



AN ORDINANCE AMENDING ORDINANCE NO. 4441, WHICH ADOPTED THE CITY OF ALBANY DEVELOPMENT CODE, BY AMENDING THE ALBANY DEVELOPMENT CODE TEXT AND ADOPTING FINDINGS

WHEREAS, on December 3, 2018, the Albany Planning Commission held a public hearing and deliberated on proposed legislative text amendments to the Albany Development Code related to the size of retail uses in older buildings within the Neighborhood Commercial and Office Professional zones, development on steep hillsides, and the intent of Cluster Development standards (City of Albany Planning File DC-06-18); and

WHEREAS, on December 3, 2018, the Planning Commission recommended that the City Council approve the proposed text amendments. This recommendation was based on evidence presented in the staff report and consideration of public testimony during the public hearing; and

WHEREAS, the Albany City Council held a public hearing on the proposal on January 9, 2019, and reviewed the findings of fact and conclusions included in the staff report and testimony presented at the public hearing and then deliberated; and

WHEREAS, the text amendments to the Albany Development Code considered by the Planning Commission and City Council are presented as an attachment to this Ordinance as Exhibit A.

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

Section 1: The text of the Albany Development Code is hereby amended as shown in Exhibit A of this Ordinance.

Section 2: A copy of this Ordinance shall be filed in the Office of the City Clerk of the City of Albany and these changes shall be made in the official City of Albany Development Code.

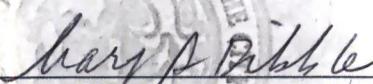
Passed by the Council: Jan 9, 2019

Approved by the Mayor: Jan 9, 2019

Effective Date: Feb 8, 2019


Mayor

ATTEST:



City Clerk

ARTICLE 4 COMMERCIAL AND INDUSTRIAL ZONING DISTRICTS

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

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

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

ZONING DISTRICTS

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

- (1) OP – OFFICE PROFESSIONAL DISTRICT. The OP district is intended to provide a vertical or horizontal mix of professional offices, personal services, live-work, residential and limited related commercial uses in close proximity to residential and commercial districts. The limited uses allowed in this district are selected for their compatibility with residential uses and the desired character of the neighborhood. OP is typically appropriate along arterial or collector streets as a transitional or buffer zone between residential and more intense commercial or industrial districts.
- (2) NC – NEIGHBORHOOD COMMERCIAL DISTRICT. The NC district is intended primarily for small areas of retail establishments serving nearby residents' frequent needs in convenient locations. The NC District is typically appropriate for small clusters or service centers located at intersections within residential neighborhoods. Businesses should fit into the residential pattern of development and not create land use, architectural or traffic conflicts. Generally, uses located within NC Districts should have as their primary market area the population within a one-half mile radius.
- (3) CC – COMMUNITY COMMERCIAL DISTRICT. The CC district recognizes the diversity of small to medium-scale businesses, services and sites mostly located on arterial streets and highways. Design guidelines, building location and front-yard landscaping will provide a coordinated and enhanced community image along these major transportation corridors as they develop or redevelop. Sound and visual buffers should be used to mitigate impacts on nearby residential areas.
- (4) RC – REGIONAL COMMERCIAL DISTRICT. The RC district is intended primarily for developments that serve the wider Albany region. RC allows a wide range of retail sales and service uses, and is typically appropriate for developments that require large sites near Interstate 5.

Design guidelines, building location and front-yard landscaping will provide an enhanced community image along major transportation corridors. These uses often have significant impacts on the transportation system. Sound and visual buffers may be required to protect nearby residential areas. RC districts may not be appropriate in all locations.

- (5) TD – TRANSIT DISTRICT. The TD district is intended primarily for regional transit facilities and related uses. This district is suitable as a major office employment center because of easy access to mass transit. Mixed-use development including a multi-modal transportation facility, a park-and-ride facility, and office space should be developed within this district.
- (6) IP – INDUSTRIAL PARK DISTRICT. The IP district is intended primarily for light manufacturing, high-tech, research and development, institutions and offices in a quality environment. Uses are characterized by attractive building architecture and landscaped yards and streetscapes, and the absence of objectionable external effects. The district is designed for industrial and business parks containing offices together with clean, non-polluting industries. IP is located along or near highly visible corridors to provide a positive image and a transition to residential or natural areas from heavier industrial uses.
- (7) LI – LIGHT INDUSTRIAL DISTRICT. The LI district is intended primarily for a wide range of manufacturing, warehousing, processing, assembling, wholesaling, specialty contractors and related establishments. Uses will have limited impacts on surrounding properties. This district is particularly suited to areas having good access to highways and perhaps to rail. LI may serve as a buffer around the HI district and may be compatible with nearby residential zones or uses.
- (8) HI – HEAVY INDUSTRIAL DISTRICT. The HI district is intended primarily for industrial uses and support activities that are potentially incompatible with most other uses and which are characterized by large amounts of traffic, extensive shipping of goods, outside storage or stockpiling of raw materials, by-products, or finished goods, and a controlled but higher level of noise and/or pollution. This district is located away from residential areas and has easy access to highways and perhaps to rail. [Ord. 5555, 2/7/03]

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

<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.

4.050 Schedule of Permitted Uses. The specific uses listed in the following schedule (Table 4-1) are permitted in the zones as indicated, subject to the general provisions, special conditions, additional restrictions, and exceptions set forth in this Code. A description of each use category is in Article 22, Use Categories and 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 of Sections 2.230-2.260. Ord. 5742, 7/14/10]
- PD Use permitted only through Planned Development approval.
- N No; use not allowed in the zoning district indicated.
- X/X Some zones have two abbreviations for a use category (ex. Y/CU). Refer to the special condition to determine what review process is required based on the details of the use.

