



ORDINANCE NO. 6004

AN ORDINANCE AMENDING ORDINANCE NO. 4836, WHICH ADOPTED THE CITY OF ALBANY COMPREHENSIVE PLAN AND AMENDING ORDINANCE NO. 4441, WHICH ADOPTED THE CITY OF ALBANY DEVELOPMENT CODE, BY AMENDING THE ALBANY COMPREHENSIVE PLAN AND THE ALBANY DEVELOPMENT CODE TEXT AND ADOPTING FINDINGS

WHEREAS, on October 17, 2022, the Albany Planning Commission held a public hearing and deliberated on proposed text amendments to the Albany Comprehensive Plan and Development Code relating to the replacement of the term "family", as it pertains to dwelling type, with "dwelling unit"; and the adoption of "battery-charged fences" within residential zones pursuant to the adopted standards and definitions (planning file no. CP-03-22 and DC-01-22); and

WHEREAS, on October 17, 2022, the planning commission recommended that the Albany 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 text amendments to the comprehensive plan and development code considered by the planning commission and city council are presented as an attachment to this ordinance as Exhibits A and B; and

WHEREAS, the analysis and findings of fact and conclusions as provided in the staff report dated October 10, 2022, are presented as an attachment to this ordinance as Exhibit C; and

WHEREAS, on November 9, 2022, the city council held a public hearing on the proposal and reviewed the findings of fact and conclusions in Exhibit C, considered public testimony, and deliberated on the proposed text amendments to the Plan and ADC; and

WHEREAS, the city council concludes that the staff report findings and conclusions presented in Exhibit C reflect their own findings and conclusions.

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

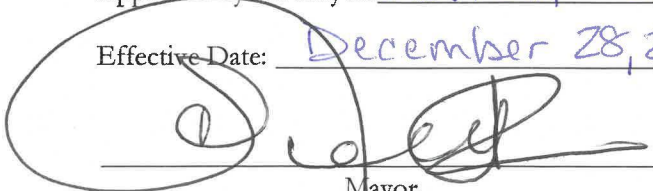
Section 1: The text of the Albany Comprehensive Plan and Development Code is hereby amended as shown in Exhibits A and B of this ordinance.

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 Albany Comprehensive Plan and Development Code.

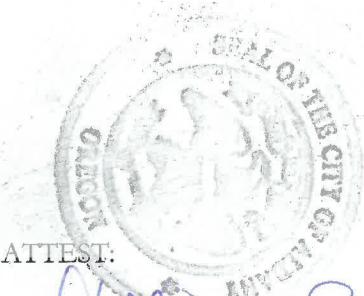
Passed by the Council: Nov. 28, 2022

Approved by the Mayor: Nov. 28, 2022

Effective Date: December 28, 2022



Mayor



ATTEST:



City Clerk

CHAPTER 4: HOUSING GOAL 10: HOUSING

Commentary:

Amendments to replace the term “family”, as it pertains to housing residential dwelling type, with “dwelling unit”, as required to comply with HB 2583.

Amendments to correct scrivener’s errors.

INTRODUCTION

Housing is one of the most basic and fundamental needs of our society. In Oregon, statewide housing goals aim to provide housing that meets the needs of all residents. Albany’s choices and policies will affect housing opportunities for its citizens. It is essential the City of Albany plans to meet the needs of residents, considering a full range of incomes, ages, household sizes, and specialized housing needs. The role of local governments like Albany in meeting housing needs includes:

- Ensuring an adequate supply of land within its urban growth boundary to meet forecasted population growth.
- Zoning land and applying development standards in a way that supports the mix of housing needed by residents, without creating barriers to the development of specific types of needed housing.
- Supporting the provision of housing and services to people with low or moderate income who would not otherwise be able to afford housing in Albany.

DEMOGRAPHIC AND HOUSING TRENDS

In 2019, the City of Albany’s population was roughly 54,000 people, with over 55,000 people within the urban growth boundary (UGB), located mostly in Linn County. The neighborhood of North Albany is in Benton County. The Albany UGB includes roughly 11,350 acres in Linn County, and 2,550 acres in Benton County.

Albany is the 11th largest city in the state by population (2019), the largest in Linn County, and the second largest in Benton County. Albany is similar in size to its neighboring city of Corvallis, and statewide is also similar in size to Springfield and Tigard.

Albany grew by an estimated 32 percent between 2000 and 2019. In contrast, Linn County and the state experienced population growth of 22 percent and 23 percent respectively during the same period.¹

Albany was home to an estimated 21,500 households and 22,800 housing units in 2019, an increase of about 5,000 households and housing units since 2000. This translates to a vacancy rate of 5.6 percent.

US Census and PSU Population Research Center

¹ US Census and PSU Population Research Center

Figure 4.1: Albany Demographic Profile

	2000 (Census)	2010 (Census)	Growth 00-10	2019 (PSU, City)	Growth 10-19
Population	41,895	50,158	20%	55,201	10%
Households ¹	16,549	19,705	19%	21,517	9%
Families ²	11,105	12,894	16%	14,072	9%
Housing Units ³	17,817	20,979	18%	22,805	9%
Group Quarters Population ⁴	687	824	20%	1,410	71%
Household Size (non-group quarters)	2.49	2.50	0%	2.50	0%
Average Family Size	2.99	3.01	1%	3.07	2%
Per Capita Income ⁵	\$18,570	\$22,236	20%	\$26,978	21%
⁵ Median Household Income	\$39,409	\$46,638	18%	\$54,275	16%

SOURCES: Census (SF1, DP-1 DP-2, S1901, S19301), PSU Population Research Center, Johnson Economics

¹ 2019 Households =(2019 population-Group Quarters)/2019 household size

² Ratio of 2019 families to total households is based on 2018 ACS 5-year estimate

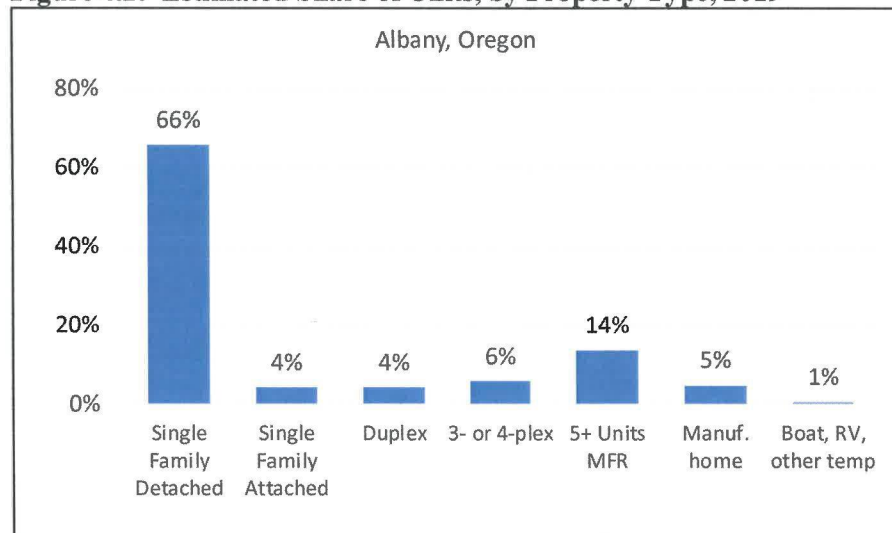
³ 2019 housing units are 2010 Census total plus new units permitted from 2010-2019

⁴ 2019 figure from City of Albany

⁵ 2019 income projected from 2018 ACS 5-year estimate

An average of 300 units have been permitted in the City annually since 2000, with 20 percent being multiple dwelling units. Single-dwelling unit detached homes and manufactured homes account for 71 percent of Albany's housing supply. Middle housing types accounted for 14 percent of Albany's housing stock.

Figure 4.2: Estimated Share of Units, by Property Type, 2019



SOURCE: US Census, City of Albany

More than half (55 percent) of Albany's housing stock was constructed before 1980. Seventy percent of rented housing was constructed before 1990.

Most of Albany's owner-occupied housing is detached single-dwelling unit with three or more bedrooms (86 percent), while one-third of rentals are complexes with five or more units. Just over half of Albany's rental units have two-bedrooms, and 18 percent are one-bedroom or studio units.

Household age and income tend to have a stronger correlation to housing tenure and choice than other variables. Albany's population continues to age, those ages 55 and through 74 saw the greatest increase in the share of the population since 2000, rising from 14 percent to 20 percent in 2018.

The percentage of families remained steady between 2000 and 2019 at 65 percent of all households. Almost one third of all households have children under 18 at home. Albany estimated 1,410 persons living in group quarters (assisted living, nursing homes, jails, shelters) in 2019.

Average household size remained flat at 2.50 persons during this period, while average family size increased to 3.07. The average size of owner households was 2.7 and renter household size was 2.2 in 2018.

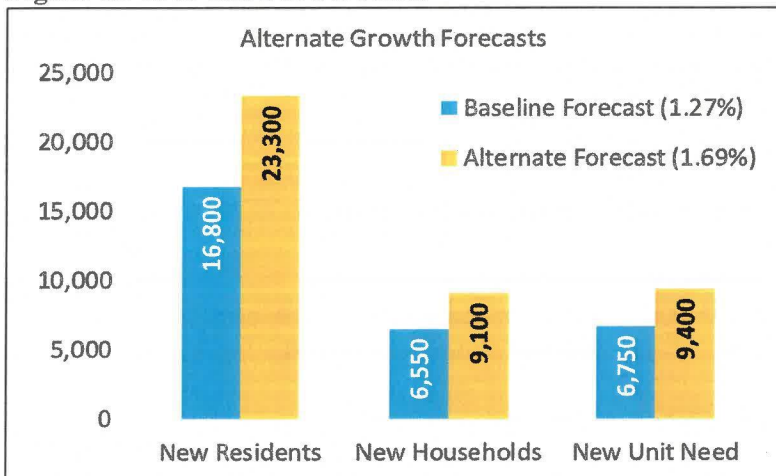
Home ownership rate dropped slightly from 59.5 percent in 2000 to 58.5 percent in 2018, which is lower than Linn County (64 percent), the state (62 percent), and national average of 65 percent.

Albany’s median household income was \$54,275 in 2019, about 37 percent higher than 2000. Just under half of Albany households earned less than \$50,000 in 2018, while 21 percent earned \$25,000 or less in 2018. Housing prices also increased, with the largest increase seen in the last few years. In 2019, the average mean sales price was \$325,271 in Linn County and \$408,744 in North Albany. Rents also increased by more than 15 percent between 2015 and 2018. Consequently, almost one in four renter households were severely housing cost burdened, spending at least half of their income on housing.

POPULATION AND HOUSING PROJECTIONS

Cities are required to base future planning on population projections prepared by the Portland State University (PSU) Center for Population Research. The official PSU forecasted annual growth rate of 1.27 percent per year was used to project growth to 2040. Since Albany has grown faster than the PSU baseline forecast during the past 30 years, an alternative forecast was prepared that reflects Albany’s average annual growth rate of 1.69 percent since 1992.

Figure 4.3 2040 Growth Forecasts



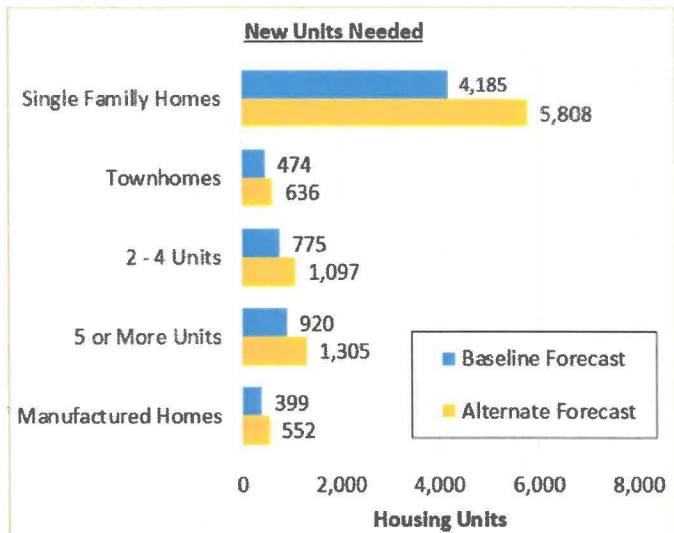
Depending on the rate of growth, the City is projected to add between 16,800 and 23,300 new residents to 2040, requiring between 6,750 and 9,400 new housing units after factoring for group quarters and a vacancy rate of five percent.

The City’s assessment of future housing needs is based on a combination of past and future projected demographic and housing trends. It considered the propensity of households at specific age and income levels to either rent or own their home, and the affordable cost level of each. The analysis projected the need for all 2040 households and therefore includes the needs of current households.

Single-dwelling unit detached housing units are expected to make up the greatest share (62 percent) of new housing development over the planning period (2020-2040). However, attached forms of housing are also expected to grow as an overall share of housing (32 percent) due to growing trends towards more density, infill development, accessory dwelling units, and constraints of the urban growth boundary. State legislation adopted in 2019 also seeks to encourage more “middle housing” (duplexes, triplexes, etc.) in traditional single-dwelling unit zones.

Figure 4.4 Housing Unity Need by Housing Type (2040)

- Single attached dwelling units (townhomes on individual lots) are projected to meet seven percent of future need.
- Duplex through four-plex units are projected to represent 11.5 percent of the total need. Duplex units would include a detached single-dwelling unit home with an accessory dwelling unit.
- Multiple dwelling units in structures of five attached units are projected to be 14 percent of all needed units.
- Manufactured homes will represent five percent of new needed units, while RV or other temporary housing is projected to be one percent; both will help meet the needs of some low-income households for both owners and renters.



It is projected homeownership rate in Albany will remain steady to 2040 at 59 percent. Residents are projected to seek a range of ownership and rental housing types across all income spectrums.

- Ownership units are projected to be primarily single-dwelling unit detached homes, with nine percent manufactured homes and two percent in attached forms.
- About 72 percent of new rental units are expected to be in new attached buildings, with 34 percent projected in rental properties of five or more units, and 27 percent in buildings of two- to four-plexes.

GOAL 10: HOUSING GOALS, POLICIES & IMPLEMENTATION METHODS

GOALS

Provide a variety of development and program opportunities that meet the housing needs of all Albany’s citizens.
Create a city of diverse neighborhoods where residents can find and afford the values they seek.

POLICIES GENERAL

1. Ensure an adequate supply of residentially zoned land in areas accessible to employment and public services.
2. Provide a variety of choices regarding type, location, density, and cost of housing units corresponding to the needs and means of city residents.
3. Provide the opportunity for a wider range of rental and ownership housing choices in Albany and encourage innovation in housing types, densities, lot sizes and design to promote housing alternatives.

Examples include:

- a. Middle housing types, including duplexes, triplexes, fourplexes, townhouses, and cottage clusters, in areas zoned for residential use. [Ord. 5968, 1/14/22]
- b. Attached single-dwelling unit housing and condominium ownership opportunities in the Waterfront zoning district
- c. The adaptive reuse of the upper floors of structures within the Downtown Business District for residential purposes.
- d. Mixed housing types and price ranges at a minimum of ten units per acre in Village Center Comprehensive Plan districts.

