

ORDINANCE NO. 5742

AN ORDINANCE AMENDING ORDINANCE NO. 4441, WHICH ADOPTED THE CITY OF ALBANY DEVELOPMENT CODE AND ZONING MAP BY AMENDING THE DEVELOPMENT CODE TEXT RELATED TO ADJUSTMENTS, SPECIAL STATUS PROPERTIES, ALLOW GYMNASTICS-TYPE USES IN THE LI ZONE, ADD VOCATIONAL SCHOOLS IN INDUSTRIAL ZONES, UPDATE USE CATEGORIES AND DEFINITIONS, ADOPTING FINDINGS, AND DECLARING AN EMERGENCY (FILE DC-03-10).

WHEREAS, from time to time it is appropriate to amend the Albany Development Code based on changing conditions, and to be in compliance with state and federal laws; and

WHEREAS, the City has been collecting suggestions for revisions to the Code for several years and is developing an on-going, semi-annual process to evaluate changes to the Code; and

WHEREAS, these amendments are proposed as a part of the on-going process of evaluating and updating the Code to ensure the regulations are clear and there are no inconsistencies; and

WHEREAS, several of the proposed amendments respond directly to requests from Albany property owners; and

WHEREAS, on May 24, 2010, the Planning Commission held a public hearing on the proposed amendments; and

WHEREAS, on June 21, 2010, the Planning Commission held a second public hearing and recommended these changes to the City Council, based on their deliberation, and the staff report; and

WHEREAS, on July 14, 2010, the Albany City Council held a public hearing on the proposed amendments; reviewed the amendments recommended by the Planning Commission and testimony presented at the public hearing and then deliberated.

NOW, THEREFORE, THE PEOPLE OF THE CITY OF ALBANY DO ORDAIN AS FOLLOWS:

Section 1: The Findings and Conclusions found in the staff report, attached as Exhibit A, are hereby adopted in support of this decision.

Section 2: The Albany Development Code text is hereby amended as shown in the attached Exhibits B through G for the articles listed below:

Exhibit B: Article 1, Administration and Procedures and Article 2, Review Criteria

Exhibit C: Article 3, Residential Zoning Districts

Exhibit D: Article 4, Commercial and Industrial Zoning Districts

Exhibit E: Article 5, Mixed Use Village Center Zoning Districts

Exhibit F: Article 10, Manufactured Homes

Exhibit G: Article 22, Use Categories and Definitions

Section 3: Inasmuch as this Ordinance is necessary for the immediate preservation of the peace, health and safety of the citizens of the City of Albany, an emergency is hereby declared to exist. This ordinance will be in full force and effective immediately upon its passage by the Council and approval by the Mayor.

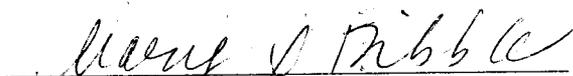
Passed by the Council: July 14, 2010

Approved by the Mayor: July 14, 2010

Effective Date: July 14, 2010

  
Mayor

ATTEST:

  
Deputy City Clerk

## FINDINGS AND CONCLUSIONS

### File DC-03-10

**Recommended unanimously by the Planning Commission on June 21, 2010**

**Adopted by the Albany City Council on July 14, 2010**

### **BACKGROUND INFORMATION**

The Albany Development Code (ADC) allows for the public to request legislative amendments and for the Community Development Director to initiate legislative amendments.

The City has implemented a process to periodically evaluate and adopt changes to the ADC – to include clarifying amendments and policy amendments. This package of amendments includes three resident requests and a few minor clarifying and housekeeping amendments.

### **NOTICE INFORMATION**

A notice of public hearing was mailed May 14, 2010, to persons interested in Development Code amendments and believed to have a particular interest in this package of amendments. A notice of public hearing was published in the *Albany Democrat Herald* May 17, 2010. The Development Code amendments were posted on the City's Web site.

The Planning Commission held a public hearing on the proposed amendments on May 24, 2010. There was no public testimony. The Planning Commission discussed the amendments and recommended that staff clarify a few changes in the proposed language.

Immediately following the Planning Commission's May 24, 2010, public hearing, staff received a request to consider an encroachment of up to 3 feet into the required setback to enable residential bathrooms to be retrofitted to accommodate persons with mobility impairments. To include this request with this round of Development Code amendments, a second notice of public hearing was mailed June 11, 2010, to persons interested in Development Code amendments and believed to have a particular interest in retrofitting bathrooms. A notice of public hearing was published in the *Albany Democrat Herald* June 14, 2010. The Development Code amendments were posted on the City's Web site.

The Planning Commission held a public hearing on the amendment on June 21, 2010. There was no public testimony. The Planning Commission unanimously recommended approval of the additional amendment to DC-03-10.

### **STAFF ANALYSIS**

#### **Development Code Amendment File DC-03-10**

The Albany Development Code (ADC) contains the following review criteria that must be met for this Development Code amendment to be approved. Code criteria are written in ***bold italics*** and are followed by the Proposed Amendments, Findings and Conclusions.

- (1) ***The proposed amendments better achieve the goals and policies of the Comprehensive Plan than the existing regulatory language.***

Amendments are first explained. Relevant Comprehensive Plan goals and policies are written in *italic* type and considered as a separate review criterion following the description of the major revisions.

FINDINGS OF FACT

*Goal 14, Urbanization, Development Review, Policy 5: Ensure the City's land use planning process and policy framework is workable and understandable for local officials, staff, and the public. Ensure the degree of application and review is commensurate with the size and complexity of various development requests.*

*Goal 14, Urbanization, Development Review, Policy 2: Encourage design innovation but ensure the site design considers site characteristics, potential impacts on surrounding areas, and applicable Comprehensive Plan policies.*

1.1 Most of the proposed amendments are to clarify the intent of existing standards, remove duplication, and inconsistencies within the Code. These clarifying amendments will help make the Code more understandable for the staff and the public.

- Article 1, Administration and Procedures and Article 2, Review Criteria (Exhibit B). Changes recently made to the Development Code by Ordinance No. 5728 (planning file DC-03-09) included amendments to Article 1, Administration and Review Procedures, Section 1.070 (3) and new (4) under When Land Use Applications are Required. Ordinance No. 5728 clarified standards for accessory buildings for residential and non-residential uses and building additions. These amendments need to be continued in Article 2, Review Criteria, for Site Plan review. We also want to make sure that all review criteria are located in Article 2. These revisions are reflected in Sections 2.440 through 2.580 (standards for Site plan review) to be consistent with revisions to 1.070.
- A confusing issue has been the use of a variety of terms to define building locations: setbacks, yards, setback yards, and required yards. Clarifications have been made in Articles 3, 4, 5 and 22 (Exhibits C, D, E, and G).

1.2 The proposed changes will correct inconsistencies created when Ordinance No. 5728 was adopted. These changes will not affect policies, development standards or criteria.

*Goal 9: Economy, Policy 13: Support the area's educational resources as vital to the social and economic well-being of the community. Encourage opportunities for increasing skill levels of local workers.*

*Goal 9: Economy, Land Use, Commercial, Policy 1: The size and type of future commercial sites should be proportional to the area to be served and located so as to be easily accessible by the service area.*

1.3 Article 4, Commercial and Industrial Zoning Districts (Exhibit D). One request from the public and a suggestion from staff are included in this article:

- Sections 4.050 and 4.060 (7). Add gymnastics, tumbling and cheerleading as Indoor Recreation uses allowed in the Light Industrial (LI) zone. A resident has requested that the City consider broadening the types of indoor recreation that are allowed in the LI zone to make use of vacant industrial buildings. In particular, gymnastics, cheerleading, and tumbling uses need large volumes of space and tall ceiling heights (over 20 feet). Vacant industrial buildings often provide the necessary height and open space needed to conduct these activities safely.
- Vocational schools, Sections 4.050 and 4.060 (16). In reviewing and using the Development Code, staff noticed that vocational schools were classified as a retail use. Staff is proposing that vocational schools be considered an educational institution rather than a retail use in Article 22, Use Categories and Definitions. Vocational schools uses typically support and train students to work in industries so we propose that they be allowed in the industrial zoning districts through the site plan review process. This amendment better achieves the policy to provide training for a skilled workforce.

1.4 Article 22, Use Categories and Definitions (Exhibit G).

- All of the use categories and definitions were reviewed for accuracy and consistency. We found a few errors that need to be fixed and definitions are recommended.
- Section 22.140, Retail Uses. Add pharmacies as a convenience-oriented retail use. Large format retailers that include pharmacies would still be allowed as general sales and services oriented retail. This amendment would allow pharmacies in the NC zone, which is intended to serve nearby residents or employees. This issue was brought to our attention when reviewing a proposal for a hospice care facility on some land zoned NC that would like to have a pharmacy on-site. The pharmacy would primarily serve residents on-site, but would be open to the public to serve adjacent neighborhoods.
- Vocational Schools. This type of use is being moved out of the Retail use category (Section 22.140) and into the Educational Institutions use category (Section 22.210). This would allow these trade schools in industrial zones without allowing other retail uses.
- Section 22.235, Recreational Vehicle Parks. This use is regulated in Article 10, Manufactured Homes. We thought it would make the Code more user friendly and include it as its own use category and add the category to the schedule of permitted uses by zones so that the user could determine where these parks are allowed.

1.5 The proposed amendments will make the Development Code easier to use.

1.6 The following Comprehensive Plan goals and policies support the proposal to allow an encroachment up to 3 feet into interior setbacks to retrofit existing residential bathrooms to accommodate mobility impairments.

*Goal 10 Housing, Goal: Provide a variety of development and program opportunities that meet the housing needs of all Albany's citizens.*

*Goal 10 Housing, Goal: Create a city of diverse neighborhoods where residents can find and afford the values they seek.*

*Goal 10 Housing, Policy: Encourage innovation in housing types, densities, lot sizes and design to promote housing alternatives. Examples include: Other actions directed at reducing housing costs which conform to the Comprehensive Plan, including innovative Development Code regulations.*

*Goal 10 Housing, Policy: Recognize groups needing specialized housing such as the elderly, handicapped, homeless, and other disadvantaged groups when identifying housing programs and opportunities.*

*Goal 14, Urbanization, Development Review: Encourage design innovation but ensure the site design considers site characteristics, potential impacts on surrounding areas, and applicable Comprehensive Plan policies.*

- 1.7 Allowing bathrooms to be retrofitted to accommodate walk or roll-in showers and room for wheelchairs is an innovative way to be inclusive and make exceptions to the setbacks for a good reason.
- 1.8 Retrofitting a bathroom for mobility impairments may help residents stay in their homes and neighborhoods without having to move to find a house that is or can be modified without encroaching into the setback.
- 1.9 The proposal to allow an adjustment to the interior setbacks will allow residents to live more affordably and possibly delay more expensive care.

- 1.10 Processing these requests through the adjustment process will allow for case by case evaluation of the circumstances and challenges of the site and floor plans.
- 1.11 The proposed Code amendments will help meet housing needs for all of Albany’s residents.

CONCLUSIONS

- 1.1 The proposed Development Code amendments better achieve the goals and policies of the Comprehensive Plan than the existing regulatory language.
  - 1.2 This criterion is satisfied.
- (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.*

The applicable Development Code policies and purposes are identified in *italic* type and considered as a separate review criterion.

FINDINGS OF FACT

- 2.1 A few amendments relate to the zoning district purpose statements. Staff reviewed the zone purpose statements for the IP, LI, and HI zones to determine where gymnastics type uses and vocational schools should be allowed and the NC zone to determine where small pharmacies should be allowed.
  - (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.*
- 2.2 The Development Code should facilitate prompt review of development proposals and the application of clear and specific standards. The proposed amendments will make the Code easier to use.
- 2.3 The proposed amendments to allow adjustments to the interior setbacks would help protect the health, safety and welfare of Albany’s citizens faced with mobility impairments.
- 2.3 The proposed amendments better achieve the goals and policies of the Comprehensive Plan as identified in findings under criterion 1.
  - (3) *Facilitate prompt review of development proposals and the application of clear and specific standards.*
- 2.4 Most of the proposed amendments will make the existing standards clearer and more specific.
- 2.5 Most proposed language provides specific standards that must be met in order to allow encroachment into the interior setbacks to accommodate mobility impairments.
- 2.6 Processing setback encroachment requests through the adjustment process will allow timely review of proposals.
  - (4) *Provide for public information, review, and comment on development proposals that may have a significant impact on the community.*
- 2.7 The proposed amendments related to uses in zones will not reduce the uses allowed in any zone and the land use review process will allow for public input on any new uses and evaluation of the potential impacts.

CONCLUSIONS

- 2.1 The proposed Development Code amendments are consistent with the purposes of the Code.
- 2.2 This criterion is satisfied.

## ARTICLE 1 ADMINISTRATION AND PROCEDURES

*Only changes to Section 1.073 of this article are proposed, so no other sections are shown.*

*PURPOSE of amendments: The criteria listed in 1.073 are repeated in Article 2, Review Criteria: Section 2.440(8), and are very similar to the review criteria for Option C Site Plan Review, Sections 2.550 – 2.580.*

*Staff proposes the criteria for Change of Use and Minor Additions be located in one place, in the Review Criteria article under Sections 2.550 – 2.580 Option C (Site Plan) Review. These criteria should not be located in Article 1, Administration and Procedures.*

*Effect of amendments: Correct inconsistency.*

1.073 ~~Change of Use and Minor Additions. These actions require a Site Plan Option C application to be submitted to ensure compliance with the Code. A change of use within an existing structure and/or building additions up to 500 square feet are not land use decisions are reviewed through the Site Plan Option C process. See when the following criteria in ADC 2.550 to 2.580. are satisfied.:~~

- ~~(1) No structural expansions greater than 500 feet, additional exterior storage, or outside seating area of any size is proposed.~~
- ~~(2) The use will not create additional adverse affects for abutting properties or the neighborhood (e.g., visual, noise, or air pollution; increased parking requirements; or improvements to public facilities.)~~
- ~~(3) Any non conformity with the provisions of this Code have been brought into compliance to an extent commensurate with the proposed changes, including compliance with sign, landscaping, and parking requirements, except when restricted by building location or limiting site characteristics.~~

[Ord. 5728, 1/27/10]

## ARTICLE 2 REVIEW CRITERIA

*Only the proposed changes in the Adjustment and Site Plan Review sections of this article are shown.*

### ADJUSTMENTS

2.060 Purpose. The adjustment review allows the Director to make limited modifications to the application of Development Code regulations. Adjustment reviews provide very limited flexibility from numeric standards for unusual situations, while still providing certainty and rapid processing for land use applications. Adjustments will not be considered to avoid a review process or standard in this Code.

[Ord. 5720, 08/12/2009]

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

2.070 Procedures. Adjustment applications are processed through a Type I procedure. Variances are processed 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, 08/19/2009]

*PURPOSE of amendments: To allow bathrooms to be retrofitted to accommodate persons with mobility impairments to encroach up to a 3-foot into the required side setback, with restrictions through the Adjustment review process.*

*Persons who use wheelchairs or walkers who want to stay in their homes are challenged with traditional bathrooms. A "wheel-in" or "walk in" shower is an option that accommodates their safety and health challenges.*

*The Code currently allows bay windows, porches and chimneys to encroach up to 2 feet into the side yard setbacks. [See Section 3.260(2) in Article 3.] But in some cases, 2 feet would not be adequate to accommodate the bathroom retrofit, so a 3-foot encroachment was requested. The main concern from Planning is that there is still a 3-foot setback remaining after the encroachment to ensure that the impact on the neighboring property is minimal, and to allow fire and life safety access.*

*Effect of amendments: Would allow residents to stay in their homes as their health needs change. Note: Staff expects requests for this type of adjustment will be very minimal.*

2.080 Review Criteria. 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.
- (2) The need for the adjustment is created by the unusual configuration of the property, to protect natural features, or due to the location of an existing or proposed structure on the site; **OR**  
[Ord. 5338, 1/28/1998]
- (3) **The need for the adjustment is for an encroachment into the interior setback for the purpose of retrofitting an existing residential bathroom to accommodate mobility impairments. The property owner must provide information to show the following criteria are met:**
  - (a) **The existing bathroom does not have sufficient space for a retrofit to accommodate persons with mobility impairments; and**
  - (b) **A written medical report from a licensed physician that documents a person residing in the dwelling has a mobility impairment; and**
  - (c) **The adjustment is to expand the bathroom no more than 3 feet into an interior setback; and**
  - (d) **A minimum of a 3-foot interior setback is retained adjacent to the expansion.**
- (4) The adjustment is the minimum necessary to address the unusual circumstance and still be consistent with the purpose of the zoning district.

[Ord. 5720, 08/12/09]

## 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. Site Plan Review is not intended to evaluate the proposed use or structural design. Rather, the review focuses on the layout of a proposed development, including building placement, setbacks, parking areas, external storage areas, open areas, and landscaping. [Ord. 5445, 4/12/2000]

- 2.410 Levels of Review. A site plan is reviewed at one of three levels, with the degree of detail required based on its projected land use impacts. Option A review is primarily for new development and is subject to the greatest scrutiny. Option B review is primarily for expansions of existing development and for projects that will generally result in fewer impacts on the surrounding area than a new development. Option C review is used for a change in use or another modification to a developed site that will not result in a greater impact on the neighborhood or on public facilities. [Ord. 5445, 4/12/2000]
- 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, 4/12/2000]
- 2.430 When Site Plan Review is Required. In general, a Site Plan Review covers all proposed exterior alterations included in the development proposal, but does not cover portions of the existing development that are not being modified. An exception to this is parking areas, where any proposed change to a parking lot will result in the entire parking area being reviewed. Site Plan Review is required in all of the following instances:
- (1) New development.
  - (2) Building expansions of 500 square feet or more, or any expansion that results in a reduction of parking spaces.
  - (3) Parking area expansions of 1,000 square feet or more.
  - (4) Any development listed in Articles 3, 4 or 5 that specifically requires Site Plan Review. [Ord. 5445, 4/12/2000]
- 2.440 When Site Plan Review is not Required. Activities and developments listed below do not require Site Plan Review, but are nevertheless still subject to the applicable provisions of the Code:
- (1) Agricultural uses permitted outright in any zone.
  - (2) A detached single-family dwelling or one duplex.

*PURPOSE of amendments: Changes made to 1.070 (3) and (4) in planning file DC-03-09 (Ordinance #5728) also need to be made here. The changes in (3) clarify when land use review is not required for non-residential accessory buildings. The ~~strikethrough~~ language in (3) is now in Section 2.550, when the Option C Site Plan review application is required.*

*Effect of amendments: Correct inconsistency.*

- (3) **Non-Residential** ~~a~~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 and building additions of less than 500 feet that conform to the provisions of this Code and the adopted building code.
- (4) Accessory buildings in residential districts that meet the following standards. (The applicant must submit information when he or she applies for building permits showing that the standards are met. The Community Development Director or his/her designee will determine whether the standards are met.)

- (a) The proposed building is not taller than the tallest building on adjacent property. Height here means the height of the building at its highest point.
  - (b) The area enclosed by the foundation of the proposed building is not larger than the area enclosed by the foundation of the largest building on adjacent property (in square feet).
  - (c) The amount of land that will be covered by buildings if the proposed building is constructed is not more than the applicable lot coverage allowances of the Development Code.
  - (d) The proposed building meets or exceeds the applicable setback requirements in the Code for the primary residential structure.
  - (e) The materials of the proposed building (e.g. siding and roofing), and the color of those materials, are the same as those of the primary residential structure on the subject property.
  - (f) If the proposed building is located in a special purpose district listed in Articles 6 or 7 of the Development Code, it must also conform with the requirements of that district.
- (4) Landscaping and routine property maintenance.
- (5) Improvement of parking areas containing less than 1,000 square feet and otherwise meeting the provisions of this Code.
- (6) Internal changes to a building, structure, or use of land that is not a change of use.

*PURPOSE of amendments: A Change of Use request that meets these standards is reviewed through the Site Plan Option C review process, so this section is being moved to the Option C section of this article, at 2.550.*

- ~~(7) A change in use inside an existing structure when the following criteria are satisfied:~~
- ~~a) No structural expansion larger than 500 feet or no additional exterior storage is proposed.~~
  - ~~b) The use will not create additional adverse affects for abutting properties or the neighborhood (e.g. visual, noise, or air pollution, increased parking requirements, or improvements to public facilities.)~~
  - ~~c) Any non-conformance with this Code has been addressed, including compliance with sign, landscaping, and parking requirements except where restricted by building location or limiting site characteristics.~~
- ~~(8)~~(7) An emergency measure necessary for safety or protection of property when authorized by the City Manager with written notice to the City Council.
- ~~(9)~~(8) 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 and public health and safety requirements, some of which may limit the location, scope, or duration of the use.
- ~~(10)~~(9) Establishment, construction, alteration, or maintenance of a public facility authorized by the Public Works Director including streets, highways, traffic control devices, drainage ways, sanitary and storm sewers, pump stations, water lines, electrical power or gas distribution lines, or telephone or television cable systems. This includes construction of staging areas of less than six months duration but does not include major substations, treatment facilities, storage tanks, reservoirs, or towers.
- ~~(11)~~(10) Excavation and fill for foundations and all other excavation or fill involving 50 cubic yards or less that does not adversely affect drainage patterns and is not located within a floodplain, or slope area. [Ord. 5381, 3/26/1997; Ord. 5445, 4/12/2000]

## OPTION B REVIEW

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

*PURPOSE of amendments: The new (2) is a correction needed to be consistent with changes made with Ordinance #5728 adopted in January, 2010.*

*Effect of amendments: Remove inconsistency.*

(1) An addition larger than 500 square feet to an existing structure.

~~(1)~~(2) **Accessory buildings greater than 750 square feet in the CB, HD, ES, LE, MS, MUC, MUR, OP and WF zoning districts.**

~~(2)~~(3) Parking lot additions of over 1000 square feet.

~~(3)~~(4) A change in occupancy to a more intensive use in an existing building.

~~(4)~~(5) Reduction in the number of **existing** parking spaces.

Any development consistent in scope and impact with those listed here may also be reviewed under an Option B review, at the Director's discretion. [Ord. 5265, 12/18/1996; Ord. 5445, 4/12/2000]

## OPTION C REVIEW

*PURPOSE of amendments: The new (2) is content moved from Section 2.440 (7).*

2.550 Applicability. An Option C Site Plan Review is intended for review of development in existing buildings **and building additions up to 500 square feet**. It is appropriate for the following types of development proposals:

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

(2) **A building addition to an existing or proposed use that is not greater than 500 square feet, and does not include additional outside storage or outside seating area of any size.**

~~(1)~~(3) Resurfacing of nonconforming parking lots.

~~(2)~~(4) Other development with similar impacts. [Ord. 5445, 4/12/2000]

2.560 Procedure. A Type I procedure is followed for the Option C Site Plan Review. [Ord. 5445, 4/12/2000]

2.570 Application Contents. An Option C Site Plan Review requires submittal of only the completed application form. [Ord. 5445, 4/12/2000]

*PURPOSE of amendments: The new language in (2) is relocated criteria from 2.440.*

2.580 Review Criteria. The following criteria must be met in order for the Director to approve the proposed development. **If the criteria cannot be satisfied, then the development will be processed as a Site Plan Option B Review or may be denied.**

- (1) Off-street parking is adequate to serve the proposed use.
- (2) The proposed use will not ~~generate more traffic than the previous use.~~ **create additional adverse effects for abutting properties or the neighborhood (i.e., noise, or air pollution; increased parking requirements; increased traffic; or require improvements to public facilities.)**
- (3) ~~The site is in, or can be brought into, compliance with the spirit of the Code regarding landscaping, screening and buffering.~~ **Any non-conformity with the provisions of this Code will be brought into compliance to an extent commensurate with the proposed changes, including compliance with sign, landscaping, and parking requirements, except when restricted by building location or limiting site characteristics.**
- (4) Any applicable criteria from Section 2.450.

[Ord. 5445, 4/12/2000]

### ARTICLE 3 RESIDENTIAL ZONING DISTRICTS

*PURPOSE of amendments: Changes in this article are clarifying edits, primarily to clearly distinguish yards and setbacks. The term yard and setback are defined differently in Article 22:*

*Yard, Front: The area between the front property line and the nearest point of any building on that same parcel.*

*Yard, Interior: Any yard, required or otherwise, that is not a front yard and that is adjacent to an interior lot line.*

*Setback (proposed for clarification): The minimum distance required between a structure or parking lot from the abutting property line. Some zones have a maximum front setback where buildings may be located no farther from a front property line.*

*When the two terms “yard” and “setback” are used together, they can be confusing. Staff has identified when these terms are used and is proposing changes to clarify when setbacks are intended and when yards are intended.*

*Effect of amendments: Fixing when the terms yard and setback are intended will make the Code easier to use and apply consistently.*

***No changes are proposed to 3.010 through 3.040 so they are not shown.***

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 2.230-2.260 through a Type III procedure.
CUII	Uses permitted conditionally through the Type II procedure.
PD	Use permitted only through planned development approval.
CD	Use permitted only through cluster development approval.
N	No; use not permitted in the zoning district indicated.

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

[Ord. 5673, 6/27/2007]

*PURPOSE of amendments: A few use category names are being modified or changed to be consistent with the*

New language is shown in **bold** and deleted language in ~~strike through~~.  
*Staff comments in italics* are not amendments and will be removed.

