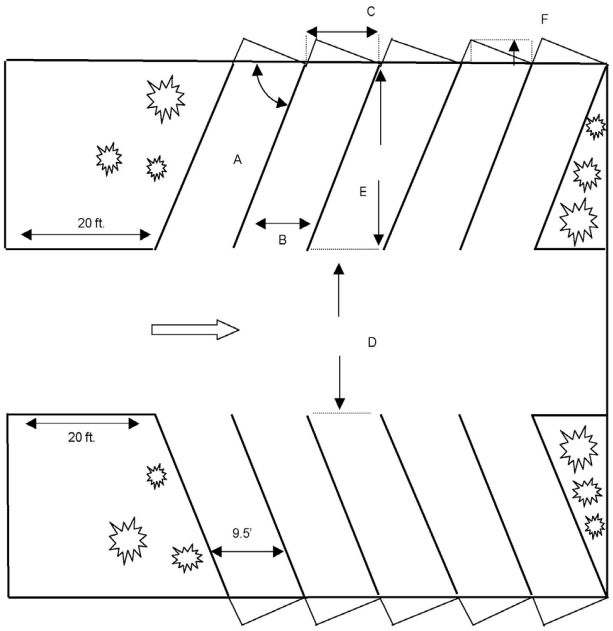
	10.0	10.0	24.0	18.5	3.0	5.0





NOTES:
(1) For one row of stalls, use "D" plus "E" as the minimum width.
(2) When appropriate bumper overhang area is provided (extruded curbs), "F" can be subtracted from "E" to determine stall depth.
(3) Backup areas identified as "G" must be at least five feet from the property line and are excluded from required setback areas or buffer yards. [Ord. 5720, 8/12/09]

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LANDSCAPING

> **Commentary: 9.135 Purpose**
>
> A new purpose statement is proposed for the landscaping standards, which the current Code does not have.

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: [Ord. 5886, 1/6/17]

(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]

(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

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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, either by railroad ties secured by rebar driven 18 inches into the ground, by large boulders, or by another acceptable means of protection.

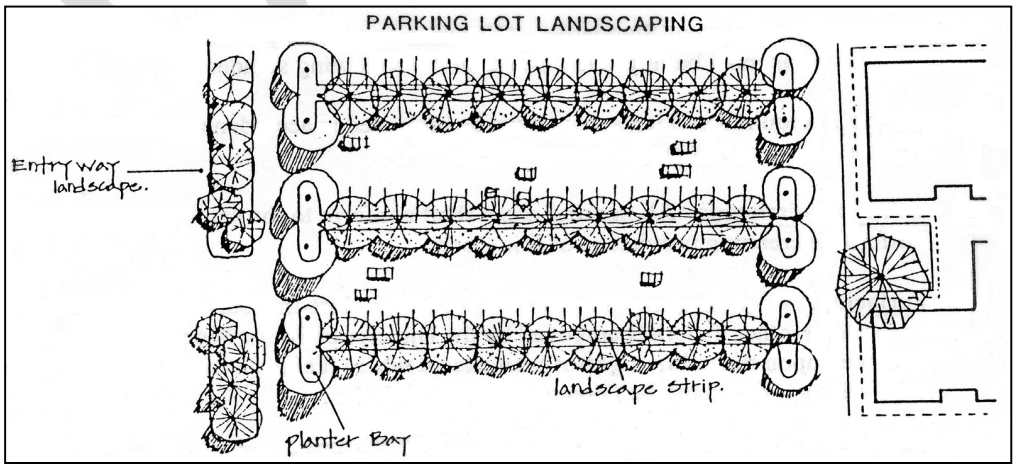

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FIGURE 9.150-1. Parking lot landscaping example.

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TREE PROTECTION

Commentary: Tree Protection

The most significant amendment proposed in Article 9 is the incorporation of a clear and objective (C&O) track for housing projects. The approach taken in the draft is to retain the existing criteria that are currently working and create a new, optional, C&O track for housing projects. The benefit of this approach is that it retains existing criteria for all projects that aren't housing, it is regulatory compliant, and if an applicant finds the C&O track undesirable they can opt for the existing discretionary criteria. The C&O track can be summarized as outright allowing removal of trees that are impacted by proposed development but prohibiting removal of those that aren't. Amendments in other sections of the ADC and Albany Municipal Code (AMC) are intended to work in concert with this section to incentivize tree retention.

Several amendments are proposed as general housekeeping items. The most significant of which is the removal of language for protecting residual trees during construction (Section 9.205(5)). Staff does not believe the ADC is the appropriate location for this language and has proposed relocating it to the AMC verbatim.

9.20~~5~~**2** 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]

9.20~~6~~**3** Definitions. For the purposes of the following sections, these definitions apply:

(1) Critical Root Zone: The area around a tree where roots are critical to a tree's survival. For the purposes of this section, the critical root zone is estimated and expressed as a circle around the center of a tree's trunk, where the radius is calculated by adding 1 foot for every 1-inch of trunk diameter plus the tree trunk's radius, and where all tree measurements are consistent with those for establishing Tree Circumference. For example, a tree with a Tree Circumference of 6.5 feet would have a trunk radius of 1.0 feet and diameter of 25 inches. The critical root zone would be a circle with a radius of 26 feet (1 ft + (25 in * 1 ft/in)) from the center of the tree's trunk and have a total diameter of 52 feet.

(~~1~~**2**) 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~~**3**) Tree: A living, standing, woody plant. [Ord. 5764, 12/1/11]

(~~3~~**4**) 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]

Amendments to the Albany Development Code (ADC)

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9.207~~4~~ Applicability. **Except as provided below,** 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~~ **Site Plan Review under this section. Notwithstanding the foregoing, all tree felling activities located within Significant Natural Resource Overlay districts must** ~~if they~~ meet the applicable requirements of ~~the Significant Natural Resource overlay districts in~~ Article 6: [Ord. 5764, 12/1/11]

(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]

9.208~~5~~ Tree Felling Criteria. **Except as provided for in Section 9.206, the** ~~The~~ following review criteria replace the Site Plan Review criteria found elsewhere in this ~~code~~ **Code** for the purpose of reviewing tree felling. A Site Plan Review for tree felling **subject to these criteria** 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~~ **Site Plan Review**, ~~conditional use~~ **Conditional Use** or land division application has been approved or is currently under review **for development of the property**, the Community Development Director~~, City Forester,~~ or his/her designee shall approve ~~site plan review~~ **Site Plan Review for tree felling** when the applicant demonstrates that all of the following review criteria are met:

(a) It is necessary to fell tree(s) in order to construct proposed improvements in accordance with an approved ~~site plan review~~ **Site Plan Review** or ~~conditional use~~ **Conditional Use** review, or to otherwise utilize the applicant's property in a manner consistent with its zoning, this ~~code~~ **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 **including tree regulations in the Albany Municipal Code**, and the proposed felling does not negatively

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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 **is proposed and there is no** ~~has not been~~ approved **or concurrent** ~~as part of a site plan review~~ **Site Plan Review**, ~~conditional use~~ **Conditional Use**, or land division application **for development of the property**, the Community Development Director or his/her designee shall approve **a Site Plan Review application for** tree felling ~~permit, if~~ **when the applicant demonstrates that all** the review criteria **in subsection (2)** above are met, and the following **additional** 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.

(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]

(4) The Director may attach conditions **of approval** to the ~~approval of the tree felling permit~~ **tree felling review** 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) Precautions shall be made to protect residual trees and tree roots from damaging agents during and after the removal process. The following tree protection specifications should be followed to the maximum extent feasible for all projects with protected existing trees.~~

~~(a) Within the drip line of any protected existing tree, there shall be no cut or fill over a four-inch depth unless a qualified arborist or forester has evaluated and approved the disturbance.~~

~~(b) Prior to and during construction, 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]~~

~~(c) During the construction stage of development, the applicant shall prevent the cleaning of~~

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~~equipment or material or the storage and disposal of waste material such as paints, oils, solvents, asphalt, concrete, motor oil, or any other material harmful to the life of a tree within the drip line of any protected tree or group of trees.~~

~~(d) No damaging attachment, wires, signs or permits may be fastened to any protected tree.~~

~~(e) Large property areas containing protected trees and separated from construction or land clearing areas, road rights-of-way and utility easements may be "ribboned off," rather than erecting protective fencing around each tree as required in subsection (5)(b) above. This may be accomplished by placing metal t-post stakes a maximum of 50 feet apart and tying ribbon or rope from stake-to-stake along the outside perimeters of such areas being cleared.~~

~~(f) The installation of utilities, irrigation lines or any underground fixture requiring excavation deeper than six 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 9-3. Auger distances for installation of utilities.~~

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

9.206 Clear and Objective Criteria for Tree Felling associated with the Development of Housing. For property where a building permit, Site Plan Review, subdivision, or partition application has been approved or is currently under review for the development of housing on a property, the applicant proposing the felling of trees may choose to meet the criteria in Section 9.206 rather than the criteria in Section 9.205. A Site Plan Review application for tree felling subject to the criteria in Section 9.206 will be processed as a Type I decision. The Community Development Director, City Forester, or his/her designee shall approve the Site Plan Review application when the applicant demonstrates that all of the following review criteria are met:

(1) The critical root zone of each tree to be felled is no more than 5 feet from proposed roads, driveways, utilities, and required site improvements or 10 feet from proposed residential building pads.

(2) The proposed felling is consistent with other applicable sections of the Development Code (such as Article 6, Significant Natural Resource Overlay Districts) and City ordinances, including tree regulations in the Albany Municipal Code

Trees that do not meet criterion (1) shall be preserved (see AMC 7.98.215 for recommended methods for protecting residual trees).

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BUFFERING AND SCREENING

> **Commentary: 9.208 Purpose**
>
> 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: 9.210 General Requirements/Matrix**
>
> The use of Director's discretion has been identified as a "clear and objective" issue. The proposed amendment would require the use of an Adjustment to allow director discretion. In addition, the term "abutting" is proposed to replace "adjoining," consistent with the current use of the term "abutting" in the buffering and screening matrix.

9.210 General Requirements/Matrix. ~~In order to reduce the impacts on adjacent uses of a different type, buffering~~ **Buffering** and screening are required in accordance with the matrix **provided in Table 9.210-1** ~~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 an Adjustment to** waive the buffering/screening requirements of this section where such has been provided on the ~~adjoining~~ **abutting** property in conformance with this Code. Where a use would be abutting another use except for separation by right-of-way, buffering (but not screening) 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, **vehicular** access ways or parking areas are allowed in a buffer area except where a~~n~~ **vehicular** 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.

(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: Table 9.210-1. Buffer and screening matrix

Minor changes to the matrix are proposed, to account for institutional uses and to fix a cross-reference in the notes.

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TABLE ~~9-4~~ 9.210-1. Buffer and screening matrix.

BUFFER MATRIX	PROPOSED USE								
ABUTTING USE OR ZONING DISTRICT	**Detached dwelling**	**Attached dwelling 1-story**	**Attached dwelling 2+ stories and multi-family**	**Manufactured home park or subdivision**	**Commercial/ professional, ~~or~~ mixed-use, and institutional**	**Industrial Park Use**	**Light Industrial use**	**Heavy Industrial use**	**Parking lot with at least 5 spaces**
Dwellings in RR, RS-10, RS-6.5, RS-5, HM, RM, MUR and RMA districts	0’	0’	10’ (3)	0’	10’ S (3)	30’ S	30’ S	40’ S	10’ S
Manufactured home park or subdivision in any district	0’	0’	0’	0’	10’S	30’S	30’S	40’S	10’S
Any arterial street (2)	10’	10’	10’ (4)	10’ S (1)	10’ (4)	10’	10’	10’	10’
Commercial, ~~or~~ professional, mixed-use, and institutional ~~uses, or commercial and mixed use districts~~	10’	10’	10’ (4)	10’ S	0’	20’	0’	20’ S	0’
Industrial Park District	20’	20’	20’	20’S	0’	0’	0’	5’	0’
Light Industrial District	30’ S	30’ S	30’ S	30’ S	0’	20’	0’	0’	0’
Heavy Industrial District	40’ S	40’ S	40’ S	40’ S	20’	20’	0’	0’	0’
Any parking lot with at least 5 spaces	10’ S	5’ S	5’ S	5’ S	0’	0’	0’	0’	0’

“S" indicates screening required. (1) See Section 10.270~~(2)~~(3)(c) for buffering and screening along arterials and collectors. (2) The buffer/screening standard does not apply along arterial streets where it conflicts with other provisions of this code. (3) Within the HD, CB, DMU, and WF zoning districts,

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the required screening and/or buffer does not apply abutting the MUR district. (4) Does not apply in the HD, CB, DMU, and WF zoning districts.

[Ord. 5445, 4/12/00; Ord. 5886, 1/6/17; Ord. 5894, 10/14/17]

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FENCES

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ENVIRONMENTAL

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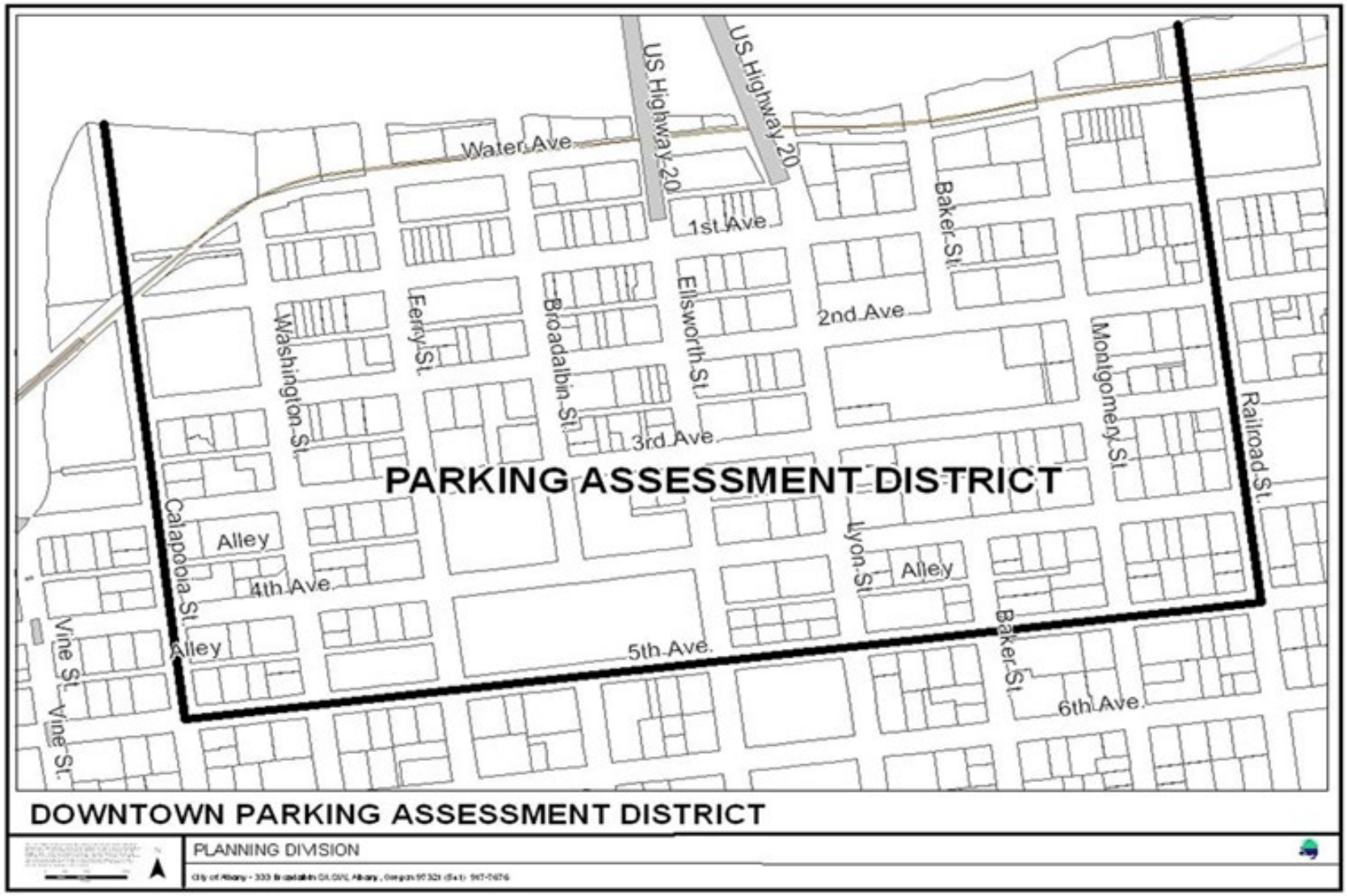

FIGURE ~~9-2~~ 9.020-1. Map of Albany's Downtown Parking Assessment District.

Article 10 - Manufactured Home Development Standards

Amendments to the Albany Development Code (ADC)

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ARTICLE 10
MANUFACTURED HOME DEVELOPMENT STANDARDS

Commentary

Proposed amendments to Article 10 are limited to updating cross-references and terminology for review procedures.

10.000 Overview. This article contains the standards of development for manufactured housing placed on individual lots and in manufactured home parks within the City. Manufactured homes provide a wide choice of housing types suitable for a variety of households, lifestyles and income levels. The standards contained in this article are intended to provide a suitable living environment for residents of manufactured homes and establish development standards that will increase compatibility with adjacent land uses. The following is a list of the main headings in this article.