- e. Neighborhoods with a variety of lot and housing sizes and types.
 - f. Accessory dwelling units.
 - g. Other actions directed at reducing housing costs which conform to the Comprehensive Plan, including innovative Development Code regulations.
4. Encourage residential development that conserves energy and water; uses renewable resources; and promotes the efficient use of land, conservation of natural resources, easy access to public transit, and easy access to parks and services.
 5. Encourage the use of Cluster and Planned Unit Developments to:
 - a. Promote architecturally appealing and functional land use design.
 - b. Allow flexibility in the placement and uses of buildings, recreation areas, open spaces, streets, utilities, and off-street parking areas.
 - c. Effectively utilize special site features including natural characteristics, location, view, topography, size, or shape of parcels.
 - d. Maintain a development pattern compatible with the surrounding area as determined by the Comprehensive Plan designation.
 6. Encourage residential development on already serviced vacant residential lots or in areas where services are available or can be economically provided.
 7. Require residential densities to be commensurate with the availability and adequacy of public facilities and services.
 8. Encourage the development of great neighborhoods by:
 - a. Supporting neighborhood identity
 - b. Locating parks, trails, schools, daycare, and churches in close proximity to residences
 - c. Incorporating natural features and spaces into developments
 - d. Connecting and orienting new neighborhoods to Village Centers
 9. Encourage new residential developments to provide housing choices that allow for persons to stay within their neighborhoods (“age in place”) as their housing needs change.
 10. Preserve and enhance Albany’s historic housing as a unique and valuable resource.
 11. Promote the conservation of existing housing by supporting programs that rehabilitate and upgrade substandard and deteriorating units.
 12. Encourage the development of housing with quality craftsmanship and amenities to attract new business as well as keep local business executives within the community.
 13. Allow the establishment of bed and breakfast accommodations in existing residential areas when it can be determined the use will be compatible with the surrounding neighborhood in terms of traffic generation, parking, use intensity, and size of structure.
 14. Encourage a mix of housing types and residential densities within the Urban Residential Reserve area which conform to the population and density projections adopted by the City of Albany and where infrastructure is available or can be made available.
 15. Encourage the removal of barriers to safe neighborhoods, such as vacant lots and buildings and overgrown vegetation.

AFFORDABLE AND SPECIAL NEEDS HOUSING

16. Encourage the development affordable housing and lower-cost in a range of types and appropriate sizes to meet Albany’s housing needs. Examples include accessory dwelling units, manufactured housing, and middle housing.

[Ord. 5968, 1/14/22]

17. Recognize groups needing specialized housing such as the elderly, homeless, and other disadvantaged groups when identifying housing programs and opportunities. [Ord. 5968, 1/14/22]
18. Encourage providers of transitional housing units, shelters, and single-room occupancy housing to locate near Village Centers, employment centers, and public transportation.
19. Comply with federal, state, and local fair housing laws and policies that affirm access to housing opportunities for all persons in Albany.
20. Encourage senior housing developments and care facilities to be located in or near Village Centers for improved access to goods, services, and public transportation.

IMPLEMENTATION METHODS

1. Use a variety of techniques to reduce housing costs including:
 - a. Timely processing of development permits
 - b. Providing opportunities for the use of innovative techniques in development, design, and construction
 - c. Encouraging housing types with smaller unit sizes, lower construction costs, and lower sales prices per unit, which can help meet the needs of low- or moderate-income households. [Ord. 5968, 1/14/22]
 - d. Promoting Cluster Developments to allow flexibility in residential development and the transfer of density within the development when protecting natural features, open areas, and park spaces
 - e. Allowing increased densities within Planned Unit Developments, zero lot line setbacks, attached single-dwelling unit housing, and other innovative housing techniques
 - f. Developing new residential street designs that may reduce pavement widths in appropriate situations and allow for natural drainage
2. Require residential densities to be commensurate with the availability and adequacy of public facilities and services.
3. Work with the Parks and Recreation Department to evaluate ways to incorporate parks and trails into neighborhoods. Determine if changes are needed to the Comprehensive Plan, Parks Master Plan, or Development Code to implement ideas.
4. Periodically review the residential zoning district standards and the subdivision standards in the Development Code for ways to better meet the housing need of all income levels and of all housing types.
5. Review all mixed-use zoning districts, such as MUR and MUC, to determine if maximums should be set on the amount of land that can be used for commercial or residential purposes.
6. Facilitate occasional city staff-developer roundtables to identify potential incentives that might encourage developers to build great neighborhoods with a diversity of housing choices, densities, and price ranges.
7. Upon annexation of Urban Residential Reserve areas, medium- and high-density developments will be encouraged in areas that:
 - a. Have adequate sewer and water capacity
 - b. Can be served economically and efficiently with public services including fire protection, police protection, and schools
 - c. Are located in close proximity to collector or arterial streets
8. Periodically review the Urban Residential Reserve designation to determine anticipated residential densities as reflected by anticipated needs, development trends, and extension of public services.
9. Support enforcement of the City's Property Maintenance Code and Compliance Program that addresses substandard housing issues.

AFFORDABLE AND SPECIAL NEEDS HOUSING

10. Participate in federal, state, local, and other housing programs that provide assistance to the city's low-income individuals, households, and neighborhoods through:
 - a. Public facility improvements
 - b. Rehabilitation loans and grants
 - c. Historic preservation grants and other related programs
 - d. Regional fair share distribution of assisted housing and other local, state, and federal programs
11. Monitor low- and moderate-income housing needs by reviewing available information on current conditions including census data, rental rates, vacancy rates, and housing sales prices.
12. Encourage public and private social service and housing agencies to coordinate programs that provide secure housing and shelter opportunities to those in need.
13. Support efforts by the Albany Partnership for Housing and Community Development, the Linn-Benton Housing Authority, Habitat for Humanity, the Community Services Consortium, and other local agencies to provide affordable housing, financial assistance, and services to Albany's moderate-, low- and very-low-income households; for the elderly; and for Albany's special needs populations.
14. Convene Albany's housing agencies to discuss affordable housing, housing for the special-needs populations, agency roles, and existing programs. Evaluate program gaps and areas for improvement.
15. Identify areas with a concentration of very-low income households to determine if there are any programs or assistance that can help provide safe and decent housing.
16. Evaluate incentives to develop affordable housing. Become an entitlement community under the Community Development Block Grant program.

CHAPTER 7: SOCIAL AMENITIES

GOAL 5: OPEN SPACES, SCENIT & HISTORICAL AREA, & NATURAL RESOURCES

Commentary:

Amendments to replace the term “family”, as it pertains to housing residential dwelling type, with “dwelling unit”, as required to comply with HB 2583.

Amendments to correct scrivener’s errors.

ALBANY DEVELOPMENT CODE

The Development Code provides for appropriate landscaping and/or screening and buffering for all new commercial, industrial, and ~~multi-family~~ multiple dwelling unit developments. These provisions have resulted in substantial aesthetic improvements in Albany’s commercial and industrial districts. Many developers realize the importance of good aesthetics to overall project character and have provided for site design features and landscaping in excess of the City’s requirements. The Albany Development Code also provides for underground utilities in all new residential subdivisions.

IMPLEMENTATION METHODS

1. Provide site design review assistance for new developments (industrial, commercial, ~~multi-family~~ multiple dwelling unit, and planned residential developments) and those that constitute a major change or expansion of use in order to:
 - a. Ensure compliance with the Albany Development Code.
 - b. Determine the most efficient means to provide public facilities and services.
 - c. Suggest methods to enhance the project’s aesthetic quality, protect and enhance on-site natural features, and to mitigate adverse impacts on adjacent or surrounding property.
2. Periodically review past development proposals that required planning approval to determine compliance with development conditions and the standards of the Albany Development Code.
3. Maintain development standards that assure compatibility of commercial and industrial areas with surrounding land uses, including residential neighborhoods. Pay particular attention to areas adjacent to residential streets, Pacific Boulevard, Santiam Highway, and those adjacent to or visible from Interstate 5. These standards may include:
 - a. Setback, buffering and landscape provisions, and other site amenities including screened refuse disposal.
 - b. Traffic safety considerations including provisions for safe pedestrian movement.
4. Periodically review and, if necessary, update Development Code requirements and other policies and ordinances that address issues of public nuisance and community appearance.
5. Develop programs and regulations which will result in the underground placement of existing overhead utilities.
6. Continue to develop area improvement plans which show what aesthetic improvements could be made and at what cost. Existing strip commercial areas should be considered a priority.
7. Increase the aesthetic and design quality of the downtown commercial core through:

- a. The use of vegetation and maintenance of the existing street trees.
- b. Regulation of signs and other forms of on-street advertising.
- c. Increased design orientation towards the Willamette River.
- d. Alleyway improvements.
- e. Encouraging the use of well-designed and functional streetscape improvements such as street furniture (drinking fountains, benches, trash containers, bicycle racks, information centers, etc.), decorative pedestrian scale street lights, planting and maintenance of street trees and other forms of landscaping, sidewalk improvements, bus shelters.
- f. Utilization of the Historic Alteration and Demolition Ordinance to promote design consistency within the Downtown Historic District.
- g. Improvements of Parking Assessment District properties, particularly those parking lots adjacent to the waterfront.

[The following implementation methods were relocated from Chapter 1, per Ordinance 5764, effective December 1, 2011.]

8. Encourage and, when appropriate, offer assistance to utility companies to improve line clearing practices to avoid public safety hazards associated with improper pruning and improve the health and aesthetic contribution of Albany's street trees.
9. Undertake the following as part of the City of Albany's aesthetic and landscape enhancement programs:
 - a. Develop and implement comprehensive street tree programs that includes planning for, planting, and maintenance of trees in all areas of the community including all street rights of ways, public open space areas, and on the grounds of all institutions.
 - b. Encourage neighborhood organizations, schools, and service clubs to participate in tree planting programs and other landscape enhancement efforts.
 - c. Adopt city street tree regulations and standards.
 - d. Implement an ongoing and professional maintenance program for Albany's street trees and other vegetation within public rights of way and on other public properties.
 - e. Ensure that trees are part of the landscape design for all developments except where they are determined to be inappropriate or present hazards.
 - f. Encourage local industry to use appropriate vegetation to visually enhance development sites and provide buffering from incompatible uses.
 - g. Develop landscapes around public buildings and spaces, including parking lots to improve community appearance and image.
 - h. Encourage property owners to improve and maintain their landscapes, including provision of replacement vegetation when older, deteriorated vegetation is removed.
 - i. When necessary, provide an appropriate level of site design and landscape planning assistance.
 - j. Develop, maintain, and distribute public information pertaining to site planning, landscape design, appropriate use of plant materials, and other technical information.
 - k. Improve Albany's appearance along Interstate 5.
 - l. Where possible, promote the energy saving benefits of appropriately planted vegetation.
10. Utilize the report "City of Albany Beautification Opportunities - Phase I" as a guide to implement specific landscape development and community beautification programs for:
 - a. Albany's residential neighborhoods.
 - b. Major city entryways.
 - c. The downtown commercial core.
 - d. The Willamette River waterfront.
 - e. The Pacific Boulevard and Santiam commercial strips.
 - f. Industrial areas.

11. Except for single-family dwelling unit and two dwelling unit residential development, require developers to utilize the skills of landscape architects, landscape designers, or otherwise receive City approval of landscape designs, and guarantee the completion of landscape requirements (i.e. through performance bonding or by setting aside funds for landscaping).
12. Require the continued maintenance of landscaped areas in accordance with Development Code requirements and conditions of planning approval.
13. Require the establishment and maintenance of landscaped areas in all parking lots to provide shade and visual amenities, except where site conditions are inappropriate or where hazards would result. Landscape development in parking lots should emphasize the following:
 - a. The planting of broad spreading trees to provide shade and mitigate the negative visual and environmental impacts of parking lots.
 - b. Installation of other plant materials in a manner to provide effective screens between parking lots and adjacent uses.
14. Develop specific urban design and beautification measures for the Pacific Boulevard and Santiam commercial strips whereby:
 - a. Specific site design, landscape, and street tree design improvements are developed for each establishment.
 - b. Funding alternatives are developed that utilize a combination of private, city, state, or federal funds.
 - c. For projects which funding sources become available, completion shall be accomplished within five years of the acquisition of funds.
15. Where appropriate, street design and construction standards shall provide for a planter area between the curb and sidewalk in all areas used by pedestrians, including residential and commercial areas and areas in close proximity to schools to provide:
 - a. Pedestrian safety by separating the sidewalk from the street.
 - b. Beautification and visual amenity.
 - c. Shade and buffering from streets.
16. Pursue redesignation for Albany as a "Tree City USA" sponsored by the National Arbor Day Association. Designation requires the following:
 - a. Expenditure of at least one dollar per capita for maintenance, preservation, and planting of street and other publicly-owned trees.
 - b. Adoption of an ordinance providing for the protection and planting of street trees and other trees on public properties.
 - c. Formation of a Shade Tree Advisory Committee to guide the City's tree program and to formulate policy.
 - d. Holding an annual Arbor Day celebration and tree planting event.

CHAPTER 8: URBANIZATION

GOAL 14: Urbanization

Commentary:

Amendments to replace the term “family”, as it pertains to housing residential dwelling type, with “dwelling unit”, as required to comply with HB 2583.

Amendments to correct scrivener’s errors.

NORTH ALBANY PLANNING AREA GOALS, POLICIES, AND IMPLEMENTATION METHODS

The North Albany Planning Area goals, policies and implementation measures are organized under the following headings:

Land Use
Natural and Cultural Resources
Transportation
Public Utilities

In addition to the following North Albany policies, city-wide goals and policies throughout the Comprehensive Plan also apply in North Albany. Where there is inconsistency, the North Albany policies take precedence over the application of other Comprehensive Plan Policies.

LAND USE

GOALS

1. Support growth that protects North Albany’s rural character and natural and cultural resources while encouraging quality developments at appropriate densities.
2. Create great neighborhoods that offer diversity in housing choices.
3. Create village and neighborhood centers that offer daily goods, services and employment convenient to North Albany residents.
4. Preserve the carrying capacity function of Highway 20 in North Albany.

POLICIES

1. Preserve North Albany’s rural character and natural features by allowing and encouraging cluster development.
2. Encourage development patterns that promote the efficient use of land and infrastructure and conservation of significant natural resources. [Ord. 5764, 12/01/11]
3. Open Space designations on the Comprehensive Plan Map are intended to maintain open space in areas generally unsuitable for development and to identify linear linkages between undevelopable, open space areas.
4. Development that is not at its ultimate urban density shall be approved only when it can be shown that such development will not preclude or inhibit further development in the surrounding area from occurring in a logical and efficient manner. All development on, or resulting in, parcels larger than the minimum lot size for the zoning district shall be designed so as not to interfere nor conflict with the subsequent orderly transition to efficient,

higher density planned urban uses. This also applies to construction of all single-family dwelling units on existing lots of record which are outside platted subdivisions. Urban conversion plans are required for all such development demonstrating that the proposed lot and/or development can accommodate future development at the density range allowed by the Albany Comprehensive Plan and/or Zoning Map will allow the logical and efficient extension of streets and city services.

5. Encourage new residential development bordering designated and zoned farmland outside the UGB to be adequately set back, screened and buffered to minimize potential conflicts between residential and farm activities.