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

[Ord. 5555, 2/7/03]

**TABLE 4-1
SCHEDULE OF PERMITTED USES**

Commercial, Office and Industrial Zoning Districts									
Use Categories (See Article 22 for use category descriptions)	Spec. Cond.	OP	NC	CC	RC	TD	IP	LI	HI
INDUSTRIAL									
Contractors and Industrial Services		N	N	S-1	N	S-1	S-1	S-1	S
Manufacturing and Production	2	S/CU	N	S/CU,3	N	S/CU	S/CU	S/CU	S
Small-scale Manufacturing	2	S/CU	N	S/CU	S/CU	S/CU	S/CU	S/CU	S/CU
Railroad Yard		N	N	N	N	S	N	S	S
Warehousing and Distribution		N	N	N	N	N	CU	S	S
Waste and Recycling Related	4	N	N	CU	N	N	N	S/CU	S/CU
Wholesale Sales		N	N	N	N	N	S-5	S	N
COMMERCIAL									
Adult Entertainment		N	N	S-6	N	N	N	CU-6	N
Entertainment and Recreation: Indoor Outdoor	7	N N	N N	S-7 S	S-7 S	S N	S/CU-7 N	CUII-7 CU-7, 11 N-7	CU-7 CU
Offices: Traditional Industrial		S S	S N	S S	S N	S N	CUII-8 S-8	N S-9	N S
Parking		N	N	S	S	S	S	S	S
Recreational Vehicle Park		N	N	CU	N	S	N	S	N
Restaurants, no drive-thru w/ drive-thru or mostly delivery	25	CUII N	S CU-10	S S	S S	S N	S CU	N N	N N
Retail Sales and Service		S-11	S-11	S	S	S	S-11	S/CU/N- 11	N
Self-Serve Storage	12	N	N	S	S	N	CU	S	S-13
Taverns, Bars, Breweries, Nightclubs	25	CUII	CUII	S	S	S	CUII	CUII	CUII
Vehicle Repair		N	N	S	S	N	N	S	N
Vehicle Service, Quick- gas/oil/wash		N	N	S	S	N	CU	N-14	N
INSTITUTIONAL									
Basic Utilities		CU	CU	CU	CU	CU	S	S	S
Community Services	15	S/CU	S/CU	S/CU	S/CU	S/CU	CU	CU	N
Daycare Facility		CU	CU	S	N	N	S	CU	N
Educational Institutions	16	N	N	CU	N	CU	S/CU	S/CU	N
Hospitals		CU	N	N	N	N	CU	CU	N
Jails and Detention Facilities		N	N	N	N	N	N	CU	N
Parks, Open Areas and Cemeteries	17	CU	CU	CU	N	CU	CU	CU	N
Religious Institutions	16	CU	CU	S	N	N	CU	CU	N
RESIDENTIAL									
Assisted Living Facility		CU	CU	CU	N	N	N	N	N
Home Businesses (see 3.090- 3.180 to determine if CU)		Y/CU	Y/CU	Y/CU	Y/CU	Y/CU	Y/CU	Y/CU	Y/CU
Residential Care or Treatment Facility		S	S	S	N	N	N	N	N
Single Family and Two Family Units	20	Y/CU-19	S	N	N	N	N	N	N
Three or More Units		CU	N	N	N	N	N	N	N

Use Categories (See Article 22 for use category descriptions.)	Spec. Cond.	OP	NC	CC	RC	TD	IP	LI	HI
Units Above or Attached to a Business		S	S	S	CU	S	S	S	N
Residential Accessory Buildings	21	Y/S	Y/S	N	N	N	N	N	N
OTHER CATEGORIES									
Agriculture (on Vacant Land)	22	N	N	N	Y	N	Y	Y	Y
Satellite Dish, Other Antennas, & Communication Facilities <50 ft.	23	Y	Y	Y	Y	Y	Y	Y	Y
Communication Facilities >= 50 ft.	23	N	N	CU	S	CU	CU	S	Y
Kennels	24	N	N	N	CU	N	N	S	N
Non-Res'l Accessory Buildings		S-18	Y	Y	Y	Y	Y	Y	Y
Passenger Terminals		N	N	S	CU	S	CU	CU	N
Rail And Utility Corridors		CU	CU	CU	CU	S	CU	S	S

Y = Yes, allowed, no Site Plan Review required

N = No, not allowed

CU = Conditional Use review, Type III procedure

S = Site Plan Review required

CUII = Conditional Use review, Type II procedure

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

SPECIAL CONDITIONS

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

- (1) Contractors and Industrial Services in the CC, TD, IP and LI zones.
 - (a) Limited Uses. Salvage or wrecking operations are prohibited in the CC, TD, IP, and LI zones. See Section 4.290 for outside storage standards.
- (2) Manufacturing and Production. The environmental performance standards of Article 9 may limit the placement of certain uses in some districts. If the site is located within 300 feet of residentially zoned land, the use may require a Conditional Use approval.
- (3) Manufacturing in the CC zone. Manufacturing uses in CC must have a retail storefront and sell their products to the public on site.
- (4) Waste and Recycling Related Uses in the CC, LI, and HI zones.
 - (a) Limited uses in CC. Only processing and sorting operations conducted within enclosed structures less than 5,000 sq. ft. in total area are considered with a conditional use review.
 - (b) Limited uses in LI. Processing and sorting operations conducted within enclosed structures less than 5,000 sq. ft. in total area are allowed with Site Plan Review. Salvage yards, junkyards, and refuse transfer stations are not permitted. All other material and recycling operations are considered through a conditional use review.
 - (c) Limited uses in HI. Processing and sorting operations conducted within enclosed structures less than 5,000 sq. ft. in total area and all other material and recycling operations, excluding salvage yards and junkyards, are allowed with Site Plan Review. Salvage yards, junkyards, sanitary landfills, and refuse transfer stations require a conditional use review.
- (5) Wholesale Sales in the IP zone. This use is allowed in IP only if all operations and storage are conducted entirely within enclosed buildings.