- General Provisions
- Classification of Manufactured Homes
- Placement on Individual Lots
- Manufactured Home Parks
- Temporary Placements
- Recreational Vehicle Parks

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MANUFACTURED HOME PARKS

GENERAL

***

10.270 Compatibility and Park Perimeter Standards. These standards apply only to spaces on the perimeter of the park.

(1) Space Size. The size of spaces on the perimeter of the park is determined by the use of adjoining land and the zoning district. This standard does not apply to spaces that abut public streets on the perimeter of the park. For purposes of this section, "developed" means that the number of dwelling units per acre exceeds 50 percent of the maximum density allowed by the zone. For RS-10, 50 percent of the maximum density is two units/acre; for RS-6.5, four units per acre; for RS-5, five units/acre; for RM, ten units/acre; and for RMA, 20 units/acre. This definition applies equally to adjoining land that is used for a subdivision, apartment, or manufactured home park. Each side of the manufactured home park is considered separately even though the adjoining land may be zoned alike.

If the adjoining land is developed, spaces shall be at least 90 percent of the minimum single-family lot size of the adjoining zoning district. (For example, in the RS-6.5 zoning district, spaces must be 90 percent of 6,500 square feet.)

If the adjoining land is not developed, spaces shall be at least 90 percent of the minimum single-

family lot size in the underlying zoning district.

A **Major** ~~v~~**V**ariance to this standard may be appropriate where the adjacent land is protected from development (e.g. floodways, wetlands, steep slopes) and creates a natural buffer area between developable areas.

(2) Home Orientation. Homes on perimeter spaces shall be oriented to the street so the front door faces the street.

(3) Perimeters on Public Streets. These standards apply to spaces abutting public streets on the perimeter of the park.

(a) Setbacks. Homes and accessory structures shall meet the minimum front yard setback for the underlying zoning district.

(b) Home Orientation. Homes adjacent to local residential streets shall be oriented to the public street so the front door faces the street.

(c) Screening along collector and arterial streets. Buffering and screening shall be provided along collector and arterial streets in accordance with Section**s 9.210 through** 9.250. Architectural screening to include sight-obscuring fencing may be used for screening along streets classified as a collector or arterial. Long expanses of fence or wall along streets shall be designed to prevent visual monotony through the use of offsets, landscaping, and change in materials. Fencing closer than 15 feet to the public right-of-way shall be subject to the district's restrictions on front yard fencing (4-foot maximum height). [Ord. 5445, 4/12/00]

***

RECREATIONAL VEHICLE PARKS

10.520 Where Permitted. Recreational vehicle (RV) parks are permitted in the CC, RM and RMA districts with a ~~conditional use~~ **Conditional Use** approval. RV parks are also permitted in the LI and TD district with Site Plan Review approval.

10.530 Procedure. An application for ~~conditional use~~ **Conditional Use** approval of a proposed RV park will be processed through the Type III procedure. Applications for Site Plan Review approval will be processed through the Type I-L procedure. [Ord. 5886, 1/6/17]

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Article 11 - Land Divisions and Planned Developments

Amendments to the Albany Development Code (ADC)

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ARTICLE 11
LAND DIVISIONS AND PLANNED DEVELOPMENTS

Commentary:

With the exception of the Cluster Development section, proposed amendments to Article 11 are limited to updating cross-references, updating terminology for review procedures, and renumbering tables and figures consistent with the new numbering protocol. Proposed amendments to the Cluster Development section are noted in the commentary for that section.

11.000 Overview. The most permanent feature of a community is the way land is divided into parcels. This article describes the process of converting raw land into building sites. The primary goals of this design review are to better ensure that natural features have been taken into account; that roads and utilities are properly designed and installed, and that adequate open space has been provided. This article establishes the standards and procedures for property line adjustments, partitions, subdivisions, planned developments, and condominiums.

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

- General Provisions
- Lot and Block Arrangement
- Property Line Adjustments
- Subdivisions and Partitions
- Planned Developments
- Condominiums
- Cluster Development

[Ord. 5668, 4/11/07]

GENERAL PROVISIONS

***

11.040 Pre-application Conference. A pre-application conference, in accordance with Section ~~1.202~~**1.130,** is required prior to submittal of an application for any land division. A pre-application conference is not mandatory for property line adjustments.

11.050 Acceptance of Application. The Director will review the application for compliance with established application requirements within thirty (30) working days. If the application is found to be incomplete, the Director will notify the applicant of the reasons, and advise the applicant of the requirements for an acceptable application.

11.060 Expiration Dates. See Section ~~1.080~~ **1.310** for expiration of land division appeals. [Ord. 5768, 12/7/11]

11.065 Recording Final Plats. Once city approval is granted for a final plat, it must be recorded with the Linn or Benton County Records Division.

[Ord. 5475, 4/11/2001; Ord. 5768, 12/7/11, Ord. 5886, 1/6/17]

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11.080 Subsequent Land Divisions and Property Line Adjustments. No subsequent land division or property line adjustment may be approved on the same lot or parcel until the previously approved land division or property line adjustment has been filed and recorded, or the previous approval is withdrawn or otherwise invalidated.

LOT AND BLOCK ARRANGEMENT

11.090 Lot and Block Arrangements. In any single-family residential land division, lots and blocks shall conform to the following standards in this Article and other applicable provisions of this Code:

(1) Lot arrangement must be such that there will be no foreseeable difficulties, for reason of topography or other condition, in securing building permits to build on all lots in compliance with the requirements of this Code with the exception of lots designated Open Space.

(2) Lot dimensions must comply with the minimum standards of this Code. When lots are more than double the minimum area designated by the zoning district, those lots must be arranged so as to allow further subdivision and the opening of future streets where it would be necessary to serve potential lots. An urban conversion plan may be required in conjunction with submittal of tentative subdivision or partition plat.

(3) Double frontage lots shall be avoided except when necessary to provide separation of residential developments from streets of collector and arterial street status or to overcome specific disadvantages of topography and/or orientation. When driveway access from arterials is necessary for several adjoining lots, those lots must be served by a combined access driveway in order to limit possible traffic hazards on such streets. The driveway should be designed and arranged so as to avoid requiring vehicles to back into traffic on arterials. An access control strip shall be placed along all lots abutting arterial streets requiring access onto the lesser class street where possible.

(4) Side yards of a lot shall run at right angles to the street the property faces, except that on a curved street the side property line shall be radial to the curve.

(5) Block dimensions shall be determined by existing street and development patterns, connectivity needs, topography, and adequate lot size. The average block length shall not exceed 600 feet unless adjacent layout or physical conditions justify a greater length. Block length is defined as the distance along a street between the centerline of two intersecting through streets (Figure 11**.090**-1). Physical conditions may include existing development, steep slopes, wetlands, creeks, and mature tree groves.

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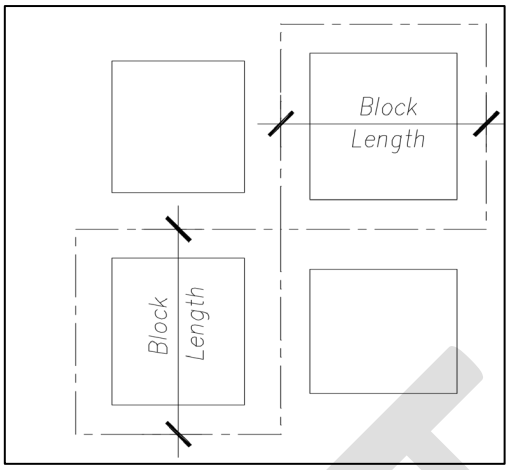

FIGURE 11.090-1. Block Length

(6) Off-street pedestrian pathways shall be connected to the street network and used to provide pedestrian and bicycle access in situations where a public street connection is not feasible.

(7) The recommended minimum distance between arterial street intersections is 1800 feet. In order to provide for adequate street connectivity and respect the needs for access management along arterial streets, the Community Development Director/City Engineer may require either a right-in/right-out public street connection or public access connection to the arterial in lieu of a full public street connection. When a right-in/right-out street connection is provided, turning movements shall be defined and limited by raised medians to preclude inappropriate turning movements.

(8) The minimum frontage of a lot on a cul-de-sac shall be 22 feet as measured perpendicular to the radius. [Ord. 5886, 1/6/17]

(9) Flag lots are allowed only when absolutely necessary to provide adequate access to buildable sites and only where the dedication and improvement of a public street is determined by the City Engineer to be not feasible or not practical. The minimum width for a flag is 22 feet, except when access is shared by an access and maintenance agreement in which case each lot shall have a minimum width of 12 feet and a combined minimum of 24 feet. [Ord. 5886, 1/6/17]

(10) At all street intersections, an arc along the property lines shall be established so that construction of the street at maximum allowable width, centered in the right-of-way, shall require not less than a twenty-foot radius of the curb line. [Ord. 5445, 4/12/00; Ord. 5912, 7/11/18]

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SUBDIVISIONS AND PARTITIONS

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11.200 Appeal of a Tentative Plat Decision. A decision to approve, approve with conditions, or deny a tentative subdivision or partition plat is a limited land use decision that may be appealed ~~to the Land Use Board of Appeals.~~ **in accordance with the appeal procedures in Article 1.** ~~At the Director's discretion the decision may be referred to the Planning Commission.~~

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: ****

***

PLANNED DEVELOPMENTS

***

11.270 Permitted Buildings and Uses. The following buildings and uses are permitted individually or in combination in a planned development:

(1) Residential areas:

(a) Accessory buildings and uses (permitted in combination with principal uses only);
(b) Duplexes;
(c) Dwellings, multiple-family;
(d) Dwellings, single-family;
(e) Open space;
(f) Parks, playgrounds, golf courses, driving ranges, community centers, or recreation facilities supported by the planned development; and
(g) Commercial services to primarily serve the Residential Planned Development.

(2) Industrial areas:

(a) Any use allowed outright through ~~site plan review~~ **Site Plan Review**, or by ~~conditional use~~ **Conditional Use** approval in the underlying zone is permitted. Uses specified as conditional uses in the underlying zone are limited to 25 percent of the site except that additional amounts may be approved through the ~~conditional use~~ **Conditional Use** process.
(b) Up to 25 percent of the total site area may be occupied by retail and service establishments not otherwise permitted within industrial districts provided that at least an equal area of the development has been previously or simultaneously developed for other permitted uses.
(c) Up to 25 percent of the total site area may be occupied by office uses not pertinent to industrial uses within the development or otherwise permitted within the underlying zoning district.
(d) Office uses, services, and other accessory uses totally supported by other permitted uses are allowed in addition to the percentage amounts specified above.

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11.300 Application Contents. A planned development proposal is reviewed in two stages. The following information is required to be submitted with each stage: [Ord. 5832, 4/9/14]

(1) Preliminary planned development submittal requirements:

(a) Planned Development Program. A written statement outlining the following details: planning objectives to be achieved through the planned development; dwelling types and density; non-residential uses; lot layout; public and private access; parking; height of structures; lighting; landscaped areas and provisions for continued maintenance; water supply; sewage disposal; drainage; and areas devoted to various uses. This statement should include a description of the character of the proposed development and adjacent areas, discussion of how the proposed development will relate to the natural environment and significant natural resources of the site and adjacent areas.
(b) The location of existing and planned water, sewerage, and drainage facilities, including line

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sizes and how they will tie into existing facilities.

(c) The location of all existing and planned sidewalks, pedestrian paths, bike paths and where they will connect with existing facilities.

(d) The location and utilization of land uses and structures including public and/or private parks, open space or common areas.

(e) A tabulation of land area to be devoted to each use, and a calculation of the average residential density per acre, if applicable.

(f) A boundary survey or a certified boundary description by a licensed surveyor.

(g) Data, drawings, and/or elevations clearly establishing the scale, character and relationship of buildings, streets, and open space.

(h) Detailed building and landscaping plans and elevations.

(i) A transportation impact analysis, where required by the City Engineering Division of the Public Works Department.

(j) A development schedule for commencement and of construction, or a phasing schedule if phased development is proposed.

(k) If the development will be divided into different ownerships, any additional information generally required for a land division tentative plat approval and not required above.

(l) Other applicable ~~site plan review~~ **Site Plan Review** information in Section 2.490(5).

[Ord. 5832, 4/09/14; Ord. 5842, 1/01/15]

Interim submittal requirement repealed per Ord. 5832, 4/09/14.

(2) Final submittal requirements in addition to the information on the approved preliminary plan:

(a) The character and location of signs.

(b) Plans for street improvements and grading or earth-moving plans.

(c) Any additional requirements of final land division submittal, if the land is to be divided.

[Ord. 5832, 4/09/14]

11.310 Preliminary Plan Submittal Review Criteria. A planned development request will be granted interim approval by the review body if the development meets the Site Plan Review criteria of Section 2.450**, Section 2.455 (if applicable),** and all of the following applicable criteria:

(1) The increased flexibility in Code standards and permitted uses will result in an improved development for the City, the surrounding area, and users of the development as compared to strict compliance with Code provisions.

(2) The project design results in a more efficient provision of open space or utilization of the natural features of the site.

(3) The project design results in a more efficient utilization of materials and public resources including streets, utilities, and energy supplies.

(4) Provisions will be established to ensure the continued maintenance of any common areas.

(5) More usable and suitable recreational facilities and other common areas are provided than would normally be provided under conventional development standards.

(6) The planned development satisfies the development standards in Section 11.330.

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[Ord. 5832, 4/9/14]

11.320 Conditions of Approval. The City may attach conditions of approval of a planned development to ensure that the proposal will conform to the applicable review criteria.

11.325 Phasing Planned Developments. The applicant may provide for development of the project in phases. Each phase shall provide a proportionate share of the development facilities and amenities as approved. See Section 1.~~080~~ **310** for land use approval time periods. [Ord. 5832, 4/9/14]

11.330 Planned Development Standards. In conjunction with standard requirements for setbacks and landscaped areas, the following standards apply to planned developments:

(1) Open Space and Common Areas in Residential, Mixed-Use and other Non-Industrial Planned Developments. Open space or common areas shall be provided for common enjoyment. In all residential developments and mixed-use developments, 25 percent of the gross land area shall be devoted to open space, outdoor living area or common areas as follows.

(a) Land that may be counted towards the open space requirement includes:
- Natural resources accessible to the public;
- Common recreational space or commonly enjoyed amenities accessible to residents, including indoor or rooftop amenities – the total square footage of indoor amenities will be subtracted from the total land area; and
- Common landscaped areas and paths but excluding sidewalks and planter strips in the right-of-way.

(b) Locations, shapes, sizes and other characteristics of open spaces shall be consistent with their proposed uses and the purposes of the planned development.

(c) Land in the right-of-way may not count towards the open space requirement unless designed with larger planter strips to allow for mature trees, a multi-use path, or a landscaped median.

(d) Side and rear yards may not count towards the minimum open space requirements.

(e) Outdoor open space or living areas required by this Article may be dedicated to the City provided the size and amount of the proposed dedication meets the criteria of the City for neighborhood parks by one-half and if the City agrees to accept the dedication. The square footage of land dedicated for public parks shall be deemed a part of the development site for the purpose of computing density.

(f) Approved vegetated post-construction stormwater quality facilities are allowed in open space, outdoor living area and common areas. [Ord. 5832, 4/09/14; Ord. 5842, 1/01/15]

(2) Natural Resources. The planned development shall provide for the protection of significant landscape features including Oak groves, heritage trees as defined by the Albany Municipal Code and land located within Albany's natural resource overlay districts and any historic sites and landmarks. Natural and cultural resources shall integrate the proposed development with the environmental characteristics of the site and adjacent uses. [Ord. 5832, 4/9/14]

(3) Underground Utilities. In any planned development, all electric and telephone facilities, fire alarm conduits, street light wiring, and other wiring, conduits and similar facilities shall be placed underground by the developer, unless allowed above ground by the review body.

(4) Density. When calculating density of a proposed planned development, the gross area including streets and park land dedications shall be included, except for land in the Significant Wetland and

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Waterway overlay district. The maximum density permitted per zoning district is outlined in Table 11.**330**-1 below.

TABLE 11.330-1. Maximum density permitted per zoning district.

	RS-10	RS-6.5	RS-5	RM	RMA	OS
Maximum dwelling units per acre	4	6	8	25	35	1*

*Allows 1 residential unit per existing lot

[Ord. 5801, 2/13/13; Ord. 5832, 4/9/14]

(5) Building Spacing and Yard Requirements. The plan shall provide adequate building separation to allow for light, ventilation, and visual and acoustic privacy for residences and other structures. Fences, insulation, walks, barriers, and landscaping shall be used, as appropriate, for the protection and aesthetic enhancement of property and the privacy of its occupants, screening of objectionable views, and reduction of noise. [Ord. 5832, 4/9/14]

(6) Building Locations. Taller buildings shall be located within the planned development in such a way as to avoid adverse impact on neighboring lower buildings and shall not invade the privacy of the occupants of adjacent lower buildings. [Ord. 5832, 4/9/14]

(7) Perimeter Compatibility. The plan shall minimize adverse impacts of proposed uses and structures in the planned development on existing and anticipated uses and structures on adjacent properties and neighborhoods. The buffering and screening standards in Sections 9.210-9270 apply. If topographical or other physical barriers do not provide reasonable privacy and mitigation of potential adverse impacts on existing uses adjacent to the development, the development shall provide additional setbacks, buffering or screening between residential and non-residential uses. [Ord. 5832, 4/9/14]

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CONDOMINIUMS

11.380 Definition. A condominium is a building, or group of buildings, in which units are individually owned, and the structure, common areas and facilities are owned by all of the unit owners on a proportional, undivided basis.