IMPLEMENTATION MEASURES

1. Continue to refine planning policies and appropriate map designation to promote desirable housing opportunities in North Albany.
2. Within North Albany, evaluate the need for neighborhood commercial opportunities as part of the on-going evaluation of the Albany Comprehensive Plan. In particular, consider the future intersection of Crocker Lane and North Albany Road as a neighborhood node.
3. Provide the opportunity to cluster development within areas subject to environmental constraints to achieve allowed densities and protect public safety and environmental values.
4. Develop standards that would consider the protection of views in North Albany as part of the land development review process.
5. Urban conversion plans are required to be submitted with development proposals which result in development of parcels which can be further divided. This also applies to construction of all single-family dwelling units on all lots which are outside of platted subdivisions. The urban conversion plan shall demonstrate that the lot can accommodate future development at the density range allowed by the Albany Comprehensive Plan and/or Zoning Map and will allow the logical and efficient extension of streets and city services. The urban conversion plan shall show street and road rights-of-way, utility easements, drainage ways, natural or man-made lot development constraints (steep slopes, wetlands, access easements, etc.), future lot divisions at urban densities, and other proposed improvements including dwellings and accessory structures. All dwellings shall be placed within the boundaries of the future lots shown on the conversion plan and shall meet the setback and lot development requirements of the Albany Development Code.
6. Encourage the Greater Albany Public School District (GAPS) to recognize the importance of North Albany neighborhood schools and to examine all alternatives before proposing closure.

PUBLIC UTILITIES

POLICIES

1. Sanitary sewer facilities necessary to serve new development in North Albany shall be:
 - a. Constructed to City of Albany standards.
 - b. Adequately sized to accommodate development densities based on ultimate build-out of either the project or the area to be served.
 - c. Located and developed in accordance with an approved North Albany Sanitary Sewer Facility Plan.
2. Water rates to properties outside the city limits will be established so that generated revenues are sufficient to compensate the City for extra costs of providing the services and to ensure funds necessary to maintain and

upgrade the facilities as needed.

3. Water service will continue to be provided, consistent with the capacity of the current system, to existing North Albany County Service District (NACSD) customers outside the UGB. The area of water service outside the UGB will not be expanded except as authorized in Resolution 3363.
4. A new ~~single-family~~ **dwelling unit** development on an individual parcel must extend and connect to the public water system when service is available within 150 feet and to the public sewer system when service is available within 300 feet of the property. All other development must connect to the public water and sewer systems.
5. Upon approval of a submitted development plan where water and sewer service is provided and public improvement requirements are met, property zoned Residential Reserve (RR) shall be assigned an RS-10, RS-6.5 or RS-5 zone designation without a zone change, based on the zoning map in Figure 1. Likewise, properties designated Village Center on the Comprehensive Plan Map shall be assigned an RM-5 zone designation without a zone change. For higher or lower densities a zone change is required.
6. For areas of North Albany where sewer service is not available property shall not be divided into parcels that create an average density more intense than one dwelling unit per five acres.
7. New storm drainage facilities in North Albany shall be:
 - a. Constructed to City of Albany standards.
 - b. Adequately sized to accommodate development densities based on ultimate build-out of either the project or the area to be served.
 - c. Developed in accordance with the Storm Drainage provisions of the Albany Development Code, Public Improvements Section.

VISION FOR SOUTH ALBANY

GOALS

The Vision Statement for the South Albany Area Plan establishes the Goals for the area, cited below.

South Albany will be:

1. A complete, walkable and welcoming community;
2. The home of new “neighborhoods of choice” in Albany;
3. Known for having Oak Creek as its “front yard”;
4. A thriving employment center and gateway to Albany;
5. Integrated with greater Albany and the region;
6. Developed with a commitment to resource stewardship; and
7. A community with village centers that provide local services.

LAND USE

POLICIES

1. South Albany will be further planned and developed as a complete and livable community. It will include livable neighborhoods, varied housing, mixed use centers, schools, employment sites (commercial and industrial), parks, and natural resource areas – all tied together by a connected pattern of streets, pathways and open space.

2. Development in South Albany will be a showcase of implementation for Albany's Great Neighborhoods concepts and guidelines. Each neighborhood will be connected to a community focal point.
3. South Albany's overall land use pattern of residential, employment, and open space areas shall be generally consistent with the Organizational Framework (see Figure 1).
4. Development patterns in South Albany should promote the efficient use of land and infrastructure and conservation of significant natural resources.
5. Development on individual properties within each of five neighborhoods as shown on the Organizational Framework (Figure 1) shall contribute to the creation of a cohesive total neighborhood with: variety of housing, local community services, connected and walkable streets and paths, physical and visual access to open spaces, parks and other community facilities.
6. Development shall be approved only when it can be shown that such development will not preclude or inhibit further development in the surrounding area from occurring in a logical and efficient manner. All development on, or resulting in, parcels larger than the minimum lot size for the zoning district shall be designed so as not to interfere nor conflict with the subsequent orderly transition to efficient, higher density planned urban uses. This also applies to construction of all single ~~family~~ dwelling units on existing lots of record which are outside platted subdivisions. Urban conversion plans are required for all such development demonstrating that the proposed lot and/or development can accommodate future development at the density range allowed by the Albany Comprehensive Plan and/or Zoning Map will allow the logical and efficient extension of streets and city services.
7. Transitions between land uses will be carefully planned to promote compatibility. This policy applies particularly to the transitions between industrial and residential areas, and between developed areas and natural features.
8. The City supports preservation of South Albany's natural and cultural features by allowing and encouraging cluster development. As used here, natural features include wetlands (with an emphasis on significant wetlands), Oak Creek and its tributaries, the unnamed tributary near the PepsiCo property, and the Oak groves. Key cultural facilities to preserve include archeological resources and historic properties including the Gerig Farm.
9. Views of the Coast Range, oak groves, and Oak Creek shall be preserved when reasonably feasible.
10. New residential development bordering designated and zoned farmland outside the UGB should be adequately set back, screened and buffered to minimize potential conflicts between residential and farm activities.
11. Neighborhood Centers will be located at the intersection of Lochner and Ellingson, west of the intersection of Columbus and Seven Mile Lane, and in the Mennonite Village generally as shown on the Land Use Plan (Figure 5).
12. Within Neighborhood Centers, up to 50% of the gross area of land zoned Mixed Use Commercial (MUC) may be developed for residential use. The remaining 50% of the MUC zone shall be developed with non-residential uses, allowing residential units above the ground level. The purpose of this policy is to ensure that local-serving retail and services are developed within the Neighborhood Centers.
13. The City shall allow flexibility in the size and exact location of lands zoned MUC. The South Albany Land Use Concept indicates the general size and location of Neighborhood Centers and future MUC zones. Flexibility is permitted consistent with the following:

- a. Location – An applicant may request a “shifting” of the Neighborhood Center boundaries (MUC zoning) from those shown on the Land Use Concept for the purpose of accommodating site specific design factors (wetlands, trees, road locations), provided, the design of a pedestrian-oriented center is not compromised.
 - b. Size – An applicant may request an increase in the land area up to a maximum of 10 acres for Neighborhood Centers, for developments that include food stores and vertical mixed use.
14. Commercial and Industrial lands in South Albany will help fulfill the City’s Economic Opportunities Analysis, take advantage of South Albany’s location in the region, and fulfill the economic role of the area defined by the plan. Zoning regulations for employment lands will incorporate flexibility in order to respond to changes in business and industry trends.
 15. Within areas designated as Residential, densities and building types shall generally follow a pattern where higher densities will be closer to Medium Density and Village Center areas, and lower densities closer to Open Space areas. This pattern does not preclude usage of cluster developments. Where clustered housing will be beneficial to preserving natural or cultural features, and/or providing housing variety, it is encouraged.
 16. Open Space designations on the Comprehensive Plan Map are intended to maintain open space in areas generally unsuitable for development and to identify linear linkages between undevelopable, open space areas.
 17. Comprehensive Plan and Zoning Map designations shall implement the Land Use Plan (see Figure 5), and be consistent with the following table.

SAAP Land Use Concept	Comprehensive Plan Map Designation	Zone Map Designation*
Low Density Residential	Low Density Residential	RS-5, RS-6.5, RS-10
Medium Density Residential	Village Center <i>at the Lochner and Columbus centers</i>	RM
	Medium Density Residential <i>elsewhere</i>	RM, RS-5
Neighborhood Center	Village Center <i>at the Lochner and Columbus centers</i>	MUC
	Medium Density Residential at Mennonite Village	NC
Regional Commercial	General Residential	RC
Neighborhood Commercial	Light Commercial	NC
Industrial Park	Light Commercial	IP
Light Industrial	Light Industrial	LI
Heavy Industrial	Heavy Industrial	HI
Community Park	Low Density Residential	RS-5
Open Space	Open Space	OS

*Note: Overlay districts apply as applicable.

CHAPTER 9: LAND USE PLANNING

GOAL 2: Land Use Designations

Commentary:

Amendments to replace the term “family”, as it pertains to housing residential dwelling type, with “dwelling unit”, as required to comply with HB 2583.

Amendments to correct scrivener’s errors.

COMPREHENSIVE PLAN MAP DESIGNATIONS

The land use designations on the Comprehensive Plan Map (Plate 14) indicate the type, location, and density of land development and redevelopment that will be permitted in the future. The map shows where various kinds of land use activities are appropriate for all areas within the Urban Growth Boundary. Although future development in Albany may never correspond exactly to the Plan Map, the map does show where different kinds of activities are appropriate and directs growth to these areas. The map also identifies potential development opportunities for meeting Albany’s housing, commercial, and employment needs.

The Comprehensive Plan Map has five general categories of designations (residential, mixed-use, commercial, industrial, and special uses). Each general category is broken down into more specific categories as described below.

RESIDENTIAL: GENERAL REQUIREMENTS

The two residential plan designations have the following common elements: 1) they provide for the establishment of dwelling units; 2) home occupations are permitted subject to Development Code requirements; 3) Office Professional and Neighborhood Commercial zoning are permitted within all residential Plan designations without a Plan change, but will be subject to rezoning requirements and conformance to special standards; 4) density increase bonuses will be permitted subject to Development Code regulations; and 5) schools, parks, cemeteries, churches, and certain public facilities may also be compatible in the residential Plan designations.

LOW DENSITY RESIDENTIAL (LDR): Identifies areas predominantly suited or used for detached single-family **dwelling unit** development on lot sizes ranging from 5,000 to 10,000 square feet. Attached housing with smaller lot sizes is permitted in RS-5 and in planned or cluster developments in other zones. Manufactured home parks may be permitted by Site Plan Review. Cluster housing is permitted in Cluster and Planned Unit Developments with density ranging by zone. (Density as stated is gross density, unless specifically mentioned otherwise.)

MEDIUM DENSITY RESIDENTIAL (MDR): Identifies areas suitable for multiple-family **dwelling unit** and attached single-family **dwelling unit** development at densities up to 35 units per acre. Manufactured home parks are permitted with Site Plan Review.

HIGH DENSITY RESIDENTIAL: deleted by Ord. 5667, 4/25/07.

URBAN RESIDENTIAL RESERVE: Identifies areas between the developed urban area and the Urban Growth Boundary within which a variety of residential zones may be permitted to accommodate all needed housing types without a Plan change. All zoning decisions will be based upon criteria as specified in the Development Code. However, the three following policies which will be utilized in converting Urban Residential Reserve (URR) land to a particular residential zoning classification:

1. The average developed density within the URR designation will be up to 35 units per acre.

[Ord. 5667, 4/25/2007]

2. The City will at all times maintain at least a 5-year supply of land designated for low-, medium-, and high-density residential uses.
3. Land within the URR designation will be changed to low- and medium-density Plan designations if such changes are needed to develop accurate 5-year capital improvement plans involving any such area or, in some cases, upon annexation to the City.

In addition to residential uses, it is anticipated that approximately 20 to 50 acres of the Urban Residential Reserve land will be utilized for neighborhood commercial and office professional uses to 2025. Approximately 100 acres will be needed for new school and park sites to 2025.

SPECIAL USE DESIGNATIONS

OPEN SPACE: Identifies and protects areas where development is infeasible or undesirable and where it is in the public interest to protect lands for the maintenance of natural drainageways and flood channels, to protect fish and wildlife habitats, to enhance scenic and historic areas, to protect natural resources, and to protect potential recreation trails and park sites. The principal private uses of these areas will include one single-family dwelling unit per property, grazing and crop production, and recreation and open space uses.

PLAN DESIGNATION ZONING MATRIX

Plan Designation	Compatible Zoning Districts
Light Industrial	Industrial Park (IP), Light Industrial (LI), Transit District (TD)
Heavy Industrial	Light Industrial (LI), Heavy Industrial (HI)
General Commercial	Neighborhood Commercial (NC), Office Professional (OP), Community Commercial (CC), Regional Commercial (RC)
Light Commercial	Neighborhood Commercial (NC), Office Professional (OP)
Village Center	Historic Downtown (HD), Downtown Mixed Use (DMU), Central Business (CB), Lyon-Ellsworth (LE), Elm Street (ES), Main Street (MS), Pacific Boulevard (PB), Waterfront (WF), Mixed-Use Commercial (MUC), Mixed-Use Residential (MUR), Residential Medium Density (RM), Office Professional (OP), Community Commercial (CC)
High Density Residential	Deleted by Ord. 5667, 4/25/07
Medium Density Residential	Residential Single Family <u>Dwelling Unit</u> (RS-5), Residential Medium Density (RM), Residential Medium Density Attached (RMA), Mixed Use Residential (MUR), Office Professional (OP), Neighborhood Commercial (NC)
Low Density Residential	Residential Single Family <u>Dwelling Unit</u> (RS-10, RS-6.5, RS-5), Hackleman Monteith (HM), Residential Reserve (RR), Office Professional (OP), Neighborhood Commercial (NC)
Urban Residential Reserve	Residential Single Family <u>Dwelling Unit</u> (RS-10, RS-6.5, RS-5), Residential Reserve (RR), Residential Medium Density (RM), Residential Medium Density Attached (RMA), Mixed Use Residential (MUR), Office Professional (OP), Neighborhood Commercial (NC)
Public & Semi-Public	All zones
Open Space	Open Space (OS)

HB 2583– Comprehensive Plan Amendments

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

APPENDIX IV

Commentary:

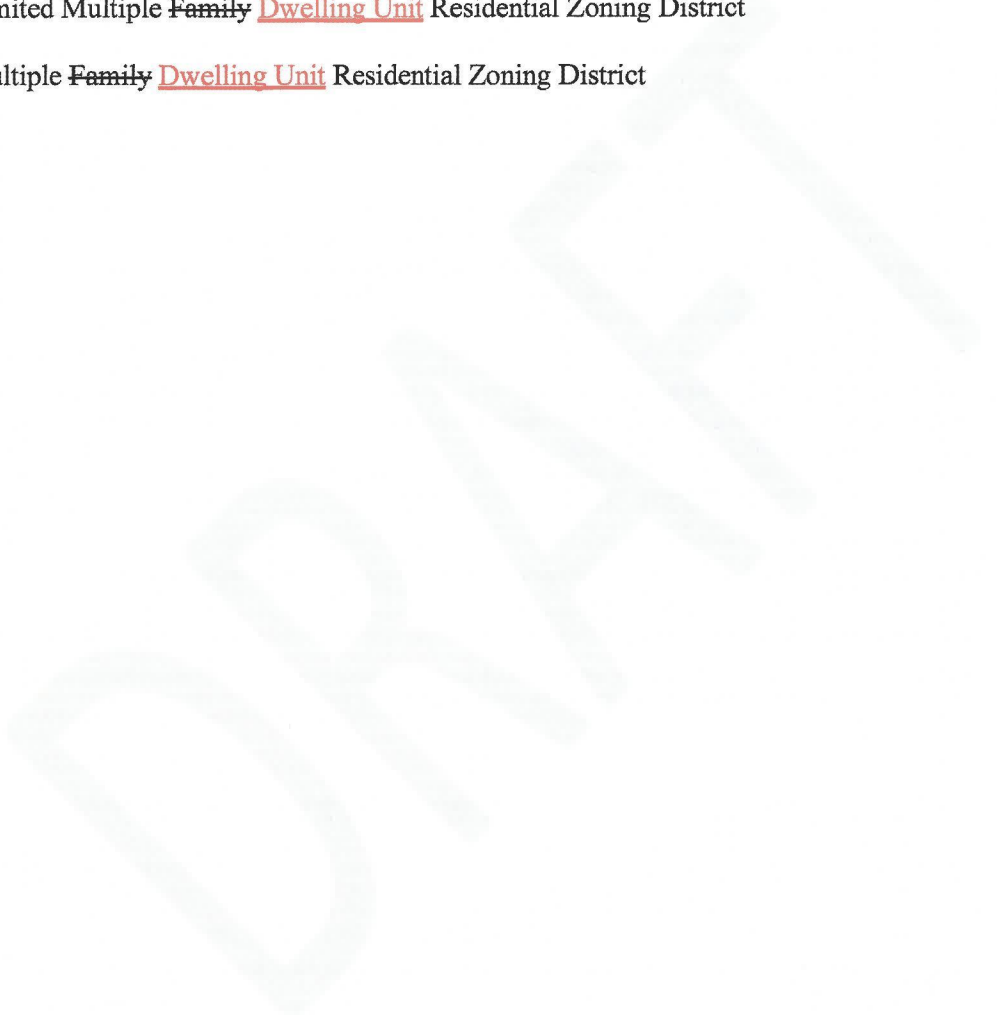
Amendments to replace the term “family”, as it pertains to housing residential dwelling type, with “dwelling unit”, as required to comply with HB 2583.

Amendments to correct scrivener’s errors.

ACRONYMS

R-2: Limited Multiple ~~Family~~ Dwelling Unit Residential Zoning District

R-3: Multiple ~~Family~~ Dwelling Unit Residential Zoning District



HB 2583 & HB 4027 – ADC Amendments

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

ARTICLE 1

ADMINISTRATION AND PROCEDURES

Commentary:

Amendments to replace the term “family”, as it pertains to housing residential dwelling type, with “dwelling unit”, as required to comply with HB 2583.

Amendments to correct scrivener’s errors.

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

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

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

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

GENERAL ADMINISTRATION OF TITLE 20

LAND USE REVIEW PROCEDURES GENERALLY

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

¹ Entire article replaced with Ordinance 5947, January 1, 2021.

HB 2583 & HB 4027 – ADC Amendments

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

below. Table 1.100-1 lists the City's land use and development applications and corresponding review procedure(s).

- (1) Type I Procedure (Ministerial Staff Review). A Type I procedure is used in applying City land use standards and criteria that do not require the use of discretion, interpretation, or the exercise of policy or legal judgment (i.e., clear and objective standards). Type I decisions are made by the Director without public notice and without a public hearing. Appeals of Type I decisions are to Circuit Court under writ of review.
- (2) Type I-L Procedure (Staff Review with Notice). A Type I-L procedure is used for some tentative plats and when applying discretionary land use standards that regulate the physical characteristics of a use which is permitted outright. Type I-L decisions are made by the Director and require public notice and an opportunity for appeal to a local hearing body. With the exception of Historic Resource decisions which are appealed to the Landmarks Commission, appeals of Type I-L decisions are heard by the Planning Commission.
- (3) Type II Procedure (Staff Review with Notice of Decision). A Type II procedure is used when the land use standards and criteria require some discretion, interpretation, or policy or legal judgment. The Director is the person designated in accordance with ORS 227.175 to make Type II decisions. Type II decisions require public notice and an opportunity for appeal to a local hearing body. With the exception of Historic Resource decisions which are appealed to the Landmarks Commission, appeals of Type II decisions are heard by the Planning Commission.
- (4) Type III Procedure (Quasi-Judicial Review—Public Hearing). A Type III procedure is used when the land use standards and criteria require discretion, interpretation, or policy or legal judgment or for large projects. Quasi-Judicial decisions implement established policy but typically involve discretion. Type III decisions are made by the Planning Commission, Hearings Board or Landmarks Commission and require public notice and a public hearing, with an opportunity for appeal to the City Council.
- (5) Type IV-Q Procedure (Quasi-Judicial Review—City Council Public Hearing). The Type IV-Q procedure is used when the land use standards and criteria require discretion, interpretation, or policy or legal judgment and is the procedure used for site-specific land use actions initiated by an applicant. The application is heard by the Planning Commission, Hearings Board, or Landmarks Commission. If the recommending body makes a favorable recommendation, the City Council will hold a hearing and make a final decision. If the Planning Commission, Hearings Board, or Landmarks Commission recommends against a proposal, the City Council will only consider the proposal on appeal by the applicant. Appeal of the City Council's Type IV-Q decisions are heard by the state Land Use Board of Appeals.
- (6) Type IV-L Procedure (Legislative Review). Legislative review procedures are used to review proposals to amend the Albany Comprehensive Plan, the City's land use regulations, and large-scale changes to the Comprehensive Plan or Plan Maps, and involve the creation, revision, or implementation of broad public policy. Legislative proposals are first considered by the Planning Commission, which makes a recommendation to City Council. City Council makes the final decision on a legislative proposal through the enactment of an ordinance. Appeals of legislative decisions are heard by the state Land Use Board of Appeals.

HB 2583 & HB 4027 – ADC Amendments

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

Table 1.100-1 – Procedure by Application Type

Application / Action	Procedure Type	Decision Body	Pre-App Conference Required	Neighborhood Mtg Req.	Applicable Section
Tree Removal					
<ul style="list-style-type: none"> Site Plan Review for tree removal (5 or more trees 8' <u>8"</u> in diameter on contiguously owned 	I-L	CDD	Yes*	No	9.204 and 9.205

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

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

Activities and development on a site containing a nonconforming use may require a Nonconforming Use Review in accordance with Article 2. [Ord. 5966, 11/12/21]

- (1) Agricultural uses permitted outright in Articles 3, 4 and 5.
- (2) New detached single dwelling unit, duplexes, and additions to existing single dwelling units or duplexes, except where specifically identified as requiring conditional use or site plan approval in Article 4 and 5. [Ord. 5968, 1/14/22]
- (3) Residential accessory buildings up to 750 square feet and walls not greater than 11 feet tall or that meet the standards in Section 3.080(9).
- (4) Non-residential accessory buildings of any size in the NC, CC, RC, IP, LI, HI and PB zones and non-residential accessory buildings up to 750 square feet in the CB, HD, ES, LE, MS, MUC, MUR, OP and WF zoning districts.
- (5) Routine property maintenance.
- (6) New parking areas or expansions to existing parking areas that are less than 1,000 square feet in area, excluding restriping an existing lot, and do not modify site circulation or access, do not require Site Plan Review as stated in Section 2.430.
- (7) Additions to an existing building or use expansions that are less than 2,000 square feet or less than 50 percent of existing building area, whichever is less, and that do not:
 - (a) Add dwelling units; or
 - (b) Require three or more parking spaces or additional loading areas; or
 - (c) Modify site circulation or access.

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

- (8) A change internal to a building or other structure or use that is allowed through Site Plan Review, and the new use does not:
 - (a) Add dwelling units; or
 - (b) Require three or more new parking spaces or additional loading areas; or
 - (c) Modify site circulation or access.

HB 2583 & HB 4027 – ADC Amendments

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

- (9) An emergency measure necessary for the safety or protection of property when authorized by the City Manager with written notice to the City Council.
- (10) Any temporary use of land of up to a 30-day duration (such as a promotional event, festival, carnival, or outdoor sale) that conforms with all other requirements of this Code and other applicable City regulations, public health, and safety requirements, some of which may further limit such uses in terms of location, scope, and duration.
- (11) The establishment, construction, alteration, or maintenance of a public facility authorized by the Director of Public Works, including streets, highways, traffic control devices, drainage ways, sanitary and storm sewers, pump stations, water lines, electrical power or gas distribution lines, or telephone or television cable systems. This includes construction of staging areas of less than six months' duration but does not include major substations, treatment facilities, storage tanks, reservoirs, and towers.
- (12) Excavation and fill for foundations and all other excavation or filling of land involving 50 cubic yards or less that does not adversely affect drainage patterns and is not located in the special flood hazard area.
- (13) In middle housing zoning districts, new middle housing, including middle housing created through internal conversation of, or addition to, existing dwellings; and additions to existing middle housing.
[Ord. 5968, 1/14/22]
- (14) Expedited land divisions and middle housing land divisions (see application review procedures in Article 11, Sections 11.600 through 11.630).
[Ord. 5968, 1/14/22]

1.120 Time to Process Complete Applications.

- (1) Time Limit—120-day Rule. The City must take final action on all Type I-L, Type II, Type III, and Type IV-Q land use applications, as provided by ORS 227.178, including resolution of all local appeals, within 120 days after the application has been deemed complete under ADC 1.170, unless the applicant provides written request or consent to an extension in compliance with ORS 227.178. (Note: The 120-day rule does not apply to Type IV-L decisions.)
- (2) Time Limit—100-day Rule. The City must take final action including resolution of all local appeals on qualifying applications under ORS 227.180 within 100 days after the application is deemed complete. An application qualifies if it is submitted under ORS 227.175 and meets the following criteria:
 - (a) The application is for development of a multiple-family residential dwelling unit building-unit within the urban growth boundary; [Ord. 5968, 1/14/22]
 - (b) At least 50 percent of the residential units included in the development will be sold or rented as affordable housing. For the purposes of this section, "affordable housing" means housing that is affordable to households with incomes equal to or less than 60 percent of the median family income for the county in which the development is built or for the state, whichever is greater; and
 - (c) The development is subject to a covenant appurtenant that restricts the owner and each successive owner of the development or a residential unit within the development from selling or renting any residential unit described in paragraph (b) of this subsection as housing that is not affordable housing for a period of 60 years from the date of the certificate of occupancy.
- (3) Time Periods. "Days" means calendar days unless otherwise specified. In computing time periods prescribed or allowed by this Article, the day of the act or event from which the designated period of time begins is not included. The last day of the period is included, unless it is a Saturday, Sunday, or a federal holiday, in which case the period runs until the end of the next day that is not on a weekend or City recognized legal holiday.

1.140 Neighborhood Meeting.

- (1) Purpose. The purpose of a neighborhood meeting is to ensure that applicants pursue early and effective public participation in conjunction with their applications, giving them the opportunity to understand and try to mitigate any real or perceived impacts their application may have on the neighborhood. The meeting is not intended to produce complete consensus on all applications. It is intended to encourage applicants to be good neighbors.
- (2) When Mandatory. Neighborhood meetings are mandatory for all land use actions identified in Table 1.100-1 as requiring a neighborhood meeting. In addition, the applicant shall hold a neighborhood meeting before submitting the following types of land use applications:

HB 2583 & HB 4027 – ADC Amendments

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

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

- (a) Multiple-~~family~~ dwelling unit development that abuts a single-~~family~~ dwelling unit zoning district.
- (b) Commercial or industrial development that abuts any residential zoning district and the addition of outside seating areas to restaurants or bars/taverns/breweries/night clubs within 300 feet of a residence.
- (c) Manufactured home park adjacent to any residential zoning district.
- (d) Subdivision with more than 10 lots, excluding expedited and middle housing land divisions.
[Ord. 5968, 1/14/22]
- (e) Cluster and planned development.
- (f) Retail Sales and Services Uses proposed in existing buildings in the Light Industrial zone that require Conditional Use approval per Section 4.060(11)(b).
- (g) For other non-residential applications or revisions to applications that the Director determines may have a neighborhood impact, such as conditional uses. In these cases, the Director shall determine the minimum notice area for the neighborhood meeting.

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

- (1) Submittal Requirements. Type I-L applications must include the submittal information required by ADC 1.160.
- (2) Determination of Completeness. After receiving an application for filing, the Director will review the application for completeness in accordance with ADC 1.170.
- (3) Written Notice of Application and Opportunity to Comment. Once the application has been deemed complete, the City will mail notice of filing to the identified recipients in (a) no fewer than 14 days before making the Type I-L decision to allow interested people and agencies the opportunity to submit written comments on the application before the City issues the decision.
 - (a) Recipients:
 - i. All property owners and designated representative(s) of City Council-recognized neighborhood association(s) within the minimum notice area specified below. The broadest notice area applicable to a proposal shall apply.

HB 2583 & HB 4027 – ADC Amendments

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

Proposals for:	Notice Area based on minimum distance from the boundaries of the subject property*
<ul style="list-style-type: none"> • Non-residential development subject to Site Plan Review (including the non-residential portion of a mixed-use development) 	300 feet**
<ul style="list-style-type: none"> • Subdivision, 50 lots or less • Manufactured home park, 50 spaces or less • Multi-family <u>Multiple dwelling unit</u> development, 50 units or less 	300 feet
<ul style="list-style-type: none"> • Any development which proposes more than 50 dwelling units, lots or spaces 	1,000 feet
<ul style="list-style-type: none"> • All other Type I-L decisions not listed above, including, but not limited to, Site Plan Review of Residential Accessory Structures and Minor Variances 	100 feet**
<p><i>* Additional notice area requirements applicable to Historic Resources are found in Article 7. In cases of conflict with the procedures in Article 1, the procedures in Article 7 shall prevail.</i></p> <p><i>** For applications which include non-residential development, the Director may increase the notice area based on the project scale, land use and transportation patterns or anticipated public interest in the project, up to a maximum of 1,000 feet.</i></p>	

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

HB 2583 & HB 4027 – ADC Amendments

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

ARTICLE 2

REVIEW CRITERIA

Commentary:

Amendments to replace the term “family”, as it pertains to housing residential dwelling type, with “dwelling unit”, as required to comply with HB 2583.

Amendments to correct scrivener’s errors.

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

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

SITE PLAN REVIEW

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

2.410 *Section removed by Ordinance 5767 adopted December 7, 2011.*

2.415 Procedure. An application for Site Plan Review shall be reviewed through either a Type I or Type I-L procedure, as indicated below.

- (1) Single family dwelling unit detached, two primary detached units, and middle housing development: Type I procedure.
- (2) Multiple-family dwelling unit development, units above or attached to a business, and manufactured home parks: Type I-L procedure.
- (3) Non-residential development: Type I-L procedure.

HB 2583 & HB 4027 – ADC Amendments

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

VACATIONS

2.640 Zoning of Vacated Rights-of-Way. Except as otherwise provided in the vacation ordinance or when the official City Zoning Map is not clear as to the zoning of vacated right-of-way, the zoning of the vacated territory shall be the same as the adjoining property to which the ownership of the parcel automatically reverts.