- (6) Adult Entertainment. Where allowed, Adult Entertainment uses shall meet the following standards:
- (a) An adult entertainment use shall not be established or expanded within 300 feet of the district boundary line of any residential zoning district.
 - (b) An adult entertainment use shall not be established or expanded within 300 feet of any other adult entertainment use.
 - (c) An adult entertainment use shall not be established or expanded within 300 feet of the property line of a church, school, or public park.
 - (d) Exceptions to the above may be considered by the Variance procedures.
- (7) Indoor Entertainment and Recreation in the CC, RC, IP, LI and HI zones.
- (a) Limited uses in CC. Indoor firing ranges or gun clubs, coliseums, and stadiums are not permitted.
 - (b) Limited uses in RC. Indoor firing ranges or gun clubs are not permitted.
 - (c) Limited uses in IP. Exercise and health clubs or gyms are permitted through Site Plan Review. Convention centers, coliseums and stadiums are considered through a Conditional Use Type III review. All other indoor entertainment uses are not permitted.
 - (d) Limited uses in LI. Indoor firing ranges or gun clubs, pool halls, paint gun facilities, cheerleading, tumbling, gymnastics, fairgrounds, coliseums and stadiums are considered through a Conditional Use Type II review. Exercise and health clubs or gyms are considered through a Conditional Use Type III review and must meet the additional criteria in Special Condition (11)(b). All other indoor entertainment uses are not permitted.
[Ord. 5742, 7/14/10; Ord. 5832, 4/9/14]
 - (e) Limited uses in HI. Indoor firing ranges or gun clubs, pool halls, paint gun facilities, motor racetrack, coliseums and stadiums are considered through a conditional use review. All other indoor entertainment uses are not permitted.
- (8) Offices in the IP zone. Traditional Offices intended to serve customers on site are considered through the Conditional Use Type II review. Industrial Offices are permitted through Site Plan Review. See Article 22 for Office examples. [Ord. 5832, 4/9/14]
- (9) Offices in the LI zone. Traditional Offices intended to serve customers on site are not allowed. Industrial Offices are permitted through Site Plan Review. See Article 22 for Office examples. [Ord. 5832, 4/9/14]
- (10) Restaurants in the NC zone. Drive-through restaurants are allowed in NC provided there are no more than two drive-through windows, and there is no speaker service (for ordering).
- (11) Retail Sales and Services in the OP, NC, IP and LI zones.

Staff Comments: The proposed amendments are intended to recognize several buildings built prior to February 7, 2003 in the Neighborhood Commercial (NC) and Office Professional (OP) zones that exceed 5,000 square feet when there was no limit on the business footprint size for convenience-oriented retail and personal services-oriented retail uses. The current language has negative consequences when a building constructed before February 7, 2003 is vacant for more than one year. Proposed Code amendments would remove the business footprint limits for allowed retail uses locating in buildings built prior to February 7, 2003 in the NC and OP zones.

- (a) Limited uses in OP, NC and IP. The only retail uses allowed are convenience-oriented retail and personal services-oriented retail intended to serve nearby residences and employees. Businesses are limited to a 5,000-square-foot maximum **business footprint, except for businesses located within buildings in the OP and NC zones constructed prior to February 7, 2003 there is no business footprint limit.** See Article 22 for examples of convenience-oriented and personal service-oriented businesses. Vehicle repair-oriented services, motor vehicle sales, large equipment sales, and bulk sales are prohibited.
 - (b) Retail Sales and Service Uses in Existing Buildings in the LI zone. To encourage the reuse of buildings constructed prior to April 9, 2014 in the LI zone, Repair-Oriented Retail Sales and Service uses as described in Section 22.140 will be permitted through Site Plan Review. Personal Service-Oriented uses and Sales and Service-Oriented Retail Sales uses as described in Section 22.140 may be permitted through a Conditional Use review. Retail Sales and Service uses permitted in accordance with this subsection are subject to the following additional review criteria:
 - i. The street system has adequate capacity to accommodate the use through the horizon year of the current Transportation Systems Plan;
 - ii. The site has adequate on-site parking to accommodate the development, or adequate parking will be provided; and
 - iii. The development will not alter the existing building or site in a way that would discourage or preclude its later conversion back to an industrial use.
 - iv. The new commercial user shall acknowledge that industrial uses have a right to operate free from the new use complaining about externalities typical of industrial uses.