11.390 Procedure. A proposal for new construction of a condominium is reviewed through the planned development process. A proposal for conversion of existing units into condominiums is reviewed through the ~~conditional use~~ **Conditional Use** process in conjunction with planned development requirements. All condominium proposals must meet the appropriate requirements of ORS Chapter 100.

Commentary: Cluster Development

Proposed amendments to the cluster development standards—specifically Section 11.460 Designation of Permanent Natural Areas—are intended to prioritize preservation of Oregon White Oaks throughout the city, not just in South Albany, and provide more specificity for measurements.

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CLUSTER DEVELOPMENT

11.400 Purpose. Cluster development is intended to protect and/or restore natural and other special features in the development of a site. In return, the more flexible standards found in this section may supersede other stricter standards of this Code. Cluster developments may provide greater flexibility, reduced and/or varied lot sizes, and more variety in permitted uses. Residential density may be transferred within the development in exchange for restoring degraded or marginal quality resources located in a Significant Natural Resource overlay district or for protecting natural or other special features of the site. Developments must satisfy high-quality master planning and design requirements.

[Ord. 5923, 2/8/19]

11.405 Optional Nature. Cluster development is an optional form of development. Cluster development proposals are reviewed as part of the land division, site plan, or ~~conditional use~~ **Conditional Use** application processes.

***

11.420 Relationship to Other Regulations. If the applicant chooses the cluster development option, and the site is deemed eligible by the City, these standards will supplement other provisions of this Code. For example, a subdivision proposed as a cluster development is also subject to other provisions of Article 11 of the Development Code. Other types of residential development are subject to ~~site plan review~~ **Site Plan Review** or ~~conditional use~~ **Conditional Use** review. These provisions apply to issuance of building permits in a cluster development and to ongoing uses and activities in a cluster development.[Ord. 5562, 10/10/03; Ord. 5668, 4/11/07]

***

11.460 Designation of Permanent Natural Area. The required natural area may be public or private. The minimum 20 percent of the gross acreage of the development site set aside as natural area in a cluster development should be designated in the following priority order:

(1) The first priority for natural area designation is significant tree groves identified on the South Albany Area Plan Organizational Framework map in the Comprehensive Plan (Figure 1), and **Oregon White Oak (Quercus garryana)** ~~oak~~ trees **citywide** ~~in the South Albany Area Plan boundary over~~ **equal to or greater than six and one-half feet in circumference (approximately** 25-inches in diameter**)** measured ~~at 4.5 feet from the ground~~ **as defined in Article 9.203(4). For individual trees, the natural area boundary is defined as the critical root zone (as defined in Article 9.203(1)) plus a ten-foot buffer.** [Ord. 5801, 2/13/13]

(2) The second priority for natural area designation is natural resources within the Significant Natural Resource overlay districts that are of degraded or marginal quality and subsequently restored to good quality in accordance with the quality levels in ADC Section 6.410(5). This priority shall be satisfied in the following order:

(a) Habitat for western painted and northwestern pond turtles within the Habitat Assessment Overlay (/HA), as identified by a turtle habitat assessment, that is restored to good quality.

(b) Wetland within the Significant Wetland overlay district (/SW) that is restored to good quality.

(c) Riparian area within the Riparian Corridor overlay district (/RC) that is restored to good quality.

(3) The third priority for natural area designation is protection of other environmentally sensitive areas, natural and scenic features of the site. This priority shall be satisfied in the following order:

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(a) Good quality habitat for western painted and northwestern pond turtles near Thornton Lakes within the Habitat Assessment overlay (/HA) as identified by a turtle habitat assessment.

(b) Good quality wetland within the Significant Wetland overlay district (/SW).

(c) Good quality riparian area within the Riparian Corridor overlay district (/RC).

(d) Other wetlands not within the Significant Wetland overlay district, as shown on the City's Local Wetland Inventories, or by a delineation approved by the Oregon Department of State Lands.

(e) Existing channels identified in the most current version of the City of Albany Storm Water Master Plan.

(f) Springs.

(g) Land with natural slopes 12 percent or greater as designated by the Hillside Development overlay district (/HD).

(h) Wooded area with five or more healthy trees over **25 inches in circumference (approximately** 8 inches in diameter**) measured as defined in Article 9.203(4),** ~~measured 4½ feet from the ground,~~ if approved by the City Forester.

(i) Land that provides bike or walking trails that connect to existing or proposed parks or trails, inventoried natural features, or areas zoned Open Space; or areas otherwise protected as permanent natural areas.

(j) Incorporate public parks, trails, trailheads or open space designated in the Parks, Recreation and Open Space Plan, the North Albany Refinement Plan, and the South Albany Area Plan.

[Ord. 5801, 2/13/13]

(k) Other features of the site unique to Albany, if approved by the Director.

(4) The fourth priority for natural area designation is to create "open spaces" in and around neighborhoods. This priority is satisfied by any of the following:

(a) Continuity of adjacent open space corridors or parkways.

(b) A network of interconnected open space corridors.

(c) A buffer between neighborhoods.

***

11.490 Permitted Uses. The uses allowed within cluster developments outside the permanent natural areas are determined by the underlying zoning district standards in Section 3.050, with the following exceptions:

(1) On development sites greater than 20 acres, up to 20 percent of the housing units in RS-6.5 and RS-10 may be attached single-family or condominium housing.

(2) On development sites greater than 50 acres, up to two acres may be developed with neighborhood commercial uses through a ~~conditional use~~ **Conditional Use** review. The maximum building footprint of commercial or office uses shall be 3,000 square feet. Commercial and office uses shall be limited to restaurants with no drive-through service, and convenience-oriented and personal service-oriented uses as described in Article 22.

(3) 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 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

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district in 11.495 and must meet all applicable standards in the Code. [Ord. 5801, 2/13/13]

11.495 Development Standards. In a cluster development, the following development standards in Table 11**.495-1**~~-2~~ supersede the same standards in Section 3.190, Table **3.190-**1. The number of allowable dwelling units is based on the maximum density for the zone as specified in the following table. [Ord. 5923, 2/8/19]

TABLE 11.495-1~~-2~~. Allowable dwelling units in density ranges per zone.

Standard	RS-10	RS-6.5	RS-5	RM	RMA
Max. dwelling units per gross acre	4	6	8	25	35
Minimum Lot Size (1)	None	None	None	None	None
Minimum Lot Width	None	None	None	None	None
Minimum Lot Depth	None	None	None	None	None
Minimum front setback (2)	15 ft.	10 ft.	10 ft.	10 ft.	10 ft
Maximum Lot Coverage (3)	70%	70%	70%	70%	75%

(1) Lots on the perimeter of the cluster development shall meet the standards in 11.500.
(2) Except, when lots are adjacent to existing development on the same side of the street, the setback shall be within 5 feet of the adjacent house(s) setback(s).
(3) The maximum lot coverage may be up to 100 percent for lots that provide land only for the building footprint. [Ord. 5801, 2/13/13]

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11.510 Permitted Uses. The uses allowed within cluster developments outside the permanent natural areas are determined by the underlying zoning district standards in Section 3.050, with the following exceptions:

(1) On development sites greater than 20 acres, up to 20 percent of the housing units in RS-6.5 and RS-10 may be attached single-family or condominium housing.

(2) On development sites greater than 50 acres, up to 2 acres may be developed with neighborhood commercial uses through a ~~conditional use~~ **Conditional Use** review. The maximum building footprint of commercial or office uses shall be 3,000 square feet. Commercial and office uses shall be limited to restaurants with no drive-through service, and convenience-oriented and personal service-oriented uses as described in Article 22. [Ord. 5562, 10/10/03; Ord. 5668, 4/11/07]

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Article 12 - Public Improvements

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: ****

ARTICLE 12
PUBLIC IMPROVEMENTS

Commentary

The overall intent with the proposed amendments to Article 12 is to make standards clear and objective (where necessary) and to clean up any confusing language. Per state law, development standards applicable to housing must be clear and objective (ORS 197.307(4)). However, as noted in the new Authority section of this Article (12.010), the City of Albany has retained the right to exercise discretion over the use of, and access to, City-owned property (public right-of-way, utilities, and easements). As such, the City may use discretion in applying the standards in Article 12 during the development review process when those standards relate to its facilities.

Note: Throughout Article 12, tables and figures have been renumbered to make them easier to locate and identify, and to be consistent with other amended articles ("Section # - Table #", "Section # - Figure #").

12.000 Overview. ~~This article contains the City's standards for public improvements that relate to the development process.~~ **This article provides public improvement standards to address the City's concerns relative to public health, safety, and welfare as it relates to the management of public transportation systems and utilities. These standards are used with the procedural and design requirements contained in other articles of the Albany Development Code.**

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

- General Provisions
- Streets
- Sidewalks
- Street Trees
- Bikeways
- Utilities—General
- Water
- Sanitary Sewer
- Storm Drainage
- Improvement Assurances
- Addresses and Street Names [Ord. 5673, 6/27/2007]

GENERAL PROVISIONS

12.010 ~~Purpose. The provisions for new public improvements in this article are intended to address the City's concerns relative to public health, safety, and welfare.~~ **Authority. The City has jurisdiction and exercises regulatory management over all city right-of-way, franchise utility use of right-of-way, city utilities, and easements benefiting the City of Albany for provision of utility and transportation services. The City is both a service provider and property owner/manager. These responsibilities require decisions to be made in a way that protects the public health, safety, and welfare; and**

provides for efficient extensions of services. Right-of-way under state or county jurisdiction is also located within the city limits. In those instances, the standards in Article 12 still apply; however, the City may deviate from the standards provided herein as necessary to comply with each agency's requirements.

(1) As a property owner and service provider, the City has sole discretion over all aspects of managing its utilities, rights-of-way, and related easements. This includes, but is not limited to, access and connection requirements; construction, modification, or alteration of public infrastructure; franchise utility requirements, required extensions of service; and frontage improvements.

(2) The standards in Article 12 are one mechanism used by the City, as a landowner and service provider, to regulate access and connection to public rights-of-way, easements, transportation systems, and utilities, including required extensions of services and frontage improvements with development. Applying these standards requires discretion and professional judgment for the protection of public health, safety, and welfare, and for overall efficient provision of urban services. These standards are not subject to the limitations of ORS 197.307(4).

***

Commentary: Section 12.045 Relationship to Other Development Code Articles

This section below has been deleted, but its concepts have been incorporated into the Overview statement in Section 12.000.

~~12.045 Relationship to Other Development Code Articles. This article provides the public improvement standards to be used with the procedural and design requirements contained in the articles on land divisions, site plan review, and manufactured home parks.~~

***

Commentary: STREETS

In general, minor changes are proposed for the Streets section to clarify confusing standards and to make them internally consistent. Some specific amendments are noted below.

STREETS

12.060 General Provisions. No development may occur unless it has frontage on or approved access to a public street currently open to traffic. A currently non-open public right-of-way may be opened by improving it to City standards.

Streets shall be connected to reduce travel distance, provide multiple travel routes, and promote the use of alternative modes. Street patterns have a greater long-range effect on land use patterns, than do parcel patterns or building location.

Streets (including alleys) within and adjacent to a development shall be improved in accordance with the standards in this Article. In addition, any new street or additional street width planned as a portion of an

approved street plan shall be dedicated and improved in accordance with this Article.

When the City Engineer determines that a required street improvement would not be timely, the City Engineer may accept a Petition for Improvement/Waiver of Remonstrance for a future assessment district. [Ord. 5445, 4/12/2000]

The City Engineer may approve ~~adjustments~~ **modifications** to the required street right-of-way and planter widths when necessary to accommodate approved street-side post-construction stormwater quality facilities.

[Ord. 5842, 1/01/15]

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Commentary: Section 12.090 Creation of Access Easements

Proposed amendments make these standards clear and objective, with the exception of Subsection (3); the City retains discretion over decisions about the location of public streets.

12.090 Creation of Access Easements. ~~In general, creating access easements between property owners is discouraged. However, sometimes an access easement is the only viable way to provide access to a developable lot. The review body will approve an access easement when the applicant has demonstrated that all of the following criteria have been met:~~ **Creation of easements to provide access to the public street system shall be approved when the applicant has demonstrated that all of the following criteria have been met:**

(1) No more than two **residentially zoned** parcels or uses will be served by the proposed access easement;

(2) There is not enough room for a public right-of-way due to topography, lot configuration, or placement of existing buildings; and

(3) The City Engineer has determined that there is no need for a public street in this location.

12.100 Access to Public Streets. With the exceptions noted in Section ~~1.070~~ **1.105**, the location and improvement of an access point onto a public street shall be included in the review of a development proposal. In addition, the following specific requirements shall apply to all access points, curb cuts, and driveways:

(1) Approaches and driveways to City streets and alleys must be paved and constructed in accordance with the Standard Construction Specifications. Driveways serving more than one property shall be paved the full length of the shared portion. [Ord. 5720, 08/12/2009]

(2) Driveways for single- and two-family dwellings must have a minimum width of 10 feet and a maximum width of 24 feet (not to exceed the width of the driveway curb cut) and minimum separation of 5 feet.

Up to four multiple-family units that front on a public street may have separate driveways. The driveways shall meet the same standards as for single- and two-family dwellings.

Driveways for all other uses must have widths of 12-16 feet for one-lane (one-way) driveways, 24-32 feet for two-lane driveways, and 36 feet for three-lane driveways. Three-lane driveways must

have designated lanes and turning movements. Industrial driveways shall have a width of 24-48 feet. There must be a minimum separation of 22 feet between all driveways except for single- and two-family dwellings**, and multi-family dwellings of four units or less**. The width of a driveway will be determined by measuring at the curb line and will exclude the transitions which must conform to standards fixed by the City Engineer.

(3) All driveways must be located as far as practical from a street intersection, and in no instance shall the distance from an intersection be less than the following, as measured from the nearest curb return radius:

Arterial Street	40 feet
Collector Street	20 feet
Local Street	10 feet

At intersections with bulbouts or post-construction stormwater quality curb extensions incorporated into the curb return the measurement will be made from the nearest curb return radius. When different classes of streets intersect, the distance required is between an access point and the intersection of the street type that requires the greater distance. [Ord. 5842, 1/01/15]

(4) The location, width, and number of accesses to a public street may be limited for developments that are subject to **land use** ~~site plan~~ review. ~~All development that proposes access to an arterial street is subject to site plan review and the design requirements of 12.230.~~

(5) Access points to a public street shall be the minimum necessary to provide reasonable access while not inhibiting the safe circulation and carrying capacity of the street. [Ord. 5720. 8/12/2009]

(6) Properties with frontage on more than one street may be restricted to access on the street(s) of a lower classification through site plan, land division, or other review procedures.

(7) A common access point at a property line is encouraged and may be required in order to reduce the number of access points to streets. Construction of common access points must be preceded by recording of joint access and maintenance easements.

(8) With the exception of single-family residential development, approach grades must not exceed 10 percent slope within 20 feet of a public street. Driveways for single-family residential development shall comply with applicable fire and building codes.

(9) Access to designated state highways is subject to the provisions of this Article in addition to requirements of the State Highway Division and State Department of Transportation. When regulations of the City and State conflict, the more restrictive requirements apply.

(10) For developments on property larger than five acres in contiguous ownership fronting on an arterial street or limited access highway, a frontage road may be required in order to provide a single access determined by the review body to be the most appropriate location for safety and convenience.

(11) When access is allowed on an arterial street, efforts shall be made to locate it adjacent to the interior property line where it could be shared by the adjacent property.

[Ord. 5338, 1/28/1998; Ord. 5445, 4/12/2000]

***

12.120 Rights-of-Way and Roadway Widths. Unless otherwise indicated on an approved street plan or in Section 12.130, the street right-of-way and roadway widths shall not be less than the minimum shown below in Table 12**.120**-1. Where a range is indicated, the width shall be determined by the City Engineer. Reductions in roadway width may be allowed to facilitate curb extensions required for approved street side post-construction stormwater quality facilities in the landscape strip/planter area. Reductions require approval of the City Engineer. [Ord. 5842, 1/01/15]

TABLE 12.120-1. Street right-of-way and roadway width requirements.

	Minimum Rights-of-Way	**Minimum Roadway**
Type of Street	**Width**	**Width**
Arterial	70-120 feet	40-70 feet
Collector	60-80 feet	36-48 feet
Local*	52-56 feet	28-32 feet
Radius for turnaround at end of cul-de-sac	43 feet	36 feet
Alley	14-20 feet	12-20 feet

* When street rights-of-way are less than 60 feet wide, a parallel public utility easement 7-feet-wide shall be dedicated on both sides of the right-of-way unless waived by the City Engineer.
[Ord. 5445, 4/12/2000, Ord. 5886, 1/6/17]

12.122 Local Residential Streets. There are two classes of local streets, based on projected traffic volumes. The applicant is responsible for demonstrating that each proposed street is designed for the appropriate traffic volume.

Locating approved street-side post-construction stormwater quality facilities in the landscape strip is encouraged. To accommodate the facilities, the City Engineer may approve isolated reductions in roadway width for curb extensions and larger landscape strip areas from those shown in the following subsections. The City Engineer may also approve locating the back of sidewalk immediately adjacent to the property line. [Ord. 5842, 1/01/15]

(1) Minor Local Streets. The minor local street design is intended to be the predominant street type in residential neighborhoods. A minor local street will have fewer than 1,000 average trips per day (ADT) when all future street connections are made. The standard design is a 30-foot wide paved surface with curb and gutter, a 6-foot landscape strip, and a 5-foot sidewalk on each side within a 54-foot right-of-way. A parallel 7-foot public utility easement is dedicated on each side of the street unless waived by the City Engineer. Parking is allowed on both sides of the street. See Figure **12.122-**1.