TABLE 2.760-1

PLAN DESIGNATION ZONING MATRIX

Comprehensive Plan Designation	Compatible Zoning Districts
Light Industrial	Industrial Park (IP), Light Industrial (LI), Transit District (TD)
Heavy Industrial	Light Industrial (LI), Heavy Industrial (HI)
General Commercial	Neighborhood Commercial (NC), Community Commercial (CC), Regional Commercial (RC), Office Professional (OP)
Light Commercial	Neighborhood Commercial (NC), Office Professional (OP)
Village Center	Historic Downtown (HD), Downtown Mixed Use (DMU), Central Business (CB), Lyon-Ellsworth (LE), Pacific Boulevard (PB), Elm Street (ES), Main Street (MS), Waterfront (WF), Mixed Use Commercial (MUC), Residential Medium Density (RM), Residential Medium Density Attached (RMA), Mixed Use Residential (MUR), Office Professional (OP), Community Commercial (CC)
Medium Density Residential	Residential Single Family <u>Dwelling Unit</u> (RS-5), Residential Medium Density (RM), Residential Medium Density Attached (RMA), Mixed Use Residential (MUR), Office Professional (OP), Neighborhood Commercial (NC)
Low Density Residential	Residential Single Family <u>Dwelling Unit</u> (RS-10, RS-6.5, RS-5), Hackleman-Monteith (HM), Residential Reserve (RR), Office Professional (OP), Neighborhood Commercial (NC)
Urban Residential Reserve	Residential Single Family <u>Dwelling Unit</u> (RS-10, RS-6.5, RS-5), Residential Reserve (RR), Residential Medium Density Attached (RMA), Residential Medium Density (RM), Mixed Use Residential (MUR), Neighborhood Commercial (NC), Office Professional (OP)
Public and Semi-Public	All zones
Open Space	Open Space (OS)

SITE PLAN REVIEW

2.415 Procedure. An application for Site Plan Review shall be reviewed through either a Type I or Type I-L procedure, as indicated below.

- (1) Single ~~family~~ dwelling unit detached, two primary detached units, and middle housing development: Type I procedure.
- (2) Multiple ~~family~~ dwelling unit development, units above or attached to a business, and manufactured home parks: Type I-L procedure.
- (3) Non-residential development: Type I-L procedure.

HB 2583 & HB 4027 – ADC Amendments

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

DRAFT

HB 2583 & HB 4027 – ADC Amendments

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

ARTICLE 3

RESIDENTIAL ZONING DISTRICTS

Commentary:

Amendments to replace the term “family”, as it pertains to housing residential dwelling type, with “dwelling unit”, as required to comply with HB 2583.

Amendments to correct scrivener’s errors.

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

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

- Zoning Districts
- Schedule of Permitted Use
- Development Standards

ZONING DISTRICTS

- 3.020 Establishment of Residential Zoning Districts. In order to regulate and segregate the uses of lands and buildings and to regulate the density of development, the following residential zoning districts are established:
- (1) RR—RESIDENTIAL RESERVE DISTRICT. The RR District is intended to recognize areas which, because of topography, level of services, or other natural or development factors are best served by a large lot designation. This district may be applied on an interim basis until urban services become available. The minimum lot size is five acres.
 - (2) RS-10—RESIDENTIAL SINGLE-FAMILY DWELLING UNIT DISTRICT. The RS-10 District is intended primarily for a lower density residential environment. The average minimum detached single-family dwelling unit lot size is 10,000 square feet.
 - (3) RS-6.5—RESIDENTIAL SINGLE-FAMILY DWELLING UNIT DISTRICT. The RS-6.5 District is intended primarily for low-density urban residential development. The average minimum detached single-family dwelling unit lot size is 6,500 square feet.
 - (4) RS-5—RESIDENTIAL SINGLE-FAMILY DWELLING UNIT DISTRICT. The RS-5 District is intended primarily for low- to moderate-density residential development. The average minimum detached single-family dwelling unit lot size is 5,000 square feet.
 - (5) RM—RESIDENTIAL MEDIUM DENSITY DISTRICT. The RM District is primarily intended for medium-density residential urban development. New RM districts should be located on a collector or arterial street or in Village Centers. ~~Multi-family~~ Multiple dwelling units and townhouse development may not exceed 25 units per gross acre. RMA—RESIDENTIAL MEDIUM DENSITY ATTACHED DISTRICT. The RMA District is intended primarily for medium- to high-density urban residential development. Most units, whether single- or multiple-family dwelling units or middle housing, will be attached. New RMA districts should be located on a collector or arterial street or in Village Centers. Development may not exceed 35 units per gross acre.
 - (6) HM—HACKLEMAN-MONTEITH DISTRICT. The HM district is intended primarily to preserve the existing residential character of the Hackleman and Monteith National Register Historic Districts.

HB 2583 & HB 4027 – ADC Amendments

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

Conversion of single-family ~~dwelling unit~~ residential structures to non-residential or multi-family multiple dwelling unit residential uses is not allowed.

SCHEDULE OF PERMITTED USES

Uses Allowed in Residential Zoning Districts

USE CATEGORIES (See Article 22 for use descriptions.)	Spec. Cond.	RR	RS-10	RS-6.5	HM	RS-5	RM	RMA	
RESIDENTIAL: Single-Family <u>Dwelling Unit</u> Detached and Two Detached Units									
Single-Family <u>Dwelling Unit</u> , detached	1	Y	Y	Y	Y	Y	Y	N	
Primary Residence with one accessory dwelling unit	4	Y	Y	Y	Y	Y	Y	Y	
2 detached primary units	2	N	PD/CD	PD/CD	S	PD,CD	Y	Y	
RESIDENTIAL: Middle Housing									
Duplex	3	Y	Y	Y	Y	Y	Y	Y	
Townhouse		Y	Y	Y	Y	Y	Y	Y	
Triplex or Fourplex	3	Y	Y	Y	Y	Y	Y	Y	
Cottage Cluster	3	Y	Y	Y	Y	Y	Y	Y	
RESIDENTIAL: Multi-Family <u>Multiple Dwelling Unit</u>									
Multi-Family <u>Multiple Dwelling Unit</u>	3	N	N	N	N	N	S	S	
RESIDENTIAL: Care or Treatment									
Assisted Living		CU	CU	CU	CU	CU	CU	CU	
Child or Adult Care Home	6	Y	Y	Y	Y	Y	Y	Y	
Daycare Facility		CU	CU	CU	CU	CU	CU	S	
Residential Care or Treatment Facility (6 or more residents)		CU	CU	CU	CU	CU	CU	S	
Residential or Group Care Home (5 or fewer residents)		Y	Y	Y	Y	Y	Y	Y	
RESIDENTIAL: Miscellaneous Use Categories									
Manufactured Home Parks (see Article 10)	10	N	N	S	N	S	S	S	
Accessory Buildings, Garages or Carports	9	Y/S	Y/S	Y/S	Y/S	Y/S	Y/S	Y/S	
Bed & Breakfast	7	CUII	CUII	CUII	CUII	CUII	CUII	S	
Home Businesses (See 3.090-3.160 to determine if CU)		Y/CU	Y/CU	Y/CU	Y/CU	Y/CU	Y/CU	Y/CU	
Rooming or Boarding Houses		N	N	N	CU	N	S	S	
Subdivision Sales Office	1	N	Y	Y	N	Y	Y	Y	
Unit(s) Above or Attached to a Business	17	N	N	N	N	N	N	N	
Temporary Residence	8	S	S	S	S	S	S	S	
INSTITUTIONAL									
Basic Utilities		CU	CU	CU	CU	CU	CU	CU	
Community Services		CU	CU	CU	CU	CU	CU	CU	
Educational Institutions	13	CU	CU	CU	CU	CU	CU	CU	
Hospitals		N	N	N	N	N	CU	CU	
Jails & Detention Facilities		N	N	N	N	N	N	N	
Parks, Open Areas and Cemeteries	14	S/CU	S/CU	S/CU	CU	S/CU	S/CU	S/CU	
Religious Institutions	13	CU	CU	CU	CU	CU	CU	CU	
COMMERCIAL – Limited Use Types									
Entertainment and Recreation:	Indoor Outdoor	18	CU CU	CU CU	CU CU	CU N	CU CU	CU CU	CU CU
Offices		17	PD/CD	PD/CD	PD/CD	PD/CD	PD/CD	PD/CD	
Recreational Vehicle Parks (See Article 10)		5, 10	N	N	N	N	N	CU	
Restaurants, no drive-thru		17	PD/CD	PD/CD	PD/CD	PD/CD	PD/CD	PD/CD	
Retail Sales and Service		17	PD/CD	PD/CD	PD/CD	PD/CD	PD/CD	PD/CD	
Self-Serve Storage		15	N	N	N	N	N	S	
OTHER CATEGORIES									
Agriculture:	Crop Production		Y	Y	Y	N	Y	Y	
	On-site Sales of Site-Produced Seasonal Goods		Y	S	CU	N	CU	CU	
	Plant Nurseries and Greenhouses		S	S	S	N	S	S	
Antennas, owned and operated by FCC licensed member of Amateur Radio Service			Y	Y	Y	Y	Y	Y	
Communication Facilities		16	N	N	N	N	N	N	

HB 2583 & HB 4027 – ADC Amendments

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

Kennels	11	S	CU	CU	N	CU	CU	N
Satellite Dish and Other Antennas	12	Y	Y	Y	Y	Y	Y	Y

Y = Yes, allowed, no Site Plan review required

CD = Cluster Development, see Art. 11

CU = Conditional Use approval required, Type III procedure

CUII = Conditional Use approval required, Type II procedure

N = No, not allowed

PD = Planned Unit Development, see Art. 11

S = Site Plan Review required

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:

- (2) When more than one single-family ~~dwelling unit~~ dwelling unit detached residence is located on a property of record in a residential zoning district and the buildings were legally constructed, the property may be divided in conformance with Article 11, even if the resulting lots do not meet the required minimum lot area and dimensional standards for the zoning district, if required setbacks and lot coverage can be met.
- (3) Duplexes, triplexes, fourplexes, cottage clusters, and ~~multi-family~~ multiple dwelling unit development may be divided so that each unit can be individually owned by doing a land division in conformance with Article 11. The total land area provided for the development as a whole must conform with the requirements of Article 3, Table 3.190-1, however, the amount of land on which each unit is located does not need to be split equally between the individual units - one may be larger and one smaller.
- (4) Where detached single-family ~~dwelling unit~~ dwelling unit-residences are permitted outright, one accessory dwelling unit (ADU) may be allowed on each lot that has a single legally established detached single dwelling unit residence, called the “primary residence”. The ADU shall comply with the following standards:
 Accessory dwelling units shall be incidental in size to the primary residence and meet the following standards:
 - (a) The size of an ADU does not exceed 50 percent of the gross floor area of the primary residence (excluding garages or carports) or 900 square feet, whichever is less. (Note: ADUs greater than 900 square feet that were legally constructed before July 1, 2007, may remain).
 - (b) All required building permits have been obtained. If the primary residence is on the Local Historic Inventory, historic review may be required.
 - (c) The lot was legally established
 - (d) Detached ADUs must also meet the following development standards:
Front Setback: Greater than or equal to the location of the front wall of the primary residence; and
Interior Setback: 5 feet for one-story; 8 feet for two-story; and
Maximum Height: 24 feet to the ridge of the roof.
- (5) In the RM District, the following criteria must be met in addition to the Conditional Use criteria for permitting RV overnight parks:
 - (a) The entire site must be located within 750 feet of the Interstate 5 right-of-way.
 - (b) The RV park access is limited to the Interstate 5 frontage road or streets servicing primarily industrial or commercial development.
- (6) “Child Care Homes” that includes the day or ~~night-time~~ nighttime care of no more than sixteen children, including the children of the provider or the care and treatment of adults for less than 24-hours are considered a residential use of the property and are allowed outright in zones that allow residential dwellings per the Oregon Revised Statutes (ORS). See ADC Section 22.200.

HB 2583 & HB 4027 – ADC Amendments

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

SPECIAL STATUS3.085 Existing Residential Uses in the HM and RS-5 Zones Granted Special Status.-

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

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

If any of the listed buildings are converted to a single-family dwelling unit 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.

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

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

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

DEVELOPMENT STANDARDS

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

HB 2583 & HB 4027 – ADC Amendments

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

TABLE 3.190-1

RESIDENTIAL DISTRICT DEVELOPMENT STANDARDS							
STANDARD	RR	RS-10	RS-6.5	HM	RS-5	RM	RMA
Minimum Property Size or Land Requirements by Unit Type(1)(18)							
Single-family dwelling unit detached and Duplex (1)	5 acres (15)	10,000 sf	6,500 sf	5,000 sf	5,000 sf	3,500 sf	Single family dwelling unit detached: N/A Duplex: 3,500 sf
Townhouse(1)(16)(19)	1,500 sf	1,500 sf	1,500 sf	1,500 sf	1,500 sf	1,500 sf	1,500 sf
Two primary detached units on one property (1)	N/A	N/A	N/A	7,000 sf	N/A	3,500 sf	3,500 sf
Triplex (16)	5 acres	10,000 sf	6,500 sf	5,000 sf	5,000 sf	5,000 sf	5,000 sf
Fourplex (16)	5 acres	10,000 sf	7,000 sf	7,000 sf	7,000 sf	7,000 sf	7,000 sf (17)
Cottage Cluster (16)	5 acres	10,000 sf	7,000 sf	7,000 sf	7,000 sf	7,000 sf	7,000 sf
Multi-family <u>Multiple dwelling units</u> , Studio and 1-bedroom units (1)	N/A	N/A	N/A	N/A	N/A	2,000 sf/ unit	1,500 sf/ unit
2-and 3-bedroom units (1)	N/A	N/A	N/A	N/A	N/A	2,400 sf/ unit	1,800 sf/ unit
4+ bedroom units (1)	N/A	N/A	N/A	N/A	N/A	3,000 sf/ unit	2,200 sf/ unit
Minimum Lot Widths: (18) Townhouse All other uses	20 ft N/A	20 ft 65 ft	20 ft 50 ft	20 ft 35 ft	20 ft 40 ft	20 ft 30ft	None None
Minimum Lot Depth (18)	N/A	100 ft	80 ft	65 ft	70 ft	60 ft	None
Setbacks (4)(18):							
Minimum Front (4)	20 ft	20 ft	15 ft	15 ft	15 ft	15 ft	12 ft
Maximum Front Setback	None	None	None	None	None	(14)	(14)
Minimum Interior: single-story (4)	5 ft	5 ft	5 ft	5 ft	5 ft	10 ft (5)	10 ft (5)
Minimum Interior: two or more stories (4)	8 ft	8 ft	8 ft	6 ft	6 ft	10 ft (5)(6)	10 ft (5)(6)
Minimum Building Separation	(12)	(12)	(12)	(12)	(12)	(12)	(12)
Min. Garage or carport vehicle entrance (10)	20 ft	20 ft	20 ft (7)	20 ft (7)	20 ft (7)	20 ft (7)	20 ft (7)
Maximum Height (8)	30 ft	30 ft	30 ft	30 ft	30 ft	45 ft	60 ft
Maximum Lot Coverage (9)(18)	20% (11)	50%	60%	60%	60%	70%	70%
Minimum Open Space	N/A	N/A	N/A	N/A	N/A	(13)	(13)
Min. Landscaped Area (18)	None	(2)	(2)	(2)	(2)	(3)	(3)

N/A means not applicable.