*rest of the Code. No changes to the uses themselves are proposed.*

**SCHEDULE OF PERMITTED USES**  
**Uses Allowed in Residential Zoning Districts**

<b>Use Categories</b> (See Article 22 for use descriptions.)	<b>Spec. Cond.</b>	<b>RR</b>	<b>RS-10</b>	<b>RS-6.5</b>	<b>HM</b>	<b>RS-5</b>	<b>RM</b>	<b>RMA</b>
<b>RESIDENTIAL: One Unit per Property</b>								
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
<b>RESIDENTIAL: Two Units per Property</b>								
<del>Two-Family, 2 attached units (Duplex)</del>	3	N	Y-1	Y-1	N	Y-1	Y	Y
<del>Two-Family, 2 detached units</del>	2	N	PD	PD	S	PD	Y	Y
Primary Residence with one accessory unit	4	Y	Y	Y	Y	Y	Y	Y
<b>RESIDENTIAL: Multiple Units/ per Property</b>								
3 or More Single-Family Attached Units	3	N	PD/CD	PD/CD	N	S	S	S
3 or More Multiple-Family Units	3	N	N	N	N	N	S	S
Manufactured Home Parks (see Article 10)	19	N	N	S	N	S	S	S
<b>RESIDENTIAL: Care or Treatment</b>								
Assisted Living		CU	CU	CU	CU	CU	CU	CU
<b>Daycare Facility</b>		CU	CU	CU	CU	CU	CU	S
<b>Child or Adult Care Home</b>	6	Y	Y	Y	Y	Y	Y	Y
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
<b>RESIDENTIAL: Miscellaneous</b>								
Accessory Buildings, Garages or Carports less than 750 sf and walls not greater than 11 ft tall OR that meet the standards in Special Cond. 9	9	Y	Y	Y	Y	Y	Y	Y
Accessory Buildings, Garages or Carports not meeting standards in Special Cond. 9.	9	S	S	S	S	S	S	S
Bed & Breakfast	7	CUII	CUII	CUII	CUII	CUII	CUII	S
<del>Child or Adult Care Home (relocated above)</del>	6	Y	Y	Y	Y	Y	Y	Y
Home Occupations	20	Y	Y	Y	Y	Y	Y	Y
Recreational Vehicle Parks (See Article 10)	5, 19	N	N	N	N	N	CU	CU
Rooming or Boarding Houses		N	N	N	CU	N	S	S
Subdivision Sales Office	21	N	S	S	N	S	S	S
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
<b>INSTITUTIONAL</b>	<b>Spec. Cond.</b>	<b>RR</b>	<b>RS-10</b>	<b>RS-6.5</b>	<b>HM</b>	<b>RS-5</b>	<b>RM</b>	<b>RMA</b>

New language is shown in **bold** and deleted language in ~~strikethrough~~.  
*Staff comments in italics* are not amendments and will be removed.

**EXHIBIT C**

Basic Utilities		CU	CU	CU	CU	CU	CU	CU
<del>Child or Adult Care Facility (relocated above)</del>		<del>CU</del>	<del>CU</del>	<del>CU</del>	<del>CU</del>	<del>CU</del>	<del>CU</del>	<del>S</del>
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
<b>COMMERCIAL – Limited Use Types</b>								
Entertainment and Recreation:								
Indoor	18	CU	CU	CU	CU	CU	CU	CU
Outdoor		CU	CU	CU	N	CU	CU	CU
Offices	17	PD/CD	PD/CD	PD/CD	PD/C D	PD/CD	PD/CD	PD/CD
Restaurants, no drive-thru	17	PD/CD	PD/CD	PD/CD	PD/C D	PD/CD	PD/CD	PD/CD
Retail Sales and Service	17	PD/CD	PD/CD	PD/CD	PD/C D	PD/CD	PD/CD	PD/CD
Self-Serve Storage	15	N	N	N	N	N	S	N
<b>OTHER CATEGORIES</b>								
Agriculture:	10							
Crop Production		Y	Y	Y	N	Y	Y	Y
On-site Sales of Site-Produced Seasonal Goods		Y	S	C	N	C	C	C
Plant Nurseries and Greenhouses		S	S	S	N	S	S	S
Antennas, owned and operated by FCC licensed member of Amateur Radio Service		A	A	A	N	A	A	A
Communication Facilities over 50 ft. [Ord. 5281, 3/26/97]	16	N	N	N	Y	N	N	N
Kennels	11	S	CU	CU	N	CU	CU	N
Satellite Dish and Other Antennas	12	A	A	A	A	A	A	A

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 Devel, See Art. 11  
 S = Site Plan review required

[Ord. 5555, 2/7/2003; Ord. 5673, 6/27/2007]

*No changes are proposed to 3.060 and 3.070, so they are not shown.*

**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:

*Only the special conditions needing clarification are shown.*

- (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 yard-setback area or within 10 feet of any interior residential lot line.
  - (d) Provide at least one off-street parking space for each rental room, 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 and be striped. [Ord. 5673, 6/27/2007]
- (12) Antennas are subject to the following standards:
- (a) Antenna or antenna supports may not be located within any front yard-setback area or within any required landscape buffer yard.
- (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 yards— 25 feet, interior yards— 20 feet. No fencing is permitted in front yard-setbacks and a minimum ten-foot landscape buffer yard is required adjacent to all residential zones. No barbed wire fencing is permitted in residential districts.

## SPECIAL STATUS

### 3.085 Existing Residential Uses Granted Special Status

Notwithstanding the restrictions or terms of any other section of the Albany Development Code (ADC), properties listed below shall be deemed to be conforming to the base zoning district. If any building on these properties is substantially destroyed, as defined in ADC Section 2.340(4), it can be rebuilt to the same size and density as existed on the property at the time the zone was first created, but will be subject to the regulations of any applicable overlay zone.

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

[Ord. 5673, 6/27/2007]

For properties zoned HM in 1996: The intent is that each and every legally established duplex and multi-family development, in areas previously zoned RM-3, RM-5, RS-6.5, CB and OP only, that exists in the HM district at the time the zone was established May 22, 1996, be listed here. Should an existing use not be listed here, the property owner may have the property listed upon showing that the use was legally established before May 22, 1996. Satisfactory evidence must be provided by the property owner or applicant to document that the use existed. Such evidence may consist of building permits, utility hookups, tax records, or telephone directory listings, for example.

The list is sorted by SW and SE, then alphabetically by street name and then numerically by address.

*PURPOSE of amendments: Two properties eligible for the special status list are being added.*

*Effect of amendments: These properties were legal at the time of development and are being added to the list to remove their non-conforming status.*

- (1) 807A/807B and 805/805-1/2 3rd Avenue SW two 1-story duplexes
- (2) **540 4<sup>th</sup> Avenue SW and 409/422 Vine Street SW: a house and a 2-story duplex**
- ~~(1)~~(3) 410-418 5th Avenue SW: two 2-story buildings totaling 5 units
- ~~(2)~~(4) 1015 5th Avenue SW: two 2-story buildings—east building, 12 units; west building, 6 units
- ~~(3)~~(5) 430 6th Avenue SW: two-story, 12 units
- ~~(4)~~(6) 640 7th Avenue SW/707 Vine Street SW: 1-story duplex
- ~~(5)~~(7) 638-644 8th Avenue SW: duplex
- ~~(6)~~(8) 1109/1111 9th Avenue SW: duplex
- ~~(7)~~(9) 1015/1030/1036/1040 10th Avenue SW: fourplex
- ~~(8)~~(10) 417/421 11th Avenue SW: duplex
- ~~(9)~~(11) 631/641 11th Avenue SW: duplex
- ~~(10)~~(12) 651/661 11th Avenue SW: duplex
- ~~(11)~~(13) 827/829/833/837 11th Avenue SW: 1-story fourplex
- ~~(12)~~(14) 1030-1032 12th Avenue SW: duplex
- ~~(13)~~(15) 625/635 14th Avenue SW: duplex
- ~~(14)~~(16) 522 Calapooia Street SW: 4 units
- ~~(15)~~(17) 634 Calapooia Street SW: 4 units
- ~~(16)~~(18) 1104/1108 Calapooia Street SW: duplex
- ~~(17)~~(19) 1114/1118 Calapooia Street SW: duplex
- ~~(18)~~(20) 628 Ferry Street SW: 2-story 10-unit apartment complex
- ~~(19)~~(21) 908 Ferry Street SW: 1-story 12-unit apartment building
- ~~(20)~~(22) 976/978 Ferry Street SW and 405/407 11th Avenue SW: 4 units
- ~~(21)~~(23) 721 Vine Street & 635 8th Avenue SW: duplex
- ~~(22)~~(24) 1223/1225 Vine Street SW: duplex
- ~~(23)~~(25) 1241/1245 Vine Street SW: duplex
- ~~(24)~~(26) 707/719 Washington Street SW: 1-story duplex
- ~~(25)~~(27) 505 3rd Avenue SE: 2-story fourplex
- ~~(26)~~(28) 526 3rd Avenue SE: 2-story fourplex
- ~~(27)~~(29) 627 3rd Avenue SE: 2-story, 6 units
- ~~(28)~~(30) 726/728 3rd Avenue SE: 1-story duplex
- ~~(29)~~(31) 826/828 3rd Avenue SE: two 1-story duplexes
- ~~(30)~~(32) 140 4th Avenue SE: 2-story duplex
- ~~(31)~~(33) 222/224 4th Avenue SE: 3 units total
- ~~(32)~~(34) 420/422 4th Avenue SE: 1-story duplex
- ~~(33)~~(35) 527 4th Avenue SE: 2-story duplex
- ~~(34)~~(36) 538 4th Avenue SE: 2-story duplex
- ~~(35)~~(37) 728 4th Avenue SE: 2-story, 2 units
- ~~(36)~~(38) 208 5th Avenue SE: 2-story, 16 units
- ~~(37)~~(39) 238 5th Avenue SE: 2-story, 3 units
- ~~(38)~~(40) 317 5th Avenue SE, A and B: 2-story duplex
- ~~(39)~~(41) 404/406 5th Avenue SE and 505/525 Railroad SE: two-story triplex and accessory building
- ~~(40)~~(42) 614/616 5th Avenue SE: 1-story duplex
- ~~(41)~~(43) 637 5th Avenue SE: 2-story, duplex
- ~~(42)~~(44) 730 5th Avenue SE: 2-story triplex
- (45) 205 6th Avenue SE: 2-story, 16 units
- ~~(43)~~(46) **305 6<sup>th</sup> Avenue SE: 2-story, 5 units**
- ~~(44)~~(47) 225 6th Avenue SE: 2-story, 4 units
- ~~(45)~~(48) 509/519 and 521/524 6th Avenue SE: two 1-story buildings, 4 units
- ~~(46)~~(49) 540 6th Avenue SE: 2-½ story, 5 units

- (47)(50) 606/616 6th Avenue SE: 2-story duplex (note: a duplex requires both lots.)
- (48)(51) 635 6th Avenue SE/530 Thurston SE: attached single-family
- (49)(52) 638 6th Avenue SE: 2 units
- (50)(53) 513 7th Avenue SE: 1-story duplex
- (51)(54) 407 Baker Street SE/206 4th Avenue SE: 2-story, 4 units
- (52)(55) 423 Baker Street SE: 2-story house and accessory building, 3 units
- (53)(56) 434 Baker Street SE: 2-story duplex
- (54)(57) 625 Jefferson Street SE, A and B: 2-story, 2 units
- (55)(58) 431 Montgomery Street SE: 2-story, 7 units  
[Ord. 5241, 5/22/1996; Ord. 5555, 2/7/2003; Ord. 5673, 6/27/2007]

*No changes are needed to 3.090 through 3.200 so they are not shown.*

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 **yardsetback** requirements may be reduced for individual lot or building sites created by 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, 6/27/2007]

*No changes are proposed to 3.220 and 3.230 so they are not shown.*

*PURPOSE of amendments: Section 3.240 is intended to apply to both additions and new construction on infill lots. The design standards in Article 8 allow for infill development to have setbacks that are consistent with the abutting properties. These changes will make this section consistent with Article 8, Design Standards.*

*Effect of amendments: Clarity and consistency.*

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

- (1) Additions to the front of a dwelling. The front ~~yard~~-setback of the dwelling does not exceed the average of the setbacks for the same uses on the abutting properties.
- (2) Addition of a garage or carport. The front ~~yard~~-setback for a garage or carport shall meet the current setback standard and the driveway to it shall be paved.
- (3) Additions to the side or rear of a dwelling. An addition to an existing structure may not encroach any further into a setback than the existing structure.
- (4) **New structures shall be setback no less than the setbacks for structures on abutting properties. See infill design standards in Section 8.140.**
- (4)(5) No wall of a dwelling is closer than six feet from a window of another dwelling including attached garages.
- (5) All other provisions of this Code and the applicable building code must be met.

[Ord. 5446, 5/10/2000; Ord. 5673, 6/27/2007]

3.250 Parking and Other Restrictions in Setback or Yard Areas.

- (1) Vehicles in daily use may not park in the ~~required front yard setback~~, except on the paved driveway leading to a garage or 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 yard setback for more than 48 consecutive hours. Recreational vehicle, trailer and miscellaneous storage pads or buildings are not allowed in the required front ~~yard~~-setbacks. **(See Section 22.400 for the definition of yard.)**
- (2) Required parking spaces, driveways or travel aisles for residential development shall not be located in a required front or ~~side interior setback yard~~ 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, 6/27/2007]

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 ~~yards setbacks~~, provided that such devices are not more than 3-1/2 feet in height.
- (2) Projecting Building Features. The following building features may encroach up to five feet into the required front ~~yards setback~~ and up to two feet into the required interior ~~yards setbacks~~:

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

*No changes are proposed to 3.265, 3.275 and 3.290 so they are not shown.*

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 ~~yards 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, 6/27/2007]

*No changes are proposed to 3.310 through 3.370 so they are not shown.*

## OUTSIDE STORAGE

3.380 General. In any district, outside storage or display of materials, junk, parts, or merchandise shall not be permitted in required front ~~yards setbacks~~ or buffer areas.

## FENCES

3.400 Materials. Fences and walls shall not be constructed of or contain any material which will do bodily harm, such as barbed wire, broken glass, spikes, or any other hazardous or dangerous materials. Electric and barbed wire fences are not permitted except those intended to contain or restrict cattle, sheep, horses or other livestock, and existing prior to annexation to the City may remain. [Ord. 5446, 5/10/2000]

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

- (1) Fences shall be no taller than 6 feet in interior ~~yards~~**setbacks**, 4 feet in front ~~yards~~**setbacks** if ~~it~~**they** meets the clear vision area standards in Section 12.180.

Exceptions to Height:

- (a) A single-family use or zone that shares an interior property line with a multiple-family use or zone may have a fence up to 8 feet tall along the property line.
- (b) Properties listed on the National Register of Historic Places may have front yard fences taller than 4 feet if the fence is appropriate to the building style and scale, and is approved by the Landmarks Advisory Commission. [Ord. 5689, 3/12/2008]

- (2) Corner properties, which by definition have two front yards, may have a fence ~~of up to no taller than 6 feet tall~~ in the front ~~yard~~**setback** adjacent to the street that does not contain the dwelling's main door entrance when the ~~6-foot-tall~~ fence does not extend in front of the ~~house~~**dwelling** and one of the following conditions is met:

- (a) If the adjoining street is improved with sidewalks and a planter strip, the fence may be on or behind the property line.
- (b) If the adjoining street is improved with sidewalks but no planter strip, the fence is located a minimum of 3 feet from the sidewalk.
- (c) If the adjoining street is improved with curbs and gutters but no sidewalks, the fence is located 10 feet from the face of the curb.
- (d) If the adjoining street is unimproved, the fence is no closer than 3 feet from the property line.

[Ord. 5673, 6/27/2007; Ord. 5689, 3/12/2008]

*PURPOSE of amendments: The proposed sentence is in Article 5, Mixed Use Zoning Districts. It is being added here for consistency with Article 4.*

- (3) Fences more than 6 feet tall require a building permit prior to construction. Except when a taller fence is permitted at the lot line [see subsection (1)(a) above], fences more than 6 feet tall shall meet building setback requirements. **In no instances shall a fence be taller than 8 feet.**
- (4) In no instance shall a fence extend beyond the property line.
- (5) All fencing shall comply with the requirements of the clear vision area (Section 12.180) for streets and driveways.

- (6) Fence height shall be measured from the average height of the grade adjacent to where the fence is to be located. If a fence is to be constructed on top of a berm, the height shall be measured from the bottom of the berm.

Fence height includes the height of the fence wall or picket and does not include the posts, decorative finials or similar elements, and arbors and trellises at entrance gates.

[Ord. 5446, 5/10/2000; Ord. 5689, 3/12/2008]

## ARTICLE 4 COMMERCIAL AND INDUSTRIAL ZONING DISTRICTS

*Changes proposed in this article start at Section 4.050, Schedule of Permitted Uses. The earlier sections are provided for context.*

*Throughout the article, the terms setbacks and yards are being clarified.*

*PURPOSE of amendments: When the two terms “yard” and “setback” are used together, they can be confusing. Staff has identified when these terms are used and is proposing changes to clarify when setbacks are intended and when yards are intended.*

*Effect of amendments: Fixing when the terms yard and setback are intended will make the Code easier to use and apply consistently.*

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

[Ord. 5555, 2/7/03]

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

- Zoning Districts
- Schedule of Permitted Uses
- Development Standards

### ZONING DISTRICTS

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

- (1) **OP – OFFICE PROFESSIONAL DISTRICT.** The OP district is intended to provide a vertical or horizontal mix of professional offices, personal services, live-work, residential and limited related commercial uses in close proximity to residential and commercial districts. The limited uses allowed in this district are selected for their compatibility with residential uses and the desired character of the neighborhood. OP is typically appropriate along arterial or collector streets as a transitional or buffer zone between residential and more intense commercial or industrial districts.
- (2) **NC – NEIGHBORHOOD COMMERCIAL DISTRICT.** The NC district is intended primarily for small areas of retail establishments serving nearby residents’ frequent needs in convenient locations. The NC District is typically appropriate for small clusters or service centers located at intersections within residential neighborhoods. Businesses should fit into the residential pattern of development and not create land use, architectural or traffic conflicts. Generally, uses located

within NC Districts should have as their primary market area the population within a one-half mile radius.

- (3) CC – COMMUNITY COMMERCIAL DISTRICT. The CC district recognizes the diversity of small to medium-scale businesses, services and sites mostly located on arterial streets and highways. Design guidelines, building location and front-yard landscaping will provide a coordinated and enhanced community image along these major transportation corridors as they develop or redevelop. Sound and visual buffers should be used to mitigate impacts on nearby residential areas.
- (4) RC – REGIONAL COMMERCIAL DISTRICT. The RC district is intended primarily for developments that serve the wider Albany region. RC allows a wide range of retail sales and service uses, and is typically appropriate for developments that require large sites near Interstate 5. Design guidelines, building location and front-yard landscaping will provide an enhanced community image along major transportation corridors. These uses often have significant impacts on the transportation system. Sound and visual buffers may be required to protect nearby residential areas. RC districts may not be appropriate in all locations.
- (5) TD – TRANSIT DISTRICT. The TD district is intended primarily for regional transit facilities and related uses. This district is suitable as a major office employment center because of easy access to mass transit. Mixed-use development including a multi-modal transportation facility, a park-and-ride facility, and office space should be developed within this district.
- (6) IP – INDUSTRIAL PARK DISTRICT. The IP district is intended primarily for light manufacturing, high-tech, research and development, institutions and offices in a quality environment. Uses are characterized by attractive building architecture and landscaped yards and streetscapes, and the absence of objectionable external effects. The district is designed for industrial and business parks containing offices together with clean, non-polluting industries. IP is located along or near highly visible corridors to provide a positive image and a transition to residential or natural areas from heavier industrial uses.
- (7) LI – LIGHT INDUSTRIAL DISTRICT. The LI district is intended primarily for a wide range of manufacturing, warehousing, processing, assembling, wholesaling, specialty contractors and related establishments. Uses will have limited impacts on surrounding properties. This district is particularly suited to areas having good access to highways and perhaps to rail. LI may serve as a buffer around the HI district and may be compatible with nearby residential zones or uses.
- (8) HI – HEAVY INDUSTRIAL DISTRICT. The HI district is intended primarily for industrial uses and support activities that are potentially incompatible with most other uses and which are characterized by large amounts of traffic, extensive shipping of goods, outside storage or stockpiling of raw materials, by-products, or finished goods, and a controlled but higher level of noise and/or pollution. This district is located away from residential areas and has easy access to highways and perhaps to rail.

[Ord. 5555, 2/7/03]

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

regulations that apply in such districts are summarized below:

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

[Ord. 5555, 2/7/03]

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

### SCHEDULE OF PERMITTED USES

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

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

*PURPOSE of amendments: The Conditional Use Type II (CUII) process description was missing from this Article. It is being added below, and language is being added to the "regular" Conditional Uses (CU), processed as a Type III land use.*

Effect of amendments: Consistency across articles.

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

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

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

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

PURPOSE of amendments:

- *Considering a request from the public to allow gymnastics, cheerleading and tumbling (under Indoor Entertainment and Recreation) in the LI zone. See special condition 7.*
- *Adding Recreational Vehicle Parks. This use does not come up very often but it is unique. We have specific standards for RV parks and manufactured home parks in Article 10, and the standards note where they are allowed. We are adding the use category line to make this use easier to find.*
- *Vocational and trade schools are proposed to be moved from a Retail use category (in Article 22) to the Educational Institutions category. Staff proposes they be allowed through the site plan review process in some industrial zones, rather than as conditional use*
- *Combining the Live Work and Uses Above a Business use categories into one category – Uses Above or Attached to a Business. This change was made in Article 5, Mixed Use Village Center Zoning Districts.*
- *Adding Non-residential Accessory Buildings as a use category to highlight when site plan review is required.*

Effect of amendments: Keep the Code current and responsive to changing needs.

**SCHEDULE OF PERMITTED USES**

Commercial, Office and Industrial Uses Zoning Districts									
Use Categories (See Article 22 for use category descriptions.)	Spec. Cond.	OP	NC	CC	RC	TD	IP	LI	HI
<b>INDUSTRIAL</b>									
Contractors and Industrial Services		N	N	S-1	N	S-1	S-1	S-1	S

New language is shown in **bold** and deleted language in ~~strike through~~.  
*Staff comments in italics* are not amendments and will be removed.

**EXHIBIT D**

<b>Use Categories (See Article 22 for use category descriptions.)</b>	<b>Spec. Cond.</b>	<b>OP</b>	<b>NC</b>	<b>CC</b>	<b>RC</b>	<b>TD</b>	<b>IP</b>	<b>LI</b>	<b>HI</b>
Manufacturing and Production	2	S/CU	N	S/CU,3	N	S/CU	S/CU	S/CU	S
Railroad Yard		N	N	N	N	S	N	S	S
Warehousing and Distribution		N	N	N	N	N	CU	S	S
Waste and Recycling Related	4	N	N	CU	N	N	N	S/CU	S/CU
Wholesale Sales		N	N	N	N	N	S-5	S	N
<b>COMMERCIAL</b>									
Adult Entertainment		N	N	S-6	N	N	N	CU-6	N
Entertainment and Recreation		N	N	S-7	S-7	S	CU-7	CUII-7	CU-7
-Indoor		N	N	S	S	N	N	CU	CU
-Outdoor		N	N	S	S	N	N	CU	CU
<b>Use Categories (See Article 22 for use category descriptions.)</b>	<b>Spec. Cond.</b>	<b>OP</b>	<b>NC</b>	<b>CC</b>	<b>RC</b>	<b>TD</b>	<b>IP</b>	<b>LI</b>	<b>HI</b>
Offices		S	S	S	S	S	S-8	S-9	N
Parking		N	N	S	S	S	S	S	S
<b>Recreational Vehicle Park</b>		<b>N</b>	<b>N</b>	<b>CU</b>	<b>N</b>	<b>SP</b>	<b>N</b>	<b>SP</b>	<b>N</b>
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	N	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
<b>INSTITUTIONAL</b>									
Basic Utilities		CU	CU	CU	CU	CU	S	S	S
Community Services	15	S/CU	S/CU	S/CU	S/CU	S/CU	CU	CU	N
<b>Daycare Facility</b>		CU	CU	S	N	N	S	CU	N
Educational Institutions	16, 17	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
<b>Use Categories (See Article 22 for use category descriptions.)</b>	<b>Spec. Cond.</b>	<b>OP</b>	<b>NC</b>	<b>CC</b>	<b>RC</b>	<b>TD</b>	<b>IP</b>	<b>LI</b>	<b>HI</b>
Parks, Open Areas and Cemeteries	17	CU	CU	CU	N	CU	CU	CU	N
Religious Institutions	16	CU	CU	S	N	N	CU	CU	N
<b>RESIDENTIAL</b>									
Group or Residential Care or Treatment Facilities	48	Y/S	Y/S	S	N	N	N	N	N
Assisted Living Facility		CU	CU	CU	N	N	N	N	N
Single Family and Two Family Homes	20	Y/CU-19	S	N	N	N	N	N	N
Live-Work		S	S	N	N	S	S	S	N
Three or More Units		CU	N	N	N	N	N	N	N
Units Above 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
<b>OTHER CATEGORIES</b>									
<b>Non Res'l Accessory Buildings, greater than 750 square feet</b>		<b>S-18</b>	<b>Y</b>	<b>Y</b>	<b>Y</b>	<b>Y</b>	<b>Y</b>	<b>Y</b>	<b>Y</b>
Agriculture (on Vacant Land)	22	N	N	N	Y	N	Y	Y	Y
Communication Facilities >= 50 ft.	23	N	N	CU	S	CU	CU	S	Y

New language is shown in **bold** and deleted language in ~~strikethrough~~.  
*Staff comments in italics* are not amendments and will be removed.