[Ord. 5832, 4/9/14]
- (12) Self-Serve Storage. These facilities are subject to the following standards:
- (a) The minimum driveway width between buildings is 20 feet for one-way drives and 24 feet for two-way drives.
 - (b) The maximum storage unit size is 1,000 square feet.
 - (c) All outdoor lighting shall be shielded to prevent glare and reflection on adjacent properties.
 - (d) Repair of autos, boats, motors, and furniture and the storage of flammable materials are prohibited on the premises, and rental contracts shall so specify.
- (13) Self-Serve Storage in the HI zone. Self-Serve storage units are allowed in HI only on sites less than 3 acres.
- (14) Truck Stops/Fuel Sales in the LI zone. This use is classified as Contractors and Industrial Services, rather than Vehicle Service, Quick.
- (15) Community Service Uses. Community Service uses that may have significant off-site impacts, such as public swimming pools, public safety facilities, and homeless shelters, may be considered through the conditional use process.
- (16) Educational and Religious Institutions.
- (a) Vocational or trade schools in IP, LI and HI are allowed through Site Plan Review. All other educational and religious institutions are reviewed as a conditional use. [Ord. 5742 7/14/10]
 - (b) The conditional use approval for educational and religious institutions includes the following secondary uses: educational activities; sports and other recreational activities; religious activities; political activities; meals programs; before- and after-school childcare activities; fund raising activities; and cultural programs. Such uses will not be required to go through

ORDINANCE EXHIBIT A

the land use process if all of the activities that constitute the use (excluding parking and travel to and from the site) take place on the site and no external noise is audible or light visible between 10:30 p.m. and 8:00 a.m.

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

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

- (17) Park Development. Park activity subject to conditional use review includes major development; expansions of activities and development in parks that currently generate substantial traffic; or construction of major structures such as swimming pools, lighted ball fields, and community centers. Conditional use review is not required, however, for construction of play equipment, tennis courts, bike paths, picnic shelters, restrooms, landscaping, and similar activities in existing improved parks.
- (18) Non-Residential Accessory Buildings over 750 square feet in the OP zone require Site Plan Review. [Ord. 5742, 7/14/10]
- (19) Single-Family and Two-Family Units in the OP zone. Single-family residences are allowed outright. Attached single-family and two-family residences require a conditional use review. [Ord. 5742, 7/14/10]
- (20) Existing Single-Family Homes. Single-family homes built before December 11, 2002, in any commercial or industrial zone may remain as a permitted use without being nonconforming. New single-family homes are not permitted unless allowed in the zoning district. See Section 4.075. Single-family includes attached units, one unit per lot.
- (21) Residential Accessory Buildings are permitted outright with residential uses if they meet the following conditions:
 - (a) Detached accessory buildings, garages and carports are less than 750 square feet and have walls equal to or less than 11 feet tall.
 - (b) All other residential district accessory buildings, garages or carports require a site plan review. [Ord. 5767, 12/7/11]
- (22) Agriculture. All agricultural uses established before January 8, 2003, are allowed to remain. New agriculture uses are limited to the raising of crops and plants on vacant land. The raising of livestock as a new use is not permitted. Regulations governing the keeping of animals/livestock are found in the Albany Municipal Code Title 6. [Ord. 5742, 7/14/10]
- (23) Communication Facility Placement Standards. Where allowed, Communication Towers and Poles over 50 feet in height when measured from the ground or over 15 feet above a rooftop are not permitted in front yard setbacks and must meet the standards in Section 8.500. [Ord. 5886, 1/6/17]

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

- (a) Antennas or antenna supports. Satellite dishes and monopoles shall not be located within any front yard setback area or within any required landscape buffer yard.

[Ord. 5886, 1/6/17]

- (b) Dish antennas larger than three feet in diameter and located within ten feet of a residential lot line or visible from a public street shall be screened with a six-foot solid screen fence, wall, hedge, or other landscaping.
 - (c) Antennas used to display sign messages shall conform to all district sign regulations in addition to the above.
 - (d) Antennas satellite dishes, monopoles and other communication structures less than 50 feet in height when measured from the ground or over 15 feet above a rooftop, and not in conformance with the above may be considered by conditional use review, Type II process.
[Ord. 5886, 1/6/17]
 - (e) See Section 8.500 for additional design standards for all telecommunications facilities.
[Ord. 5445, 4/12/00]
- (24) Kennels adjacent to residential districts are restricted to sites containing a minimum of two acres. This restriction does not apply to care and boarding provided indoors by veterinary hospitals.
[Ord. 5555, 2/7/03; Ord. 5742, 7/14/10]
- (25) Hours of Operation. Hours of operation for establishments or outdoor seating areas within 300 feet of a residence may be restricted through conditions of approval to be compatible with neighbors.
[Ord. 5728, 1/27/10]

SPECIAL STATUS FOR SINGLE FAMILY RESIDENCES

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

DEVELOPMENT STANDARDS

- 4.090 Purpose. Development standards are intended to promote site planning and design that consider the natural environment, site intensity, building mass, and open space. The standards also promote energy conservation, needed privacy, safe and efficient parking areas for new development, and improve the general living environment and economic life of a development. Table 4-2, on the following page, summarizes the basic development standards. It should be used in conjunction with the sections immediately succeeding the table, which address special circumstances and exceptions. See Article 8 for design standards for single-family and multiple-family developments.
[Ord. 5445, 4/12/00, Ord. 5555, 2/7/03; Ord. 5742, 7/14/10, Ord. 5768, 12/7/11]