Amendments to the Albany Development Code (ADC)

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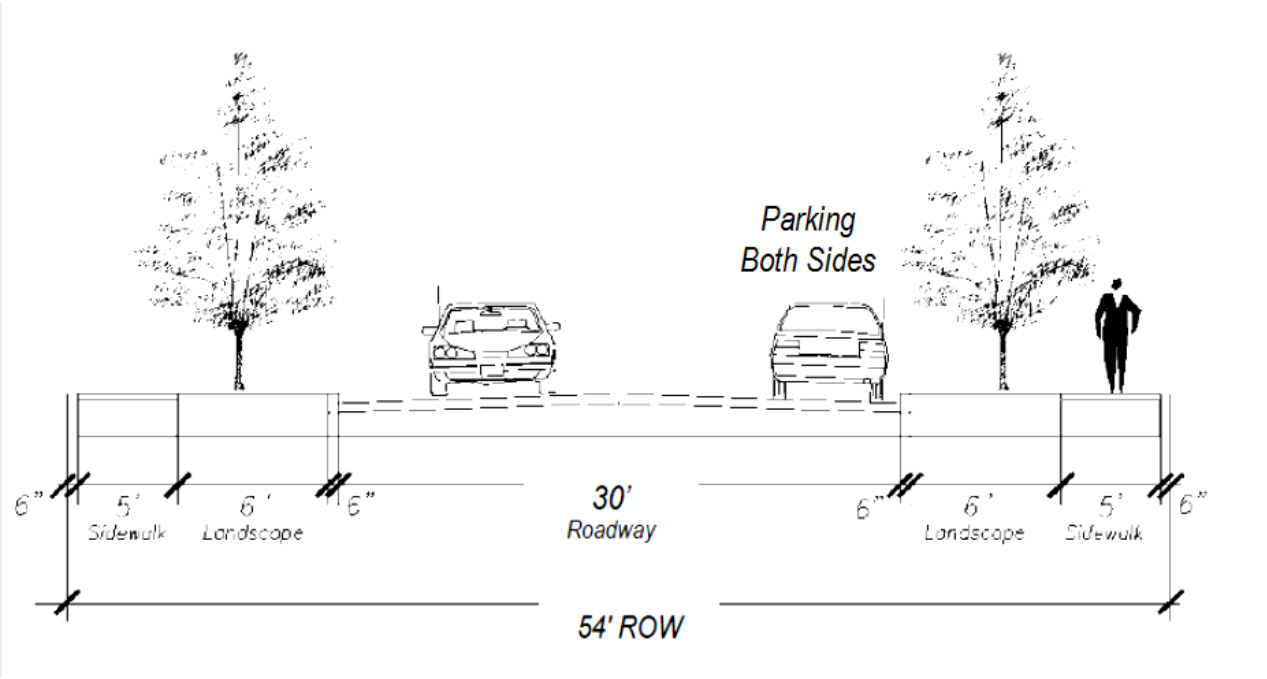

Figure 12.122-1: Minor Local Street

[Ord. 5886, 1/6/17]

(2) Network Local Streets. A network local street will have more than 1,000 ADT. The standard design is a 32-foot-wide paved surface with curb and gutter, a 6-foot landscape strip, and a 5-foot sidewalk on each side within a 56-foot right-of-way. A parallel 7-foot public utility easement is dedicated on each side of the street unless waived by the City Engineer. Parking is allowed on both sides of the street. See Figure **12.122-**2. [Ord. 5886, 1/6/17]

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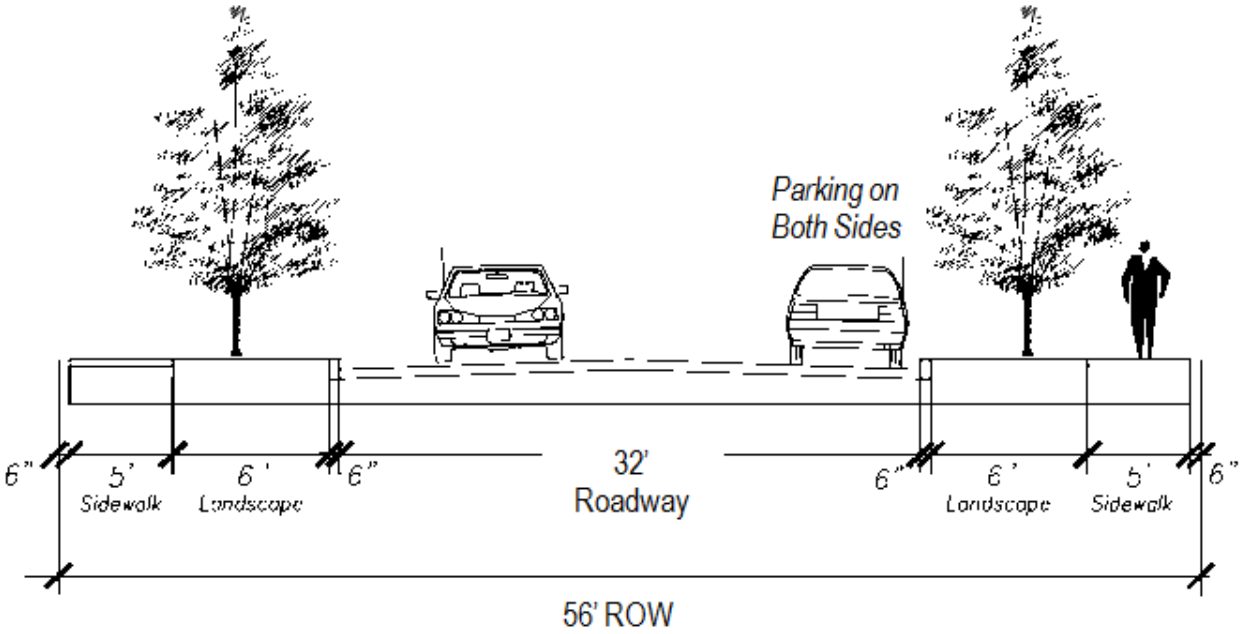

Figure 12.122-2: Network Local Street

[Ord. 5886, 1/6/17]

[Alley Option removed by Ord. 5886, 1/6/17]

(3) Narrow **Network** Local Street Option. The City Engineer may approve a narrow network local street design with a 28-foot wide paved surface with curb and gutter, a 6-foot landscape strip, and a 5-foot sidewalk on each side within a 52-foot right-of-way. A parallel 7-foot public easement is dedicated on each side of the street unless waived by the City Engineer. Parking is restricted to one side of the street. See Figure **12.122-**3. [Ord. 5886, 1/6/17]

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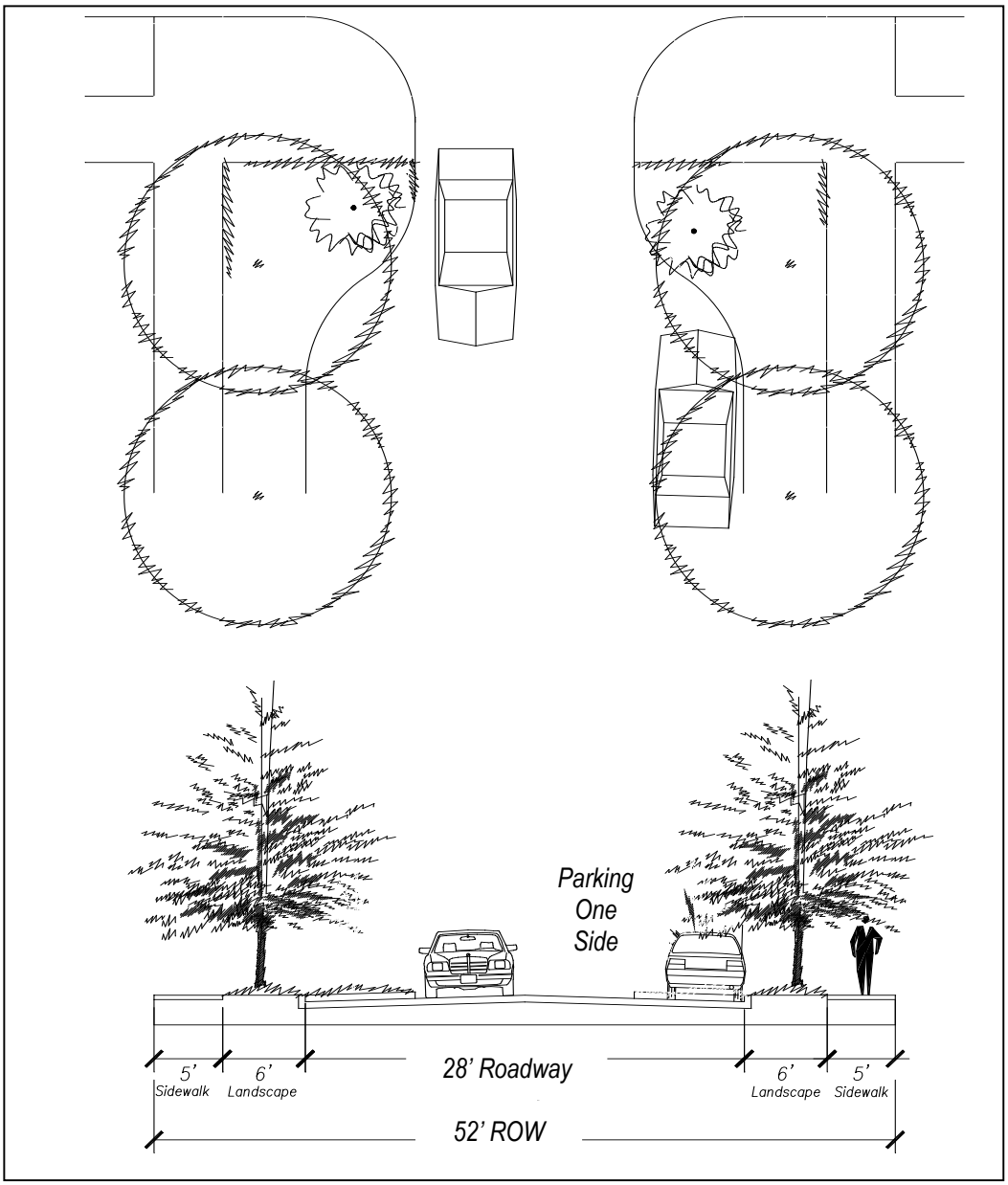

Figure 12.122-3: Narrow Network Local Street Option

[Ord. 5886, 1/6/17]

(4) Residential Street Design for Constrained Sites. Natural features may constrain the standard local street design. Examples of such natural features include floodplains, steep slopes, drainageways, wetlands, riparian corridors, and tree groves. Through the subdivision or planned development review process, the City will consider a narrower street section that does not compromise the goals for street design in a great neighborhood. For example, the sidewalks may be placed curbside and parking may be removed from the street in order to narrow the street paving and preserve natural areas. See Figure **12.122-**4.

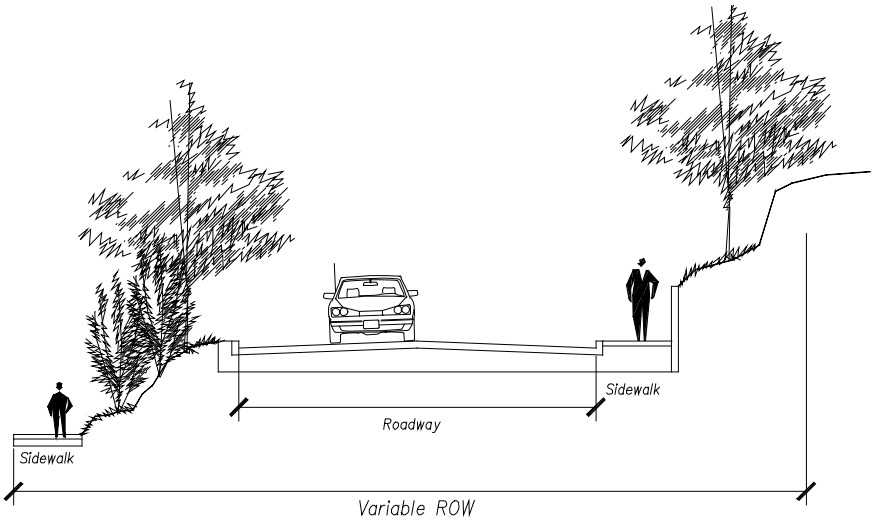

Figure 12.122-4: Residential Street Design (Constrained)

(5) Alternate Street Standard for Cluster Development. (Reserved)

Commentary: Table 12.122-1. Summary of local street design standards

In this table, the proposed amendments clarify that these standards apply to local streets, the terminology and order of presentation have been updated to match the text, and the "Street with Alley Option" column has been deleted because this option was already removed from the ADC.

TABLE 12.122-1 ~~2~~. Summary of local street design standards.

SUMMARY OF STREET DESIGN STANDARDS	SINGLE-FAMILY DEVELOPMENT					MULTI-FAMILY DEVELOPMENT **ON LOCAL STREETS**
	MINOR LOCAL STREETS		**NETWORK LOCAL STREETS**	**NARROW** NETWORK LOCAL STREETS	~~WIDE OPTION~~	
~~Design Elements~~	~~Standard Design~~	~~Street with Alley Option~~	~~**Wide Option**~~	~~Standard Design~~	~~Wide Option~~	~~Standard Design~~
Right-of-way	54' ~~3~~	~~46'~~	**56'**	52'	~~56'~~	56'
Pavement width	30' ~~3~~	~~22'~~	**32'**	28'	~~32'~~	32'

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On-street parking	Both sides	~~One side~~	**Both sides**	One side	~~Both sides~~	Both sides
Bike lanes	No	~~No~~	**No**	No	~~No~~	No
Curb & gutter	Yes	~~Yes~~	**Yes**	Yes	~~Yes~~	Yes
Sidewalks[1]	5' setback	~~5' setback~~	**5' setback**	5' setback	~~5' setback~~	5' setback
Planter strip	6' planter	~~6' planter~~	**6' planter**	6' planter	~~6' planter~~	6' planter
~~Examples of "add backs"[2]~~	~~None~~	~~14-20' rear alley with all private utilities~~		~~None~~	~~Traffic calming, taller street trees~~	~~Traffic calming, taller street trees~~

~~[1] Curbside sidewalks are allowed on cul-de-sac bulbs. See Section 12.300(2).~~
~~[2] In exchange for building a street that does not meet the standard design, additional design features are required to more than compensate for the loss of one or more design objectives.~~
~~[3] A 28-foot street in a 52-foot right-of-way is allowed subject to the provisions of Section 12.122(2).~~

[Ord. 5445, 4/12/2000; Ord. 5562, 10/10/2003]

12.130 Mini-Subdivision **and Partition** Street and Rights-of-Way Standards. The standards in this section are intended for use in developing residential infill parcels. The review body will approve variations to the standards listed in Section 12.120 above, when the following criteria are met:

(1) The property to be divided is less than two acres and no more than eight lots will be created or served by the street; and

(2) The proposed land division, as a whole, meets the standards for lot size and configuration for the zoning district; and

(3) Surrounding parcels are developed or are physically incapable of being developed so that combining the proposed land division with adjoining properties in a conventional land division is not feasible.

(4) The property is not needed for continuing the adjacent public street pattern. However, pedestrian connections may be required for continuing the pedestrian circulation system.

The review body may also modify other standards in this Code as indicated in Table 12**.130-1** ~~3~~ below:

TABLE 12.130-1 ~~3~~. Mini-subdivision street and rights-of-way standards.

	Paved Width (b)	On-Street		Rights-of-Way (c)	
Dedication & Maintenance	Street/Cul-de-sac	Curbs	Parking	Sidewalk	Street/Cul-de-sac
Public (a)	22' / 25' (radius)	Yes	no	4' (1 side)	30' / 35' (radius)
Public (a)	28' / NA	Yes	one side	4' (1 side)	36' / NA

(a) A 7-foot public utility easement may be required on each side of the right-of-way.
(b) Maximum street length is 400 feet.
(c) A "hammerhead" turnaround may be allowed only if no more than four residential lots are created, and the City Engineer determines that no other options exist and no traffic hazards will be created. [Ord. 5445, 4/12/2000]

12.140 Additional Rights-of-Way. A development project requiring land use **review** ~~approval~~ is required to dedicate additional right-of-way if an existing street abutting or within the development does not meet the widths designated in Section 12.120. This provision does not apply to property line adjustments or historic review. While not required to dedicate additional right-of-way, single- and two-family dwellings (and related accessory buildings) **and parking lot and building additions listed in Section 1.105** are subject to setbacks from future street rights-of-way as provided in Section 3.190.

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***

12.180 Clear Vision Area. A clear vision area must be maintained at each access to a public street and on each corner of property at the intersection of two streets or a street and a railroad. No fence, wall, hedge, sign, or other planting or structure that would impede visibility between the heights of 2 and 8 feet shall be established in the clear vision area. Visibility is not considered impeded by a fence where materials are 35 percent or less of the surface area of that portion of the fence above 2 feet. Fence posts spaced at 8 feet or more apart are not counted as part of the fence surface area. Height measurements shall be made from the top of the curb or, when no curb exists, from the established street center line grade.