**EXHIBIT D**

Kennels	24	N	N	N	CU	N	N	S	N
Passenger Terminals		N	N	S	CU	S	CU	CU	N
Rail And Utility Corridors		CU	CU	CU	CU	S	CU	S	S

Y = Yes, allowed, no Site Plan review required  
 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]

**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:

*Only the special conditions proposed to be amended are shown.*

(7) Indoor Entertainment and Recreation in the CC, RC, IP, LI and HI zones.

*PURPOSE of amendments: A resident has requested that the City consider broadening the types of indoor recreation that are allowed in the LI zone to make use of vacant industrial buildings. In particular, gymnastics, cheerleading, and tumbling uses need large volumes of space. Vacant industrial buildings often provide the necessary height and open space needed to conduct these activities safely.*

*Staff proposes the conditional use Type II process for these uses in the LI zone, which allows for the Director to schedule this for public hearing, or for a property owner within the notice area to ask for a public hearing.*

*Effect of amendments: Would for reuse of vacant industrial buildings. Provide affordable sites for cheerleading, tumbling, and gymnastics type uses.*

- (a) Limited uses in CC. Indoor firing ranges or gun clubs, coliseums, and stadiums are not permitted.
- (b) Limited uses in RC. Indoor firing ranges or gun clubs are not permitted.
- (c) Limited uses in IP. Exercise and health clubs or gyms are permitted through site plan review. Convention centers, coliseums and stadiums are considered through a conditional use review. All other indoor entertainment uses are not permitted.
- (d) Limited uses in LI. Indoor firing ranges or gun clubs, pool halls, paint gun facilities, **cheerleading, tumbling, gymnastics**, fairgrounds, coliseums and stadiums are considered through a Conditional Use **Type II** review. All other indoor entertainment uses are not permitted.
- (e) Limited uses in HI. Indoor firing ranges or gun clubs, pool halls, paint gun facilities, motor racetrack, coliseums and stadiums are considered through a conditional use review. All other indoor entertainment uses are not permitted.

(8) Educational and Religious Institutions.

*PURPOSE of amendments: Staff is proposing that vocational schools be considered an Educational Institution rather than a Retail use in Article 22 Use Categories and Definitions. Vocational schools uses typically support and train students to work in industries. Staff proposes that they be allowed through the site plan review process.*

*Effect of amendments: Allow vocational schools in industrial zones.*

- (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.**

- (a)(b) The conditional use approval for educational and religious institutions includes the following secondary uses: educational activities; sports and other recreational activities; religious activities; political activities; meals programs; before- and after-school childcare activities; fund raising activities; and cultural programs. Such uses will not be required to go through the land use process if all of the activities that constitute the use (excluding parking and travel to and from the site) take place on the site and no external noise is audible or light visible between 10:30 p.m. and 8:00 a.m.

*PURPOSE of amendments:* Expansions to already established conditional uses are usually straight forward. Staff proposes using the Type II process, which allows residents or staff to schedule a public hearing.

*Effect of amendments:* Less staff time and resources to process expansion requests.

Any expansion ~~must to an existing educational or religious institution shall~~ be reviewed through the conditional use **Type II** process. Expansion ~~of a school or church~~ includes addition of building area, increase in parking lot coverage, or expansion of athletic facilities.

*PURPOSE of amendments:* A reference to existing standards is proposed rather than duplicating it here.

**Note: There are special setbacks for educational institutions in 4.210 and loading standards in 4.260(2).** An educational institution having a capacity greater than twenty five students ~~must have a driveway designed for continuous forward flow of passenger vehicles for the purpose of safely loading and unloading children.~~

- (11) Retail Sales and Services in the OP, NC and IP zones. (Shown because it is referenced in comments under 4.090.)
- (a) Limited uses in OP, NC and IP. The only retail uses allowed are convenience-oriented retail and personal services-oriented retail intended to serve nearby residences and employees. Businesses are limited to a 5,000-square-foot maximum building footprint. See Article 22 for examples of convenience-oriented and personal service-oriented businesses. Vehicle repair-oriented services, motor vehicle sales, large equipment sales, and bulk sales are prohibited.
- (17) Park Development. Park activity subject to conditional use review includes major development; expansions of activities and development in parks that currently generate substantial traffic; or construction of major structures such as swimming pools, lighted ball fields, and community centers. Conditional use review is not required, however, for construction of play equipment, tennis courts, bike paths, picnic shelters, restrooms, landscaping, and similar activities in existing improved parks.

*PURPOSE of amendments:* New special condition (18) is needed to be consistent with clarifications and recent changes made related to non-residential accessory buildings. The old (18) is not needed because it is covered in the Use Category descriptions in Article 22.

**(18) Non-Residential Accessory Buildings over 750 square feet in the OP zone require Site Plan review.**

~~Group or Residential Care Facilities.~~ Group care homes or “residential homes” (as defined in ORS) that include five or fewer residents are permitted outright in any zone that allows single family residences. (This is indicated by a Y in the schedule.) ~~Group or Residential Care Facilities (6 or more residents) require a site plan review.~~

*PURPOSE of amendments: The Schedule of Permitted Uses allows attached residential units through the conditional (CU) use process, not the Planned Development (PD) process noted below.*

- (18)(19) Single-Family and Two-Family Homes-Units in the OP zone. Single-family residences are allowed outright. Attached single-family units ~~are allowed through the Planned Development process~~ and Two-family residences require a conditional use review. See ~~Special Condition 21 for accessory apartments~~.
- (19)(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.
- (20)(21) Residential Accessory Buildings are permitted outright with residential uses if they meet the following conditions:
- (a) Detached accessory buildings, garages and carports are less than 750 square feet and have walls no more than eleven feet ~~in height~~ tall.
  - (b) Attached accessory buildings, garages or carports are less than 1,000 square feet.
  - (c) All other residential district accessory buildings, garages or carports require a site plan review.

*PURPOSE of amendments: The reference to the Albany Municipal Code will direct users to the City's rules for keeping animals.*

- (21)(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 area found in the Albany Municipal Code Title 6.**
- (22)(23) Communication Tower and Pole Placement Standards. Where allowed, Communication Towers and Poles over 50 feet in height when measured from the ground are not permitted in front yard setbacks and must meet the standards in Section 8.500.
- Placement of antennas, satellite dish antennas, and monopoles less than 50 feet tall when measured from the ground; or when located on a rooftop, within 15 feet of a rooftop, is permitted outright in all districts subject to the following standards:
- (a) Antennas or antenna supports shall not be located within any front yard ~~setback~~ area or within any required landscape buffer yard.
  - (b) Dish antennas larger than three feet in diameter, and located within ten feet of a residential lot line or visible from a public street shall be screened with a six-foot solid screen fence, wall, hedge, or other landscaping.
  - (c) Antennas used to display sign messages shall conform to all district sign regulations in addition to the above.
  - (d) Antennas less than 50 feet in height and not in conformance with the above may be considered by conditional use review.
  - (e) See Section 8.500 for additional design standards for all telecommunications facilities. [Ord. 5445, 4/12/00]
- (23)(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 ~~kennels~~.  
 [Ord. 5555, 2/7/03]

~~(24)~~(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]

*No changes are proposed to 4.075, so this section is not shown.*

**DEVELOPMENT STANDARDS**

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

*PURPOSE of amendments: Special Condition 11 in Section 4.060 limits the sizes of certain retail uses allowed in the NC and OP zones. The maximum building sizes need to be noted here in note (10) for those uses.*

*Effect of amendments: Eliminate inconsistency and confusion.*

**TABLE 1**

<b>Commercial and Industrial Zoning District Development Standards</b>								
<b>STANDARD</b>	<b>OP</b>	<b>NC</b>	<b>CC</b>	<b>RC</b>	<b>TD</b>	<b>IP</b>	<b>LI</b>	<b>HI</b>
<b>MINIMUMS</b>								
Lot size (sq. ft.)(1)	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'
<b>MAXIMUMS</b>								
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. per unit. No minimum lot size is required for non-residential development.
- (2) New NC zones may be no more than 30,000 s.f. of contiguous land.
- (3) All yards adjacent to streets.
- (4) The minimum lot size for supporting commercial uses may be smaller than 3 acres.
- (5) ~~Yards-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) Includes building, parking, access, and sidewalk area coverage.
- (8) Unless in Airport Approach Overlay District. See Article 6.
- (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 (~~retail and personal or professional services~~) is 5,000 square feet. **The maximum business footprint for convenience-oriented and personal-services oriented retail uses in NC and OP is 5,000 square feet.**
- (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]

## SETBACKS

- 4.100 Minimum Standards. All setbacks must meet the minimum standards in Table 1, Development Standards. In addition to the setbacks in this Article, all development must comply with Section 12.180, Clear Vision Area. **For residential accessory structures,** ~~s~~See also Article 3, Table 2, Accessory Structure Standards. [Ord. 5555, 2/7/03]
- 4.110 Measurements. Setback distances must be measured perpendicular to all portions of a property line. [Ord. 5555, 2/7/03]

*PURPOSE of amendments: The intent of this section is to allow the same setbacks as abutting structures to fit in with the neighborhood. Occasionally front setbacks on developed properties are smaller than the current setbacks and it is challenging to locate a building at the current (deeper) front setback. The proposed language clarifies the intent of the section and makes it consistent with Alternative Setback sections in Articles 3 and 5.*

*Effect of amendments: Clarifying intent.*

- 4.130 Setback Alternatives 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 yards-~~setbacks~~ less than the ~~depth~~ otherwise-required setback, the **proposed front yard-setback** for a lot-~~structure~~ is **not less than** need-not-exceed-the average front-yard-of the abutting structures.

~~(3)~~ **(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.** ~~If there is a primary structure on one abutting lot with a front yard of less than the depth otherwise required, the front yard for a lot need not exceed a depth halfway between the depth of the abutting front yard and the required front yard depth.~~

(4) A driveway extending ~~not less than~~ **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 ~~yards~~**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 ~~yards~~**setbacks**, provided that the devices are not more than 3-1/2 feet tall.

(2) Projecting Building Features. The following may project into the required front ~~yard~~**setback** up to five feet and into the required interior ~~yards~~**setbacks** up to ~~two~~**2** feet:

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

(b) Chimneys and fireplaces, provided they do not exceed ~~eight~~**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).

(d) Projecting signs must conform to applicable ordinance requirements. See Article 13, Sign Code. [Ord. 5555, 2/7/03]

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

*PURPOSE of amendments: Accessory structure setbacks allow them to be 3 feet from the property line depending on the wall height. The building code also allows structures to be closer than 10 feet. Staff proposes that the easement be reduced to 6-feet for both primary and accessory structures.*

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

OR

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

[Ord. 5555, 2/7/03]

4.160 Interior Setbacks for Attached Dwellings. The interior ~~yard~~**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 ~~yard-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 ~~yards-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 ~~yards-setbacks~~ required on the lot.

*PURPOSE of amendments: No zoning districts in this article are along the Willamette River, so these regulations do not apply to any zones in this article and are not needed. (Note: All Willamette Riverfront zones are in Articles 3 and 5.)*

~~4.190 Special Willamette River Setback and Height Restrictions. Except for water related and water-dependent uses (see definitions, Article 22), all construction must be located outside the floodway line as defined for a 100-year storm. Development structure heights and setbacks south of the Willamette River may not extend above a plane that begins at the floodway line and extends directly south. The angle of this plane will be as follows:~~

~~(1) For water-oriented uses, the angle will be 30°.~~

~~(2) For non-water-oriented uses, the angle will be 15°.~~

[Ord. 5555, 2/7/03]

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

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

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

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

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

- ~~(1) Property line along the river, or~~
- ~~(2) City multi-use path easement, or~~

~~(3) Top of the river embankment.~~

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

~~(1) Property line along the river, or~~

~~(2) City multi-use path easement, or~~

~~(3) Top of the river embankment.~~ [Ord. 5559, 3/26/03]

4.190 *Section removed by Ord. (to be added), on (to be added when passed by council.)*

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

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

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

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

*PURPOSE of amendments: The intent of this section is that parking and loading spaces may not be located in the required setbacks. Also, this section specifies that driveways to garages/carports can count towards required parking. Occasionally garages or carports are not provided with new housing units. The changes fix these issues.*

*Effect of amendments: Clarifying intent.*

4.220 **Parking Restrictions in Setback Areas.** ~~Required p~~Parking and loading spaces may not be located in a required front or side setbacks, except:

- (1) ~~Driveways providing access to garages, and carports, for any residential development may be used to fulfill the parking requirements.~~ **Driveways meeting dimensional standards may be used to fulfill parking requirements for single-family and two-family residences. Each space must be a paved area at least 10 feet wide and 20 feet long.**

[Ord. 5555, 2/7/03]

## HEIGHT

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

4.240 Height Exceptions.

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

## OFF-STREET PARKING AND LOADING REQUIREMENTS

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

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

<b>USE</b>	<b>SPACES REQUIRED</b>
Air, rail and motor freight terminals	Subject to site plan review
Animal hospitals and clinics	1 per 400 sq ft GFA
Banks and financial institutions	1 per 200 sq ft on first floor plus 1 per 600 sq ft above first floor
Beauty and barber shops and other personal services	1 per 200 sq ft plus 1 per 3 employees
Bowling alleys	4 per lane
Building materials sales	1 per 500 sq ft. GFA
Churches and other places of religious assembly	1 per 6 seats or 12 feet of bench length (1)
Commercial recreation and assembly	Subject to site plan review
Drive-in restaurants	<del>1 per 50 sq ft GFA</del> <i>PURPOSE: This is being relocated to Restaurants, Drive In. This use is different than drive through. Example is Sonic.</i>
Education: Elementary, junior high and other children's day school	1 per classroom plus 1 per 2 employees
Education: High schools, colleges and universities	Subject to site plan review
Funeral houses	1 per 4 seats or 8 feet of bench length
Furniture, machine and office equipment sales	1 per 500 sq ft GFA plus 1 per 3 employees
Golf courses (including clubhouses and accessory uses)	Subject to site plan review
Greenhouses and nurseries	2 per employee
Hospitals	1 per 2 beds plus 1 per staff doctor plus 1 per 2 full-time employees
Laundries and cleaners	1 per 300 sq ft GFA
Libraries, reading rooms, museums and art galleries	1 per 2 employees plus 1 per 500 sq ft GFA
Manufacturing, production or processing	1 per 2 employees plus 1 per company vehicle
Medical and dental clinics	1 per 200 sq ft GFA
Meeting rooms, private clubs and lodges	1 per 100 sq ft GFA plus 1 per 200 sq ft GFA (2)
Motels and hotels	1 per rental unit plus additional as required for accessory uses
Motor vehicle repair and service stations	1 per each 2 employees plus 2 per each service stall
Offices: all business and professional	1 per 300 sq ft GFA
Philanthropic, charitable and nonprofit institutions (excluding churches)	1 per 2 employees plus 1 per 500 sq ft GFA
Radio and television stations and studios	1 per 2 employees plus 1 per 300 sq ft over 2,000 sq ft GFA
Rail and bus passenger terminals	5 plus 1 per 100 sq ft waiting area
Residential uses	See Article 3, Table 3 for parking standards. <del>Off-street parking not required</del> <i>PURPOSE: This is an error. This language is from a table in Article 5 (mixed use zones) that was copied for format when these standards were converted to a table. The original language is being restored.</i>
<b>Restaurants, Drive-in.</b>	<b>1 per 50 sq ft GFA</b> <i>PURPOSE: Relocated from above.</i>

USE	SPACES REQUIRED
Restaurants: Sit-down and carry-out/ <del>drive-thru</del> restaurants, taverns, bars and nightclubs	1 per 100 sq ft GFA
Retail: Shopping centers, food, drugs, hardware, variety and department stores	1 per 200 sq ft sales floor area
Retail: Specialty shops and other retail stores under 6,000 sq ft	1 per 300 sq ft GFA plus 1 per 3 employees
Sales and rental of motor vehicles, trailers, mobile homes, boats, modular houses	2 per employee
Skating rinks	1 per 200 sq ft GFA
Stadiums, grandstands, coliseums, auditoriums and theaters	1 per 4 seating capacity (3)
Swimming pools, for pool only	10 plus 1 per 150 sq ft pool surface area
Testing, repairing, cleaning, servicing of materials, goods or products and warehousing and wholesale	1 per 2 employees plus 1 per 300 sq ft of patron serving area, plus 1 per company vehicle
Warehousing and wholesale	1 per 2 employees plus 1 per 300 sq ft of patron serving area plus 1 per company vehicle
Wrecking yards and junkyards	1 per employee plus 1 per 10,000 sq ft lot area

[Ord. 5555, 2/7/03]

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

*PURPOSE of amendments: This article contains both commercial and industrial uses. (Many years ago, the commercial land industrial zoning district articles were combined.) This needs to be updated to apply to both commercial and industrial uses.*

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

- (1) Vehicles in the berths shall not protrude into a public right-of-way or sidewalk. Loading berths shall be located so that vehicles are not required to back or maneuver in a public street.
- (2) A school having a capacity greater than ~~twenty-five~~**25** students shall have a driveway designed for continuous forward flow of passenger vehicles for the purpose of loading and unloading children.
- (3) The minimum **required loading area** ~~required for commercial loading spaces~~ is as follows:
  - (a) 250 square feet for buildings of 5,000 to 20,000 square feet of gross floor area.
  - (b) 500 square feet for buildings of 20,000 to 50,000 square feet of gross floor area.
  - (c) 750 square feet for buildings in excess of 50,000 square feet of gross floor area.
- (4) The required loading area shall not be less than ~~ten~~**10** feet wide by ~~twenty-five~~**25** feet long and shall have an unobstructed height of ~~fourteen~~**14** feet.
- (5) Required loading facilities shall be installed prior to final building inspection and shall be permanently maintained as a condition of use.

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

## LANDSCAPING

4.270 General. ~~The required front and interior setback yards (see Table 1), exclusive of access ways and other permitted intrusions, must be landscaped.~~ **Developments must comply with site landscaping standards in Article 9** before occupancy or in accordance with ~~Article 9~~**Section 9.140.**

## BUFFERING AND SCREENING

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

## OUTSIDE STORAGE

4.290 General.

- (1) In the NC, OP, TD and IP zoning districts, outside storage or display of materials, junk, parts, or merchandise is not permitted, except for automobile sales (where allowed).
- (2) In the PB and CC zones, outside storage is allowed if screened from the public rights-of-way with a sight-obscuring fence, wall, hedge, or berm, which must be constructed of non-combustible material. This provision excludes automobile and plant sales. Display of goods is not permitted.
- (3) In the RC zone:
  - (a) Exterior display of goods is permitted except in the required front yard-setback or buffer yard. Display is limited to a sample of goods offered for sale by the establishment. Display areas may not be used for storage. Display areas may not expand beyond 25 percent of the primary street frontage and must be designated on the site plan. Display areas adjacent to residential districts or uses must be set back at least 10 feet and must be screened from view with a sight-obscuring fence, wall, hedge, or berm, which must be constructed of non-combustible material.
  - (b) Exterior storage is permitted in interior yards, except in required buffer yards and ~~minimum required setbacks~~ areas. Storage areas adjacent to residential districts or uses must be screened from view with a sight-obscuring fence, wall, hedge, or berm, which must be constructed of non-combustible material. This enclosure must be located on the property at the required setback line as if the berm, fence, wall, or hedge were a building.
- (4) In the LI and HI zones, ~~except for required setback areas,~~ outside storage is permitted in interior yards **outside of the required setback**. Outside storage is allowed in front yards (~~excluding outside the front setback~~), provided that it is enclosed with a sight-obscuring fence, wall, hedge, or berm, which must be constructed of non-combustible material. This enclosure must be located on the property at the required setback line as if the berm, fence, wall, or hedge was a building.
- (5) Where outside storage is permitted,
  - (a) Materials and equipment stored as permitted in this subsection may be no more than 14 feet

above the elevation of the storage area.

- (b) Outside storage over six feet tall must be screened by landscaping in accordance with 9.250.  
[Ord. 5555, 2/7/03]

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

#### FENCES FOR IN COMMERCIAL AND INDUSTRIAL USES ZONING DISTRICTS

4.310 ~~In commercial and industrial zones, establishments that elect to construct a fence not required under the provisions of this Code shall meet the following standards. If a fence is used to meet~~ **Where required screening is required of the development, the fence shall meet the provisions of (4) below and Section 9.250. All fences shall meet the Clear Vision Area standards in Section 12.180.** ~~Fences for residential uses, see Sections 3.400 to 3.410.~~ [Ord. 5555, 2/7/03]

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

*PURPOSE of amendments: A business owner asked if barbed wire could be placed on a fence that is not a chain link fence. The proposed amendment would not limit barbed wire to only chain link fences.*

- (1) Barbed wire is permitted atop a 6-foot tall ~~chain-link~~ fence. The total height of the fence and barbed wire is limited to 8 feet. Barbed-wire-only fences and concertina wire are prohibited except as allowed in subsection (2).
- (2) Concertina wire may be used around correctional institutions and high security areas provided that the fences are posted at least at 15-foot intervals with clearly visible warnings of the hazard.
  - (a) Except as specified in the provisions of subsections (1) and (2) above, concertina wire, barbed wire, or upturned barbed selvage existing at the time of the passage of this ordinance that is between six and seven feet above grade in the commercial districts shall be considered a legal non-conforming use, provided that the barbed wire or upturned barbed selvage does not extend over a street or alley and where it does slant toward the public right-of-way, it is located not less than one foot from said right-of-way.

*PURPOSE of amendments: The fence standards in Articles 3, 4, and 5 are not consistent. The proposed amendments make all of the fence standards consistent in format and content.*

#### 4.320 Standards.

(3) ~~Fences are limited to the height and location standards listed below:~~

- (a)(1) Fences may be up to 8 feet tall ~~provided that if~~ the fence is located behind the required front yard setback and outside of any vision clearance area **as defined in Section 12.180. In no instance shall a fence be taller than 8 feet.**

(b)(2) Fences more than 6 feet tall require building permits.

*PURPOSE of amendments: The screening standards in Article 9, Section 9.250 use two years for landscaping to become opaque and 6 feet tall. The change is to be consistent with the landscaping standards in Article 9.*

(4)(3) Whenever a sight-obscuring fence, wall or hedge is required under the provisions of this Code, it must meet the following provisions **and the vision clearance standards in Section 12.180**:

- (a) Opacity. In order to be “sight-obscuring,” fences and walls ~~will~~**must** be at least 75 percent opaque when viewed from any angle at a point 25 feet away from the fence or wall. Hedges ~~will~~**must** be of an evergreen species that will meet ~~and be maintained the standards year-round the same standard within three~~(3)**2** years of planting.
- (b) Height. Fences and walls will be a minimum of ~~six~~**6** feet tall. Hedges will be of a species capable of attaining a height of at least 6 feet within ~~3~~**two** years of planting, given their age, height and health when planted.
- (c) Maintenance. Fences and walls will be maintained in safe condition and opacity is maintained as required in subsection (a) of this section. Wooden materials will be protected from rot, decay, and insect infestation. Plants forming hedges will be replaced within six months after dying or becoming diseased to the point that the opacity required in subsection (a) of this section is not met.

(4) **Every fence, whether required or not, will be maintained. No fence is allowed to become or remain in a condition of disrepair including, but not limited to noticeable leaning, missing slats, broken supports, and overgrowth of weeds or vines.**

*PURPOSE of amendment: This section is being moved up to (4) under the standards.*

~~4.320 — Standards. Every fence, whether or not approved as a result of site plan review, will be maintained. No fence is allowed to become or remain in a condition of disrepair including, but not limited to noticeable leaning, missing slats, broken supports, and overgrowth of weeds or vines.~~

## ARTICLE 5 MIXED USE VILLAGE CENTER ZONING DISTRICTS

*A few clarifying edits are proposed to this article starting on page 5, Section 5.060 Schedule of Permitted Uses. Sections 5.000 through 5.050 are shown for context.*

*Throughout the article, the terms setbacks and yards are being clarified.*

*PURPOSE of amendments: When the two terms “yard” and “setback” are used together, they can be confusing. Staff has identified when these terms are used and is proposing changes to clarify when setbacks are intended and when yards are intended.*

*Effect of amendments: Fixing when the terms yard and setback are intended will make the Code easier to use and apply consistently.*

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, 2/7/2003]

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

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

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

- Zoning Districts
- Schedule of Permitted Uses
- Development Standards

[Ord. 5673, 6/27/2007]

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

- (1) HD – HISTORIC DOWNTOWN DISTRICT. The HD district is intended primarily for a dense mixture of uses with an emphasis on entertainment, theaters, restaurants, night life and specialty

shops. High-density residential infill on upper floors is encouraged, as is the continued presence of the government center and supporting uses.