TABLE 4-2

Commercial and Industrial District Development Standards								
STANDARD	OP	NC	CC	RC	TD	IP	LI	HI
MINIMUMS								
Lot size (sq. ft.)(1)	None	None(2)	None	None	None	3 acres(4)	None	None
Lot width	None	None	None	None	None	None	None	None
Lot depth	None	None	None	None	None	None	None	None
Front setback	10'	10'	10'	10'	10'	15'(11)	15'(11)	15'
Interior setbacks -abutting non-res'l	5'	None	None	None	None	15'(6)	None	None
Interior setbacks - abutting res'l district	10'(5)	10'(5)	10'(5)	10'(5)(6)	10'(5)(6)	30'(11)	40'(11)	50'
MAXIMUMS								
Building Size	None(10)	None(10)	100,000 (13)	None	None	None(10)	None	None
Lot size (sq. ft.)	None	30,000(2)	None	None	None	None	None	None
Height (8)	30'	30'	50'	None	None	50'(12)	None	None
Lot Coverage (7)	70%	80%	90%	90%	None	80%	None	None
Landscaped Area (3)	100%	100%	100%	100%	100%	100%	100%	100%
Open Space	(9)	(9)	(9)	N/A	N/A	N/A	N/A	N/A

N/A means not applicable.

- (1) The minimum lot size for residential units is 1,600 s.f. per unit. No minimum lot size is required for non-residential development.
- (2) New NC zones may be no more than 30,000 s.f. of contiguous land.
- (3) All yards adjacent to streets. Approved vegetated post-construction stormwater quality facilities are allowed in landscaped areas. [Ord. 5842, 1/01/15]
- (4) The minimum lot size for supporting commercial uses may be smaller than 3 acres.
- (5) Structures on property abutting residential districts and/or uses require 1 foot of setback for each foot of finished wall height with a minimum setback of 10 feet.
- (6) No setbacks are required for buildings abutting railroad rights-of-way.
- (7) Lot coverage for single-family detached development shall only include the area of the lot covered by buildings or structures. [Ord. 5768, 12/7/11]
- (8) Unless in Airport Approach Overlay District. See Sections 4.400 to 4.440.
- (9) Ten or more multiple-family units require common open space. See Section 8.220.
- (10) The maximum business footprint for supporting commercial uses allowed in IP is 5,000 square feet. The maximum business footprint for convenience-oriented and personal service-oriented retail uses in NC and OP is 5,000 square feet. **Convenience-oriented and personal service-oriented retail uses in buildings constructed prior to February 7, 2003 in the NC and OP districts are exempt from the maximum business footprint.** [Ord. 5742, 7/14/10]
- (11) When adjacent to or across the street from residentially zoned land, the setback shall be 1 foot for each foot of building height over 30 ft. Buildings may increase in height (“step” up) as the setback increases. For example, at the minimum setback in LI, a building may be 30 feet tall but may increase in height up to 50 feet when set back 50 feet from the property line.
- (12) Higher structures permitted by Conditional Use approval.
- (13) The maximum building size may be exceeded for non-commercial and non-office uses when the building is multi-story.

[Table and footnotes amended by Ord. 5445, 4/12/00; Ord. 5555, 2/7/03; Ord. 5556, 2/21/03; Ord. 5742, 7/14/10; Ord. 5768, 12/7/2011; Ord. 5842, 1/01/15]

Staff Comments: No further revisions are proposed to this article, so the rest of the article is not included.

**ARTICLE 6
HILLSIDE DEVELOPMENT**

6.170 Purpose. The Hillside Development overlay district (/HD) is intended to regulate the development of potentially hazardous terrain, minimize public and private losses due to earth movement hazards in specified areas, and minimize erosion and related environmental damage. It is not the intent of Hillside Development standards to transfer density within a development. [Ord. 5668, 4/11/2007]

6.180 Applicability. The Hillside Development standards apply to any property proposed for development that has slopes of 12 percent or greater as shown on Plate 7 of the Albany Comprehensive Plan. Where Plate 7 shows that there are slopes 12 percent or greater on a property, the applicant may choose to submit a topographic survey, prepared and stamped by a licensed surveyor or civil engineer, showing two-foot contour intervals for the entire site. If the applicant chooses to submit survey information, and the survey indicates that the property does not contain slopes 12 percent or greater, the Hillside Development standards will not apply. [Ord. 5668, 4/11/2007]

Staff Comments: Currently all developments proposed in this overlay district, except those requiring a building permit only, require a public hearing (Type III procedure) even when the concurrent land use application is a staff-level review. For example, a two-lot partition reviewed at the staff-level would require a public hearing if proposed within the Hillside Development overlay district. Examples of Type III land use applications that require a public hearing include subdivisions of 20 lots or more, cluster and planned developments, and some conditional uses.

Staff proposes that Hillside Developments be processed at the same level as the concurrent land use applications. When a land use application is not required, Hillside Development is reviewed by staff through the Type I procedure.

6.190 Procedure. Hillside Development is reviewed ~~as part of the~~ **concurrently with the land use application(s) required for the development and is processed using the same procedure as the primary land use application.** ~~land division, Site Plan Review, or conditional use applications processes as a Type III procedure, except d~~ Development that only requires a building permit is reviewed **administratively** as a Type I procedure. [Ord. 5668, 4/11/2007; Ord. 5886, 1/6/17]

6.200 Geotechnical Report Required. For any development subject to the applicability criterion in ADC 6.180, an applicant shall provide a geologic and soils report prepared and stamped by a certified engineering geologist or a licensed civil engineer, licensed in the specialty of geotechnical engineering with the State of Oregon.