- (1) Section 3.220 bonus provisions may reduce minimum lot size and area requirements of units.
- (2) All yards adjacent to streets.

HB 2583 & HB 4027 – ADC Amendments

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

- (3) All yards adjacent to streets plus required open space.
- (4) Additional setbacks may be required, see Sections 3.230-3.330 and the buffer matrix at 9.210; exceptions to Setbacks for Accessibility Retrofits are in Section 3.263; Zero-Lot Line standards are in Sections 3.265 and 3.270; Setbacks for cottage clusters are in Section 3.192.
- (5) Except for single-family dwelling unit homes or middle housing, which must have a minimum setback of 3 feet for one-story dwellings and 5 feet for two-story dwellings.
- (6) More than 3 stories = 10 feet plus 3 feet for each story over 3 per unit requirements. Multiple-family dwelling unit developments must also meet the setbacks in Section 8.270(3).
- (7) Garage front setback for non-vehicle-entrance = 15 feet, except in RR and RS-10 zoning districts where the setback shall be 20 feet.
- (8) See exceptions to height restrictions, Section 3.340; Maximum height for cottage clusters is in Section 3.192.
- (9) Lot coverage for single-family dwelling unit detached and middle housing development shall only include the area of the lot covered by buildings or structures; Lot coverage for townhouses is calculated based on the overall townhouse project, rather than each townhouse lot; Cottage clusters are exempt from maximum lot coverage standards.
- (10) See Table 3.230-1 for garages with alley access.
- (11) Maximum lot coverage for parcels 20,000 square feet or less is 50%. The configuration of any development on a lot 20,000 square feet in size, or less, in an RR zoning district that covers more than 20 percent of the parcel on which it is proposed, should be located such that it does not preclude a later division of the parcel.
- (12) The minimum separation between ~~multi-family~~ multiple dwelling unit buildings on a single parcel shall be 10 feet for single-story buildings and 20 feet for two-story or taller buildings; Minimum building separation for cottage clusters is in Section 3.192.
- (13) Ten or more units require open space. See Section 8.220.
- (14) See Section 8.240 for standards.
- (15) A property line adjustment between two existing RR properties may be allowed as long as no new lots are created and the resulting properties are at least 20,000 square feet and approval of a septic system has been obtained by Benton County.
- (16) Triplexes, fourplexes, townhouses, and cottage clusters are not permitted on lots that are nonconforming with respect to the minimum lot size applicable to that housing type within the zoning district (see ADC 2.320).
- (17) In RMA, a fourplex with one or more studio or 1-bedroom units shall meet the minimum lot size standards for ~~multi-family~~ multiple dwelling unit development, except in no case shall the minimum lot size required for a fourplex exceed 7,000 square feet.
- (18) If a duplex, triplex, fourplex, or cottage cluster has been divided by a middle housing land division, the development standards that are applicable to the lot shall apply to the middle housing parent lot, not to the middle housing child lots.
- (19) The minimum property size for townhouses specified in Table 3.190-1 is the minimum allowable size for an individual townhouse lot; the number of units permitted on a given site (i.e., the maximum density) is established in accordance with subsection 3.191(1).

- 3.200 Lot Size Variation Within a Land Division. Up to 50 percent of the total number of detached single-family dwelling unit or duplex lots in a land division may have lot sizes up to 30 percent smaller than the standard permitted in any zone provided that the average lot size for lots in the development is at least the standard required in the zone after accounting for all density bonuses. No reduction in the minimum lot size is permitted for lots created for triplexes, fourplexes, townhouses, or cottage clusters, except as provided in Section 3.220. In such cases, the recorded plat shall indicate that the larger lots may not be further divided or deed restrictions shall be established indicating the same.

- 3.220 Bonus Provisions for Reduction in Lot Size and Area Requirements. The following standards may be applied to development sites in residential and mixed-use zoning districts resulting in allowed reductions in the average minimum lot size and area per unit requirements as indicated. In no instance shall the combined total of all bonus provisions applied to a development result in an overall reduction of more than 30 percent in the standard site size or lot area per unit requirements or result in a density that exceeds the allowed density in the zone by more than 20 percent, or by more than 30 percent when housing is provided that is affordable to persons earning

HB 2583 & HB 4027 – ADC Amendments

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

50 percent or less of the area median income (AMI) per 3.220(6) and Table 3.220-2. Some bonuses are available for lot design only, with additional bonuses available due to building design or construction.

Relationship to Transportation.

- (1) For single-family dwelling unit detached and middle housing developments, a 10 percent reduction in the average minimum lot size required in a zoning district is allowed for proposed lots that meet the following qualifications:
 - (a) At least 50 percent of the lot area is located within 200 feet of a designated collector or arterial street; and
 - (b) The lot will not have direct access to an arterial.

For example, if the average minimum lot size for the zone is 10,000 square feet, the average lot size may be 9,000 square feet for those properties within 200 feet of the collector or arterial. The remaining lots in the development must average 10,000 square feet.
- (2) For ~~multi-family~~ multiple dwelling unit developments, when any portion of a building is located within 200 feet of a designated arterial, the area per unit requirements in those buildings can be reduced by 10 percent.

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

- (3) Development Density to Transfer from Overlay Districts. The land area from which density can be transferred excludes developed and unbuildable areas, such as water bodies, areas below ordinary high water mark, floodways, the unbuildable portions of lands within the Significant Natural Resource Overlay Districts, and easements.
 - Residential Zoning – The applicant may choose to transfer up to 50 percent of the development density if the above standard is met. For example, if the base zoning would have allowed 8 single-family dwelling units (net), 4 units can be transferred; if it would have allowed 20 ~~multi-family~~ multiple dwelling units (net), 10 units can be transferred.
 - Open Space Zoning – If the lot was legally created prior to July 1, 1991, and the area is of sufficient size and dimension to comply with the development standards for a single-family dwelling unit home, one single-family dwelling unit can be transferred.
- (4) Development Density in Receiving Area. Up to a maximum 20 percent reduction in average minimum lot size, or lot area per unit requirements, is allowed in order to accommodate the density transfer.

Energy Conservation.

- (5) Solar Access Protection. If buildings are sited (either by site design or defining buildable areas) and covenants or other mechanisms are established that protect solar access of south building walls from shading by structures and vegetation, a density bonus of up to 10 percent in reduced lot size or area requirements, as applicable, may be allowed. Table 3.220-1 indicates the amount of bonus that shall be given, based on the percentage of lots or dwelling units that are protected. For subdivisions, to receive a bonus, a covenant or other mechanism shall be established that provides and protects solar access for the southerly building area of protected lots from 9:30 a.m. to 2:30 p.m. on December 21. For middle housing or ~~multiple-family~~ dwelling unit developments to receive a bonus, protected units shall receive this same solar access protection for south facing walls, and the south facing glass of those units shall total at least 7 percent of the conditioned area. (South facing is defined as being within 25 degrees of true south.)

HB 2583 & HB 4027 – ADC Amendments

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

TABLE 3.220-1

ENERGY CONSERVATION BONUS STANDARDS		
Development Type	Percentage of Lots or Units Protected	Area Reduction Bonus Permitted
Subdivision for Single-Family Family <u>Dwelling Unit</u> Development	80 percent or more of lots	10 percent
	At least 60 percent and up to 80 percent	5 percent
Middle Housing or Multiple-Family Family <u>Dwelling Unit</u> Development	80 percent or more of units	10 percent
	At least 60 percent and up to 80 percent	5 percent

SETBACKS

3.230 Setback Measurements. All setbacks must meet the minimum standards as set forth in Tables 3.190-1 and 3.230-1, as appropriate. Setback distances shall be measured perpendicular to all portions of a property line to the foundation. In addition to the setbacks in this article, all development must comply with Section 12.180, Clear Vision Area. See also Table 3.230-1, Accessory Structure Standards.

3.250 Parking Standards in Setback or Yard Areas.

- (1) Vehicles in daily use shall not park in the front yard, except on a paved driveway that leads to a garage, carport, or on a driveway that provides required parking spaces.
- (2) Parking spaces shall not be located in a required front setback, except:
 - (a) Circular driveways providing drop-off service to the front door.
 - (b) Driveways used to fulfill parking requirements for single-family ~~family~~ dwelling unit detached dwellings, two detached units, duplexes, triplexes, fourplexes, cottage clusters, and townhouses. Each space must be a paved area at least 10 feet wide and 20 feet long.
- (3) Required parking shall not be located in interior setback areas, except:
 - (a) Paved driveways used to fulfill parking requirements for residences subject to subsection (2)(b).
- (4) RVs, trailers, boats, campers, and vehicles not in daily use are not allowed in the required front setback for more than 48 consecutive hours.

HB 2583 & HB 4027 – ADC Amendments

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

**ARTICLE 4
COMMERCIAL AND INDUSTRIAL ZONING DISTRICTS**

Commentary:

Amendments to replace the term “family”, as it pertains to housing residential dwelling type, with “dwelling unit”, as required to comply with HB 2583.

Amendments to correct scrivener’s errors.

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

SCHEDULE OF PERMITTED USES

**TABLE 4.050-1
SCHEDULE OF PERMITTED USES**

Commercial, Office and Industrial Zoning Districts									
Use Categories (See Article 22 for use category descriptions.)	Spec. Cond.	OP	NC	CC	RC	TD	IP	LI	HI
INDUSTRIAL USE CATEGORIES									
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 USE CATEGORIES									
Adult Entertainment		N	N	S-6	N	N	N	CU-6	N
Entertainment and Recreation:								CUII-7	
Indoor	7	N	N	S-7	S-7	S	S/CU-7	CU-7, 11	CU-7
Outdoor		N	N	S	S	N	N	N-7	CU

HB 2583 & HB 4027 – ADC Amendments

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

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
Offices: Traditional		S	S	S	S	S	CUII-8	N	N
Industrial		S	N	S	N	N	S-8	S-9	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 USE CATEGORIES									
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 USE CATEGORIES									
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 Dwelling Unit Detached	20	Y-19	S-19	N	N	N	N	N	N
Middle Housing	20	CU-19	S-19/N	N	N	N	N	N	N
Multi Family <u>Multiple Dwelling Unit</u>		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 USE 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-Residential Accessory Buildings		S-18	Y	Y	Y	Y	Y	Y	Y
Passenger Terminals		N	N	S	CU	S	CU	CU	N
Rail And Utility Corridors		CU	CU	CU	CU	S	CU	S	S

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

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

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

HB 2583 & HB 4027 – ADC Amendments

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

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

HB 2583 & HB 4027 – ADC Amendments

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

- (e) Limited uses in HI. Indoor firing ranges or gun clubs, pool halls, paint gun facilities, motor racetrack, coliseums and stadiums are considered through a Conditional Use review. All other indoor entertainment uses are not permitted.
- (8) Offices in the IP zone. Traditional Offices intended to serve customers on site are considered through the Conditional Use Type II review. Industrial Offices are permitted through Site Plan Review. See Article 22 for Office examples.
- (9) Offices in the LI zone. Traditional Offices intended to serve customers on site are not allowed. Industrial Offices are permitted through Site Plan Review. See Article 22 for Office examples.
- (10) Restaurants in the NC zone. Drive-through restaurants are allowed in NC provided there are no more than two drive-through windows, and there is no speaker service (for ordering).
- (11) Retail Sales and Services in the OP, NC, IP and LI zones.
- (a) Limited uses in OP, NC and IP. The only retail uses allowed are convenience-oriented retail and personal services-oriented retail intended to serve nearby residences and employees. Businesses are limited to a 5,000-square-foot maximum business footprint, except for 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.
- (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.

Community Service Uses. Community Service uses that may have significant off-site impacts, such as public

HB 2583 & HB 4027 – ADC Amendments

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

swimming pools, public safety facilities, and homeless shelters, may be considered through the Conditional Use process.

(15) 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.
- (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.

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.

Note: There are special setbacks for educational institutions in 4.210 and loading standards in 4.260(2).

- (16) 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.
- (17) Non-Residential Accessory Buildings over 750 square feet in the OP zone require Site Plan Review.
- (18) Single-Family Dwelling Unit Detached and Middle Housing Units.

In the OP zone, single-family dwelling unit detached residences are allowed outright. Middle housing residences require a Conditional Use review. One accessory dwelling unit (ADU) may be allowed per legally established single-family dwelling unit detached residence, called the “primary residence”. The ADU shall comply with the standards for ADUs in ADC 5.070 (15).

 - (a) In the NC zone, single-family dwelling unit detached residences, duplexes, and townhouses require Site Plan Review. All other middle housing is prohibited. One accessory dwelling unit (ADU) may be allowed per legally established single-family dwelling unit detached residence, called the “primary residence”. The ADU shall comply with the standards for ADUs in ADC 5.070(15).
- (19) Existing Single-Family Dwelling Unit Detached Homes and Townhouses. See Section 4.075. New single-family dwelling unit detached homes and townhouses are not permitted unless allowed in the zoning district.
- (20) Residential Accessory Buildings, except Accessory Dwelling Units, 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.
- (21) 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.

HB 2583 & HB 4027 – ADC Amendments

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

- (22) 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.

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

- (23) 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.

- (24) 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.

SPECIAL STATUS FOR SINGLE FAMILY DWELLING UNIT 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 legally established ~~single-family~~ dwelling unit detached and townhouse 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 damaged or destroyed by fire or other causes beyond the control of the owner, 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~~ dwelling unit detached or townhouse 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.

TABLE 4.090-1

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'

HB 2583 & HB 4027 – ADC Amendments

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

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 sq. ft. per unit. No minimum lot size is required for non-residential development.
- (2) New NC zones may be no more than 30,000 sq. ft. of contiguous land.
- (3) All yards adjacent to streets. Approved vegetated post-construction stormwater quality facilities are allowed in landscaped areas.
- (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 dwelling unit detached and middle housing development shall only include the area of the lot covered by buildings or structures.
- (8) Unless in Airport Approach Overlay District. See Sections 4.400 to 4.440.
- (9) Ten or more multiple-family dwelling 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.
- (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.

SETBACKS

4.100 Minimum Standards. All setbacks must meet the minimum standards in Table 4.090-1, Development Standards. Setback distances shall be measured perpendicular to all portions of a property line to the foundation. In addition to the setbacks in this Article, all development must comply with Section 12.180, Clear Vision Area. For residential accessory structures, see also Article 3, Table 3.230-1, Accessory Structure Standards.

4.220 Parking Restrictions in Setback Areas. Parking and loading spaces must not be located in a required front or interior setback, except:

- (1) Paved driveways used to fulfill parking requirements for single-family dwelling unit detached, duplex, triplex, fourplex, cottage cluster, and townhouse residences. Each space must be at least 10 feet wide and 20 feet long.

HB 2583 & HB 4027 – ADC Amendments
*Omitted sections are indicated by asterisks: ****

ARTICLE 5

MIXED USE ZONING DISTRICTS

Commentary:

Amendments to replace the term “family”, as it pertains to housing residential dwelling type, with “dwelling unit”, as required to comply with HB 2583.