- (2) **CB – DOWNTOWN CENTRAL BUSINESS DISTRICT.** The CB district is intended primarily for retail and services that support Historic Downtown businesses and residents. Mixed uses are encouraged both horizontally and vertically. High-density residential infill, especially on upper floors, and office employment are both encouraged.
- (3) **MUR – MIXED USE RESIDENTIAL DISTRICT.** The MUR district is intended primarily to create a residential district that allows a mixture of neighborhood commercial uses that meet the daily needs of area residents. [Ord. 5673, 6/27/2007]
- (4) **WF – WATERFRONT DISTRICT.** The WF district is intended 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. Development and design standards will result in great neighborhoods, a pedestrian friendly environment and an enhanced community image. [Ord. 5635, 1/11/2006]
- (5) **LE – LYON-ELLSWORTH DISTRICT.** The LE district is intended primarily as a location for development that serves the Historic Downtown district and Downtown Central Business district. This district is the most desirable location in the Central Albany area for parking structures with ground-floor commercial uses.
- (6) **MS – MAIN STREET DISTRICT.** The MS district is intended primarily as an employment center with supporting commercial and retail services for residents and employees in the area. Retail, restaurant or night uses that impact surrounding residences are discouraged.
- (7) **ES – ELM STREET DISTRICT.** The ES district is intended primarily to provide enough land for Albany General Hospital and associated medical uses while maintaining compatibility with adjacent residences in scale and design. Light commercial and personal services are encouraged to serve the nearby residents. Removal of existing residences and landscapes is discouraged. New parking facilities should be underground or completely screened. Only the amount of parking that is necessary should be allowed for uses in this district, to minimize the amount of land consumed by parking.
- (8) **PB – PACIFIC BOULEVARD DISTRICT.** The PB district is intended as an auto-oriented commercial area along Pacific Boulevard in the Central Albany area. Design guidelines and front-yard landscaping will provide a coordinated look and enhance the community image along this major corridor as it develops or redevelops. Sound and visual buffers should be used to protect nearby residential areas.
- (9) **MUC – MIXED USE COMMERCIAL DISTRICT.** The MUC zoning district is intended primarily to provide a mix of convenience commercial, personal services, offices and medium density residential uses. The district would typically be anchored by a grocery store, and may include a mix of smaller retailers, offices, live-work units and residences. The MUC district is easily accessible to nearby residences, and commercial uses are compatible in scale and design with adjacent neighborhoods. Uses in the MUC zone will serve area residents and should not draw from the region. [Ord. 5556, 2/21/2003; Ord. 5577, 7/28/2004; Ord. 5555, 2/7/2003]

Note: The RM zone is also compatible with the Village Center Comprehensive Plan design, but because it is a residential zone, it is located in Article 3. [Ord. 5673, 6/27/2007]

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

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

[Ord. 5555, 2/7/2003]

5.045 Relationship to State, Federal and Other Local Regulations. In addition to the regulations of this Code, each use, activity, or operation in the City of Albany must comply with applicable state and federal standards. Other local regulations include those in Article 6, Special Purpose Districts, and those of the Building Division and Fire Department. [Ord. 5555, 2/7/2003]

### 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, 2/7/2003]

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

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

- Y Yes; use allowed without review procedures but may be subject to special conditions.
- S Use permitted that requires a site plan approval prior to the development or occupancy of the site or building.
- CU Use considered conditionally under the provisions of Sections 2.230-2.260 through the Type III procedure.
- CUII Uses considered conditionally through the Type II procedure.
- 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, 2/7/2003; Ord. 5673, 6/27/2007]

PURPOSE of amendments:

- *Change Child Care to Daycare for consistency.*
- *Add “Treatment” to the Residential Care or Treatment Facility use category name.*
- *Adding Non-residential Accessory Buildings as a use category line item to clarify when they require land use review.*
- *Change Communication Towers and Poles to Communication Facilities.*

**SCHEDULE OF PERMITTED USES**

**Mixed-Use and Village Center Uses**

Use Categories (See Article 22 for use category descriptions.)	Spec. Cond.	MUC	WF	HD	CB	LE	PB	MS	ES	MUR
<b>INDUSTRIAL</b>										
Contractors and Industrial Services	1	N	N	N	S	S	S	N	N	N
Manufacturing and Production	2	N	N	S/CU	S/CU	S/CU	N	N	N	N
Warehousing and Distribution		N	N	N	N	N	N	N	N	N
Waste and Recycling		N	N	N	N	N	N	N	N	N
Wholesale Sales		N	N	N	CU	N	N	N	N	N
<b>COMMERCIAL</b>										
Adult Entertainment	3	N	N	S	S	N	N	N	N	N
Entertainment and Recreation										
Indoor		S-4	CU-4	S	S	S	S-4	S-4	S-4	CU
Outdoor		CU	N	N	CU-5	N	S	N	N	N
Offices		S	S	S	S	S	S	S	S	S
Parking		S	CU-6	CU	CU	S	S	S	CU-6	CU
Restaurants, no drive-thru with drive-thru or mostly delivery	23	S CU	S N	S N	S N	S S	S S	S N	CUII N	S N
Retail Sales and Service		S-8	CU-7	S	S	S	S	S-8	S-8	S-8

New language is shown in **bold** and deleted language in ~~strikethrough~~.  
*Staff comments in italics* are not amendments and will be removed.

**EXHIBIT E**

Use Categories (See Article 22 for use category descriptions.)	Spec. Cond.	MUC	WF	HD	CB	LE	PB	MS	ES	MUR
Self-Serve Storage	9	N	N	N	N	N	N	N	N	N
Taverns, Bars, Breweries, Nightclubs	23	CUII	CUII	S	S	S	S	CUII	CU	CUII
Vehicle Repair		N	N	N	CU	N	S	N	N	N
Vehicle Service, Quick (gas/oil/wash)		S	S	N	N	N	S	S	S	N
<b>INSTITUTIONAL</b>										
Basic Utilities	10	CU	CU	CU	CU	CU	CU	CU	CU	CU
<del>Daycare</del> Child Care Facility		S	S	S	S	N	CU	S	S	S
Community Services	11	CU	CU	S	S	S	S	S	S	CU
Educational Institutions	12	CU	CU	CU	CU	CU	N	CU	CU	CU
Hospitals		N	CU	CU	S	S	CU	N	CU	CU
Jails & Detention Facilities		N	N	N	N	N	N	N	N	N
Parks, Open Areas and Cemeteries	13	CU	CU	CU	CU	CU	CU	CU	CU	CU
Religious Institutions	12	CU	CU	CU	S	S	CU	CU	CU	CU
<b>RESIDENTIAL</b>										
Residential Care or Treatment Facility	14	S	CU	S	S	S	N	S	S	S
Assisted Living Facility		CU	CU	CU	CU	CU	CU	CU	CU	CU
Single Family and Two Family Homes	15	Y-17	S-16	N	CU-16	N-16	N	N-16	CU-16	Y
Three or More Units	17	S-17	S	N	CU	S	N	CU	CU	S
Units Above or Attached to a Business		S-17	S	S	S	S	S	S	S	S
Residential Accessory Buildings	18	Y/S	CUII	Y/ CUII	Y/ CUII	CUII	N	S/ CUII	Y/ CUII	Y/S
<b>OTHER CATEGORIES</b>										
<b>Non Res'l Accessory Buildings, larger than 750 sq ft.</b>		<b>S</b>	<b>S</b>	<b>S</b>	<b>S</b>	<b>S</b>	<b>S</b>	<b>S</b>	<b>S</b>	<b>S</b>
Agriculture (on Vacant Land)	19	N	N	N	N	N	N	N	N	N
Communication Towers & Poles Facility >= 50 ft.	20	CU	N	N	CU-21	CU-21	CU-21	N	CU-21	N
Kennels	22	N	N	N	N	N	N	N	N	N
Passenger Terminals		CU	N	CU	CU	CU	S	CU	N	N
Rail And Utility Corridors		CU	CU	N	CU	CU	CU	CU	CU	N

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

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

[Ord. 5555, 2/7/2003; Ord. 5556, 2/21/2003; Ord. 5635, 1/11/2006; Ord. 5673, 6/27/2007; Ord. 5728, 1/27/2010]

**SPECIAL CONDITIONS**

*Only the special conditions proposed to be amended are shown.*

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:

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

residences. [Ord. 5673, 6/27/2007]

- (15) Existing Single- and Two-Family Homes. Single-family and two-family ~~homes-units~~ built before December 11, 2002, may remain as a permitted use in any zone without being nonconforming. See Section 5.080. [Ord. 5673, 6/27/2007]

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, 6/27/2007]

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

- (a) Limited Uses in CB, ES, LE and WF. New construction of single-family units is limited to attached units (one unit per lot or condominiums) and **two-family units** (a duplexes ~~(two units per lot)~~).
- (b) In CB, ES, HD and LE: Buildings originally built as a single-family house or church may be converted to a single-family residential use without requiring a land use application.

[Ord. 5673, 6/27/2007]

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

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

[Ord. 5556, 2/21/2003]

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

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

All other residential accessory buildings, garages or carports require a Site Plan Review in MUR, WF and ES, and are considered through a Conditional Use Type II review in HD, CB, MS and MUC. [This is indicated by the use of a “/” in the matrix. For example, “Y/S” means accessory uses that don’t meet the standards in (a) above require a Site Plan Review.] [Ord. 5556, 2/21/2003]

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

Accessory apartments: ~~See~~ see Special Condition 15.

[Ord. 5673, 6/27/2007]

*PURPOSE of amendments: The reference to the Albany Municipal Code will direct users to rules for keeping animals.*

- (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.**

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

- (a) No antennas, antenna supports, satellite dishes or monopoles shall be located within any front ~~yard~~-setback area or within any required landscape buffer yard.
- (b) Dish antennas larger than three feet in diameter, and located within ten feet of a residential lot line or visible from a public street, shall be screened with a six-foot solid screen fence, wall, hedge, or other landscaping.
- (c) Antennas used to display sign messages shall conform to all district sign regulations in addition to the above.
- (d) Towers are not permitted.
- (e) Antennas, satellite dishes, monopoles and other communication structures less than 50 feet in height, not in conformance with the above, may be considered through a Conditional Use review. [Ord. 5445, 4/12/2000]

- (21) In CB, LE, PB and ES, communication towers and poles at least 50 feet in height when measured from the ground or over 15 feet above a rooftop, may be considered through a Conditional Use review. No communication structure is allowed in any front ~~yard~~-setback.

- (22) Kennels. Kennels do not include indoor veterinary hospital kennels.

[Ord. 5555, 2/7/2003]

- (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, 1/27/2010]

*No Changes are proposed to Section 5.080 so it is not included.*

### DEVELOPMENT STANDARDS

- 5.090 Purpose. Development standards are intended to promote site planning and design that consider the natural environment; maintain the required dimensional standards while promoting energy conservation, needed privacy, and safe and efficient parking areas for new development; and improve the general living environment and economic life of a development. Table 1 summarizes the basic development standards. It should be used with the sections immediately following the table, which address special circumstances and exceptions. Additional design standards for commercial and multi-family developments are located in Article 8. [Ord. 5445, 4/12/2000]

New language is shown in **bold** and deleted language in ~~strikethrough~~.  
*Staff comments in italics* are not amendments and will be removed.

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

STANDARD	MUC	WF	HD	CB	LE	PB	MS	ES	MUR
<b>Minimum Lot Size (sq.ft.) (3)</b>									
Single-family	None	None	N/A	N/A	N/A	N/A	N/A	5,000	None
Attached single-family, Per lot	None	1,600	None	N/A	N/A	N/A	None	None	None
Two-family	None	3,600	None	N/A	N/A	N/A	N/A	7,000	3,600
3 or more 1-bedroom	None	1,600/u	None	None	None	1,600/u	1,600/ u	3,300/ u	1,600/ u
3 or more 2+bedroom	None	1,800/u	None	None	None	1,600/u	1,800/ u	3,300/ u	1,800/ u
All other uses	6,000	10,000	2,000	2,000	2,000	15,000	6,000	5,000	10,000
<b>Maximum Building Size (sq. ft.)(16)</b>									
Non-grocery (19)	20,000	None	None	None	None	None	None	None	None
Grocery-anchored	80,000 (18)	None	None	None	None	None	None	None	None
<b>Maximum Business Footprint (sq. ft.)(1617)(1617)</b>									
Non-grocery (19)	20,000	None	None	None	None	25,000	10,000	10,000	10,000
Grocery-anchored	80,000 (13)	None	None	None	None	60,000	60,000	60,000	60,000
<b>Lot Width, minimum</b>	None	None	20'	20'	20'	None	None	None	None
<b>Lot Depth, minimum</b>	None	None	50'	50'	50'	None	None	None	None
<b>Landscaped Area (2)</b>	100%	100%	100%	100%	100%	100%	100%	100%	100%
<b>Minimum Open Space</b>	(12)	(12)	None	None	None	(12)	(12)	(12)	N/A
<b>Maximum Front Setbacks: (10)</b>	10' (15)	20' (11)	0'	0'	None	20'	10'	10'	20'
<b>Minimum Setbacks:</b>									
Front (5) (14)	5'	5'	0'	0'	0'	5'	5'	5'	15'
Interior (5) (14)	(1)(4)	5' (1)(4)	(4)	(4)	(4)	(4)	(1)(4)	5'	10'(1)
Garage Entrance (9)	20' (8)	20' (8)	20'	20'	20'	20'	20'(8)	20'	20'
<b>Height, maximum</b>	50'	50'	85'	60'	60'	50'	50'	50'	45'
<b>Lot Coverage, maximum (6)</b>	80%	80%	100%	(7)	100%	80%	90%	80%	70%

N/A means not applicable.

- (1) Single-family homes or duplexes must have a 3' interior ~~yard-setback~~ for single-story buildings, and a 5' interior ~~yard-setback~~ for two-story buildings. See 5.150 and 5.160 for zero lot line options.
- (2) All yards adjacent to streets.
- (3) Lots with alley access may be up to 10% smaller than the minimum lot size for the zone. [Ord. 5338, 1/28/98; Ord. 5445, 4/12/00.]
- (4) Commercial or office buildings abutting residential districts and/or uses require one foot of setback for each foot of wall height with a minimum setback of ten feet. For ~~yards-developments~~ abutting commercial or industrial districts, no interior setback is required.
- (5) No setbacks are required for buildings abutting railroad rights-of-way.
- (6) Lot coverage includes building and parking area coverage.
- (7) See minimum floor area ratio requirements in ADC 5.120.
- (8) Garage setback for non-vehicle entrance must conform with the requirements for interior setbacks.
- (9) For garages with alley access, see Table 2.
- (10) The maximum setback may be increased with the condition that 100% of the increased setback is used for pedestrian amenities associated with the building use, such as patio dining for a restaurant, sidewalk café, plaza, or courtyard;

- or to accommodate changes in elevation due to road and site grading or natural slopes.
- (11) For multi-family and commercial developments, no parking or circulation will be allowed ~~within the front yard~~ between the building with the primary entrance and the adjacent street.
  - (12) Ten or more residential units may require common open space. See ADC 8.220.
  - (13) The building and business footprint maximum is 80,000 square feet if a grocery store occupies at least fifty percent (50%) of the total square footage. This footprint may include one or more businesses or attached buildings. For purposes of this section, a grocery store is defined as a business that sells primarily food and household supplies. Ancillary grocery uses include uses such as pharmacy, bakery, and florist.
  - (14) Properties adjacent to the Willamette River, see also the Willamette Greenway standards in 5.200 and ADC 6.310-6.370.
  - (15) Except for residential development, which has a maximum setback of 25 feet. See Section 8.240 for multiple-family residential design standards.
  - (16) The maximum building size and business footprint size may be exceeded for non-commercial and non-office uses when the building is multi-story.
  - (17) In shopping centers with multiple tenants, “business” refers to each individually leasable space. “Footprint” refers to the amount of area covered by the first floor. Businesses may build on additional floors.
- [Table and footnotes amended by Ord. 5555, 2/7/2003; Ord. 5556, 2/21/2003; Ord. 5627, 7/27/2005; Ord. 5673, 6/27/2007]

**SETBACKS**

5.100 Minimum Standards. Primary structures must meet the minimum setback standards in Table 1, Development Standards. In addition to the setbacks in this Article, all development must comply with Section 12.180, Clear Vision Area.

The Accessory Structure Standards (Table 2) apply to residential accessory structures in the MUR, WF, MS, ES, and MUC districts. [Ord. 5555, 2/7/2003; Ord. 5556, 2/21/2003]

**TABLE 2  
 ACCESSORY STRUCTURE STANDARDS**

<b>STRUCTURE</b>	<b>SETBACK STANDARD</b>
All Accessory Structures	See Table 1 for minimum front setbacks.
Detached, walls less than or equal to 8 ft. tall	Interior setback = 3 feet
Detached, walls greater than 8 ft. tall	Interior setback = 5 feet
Attached structure	Interior setback = 5 feet
Garage with access to an alley	Alley setback = 20 feet, less the width of the alley right-of-way, but at least 3 feet.  Other interior setbacks, see Table 1
Structures, including fences, intended for housing animals	Interior setback = 10 feet
Fences more than 6 ft. high	District setback standard; building permit required.
Outdoor swimming pools with depths => <b>greater than or equal to 24 inches</b>	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, 4/12/2000; Ord. 5673, 6/27/2007]

- 5.110 Measurements. Setback distances must be measured perpendicular to all portions of a lot line.
- 5.120 Minimum Floor Area Ratio Required in CB District. All new development within the Central Business District shall have at least one square foot of building floor area for each square foot of buildable lot

area except:

- (1) Expansions to existing buildings.
- (2) Public parking and open space uses.
- (3) Development within the Willamette River Greenway.

[Ord. 5555, 2/7/2003]

*PURPOSE of amendments: The intent of this section is to allow additions and new infill development to have setbacks that are compatible with building setbacks in already developed areas.*

*Effect of amendments: The changes will make the Alternative Setback sections consistent in Articles 3, 4 and 5.*

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

- (1) ~~Additions to the front of a dwelling.~~ The front yard setback of the dwelling does **structure is not less than exceed** the average of the setbacks for the same uses on the abutting properties **on either side. If the same use is only on one abutting property, the proposed front setback may be no less than the setback of the abutting structure.**
- (2) Addition of a garage or carport. The front yard setback for a garage or carport meets the current front yard setback standard, and the driveway to it is paved.
- (3) Additions to the side or rear of a dwelling. The ~~existing~~ **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, 5/10/2000]

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

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

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

*PURPOSE of amendments: Accessory structure setbacks allow them to be 3 feet from the property line. The building code also allows structures to be closer than 10 feet. Staff proposes that the easement be reduced to 6-feet for both primary and accessory structures.*

(1) There are no openings or windows in the lot line wall. Additionally, a ~~106-foot~~ setback and maintenance easement must be recorded on the adjoining property deed or plat. This easement is not revocable without City approval.

OR

(2) Two or more dwelling units are attached at the property line and are approved for such in accordance with other provisions of this Code. [Ord. 5555, 2/7/2003]

5.160 Setbacks for Attached Single-Family Dwellings. The interior ~~yard-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.

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

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

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

5.190 Setbacks for Properties Abutting Future Street Rights-of-Way. Where the adopted Comprehensive Plan and future street plans include widening or connecting existing streets, or establishing new streets, the placement of all buildings and the establishment of all required ~~yards-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.

*No changes are proposed to 5.200 and 5.205, so they are not shown.*

5.210 Special Setbacks for Schools, Churches, Public and Semi-Public Buildings. Any new construction of a school, church, or public or semi-public building must be set back at least 25 feet from any property line abutting any residential district. No required front or interior ~~yard-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.

*PURPOSE of amendments: The intent of 5.220 is that parking and loading spaces may not be located in the required setbacks.*

*Regarding residential development in (1), this section specifies that driveways to garages/carports can count towards required parking. Occasionally garages or carports are not provided with new housing units. The*

*additional language clarifies this.*

5.220 (2) *conflicts with note (11) for WF in Table 2. In 2003, maximum front setbacks for Village Center zones were adopted to get buildings to the street. The maximum front setbacks make it challenging to provide parking between the building and the street in new construction. Removing (2) will make this consistent with the maximum setbacks.*

*Effect of amendments: Clarifying intent.*

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

(1) ~~Driveways providing access to garages, and carports for any residential development may be used to fulfill the parking requirements.~~ **Driveways meeting dimensional standards may be used to fulfill parking requirements for single-family and two-family residences. Each space must be a paved area at least 10 feet wide and 20 feet long.**

(2) ~~In the WF, PB, and ES districts, required parking may be permitted in required front and interior setbacks behind the minimum landscaping and buffering requirements.~~

[Ord. 5445, 4/12/2000; Ord. 5555, 2/7/2003]

5.230 Dwellings Located Above Commercial Uses. The ~~yard-setback~~ requirements for residential uses do not apply when a dwelling is legally located above a commercial use.

*No changes are proposed to Sections 5.240 and 5.250 so they are not shown.*

## OFF-STREET PARKING AND LOADING STANDARDS

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

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

On street parking spaces abutting the property in the MUR, Mixed Use Residential District; CB, Central Business District; and LE, Lyon Ellsworth District, may be counted towards meeting parking requirements. Parallel parking spaces must be at least 25 feet long and shall be striped.

Site Plan Review is not required for parking areas containing less than 1,000 square feet and otherwise meeting the provisions of this Code.

[Ord. 5555, 2/7/2003; Ord. 5673, 6/27/2007]

**TABLE 3: RESIDENTIAL PARKING STANDARDS**

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

[Ord. 5555, 2/7/2003]

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

USE	SPACES REQUIRED
Air, rail and motor freight terminals	Subject to site plan review
Animal hospitals and clinics	1 per 400 sq ft GFA
Banks and financial institutions	1 per 200 sq ft on first floor plus 1 per 600 sq ft above first floor
Beauty and barber shops and other personal services	1 per 200 sq ft plus 1 per 3 employees
Bowling alleys	4 per lane
Building materials sales	1 per 500 sq ft GFA
Central Albany Area retail trade (excluding properties within the Downtown Parking Assessment District)	1 per 3 employees plus 1 per 400 sq ft sales area
Churches and other places of religious assembly	1 per 6 seats or 12 feet of bench length (1)
Commercial recreation and assembly	Subject to site plan review
Drive-in restaurants	1 per 50 sq ft GFA <i>PURPOSE: This is being relocated to Restaurants, Drive In. This use is different than drive through. Example is Sonic.</i>
Education: Elementary, junior high and other children's day school	1 per classroom plus 1 per 2 employees
Education: High schools, colleges and universities	Subject to site plan review
Funeral houses	1 per 4 seats or 8 feet of bench length
Furniture, machine and office equipment sales	1 per 500 sq ft GFA plus 1 per 3 employees
Golf courses (including clubhouses and accessory uses)	Subject to site plan review
Greenhouses and nurseries	2 per employee
Hospitals	1 per 2 beds plus 1 per staff doctor plus 1 per 2 full-time employees
Laundries and cleaners	1 per 300 sq ft GFA
Libraries, reading rooms, museums and art galleries	1 per 2 employees plus 1 per 500 sq ft GFA
Manufacturing, production or processing	1 per 2 employees plus 1 per company vehicle
Medical and dental clinics	1 per 200 sq ft GFA
Meeting rooms, private clubs and lodges	1 per 100 sq ft GFA plus 1 per 200 sq ft GFA (2)
Motels and hotels	1 per rental unit plus additional as required for accessory uses

New language is shown in **bold** and deleted language in ~~strikethrough~~.  
*Staff comments in italics* are not amendments and will be removed.

**EXHIBIT E**

USE	SPACES REQUIRED
Motor vehicle repair and service stations	1 per each 2 employees plus 2 per each service stall
Offices: all business and professional	1 per 300 sq ft GFA
Philanthropic, charitable and nonprofit institutions (excluding churches)	1 per 2 employees plus 1 per 500 sq ft GFA
Radio and television stations and studios	1 per 2 employees plus 1 per 300 sq ft over 2,000 sq ft GFA
Rail and bus passenger terminals	5 plus 1 per 100 sq ft waiting area
<del>R</del> esidential uses	Off-street parking not required
<b>Restaurants, Drive in</b>	<b>1 per 50 sq ft GFA</b> <i>PURPOSE: Relocated from above.</i>
<del>R</del> estaurants: Sit-down and carry-out/ <b>drive thru</b> restaurants, taverns, bars and nightclubs	1 per 100 sq ft GFA
Retail: Shopping centers, food, drugs, hardware, variety and department stores	1 per 200 sq ft sales floor area
Retail: Specialty shops and other retail stores under 6,000 sq ft	1 per 300 sq ft GFA plus 1 per 3 employees
Sales and rental of motor vehicles, trailers, mobile homes, boats, modular houses	2 per employee
Skating rinks	1 per 200 sq ft GFA
Stadiums, grandstands, coliseums, auditoriums and theaters	1 per 4 seating capacity (3)
Swimming pools, for pool only	10 plus 1 per 150 sq ft pool surface area
Testing, repairing, cleaning ,servicing of materials, goods or products and warehousing and wholesale	1 per 2 employees plus 1 per 300 sq ft of patron serving area, plus 1 per company vehicle

[Ord. 5555, 2/7/2003]

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

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

- (1) Vehicles in the berth shall not protrude into a public right-of-way or sidewalk. Loading berths shall be located so that vehicles are not required to back or maneuver in a public street.
- (2) A school having a capacity greater than 25 students shall have a driveway designed for continuous forward flow of passenger vehicles for the purpose of loading and unloading children.
- (3) The minimum **required loading area** ~~required for commercial loading spaces~~ is as follows:
  - (a) 250 square feet for buildings of 5,000 to 20,000 square feet of gross floor area.
  - (b) 500 square feet for buildings of 20,000 to 50,000 square feet of gross floor area.
  - (c) 750 square feet for buildings in excess of 50,000 square feet of gross floor area.
- (4) The required loading area shall not be less than 10 feet wide by 25 feet long and shall have an unobstructed height of 14 feet.
- (5) Required loading facilities shall be installed prior to final building inspection and shall be

permanently maintained as a condition of use.