[Ord. 5689, 3/12/2008]

(1) The clear vision area provisions do not apply to the following:

(a) a public utility pole,

(b) a tree trimmed (to the trunk) to a line at least eight feet above the level of the intersection,

(c) another plant species of open growth habit that is not planted in the form of a hedge and that is planted and trimmed to leave at all seasons a clear and unobstructed cross-view,

(d) a supporting member or appurtenance to a permanent building lawfully existing on the date this standard becomes effective,

(e) an official warning sign or signal,

(f) the post section of a pole sign when there are no more than two posts and any post is less than eight inches in diameter, and

(g) existing or new buildings that meet the minimum setbacks.

[Ord. 5689, 3/12/2008; Ord. 5886, 1/6/17]

(2) A clear vision area consists of a triangular area

(a) For residential local streets and driveways, two sides of the clear vision area are lot lines or a driveway for a distance specified in Table 12**.180-1**~~-~~4 below, with a third line running diagonally across the non-intersecting ends of the two sides (see illustration below, Figure **12.180-1**~~6~~). Where lots have rounded corners, the lot lines shall be extended in a straight line to a point of intersection. [Ord. 5886, 1/6/17]

TABLE 12.180-1~~-~~4. Measurements for establishing clear vision areas.

Type of Intersection	Measurement Along Each Lot Line or Drive Edge
Controlled Intersection (stop sign or signal)	20 feet
Uncontrolled Intersection	30 feet
Residential District driveways	15 feet
Alley (less than 25 feet)	20 feet

[Ord. 5886, 1/6/17]

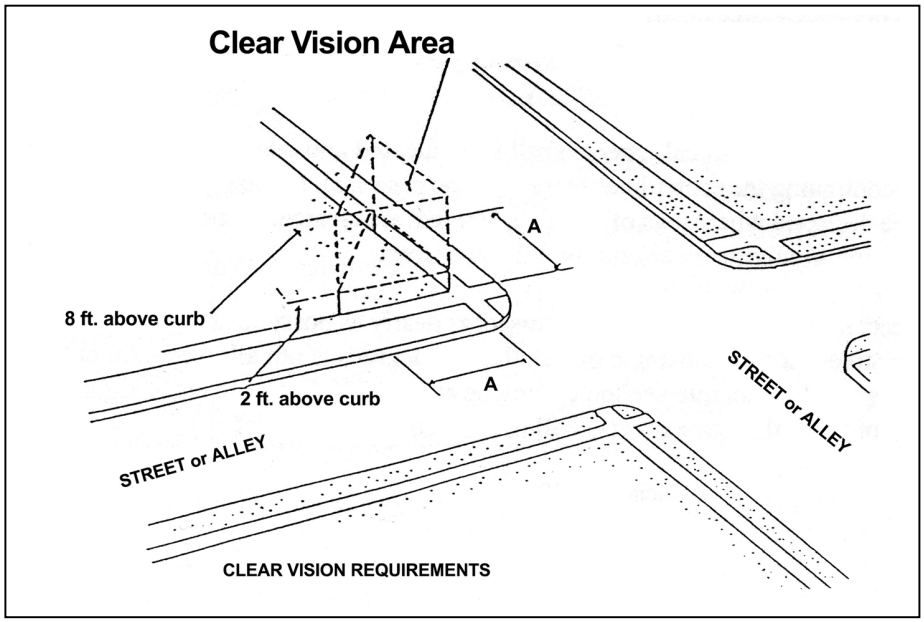

Figure 12.180-1~~6~~. Example clear vision area.

(b) For non-residential **uses and driveways on** local streets ~~and driveways~~ and all intersections **and driveways** involving collector and arterial streets, the clear vision area shall be a triangular area providing the sight distance specific in the Table 12**.180-2**~~-5~~ below. [Ord. 5886, 1/6/17]

TABLE 12.180-2~~-5~~. City sight distance requirements.

Posted Speed (mph)	Sight Distance (ft)(1)		
	2-3 Lane Stop Control	4-5 Lane Stop Control	2-5 Lane Signal Control
20	200	225	225
25	250	275	300
30	300	350	375
35	350	400	475
40	400	450	575
45	450	500	700
50	500	550	850
55	550	625	1,000
60	600	675	1,150

(1) Measured along the center of the approaching travel lanes, as observed from a point 15 feet back from the edge of the closest vehicle travel lane.

[Ord. 5886, 1/6/17]

***

12.230 Access to Arterials. When a **residential** development abuts or contains an existing or proposed arterial street, the development design shall ~~provide adequate protection for residential properties and shall~~ separate residential access and through traffic; or if separation is not feasible, the design shall minimize the traffic conflicts. The design requirements may include any of the following:

(1) A parallel access street along the arterial;

(2) Lots abutting the arterial of suitable depth to provide adequate buffering and having frontage along another street;

(3) Screen planting at the rear or side property line to be contained in a non-access reservation along the arterial; or

(4) Other treatment, as determined by the Director, suitable to meet the objectives of this subsection.

***

Commentary: SIDEWALKS

Similar to the Streets section, proposed amendments to the Sidewalks section are intended to clarify standards in a few places.

SIDEWALKS

12.290 Requirement. All development for which land use applications are required ~~by Section 1.060~~ must include sidewalks adjacent to public streets. This requirement also applies to new single-family houses and duplexes if they are located on arterial or collector streets or on curbed local streets, if there is an existing sidewalk within 500 feet on the same side of the street.

Sidewalks shall be built when arterial and collector streets are constructed and at the discretion of the City Engineer during their reconstruction. This provision shall also apply to local streets that serve commercial and multi-family development. Sidewalks are required on both sides of all streets. If an interim street standard is being constructed which does not include bike lanes or sidewalks, interim bikeways or walkways for pedestrians shall be provided by paved roadway shoulders at least 8 feet wide on arterials and 6 feet on other streets. Provision of sidewalks may be waived when the street serves a use or combination of uses that generate fewer than 50 trips a day (based on ITE standards) and cannot be continued or extended to other properties. [Ord. 5445, 4/12/2000]

12.300 Design, Width, and Location. All sidewalks must be constructed, replaced or repaired in accordance with the Standard Construction Specifications. The required width and location of sidewalks is as follows:

(1) The required width for a sidewalk on an arterial or collector street is 7 feet. This may be reduced to 6 feet if the sidewalk is separated from the curb by a landscaped planter strip at least 5 feet wide. When there is inadequate right-of-way for additional width and no additional right-of-way can be obtained as a condition of development approval, the sidewalk width may be reduced to 5 feet. In all cases, any right-of-way remaining outside the sidewalk is to be landscaped and maintained by the adjoining property owner.

(2) Sidewalks along residential and other local streets must be at least 5 feet wide. A planter strip at least 6 feet wide shall separate the sidewalk from the street. **Curbside sidewalk is allowed on cul-de-sac bulbs.** Street trees shall be selected from the list of approved street trees established by the City. The planter strip shall be of permeable materials. Locating approved street-side post-construction stormwater quality facilities in the planter strip is encouraged. [Ord. 5842, 1/01/15]

(3) In the Historic Downtown and Central Business districts, as defined on the zoning map, sidewalks must be at least 10 feet wide and be installed adjacent to the curb.

(4) Regardless of other provisions contained in this article, any sidewalk project that is less than 200 feet in length and connects on either end to an existing sidewalk may be designed to match the existing pattern with the approval of the City Engineer.

(5) When obstructions exist or are proposed (including, but not limited to, mailboxes, utility poles, trees, planters, fire hydrants, signs, benches, bus stops, post-construction stormwater quality facilities, etc.), provisions must be made to maintain a minimum of 4 feet of unobstructed sidewalk width on local streets, 5 feet on collector and arterial streets, and 6 feet in the Historic Downtown (HD) and Central Business (CB) districts. [Ord. 5842, 1/01/15]

(6) Clustered mailboxes shall be on an accessible path and shall include a 72" minimum accessible turning space. Adjacent sidewalks may be incorporated in the measurement of the turning space. Where constructed in the public right-of-way, construction shall be in accordance with the Standard Construction Specifications. [Ord. 5780, 5/09/12]

(7) Maintenance of sidewalks and planter strips shall be the continuing obligation of the adjacent property owner except for approved post-construction stormwater quality facilities located in planter strips or when **a double frontage single- or two-family** ~~the~~ lot backs onto an arterial. Other than approved post-construction stormwater quality facilities, planter strips shall be landscaped and maintained in like manner to the front yard setback requirements of Article 9. [Ord. 5842, 1/01/15]

(8) Sidewalks shall be designed to parallel streets in line and grade and shall avoid unnecessary meandering from the curb line and elevation changes except as necessary to avoid significant trees or traverse topographic barriers.

(9) Public paths not adjacent to a public street shall be a minimum of 10 feet wide. [Ord. 5445, 4/12/2000]

12.310 Conformance to Street Grades. All sidewalks constructed adjacent to a street must be placed upon the street grade as established at the time of sidewalk construction. If a space is left between the property line and the sidewalk and/or between the sidewalk and the curb, the space shall be filled and surfaced with earth or other approved material level with the sidewalk. Exceptions to level grade between the sidewalk and curb are allowed with approved street-side post-construction stormwater quality facilities. [Ord. 5842, 1/01/15]

12.320 Timing of Sidewalk Construction. In some instances, sidewalk construction may be deferred until the proposed improvement on the property is completed. Deferral of sidewalk construction requires the approval of the City Engineer. No occupancy permit shall be issued by the Building Official for a development until the provisions of this Article are satisfied. [Ord. 5842, 1/01/15]

The City Engineer may authorize a future improvement assurance (as described in Section 12.600) when, in ~~his~~ **their** opinion, the construction of the sidewalk is impractical for one or more of the following reasons:

(1) Sidewalk grades have not been and cannot be established for the property in question within a reasonable length of time;

(2) Forthcoming installation of public utilities or street paving would be likely to cause severe damage to the new sidewalk;

(3) Street right-of-way is insufficient to accommodate a sidewalk on one or both sides of the street; or

(4) Topography or elevation of the sidewalk base area makes construction of a sidewalk impractical or economically infeasible.

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Commentary: STREET TREES

The proposed amendment to this section adds a reference to the design standards in Article 8, which require certain types of development to provide street trees.

STREET TREES

12.321 General Requirements. When a new public street is created in conjunction with development **or when required by the design standards in Article 8**, street trees are required in accordance with the standards provided in the Standard Construction Specifications and the Urban Forestry Management Plan.

***

Commentary: BIKEWAYS

Proposed amendments to this section include referencing the Transportation System Plan (TSP), which is the City's long-range transportation planning document. Because the TSP is updated regularly, this reference will ensure that bicycle standards are current. The Provisions for Bikeways standard is also proposed to be revised to reflect current City policy and practice.

BIKEWAYS

12.330 Master Bikeways Plan. **The City's Transportation System Plan identifies existing and proposed bicycle facilities.** ~~adopted Master Bikeways Plan is in the Comprehensive Plan~~.

12.340 Provisions for Bikeways. Developments adjoining or containing proposed bikeways identified **in the Transportation System Plan shall construct and extend said facilities to and through the property's frontage and along its interior, or to a point identified by the City Engineer to accommodate likely system expansion. Where the City Engineer has determined construction is untimely, provisions shall be made for the future construction and extension of said facilities.** ~~on the adopted Master Bikeways Plan shall include provisions for the future extension of such bikeways. Land use approvals issued for planned developments, greenway conditional use permits, subdivisions and other developments that will principally benefit from such bikeways may be conditioned to include bikeway improvements.~~

In the case of arterial or collector streets, bike ~~lanes~~ **facilities** shall be built during their construction~~,~~ and considered during their reconstruction. This provision shall also apply to local streets in other than single-family residential developments.

12.350 Bikeway Design. **The design of on-street bike lanes and facilities shall be in accordance with the Transportation System Plan and the City's Engineering Standards, and must be approved by the City Engineer. The minimum width for two-way bikeways not on a roadway shall be 10 feet.** ~~Where possible, bikeways should be separated from other modes of travel, including pedestrian. Minimum width for bikeways shall be 6 feet per travel lane when adjacent to a curb (one-way) and 10 feet when not on a roadway (two-way).~~ A reduction in standards may be allowed when the City Engineer finds that no safety hazard will be created and ~~other~~ special circumstances (such as physical constraints) exist.

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Commentary: UTILITIES

Minor changes are proposed to clarify the Utilities section.

UTILITIES—GENERAL

12.360 Utility Easements. The developer shall make arrangements with the City of Albany and each utility franchise for the provision and dedication of utility easements necessary to provide full services to the development. All utility easements must be public easements.

12.370 Utility Easement Width. The standard width for public utility easements adjacent to street rights-of-way is 7 feet. The minimum width for all other public utility easements shall be 15 feet for water, 20 feet for sewer, and 15 feet for piped storm drainage unless otherwise specified by the utility **provider**. ~~company or City Engineer. When feasible, utility easements shall be centered on a lot line.~~

12.380 Information on Development Plans. The developer must show easements for all utilities. Plans showing the location of all utilities shall be submitted to the City as part of the ~~site plan review~~ **Site Plan Review** or land division process.

12.390 Requirement for Underground Utilities. Except as exempted in Section 12.400, all utility lines, cables, or wires (including but not limited to those used for electricity, communication, street lighting, and cable television) constructed upon, adjacent to, or within land subdivided or prepared for development after the effective date of this Code, must be placed underground. The intent of the City is that no poles, towers, or other structures associated with utility facilities shall be permitted on any street or lot within such a subdivision or development.

12.400 Exceptions. Overhead facilities are only permitted in the following instances:

(1) Emergency installations, electric transmission lines, or through feeders operating at distribution voltages which act as a main source of supply to primary laterals and to direct connected distribution transformers and primary loads.

Should it be necessary to increase the capacity of major power transmission facilities for service to the area, new or revised installations shall be made only on rights-of-way or easements on which overhead facilities exist at the time of the capacity increase.

(2) Appurtenances and associated equipment such as surface-mounted transformers, pedestal-mounted terminal boxes, meter cabinets, telephone cable closures, **and** connection boxes **which cannot feasibly be located underground**~~, and the like~~.

(3) Structures without overhead wires, used exclusively for fire alarm boxes, street lights, or municipal equipment installed under the supervision and with the approval of the City Engineer.

(4) Power substations, pumping plants, and similar facilities **which are** necessary for transmission or distribution of utility services **and which cannot feasibly be located underground**.

(5) Television antennas and satellite dishes [See Section 3.080 (12)].

(6) **Onsite improvement for** ~~I~~industrial developments~~, except for utility lines, cables, and/or wires providing service to an individual lot. Such lines must be placed underground from the nearest power pole to the facility ultimately being operated on the individual lot~~.

(7) Certain industries requiring exceptionally large power supplies may request direct overhead power as a condition of site plan approval. ~~Underground utilities may be required in Industrial Park developments and planned developments in the Industrial Districts.~~

(~~7~~**8**) New development on existing individual lots of record in areas where service is currently by overhead utilities.

***

Commentary: WATER and SANITARY SEWERS

No amendments to these sections are proposed.

WATER
***

SANITARY SEWERS
***

Commentary: STORM DRAINAGE

One clarifying amendment is proposed to replace the reference to "sound engineering principles" with "Engineering Standards."

STORM DRAINAGE

12.530 General Provisions. The review body will approve a development request only when adequate provisions for storm and flood water run-off have been made as determined by the City Engineer. The storm water drainage system must be separate from and independent of any sanitary sewer system. When possible, inlets should be provided so surface water is not carried across any intersection or allowed to flood any street. Surface water drainage patterns and proposed storm drainage must be shown on every development proposal plan. All proposed storm drainage management plans and systems must be approved by the City Engineer as part of the tentative plat or ~~site plan review~~ **Site Plan Review** process.

***

12.550 Accommodation of Upstream Drainage. A culvert or other drainage facility shall be large enough to accommodate potential run-off from its entire upstream drainage area, whether inside or outside of the development. The City Engineer must review and approve the necessary size of the facility, based on the provisions of the Storm Drainage Master Plans, and **Engineering Standards** ~~sound engineering principles~~, and assuming conditions of maximum potential watershed development permitted by the Comprehensive Plan.

***

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Commentary: IMPROVEMENT ASSURANCES

One amendment to this section is proposed to update language that is not gender-neutral.

IMPROVEMENT ASSURANCES

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12.610 Noncompliance with Provisions Under Obligation. If the Director finds that a developer is not fulfilling an obligation, the Director shall, in written notice to the developer and the developer's surety, specify the details of noncompliance. Unless the Director allows more time for compliance because of circumstances beyond the developer's control, within 30 days after receiving the notice, the developer or the developer's surety shall begin compliance and proceed diligently to complete fulfillment of the obligation.

(1) If the developer or the developer's surety does not begin compliance within the 30 days or the additional time allowed by the Director, or has begun but fails to diligently complete the compliance, or the compliance is otherwise not completed within the time specified in granting the development approval, the City may take the following action:

(a) Enter upon the site of the development and carry out the obligation in accordance with the provisions agreed upon under the acknowledgement;

(b) Notify the developer and the developer's surety of the developer's failure to perform as required by this Code;

(c) Demand payment from the developer for the unfulfilled obligation;

(d) If the security for the obligation is a bond, notify the surety that has furnished the bond that reimbursement for the expense for fulfillment of the obligation is due and payable to the City or, if the security is a deposit of cash or other assets, appropriate as much of the deposit as is necessary to recoup the expense; or

(e) Void all approvals granted in reliance on the improvement assurance.

(2) If a bond or other required security is not sufficient to compensate the City for expenses necessary to fulfill the obligation, the amount due to the City for the obligation is a lien in favor of the City and upon the entire contiguous real property of the owner of the land subject to the obligation.