Amendments to correct scrivener’s errors.

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

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

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

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

- Zoning Districts
- Schedule of Permitted Uses
- Development Standards

SCHEDULE OF PERMITTED USES

HB 2583 & HB 4027 – ADC Amendments
*Omitted sections are indicated by asterisks: ****

TABLE 5.060-1
SCHEDULE OF PERMITTED USES

Use Categories (See Article 22 for use category descriptions.)	Spec. Cond.	MUC	WF	HD	DMU	CB	LE	PB	MS	ES	MUR
INDUSTRIAL USE CATEGORIES											
Contractors and Industrial Services	1	N	N/ CU-24	N	N	CU	S	S	N	N	N
Manufacturing and Production	2	N	N / CU-24	CU-3	N	CU-3	S/CU	N	N	N	N
Small-scale Manufacturing - less than 5,000 sq. ft. -5,000 to 10,000 sq. ft.	2	S/CU CU	S/CU CU	S/CU CU	S/CU CU	S/CU CU	S/CU CU	S/CU CU	S/CU CU	N N	N N
Warehousing and Distribution		N	N/ CU-24	N	N	N	N	N	N	N	N
Waste and Recycling		N	N	N	N	N	N	N	N	N	N
Wholesale Sales		N	N/ CU-24	N	N	CU	N	N	N	N	N
COMMERCIAL USE CATEGORIES											
Adult Entertainment	4	N	N	S	S	S	N	N	N	N	N
Entertainment and Recreation Indoor Outdoor		S-5 CU	S-5/ CU-24 CU-6	S N	S N	S CU-6	S N	S-5 S	S-5 N	S-5 N	CU N
Offices: Traditional Industrial		S CU	S S	S S	S S	S S	S S	S S	S S	S N	S N
Parking		S	CU	CU	CU	CU	S	S	S	CU-7	CU
Recreational Vehicle Park		N	N	N	N	N	N	N	N	N	N
Restaurants, no drive-thru with drive-thru or mostly delivery	23	S CU	S N	S N	S N	S N	S S	S S	S N	CUII N	S N
Retail Sales and Service		S-8	S-8/ CU-24	S-8	S-8	S	S	S	S-8	S-8	S-8
Self-Serve Storage	9	N	N	N	N	N	N	N	N	N	N
Taverns, Bars, Breweries, Nightclubs	23	CUII	CUII	S	S/ CUII (25)	S/ CUII (25)	S	S	CUII	CU	CUII
Vehicle Repair		N	N/ CU-24	N	N	CU	N	S	N	N	N
Vehicle Service, Quick (gas/oil/wash)		S	N	N	N	N	N	S	S	S	N
INSTITUTIONAL USE CATEGORIES											
Basic Utilities	10	CU	CU	CU	CU	CU	CU	CU	CU	CU	CU
Daycare Facility		S	S	S	S	S	N	CU	S	S	S
Community Services	11	CU	CU	S	S	S	S	S	S	S	CU
Educational Institutions	12	CU	CU	CU	CU	CU	CU	N	CU	CU	CU
Hospitals		N	CU	CU	CU	S	S	CU	N	CU	CU
Jails & Detention Facilities		N	N	N	N	N	N	N	N	N	N
Parks, Open Areas and Cemeteries	13	CU	CU	CU	CU	CU	CU	CU	CU	CU	CU

HB 2583 & HB 4027 – ADC Amendments
*Omitted sections are indicated by asterisks: ****

Use Categories (See Article 22 for use category descriptions.)	Spec. Cond.	MUC	WF	HD	DMU	CB	LE	PB	MS	ES	MUR
Religious Institutions	12	CU	CU	CU	CU	S	S	CU	CU	CU	CU
RESIDENTIAL USE CATEGORIES											
Residential Care or Treatment Facility	14	S	CU	S	S	S	S	N	S	S	S
Assisted Living Facility		CU	CU	CU	CU	CU	CU	CU	CU	CU	CU
Single-family Dwelling Unit Detached	15	Y-17	N	N/Y-16	N/Y-16	N/Y-16	N/Y-16	N	N	N/Y-16	Y
Duplex	15	Y-17	S-16	N	S-16	S-16	Y	N	N	CU	Y
Townhouse	15	Y-17	S-16	N	S-16	S-16	N	N	N	CU	Y
Triplex or Fourplex		Y-17	S-17	N	S-17	S-17	S	N	CU	CU	Y
Cottage Cluster		Y-17	N	N	S	N	N	N	N	N	Y
Multi-Family Multiple Dwelling Unit		S-17	S-17	N	S-17	S-17	S	N	CU	CU	S
Units Above or Attached to a Business		S-17	S	S-17	S	S	S	S	S	S	S
Home Business (See 3.090-3.180 to determine if CU.)		Y/CU	Y/CU	Y/CU	Y/CU	Y/CU	Y/CU	Y/CU	Y/CU	Y/CU	Y/CU
Residential Accessory Buildings	18	Y/S	Y/S	Y/S	Y/S	Y/S	CUII	N	Y/CUII	Y/CUII	Y/S
OTHER USE CATEGORIES											
Agriculture (on Vacant Land)	19	N	N	N	N	N	N	N	N	N	N
Satellite Dish, Other Antennas, & Communication Facility <50 ft.	20	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y
Communication Facility >= 50 ft.	21	CU	N	N	N	CU	CU	CU	N	CU	N
Kennels	22	N	N	N	N	N	N	N	N	N	N
Non-Res'l Accessory Buildings, larger than 750 sq. ft.		S	S	S	S	S	S	S	S	S	S
Passenger Terminals		CU	N	CU	CU	CU	CU	S	CU	N	N
Rail And Utility Corridors		CU	CU	N	N	CU	CU	CU	CU	CU	N

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

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

SPECIAL CONDITIONS

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

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

HB 2583 & HB 4027 – ADC Amendments
*Omitted sections are indicated by asterisks: ****

- (2) Manufacturing and Production. The environmental performance standards of Article 9 may further limit the placement of certain uses in some districts. Developments on sites located within 300 feet of residentially zoned land may require a Conditional Use approval. [Ord. 5894, 10/14/17]
- (1) Manufacturing and Production in the CB and HD zones.
- (b) Limited uses in the CB zone. The following manufacturing and production uses are prohibited in the CB zone: slaughterhouses, meat packing, and concrete and asphalt production.
- (c) Limited uses in the HD zone. Expansion of existing Small-Scale Manufacturing uses into more than 10,000 square feet of floor area is allowed with a Conditional Use approval, subject to the following limitations. All other manufacturing and production uses are prohibited.
- i. Retail must be included as an accessory use.
 - ii. The Small-Scale Manufacturing Use must have occupied the space for at least 12 months prior to applying to expand.
 - iii. The use shall occupy no more than 30,000 square feet of floor area on the first story.
- (4) Adult Entertainment.
- (d) An adult entertainment use or store may not be established or expanded within 300 feet of the district boundary line of any residential zoning district.
 - (e) An adult entertainment use may not be established or expanded within 300 feet of any other adult entertainment use.
 - (f) An adult entertainment use may not be established or expanded within 300 feet of the property line of a church, school, or public park.
 - (g) Exceptions to the above may be considered by the Major Variance procedures. [Ord. 5947, 1/01/21]
- (5) Indoor Entertainment and Recreation in the WF, PB, MS, ES and MUC zones.
- (h) Limited Uses in PB and MUC. The following indoor entertainment and recreation uses are prohibited in PB and MUC: movie theaters, indoor firing ranges, paint gun, coliseums, stadiums and similar facilities. [Ord. 5894, 10/14/17]
 - (i) Limited Uses in MS and ES. Only the following indoor entertainment and recreation uses are allowed in MS and ES: athletic or exercise facilities, bowling alleys, skating rinks, pool halls, games, amusements, arcades and uses with similar impacts. All other indoor entertainment and recreation uses are prohibited.
 - (j) Limited Uses in WF. The following indoor entertainment and recreation uses are prohibited in WF, except as specified for Special Status sites pursuant to ADC Section 5.085: indoor firing ranges, coliseums, stadiums and similar facilities. [Ord. 5894, 10/14/17]
- (6) Outdoor Entertainment and Recreation in the CB zone.
- (k) Conditional Uses in CB and WF. The following Outdoor Entertainment and Recreation uses are allowed with a Conditional Use approval: tennis courts, miniature golf, skateboard parks and similar uses. All other uses in the Outdoor Entertainment and Recreation use category are prohibited. [Ord. 5894, 10/14/17]
- (7) Parking in the ES zone. [Ord. 5894, 10/14/17]
- (l) Limited Uses. Parking that is required for a primary use on the same or adjacent property is allowed. Fee parking for people not connected to the primary use is limited to parking structures. [Ord. 5635, 1/11/06]

HB 2583 & HB 4027 – ADC Amendments
*Omitted sections are indicated by asterisks: ****

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

- (8) Retail Sales and Service in the MS, ES, HD, WF, DMU, MUC and MUR zones. [Ord. 5894, 10/14/17]
- (m) Limited Uses in MS, ES, and MUR. The following retail uses are permitted: convenience and personal service-oriented commercial intended to serve nearby residents and employees; specialty retail stores and studios; small appliance rental and repair, shoe repair, and tailoring. All other retail uses are prohibited. See Article 22 for descriptions of convenience-oriented and personal service-oriented commercial uses.
- (n) Limited Uses in MUC. The following retail uses are prohibited: sale, leasing, and rental of vehicles and trucks; hotels and motels. [Ord. 5556, 2/21/03; Ord. 5894, 10/14/17]
- (o) Limited Uses in HD, WF, and DMU zones. The following retail uses are prohibited, except as specified for Special Status sites pursuant to ADC Section 5.085: sale, leasing, and rental of vehicles and trucks. [Ord. 5894, 10/14/17]
- (9) Self-Serve Storage. These facilities are subject to the following standards:
- (p) The minimum driveway width between buildings is 20 feet for one-way drives and 24 feet for two-way drives.
- (q) The maximum storage unit size is 1,000 square feet.
- (r) All outdoor lighting shall be shielded to prevent glare and reflection on adjacent properties.
- (s) Repair of autos, boats, motors and furniture and storage of flammable materials are prohibited on the premises, and rental contracts shall so specify.
- (10) Basic Utilities. In all mixed-use village center zones, new regional/community utilities including treatment plants, major power generation and storage facilities, major overhead power lines requiring tower support structures, and utilities with potential visual or off-site impacts are prohibited. All other Basic Utilities are considered through the Conditional Use review.
- (11) Community Service Uses. Community Service uses that may have significant off-site impacts, such as public swimming pools, public safety facilities, and homeless shelters may be considered through the Conditional Use process.
- (12) Conditional Use Approval for Religious and Educational Institutions includes the following secondary uses: educational activities; sports and other recreational activities; religious activities; political activities; meals programs; before- and after-school child care activities; fundraising activities; and cultural programs. Such uses will not be required to go through the land use process if all of the activities that constitute the use (excluding parking and travel to and from the site) take place on the site and no external noise is audible or light visible between 10:30 p.m. and 8:00 a.m.
- Expansion of an educational or religious institution shall be reviewed through the Conditional Use Type II procedure. An expansion includes the addition of building area, increase in parking lot coverage, or expansion of athletic facilities.
- An educational institution having a capacity greater than 25 students shall have a driveway designed for the continuous forward flow of passenger vehicles for the purpose of loading and unloading children. [Ord. 5673, 6/27/07; Ord. 5947, 1/01/21]
- (13) Public park development activity subject to Conditional Use review includes major development; expansions of activities and development within parks which currently generate substantial traffic; or construction of major structures such as swimming pools, lighted ball fields, and community centers. Conditional use review is not

HB 2583 & HB 4027 – ADC Amendments
*Omitted sections are indicated by asterisks: ****

required, however, for construction of play equipment, tennis courts, bike paths, picnic shelters, restrooms, landscaping, and similar activities within existing improved parks.

[Ord. 5947, 1/01/21]

- (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 dwelling unit residences.

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

- (15) Existing Single-Family Dwelling Unit Detached, Townhouse, and Duplex. Single-family dwelling unit detached, townhouse, and duplex units built before December 11, 2002, may remain as a permitted use in any zone without being nonconforming. See Section 5.080.

Accessory Dwelling Units. Where detached single-family dwelling unit residences are permitted, one accessory dwelling unit (ADU) may be allowed on each lot that has a single legally established detached single-family dwelling unit residence, called the “primary residence”.

Accessory dwelling units shall be incidental in size to the primary residence and meet the following standards:

- (a) The size of an ADU may not exceed 50 percent of the gross floor area of the primary residence (excluding garages or carports) or 900 square feet, whichever is less.
 - (b) The lot was legally established.
 - (c) The front door of an ADU 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 ADU front door is set back at least five feet from the front facade of the primary residence.
 - (d) Exterior additions must substantially match the existing materials, colors, and finish of the primary structure.
 - (e) All required building permits must be obtained. If the primary residence is on the Local Historic Inventory, historic review may be required.
 - (f) The front setback shall be greater than or equal to the location of the front wall of the primary residence.
- (16) Single-Family Dwelling Unit Detached, Townhouse, and Duplex Units.
- (a) In CB, ES, HD, DMU, and LE: Buildings originally built as a single-family dwelling unit detached house or church may be converted to a single-family dwelling unit residential use without requiring a land use application. In HD all other single-family dwelling units and two-dwelling units are prohibited.
 - (b) In CB, WF, and DMU: Townhouse units and duplex units with driveways that meet the standards in ADC 8.150(1) are permitted subject to Site Plan Review. An Adjustment may be requested for units with driveways that do not meet the standards in ADC 8.150 (1).

- (17) Residential Development in CB, WF, DMU, HD, and MUC.

[Ord. 5894, 10/14/17; Ord. 5947, 1/01/21]

- (a) In MUC, residential development shall develop at a minimum gross density of 10 units an acre. Residences above a business or office are exempt from meeting the minimum density.
- (b) In HD, dwelling units above or attached to a business are limited as follows. For the purposes of this section, the non-residential portion of a live/work dwelling unit is regulated as part of the dwelling unit and subject to all of the standards below.
 - i. Units above a business: Dwelling units on the second story or above are permitted.
 - ii. Units behind a business: Dwelling units on the first story that are separated from the front lot line

HB 2583 & HB 4027 – ADC Amendments
*Omitted sections are indicated by asterisks: ****

by a non-residential use are permitted. The non-residential use may be located within the same building or in another building.