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

## LANDSCAPING

5.280 General. **Developments must comply with site landscaping standards in Article 9** ~~All required yards adjacent to a street (see Table 1), exclusive of accessways and other permitted intrusions must be landscaped before occupancy in accordance with Article 9~~**Section 9.140.**

## BUFFERING AND SCREENING

5.290 General. Buffering and screening may be required **in addition to the minimum landscaping**, to offset the impact of development. See Sections 9.280 through 9.325 for requirements. [Ord. 5445, 4/12/2000]

## OUTSIDE STORAGE

5.360 General.

- (1) In the HD, CB, LE, MS, ES, WF and MUC districts, outside storage or display of materials, junk, parts, or merchandise is not permitted within required front setbacks or required buffer areas, except for automobile sales, where allowed. [Ord. 5556, 2/21/2003]
- (2) In the HD, CB, LE, MS, ES, WF and MUC districts, open storage is permitted in yards not listed in (1) above, provided that it is enclosed with a sight-obscuring fence, wall, hedge, or berm, which must be constructed of non-combustible material. This enclosure must be located on the property at the required setback line as if the berm, fence, wall, or hedge was a building. [Ord. 5556, 2/21/2003]
- (a) Materials and equipment stored as permitted in this subsection may be no more than 14 feet above the elevation of the storage area. Open storage over six feet tall must be screened by landscaping.
- (b) Open storage over 6 feet tall must be screened by landscaping.

[Ord. 5555, 2/7/2003]

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

[Ord. 5555, 2/7/2003]

## FENCES

**MUC AND MUR DISTRICTS** [Ord. 5556, 2/21/2003]

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

5/10/2000]

*PURPOSE of amendments: to clarify the use of yards and setbacks and make the fence standards in Articles 3, 4 and 5 consistent.*

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

- (1) Fences may be no taller than 6 feet in interior yards~~setbacks~~, 4 feet in front yards~~setbacks~~ and shall meet the clear vision area standards in Section 12.180.

Exceptions to Height:

- (a) A single-family use that shares~~d~~ an interior property line with a multiple-family use or zone may have a fence up to 8 feet tall along that property line **without having to meet building setbacks**.
- (b) Properties listed on the National Register of Historic Places may have front yard fences taller than 4 feet if the fence is appropriate to the building style and scale, and is approved by the Landmarks Advisory Commission.

[Ord. 5689, 3/12/2008]

- (2) Corner properties, which by definition have two front yards, may have a fence of up to 6 feet **tall** ~~in height~~ in the front yard adjacent to the street that does not contain the dwelling's main door entrance when one of the following conditions is met:

- (a) If the adjoining street is improved with sidewalks and a planter strip, the fence may be on or behind the property line.
- (b) If the adjoining street is improved with sidewalks but no planter strip, the fence is located a minimum of 3 feet from the sidewalk.
- (c) If the adjoining street is improved with curbs and gutters but no sidewalks, the fence is located 10 feet from the face of the curb.
- (d) If the adjoining street is unimproved, the fence is no closer than 3 feet from the property line.

[Ord. 5689, 3/12/2008]

*PURPOSE of amendments: The 8-foot height limit for fences is located in 5.410(1)(a) and should also be located under the standards for residential fences.*

- (3) Fences more than 6 feet tall require a building permit prior to construction. Except where a taller fence is permitted at the lot line [see subsection (1) above], fences more than 6 feet tall must meet building setback requirements. **In no instance shall a fence be taller than 8 feet.**
- (4) In no instance shall a fence extend beyond the property line.
- (5) All fencing must comply with the requirements of the clear vision area **standards in** (Section 12.180) for streets and driveways.
- (6) Fence height shall be measured from the average height of the grade adjacent to where the fence is to be located. If a fence is to be constructed on top of a berm, the height shall be measured from the bottom of the berm.

Fence height includes the height of the fence wall or pickets and does not include the posts,

decorative finials or similar elements, and arbors and trellises at entrance gates.

[Ord. 5446, 5/10/2000; Ord. 5689, 3/12/2008]

**HD, CB, MS, LE, TD, PB, ES, WF DISTRICTS** [Ord. 5555, 2/7/2003; Ord. 5689, 3/12/2008]

Fences for residential uses or National Register properties in these zones, see Sections 5.380 and 5.390.

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

- (1) Barbed wire is permitted atop a 6-foot ~~chain-link~~ fence. The total height of the fence and barbed wire is limited to 8 feet. Barbed wire only fences and concertina wire are prohibited except as allowed in subsection (2).
- (2) Concertina wire may be used atop a 6-foot chain-link fence around correctional institutions and high security areas provided that the fences are posted at least at 15-foot intervals with clearly visible warnings of the hazard.
  - (a) Except as specified in the provisions of subsections (1) and (2) above, concertina wire, barbed wire, or upturned barbed salvage existing at the time of the passage of this ordinance that is between 6 and 7 feet above grade is considered a legal non-conforming use, provided that the barbed wire or upturned barbed salvage does not extend over a street or alley and where it does slant toward the public right-of-way, it is located not less than one foot from said right-of-way.

5.410 Standards.

- (1) Fences are limited to the height and locational standards listed below:
  - (a) Fences may be up to 8 feet tall provided that the fence is located behind the required front ~~yard-setbacks~~ or planting areas and outside of any vision clearance area **as defined in Section 12.180**. In no instance may a fence exceed 8 feet in height.
  - (b) Fences more than 6 feet tall require building permits.

*PURPOSE of amendments: The screening standards in Article 9, Section 9.250 use two years for landscaping to become opaque and 6 feet tall. This is being changed to be consistent with the landscaping standards in Article 9.*

- (2) Whenever a sight-obscuring fence, wall or hedge is required under the provisions of this Code, it must meet the following provisions:
  - (a) Opacity. In order to be "sight-obscuring," fences and walls ~~will~~ **must** be at least 75 percent ~~solid opaque~~ when viewed from any angle at a point 25 feet away from the fence or wall. Hedges ~~will~~ **must** be of an evergreen species ~~which~~ **that** will meet ~~and maintain this standard year-round the same standard within three~~ ~~(3)~~ **2** years of planting.
  - (b) Height. Fences and walls will be at least 6 feet tall. Hedges will be of a species capable of attaining a height of at least 6 feet within ~~3~~ **2** years of planting, given their age, height and health when planted.
  - (c) Maintenance. Fences and walls will be maintained in safe condition and opacity is maintained as required in subsection (a) of this section. Wooden materials will be protected from rot, decay, and insect infestation. Plants forming hedges will be replaced within ~~six~~ ~~(6)~~ months after dying or becoming diseased to the point that the opacity required in subsection

(a) of this section is not met.

- (3) Every fence, whether **required** or not, ~~approved as a result of Site Plan Review~~, will be maintained. No fence is allowed to become or remain in a condition of disrepair including, but not limited to noticeable leaning, missing slats, broken supports, and overgrowth of weeds or vines.

[Ord. 5673, 6/27/2007; Ord. 5689, 3/12/2008]

## ARTICLE 10 MANUFACTURED HOME DEVELOPMENT STANDARDS

*No changes are proposed to 10.000 through 10.430, so they are not shown.*

### TEMPORARY PLACEMENTS

*PURPOSE of amendments: Staff recommends receiving more information to determine whether or not temporary placements meet the intent of the regulations. In addition, we are clarifying the time allowances for each permit.*

10.440 General. A special use permit may be issued to an applicant showing an undue hardship. The special use permit shall not exceed ~~one (1) year in~~ the length **specified by the permit type.** ~~and~~ **The temporary structure** shall be for a Class A, B or C manufactured home (see Sections 10.080 through 10.140) ~~for use and placed on the caregiver's property on a single lot in~~ accordance with the provisions that follow.

10.450 Medical Hardship Application. A medical hardship application will be reviewed through a Type I procedure. The applicant must demonstrate to the review body, with supporting factual information, that the permit is necessary to provide adequate and immediate health care for a family member in need of close attention who would otherwise be unable to receive the needed attention from the hospital or care facility, **or within the primary residence on the property.**

The manufactured home to be used must meet all city, county, and state health and building requirements and is to be used in conjunction with a permanent residential structure on the same lot. The application for medical hardship special use permit must contain:

- (1) A written medical report from a licensed physician indicating the nature of the medical or disability hardship and the amount and type of care needed by the affected person or persons.
- (2) **A written explanation including factual information that demonstrates why it is necessary to provide adequate and immediate health care for a family member on-site in a temporary structure, rather than in a hospital or care facility or within the primary residence.**
- (3) A plot plan showing in detail the proposed location of the manufactured home on the site, with respect to the surrounding area, setbacks, existing structures and improvements to be made.
- (4) A signed petition indicating approval of all ~~legal~~ property owners **located** within one hundred (100) feet of the subject property.

10.460 Medical Hardship Permit. A permit issued for medical hardship will include the following conditions:

- (1) There shall be no change in occupancy **of the manufactured home** under the permit. **(i.e. the permit is for the original individual for whom the temporary structure is needed.)**
- (2) ~~The M~~manufactured homes shall not be expanded or attached to a permanent structure **on the property.**
- (3) ~~The M~~manufactured homes shall have approved connections to utility systems and the owners shall be allowed to hook to an existing residential sewer service lateral without paying a sewer

hookup charge.

- (4) The manufactured home shall be required to meet all setback requirements to residential dwellings and shall be situated so as to have the least possible visual exposure to adjoining streets.
- (5) The manufactured home must be removed when the original hardship no longer exists.
- (6) The permit is valid for a two-year period from the date of approval. The permit may be renewed upon request if the Director finds that the hardship still exists and that the temporary placement has had no adverse effect on surrounding properties. The renewal request must be made at least 30 days ~~prior to~~**before** the permit's expiration date.

10.470 Temporary On-site Residence Application. An application for a temporary on-site residence for owners or caretakers who are overseeing the construction of a new or replacement home, or the repair of an existing home is reviewed under the Type I procedure and must include the following information:

- (1) A statement of intended use and length of time for use.
- (2) A property plan showing in detail the proposed location and size of the manufactured home with respect to the surrounding area, setbacks, structures, and improvements to be made.
- (3) Evidence that the manufactured home complies with building and health codes.
- (4) A signed petition indicating approval of all ~~legal~~-property owners **located** within one hundred (100) feet of the subject property.

10.480 Temporary On-site Residence Permit. The permit as issued will contain the following restrictions:

- (1) There shall be no change in occupancy under the permit. **(i.e. the permit is for the original individual for whom the temporary structure is needed.)**
- (2) The manufactured home may not be included or sold as a part of any property on which it is located.
- (3) The manufactured home may not be expanded or have attached permanent structures.
- (4) The manufactured home must have approved connections to utility systems as required by the City.
- (5) The use is limited to the function as set forth in the application for the permit.
- (6) The permit is limited in duration to one year.

10.490 Other Temporary Uses. A site plan review approval may be issued under the Type I-L procedure so as to provide adequate temporary building space for the following uses only:

- (1) Night watchman.
- (2) Temporary offices accessible to the general public for use during construction or remodeling.

(3) Temporary building space for education, non-profit, and government agencies.

10.500 Right of Revocation. The review body shall have the right to revoke any special use permit granted under this section within thirty (30) days notice, if upon inspection, the use is found to be in non-compliance with the application for which the permit is issued.

10.510 Renewal. The permit ~~as issued shall~~ **expire according to the time limits noted above** ~~not exceed a period of one (1) year from starting with~~ the date ~~of it was issued,~~ ~~at which time it shall expire~~. ~~Applications~~ for renewal of the special use permit under this section must ~~submit~~ **include** a letter stating the reason for the extension and the expected time period for continuation of the use.

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## ARTICLE 22 USE CATEGORIES AND DEFINITIONS

[22.010 – 22.370 added by Ord. 5555, 2/7/03]

### USE CATEGORIES

*PURPOSE of amendments: The City Attorney recommends not using “characteristics” to define the use categories and switch to the active voice to define the use categories. The word “characteristics” is being removed throughout the use categories and the use categories are being defined.*

*Other minor amendments are proposed to correct errors and inconsistencies with the use category names or within the use categories.*

22.010 Introduction to the Use Categories. This section classifies land uses and activities into use categories based on common functional, product, or physical characteristics. ~~Characteristics include the type and amount of activity, the type of customers or residents, how goods or services are sold or delivered, and certain site factors.~~ The use categories provide a systematic basis for assigning present and future uses to zones. The decision to allow or prohibit the use categories in the various zones is based on the **zoning district purpose statements.** ~~goals and policies of the Comprehensive Plan.~~

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

#### INDUSTRIAL USE CATEGORIES

- 22.030 Contractors and Industrial Services
- 22.040 Manufacturing and Production
- 22.050 Railroad Yards
- 22.060 Warehousing and Distribution
- 22.070 Waste and Recycling Related
- 22.080 Wholesale Sales

#### COMMERCIAL USE CATEGORIES

- 22.090 Adult Entertainment
- 22.100 Entertainment and Recreation, Indoor and Outdoor
- 22.110 Offices
- 22.120 Parking **Facility**
- 22.130 Restaurants
- 22.140 Retail Sales and Service
- 22.150 Self-Serve Storage
- 22.155 Taverns, Bars, Breweries and Night Clubs
- 22.160 Vehicle Repair
- 22.170 Vehicle Service, Quick

#### INSTITUTIONAL USE CATEGORIES

- 22.180 Basic Utilities
- 22.190 Community Services
- 22.200 Daycare **Facility**
- 22.210 Educational Institutions

- 22.220 Hospitals
- 22.230 Jails and Detention Facilities
- 22.240 Parks, Open Areas and Cemeteries
- 22.250 Religious Institutions

RESIDENTIAL USE CATEGORIES

- 22.260 ~~Group or Residential Care or Treatment Facilities~~
- 22.270 Assisted Living **Facility**
- 22.280 Single Family, Two Family
- 22.290 ~~Live Work~~ *Staff Comment: This use has been combined with Units Above or Attached to a Business elsewhere in this Code.*
- 22.300 Three or More Units
- 22.310 Unit(s) Above **or Attached to** a Business
- 22.320 Residential Accessory Buildings
- 22.235 Recreational Vehicle Park**

OTHER USE CATEGORIES

- 22.325 Accessory Buildings, Non-Residential**
- 22.330 Agriculture
- 22.340 Communication **Facility** Towers and Poles
- 22.350 Kennels
- 22.360 Passenger Terminals
- 22.370 Rail and Utility Corridors

22.020. Description of Use Categories.

- (1) **Considerations.** Uses are assigned to the category whose description most closely describes the nature of the primary use. ~~The “Characteristics” subsection of e~~ Each use category **is described the characteristics of each category and defined.** Developments may have more than one primary use. Developments may also have one or more accessory uses. The following are considered in determining what category the use is in, and whether the activities constitute primary uses or accessory uses:
  - The description of the activity(ies) in relationship to the characteristics of each use category;
  - The relative amount of site or floor space and equipment devoted to the activity;
  - Relative amounts of sales from each activity;
  - The customer type for each activity;
  - The relative number of employees in each activity;
  - Hours of operation;
  - Building and site arrangement;
  - Vehicles used with the activity;
  - The relative number of vehicle trips generated by the activity;
  - Signs;
  - How the use advertises itself; and
  - Whether the activity would be likely to be found independent of the other activities on the site.
- (2) **Developments with multiple primary uses.** When all of the primary uses of a development fall into one use category, the development is assigned to that use category. For example, a development that contains a retail bakery and a café would be classified in the Retail Sales and Service category because all of the primary uses are in that category. When the primary uses of a development fall into different use categories, each primary use is classified in the applicable category and is subject

to the regulations for that category.

*PURPOSE of amendments: When we adopted the use category descriptions, we included the examples of accessory uses (from Portland). The level of detail in the accessory uses, while examples, can be problematic with the variety of uses allowed in each use category. We propose removing the accessory use examples and adding language here to define what constitutes an accessory use.*

- (3) *Accessory Uses.* Accessory uses are **incidental to the primary use category and may contribute to the comfort, convenience, or necessity of the principal use. Examples of accessory uses include but are not limited to storage, employee and customer parking, and employee facilities. These uses are** allowed by right in conjunction with the use unless stated otherwise in the regulations. ~~Also, unless otherwise stated, they are subject to the same regulations as the primary use. Common accessory uses are listed as examples with the categories.~~
- (4) *Use of eExamples.* The “Use Examples” subsection of each use category provides a list of examples of uses that are included in the category. The names of uses on the lists are generic. They are based on the common meaning of the terms and not on what a specific use may call itself. For example, a use whose business name is “Wholesale Liquidation” but that sells mostly to consumers would be included in the Retail Sales and Service category rather than the Wholesale Sales category. This is because the actual activity on the site matches the description of the Retail Sales and Service category.

## INDUSTRIAL USE CATEGORIES

### 22.030 Contractors and Industrial Services

- (1) *Defined Characteristics.* ~~Contractors are engaged in mostly off site activities. Contractors and industrial services uses These include perform services or provide materials related to building construction or remodeling, and the repair or servicing of industrial, business or consumer machinery, equipment, products or by-products. Contractors are engaged in mostly off-site activities.~~ Industrial service uses serve businesses and industries; relatively few general public customers come to the site.
- (2) *Accessory uUses.* ~~Accessory uses may include offices, parking, storage, rail spur or lead lines. Hotels, restaurants, and other services that are part of a truck stop are considered accessory to the truck stop.~~
- (3)(2) *Use Examples.* Types of uses include, but are not limited to: building, heating, plumbing or electrical suppliers and contractors; printing, publishing and lithography; tool repair; exterminators; laundry, dry-cleaning, and carpet cleaning plants; photo-finishing laboratories; bulk landscape materials including rocks, bark chips or compost; welding shops; machine shops; electric motor repair; repair of scientific or professional instruments; rental of equipment; sales, rental, repair, equipment storage, salvage or wrecking of heavy machinery, metal, and building materials; towing and vehicle storage; overnight or long-term equipment storage; heavy truck servicing and repair; tire retreading or recapping; truck fueling stations; janitorial and building maintenance services; fuel oil distributors; solid fuel yards.
- (4)(3) *Exceptions.*
  - (a) If fabrication is not carried on at the site and equipment and materials are not stored on site, contractors and others who perform services off-site are included in the Office category.

22.040 Manufacturing and Production

- (1) ~~*Characteristics.*~~ Manufacturing and Production firms **businesses** are involved in the manufacturing, processing, fabrication, packaging, or assembly of products or energy. Natural, man-made, raw, secondary, or partially completed materials may be used. Products may be finished or semi-finished and are generally made for the wholesale market, for transfer to other plants, or to order for firms or consumers. Goods are generally not displayed or sold on site. If they are, they are a subordinate part of sales. Relatively few customers come to the manufacturing site.
- (2) ~~*Accessory Uses.*~~ Accessory uses may include offices, cafeterias, parking, employee recreational facilities, warehouses, storage yards, rail spur or lead lines, docks, repair facilities, truck fleets, or caretaker living quarters. Other living quarters are subject to the regulations for residential uses in the base zones.
- (3)(2) *Use Examples.* Types of uses include, but are not limited to: the manufacturing, researching, testing, experimentation and development of products, including engineering and laboratory research, pharmaceuticals, medical and dental devices and instruments; manufacturing, assembly, or packaging of products from previously prepared materials (excluding vehicle repair shops); weaving or production of textiles or apparel; manufacture or assembly of machinery, equipment, instruments, including musical instruments, appliances, precision items, and other electrical items; movie production facilities; production of artwork and toys; printing, publishing and book binding; catering establishments; processing of food, beer, wine and related products, including slaughterhouses and meat packing; woodworking, including cabinet makers; production of chemical, rubber, leather, clay, bone, plastic, stone, or glass materials or products; sign making; crematoriums; wood products manufacturing; concrete and asphalt mixing; production or fabrication of metals or metal products including enameling and galvanizing; production of prefabricated structures, including manufactured homes; and energy production.
- (4)(3) *Exceptions.*
  - (a) Manufacturing of goods to be sold primarily on site and to the general public is classified as Retail Sales and Service.
  - (b) Small-scale manufacturing or assembly that is compatible with an office building is classified as Office.
  - (c) Manufacturing and production of goods from composting organic material is classified as Waste and Recycling Related uses.

22.050 Railroad Yards

- (1) ~~*Characteristics.*~~ Railroad yards are areas that contain multiple railroad tracks used for rail car switching, assembling of trains, and transshipment of goods from other transportation modes to or from trains.
- (2) ~~*Accessory Uses.*~~ Accessory uses include offices, employee facilities, storage areas, railcar maintenance and repair facilities, and parking.

22.060 Warehousing and Distribution

- (1) ~~*Characteristics.*~~ Warehousing and Distribution firms **businesses** are involved in the receive, storage or movement of goods for themselves or other firms. Goods are generally delivered to

other firms or the final consumer, except for some will-call pickups. There is little on-site sales activity with the customer present.

~~(2) *Accessory Uses.* Accessory uses may include offices, truck fleet parking and maintenance areas, rail spur or lead lines, docks, and repackaging of goods.~~

~~(3)~~**(2)** *Use Examples.* Types of uses include, but are not limited to: separate warehouses used by retail stores such as furniture and appliance stores; household moving and general freight storage; cold-storage plants, including frozen-food lockers; major wholesale distribution centers; trucks or trucking terminals; bus barns and rail barns; parcel services; major post offices; the overnight or long-term storage of vehicles or equipment (e.g., RV storage, contractor equipment storage) as the primary use; grain terminals; and the stockpiling of sand, gravel, or other aggregate materials.

~~(4)~~**(3)** *Exceptions.*

- (a) Uses that involve the transfer or storage of solid or liquid wastes are classified as Waste and Recycling Related uses.
- (b) Mini-warehouses are classified as Self-Serve Storage uses.

22.070 Waste and Recycling Related

~~(1) *Characteristics.* Waste and Recycling Related uses are uses that receive solid or liquid wastes from others for disposal on the site or for transfer to another location, uses that collect sanitary wastes, or uses that manufacture or produce goods or energy from the biological decomposition of organic material. Waste-Related uses also include uses that receive hazardous wastes from others.~~

~~(2) *Accessory Uses.* Accessory uses may include recycling of materials, offices, and repackaging and transshipment of by products.~~

~~(3)~~**(2)** *Use Examples.* Types of uses include, but are not limited to: sanitary landfills, limited use landfills, waste composting, energy recovery plants, sewer treatment plants, portable sanitary collection equipment storage and pumping, and hazardous waste collection sites.

~~(4)~~**(3)** *Exceptions.*

- (a) Disposal of dirt, concrete, asphalt, and similar non-decomposable materials is considered a fill.
- (b) Sewer pipes that serve a development are considered a Basic Utility.

22.080 Wholesale Sales

~~(1) *Characteristics.* Wholesale Sales firms businesses are involved in the salesell, lease, or rent of products primarily intended for industrial, institutional, or commercial businesses. The uses emphasize on-site sales or order taking and often include display areas. Businesses may or may not be open to the general public, but sales to the general public are limited. Products may be picked up on site or delivered to the customer.~~

~~(2) *Accessory uUses.* Accessory uses may include offices, product repair, warehouses, parking, minor fabrication services, and repackaging of goods.~~

~~(3)~~**(2)** *Use Examples.* Types of uses include, but are not limited to: the sale or rental of machinery,

equipment, heavy trucks, building materials, special trade tools, welding supplies, machine parts, electrical supplies, janitorial supplies, restaurant equipment, and store fixtures; mail-order houses; and wholesalers of food, clothing, auto parts, or building hardware.

(4)(3) *Exceptions.*

- (a) Firms that engage primarily in sales to the general public or on a membership basis are classified as Retail Sales and Service.
- (b) Firms that primarily store goods with little on-site business activity are classified as Warehousing and Distribution.

## COMMERCIAL USE CATEGORIES

*PURPOSE of amendments: To define "sexually oriented."*

### 22.090 Adult Entertainment

(1) ~~*Characteristics.*~~ Adult entertainment uses are ~~sexually oriented businesses that provide sexually-oriented entertainment, services or products.~~ **uses and accessory uses which** ~~Businesses~~ **exclude** minors by virtue of age under the laws of the State of Oregon, whether or not such minors are accompanied by a consenting parent, guardian, or spouse.

(2) ~~*Accessory Uses.*~~ ~~Accessory uses may include parking and a general office.~~

(3)(2) *Use Examples.* Types of uses include, but are not limited to: adult motion picture theaters, video arcades, massage parlors, nude modeling studios, lotion studios, adult bookstores, nude photography studios, or eating and drinking establishments ~~which~~ **that** have sexually-oriented entertainment such as nude dancers, strippers, or other similar entertainers.

### 22.100 Entertainment and Recreation, Indoor and Outdoor

(1) ~~*Characteristics.*~~ Entertainment **and Recreation** uses are ~~characterized by activities that provide entertainment and or recreational activity either indoors or outdoors.~~ Activities are both spectator and participatory. Some entertainment uses are ~~characterized by activities and structures that draw large numbers of people to specific events or shows.~~

(2) ~~*Accessory Uses.*~~ ~~Accessory uses may include food sales, offices, maintenance facilities and parking.~~

(3)(2) *Use Examples, Indoor:* Types of uses include, but are not limited to: public or private athletic, exercise and health clubs or gyms; bowling alleys; skating rinks; game arcades; pool halls; theaters; indoor firing ranges.