(3) The lien attaches upon the filing with the City Recorder of notice of the claim for the amount due for the fulfillment of the obligation. The notice shall demand the amount due, allege the insufficiency of the bond or other security to compensate the City fully for the expense of the fulfillment of the obligation, and allege the developer's failure to do the required obligation.

(4) The lien may be foreclosed in the manner prescribed by law for foreclosing other liens on real property.

(5) The remedies set forth for non-compliance are cumulative. In addition to the remedies set forth above, non-compliance by the developer or ~~his~~ **the developer's** surety with any term of a performance guarantee shall entitle the city to pursue any civil remedy permitted by law.

ADDRESSES AND STREET NAMES

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: ****

12.620 - 12.690 *Repealed by Ord. 5446, 5/10/00*

Article 13 - Signs

Amendments to the Albany Development Code (ADC)

Draft code amendments are written as follows: additions ***bold red underlined*** *and deletions in* ~~*strike-out*~~*.*
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ARTICLE 13[1]
SIGNS

Commentary

Proposed amendments to Article 13 are limited to renumbering tables and figures to follow the new numbering protocol and updating cross-references.

13.000 Overview. This article contains the City's standards for signage.

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

- General Provisions
- General Sign Regulations
- Exemptions
- Temporary Signs or Displays
- Permanent Signs
- Review Procedures
- Variances
- Nonconforming Signs
- Definitions

GENERAL PROVISIONS

***

GENERAL SIGN REGULATIONS

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13.310 SIGNS EXEMPT FROM SIGN PERMIT

A sign which is consistent with the type, description, and maximum duration in Table 13.**310**-1 is subject to the General Provisions and General Sign Regulations of this Article; however, no sign permit or sign registration is required before placing, constructing, or erecting such a sign. All other temporary or permanent signs are subject to the sign permit or sign registration requirements of this Article.

TABLE 13.310-1
SIGN TYPES EXEMPT FROM SIGN PERMIT

Sign Type	Description	Maximum Duration
(1) Exempt Governmental signs. The signs described in this section are an important component of measures necessary to protect the public safety and serve the compelling governmental interest of protecting traffic safety, serving the requirements of emergency response, and protecting property rights or the rights of persons on property. These signs include, but are not limited to:		
(a) Traffic control devices	Traffic control devices on private or public property erected and maintained to comply with the Manual on Uniform Traffic Control Devices adopted in this state and if not adopted by this state with the	Signs may be temporary or permanent

[1] Entire article replaced with Ordinance 5909, June 27, 2018

Amendments to the Albany Development Code (ADC)

Draft code amendments are written as follows: additions ***bold red underlined*** *and deletions in* ~~*strike-out*~~*.*
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Sign Type	Description	Maximum Duration
	Manual on Uniform Traffic Control Devices adopted by the Federal Highway Administration.	
(b) Signs required to identify the address of the property	Signs required to identify the address of the property so that public safety departments can easily identify the address from the public street. The size and location of the identifying numerals and letters, if any, must be proportional to the size of the building and the distance from the street to the building, and in no case shall individual characters be less than three inches tall nor exceed 12 inches in width or height. In cases where the building is not located within view of the public street, the identifier must be located on the mailbox or other suitable device such that it is visible from the street.	Signs may be temporary or permanent
(c) Signs necessitated by federal, state or local law	Signs necessitated by federal, state, or local law requiring a property owner to post a sign on the owner's property to warn of a danger, to prohibit access to the property, or for public safety.	Signs may be temporary or permanent
(d) Signs of public utility companies	Signs of public utility companies indicating danger, or that serve as an aid to public safety, or that show the location of underground facilities or of public telephones.	Signs may be temporary or permanent
(e) Official or legal signs	Official or legal signs which are erected by public officers performing official duties including those erected pursuant to law, administrative order, or court order.	Signs may be temporary or permanent
(f) Signs erected, maintained or authorized by a public authority	Signs erected, maintained or authorized by a public authority (e.g., Landmarks Commission) identifying sites, buildings, districts, or structures of recognized historical value or providing wayfinding.	Signs may be temporary or permanent
(g) Government flags	A flag that has been adopted by the federal government, this State, or the local government may be displayed as provided under the law that adopts or regulates its use.	Signs may be temporary or permanent
(2) Exempt Non-Governmental Signs Property owners may place, construct, or erect the following signs on their property		
(a) Sites with legal Home Businesses	On a site with a home business established in accordance with Section 3.090-3.160, one (1) sign not larger than 12 inches by 18 inches may be placed in a window or attached to the building.	Signs may be temporary or permanent
(b) Directional and Public Safety	Signs that are for public safety and direction such as parking directional signs and wayfinding signs – when attached to a building, etc. shall be located and sized commensurate with their function but shall not exceed eight square feet per face per sign. The maximum height for freestanding directional/public safety signs is three feet. All signs must be placed outside of any vision clearance area.	Signs may be temporary or permanent
(c) Window Sign	Window signs are only allowed within non-residential zones. They are allowed without regard to other aggregate or number sign	Signs may be temporary or permanent

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Amendments to the Albany Development Code (ADC)

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Sign Type	Description	Maximum Duration
	restrictions provided that window signs shall not obscure more than 50 percent of any individual window.	
(d) Awning or Marquee	Exempt awning or marquee signs are only allowed in non-residential zones. Such signs may only be located on the valance or bottom vertical 12 inches of the awning or on the face or vertical edge of a marquee.	Signs may be temporary or permanent
(e) Signs not meant to be visible off-site	Signs that are not meant to be visible off-site, such as exterior signs in a stadium or menu boards for drive-up restaurants that are visible only to patrons, and signs on the interior of a mall or building not visible from a public right-of-way	Signs may be temporary or permanent
(3) Exempt Temporary Signs. Properties owners may place, construct, or erect the following signs on their property.		
(a) Small Temporary Sign	One temporary sign with a sign face no larger than three square feet.	365 days/year
(b) Signs during an Election	One temporary sign per issue and per candidate based on the ballot of an election within the district where the property is located. Residential zones - Signs are limited to an area of four square feet per face and a maximum height of three feet. Commercial or industrial zones - Signs are limited to an area of eight square feet per face and a maximum height of five feet.	From 45 days prior to an election until 7 days after
(c) Property for Sale or Rent	Residential Zones i. One sign per street frontage with a maximum of two signs per lot. ii. Up to two directional signs may be erected off premises with the receiving property owner's permission, but no more than one off-premises sign may be located on any tax lot. iii. Signs shall not exceed six square feet per face. iv. A-frame signs are allowed if they do not exceed four square feet per face and shall be removed at dusk and not replaced before sunrise. Commercial, Industrial, and Mixed Use Zones i. Signs shall conform to all restrictions (such as number and size) applicable to that zone, except that no temporary sign shall exceed 100 square feet in area per face and 10 feet in height. ii. If a developed property meets or exceeds the maximum signage allowed, then one additional wall sign per frontage shall be allowed not exceeding 10 percent of the wall face area.	From the time the property is offered for sale or rent (either through a licensed real estate agent or by the owner through advertising in a local newspaper of general circulation or other public means) until 15 days after the date on which the transaction has been closed
(d) Subdivisions (when involving more than three lots being offered for sale)	i. Signs shall be limited to one double-faced sign of 32 square feet per face, placed at a right angle to the street, or two 24 square foot signs facing the street. Such signs shall be at least 700 feet apart and shall not exceed a height of eight feet. ii. Signs shall be placed within the subject subdivision.	From the time the lots are offered for sale until the end of two years, or when 90 percent of the subdivision lots

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Sign Type	Description	Maximum Duration
		contain a completed structure, whichever occurs first
(e) When Property is Open to the Public	One temporary sign on site when the property owner is opening the property to the public. The sign shall not exceed four square feet per face and four feet in height.	From one week prior to event until the day after the event. No more than a total of 15 consecutive days for extended sales
(f) Transient and Itinerant Merchants and Vendors	Signage for Transient and Itinerant Merchants and Vendors authorized in accordance with Albany Municipal Code Chapter 5.10 shall be allowed as follows: i. One sign per street frontage. ii. Sign area can be no greater than 32 square feet.	For the duration of the activity authorized by Albany Municipal Code Chapter 5.10
(g) Search Lights	Permitted within commercial zones only. Search lights shall comply with applicable Federal aviation laws.	No more than five days in a row, up to a maximum of 15 days in any calendar year
(h) Construction Project Signs	On sites which are actively under construction (building permits are in process). The maximum height for freestanding construction project signs is 10 feet.	For the duration of project construction

TEMPORARY SIGNS OR DISPLAYS

***

PERMANENT SIGNS

***

13.520 WALL SIGNS

The following standards apply to wall signs other than Exempt Signs pursuant to ADC 13.310 or Temporary Signs pursuant to ADC 13.410 – 13.430.

(1) Projection. No wall sign shall project more than 12 inches beyond the wall (or awning or marquee) to which it is attached.

(2) Placement. No wall sign shall extend above the roof or eave-line of the building. Signs attached to the vertical face of an awning or marquee shall not extend above or below the face to which it is attached.

(3) Illuminated wall signs abutting a parking lot must be at least 75 feet from a property line facing a residential zone.

(4) Interior Lot Line Signs. A principal wall sign may be located on the side of a building facing an interior lot line if written consent of the abutting property owner is obtained for

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the erection of the sign or the sign is 50 feet or more from the abutting property. Sign and area for both the interior lot line sign and street frontage signs shall not exceed that allowed for the street frontage and shall not be in addition thereto.

(5) Signs on Fences. Fence signs shall be subject to the same size and placement requirements as a wall sign and shall not exceed the height of the fence.

(6) Sign Area by Zone. The amount of wall sign area permitted in each zone is specified in Table 13**.520**-**1**~~2~~. The aggregate area of all wall signs on each building frontage shall not exceed the amount of wall sign area allowed per lineal foot of building frontage. In addition, the aggregate wall sign area shall be subject to the minimum and maximum ranges for each building frontage. The amount of signage allowed is for each building frontage and may not be transferred to a different building frontage. For multi-tenant buildings the building frontage is calculated individually for each tenant.

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Amendments to the Albany Development Code (ADC)

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TABLE 13.520-~~2~~1
SIGN AREA BY ZONE – WALL SIGNS

Zone	Amount of wall sign area per lineal foot of building frontage	Minimum and Maximum Range for Each Building Frontage	
		Minimum	Maximum
CC, RC, PB, LI, HI, and IP	1.5 sf per lineal foot	48 sf	200 sf
NC, MS, MUC and WF	1.5 sf per lineal foot	32 sf	160 sf
OP, ES and TD	1.5 sf per lineal foot	32 sf	80 sf
CB, DMU, and HD	1.0 sf per lineal foot	32 sf	120 sf
LE and MUR	1.0 sf per lineal foot	32 sf	80 sf
All residential zones	See ADC 13.560 and 13.570		

*The standards of this table may be modified for signs within Integrated Business Centers in accordance with Subsection (7)

(7) Sign Area within Integrated Business Centers.

(a) Wall sign area is limited to the provisions of Subsection (6), except a tenant occupying a minimum of 40,000 square feet in gross floor area is allowed a bonus to the maximum size provisions in the PB, CC, RC, LI, HI, and IP zones so that the maximum wall sign area for that business is 240 square feet.

(b) Business center identity wall signs may be placed over all shared main public entries to the business center. Shared public entries must be shared by at least two tenants. Such signs are limited to 130 square feet in size.

(c) When an individual business does not have frontage on a street or parking lot, the business is allowed a maximum aggregate wall sign area of 16 square feet.

13.530 FREESTANDING SIGNS

The following standards apply to freestanding signs other than Exempt Signs pursuant to ADC 13.310 or Temporary Signs pursuant to ADC 13.410 – 13.430.

(1) Supports. A freestanding sign shall be directly supported by poles or foundation supports in or upon the ground. No external cross-braces, guywires, "T-frames," "A-frames," "trusses," or similar bracing systems shall be used in constructing freestanding signs.

(2) Clearance.

(a) No freestanding sign shall be closer than 2-1/2 feet from the curb line or over any state highway right-of-way as specified in state law. In the event the street shall be widened or changed in any manner so that the change would result in the projection of a sign to a distance over public property, then the owner of said sign shall remove it and replace it at the expense of the owner.

(b) Freestanding signs shall have a minimum clearance of 15 feet over a driveway or parking area.

(c) Freestanding signs shall have a minimum clearance of eight feet over a pedestrian walkway or sidewalk.

(3) Location. Signs shall be placed on the central 50 percent of the street frontage or 50 feet from any adjacent freestanding sign. Signs on corner properties may be placed near the corner if vision clearance provisions are met.

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(4) Location. Signs shall be placed on the central 50 percent of the street frontage or 50 feet from any adjacent freestanding sign. Signs on corner properties may be placed near the corner if vision clearance provisions are met.

(a) One freestanding sign shall be permitted for each lot frontage which meets the minimum street frontage specified in Table 13**.530**-~~3~~**1**. Two or more parcels of less than the minimum required street frontage each may be combined for purposes of meeting this standard, with the approval of all affected property owners.

(b) When a freestanding sign is located at the corner of two intersecting rights-of-way and placed a distance from the right-of-way corner of less than 50 lineal feet, the sign shall be counted as one sign for each frontage.

(5) Sign Area. Signs shall not exceed a total face area of 3/4 square feet for each lineal foot of street frontage with the maximum area per face as specified in Table 13**.530**-~~3~~**1**. When a face can be seen from a street, then that face shall count as part of the aggregate area for that street frontage (not to exceed counting one face per frontage). The maximum size allowed for such sign shall be based on the street frontage with the highest average daily traffic count or the average of the two frontages. In all cases a minimum allowance of 20 square feet per sign face is guaranteed.

(6) Height. Signs shall be no higher than as specified in Table 13**.530**-**1**~~3~~.

TABLE 13.530-1~~3~~
SIGN AREA BY ZONE – FREESTANDING SIGNS*

Zone	Maximum Sign Area per Face	Maximum Height	Minimum Street Frontage Required
PB, CC, RC, LI and HI	160 sf	30 feet	75 lineal feet
IP	160 sf	15 feet	75 lineal feet
MUC	120 sf	25 feet	75 lineal feet
WF, MS, and NC	120 sf	15 feet	75 lineal feet
ES, TD, and OP	50 sf	15 feet	75 lineal feet
CB, DMU, HD, LE, and MUR	50 sf	15 feet	50 lineal feet
All Residential Zones	See ADC 13.560 and 13.570		

*The standards of this table may be modified for signs within Integrated Business Centers in accordance with Subsection (7) and for signs located within the freeway interchange area in accordance with Subsection (8).

(7) Shared Freestanding Signs within Integrated Business Centers. When two or more businesses within an Integrated Business Center combine their permitted freestanding signs into one sign the following standards apply:

(a) One freestanding, shared sign per street frontage that has a customer entrance is allowed. The shared sign must comply with Subsection (5), except that a bonus to the maximum size provisions is allowed in the PB, CC, RC, LI, HI, and IP zones so that the maximum area is 200 square feet per face and the minimum allowance is 60 square feet.

(b) In lieu of (a) above, integrated business centers that utilize shared freestanding signs that are less than eight feet tall, may locate one such sign per public entrance. Such shared signs are limited in aggregate area to 200 square feet.

(c) Properties having two or more street frontages, one of which is in excess of 400 feet, are permitted two shared freestanding signs on the long frontage provided that the total

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combined area does not exceed 200 square feet (on one face); however, no freestanding sign is allowed on the other frontage.

(d) If the business within an Integrated Business Center is not represented on a shared freestanding sign, one freestanding monument sign is permitted for each freestanding pad building. The sign structure is limited to eight feet tall measured from ground level and 10 feet in horizontal length. The sign face(s) is/are limited to a maximum area of 32 square feet.

(e) Sign Spacing. A minimum of 100 feet of spacing is required between freestanding signs.

(8) Freeway Area Signs General Provisions.

(a) The Freeway Interchange Area is defined and shown in Figure **13.530-**1.

(b) A business within the Freeway Interchange Area may have one freestanding sign up to 50 feet tall. Maximum sign area is limited to 250 square feet for one face and 500 square feet for two or more faces.

(c) If such sign is erected, it shall be in lieu of and not in addition to the signs permitted by Subsection (6) for such business along the street frontage on which it is located.