The report must identify the following:

- (1) All geologic and soils hazards and certify that the site, and each individual lot if land division is proposed, are suitable for the proposed development.
- (2) Area(s) suitable for building and describe how slopes will be stabilized.
- (3) Suitable building footprint(s) for development on each lot.
- (4) Any requirements that must be met from the time construction begins to the time construction is completed.
- (5) Any requirements that must be met after construction is completed (e.g., maintenance requirements for continued slope stabilization). [Ord. 5668, 4/11/07]

6.210 Drainage. In all slope areas, impervious surface drainage from roofs, driveways, and parking areas must be directed to a City storm drain or other City-approved drainage system. Development activities must not block the flow of stormwater in natural drainageways without prior approval from the Public Works Director. [Ord. 5265, 12/18/96]

- 6.220 Street and Driveway Standards. Street grades shall generally be 12 percent or less. Grades on Arterial or Collector streets must be no more than 6 percent and 10 percent respectively (see Section 12.210). Street grades of up to 15 percent may be permitted for a distance of no more than 200 feet. No intersections are permitted where street grades exceed 12 percent. Where practical, streets must be contoured to hillside areas in order to minimize environmental and scenic disruption. Driveways must have a grade of 15 percent or less, unless the Public Works Director approves a greater slope.
- 6.230 Modification of Standards. The following Development Code standards may be modified through the application process, if approved by the review body:
- (6) Front, side and rear yards may be reduced if the geotechnical report explains why the reduction is warranted. The reduction must be approved by the review body. A variance application is not required, but a developer must make a specific written request for the reduction to the City for consideration.
 - (7) Building height limitations may be exceeded on hillside lots, if the geotechnical report explains why the additional height is warranted. The additional height requires approval by the review body, provided it does not exceed 45 feet. [Ord. 5668, 4/11/07]

ARTICLE 11 CLUSTER DEVELOPMENT

Staff Comments: The proposed amendments are intended to clarify the purpose of cluster developments following Goal 5-related amendments and ensure consistency between the purpose statement, the review criteria, and the priorities for natural area designation.

Evolution of Cluster Development Standards: Cluster development was first created with adoption of the North Albany Refinement Plan in 2003. The primary purpose was to create an incentive to protect natural features not zoned Open Space. In 2007 revisions were made to clarify the purpose of Cluster Development was not intended to increase residential density. The most recent revisions to Cluster Development standards came with adoption of amendments related to complying with Statewide Planning Goal 5 (Open Spaces, Natural Resources, Scenic & Historic Areas), which created the Significant Natural Resource overlay districts (wetlands, riparian corridors, and habitat). One goal of the Goal 5 revisions was to balance protection of resources with reasonable economic use of property. The Goal 5 revisions expanded the purpose of Cluster Development from protection of natural resources to include restoration of degraded or marginal quality significant natural resources to good. The priority list for designating natural resources was modified to prioritize restoration of degraded or marginal quality resources located in significant natural resource overlay districts and protection of significant natural resources over resources outside of the significant natural resource overlays.

- 11.400 **Purpose.** Cluster development is intended to protect **and/or restore** natural and other special features ~~that either would not otherwise be protected, or otherwise restored to good quality,~~ in the development of a site. In return, the more flexible standards found in this section may supersede other stricter standards of this Code. Cluster developments may provide greater flexibility, reduced and/or varied lot sizes, and more variety in permitted uses. ~~It is not the intent of cluster development to increase the overall housing density of property above the density that would have been allowed in a standard subdivision.~~ **Residential density may be transferred within the development in exchange for restoring degraded or marginal quality resources located in a Significant Natural Resource overlay district or for protecting natural or other special features of the site.** Developments must satisfy high-quality master planning and design requirements.
- 11.405 **Optional Nature.** Cluster development is an optional form of development. Cluster development proposals are reviewed as part of the land division, site plan, or conditional use application processes.
- 11.410 **Eligibility.** To be eligible to apply for cluster development, all of the following are required:
- (1) **Residential Zoning.** The site must be located in a residential zoning district.
 - (2) **Natural and Other Special Features.** The site must contain one or more of the features listed in Section 11.460.
 - (3) **Professional Designer.** An applicant for cluster development approval must certify in writing that a certified landscape architect, site planner, or landscape designer, approved by the Director, will be used in the planning and design process for the proposed development. [Ord. 5668, 4/11/07]
- 11.420 **Relationship to Other Regulations.** If the applicant chooses the cluster development option, and the site is deemed eligible by the City, these standards will supplement other provisions of this Code. For example, a subdivision proposed as a cluster development is also subject to other provisions of Article 11 of the Development Code. Other types of residential development are subject to site plan review or conditional use review. These provisions apply to issuance of building permits in a cluster development and to ongoing uses and activities in a cluster development. [Ord. 5562, 10/10/03; Ord. 5668, 4/11/07]

11.430 Procedure. Cluster development proposals are reviewed as a Type III procedure.
 [Ord. 5562, 10/10/03; Ord. 5668, 4/11/07]

Staff Comment: Section 11.460 identifies and prioritizes areas that can be designated permanent natural areas. Staff recommends changing the second review criteria to reference 11.460.

11.440 Review Criteria. The review criteria for a cluster development ~~are include~~ those that apply to a particular type of development. For example, the tentative plat criteria in Article 11 apply to cluster land divisions. (See Section 11.420 for relation to the other requirements.) Also, the review body must find that the application meets the following additional criterion:

- (1) The proposed development meets all of the requirements for cluster development; and
- (2) The proposed development preserves **or restores** natural or **other special features as identified and prioritized in ADC 11.460.** ~~unique features that normally would not be either preserved or restored under conventional development standards.~~ [Ord. 5562, 10/10/03; Ord. 5668, 4/11/07; Ord. 5764, 12/1/11]

11.450 Natural Area Requirements. Cluster developments must provide a minimum of 20 percent of the site as permanent natural areas. Land designated as Open Space on the Comprehensive Plan or Zoning maps may not be used to fulfill this requirement.
 [Ord. 5562, 10/10/03; Ord. 5668, 4/11/07; Ord. 5764, 12/1/11]

Staff Comment: The highlighted text below identifies intent of Goal 5 revisions.