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

(4)(3) *Exceptions.*

- (a) Golf courses are classified as Parks, Open Areas and Cemeteries.
- (b) Exhibition and meeting areas with less than 20,000 square feet of total event area are classified as Retail Sales and Service.

- (c) Banquet halls that are part of hotels or restaurants are accessory to those uses, which are included in the Retail Sales and Service category.
- (d) Adult Entertainment is its own use category.

22.110 Offices

- (1) ~~*Characteristics.*~~ Office uses are characterized by activities conducted in an office setting and **provide direct services to consumers** generally focusing on business, government, professional, medical, or financial services. **Business activities are conducted in an office setting.**
- (2) ~~*Accessory uUses.*~~ Accessory uses may include cafeterias, health facilities, parking, or other amenities primarily for the use of employees in the firm or building.
- (3)(2) *Use Examples.*
  - (a) Offices with limited customer traffic: Types of uses include, but are not limited to: corporate offices, company headquarters or financial and operational divisions; insurance headquarters; financial headquarters for brokerage houses, banks or other lenders; data processing; public utility offices; newspaper, television and radio offices and studios; and research labs.
  - (b) Offices intended to provide personal or professional services to customers on-site: Types of uses include, but are not limited to: professional services such as lawyers, accountants, employment services, insurance and travel agencies; financial and investment services such as banks, lenders, or brokerage houses; real estate agents; sales offices; some government offices; medical and dental clinics, ~~or~~ labs, **or urgent care facilities**; veterinarians and animal hospitals; and blood-collection facilities.
- (4)(3) *Exceptions.*
  - (a) Offices that are part of and located with a firm in another category are considered accessory to the firm's primary activity. Headquarters offices, when in conjunction with or adjacent to a primary use in another category, are considered part of the other use category.
  - (b) Contractors and others who perform services off site are included in the Office category if equipment and materials are not stored on the site and fabrication, services, or similar work is not carried on at the site. Otherwise, contractor offices are included in the Contractors and Industrial Services category.

*PURPOSE of amendments: Parking is usually an accessory use to the primary use of the site as required on-site parking. This use category is intended for off-site and stand alone parking lots or structures, where parking is the primary use of the site.*

22.120 Parking Facility

- (1) ~~*Characteristics.*~~ The Parking **Facility** use category ~~includes facilities~~ **is a site and/or structure that provides both accessory parking for a specific use and regular fee parking for vehicles as the primary use.** ~~for people not connected to the use.~~ The Parking **Facility** use category does not include parking that is required for a primary use on the same or adjacent property **in the same ownership** as the primary use. A fee may or may not be charged **to park at the facility.**
- (2) ~~*Accessory Uses.*~~ In a parking structure only, accessory uses may include gasoline sales, car wash, and vehicle repair activities if these uses provide service to autos parked in the garage, and not to

~~the general traffic.~~

~~(3)(2)~~ *Use Examples.* Types of uses include, but are not limited to: off-site parking lots **or structures that are leased or available to the public**, ~~for commercial, education, religious, and institutional uses; fee parking facilities, commercial district shared parking lots or structures, park-and-ride lots, and mixed parking lots (partially for a specific use, partly for rent to others).~~

~~(4)(3)~~ *Exceptions.*

- ~~(a)~~ **Required P**arking facilities that ~~are~~ **is** accessory to a use, ~~but which charge the public to park for occasional events nearby, are~~ **is not considered a Parking Facility.**
- ~~(b)~~ ~~The overnight or long term storage of vehicles or equipment (e.g., RV storage, contractor equipment storage) as an accessory use is not Parking. Overnight or long term storage of vehicles or equipment as the primary use is classified as Warehousing and Distribution.~~

*PURPOSE of amendments: This is a unique use type that is only allowed in limited zoning districts. We realized was classified as a retail use and should be its own use category. Article 10 of the Development Code provides standards for new RV parks.*

#### 22.125 Recreational Vehicle Park

**(1) A Recreational Vehicle Parks is a site providing space and facilities for motor homes or other recreational vehicles for recreational use or transient lodging. There is no minimum required stay in a recreational vehicle park.**

**(2) *Exceptions.***

- (a) Uses where unoccupied recreational vehicles are offered for sale or lease, or are stored, are not included as a Recreational Vehicle Park. See also Manufactured Dwelling Park.**

#### 22.130 Restaurants

~~(1) *Characteristics.*~~ Restaurants are **businesses that** primarily involved in the sale of **prepare and sell food and beverages** to the general public. Businesses may also provide **alcoholic** beverages and entertainment in addition to food sales.

~~(2) *Accessory Uses.*~~ Accessory uses may include offices, storage of goods and packaging of goods for sale on-site, and parking.

~~(3)(2)~~ *Use Examples.* Types of uses include, but are not limited to: cafes and delicatessens; restaurants with sit-down, carry-out, and fast food (with or without drive-through window).

~~(4)(3)~~ *Exceptions.* Food sales at events and entertainment centers are accessory uses to the primary use type.

[Ord. 5728, 1/27/10]

#### 22.140 Retail Sales and Service

~~(1) *Characteristics.*~~ Retail Sales and Service ~~firms~~ **businesses** are involved in the ~~sale~~ **sell**, lease or rent of new or used products to the general public. Businesses may also provide personal services, or provide product repair or services for consumer and business goods. For the most part, operations are conducted within enclosed buildings, and outside storage is screened.

- (2) ~~Accessory Uses. Accessory uses may include offices, storage of goods, manufacture or repackaging of goods for on-site sale, and parking.~~

*PURPOSE of amendments: We had a developer request that pharmacies be considered a convenience-oriented retail use. We evaluated this category and agree that stand-alone pharmacies are convenience oriented services. Clarification between kennels, veterinarians, and small animal daycare and training is also being addressed.*

- (3)(2) *Use Examples.* Types of uses include, but are not limited to, uses from the four subgroups listed below:

- (a) ~~Convenience-oriented:~~ **Businesses that sell Rretail items-products that are** generally necessary or desirable for everyday living and ~~usually often~~ purchased at a convenient nearby location **such as grocery stores, pharmacies, video rentals, and convenience marts.** ~~Because these goods cost relatively little compared to income, they are often purchased without comparison shopping.~~
- (b) ~~Personal service-oriented:~~ Branch banks; ~~urgent medical care;~~ laundromats; photographic studios; photocopy and blueprint services; hair, tanning, and personal care services; private lodges or clubs; ~~business and other trade schools;~~ galleries; martial arts, dance or music studios; taxidermists; and mortuaries; ~~veterinarians;~~ **small animal daycare or training;** and animal grooming.

*PURPOSE of amendments: Recreational Vehicle Park is becoming its own use category due to their unique site requirements and purpose.*

- (c) ~~Sales and service-oriented:~~ **Stores-Businesses** selling, leasing, or renting consumer, home, and business goods including art, art supplies, bicycles, clothing, dry goods, electronic equipment, fabric, furniture, garden supplies, gifts, hardware, home improvements, household products, jewelry, pets, pet food, ~~pharmaceuticals,~~ plants, printed material, stationery, **sports equipment, toys, and videos and any store selling a variety of products or services;** sales or leasing of consumer vehicles including passenger vehicles, motorcycles, light and medium trucks, and other recreational vehicles; ~~adult entertainment theaters, stores and clubs;~~ and hotels, motels, ~~recreational vehicle parks,~~ and other temporary lodging with an average length of stay of less than 30 days.
- (d) ~~Repair-oriented:~~ **Businesses that Rrepair** of TVs, bicycles, clocks, watches, shoes, guns, appliances and office equipment; photo or laundry drop-off; quick printing; recycling drop-off; tailors; locksmiths; and upholsterers.

- (4)(3) *Exceptions.*

- (a) Lumber yards and other building material sales that sell primarily to contractors and do not have a retail orientation are classified as Wholesale Sales.
- (b) Bulk sales of landscape materials, including bark chips and compost, is classified as Contractor and Industrial Services.
- (c) Repair and service of consumer motor vehicles, motorcycles, and light and medium trucks is classified as Vehicle Repair.
- (d) Repair and service of industrial vehicles and equipment and heavy trucks is classified as Contractor and Industrial Services.
- (e) Sales, rental, or leasing of heavy trucks and equipment is classified as Wholesale Sales.
- (f) Hotels, restaurants, and other services that are part of a truck stop are considered accessory to the truck stop, which is classified as Contractor and Industrial Services.

- (g) **When hotels or motels are used for** ~~In certain situations, such as short-term housing or mass-homeless shelters, hotels and motels may be~~ **they are** classified as Community Services.
- (h) Public or private athletic, exercise and health clubs or gyms are classified as Entertainment and Recreation, Indoor.

22.150 Self-Serve Storage

- (1) ~~*Characteristics.*~~ Self-Serve Storage uses provide separate storage areas for individual or business uses. The storage areas are designed to allow private access by the tenant for storing or removing personal property.
- ~~(2) *Accessory Uses.* Accessory uses may include security and leasing offices and caretaker living quarters. Other living quarters are subject to the regulations for Residential uses in the base zones. Use of the storage areas for sales, service and repair operations, or manufacturing is not considered accessory to the Self-Serve Storage use. Rental of trucks or equipment is also not considered accessory to a Self-Serve Storage use.~~
- (3)(2) *Use Examples.* Examples include single-story and multi-story facilities that provide individual storage areas for rent. These uses are also called mini-warehouses **or self-serve storage**.
- (4)(3) *Exceptions.* A transfer and storage business where there are no individual storage areas or where employees are the primary movers of the goods to be stored or transferred is in the Warehouse and Freight Movement category.

22.155 Taverns, Bars, Breweries, Nightclubs

- (1) ~~*Characteristics.*~~ A business or part of a business that sells alcoholic beverages to be consumed on the premises, and which prohibits minors for a portion of the operating hours per Oregon Administrative Rules (845-006-0340) as established by the Oregon Liquor Control Commission. Businesses may also provide entertainment.
- ~~(2) *Accessory Uses.* Accessory uses may include offices, storage of goods and packaging of goods for sale on-site, and parking.~~
- (3)(2) *Use Examples.* Types of uses include, but are not limited to: taverns, bars, sports bars, breweries, brewery pubs, wineries, night clubs, and businesses that offer both a restaurant area open to all ages and/or an area restricted to minors.
- (3) *Exceptions.* Beverage sales at events and entertainment centers are accessory uses to the primary use type.

[Ord. 5728, 1/27/10]

22.160 Vehicle Repair

- (1) ~~*Characteristics.*~~ **Firms-Businesses that** serviceing passenger vehicles, light and medium trucks and other consumer motor vehicles such as motorcycles, boats and recreational vehicles. Generally, the customer does not wait at the site while the service or repair is being performed.
- ~~(2) *Accessory Uses.* Accessory uses may include offices, sales of parts, and vehicle storage.~~

~~(3)~~(2) *Use Examples.* Types of uses include, but are not limited to: vehicle repair, transmission or muffler shop, auto body and paint shop, alignment shop, auto upholstery shop, auto detailing, and tire sales and mounting.

~~(4)~~(3) *Exceptions.* Repair and service of industrial vehicles and equipment, and of heavy trucks; towing and vehicle storage; and vehicle wrecking and salvage are classified as Industrial Service.

#### 22.170 Vehicle Service, Quick (gas, oil, wash)

(1) ~~*Characteristics.*~~ Quick Vehicle Servicing uses provide direct services for motor vehicles where the driver generally waits while the service is performed. Full-serve and mini-serve gas stations are always classified as primary uses (Vehicle Service, Quick), rather than accessory uses, even when they are in conjunction with other uses.

~~(2) *Accessory Uses.* Accessory uses may include auto repair, oil change, tire and other retail sales.~~

~~(3)~~(2) *Use Examples.* Types of uses include, but are not limited to: full-serve and mini-serve gas stations, unattended card key stations, car washes, quick lubrication services, tire repair and Department of Environmental Quality vehicle emission test sites.

~~(4)~~(3) *Exceptions.*

(a) Truck stops are classified as Contractors and Industrial Services.

(b) Refueling facilities for the vehicles that belong to a specific use (fleet vehicles) and which are on the site where the vehicles are kept, are accessory to the use.

### INSTITUTIONAL USE CATEGORIES

#### 22.180 Basic Utilities

(1) ~~*Characteristics.*~~ Basic Utilities uses provide community infrastructure, including water and sewer systems, telephone exchanges, power substations and transit. Utility uses generally do not have regular employees at the site. Services may be public or privately provided.

~~(2) *Accessory Uses.* Accessory uses may include parking, control, monitoring, data or transmission equipment.~~

~~(3)~~(2) *Use Examples.* Types of uses include, but are not limited to: water and sewer pump stations; sewage disposal and conveyance systems; electrical substations; water towers and reservoirs; water quality and flow control facilities; water conveyance systems; storm water facilities and conveyance systems; telephone exchanges; mass transit stops, transit centers, park-and-ride facilities for mass transit; and emergency communication broadcast facilities.

~~(4)~~(3) *Exceptions.*

(a) Public Works projects, such as streets, utility lines, and pump stations.

(b) Services where people are generally present, other than transit stops and park-and-ride facilities; are classified as Community Services or Offices.

(c) Utility offices where employees or customers are generally present are classified as Offices.

(d) Bus and light-rail barns are classified as Warehousing and Distribution.

(e) Public or private passageways, including easements, for the express purpose of transmitting

or transporting electricity, gas, oil, water, sewage, communication signals, or other similar services on a regional level are classified as Rail and Utility Corridors.

- (f) Energy production facilities are classified as Manufacturing uses; see Section 22.040.

#### 22.190 Community Services

- (1) ~~*Characteristics.*~~ Community Services are ~~uses of a~~ public, nonprofit, or charitable **organization that nature generally provides** a local service to people of the community. Generally, they provide the service on the site or have employees at the site on a regular basis. The service is ongoing, not just for special events. Community centers or facilities that have membership provisions are open to the general public to join at any time (for instance, any senior citizen could join a senior center). The use may provide shelter or short-term housing where tenancy may be arranged for periods of less than one month when operated by a public or non-profit agency. The use may also provide special counseling, education, or training of a public, nonprofit or charitable nature.
- (2) ~~*Accessory Uses.*~~ Accessory uses may include offices; meeting areas; food preparation areas; parking; health and therapy areas; daycare uses; and athletic facilities.
- (3)(2) *Use Examples.* Types of uses include, but are not limited to: libraries, museums, senior centers, community centers, publicly owned swimming pools, youth club facilities, hospices, public safety facilities including fire and police stations, ambulance stations, drug and alcohol centers, social service facilities, shelters or short-term housing when operated by a public or non-profit agency, vocational training for the physically or mentally disabled, soup kitchens, and surplus food distribution centers.
- (4)(3) *Exceptions.*
- (a) Private lodges, clubs, and private or commercial athletic or health clubs are classified as **Indoor Entertainment and Recreation Retail Sales and Service**.
  - (b) Parks and cemeteries are classified as Parks, Open Areas and Cemeteries.
  - (c) Uses where tenancy is arranged on a month-to-month basis (except at hotels/motels) or for a longer period are residential, and are classified under Residential use categories.

*PURPOSE of amendments: Necessary to be consistent with the state regulations in the Oregon Revised Statutes (ORS).*

#### 22.200 Daycare Facility

- (1) ~~*Characteristics.*~~ A daycare facility **is defined in Oregon Revised Statutes (ORS) as a “child care” or “adult care” facility that provides regular care, supervision and guidance in a place other than the child’s or adult’s home,** is operated with or without compensation, and is certified by the state for the ~~daytime~~ care of children, teenagers or adults who need assistance or supervision **for a portion of the day,** ~~located in a building constructed as other than a single family dwelling.~~
- (2) ~~*Accessory Uses.*~~ Accessory uses include offices, play areas, and parking.
- (3)(2) *Use Examples.* Types of uses include, but are not limited to: **day nurseries or daycare centers,** nursery schools, preschools, ~~kindergartens,~~ before- and after-school care facilities, child development centers and adult daycare programs **that do not provide 24-hour care.**

(4)(3) *Exceptions.*

- (a) Daycare **Facility** use does not include care given by the parents, guardians, or relatives of the children, or by babysitters; **or by a person who cares for children from only one family other than the person's own family; or by a person who cares for no more than three children other than the person's own children, or as noted in ORS 657A.250.**
- (b) Daycare **Facility** use also does not include care given by a "registered or certified family day~~care~~child care home" provider as defined by ORS 657A.250**440** if the care is given to **no more than 16**~~12~~ or fewer children at any one time, including the children of the provider. "Family day~~care~~child care" is care regularly given in the family living quarters of the provider's home. Family day~~care~~child care homes are allowed ~~outright~~ **single-family dwellings** in residential, mixed use and commercial districts ~~without site plan review~~. These homes may require a license from the State of Oregon Children's Services Division.
- (c) **Daycare Facility use does not include a facility that primarily provides education to a pre-school or kindergarten child or that is operated by a school district.**
- (d) **Residential care, treatment, or training facilities for six or more individuals on a 24-hour basis are classified as a Residential Care or Treatment Facility. Care for five or fewer individuals are group or residential care homes, which are considered single-family dwellings. Refer to ORS 443.400 to 443.455.**

22.210 Educational Institutions

- (1) ~~*Characteristics.*~~ **Educational Institutions provide educational instruction to students.** This category includes **schools**, colleges and other institutions of higher learning that offer courses of general or specialized study leading to a degree, and public and private schools at the primary, elementary, middle, junior high, or high school level that provide state-mandated basic education. They are certified by the State Board of Higher Education or by a recognized accrediting agency. **This category also includes trade schools and vocational schools that provide on-site training of trade skills.**
- (2) ~~*Accessory Uses.*~~ ~~Accessory uses include offices, housing for students, food service, laboratories, health and sports facilities, theaters, meeting areas, parking, maintenance facilities, support commercial uses, play areas, cafeterias and meals programs, recreational and sports facilities, auditoriums, and before or after school daycare.~~
- (3)(2) *Use Examples.* Types of uses include, but are not limited to: universities, liberal arts colleges, community colleges, nursing and medical schools not accessory to a hospital, seminaries, public and private daytime schools, boarding schools, ~~and~~ military academies, **and trade/vocational schools.**

(4)(3) *Exceptions.*

- (a) ~~Business, trade and vocational schools are classified as Retail Sales and Service.~~
- (b) **Preschools are classified as a Daycare Facility uses.**

22.220 Hospitals

- (1) ~~*Characteristics.*~~ Hospitals include ~~uses~~ providing medical or surgical **diagnosis and** care to patients and offering overnight care. Hospitals tend to be on multiple blocks or in campus settings.
- (2) ~~*Accessory uses.*~~ ~~Accessory uses include out-patient clinics, offices, laboratories, teaching facilities,~~

~~meeting areas, cafeterias, parking, maintenance facilities, and housing facilities for staff or trainees.~~

~~(3)~~(2) *Use Examples.* Examples include hospitals and medical complexes that include hospitals or emergency care facilities.

(4)(3) *Exceptions.*

- (a) Uses that provide exclusive care and planned treatment or training for psychiatric, alcohol, or drug problems, where patients are residents of the program, are classified in the Group Living category.
- (b) Medical clinics that provide care where patients are generally not kept overnight are classified as Office.
- (c) Urgent medical care clinics are classified as **an Office use in 22.110**.

#### 22.230 Jails and Detention Facilities

(1) ~~*Characteristics.*~~ **Jail and Detention Facilities includes facilities detain or incarcerate persons while being processed for arrest or detention by law enforcement for judicially required detention or incarceration of people.** Inmates and detainees are under 24-hour supervision by sworn officers, except when on approved leave.

~~(2) *Accessory Uses.* Accessory uses include offices, recreational and health facilities, therapy facilities, maintenance facilities, and hobby and manufacturing activities.~~

~~(3)~~(2) *Use Examples.* Types of uses include, but are not limited to: prisons, jails, probation centers, and juvenile detention homes.

(4)(3) *Exceptions.* Programs that provide care and training or treatment for psychiatric, alcohol, or drug problems, where patients are residents of the program, but where patients are not supervised by sworn officers, are classified as Group or Assisted Living. Programs that provide transitional living experience for former offenders, such as halfway houses, where sworn officers do not supervise residents, are also classified as Group or Assisted Living.

#### 22.240 Parks, Open Areas And Cemeteries

(1) ~~*Characteristics.*~~ Parks, Open Areas and Cemeteries uses ~~focus on~~ **are** natural areas, ~~large areas or~~ **land** consisting mostly of vegetative landscaping or outdoor recreation, community gardens, or public squares. Land tends to have few structures.

~~(2) *Accessory uUses.* Accessory uses may include clubhouses, maintenance facilities, ball fields, concessions, caretaker's quarters, and parking.~~

~~(3)~~(2) *Use Examples.* Types of uses include, but are not limited to: parks, golf courses, cemeteries or mausoleums, public squares, plazas, recreational trails, botanical gardens, boat launching areas, nature preserves, and land used for grazing that is not part of a farm or ranch.

#### 22.250 Religious Institutions

(1) ~~*Characteristics.*~~ Religious Institutions are ~~primarily intended to~~ **primarily** provide meeting areas for religious worship and activities.

~~(2) *Accessory Uses.* Accessory uses include Sunday school facilities, parking, social halls, gymnasiums and other recreational activities, soup kitchens, caretaker's housing, group living facilities such as convents, and temporary shelter.~~

~~(3)(2) *Use Examples.* Churches, temples, synagogues, and mosques.~~

## RESIDENTIAL USE CATEGORIES

### 22.260 ~~Group or Residential Care or Treatment Facilityies~~

(1) ~~*Characteristics.*~~ **A Residential Care or Treatment Facility is** ~~Aa~~ public or private facility for six or more unrelated persons **who reside on site and** who are physically, mentally or socially handicapped, delinquent, or drug- or alcohol-dependent; with a person residing on site who is not related by blood, marriage, legal adoption or guardianship to the residents, and who may be responsible for supervising, managing, monitoring them and/or providing care, training or treatment to them. ~~The residents may or may not receive any combination of care, boarding, training, or treatment, as long as they also reside at the site.~~ Larger facilities may offer shared facilities for eating, hygiene and/or recreation. Tenancy is for longer than one month. Group or Residential Care Facilities includes the state definition of residential care, **training or treatment facility in ORS 443**~~(in the Definitions section following the Use Categories).~~

~~(2) *Accessory Uses.* Accessory uses commonly found are recreational facilities, parking of autos for the occupants and staff, and parking of vehicles for the facility.~~

~~(3)(2) *Use Examples.* Types of uses include, but are not limited to: group homes (for six or more residents); residential programs for drug and alcohol treatment; and alternative or post-incarceration facilities.~~

~~(4)(3) *Exceptions.*~~

(a) "Residential **Care or Treatment Homes**" ~~boarding, providing care~~ for or housing five or fewer physically, mentally or socially handicapped, delinquent persons or persons in need of treatment by a person who is not the parent or guardian of, and who is not related by blood, marriage, or legal adoption of, such persons are allowed in zones that allow single-family homes.

(b) Child or adult foster homes, where residential care is provided in a homelike environment for five or fewer non-related individuals are classified under **Single-Family** and **Two-Family Homes**.

~~(b)(c)~~ **A place providing care and treatment on less than a 24-hour basis is classified as a Daycare Facility.**

~~(e)(d)~~ Hospitals and medical treatment facilities with overnight care are classified as Hospitals.

~~(d)(e)~~ **Nursing homes and hospice care facilities for elderly or disabled persons** are classified as Assisted Living.

~~(e)(f)~~ Lodging ~~where tenancy may be arranged for periods of less than one month is considered a hotel or motel use and is classified in the Retail Sales and Service category. However, in certain situations, lodging where tenancy may be arranged on a short-term basis may be classified as a Community Service use (such as short-term housing or mass shelters).~~

~~(f)(g)~~ Lodging where the residents meet the definition of a household, and where tenancy is arranged on a month-to-month basis, or for a longer period, is classified as **Single-Family**

~~and~~ ~~or~~ Two-Family, ~~Live Work~~, or Three or More Units.

- (g)(h) Correctional or detention facilities for people who are under judicial detainment and are under the supervision of sworn officers are included in the Jails and Detention Facilities category.