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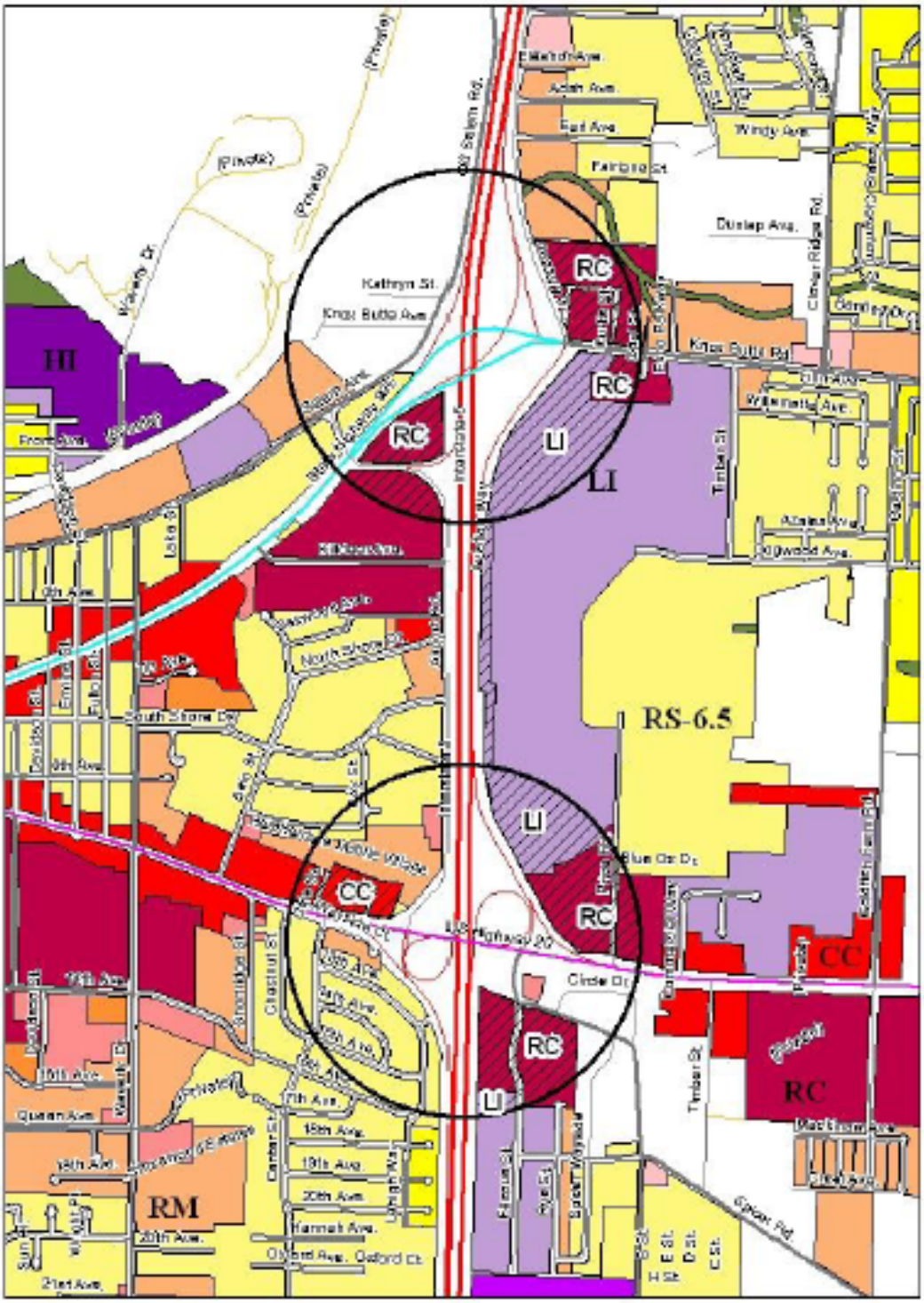
FIGURE 13.530-1 FREEWAY INTERCHANGE AREA



Amendments to the Albany Development Code (ADC)

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13.540 PROJECTING SIGNS

The following standards apply to projecting signs other than Exempt Signs pursuant to ADC 13.310 or Temporary Signs pursuant to ADC 13. 410 – 13.430.

(1) Placement. The inner edge of a projecting sign shall not be more than six inches from the face of the building.

(2) Clearance. Projecting signs shall have a minimum clearance of eight feet over sidewalks, public right-of-way, or grade and 15 feet over driveways and alleys. Signs suspended from marquees and awnings must be a minimum of seven feet, six inches above grade.

(3) Projection. No projecting sign (or other signs) shall project more than eight feet over public property nor closer than within 2-1/2 feet of the curb line. Signs suspended from a marquee or awning shall not extend beyond the perimeter of the marquee or awning.

(4) Signs near intersections. When a projecting sign is located at the corner of two intersecting rights-of-ways and positioned so that each sign face is designed to be read from each adjacent right-of-way, the sign will be counted as one sign for each frontage and the area of each face shall count as part of the aggregate area for each frontage, except that the maximum size of such sign may be based on the street frontage with the highest average daily traffic count.

(5) Number of Signs. One projecting sign shall be permitted for each business or group of businesses occupying a single common space or suite in lieu of a freestanding sign permitted in accordance with ADC 13.530. Signs suspended from marquees or awnings that are four square feet per face or smaller are exempt from sign number and area restrictions.

(6) Area. Signs shall not exceed an area of 3/4 square feet for each lineal foot of business frontage to which the sign pertains. The maximum area and minimum allowance for projecting signs shall be as specified in Table ~~13-4~~ **13.540-1**.

TABLE ~~13-4~~ 13.540-1
SIGN AREA BY ZONE – PROJECTING SIGNS

Zone	Maximum Sign Area per Face	Minimum Allowance per Face
CB, DMU, HD, LE and MUR	50 sf	12 sf
All other non-residential zones	80 sf	20 sf
All residential zones	See ADC 13.560 and 13.570	

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REVIEW PROCEDURES

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VARIANCES

13.710 VARIANCES

Variances to this Article will be reviewed as a Type II ~~procedure~~ **Major Variance** according to Article 2 (Review Criteria) except that the review criteria of Section ~~2.500~~**2.690** shall be replaced by the following criteria:

(1) Granting the variance would not detrimentally impact public safety, including traffic safety, nor any other aspect of public welfare.

(2) There are unique circumstances or conditions of the lot, building, or traffic pattern such that:

(a) The requested variance better implements the purpose of the Article as stated in Section 13.110

(b) Granting the variance compensates for those circumstances in a manner equitable with other property owners and is thus not a special privilege to any one business. The variance requested shall be the minimum necessary to compensate for those conditions and achieve the purpose of this Article.

(3) The variance would not result in a special advertising advantage in relation to neighboring businesses or businesses of a similar nature. The desire to match standard sign sizes (for example, chain store signs) shall not be listed or considered as a reason for a variance.

(4) Granting the variance would not obstruct views of other buildings or signs or cover unique architectural features of a building or detract from landscape areas.

(5) The size and placement of the proposed sign results in signage more consistent with the purposes of the sign code than that allowed under strict interpretation of the Code.

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NONCONFORMING SIGNS

***

13.830 EXEMPTION FROM NONCONFORMING STATUS

An owner of a nonconforming sign in existence on the date of enactment of this ordinance may apply for a determination that the sign qualifies as an historic or significant sign. An owner must make such application within six months of being notified of a nonconforming status. Such exemption of nonconforming status may be made ~~by the Hearings Board~~ through a Type II procedure upon finding that any of the following applicable criteria have been met:

(1) The sign does not constitute a significant safety hazard due to structural inadequacies or the impact on traffic.

(2) Due to age, relation to an historic event, or general recognition, the sign has become a recognized Albany landmark.

(3) For an historic sign exemption, the sign is:

(a) Attached to a primary or secondary structure as recognized on the City Historic Survey;

(b) The sign adds to the architectural and historic significance of the premises, taking into account the size, location, construction, and lighting of the sign; and

(c) A recommendation is received from the Landmarks Advisory Commission giving its recommendation on criteria (a) and (b) above.

(4) For significant signs, the sign is:

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(a) Maintained essentially as originally constructed, with sufficient remaining original workmanship and material to serve as instruction in period fabrication; and

(b) The sign is associated with significant past trends in structure, materials, and design and is in conformance with generally accepted principles of good design, architecture, and maintenance.

DEFINITIONS

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Article 22 - Use Categories and Definitions

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: ****

ARTICLE 22
USE CATEGORIES AND DEFINITIONS

Commentary

Proposed amendments to Article 22 include adding a new definition of Crime Prevention Through Environmental Design (CPTED) to support new design standards in Article 8; updating language to be gender-neutral; updating terminology for review procedures; renumbering tables and figures to follow the new numbering protocol; and updating cross-references.

The following is a list of content in this article.

- Use Categories 22.030 – 22.370
- Definitions 22.400
- Natural Resource Definitions 22.500

USE CATEGORIES

***

INDUSTRIAL USE CATEGORIES

***

COMMERCIAL USE CATEGORIES

***

INSTITUTIONAL USE CATEGORIES

***

RESIDENTIAL USE CATEGORIES

***

22.320 Residential Accessory Buildings

(1) A detached building that is subordinate to and consistent with the principal use of the property located on the same property as the principal dwelling. Residential accessory buildings are permitted in residential and mixed-use zones if they meet the following standards:

(a) Detached residential accessory buildings, garages, and carports are allowed outright if they are less than 750 square feet and have walls equal to or less than eleven feet in height. Larger buildings may be permitted through ~~site plan review~~ **Site Plan Review**, refer to the following standards:

- In residential zoning districts in Article 3, refer to Section 3.080(9).
- In commercial or industrial zones in Article 4, refer to Section 4.060(21).
- In mixed-use zones in Article 5, refer to Section 5.070(18).

(b) Accessory apartments have special conditions in Articles 3 and 5, Sections 3.080(4) and 5.070(15) ~~respectfully~~ **respectively**. [Ord. 5742, 7/14/10]

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OTHER USE CATEGORIES

22.325 Non-Residential Accessory Buildings

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

***

22.340 Communication Facility

(1) A Communication Facility use provides signals or messages through the use of electronic and telephonic devices. It includes all devices, equipment, machinery, structures or supporting elements necessary to produce signals or messages. Towers may be self-supporting, guyed, or mounted on poles or buildings. See Article 8, Section ~~8.400~~ **8.500**, for site design standards.
[Ord. 5742; 7/14/10]

(2) *Use Examples*. Types of uses include, but are not limited to: broadcast towers, telecommunication towers or poles or antennae, and point-to-point microwave towers.

(3) *Exceptions*.

(a) Receive-only antennas and satellite dishes are not included in this category.

(b) Radio and television studios are classified in the Office category.

(c) Radio frequency transmission facilities that are public safety facilities are classified as Basic Utilities.

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DEFINITIONS

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

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Cluster Development: A development design technique that concentrates buildings in specific areas on a site to allow remaining land to be used for recreation, common open space, or the preservation of environmentally or historically sensitive features. See Article 11, **Sections** 11.400 through ~~11.510~~ **11.530**. [Ord. 5742, 7/14/10]

***

Crime Prevention Through Environmental Design (CPTED): The proper design and effective use of the built environment that can lead to a reduction in the fear and incidence of crime, and an improvement of the quality of life. The four basic elements of CPTED are natural surveillance, natural access control, territorial reinforcement, and image.

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Height of Building: The vertical distance above "Grade" as defined herein to the highest point of the coping of a flat roof or to the deck line of a mansard roof or to the average height of the highest gable of a pitched or hipped roof (Figure 22.**400**-1). The "grade" measurement is taken from the highest adjoining sidewalk to ground surface within a 5-foot horizontal distance of the exterior wall of the building when such sidewalk or ground surface is not more than 10 feet above grade. When the sidewalk or ground surface is more than 10 feet above the lowest grade, the "grade" measurement is taken 10 feet above the lowest grade (Figure 22.**400**-2). The height of a stepped or terraced building is the maximum height of any segment of the building. [Ord. 5742, 7/14/10]

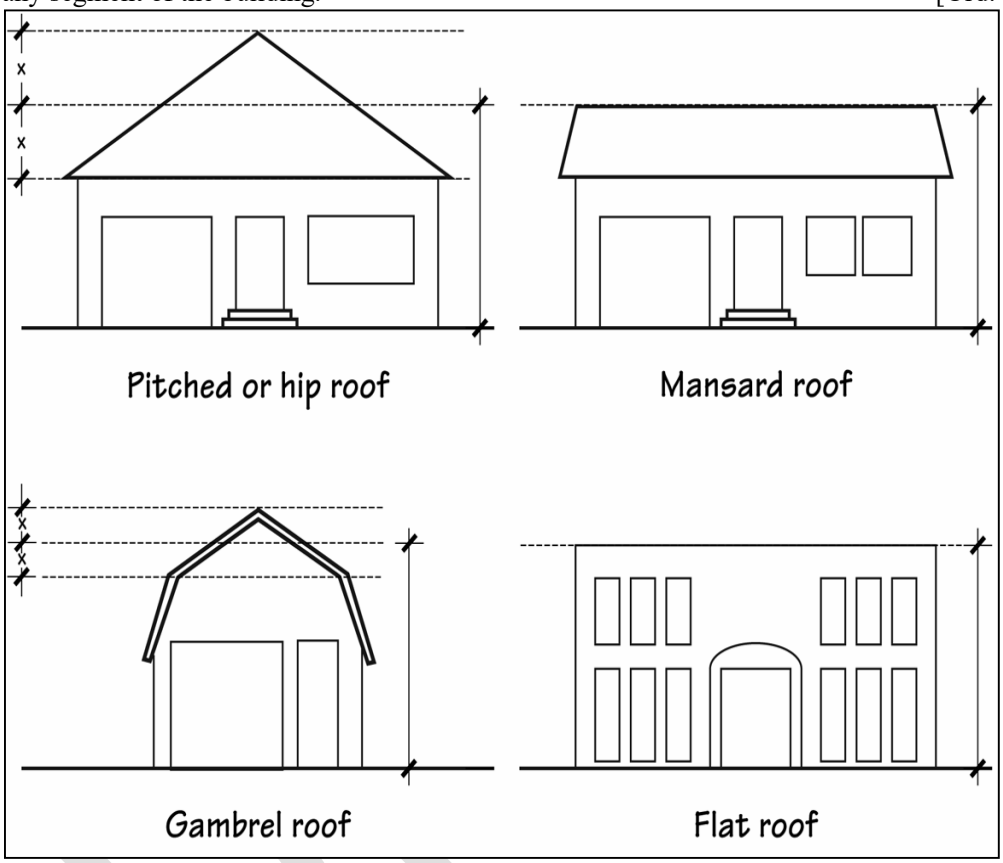

FIGURE 22.400-1. Measure building height by roof types.

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: ****

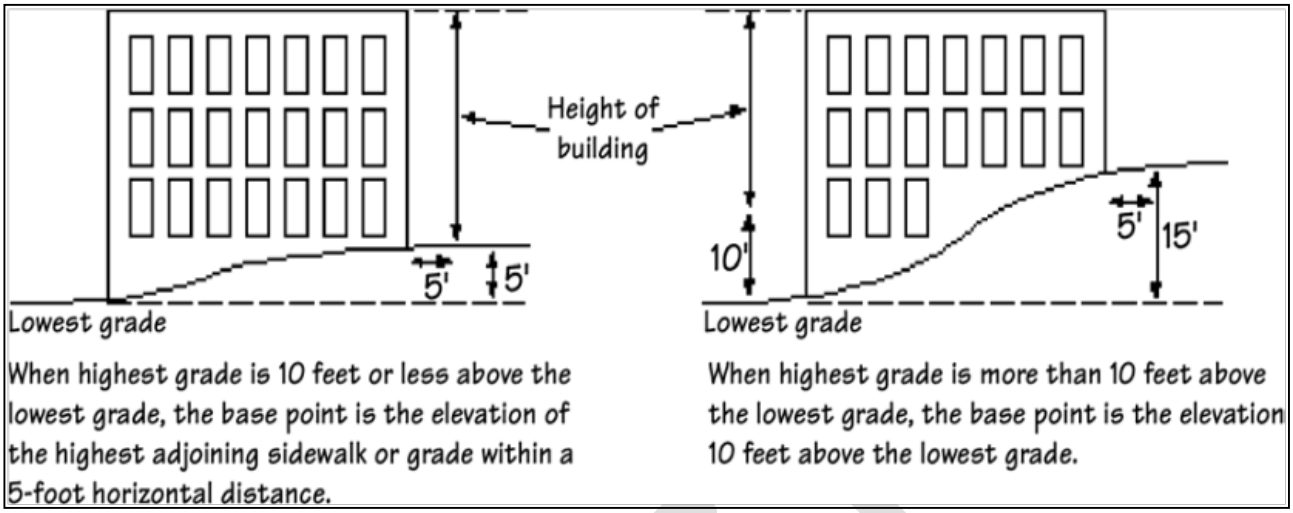

FIGURE 22.400-2. Measuring the height of buildings that have a portion below grade.

[Ord. 5742, 7/14/10]

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

[Ord. 5742, 7/14/10]

***

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

***

Temporary Residence: A residence, which may be a manufactured home, that is: a) located on the same property as a residence made uninhabitable by fire, flood, or other natural disaster and occupied by the persons displaced by such disaster, or b) located on the same property as a residence that is under construction or undergoing substantial repairs or reconstruction and occupied by the persons intending to live in such permanent residence when the work is completed, or c) located on a non-residential site and occupied by persons having construction or security responsibilities over such site. See Article 10, Sections ~~10.420~~ **10.440**-10.510.

NATURAL RESOURCE OVERLAY DISTRICT DEFINITIONS

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AMC 7.98 Tree Removal

Albany Municipal Code - Chapter 7.98

TREE REGULATIONS

Sections:

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7.98.030 Prohibited activities.

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7.98.010 Purpose.

The following chapter is established by the Albany City Council to promote and protect the public health, safety, and general welfare of the citizens of Albany by providing for the regulation of the planting,

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maintenance, and removal of trees in the City of Albany. Trees of significant size possess considerable environmental and aesthetic qualities beneficial to the community. These standards are intended to balance the preservation of significant trees as a benefit to the community with the individual right to use and enjoy property. (Ord. 5495 § 1, 2001; Ord. 5096 § 2, 1993).

7.98.020 Definitions.

(1) "Certified arborist" means a person certified by the International Society of Arboriculture as having specialized knowledge, experience, and training related to arboriculture.

(2) "City Forester" means the person designated by the ~~Public Works~~ **Parks and Recreation** Director to be the authorized representative in matters concerning the urban forest of the City of Albany.