11.460 Designation of Permanent Natural Area. The required natural area may be public or private. The minimum 20 percent of the gross acreage of the development site set aside as natural area in a cluster development should be designated in the following priority order:

- (1) The first priority for natural area designation is significant tree groves identified on the South Albany Area Plan Organizational Framework map in the Comprehensive Plan (Figure 1), and oak trees in the South Albany Area Plan boundary over 25-inches in diameter measured at 4.5 feet from the ground. [Ord. 5801, 2/13/13]
- (2) The second priority for natural area designation is natural resources within the Significant Natural Resource overlay districts that are of degraded or marginal quality and subsequently restored to good quality in accordance with the quality levels in ADC Section 6.410(5). This priority shall be satisfied in the following order:
 - (a) Habitat for western painted and northwestern pond turtles within the Habitat Assessment Overlay (/HA), as identified by a turtle habitat assessment, that is restored to good quality.
 - (b) Wetland within the Significant Wetland overlay district (/SW) that is restored to good quality.
 - (c) Riparian area within the Riparian Corridor overlay district (/RC) that is restored to good quality.
- (3) The third priority for natural area designation is protection of other environmentally sensitive areas, natural and scenic features of the site. This priority shall be satisfied in the following order:
 - (a) Good quality habitat for western painted and northwestern pond turtles near Thornton Lakes within the Habitat Assessment overlay (/HA) as identified by a turtle habitat assessment.
 - (b) Good quality wetland within the Significant Wetland overlay district (/SW).
 - (c) Good quality riparian area within the Riparian Corridor overlay district (/RC).
 - (d) Other wetlands not within the Significant Wetland overlay district, as shown on the City's Local Wetland Inventories, or by a delineation approved by the Oregon Department of State Lands.

- (e) Existing channels identified in the most current version of the City of Albany Storm Water Master Plan.
 - (f) Springs.
 - (g) Land with natural slopes 12 percent or greater as designated by the Hillside Development overlay district (/HD).
 - (h) Wooded area with five or more healthy trees over 8 inches in diameter measured 4½ feet from the ground, if approved by the City Forester.
 - (i) Land that provides bike or walking trails that connect to existing or proposed parks or trails, inventoried natural features, or areas zoned Open Space; or areas otherwise protected as permanent natural areas.
 - (j) Incorporate public parks, trails, trailheads or open space designated in the Parks, Recreation and Open Space Plan, the North Albany Refinement Plan, and the South Albany Area Plan. [Ord. 5801, 2/13/13]
 - (k) Other features of the site unique to Albany, if approved by the Director.
- (4) The fourth priority for natural area designation is to create “open spaces” in and around neighborhoods. This priority is satisfied by any of the following:
- (a) Continuity of adjacent open space corridors or parkways.
 - (b) A network of interconnected open space corridors.
 - (c) A buffer between neighborhoods.

11.470 Creation of Permanent Natural Areas.

- (1) Natural areas in a cluster development may be set aside and managed in one or more of the following ways:
 - (a) Portions of one or more individual lots; or
 - (b) Common ownership by residents of the development; or
 - (c) Third party (non-profit organization) whose primary purpose is to hold or manage the open space, subject to a reversionary clause in the event of dissolution of the non-profit organization; or
 - (d) Dedicated to City of Albany, if the City agrees to accept ownership and maintain the space.
- (2) Except for Subsection (1)(d) above, natural areas shall be subject to restrictive covenants and easements reviewed by the Community Development Director and recorded and filed when the subdivision plat for the project area is recorded. Except when allowed in 11.480, an easement shall include permanent provisions prohibiting the placement of structures or impervious surfaces, alteration of the ground contours, or any other activity or use inconsistent with the purpose of these provisions. [Ord. 5562, 10/10/03; Ord. 5668, 4/11/07]

11.480 Protection of Permanent Natural Areas.

- (1) If any applicable overlay districts allow it, the development may encroach into permanent natural areas, only under the following circumstances:
 - (a) Meets the requirements of all overlay districts in Articles 4, 6 and 7; and
 - (b) The encroachment is necessary to meet transportation, utility infrastructure requirements, or post construction stormwater quality requirements; or
 - (c) The encroachment is necessary to provide bike or walking trails that connect to existing or proposed parks or trails, inventoried natural features, or areas zoned Open Space or otherwise protected as permanent natural areas. [Ord. 5801, 2/13/13; Ord. 5842, 1/01/15]

- (2) Permanent alteration by grading may be authorized for the purpose of natural resource enhancement, such as wetland, riparian, or wildlife habitat restoration.
- (3) Significant wetlands, riparian corridors, and intermittent streams preserved as natural areas in a cluster development may be used for conveyance of storm waters only when the applicant has demonstrated that the discharge is compatible with the protection of the natural resource. These natural features shall not be used for drainage improvements, such as detention or retention ponds, or any other utility improvement necessary for development of the lots.
- (4) Areas set aside for permanent natural areas in a cluster development cannot be further subdivided.
- (5) Fences are permitted in and around the natural areas if consistent with the expressed purpose of the natural areas.
- (6) Provisions must be established to ensure the continued maintenance of areas designated as natural areas through Cluster Development. See Section 11.470.