22.270 Assisted Living

- (1) Assisted Living facilities are ~~characterized by~~ **places that provide housing, personal care or assistance to unrelated residents that need help with activities of daily living, who are usually elderly or disabled persons.** ~~and a~~ At least one person residing on the site who is responsible for providing daytime care, protection, supervision, monitoring and/or training or treatment of residents. Larger group-living facilities may offer shared facilities for eating, hygiene and/or recreation. Tenancy is for longer than one month.
- (2) ~~Accessory Uses. Accessory uses commonly found are recreational facilities, parking of autos for the occupants and staff, and parking of vehicles for the facility.~~
- (3)(2) *Use Examples.* Types of uses include, but are not limited to: nursing and convalescent homes; ~~residential care/treatment facilities,~~ life care or continuing care services, **hospice care facility, dementia care** and assisted living facilities.
- (a) Retirement housing units that are separate units and **is owner-occupied or rented** ~~ownership~~ are classified as Single-Family, ~~and~~ Two-Family or Three or More Units.
- (b) Lodging where tenancy may be arranged for periods of less than one month is considered a hotel or motel use and is classified in the Retail Sales and Service category. However, in certain situations, lodging where tenancy may be arranged on a short-term basis may be classified as a Community Service use (such as short-term housing or ~~mass-homeless~~ shelters).
- (c) ~~Lodging where the residents meet the definition of Household, and where tenancy is arranged on a month to month basis, or for a longer period, is classified as Single Family, Two Family, Live Work, or Three or More Units.~~

22.280 Single-Single-Family and Two-Two-Family

- (1) ~~Characteristics. Single-family units is~~ ~~are characterized by the residential occupancy by a household of a~~ **one** dwelling unit on one lot. Single units may be attached or detached, with the opportunity to be owner-occupied. A two-family unit (duplex) is ~~defined as a building with two separate households, on the same property.~~
- (2) ~~Accessory Uses. Examples of accessory uses include parking, home occupations, accessory dwelling units, and bed and breakfast facilities. For Accessory Buildings, see Section 22.320 below.~~
- (3)(2) *Use Examples.* Single-family units, ~~two family units,~~ duplexes, manufactured housing, and other structures with self-contained dwelling units on individual lots.
- (4)(3) *Exceptions.*
- (a) In certain situations, lodging where tenancy may be arranged for periods less than one month, such as short-term housing or ~~mass-homeless~~ shelter, may be classified as Community Service uses.

*PURPOSE of amendments: Live Work and Units Above a Business are being combined into one use category - Uses Above or Attached to a Business. This use category can be deleted.*

~~22.290~~ Live Work

- ~~(1) *Characteristics.* Live Work units are units that contain both a household and a business. The business may have up to 3 employees in addition to the resident employee.~~
- ~~(2) *Accessory Uses.* Accessory uses include recreational activities, raising of pets, hobbies, and parking.~~

22.300 Three or More Units (Multiple Family)

- (1) *Characteristics.* Three or More Units **is a building or site containing** are characterized by the residential occupancy of three or more dwelling units on one lot **occupied** by three or more households. A structure containing at least three dwelling units in any vertical or horizontal arrangement, located on a single lot or development site, but excluding single-family attached building types on two or more contiguous lots.
- (2) *Accessory Uses.* Accessory uses commonly found are recreational activities, raising of pets, hobbies, and parking of the occupants' vehicles. Home occupations, accessory dwelling units, and bed and breakfast facilities are accessory uses that are subject to additional regulations.
- ~~(3) *Use Examples.* Apartments, condominiums, retirement center apartments, and other structures with self-contained dwelling units.~~
- (4)(3) *Exceptions.*
  - (a) Lodging in a dwelling unit or Single Room Occupancy (SRO) unit where less than two thirds of the units are rented on a monthly basis is considered a hotel or motel use and is classified in the Retail Sales and Service category.
  - (b) SROs that contain programs that include common dining are classified as Group or Residential Care Facilities.

22.310 Unit(s) Above or Attached to a Business

- (1) *Characteristics.* ~~Two~~**One** or more residential dwelling units located above, **-behind or contiguous to a business or office on the ground floor(s), where the business has street frontage.**
- ~~(2) *Accessory Uses.* Accessory uses commonly found are recreational activities, raising of pets, hobbies, and parking of the occupants' vehicles. Home occupations, accessory dwelling units, and bed and breakfast facilities are accessory uses that are subject to additional regulations.~~
- ~~(3)~~(2) *Use Examples.* Apartments, condominiums, retirement center apartments, and other structures with self-contained dwelling units located above a business.
- (4)(3) *Exceptions.*
  - (a) Lodging in a dwelling unit or Single Room Occupancy (SRO) unit where less than two thirds of the units are rented on a monthly basis is considered a hotel or motel use and is

classified in the Retail Sales and Service category.

- (b) SROs that contain programs that include common dining are classified as Group or Residential Care Facilities.

22.320 Residential Accessory Buildings

- (1) ~~Characteristics~~—A detached or semi-detached building that is subordinate to and consistent with the principal use of the property **located on the same property as the principal dwelling**. **Residential Accessory buildings are permitted outright in residential and mixed use zones if they meet the following conditionsstandards:**

- (a) Detached **residential** accessory buildings, garages and carports are **allowed outright if they are** less than 750 square feet and have walls equal to or less than eleven feet in height. Larger buildings may be permitted through site plan review, refer to the following standards:
- **In residential zoning districts in Article 3, refer to Section 3.080(9).**
  - **In commercial or industrial zones in Article 4, refer to Section 4.060(21).**
  - **In mixed use zones in Article 5, refer to Section 5.070(18).**

~~(b)~~ Attached accessory buildings, garages or carports are less than 1,000 square feet.

~~(c)~~**(b)** Accessory apartments have special conditions **in** . See Articles 3, 4 and 5, **Sections 3.080(4) and 5.070(15) respectfully.**

OTHER USE CATEGORIES

22.325 Non-Residential Accessory Buildings,

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

22.330 Agriculture

- (1) ~~Characteristics~~—Agriculture includes activities that raise, produce or keep plants or animals.

~~(2) Accessory uUses. Accessory uses include seasonal sales of produce or plants, animal training, parking and storage.~~

~~(3)~~**(2)** *Use Examples.* Types of uses include, but are not limited to: breeding or raising of fowl or other animals; dairy farms; stables; riding academies; farming, truck gardening, forestry, tree farming; and wholesale plant nurseries.

~~(4)~~**(3)** *Exceptions.*

- (a) Kennels and animal boarding facilities are classified separately under Kennels.  
(b) Processing of animal or plant products, including milk, and feedlots, is classified as Manufacturing and Production.  
(c) Livestock auctions are classified as Wholesale Sales.  
(d) Plant nurseries oriented to retail sales are classified as Retail Sales and Service.

22.340 Communication **Facility** Towers and Poles

- (1) ~~*Characteristics.*~~ A Communication Facility ~~use Towers and Poles~~ **provides signals or messages through the use of electronic and telephonic devices.** It includes all devices, equipment, machinery, structures or supporting elements necessary to produce signals or messages. Towers may be self-supporting, guyed, or mounted on poles or buildings. See Article 8, Section 8.400, for site design standards.
- (2) ~~*Accessory Uses.*~~ Accessory use may include transmitter facility buildings.
- (3)(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.
- (4)(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.

*Staff Comments: A few clarifying amendments are needed here to make this consistent with the definitions later in this Article.*

#### 22.350 Kennels

- (1) ~~*Characteristics.*~~ Kennels includes facilities **provide overnight boarding, training or breeding of three or more adult domestic animals, typically for compensation.** ~~where the overnight boarding of dogs, cats or other household pets is conducted as a business.~~
- (2) ~~*Accessory uUses.*~~ Accessory uses include offices and parking.
- (3)(2) ~~*Exceptions.*~~
  - (a) Veterinary hospitals or clinics that keep animals overnight are classified as Offices.
  - (b) **Small animal daycare or training facilities that do not provide overnight care are classified as Personal Services under the Retail Sales and Services use category.**

#### 22.360 Passenger Terminals

- (1) ~~*Characteristics.*~~ Passenger Terminals **provide places for loading and unloading passengers from trains, buses, and airplanes.** It includes train stations and rail service (multi-modal facility), bus stations and loading facilities, and facilities for the landing and takeoff of aircraft, including loading and unloading areas and passenger terminals.
- (2) ~~*Accessory Uses.*~~ Accessory uses include ~~freight handling areas, concessions, offices, parking, hangars, runways, maintenance and fueling facilities.~~
- (3)(2) ~~*Use Examples.*~~ Airports, bus passenger terminals, railroad passenger stations for regional rail service, and helicopter landing facilities.
- (4)(3) ~~*Exceptions.*~~

- (a) Bus transit stops are classified as Basic Utilities.
- (b) Park-and-ride facilities are classified as Parking.
- (c) Private helicopter landing facilities that are accessory to another use are considered accessory uses.

22.370 Rail and Utility Corridors

- (1) ~~*Characteristics.*~~ This category ~~includes~~ **use provides** railroad tracks and lines for the movement of trains. ~~The land may be owned or leased by the railroad. The category also includes~~ **or** public or private passageways, including easements, for the express purpose of transmitting or transporting electricity, gas, oil, water, sewage, communication signals, or other similar services on a regional level. ~~The land may be owned or leased by the railroad.~~
- (2) ~~*Use Examples.*~~ ~~Rail trunk and feeder lines; regional electrical transmission lines; and regional gas and oil pipelines.~~
- (3)(2) *Exceptions.*
  - (a) Railroad lead and spur lines for delivery of rail cars to sites or for unloading of rail cars on specific sites are classified as accessory to the primary use of the site.
  - (b) Rail lines and utility corridors located within motor vehicle rights-of-way are not included.

## DEFINITIONS

*PURPOSE of amendments: Some definitions need updating. A few definitions are proposed to define a term in the Code.*

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

Abut: Contiguous to; for example, two lots with a common property line. However, “abut” does not apply to buildings, uses, or properties separated by public right-of-way.

Access: The place, means, or way by which pedestrians or vehicles shall have ingress and/or egress to a property or parking area.

Accessory Apartment: A self-contained living unit ~~which~~ **that** is attached to or a part of a single-family dwelling, or constructed within an **detached** accessory structure built before February 1, 1998, and which is incidental and subordinate to the principal dwelling unit. [Ord. 5338, 1/28/98]

Accessory Building: A detached ~~or semi-detached building or set of buildings that is subordinate in size and purpose to the principal structure on the same property or development site under the same ownership. The use of the accessory building serves an incidental purpose to the permitted principal use in the main building(s).~~ ~~the use of which is subordinate to and consistent with the principal use of the property.~~

Accessory Use: A use on the same lot ~~property or development site under the same ownership with and of a nature that is~~ customarily incidental, and subordinate to, **and compatible with** the principal use **and surrounding properties**.

Access Way: An unobstructed way ~~of specified width containing a drive or roadway which that~~ provides vehicular access and connects to a public street.

*PURPOSE of amendments: This definition will be easier to find if the name is modified to solar systems. It is also being updated and will be relocated alphabetically.*

Active, Passive Solar Systems: Active or indirect solar heating **or collector system that collects solar radiation and transforms it into thermal, chemical, or electrical energy** ~~utilizes heat collection which that is separate from the area being heated, with a mechanical method of transferring heat between the two areas.~~ A passive solar system is any method ~~which that~~ requires no external energy input ~~to collect and~~ **collector system** to disperse solar heat. In new building design, this means utilizing site design, building orientation, window placement, insulation, vegetation, etc. to heat and cool a building. Passive solar systems may also include the addition of such solar collectors as greenhouses, water traps, improved insulation, or other weatherization techniques.

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

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

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

Alley: A public way not over 30 feet wide providing a secondary means of access to private property. **An alley is not considered a “street” as used in this Code.**

Alter, Alteration: A change, addition, or modification in construction or occupancy of a building or structure.

Amendment: A change in the working, context, or substance of the Code, or a change in the zone boundaries or use district boundaries upon the zoning map or a change in the Comprehensive Plan.

Amenity: **A natural or created feature that enhances the aesthetic, functional or visual quality or makes a particular property a more attractive or appealing place or area.**

Annexation: **The incorporation of land area into the City of Albany, with a resulting change in the boundaries of the City.**

Apartment House: See Dwelling, Multiple Family.

Approval Authority: The Director, Hearings Board, **Landmarks Advisory Commission**, Planning Commission, or City Council, whichever has jurisdiction for making a determination under the various provisions of this Code.

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

Attached Structure. **A structure that is attached to another structure by a common wall, by a roof, or by structural connections that allow pedestrian access to both structures. A garage may be attached to another structure by sharing a wall or by a covered breezeway. Structures connected by an uncovered, “I” beam or similar connections are not considered attached.**

Bed and Breakfast Home: ~~An owner-structure designed for and occupied as a single-family dwelling that, in which~~ **provides temporary lodging and breakfast** ~~travelers are lodged for sleeping purposes for two weeks or less and a morning meal is provided, and for which compensation is paid.~~

Bedroom: A private room planned and intended for sleeping, separable from other rooms by a door and accessible to a bathroom without crossing another bedroom, kitchen, or living room.

Berm: A mound of earth used to deflect sound or used as a buffer in landscaping provisions to separate incompatible areas or to provide aesthetic enhancement in site design.

Bike Path, Lane, Way: A bike path is completely separate from vehicular traffic and within an independent right-of-way or the right-of-way of another facility. A bike lane is part of the roadway or shoulder and delineated by pavement markings. A bikeway is any trail, path, or part of a highway, shoulder, sidewalk, or any other travelway specifically signed and/or marked for bicycle travel.

Block: An area of land containing one or more lots or parcels surrounded by streets, railroad rights-of-way, unsubdivided acreage, or a combination thereof.

Board: See Hearings Board.

Boarding House: A building where lodging and meals are provided for more than two weeks for compensation, exclusive of bed and breakfast homes or other homes or institutions providing supervisory care.

Bond , Performance or Security: Collateral security for the performance of a specific action or duty imposed by the City.

Buffer, Buffering: A landscaped area ~~which~~**that** provides a separation between potentially conflicting land uses.

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

**Building Footprint: The outline of total area covered by a building's perimeter at the ground level, with or without a roof covering.**

Building, Principal: A building within which is conducted a principal use permitted on a lot.

Building Official: The Superintendent of the Building Division or a person designated by the City Manager as such.

Carport: A structure consisting of a roof with its supports and which is entirely open on two or more sides and is used for sheltering a motor vehicle.

Cemetery: Land used or intended to be used for the burial of the dead and dedicated for cemetery purposes including columbaria, crematories, mausoleums, and mortuaries.

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

~~Child Care Home: A residence or other facility within which day-time care is provided for less than thirteen children (including the children of the provider) under the age of fifteen years as permitted by ORS Chapter 657, and may require a license from the State of Oregon Children's Services Division.~~

**Child Care Institution Facility: An institution, establishment, or place in which ~~are care or supervision~~ is regularly **given** received at one time ~~thirteen or more children under the age of fifteen for a period not exceeding 12 hours, for the purpose of being given board, care, or training to children~~ apart from their parents or guardians **per ORS Chapter 657A.** and which also requires a license from the State of Oregon Children's Services Division **See Section 22.190 for a description of this use category.****

City: The City of Albany.

City Council: The Council of the City of Albany.

City Engineer: The Director of the ~~Department of Engineering and Public Works~~ or a person designated as such by the City Manager.

City Recorder: The Finance Director of the City of Albany or the duly authorized representative.

Clinic: Single or multiple offices for physicians, surgeons, dentists, chiropractors, osteopaths, and members of the healing arts, including incidental and appropriate accessory uses.

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

Code: Shall mean the City of Albany Development Code.

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

Commission: The Albany City Planning Commission.

Comprehensive Plan: An official document ~~which~~**that** establishes the future land use pattern and land use policies for the City, as may be currently established by the City Council.

Condominiums: A type of residential development offering individual ownership of units and common ownership of open spaces and other facilities and regulated, in part, by State Law (ORS **Chapter 100 91.010.900**).

Courtyard: A landscape area enclosed by two or more walls.

Coverage: See lot coverage.

Criteria: A general rule or test on which a judgment or decision can be based.

Cul-de-sac: A short street ~~which~~**that** has one end open to traffic and usually terminated by a vehicle turn-around.

Cul-de-sac Bulb: The circular radius at the end of a cul-de-sac.

**Daycare**: See **Daycare Facility, Section 22.200**.

Day(s): Shall mean calendar days, unless working days are specified, which shall mean Monday through Friday.

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

**Density, Gross**: The number of living units or jobs per gross acre of land (**for example, units/acre or jobs/acre**).

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

Development: Any manmade change to improved or unimproved real estate, including but not limited to construction, installation, or change of a building or other structure, land division, establishment or termination of a right of access, storage on the land, drilling and site alteration such as that due to land

surface mining, dredging, paving, excavation, or clearing.

Development Permit: A permit issued by the Director for a development ~~which~~ **that** is in compliance with this Code and the Comprehensive Plan.

Development Site: A tract of land either unsubdivided or consisting of two or more contiguous lots of record which, on the effective date of this Ordinance or subsequently, came under single or common ownership and continued to be so owned at the time a development permit was applied for.

Director: Director of the City's ~~Planning~~ **Community Development** Department or his/her designee.

District: A portion of territory of the city within which certain uniform regulations and requirements of this Code apply.

Dividing Land: See Land Divisions.

Drainageway: Any natural or manmade watercourse, trench, ditch, swale, or similar depression into which surface water flows.

*Staff Comments: Residential dwelling unit definitions need to be updated to meet current Code standards. A few new definitions are also proposed.*

Duplexes: A building under single or common ownership designed or used exclusively for the occupancy of two families living independently of each other and having separate housekeeping facilities for each family.

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

Dwelling, Single-Family Detached: A building designed or used exclusively for the occupancy of one family and having housekeeping facilities for only one family **on one property** and, ~~if attached, is under separate ownership from any attached dwelling.~~

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

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

Dwelling Unit, Quad: A dwelling, which for purposes of this Code shall count as two dwelling units, which has separate sleeping and living quarters for four individuals but which is centered around a common kitchen facility.

Dwelling Unit, Quint: A dwelling, which for purposes of this Code shall count as two and one-half dwelling units, ~~which~~ **that** has separate sleeping and living quarters for five individuals but ~~which~~ **that** is centered around a common kitchen facility.

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

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

**Facade: The plane of a wall of a structure that is visible from one side or perspective.**

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

Family: An individual or two or more persons related by blood or marriage or a group of unrelated individuals (at a density of not more than two people per bedroom) ~~which~~**that** is established in structure and appearance to resemble a traditional family unit. In cases where a Group Care Home takes on the appearance of a family, it shall be considered a Group Care Home and subject to all applicable regulations of this Code.

Findings: Written statements of fact, conclusions and determinations based on the evidence presented in relation to the approval criteria and accepted by the approval authority in support of a decision.

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

Floor Area: The combined floor area on each level or story of a building exclusive of vent shafts, court yards, stairwells, elevator shafts, restrooms, rooms designed and used for the purpose of storage and operation of maintenance equipment, and enclosed or covered parking area.

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

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

Future Street Plan: An approved street plan indicating the location of future streets within undeveloped or partially developed portions of the Urban Growth Area.

Garage, Private Parking: A structure having one or more ~~tiers of height~~**levels** used for ~~the parking of~~**automobile**~~vehicles~~ for the tenants, employees, or owners of the property for which the parking spaces contained in or on said garage are required by this Article and are not open for use by the general public.

Garage, Public Parking: A publicly or privately owned structure having one or more ~~tiers of~~**height**~~levels~~, used for ~~the parking of automobiles~~**vehicles** and open for use by the general public, either free or for remuneration. Public parking garages may include parking spaces for customers, patrons, or clients ~~which~~**that** are required by this Article provided said parking spaces are clearly identified as free parking space(s) for the building or use.

Garage, Repair: A building used for the care and repair of motor vehicles, including major and minor work such as body and fender work or engine and transmission overhaul, and incidental storage or parking of vehicles.

Goals: Statements identified as such in the Comprehensive Plan.

Governmental Bodies: Shall mean city, county, state and federal boards, councils, commissions, and agencies and the like.

Grade (Adjacent Ground Elevation): The lowest point of elevation of the finished surface of the ground, paving, or sidewalk within the area between the building and the property line, or when the property line is more than ~~five~~5 feet from the building, between the building and a line ~~five~~5 feet from and parallel to the building.

Gross Floor Area: The combined floor area on each level or story of a building as measured within the exterior walls of such building.

Group **Home or Residential Care Home**: Any private or public institution maintained and operated for the care, boarding, housing, or training of five or fewer physically, mentally, or socially handicapped or delinquent, elderly or dependent persons by a person who is not the parent or guardian of, and who is not related by blood, marriage, or legal adoption of such persons. **These homes are regulated the same as single-family dwellings. See Oregon Revised Statutes Chapter 443.**

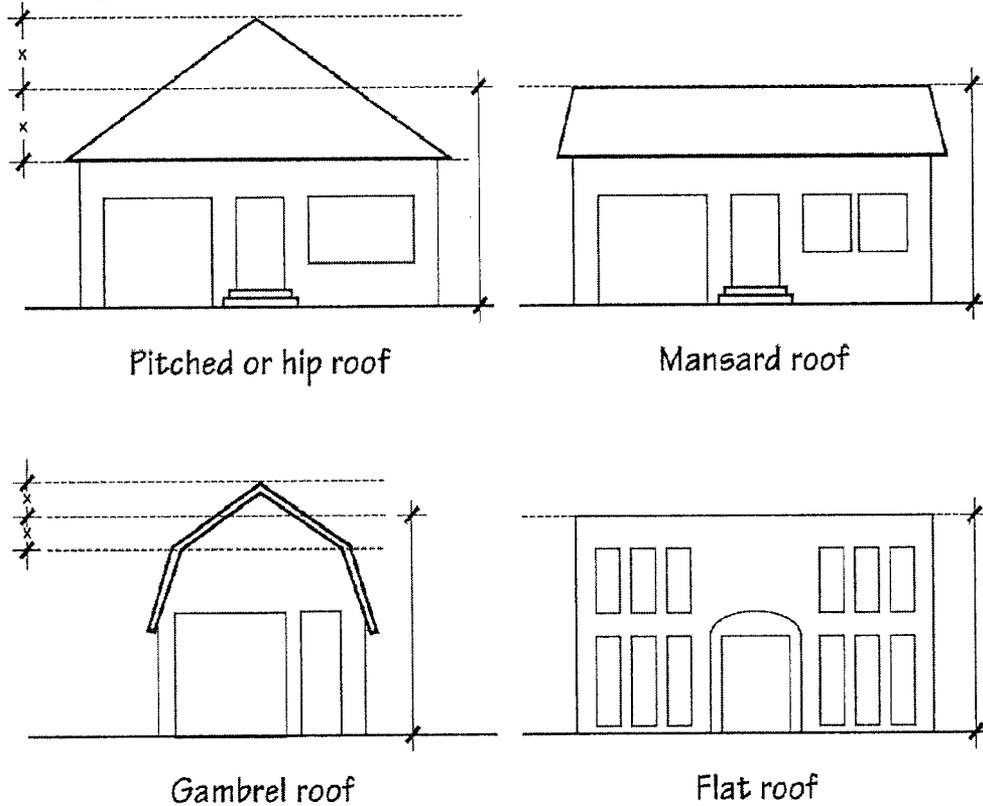
Half Street: A portion of the width of a street, usually along the side of a subdivision where the remaining portion of the street could be provided in another subdivision.

Hearings Board: A subcommittee of the Planning Commission empowered with certain decision making authority by City ordinance.

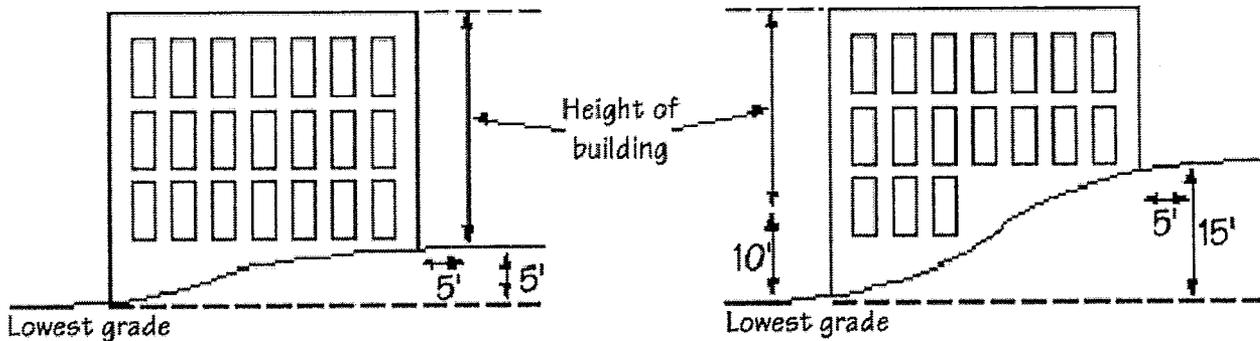
*PURPOSE of amendments: Graphics are proposed to help determine the height of the building. In addition, the definition is missing how to measure height when the sidewalk or ground surface is more than 10 feet above the lowest grade.*

Height of Building: The vertical distance above “Grade” as defined herein to the highest point of the coping of a flat roof or to the deck line of a mansard roof or to the average height of the highest gable of a pitched or hipped roof. The “**grade**” measurement ~~may be~~is taken from the highest adjoining sidewalk to ground surface within a ~~five~~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.** The height of a stepped or terraced building is the maximum height of any segment of the building.

**MEASURE BUILDING HEIGHT BY ROOF TYPES**



**MEASURING HEIGHT OF BUILDINGS THAT HAVE A PORTION BELOW GRADE**



When highest grade is 10 feet or less above the lowest grade, the base point is the elevation of the highest adjoining sidewalk or grade within a 5-foot horizontal distance.

When highest grade is more than 10 feet above the lowest grade, the base point is the elevation 10 feet above the lowest grade.

*PURPOSE of amendments:* The Code no longer breaks uses out by traffic volume so this definition is not needed.