(3) "Critical root zone" means **the area around a tree where roots are critical to a tree's survival. The critical root zone is estimated and expressed as a circle around the center of a tree's trunk, where the radius is calculated by adding 1 foot for every 1-inch of trunk diameter plus the tree trunk's radius; where all tree measurements are consistent with those for establishing Tree Circumference. For example, a tree with a Tree Circumference of 6.5 feet would have a trunk radius of 1.0 feet and diameter of 25 inches. The critical root zone would be a circle with a radius of 26 feet (1 ft + (25 in * 1 ft/in)) from the center of the tree's trunk and have a total diameter of 52 feet.** ~~the distance extending out from and surrounding a tree trunk. The critical root zone distance is calculated by multiplying the diameter of the tree, in inches, measured at four and one-half feet above the mean ground level, by 18. For example, a tree with a diameter of two inches would have a critical root zone of 36 (2 × 18) inches all around the tree.~~

(4) "Hazardous or dangerous tree" means a tree that is classified as a hazardous or dangerous tree by the City Tree Commission.

(5) "Person" means any individual, partnership, copartnership, firm, company, corporation, association, joint stock company, trust, estate, governmental entity, or any other legal entity, or their legal representatives, agents, or assigns.

(6) "Public trees" means trees located on property designated as a public park and trees located in public right-of-way not defined as street right-of-way.

(7) "~~Public Works~~ **Parks and Recreation** Director" means the person designated by the City Manager to supervise the ~~Public Works~~ **Parks and Recreation** Department and who is charged with certain duties and responsibilities by this chapter, or the duly authorized representative.

(8) "Remove or removal" means to fell 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. Removal does not in any context include normal pruning of trees.

(9) "Significant tree" means:

(a) Any heritage, rare, threatened, or endangered tree of any size as defined or designated under State or Federal law; or

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(b) Any tree designated as significant by the City Tree Commission by virtue of heritage parameters or size.

(10) "Street trees" means trees located in public rights-of-way within the City.

(11) "Tree" means a self-supporting, perennial woody plant characterized by one main trunk or in some cases multiple trunks, and one main canopy of leaves, usually growing to a height of 15 feet or higher.

(12) "Tree circumference" means the distance measured around the trunk of a tree at four and one-half feet above the mean ground level from the base of the trunk. The circumference of a tree with multiple

trunks is determined by adding together the individual trunk circumferences greater than six inches. (Ord. 5495 § 1, 2001; Ord. 5096 § 2, 1993).

7.98.030 Prohibited activities.

(1) It shall be unlawful for any person to remove, destroy, break, or injure any street tree or public tree.

(2) It shall be unlawful for any person to attach or keep attached to any street or public tree or to the guard or stake intended for the protection of such tree, any rope, wire, chain, sign, or other device whatsoever, except as a support for such tree.

(3) During the construction, repair, alteration or removal of any building or structure it shall be unlawful for any owner or contractor to leave any street tree or public tree in the vicinity of such building or structure without a good and sufficient guard or protectors as shall prevent injury to such tree arising out of or by reason of such construction or removal.

(4) Excavations shall not occur within 10 feet of any street tree or public tree without approval of the City Forester, applying criteria developed by the City Tree Commission. Utility pole installations are exempted from the requirements set forth in this subsection. During such excavation or construction, any such person shall guard any street tree or public tree within 10 feet thereof.

(5) All building material or other debris shall be kept at least four feet from any street tree or public tree.

(6) Unless removal is expressly authorized by a land use action or approval issued by the City of Albany, it shall be unlawful to remove any tree larger than or equal to six and one-half feet in circumference (approximately 25 inches in diameter), public or private, within the City of Albany city limits without first making application to the City of Albany and obtaining a permit or as otherwise authorized by this code. (Ord. 5495 § 1, 2001; Ord. 5096 § 2, 1993. Formerly 7.98.120).

7.98.040 Permits required.

(1) A permit shall be obtained from the City Forester, applying criteria developed by the City Tree Commission, before planting, pruning, or otherwise affecting a street tree.

(2) A permit shall be obtained from the City Forester, applying criteria contained in AMC 7.98.180, for the removal of individual trees equal to or greater than six and one-half feet in circumference on all property within the city limits of the City of Albany.

(3) With a permit, adjacent property owners may plant street trees so long as the selection, location, and planting of such trees is in accordance with this chapter.

(4) Any street tree planted that does not comply with this chapter may be removed by the City at the direction of the City Tree Commission. The cost of such removal will be borne by the person or persons who planted the tree.

(5) Permits shall be valid for a period of 180 days following the date of issuance. (Ord. 5495 § 1, 2001; Ord. 5096 § 2, 1993. Formerly 7.98.090).

7.98.050 Street trees – Classification and spacing.

(1) The City Tree Commission shall develop and maintain a list of approved trees for planting along streets. The trees will be listed in three size classes based on mature height: small (under 30 feet); medium (30 to 50 feet); and large (over 50 feet). Lists of trees not suitable for planting will also be created by the City Tree Commission.

(2) The City Tree Commission shall develop criteria on the spacing of street trees. (Ord. 5495 § 1, 2001; Ord. 5096 § 2, 1993. Formerly 7.98.030).

7.98.060 Distance between curb and sidewalk.

The distance street trees may be planted from curbs or curblines and sidewalks will be in accordance with the three size classes listed in AMC 7.98.050(1). No tree may be planted in a planting strip with a width of less than the following: small trees, three feet; medium trees, five feet; and large trees, eight feet. The exception to this rule shall be when curb and sidewalk are protected by a chemical or mechanical barrier approved by the City Forester. (Ord. 5495 § 1, 2001; Ord. 5096 § 2, 1993).

7.98.070 Distance from street corners and fire hydrants.

The City Tree Commission shall establish standards for planting street trees in vision clearance areas. (Ord. 5495 § 1, 2001; Ord. 5096 § 2, 1993).

7.98.080 Planting in roadways having no gutter or curb.

No trees, shrubs, or plantings more than 18 inches in height above the adjacent grade shall be planted in the public right-of-way abutting roadways having no established curb or gutter, unless approved by the City Engineer. (Ord. 5841 § 2, 2014; Ord. 5495 § 1, 2001; Ord. 5096 § 2, 1993. Formerly 7.98.130).

7.98.090 Tree topping.

It shall be unlawful for any person to top any street tree, public tree, or heritage tree. Topping shall be defined as the cutting back of limbs to stubs larger than three inches in diameter within the tree's crown to such a degree so as to remove the normal top. Trees severely damaged by storms or other causes or certain trees under utility wires or other obstructions where normal pruning practices are impractical may be exempted at the determination of the City Forester. (Ord. 5495 § 1, 2001; Ord. 5096 § 2, 1993. Formerly 7.98.140).

7.98.100 Exemptions.

(1) In the event of a storm, freeze, or other environmental event resulting in damage to street and public trees, the City Manager may declare an emergency suspension of the permit requirements for the removal and pruning of trees set forth in this chapter. Such declaration shall prescribe dates during which permits are not required, but in no event may any single declaration exceed 21 days. (Ord. 5495 § 1, 2001; Ord. 5096 § 2, 1993. Formerly 7.98.150).

(2) Additional tree removal permits are not required for any trees that have been authorized for removal in an approved site plan review processed in accordance with the Albany Development Code.

7.98.110 Private utility tree policy.

Upon obtaining a permit from the City Forester, a private utility maintaining its utility system in a street may prune or cause to be pruned, using proper arboricultural practices in accordance with said permit, any tree located in or overhanging the street that interferes with any light, pole, wire, cable, appliance or apparatus used in connection with or as a part of the utility system; but no tree shall be pruned without the consent of the abutting owner until the utility shall have given a written, printed, or verbal notice to the owner or occupant of the premises. The City Forester must be notified before any work proceeds. In cases of emergency, the consent of the abutting property owner may not be required, but notification of any work completed must be reported to the City Forester. (Ord. 5495 § 1, 2001; Ord. 5096 § 2, 1993. Formerly 7.98.040).

7.98.120 Heritage trees.

The City Tree Commission may designate certain trees as "heritage trees" within the City with the consent of the owner(s) of record. The purpose of the heritage tree designation is to recognize, foster appreciation of, and protect trees having significance to the community. The City Tree Commission shall have the authority to determine, select, and identify such trees that qualify as heritage trees. Once a tree is designated as a heritage tree, it will remain so unless it becomes necessary to classify it as a dangerous tree and removed as such. Heritage trees may not be removed without the express consent of the City Tree Commission. (Ord. 5495 § 1, 2001; Ord. 5096 § 2, 1993. Formerly 7.98.050).

7.98.130 Pruning, corner clearance.

Every owner of any tree, located on private property, overhanging any street or right-of-way within the City shall prune the branches so the branches shall not obstruct the light from any street lamp or obstruct the view of any street intersection, traffic sign, or traffic control device, and so that there shall be a clear space of 14 feet above street surface, and eight feet above the sidewalk surface. Said owner shall remove all dead, diseased, or dangerous trees, or broken or decayed limbs that constitute a menace to the safety of the public. The City shall have the right to prune any tree or shrub on private property when it interferes with the light from any street lamp, or interferes with visibility of any traffic control device or sign or vision clearance area at intersections and driveways. Tree limbs that grow within 10 feet of high voltage electrical conductors shall be maintained clear of such conductors by the electric utility company in compliance with any applicable franchise agreements and AMC 7.98.110, Private utility tree policy. (Ord. 5495 § 1, 2001; Ord. 5096 § 2, 1993. Formerly 7.98.080).

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7.98.140 Dead or dangerous tree removal on private property.

The City Tree Commission shall have the right to cause the pruning or removal of any dead or dangerous trees on private property within the City, when such trees constitute a hazard to life and property, or harbor insects or disease which constitute an imminent threat to other trees within the City. The City Manager or his designee will notify in writing the owners of such trees. Removal shall be done by said owners at their own expense within 30 days after the date of service of notice. The failure of the property owner to prune or remove said dead or dangerous tree within 30 days of the delivery of notice shall be deemed a violation of the Albany Municipal Code, and, in addition to prosecution of said violation, the City Manager or his authorized representative may at any time thereafter prune or remove said dead or dangerous tree and assess the cost against the property as provided hereafter.

(1) Deadline to Remove Dead or Dangerous Trees. Within 30 days after the date of service of the notice, the owner of the property shall cause the tree determined to be dead or dangerous to be removed.

(2) Requested Removal by City. At the request of the owner, the City Manager or his/her designate will cause said dead or dangerous tree to be removed for a fee sufficient to cover the direct cost plus 30 percent for administrative overhead with a minimum fee.

(3) Removal by City. The City Manager or his/her designate may cause to be removed any tree determined to be dead or dangerous at any time following the deadline for removal set forth at subsection (1) of this section. The cost of the removal of said dead or dangerous tree shall be as calculated in subsection (2) of this section and will be a charge to the owner of the property and will become a lien against the property.

(4) Right to Enter. In the event that it becomes necessary for the City Manager or his/her designate to undertake the removal of the said dead or dangerous tree from any private property within the City, the designate of the City Manager shall have the right at reasonable times to enter into or upon said property to remove said dead or dangerous tree.

(5) Cost to Become a Lien. Upon completion of the removal of a dead or dangerous tree under these provisions and in the event that the fee is not paid within 30 days thereafter, the City Manager or his/her designate shall file with the City Recorder and thereafter present to the City Council an itemized statement of the cost thereof. After providing the notice and hearing set forth below, the City Council shall, by ordinance, determine the reasonableness of said statements of costs and adjust the same, and thereupon the amount of said statements as approved by the City Council shall be an obligation owed to the City of Albany by the owner or owners of the real property involved, and the City shall have a lien upon said real property for such sum and the lien shall be entered in the lien docket and enforced against said property in the same manner provided for the enforcement of City liens.

(6) Notice and Hearing. Prior to the adoption of the ordinance referred to above, the City Manager or his/her designate shall cause a notice to be mailed by registered or certified mail, postage prepaid, to the record owner or owners of any real property upon which the City proposes to impose a lien for the costs of the removal of a tree determined to be dead or dangerous. This notice shall be mailed to the owner or owners of the real property in question at the address designated on the Linn or Benton County real property tax assessment rolls. An error in the name of the property owner or owners shall

not void the assessment nor will a failure to receive the notice of the proposed assessment render the assessment void and any lien imposed pursuant to this section shall be a valid lien against the property. The notice shall contain a summary of the costs which are proposed to be assessed against the owner's property and shall advise of the City's intent to assess said costs against the real property upon which the work was performed and shall further advise the owner or owners of their right to a hearing before the City Council concerning the proposed assessment and the date and time of said hearing.

(7) Summary Abatement. The procedure provided by in this section is not exclusive but is in addition to abatement procedure provided by other ordinances. (Ord. 5495 § 1, 2001; Ord. 5096 § 2, 1993. Formerly 7.98.1100, 7.98.110).

7.98.150 City's power and authority is permissive, not mandatory.

Under no circumstances shall this chapter obligate the City of Albany, or any employee or agent thereof, to undertake any particular action to enforce any of the terms of this chapter. All authority granted to the City, its agents and employees, shall be permissive and not mandatory, and the City, its agents and employees shall have complete discretion to determine whether or not enforcement action of any type should be undertaken and if so, the nature of the enforcement action itself. The remedies provided in these regulations shall be cumulative and in addition to any and all remedies available at law or equity. (Ord. 5495 § 1, 2001; Ord. 5181 § 1, 1995. Formerly 7.98.105).

7.98.160 Arborist certification.

A tree contractor shall have on staff an arborist certified by the International Society of Arboriculture to be qualified to prune, treat, or remove street or public trees within the City. The certified arborist must oversee all pruning work and certify that all work meets the City's pruning specifications. If a certified arborist is not on the staff of the contractor, the City Forester, applying criteria developed by the City Tree Commission, must approve the tree service contractor before the work begins. In cases where the professional opinion of a certified arborist differs from that of the City Forester, the City Forester may refer the matter to the City Tree Commission for a decision. Nothing in this section shall prevent the employees of public agencies who are not certified arborists from pruning trees on the grounds of those public agencies.

(Ord. 5495 § 1, 2001; Ord. 5096 § 2, 1993).

7.98.170 Permit approval.

The ~~Public Works~~ **Parks and Recreation** Director or designee shall approve or conditionally approve permits when it has been demonstrated that one or more criteria in AMC 7.98.180 have been met. (Ord. 5495 § 1, 2001).

7.98.180 Tree removal permit criteria.

(1) Tree removal will be approved when:

(a) It has been determined by the City Forester or by a certified arborist, without objection from the City Forester, that a tree is hazardous, dangerous, or significantly impacted by aggressive pests or pathogens,

with a potential to spread and no other viable options are reasonably available to minimize hazard or alleviate risk of pest or pathogen to spread; or

(b) A logging permit issued by the Oregon Department of Forestry has been submitted to the City Forester; or

(c) Trees are overcrowded and it is determined by the City Forester ~~or a certified arborist~~ that removal will have a positive impact on the overall site and will not compromise the health of residual trees; or

(d) When necessary pursuant to a building permit for an improvement for which a site plan approval is not required; or

(e) Variance Clause. When unique circumstances specific to the applicant's situation have been expressed in writing with the application and the City Tree Commission has approved removal. Unique circumstances that could allow for a variance may include but are not necessarily limited to:

(i) A tree that is causing significant negative impacts to improvements or personal property;

(ii) Personal health reasons such as severe allergic conditions; or

(iii) The tree is invasive, having significant negative impact to surrounding vegetation.

(2) In all other cases, a tree removal permit shall be denied. (Ord. 5495 § 1, 2001).

7.98.200 Conditional permit approval.

The City Forester may specify conditions to the approval of tree removal. Such conditions may include, but not necessarily be limited to, **the methods for protecting residual trees identified in 7.98.215 and/or** a requirement for certified arborist oversight during construction activities, specific construction methods such as critical root zone protection and protective fencing, post-removal site cleanup, maintenance of replacement trees, and/or post-construction evaluation of tree health.

(Ord. 5495 § 1, 2001).

7.98.205 Permit fees.

Permit application ~~F~~fees for removal permits shall be established by Council resolution. (Ord. 5495 § 1, 2001).

7.98.210 Appeals.

Any person who is denied a permit or is granted a permit with conditions may appeal the denial or imposition of condition by filing a written notice of appeal to the City Forester. The notice must be received within 15 calendar days of the date of denial or the date of issuance of the permit with conditions imposed. The appeal must describe in writing the specific basis upon which the appellant asserts that the decision was in error. The specific basis may include but not necessarily be limited to private need, which is unique to the property owner's circumstances as stated in AMC 7.98.180(1)(e). The City Tree Commission will review all appeals. Appeals of decisions made by the City Tree Commission are made to the City Council in accordance with AMC 2.23.060. (Ord. 5495 § 1, 2001).

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7.98.215 Protecting Residual Trees

When removing trees under a permit or site plan approval, 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.

(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.

(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.

(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.

(4) No damaging attachment, wires, signs or permits may be fastened to any protected tree.

(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 (2) 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.

(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 the table below.

Auger distances for installation of utilities.

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

7.98.220 Penalties.

Any person violating any of the provisions of this code relating to the planting, pruning, trimming, or removal of trees shall be strictly liable for such violations and punished under the general penalty provided for in Chapter 1.04 AMC. Proof of a specific criminal intent shall not be required. Any violation

of this chapter which affects an individual tree shall be a separate offense. (Ord. 5712 § 1, 2009; Ord. 5495 § 1, 2001;

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NO PUBLIC TESTIMONY AS OF AUGUST 7, 2020