[Ord. 5562, 10/10/03; Ord. 5668, 4/11/07]

11.490 Permitted Uses. The uses allowed within cluster developments outside the permanent natural areas are determined by the underlying zoning district standards in Section 3.050, with the following exceptions:

- (1) On development sites greater than 20 acres, up to 20 percent of the housing units in RS-6.5 and RS-10 may be attached single-family or condominium housing.
- (2) On development sites greater than 50 acres, up to two acres may be developed with neighborhood commercial uses through a conditional use review. The maximum building footprint of commercial or office uses shall be 3,000 square feet. Commercial and office uses shall be limited to restaurants with no drive-through service, and convenience-oriented and personal service-oriented uses as described in Article 22.
- (3) Within the South Albany Area Plan boundary, attached single-family and duplexes will be permitted in the RS-5, RS-6.5 and RS-10 zoning districts for up to 25 percent of the total units provided when transferring density within the Oak Creek Transition Area or when transferring density of the area necessary to preserve significant tree groves identified on the South Albany Area Plan Organizational Framework map in the Comprehensive Plan (Figure 1), and oak trees over 25-inches in diameter measured at 4.5 feet from the ground. Developments may not exceed the maximum density by zoning district in 11.495 and must meet all applicable standards in the Code. [Ord. 5801, 2/13/13]

11.495 Development Standards. In a cluster development, the following development standards in Table 11-2 supersede the same standards in Section 3.190, Table 1. The number of allowable dwelling units is based on the **maximum** density ~~range~~ for the zone as specified in the following table.

TABLE 11-2. Allowable dwelling units in density ranges per zone.

Standard	RS-10	RS-6.5	RS-5	RM	RMA
Max. dwelling units per gross acre	4	6	8	25	35
Minimum Lot Size (1)	None	None	None	None	None
Minimum Lot Width	None	None	None	None	None
Minimum Lot Depth	None	None	None	None	None
Minimum front setback (2)	15 ft.	10 ft.	10 ft.	10 ft.	10 ft.
Maximum Lot Coverage (3)	70%	70%	70%	70%	75%

- (1) Lots on the perimeter of the cluster development shall meet the standards in 11.500.
- (2) Except, when lots are adjacent to existing development on the same side of the street, the setback shall be within 5 feet of the adjacent house(s) setback(s).

- (3) The maximum lot coverage may be up to 100 percent for lots that provide land only for the building footprint. [Ord. 5801, 2/13/13]

11.500 Perimeter Lot Compatibility. The following standards and exceptions will apply to the lots on the perimeter of a proposed cluster development.

- (1) Standards. The term “standard minimum lot size” as used in this section, means the minimum lot size allowed in the underlying base zone without any reductions in size allowed elsewhere in this Code.
- (a) When the proposed cluster development abuts developed property in a lower density residential zoning district, the size of lots on the perimeter of the proposed cluster development shall be at least the standard minimum lot size allowed in the zone underlying the cluster development.

Example:

<p>Proposed Cluster Development in <u>RS-6.5</u> <i>Perimeter lots must be at least 6,500 sf</i></p>	<p>Abutting Property with LOWER Density Residential Zoning: <u>RS-10</u></p>
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- (b) When the proposed cluster development abuts developed property in the same residential zoning district as the proposed cluster development, the size of lots on the perimeter of the cluster development shall be at least 70 percent of the standard minimum lot size of the underlying zoning district.

Example:

<p>Proposed Cluster Development in <u>RS-10</u> <i>Perimeter lots must be at least 7,000 square feet (70% of minimum lot size of underlying zoning district)</i></p>	<p>Abutting Property With SAME Residential Zoning: <u>RS-10</u></p>
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- (2) Exceptions. The Perimeter Lot Compatibility standards do not apply in the following cases:
- (a) Perimeter lots that are adjacent to land that is zoned for higher density housing, mixed-use or non-residential uses, or to residentially zoned property not in residential use (such as educational, institutional, religious or park uses).
- (b) Where the same property owner owns the property abutting the proposed cluster development or when the perimeter lots share a property line with the Urban Growth Boundary.
- (c) If a buffer area is created as a separate property along the perimeter and is at least 20 feet wide, the buffer area shall become a permanent natural area and shall meet the provisions in Sections 11.470 and 11.480.

Example:



(d) Cluster developments abutting property that is at least 1 acre in size. [Ord. 5668, 4/11/07]

11.510 Permitted Uses. The uses allowed within cluster developments outside the permanent natural areas are determined by the underlying zoning district standards in Section 3.050, with the following exceptions:

- (1) On development sites greater than 20 acres, up to 20 percent of the housing units in RS-6.5 and RS-10 may be attached single-family or condominium housing.
- (2) On development sites greater than 50 acres, up to 2 acres may be developed with neighborhood commercial uses through a conditional use review. The maximum building footprint of commercial or office uses shall be 3,000 square feet. Commercial and office uses shall be limited to restaurants with no drive-through service, and convenience-oriented and personal service-oriented uses as described in Article 22. [Ord. 5562, 10/10/03; Ord. 5668, 4/11/07]

11.520 Street Standards for Cluster Development. Local streets in a cluster development may be constructed to the Residential Street Design for Constrained Sites as described in Section 12.122(6). If the City subsequently adopts street standards specifically designated for cluster development, those standards shall supersede and replace this section.

11.530 South Albany Connectivity. Developments within the South Albany Area Plan boundary shall provide a connected street and pathway network. [Ord. 5801 2/13/13]