~~High Volume Traffic Generation:~~ All uses involving the sales, rental, and servicing of goods, merchandise, and equipment which cannot be classified in the 4.100, 4.300, and 4.500 subsections of

~~Article 5, Section 5.050, Schedule of Permitted Uses (see definition of Low Volume Traffic Generation).~~

Home Occupation: An occupation carried on within a dwelling provided the residential character of the building is maintained and the occupation is conducted in such a manner as not to give an outward appearance nor manifest any characteristics of a business in the ordinary meaning of the term, nor infringe upon the right of neighboring residents to enjoy the peaceful occupancy of their homes.

**Homeless Shelter: A facility providing temporary housing to indigent, needy, homeless, or transient persons and that may provide ancillary services such as counseling, vocational training. See Section 22.170, Community Services.**

Hospitals: Institutions devoted primarily to the rendering of healing, curing, and/or nursing care which maintain and operate facilities for the diagnosis, treatment, and care of two or more non-related individuals suffering from illness, injury, or deformity, or where other healing, curing, and/or nursing care is rendered over a period exceeding 24 hours.

*PURPOSE of amendments: Due to the variety of animal "care" and training facilities and their different impacts, more definitions are proposed. Hospice care is also a growing area and definitions are warranted. These will be reordered alphabetically, but are located here for context.*

**Animal Daycare or Training: A place where small animals are cared for on a limited basis or where training classes are provided. Animals are not kept overnight.**

**Animal Grooming: A place where animals are bathed, clipped, or combed for compensation. Animals are not boarded overnight.**

~~Animal Hospital/Small Animal/Veterinary Clinic: A business that provides care, observation, or treatment building, together with animal runs, in which veterinary services, clipping, bathing, boarding, and other related services are rendered to dogs, cats, and other small animals and domestic pets.~~

**Hospice Care: Any coordinated program of home care with provision for inpatient care for terminally ill patients and their families.**

**Hospice Care Facility: A freestanding licensed hospice facility that provides palliative and supportive medical and other health services to meet the needs of terminally ill patients and their families .**

Hotel (Motel, Motor Hotel, Tourist Court): A building or group of buildings **with six or more guest rooms that provides lodging to the public for compensation** ~~used for transient residential purposes containing six or more rental units which are designed to be used, or which are used, rented, or hired out for sleeping purposes.~~

**Household: Person or persons who live together in one dwelling unit.**

**Housing: See Dwelling types.**

Indoor Recreation Area: A room or rooms within an enclosed building ~~which is~~ designed and used for recreational purposes by the public and/or occupants of a residential development. Activities provided ~~for~~ within an indoor recreation area may include, but are not limited to, the following: indoor

swimming pools, saunas, gymnasiums, exercising rooms, dance floors, tennis or handball courts, and games such as pool, ping pong, shuffleboard, etc. See **ADC 22.100**.

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

Junkyard: Any premises upon which any of the following are kept outside an enclosed building:

- a. The principal components of more than four (4) inoperable and unregistered vehicles.
- b. The principal components of more than five (5) inoperable washers, dryers, hot water heaters, stoves, ranges, televisions, video cassette recorders, radios, stereos, or other major appliances.
- c. More than six (6) inoperable bicycles or lawnmowers.

This definition is not intended to include salvage yards, which are separately defined in this Code. (Ord. 5281, 3/26/97)

Kennels: A lot or premise on which three or more adult dogs are kept **overnight**, whether by the owner(s) of the dogs or by person(s) providing facilities and care, whether or not for compensation. An adult dog is one that has reached the age of six months.

Land Divisions: The **legal** creation of a lot or parcel of land through the process of subdividing or partitioning land **per ORS 92.010** ~~or through the leasing of land for more than three years, or less than three years if the lease may be renewed under the terms of the lease for a total period more than three years; or through the sale of interest in recording a condominium plat as that term is defined in ORS Chapter 100.94; or if there were no applicable planning, zoning or land division ordinances or regulations, by deed or land sales contract.~~ **through sale of any security interest under a land sales contract, trust deed, or mortgage.**

Landscaping: The term "landscaping" includes ground cover, trees, grass, bushes, shrubs, flowers, and garden areas ~~and any arrangement of fountains, patios, decks, street furniture, and ornamental concrete or stonework areas and artificial turf or carpeting.~~

Loading Space: An off-street space or berth on the same lot with a main building or contiguous to a group of buildings for the temporary parking of commercial vehicles while loading or unloading ~~which~~ **that** abuts a street, alley, or other appropriate means of ingress and egress.

Lot: **A single unit of land that is created by a subdivision.** ~~A portion of a subdivision intended as a unit for transfer of ownership or for development.~~ Lots may be occupied by principal and accessory structures, together with the yards or open spaces required, and must have legal access to public right-of-way. **"Lot," "parcel," and "property" may be used interchangeably in this Code to refer to a separate property regardless of its derivation.**

Lot, Corner: A lot abutting two intersecting streets, other than an alley, provided that the streets do not intersect at an angle greater than 135 degrees.

Lot, Coverage: That portion of a lot which, when viewed directly from above, would be covered by a building, or any part of a building, except any area covered by a structure where fifty percent or more of the perimeter of such structure is open from grade.

Lot, Depth: The horizontal distance from the midpoint of the front lot line to the midpoint of the rear lot

line excluding any “panhandles.”

Lot, Frontage: That portion of a lot nearest the street. For the purpose of determining yard requirements, all sides of a lot adjacent to a street shall be considered frontage and yards shall be provided as required.

Lot, Interior: A lot other than a corner lot.

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

Lot Line, Front: A ~~property~~ **lot** line contiguous with ~~abutting~~ any street line.

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

*PURPOSE of amendments: The term “interior” is used for both side and rear throughout the Code for setbacks and lot lines. These definitions are not needed.*

~~Lot Line, Rear: A lot line which **that** is opposite and most distant from the front lot line and in the case of an irregular or triangular shaped lot, a line ten 10 feet in length within the lot parallel to and at a maximum distance from the front lot line.~~

~~Lot Line, Side: A lot line which **that** extends from any front lot line to a rear lot line, or in the case of a corner, triangular or irregular shaped lot, to another side lot line.~~

Lot of Record: A lot shown as part of a recorded subdivision or approved partition map; or any parcel of land described by metes and bounds in a recorded deed, record of survey, or other appropriate document recorded in the Office of the County Recorder prior to December 12, 1956. No lot or parcel of land created without complying with the provisions of the Land Division Requirements of the State of Oregon and the City Subdivision Ordinance is recognized as a lot of record.

Lot, Width: The average horizontal distance between the side lot lines, ordinarily measured parallel to the rear lot line (excluding lot “panhandles”) at the front and rear setbacks.

*PURPOSE of amendments: The Code is no longer structured to break uses out by traffic volume so this definition is not needed.*

~~Low Volume Traffic Generation: Uses such as furniture stores, floor covering stores, major appliance stores, wholesale sales, equipment rental stores, equipment servicing, etc. that sell or service items that are large and bulky that need a relatively large amount of storage, display, or service area per item, or that provide customer services primarily off site, and that, therefore, generate substantially less customer traffic per square foot of usable space than stores or services dealing in smaller items or on-site services.~~

Main Entrance: **The entrance to a building that most pedestrians or customers are expected to use. Generally, each building has one main entrance.**

*PURPOSE of amendments: There are two types of land division – partition and subdivision. The terms “major” and “minor” partitions are no longer needed. The definition for minor partition will stay and a definition of subdivision will be added.*

~~Major Partition: A partitioning of property into 2 or 3 parcels in a calendar year including the creation of a road or street.~~

*PURPOSE of amendments: This term is not used and the references to the zoning districts are incorrect.*

~~Major Zoning District: The primary zone designation of property within the City such as R-1, C-2, or MH.~~

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

~~Marginal Access (or Frontage Street): A minor-local street parallel and adjacent to a major arterial street providing access to abutting properties and protection from through traffic.~~

~~Minor Partition: A partitioning of property into 2 or 3 parcels in a calendar year that does not include the creation of a road or street. Staff Comments: relocate alphabetically.~~

*Staff Comments: This term is no longer used. Local Residential Street definition and minor street definitions have been added.*

~~Minor Street: A street used exclusively for access to abutting properties.~~

Manufactured Home: A dwelling unit constructed on one or more chassis in an off-site manufacturing facility and designed to be used with a foundation as a dwelling unit on a year-round basis with approved connections to water, sewer, and electric utility systems. A commercial coach, motor home, camper, or other unit originally designed as a recreation vehicle is not a mobile or manufactured home for purposes of this Code and is not permitted for occupancy purposes outside of approved locations for such units.

Manufactured Home Park: A parcel of land under common ownership on which four or more manufactured homes are occupied as residences and ~~which-that~~ conforms to the regulations of this Code.

Manufactured Home Space or Lot: A plot of ground within a home park or subdivision designed for the accommodation of one manufactured home, its accessory structures, parking spaces, and required yard areas.

Manufactured Home Subdivision: A subdivision developed under the provisions outlined in Article 112 in this Code and that meets the standards for conventional subdivisions as prescribed by State Statutes and this Code. Manufactured home subdivisions are designed for sale of lots for residential occupancy by manufactured homes.

Mobile Home: See “Manufactured Home.”

Modular Home: A factory fabricated transportable building designed to meet the ~~Uniform-B~~ **adopted** building ~~Code~~ to be used by itself or incorporated with similar structures or units at a building site into a modular structure. The term is intended to apply to major assemblies and does not include buildings constructed at a site from prefabricated panels, trusses, and other prefabricated supplements.

Motel or Tourist Court: See Hotel.

Motor Vehicle and Trailer Sales Area: A lot used for display, sale, or rental of new or used motor

vehicles or trailers where no repair work is done except minor, incidental repairs of motor vehicles or trailers to be displayed, sold, or rented for use off the premises.

**Multiple Family: See Dwelling, Multiple Family.**

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

Nonconforming Development: Any physical development of land ~~which~~ **that** lawfully existed on the effective date of this Code but which, due to the requirements adopted herein, no longer complies with the site development standards of this Code for the zoning district in which the development is located.

Nonconforming Lot: A **lot or** parcel of land ~~which~~ **that** lawfully existed as ~~a lot~~ on the effective date of this Code or ~~which~~ **that is** ~~was~~ legally created after the effective date of this Code, but which in either case does not conform to the lot area and lot dimension standards for the zone in which it is located.

Nonconforming Situation: An inclusive term for nonconforming lot, nonconforming use, nonconforming building, and/or nonconforming development.

Nonconforming Use: Any use ~~which~~ **that** lawfully existed on the effective date of this Code but which, due to the requirements adopted herein, no longer complies with the schedule of permitted uses and which has not been deemed terminated under the provisions of this Code. Uses allowed in ~~certain use~~ districts by Conditional Use Permit but ~~which~~ were existing on the effective date of this Code without a Conditional Use Permit shall also be considered as nonconforming.

**Opacity: The effectiveness of a buffer or screening method expressed as the percentage of vision that is blocked.**

Outdoor Living Area: Outdoor or semi-outdoor area designed to provide a more pleasant and healthful environment for the occupants of a dwelling unit and the neighborhood in which such ~~the~~ dwelling unit is located. It includes natural ground areas, landscaped areas, balconies, porches, patios, terraces, verandas, outdoor swimming pools, play areas, tennis courts, walkways, and similar areas developed for active or passive recreational activities. Outdoor living area does not include accessways, parking and loading areas, strips between buildings less than ten feet in width, storage areas, and other areas not usable for outdoor activities.

Owner: ~~When~~ used in relationship to real property, "owner" means the legal owner of record or, ~~when~~ there is a recorded land sales contract in force, the purchaser **of the land thereunder**.

**Parcel: a single unit of land that is created by a partition of land.**

Parking Area, Private: Privately or publicly owned property, other than streets and alleys, on which parking spaces **and travel aisles** are defined, designated, or otherwise identified for use by the tenants, employees, or owners of the property for which the parking area is required and not open for use by the general public.

Parking Area, Public: Privately or publicly owned property other than streets or alleys, on which parking spaces **and travel aisles** are defined, designated, or otherwise identified for use by the general public, either free or for remuneration.

Parking Space: A permanently maintained paved surface with ~~proper~~-**approved** access for one standard-size automobile.

Partition: The process of dividing a single property **to create not more than** ~~into two or three~~ parcels **of land within a calendar year** for sale, taxation, development, or other purpose.

Pedestrian Way/Walkway: **Any paved public or private route intended** ~~right-of-way through a block to facilitate~~ **provide** pedestrian access to adjacent streets and properties.

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

Pharmacy: **A business primarily devoted to the sale of prescription drugs, medicines, supplies and equipment related to health needs.**

Planned Development (PD): A tract of land ~~having singular ownership and developed~~ under provisions of this Code ~~which that~~ provides for flexibility and innovation in design and placement of structures and ~~which provides for detailed Planning Commission involvement in review and approval of such developments.~~ The terms Planned Development (PD) and Planned Unit Development (PUD) may be used interchangeably. **See Article 11 for Planned Development Standards.**

Plat, Final: **A final drawing or map and other writing containing all the descriptions, locations, specifications, dedications, provisions and information concerning a subdivision or a partition and includes a final subdivision plat, replat or partition plat. See ORS 92.010.** ~~The map, drawing, or chart on which the subdivider's plan of subdivision is presented and which he/she submits for approval and intends in final form to record.~~

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

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

Private Driveway: A driveway to serve residential premises.

Property: **When used in this Code, property refers to a piece of land, lot or parcel and all of the structures thereon. "Lot," "parcel," and "property" may be used interchangeably in this Code to refer to a separate property regardless of its derivation.**

Property Line: **See Lot Line.**

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

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

**Replat: The act of platting the lots, parcels and easements in a recorded subdivision or partition plat to achieve a reconfiguration of the existing subdivision or partition plat.**

Residential Care Institution Facility: Any private or public institution maintained and operated for the care, boarding, housing, training, or rehabilitation of six or more physically, mentally, or socially handicapped or delinquent, elderly, or drug or alcohol dependent persons in one or more buildings on contiguous properties. **See Section 22.260, Residential Care or Treatment Facility and ORS Chapter 443.** ~~but not including jails or other criminal detention facilities. Residential care institutions include but are not limited to nursing homes, rehabilitation centers, residential care and training facilities for the mentally and socially handicapped, delinquent youth care centers, and specialized health care homes.~~

Right-of-way: The area between boundary lines of a street.

Roadway: The portion or portions of a street right-of-way available for vehicular traffic.

Salvage Yard: Any premises upon which any type of material is dismantled, stored, and disposed of for the purpose of recycling the base material or its components. It is the intention of this definition to include the type of operation commonly known as an auto wrecking yard. (Ord. 5281, 3/26/97)

Satellite Dish Antenna: A device incorporating a reflective surface that is solid, open mesh, or bar configured and is in the shape of a shallow dish, cone, horn, or cornucopia. Such device shall be used to transmit and/or receive signals. This definition is meant to include but not be limited to what are commonly referred to as satellite earth stations, ~~TVRO's,~~ and satellite microwave antennas.

Service Station: A place or station selling motor fuel and oil for motor vehicles, servicing batteries, furnishing repair and service, excluding painting, body work, steam cleaning, tire recapping, and mechanical car washing which necessitates equipment to wash more than one car at a time and at which accessory sales or incidental services are conducted. **See Section 22.170, Vehicle Service, Quick.**

Service Driveways: Any driveway constructed, installed, maintained in or over any portion of the public streets for the purpose of ingress and egress of vehicles from the street to the property abutting the street.

**Setback: The minimum distance required between a structure or parking area and an abutting property line. Some zones have a maximum setback where a building may be located no farther from a property line.**

Setback Line: The innermost line of any required yard area on a lot **that is parallel to the corresponding property line** (see Yard).

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

Special Purpose District: Overlay zone designations ~~which~~ **that** set forth specific land use regulations in addition to the standards of the underlying ~~major~~ **base** zoning district.

Staff: An employee or employees of the City of Albany.

Stand: A hard surfaced area within a manufactured home space or lot designed for placement of a manufactured home.

Story: That portion of a building included between the upper surface of any floor and the upper surface of the **next** floor ~~next~~ above, except that the top story shall be that portion of a building included between the upper surface of the top floor and the ceiling above. If the finished floor level directly above a basement or cellar is more than ~~six~~ **6** feet above grade, such basement or cellar shall be considered a story.

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

Street: A public thoroughfare or right-of-way dedicated, deeded or condemned; other than an alley, ~~which~~ **that** affords the principal means of access to abutting property, including avenue, place, way, drive, land, boulevard, highway, road, and other thoroughfares except as excluded in this Code. The word "street" shall include all arterial highways, freeways, traffic collector streets, and local streets.

Street Line: A ~~lot~~ **property** line abutting a street.

Structure: **That which is built or constructed, including buildings, decks, fences, towers, flag poles, signs, and other similar objects. Structure does not include at grade paved areas or vegetative landscaping materials.** ~~Anything constructed or built, an edifice or building of any kind, or any piece of work artificially built up or composed of parts joined together in some definite manner.~~

Subdivide Land: ~~Means~~ **To divide a parcel of land into four or more lots within a calendar year.** ~~parcels of less than five for the purpose of transfer of interest or ownership, whether immediate or future, when such parcel exists as a unit or contiguous units under a single ownership as shown on the tax roll for the year preceding the division.~~

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

*PURPOSE of amendments: This term is no longer used in the Code.*

Substantial Construction: ~~Any physical improvement of a property, the cost of which equals or exceeds fifty~~ **50** percent of the fair market value of the property before the improvement was started.

Temporary Residence: A residence, (which may be a manufactured home,) that is: a) located on the same property as a residence made uninhabitable by fire, flood, or other natural disaster and occupied by the persons displaced by such disaster, or b) located on the same property as a residence that is under construction or undergoing substantial repairs or reconstruction and occupied by the persons intending to live in such permanent residence when the work is completed, or c) located on a non-residential site and occupied by persons having construction or security responsibilities over such site. **See Article 10, Sections 10.420-10.510.**

Townhouse: Two or more common wall single family dwelling units, each unit of which is built upon an individually owned subdivided or partitioned lot or parcel. **Townhouses are an attached single-family dwelling and are also called rowhouses and zero-lot line houses.**

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

**Travel Aisle:** An unobstructed way that provides vehicles ingress and egress to parking spaces.

~~Trailer: See Travel Trailer.~~

Use: The purpose for which land or a building is arranged, designed, or intended or for which either land or a building is or may be occupied or maintained.

**Vocational or Trade School:** A school established to teach business trades such as industrial, electrical, mechanical, clerical, managerial, accounting, data processing, and other trade technology or skills.

Water-Dependent: A use or activity ~~which-that~~ can be carried out only on, in, or adjacent to water areas because the use requires access to the water body for waterborne transportation, recreation, energy production, or source of water.

Water-Oriented Use: Any use ~~which-that~~ received a demonstrable benefit from being located with a view to the river. Examples might include restaurants, residential structures, and commercial structures when river views are incorporated into the design of the river.

Water-Related: Uses ~~which-that~~ are not directly dependent upon access to a water body, but ~~which-that~~ provide goods or services that are directly associated with water-dependent land or waterway use and which, if not located adjacent to water, would result in a public loss of quality in the goods or services offered.

Wetland: Areas that are inundated or saturated by surface or groundwater at a frequency and duration sufficient to support, and under normal circumstances do support, a prevalence of vegetation typically adapted for life in saturated soil conditions.

Wrecking Yard, Motor Vehicles, and Building Materials: Any premises used for the storage, dismantling, or sale of ~~either~~-used motor vehicles, trailers, machinery and/or building materials, or parts.

Yard: Any open space ~~which-that~~ is required, created, or is maintained on a lot and ~~which~~-is not obstructed from the ground up by any structure or building.

Yard, Front: The area between the front property line and the nearest point of any building on that same parcel.

Yard, Interior: Any yard, required or otherwise, ~~which-that~~ is not a front yard and ~~which-that~~ is adjacent to an interior lot line.

Zoning District: A classification of land in which only uses specified by this Code are allowed, except for nonconforming uses, and for which specific requirements are set forth pertaining to height, yard, area, coverage, landscaping, parking, and other land use restrictions.

# AFFIDAVIT OF PUBLICATION

## NOTICE OF PUBLIC HEARINGS

The Albany Planning Commission and the Albany City Council will hold public hearings to consider a minor modification to the Albany Development Code that will be included with other changes proposed in Planning File DC-03-10. The full packet of the Development Code amendments are online at <http://www.cityofalbany.net/comdev/applications>. The additional amendment that will be included with set of amendments in Planning File DC-03-10 is described below.

Article 2, Review Criteria (Exhibit A):

- Adjustment Criteria, Section 2.080: Allow encroachment into the interior setbacks up to 3 feet in order to retrofit bathrooms to accommodate persons with mobility impairments.

The Planning Commission hearing is Monday, June 21, 2010, at 5:15 PM. The City Council hearing is Wednesday, July 14, 2010, at 7:15 PM. Both hearings will be in the City Council Chambers, Albany City Hall, 333 Broadalbin Street SW.

Any person wishing to speak for or against the proposals may do so in person or by authorized representative. Also, signed, written comments may be filed with the Albany Community Development Planning Division; 333 Broadalbin Street SW; P.O. Box 490; Albany, OR 97321, prior to a hearing. For more information, please contact Sheena Dickerman, Planning Division, at 541-917-7550, [sheena.dickerman@cityofalbany.net](mailto:sheena.dickerman@cityofalbany.net).

The location of the meeting/hearing is accessible to the disabled. If you need special accommodations to attend or participate, please notify the Human Resources Department in advance by calling 541-917-7501.

CITY OF ALBANY  
Greg Byrne  
Community Development Director

Dated this 9th day of June, 2010

#3018229

PUBLISH: Monday, June 14, 2010

State of Oregon

SS )

County of Linn

I, Pam M. Burright, being first duly sworn deposes and says, that I am the Legal Clerk of the Democrat-Herald, a newspaper of general circulation, as defined by section 193.010 O.R.S., published at Albany, OR, in the aforesaid county and state: that the advertisement number 3018229, for the account number 60000049 described as PUBLIC HEARING - DC-03-10, a copy is hereto Annexed, was published in the entire issue of sold newspaper.

Start Date: 06-14-10

Stop Date: 06-14-10

Insertions: 1

Pam Burright

Cyndi R. Sprinkel-Hart

Subscribed and sworn to before me on **Monday, Jun 14, 2010.**

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# AFFIDAVIT OF PUBLICATION

## NOTICE OF PUBLIC HEARINGS

The Albany Planning Commission and the Albany City Council will hold public hearings to consider a minor modification to the Albany Development Code (Planning File DC-03-10) summarized below. The Development Code Articles proposed to be amended are online at <http://www.cityofalbany.net/comdev/applications>.

- General: Clarifying the terms "yard" and "setback" and to existing regulations throughout Articles 3, 4, 5 and 22. (Exhibits B, C, D, and F)

Article 1, Administration and Procedures, and Article 2, Review Criteria (Exhibit A):

- Remove duplicate content in Section 1.073 to be consistent with 2.440(3); and
- Sections 2.440 -2.580, remove duplicate content, and relocate criteria to one location.

Article 3, Residential Zoning Districts (Exhibit B):

- Section 3.085, add two properties to the special status list.

Article 4, Commercial and Industrial Zoning Districts (Exhibit C):

- Section 4.050, Combine two use categories: Live Work and Units Above a Business; add Accessory Buildings, Non-residential to clarify existing regulations; and
- Sections 4.050 and 4.060(7), add gymnastics, tumbling and cheerleading in the LI zone; and
- Sections 4.050 and 4.060(16), allow vocational and trade schools in industrial zones.

Article 5, Mixed Use Village Center Zoning Districts (Exhibit D)

Article 10, Manufactured Homes (Exhibit E): Clarify information needed for temporary dwelling permits and time periods.

Article 22, Use Categories and Definitions (Exhibit F): Remove inconsistencies, change vocational/trade schools to educational use from retail, add pharmacies as a convenience-oriented retail use, and updates and additions to the definitions.

The Planning Commission hearing is Monday, May 24, 2010, at 5:15 PM. The City Council hearing is Wednesday, July 14, 2010, at 7:15 PM. Both hearings will be in the City Council Chambers, Albany City Hall, 333 Broadalbin Street SW.

Any person wishing to speak for or against the proposals may do so in person or by authorized representative. Also, signed, written comments may be filed with the Albany Community Development Planning Division; 333 Broadalbin Street SW; P.O. Box 490; Albany, OR 97321, prior to a hearing. For more information, please contact Anne Catlin, Planning Division, at 541-917-7550, [anne.catlin@cityofalbany.net](mailto:anne.catlin@cityofalbany.net).

The location of the meeting/hearing is accessible to the disabled. If you need special accommodations to attend or participate, please notify the Human Resources Department in advance by calling 541-917-7501.

CITY OF ALBANY  
Greg Byrne  
Community Development Director  
Dated this 13th day of May, 2010  
PUBLISH: May 17, 2010

#3009443

State of Oregon

SS )

County of Linn

I, Pam M. Burrigh, being first duly sworn deposes and says, that I am the Legal Clerk of the Democrat-Herald, a newspaper of general circulation, as defined by section 193.010 O.R.S., published at Albany, OR, in the aforesaid county and state: that the advertisement number 3009443, for the account number 60000049 described as NOTICE OF PUBLIC HEARINGS The, a copy is hereto Annexed, was published in the entire issue of sold newspaper.

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*Pam Burrigh*

*Cyndi R. Sprinkel-Hart*

Subscribed and sworn to before me on **Tuesday, Jun 01, 2010.**