- iii. Units attached to a business on a multiple frontage lot: On a lot with three or more street frontages, dwelling units are permitted on the first story facing a street line that is considered an interior lot line pursuant to the definition of front lot line in Article 22; however, in no case shall first-story dwelling units face onto First or Second Avenue. Street-facing first-story dwelling units shall meet all applicable setbacks and design standards in Articles 5 and 8 as if the street line that the units are facing were a front lot line.
- iv. All other units above or attached to a business are prohibited.
- (c) In CB, WF, and DMU, triplexes, fourplexes, and multiple dwelling units with individual driveways that meet the standards of 8.150(1) are permitted subject to Site Plan Review. An Adjustment may be requested for units with driveways that do not meet the standards in ADC 8.150 (1).
 [Ord. 5947, 1/01/21; Ord. 5968, 1/14/22]
- (18) Residential Accessory Buildings. Accessory buildings are permitted outright in MUC, MUR, WF, HD, DMU, CB, ES, LE, and MS if they meet the following conditions: [Ord. 5894, 10/14/17]
 - (a) Detached accessory buildings, garages, and carports are less than 750 square feet and have walls equal to or less than 11 feet tall. [Ord. 5767, 12/7/11]
 - (b) All other residential accessory buildings, garages or carports require a Site Plan Review in MUC, MUR, HD, DMU, CB, and WF, and are considered through a Conditional Use Type II review in ES, LE, and MS. [This is indicated by the use of a “/” in the matrix. For example, “Y/S” means accessory uses that don’t meet the standards in (a) above require a Site Plan Review.]
 [Ord. 5556, 2/21/03; Ord. 5767, 12/7/11; Ord. 5894, 10/14/17]
 - (c) Accessory buildings on the National Register of Historic Districts require historic review. See Article 7 for the review process and criteria.

Accessory dwelling units: See Special Condition 15.

- (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 Facility Placement Standards. The placement of antennas, satellite dishes and monopoles less than 50 feet in height when measured from the ground or within 15 feet of a rooftop is permitted outright in all districts subject to the following standards and those found in Section 8.500:
 - (a) No antennas, antenna supports, satellite dishes or monopoles shall be located within any front yard setback area or within any required landscape buffer yard.
 - (b) Dish antennas larger than three feet in diameter, and located within 10 feet of a residential lot line or visible from a public street, shall be screened with a six-foot solid screen fence, wall, hedge, or other landscaping.
 - (c) Antennas used to display sign messages shall conform to all district sign regulations in addition to the above.
 - (d) Antennas, satellite dishes, monopoles, and other communication structures less than 50 feet in height, when measured from the ground or over 15 feet above a rooftop, and not in conformance with the above, may be considered through a Conditional Use review, Type II process. [
- (21) Communication towers and poles at least 50 feet in height when measured from the ground or over 15 feet above

HB 2583 & HB 4027 – ADC Amendments
*Omitted sections are indicated by asterisks: ****

a rooftop, may be considered through a Conditional Use review, Type II process No communication structure is allowed in any front setback. Article 8 for telecommunication facility design standards also apply.

[

- (22) Kennels. Kennels do not include indoor veterinary hospital kennels.
- (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.
- (24) Additional uses for Special Status List sites in the WF zone. Limited additional uses may be considered through the Conditional Use process for Special Status List sites, pursuant to ADC Section 5.085.
- (25) Developments on sites located within 300 feet of residentially zoned land require a Type II Conditional Use approval.

SPECIAL STATUS

5.080 Existing Single-Family Dwelling Unit, Townhouse, and Duplex Uses Granted Special Status.

Single-Family Dwelling Unit Detached, Townhouse, and Duplex Dwellings. Notwithstanding the restrictions or terms of any other section of the Albany Development Code (ADC), all single-family dwelling unit detached, townhouse, and duplex dwellings legally established before January 1, 2002, shall be deemed to be conforming to the base zoning district. If any building on these properties is damaged or destroyed by fire or other causes beyond the control of the owner, it may be rebuilt to the same density, size (square feet) and setbacks as existed on the property at the time it was destroyed, but will be subject to the regulations of any applicable overlay zone. If any single-family dwelling unit detached, townhouse, or duplex dwelling is converted to non-residential use, the special status granted here is rescinded, and the use of the property shall thereafter conform to the requirements of Article 5. The special status granted herein shall be lost if it is determined that the residence was not legally established prior to January 1, 2002.

DEVELOPMENT STANDARDS

**TABLE 5.090-1
 MIXED-USE VILLAGE CENTER DEVELOPMENT STANDARDS**

STANDARD	MUC	WF	HD	DMU	CB	LE	PB	MS	ES	MUR
Minimum Lot Size or Area Requirement (sq.ft.) (3)(21)(24)										
Single-family <u>Dwelling Unit</u> detached (20)(21)	None	None	None	None	None	N/A	N/A	N/A	5,000	None
Townhouse, Per lot (21)	None	1,600	N/A	None	None	N/A	N/A	None	None	None
Duplex (21)	None	3,600	N/A	None	None	N/A	N/A	N/A	7,000	None
Cottage Cluster (21)	None	N/A	N/A	7,000	N/A	N/A	N/A	N/A	N/A	7,000
3 or more 1-bedroom (21)	None	1,600/u	N/A	None	None	None	1,600/u	1,600/u	3,300/u	1,600/u
3 or more 2+bedroom (21)	None	1,800/u	N/A	None	None	None	1,600/u	1,800/u	3,300/u	1,800/u (22)
All other uses	6,000	5,000	1,000	1,000	1,000	2,000	15,000	6,000	5,000	10,000
Maximum Building Size (sq. ft.)(16)										

HB 2583 & HB 4027 – ADC Amendments
 Omitted sections are indicated by asterisks: ***

STANDARD	MUC	WF	HD	DMU	CB	LE	PB	MS	ES	MUR
Non-grocery (16)	20,000	None	None	None	None	None	None	None	None	None
Grocery-anchored	80,000 (13)	None	None	None	None	None	None	None	None	None
Maximum Business Footprint (sq. ft.)(16)(17)										
Non-grocery (16)	20,000	None	None	None	None	None	25,000	10,000	10,000	10,000
Grocery-anchored	80,000 (13)	None	None	None	None	None	60,000	60,000	60,000	60,000
Lot Width, minimum	None	None	20'	None	None	20'	None	None	None	None
Lot Depth, minimum	None	None	50'	None	None	50'	None	None	None	None
Landscaped Area (24)	100% (2)	None	None	None	None	100% (2)	100% (2)	100% (2)	100% (2)	100% (2)
Minimum Open Space	(12)	(12)	(12)	(12)	(12)	(12)	(12)	(12)	(12)	(12)
Maximum Front Setbacks: (10)(24)	10' (15)	5'/15' (18)	0'	5'/15' (18)	5'/15' (18)	None	20'	10'	10'	20'
Minimum Setbacks: (24)										
Front (5) (14)	5'	0'	0'	0'	0'	0'	5'	5'	5'	15'
Interior (5) (14)	0' (11)(4)	0' (1)(4)	0' (4)	0' (1) (4)	0' (1) (4)	0' (4)	0' (4)	0' (1)(4)	5'	10'(11)
Garage Entrance (9)	20' (8)	5' or 20' (8)(7)	None	5' or 20' (8) (7)	5' or 20' (8) (7)	20'	20'	20'(8)	20'	20'
Height, maximum (23)	50'	55'	85' (19)	85' (19)	65'	60'	50'	50'	50'	45'
Lot Coverage, maximum (6)(24)	80%	100%	100%	100%	100%	100%	80%	90%	80%	70%

“N/A” means not applicable. “None” means there is no requirement under Article 5 (other standards may apply). “0” means that the minimum or maximum is zero. [Ord. 5894, 10/14/17]

- (1) ~~Single-family dwelling unit~~ detached homes, townhouses, and duplexes, where permitted, must have a 3-foot interior setback for single-story buildings, and a five-foot interior setback for two-story buildings. See Sections 5.150 and 5.160 for zero lot line options and townhouses. [Ord. 5742, 7/14/10; Ord. 5894, 10/14/17; Ord. 5966, 11/12/21; Ord. 5968, 1/14/22]
- (2) All yards adjacent to streets. Approved vegetated post-construction stormwater quality facilities are allowed in landscaped areas. [Ord. 5842, 1/01/15]
- (3) Lots with alley access may be up to 10 percent smaller than the minimum lot size for the zone. [Ord. 5338, 1/28/98; Ord. 5445, 4/12/00]
- (4) See ADC Section 5.115 for special interior setback standards abutting residential zones and uses. [Ord. 5894, 10/14/17]
- (5) Minimum front and interior setbacks are not required for buildings abutting railroad rights-of-way; Setbacks for cottage clusters are in Section 5.092. [Ord. 5968, 1/14/22]
- (6) Achievement of maximum lot coverage is subject to meeting all other standards of the ADC, including, but not limited to, landscaping, buffering and setback requirements. Lot coverage for ~~single-family dwelling unit~~ detached and middle housing development shall only include the area of the lot covered by buildings or structures. Lot coverage for townhouses is calculated based on the overall townhouse project, which includes the townhouse structure(s) together with the development site, including any commonly owned property; Cottage clusters are exempt from maximum lot coverage standards. [Ord. 5768, 12/7/11, Ord. 5894, 10/14/17; Ord. 5968, 1/14/22]
- (7) To prevent parked vehicles from intruding in the right-of-way, garage entrances shall be set back five feet or at least 20 feet. A setback of more than 5 feet and less than 20 feet is not permitted. Garage entrances may not be located closer to the front lot line than the front façade of the building. [Ord. 5894, 10/14/17]
- (8) Garage setback for non-vehicle entrance must conform to the requirements for interior setbacks.

HB 2583 & HB 4027 – ADC Amendments
*Omitted sections are indicated by asterisks: ****

- (9) For garages with alley access, see Table 5.100-1. [Ord. 5894, 10/14/17; Ord. 5947, 1/01/21]
- (10) The maximum setback may be increased with the condition that 100 percent of the increased setback is used for pedestrian amenities associated with the building use, such as patio dining for a restaurant, sidewalk café, plaza, or courtyard; or to accommodate changes in elevation due to road and site grading or natural slopes. See ADC Section 5.120 for additional exceptions and calculation methodology for the HD, CB, DMU, and WF zoning districts. [Ord. 5894, 10/14/17]
- (11) In MUC and MUR, ~~single-family~~ **dwelling unit** detached homes and middle housing must have a 3-foot interior setback for single-story buildings, and a five-foot interior setback for two-story buildings. See Section 5.150 and 5.160 for zero lot line options and attached dwellings units. [Ord. 5968, 1/14/22]
- (12) Ten or more residential dwelling units require common open space. See Section 8.220. [Ord. 5894, 10/14/17; Ord. 5968, 1/14/22]
- (13) The building and business footprint maximum is 80,000 square feet if a grocery store occupies at least fifty percent (50 percent) of the total square footage. This footprint may include one or more businesses or attached buildings. For purposes of this section, a grocery store is defined as a business that sells primarily food and household supplies. Ancillary grocery uses include uses such as pharmacy, bakery, and florist.
- (14) Properties adjacent to the Willamette River see also the Willamette Greenway standards in Sections 5.200 - 5.207 and Sections 6.500-6.560.
- (15) Except for residential development, which has a maximum setback of 25 feet. See Sections 8.200 – 8.305 for ~~multi-family~~ **multiple dwelling unit** residential design standards. [Ord. 5947, 1/01/21]
- (16) The maximum building size and business footprint size may be exceeded for non-commercial and non-office uses when the building is multi-story.
- (17) In shopping centers with multiple tenants, “business” refers to each individually leasable space. “Footprint” refers to the amount of area covered by the first floor. Businesses may build on additional floors.
- (18) The maximum setback for non-residential and mixed-use development is five feet. The maximum setback for residential development is 15 feet. See ADC Section 5.120 for exceptions and calculation methodology. [Ord. 5894, 10/14/17]
- (19) In order to maintain compatibility with existing historic structures and the character of designated historic districts, maximum building heights in the HD and DMU zones are limited within designated historic districts. Within the Downtown Commercial National Register Historic District (see Article 7, Figure 7.010-1), the maximum building height in the HD and DMU zones is 65 feet. Within the Hackleman and Monteith National Register Historic Districts (see Article 7, Figure 7.010-1), the maximum building height in the HD and DMU zones is 45 feet. [Ord. 5894, 10/14/17]
- (20) Where new ~~single-family~~ **dwelling unit** detached housing is not permitted in a given Mixed Use zone, minimum lot size for ~~single-family~~ **dwelling unit** refers to legally established existing ~~single-family~~ **dwelling unit** uses with special status. [Ord. 5894, 10/14/17]
- (21) Section 3.220 bonus provisions may reduce minimum area requirements for residential developments. [Ord. 5966, 11/12/21]
- (22) In MUR, in no case shall the minimum lot size required for a triplex exceed 5,000 square feet, or for a fourplex exceed 7,000 square feet. [Ord. 5968, 1/14/22]
- (23) Maximum height for cottage clusters is in Section 5.092. [Ord. 5968, 1/14/22]
- (24) In MUC and MUR, if a duplex, triplex, fourplex, or cottage cluster has been divided by a middle housing land division, the development standards that are applicable to the lot shall apply to the middle housing parent lot, not to the middle housing child lots.

SETBACKS

5.220 Parking Restrictions in Setback Areas. Parking and loading spaces shall not be located in a required front or interior setback, except:

- (1) Paved driveways used to fulfill parking requirements for ~~single-family~~ **dwelling unit** detached residences, duplexes, triplexes, fourplexes, cottage clusters, and townhouses. Each space must be a paved area at least 10 feet wide and 20 feet long.

HB 2583 & HB 4027 – ADC Amendments
*Omitted sections are indicated by asterisks: ****

DRAFT

HB 2583 & HB 4027 – ADC Amendments

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

ARTICLE 6 NATURAL RESOURCE DISTRICTS

Commentary:

Amendments to replace the term “family”, as it pertains to housing residential dwelling type, with “dwelling unit”, as required to comply with HB 2583.

Amendments to correct scrivener’s errors.

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

The Open Space zoning district is a base zone that specifies allowed land uses adjacent to some water resources in Albany.

The Natural Resource overlay districts address development activities within specific natural resource areas and are applied over a base zone. The overlay district requirements are in addition to the requirements of the base zone and other City of Albany ordinances.

The following zoning and overlay districts are included in this article:

- Open Space Zoning District (OS)
- Floodplain Overlay District (/FP)
- Hillside Development Overlay District (/HD)
- Significant Natural Resource Overlay Districts
 - Riparian Corridor Overlay (/RC)
 - Significant Wetland Overlay (/SW)
 - Habitat Assessment Overlay (/HA)
- Willamette River Greenway Overlay District (/WG)

OPEN SPACE ZONING DISTRICT (OS)

6.020 Purpose and Intent. The Open Space zoning district is intended for the continuation and preservation of existing agricultural uses, park and recreation areas, wildlife habitats, wetlands, natural areas, flood conveyance, and uses that do not involve the construction of structures other than minor accessory facilities required to conduct the principal use. [Ord. 5764, 12/1/11]

6.030 Uses Permitted. The following uses are permitted outright in Open Space zoning districts if they meet the requirements of any applicable Natural Resource Overlay districts:

- (1) One single ~~family~~ dwelling unit on a lot legally created before July 1, 1991, or on a lot that meets the requirements of 6.310(B)(1) and other standards in Article 6.
- (2) Paths and bridges for pedestrians and bicycles.
- (3) Parks and recreational facilities identified in the City's Parks, Recreation & Open Space master plan.
- (4) New agricultural uses, where trees and native vegetation are not removed and where no buildings are constructed.
- (5) Water-dependent and water-related uses.

HB 2583 & HB 4027 – ADC Amendments

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

- (6) Removal of native vegetation in conjunction with an approved use.
- (7) Vegetated post-construction stormwater quality facilities planted with native plants, with design approval from the City Engineer.

DRAFT

HB 2583 & HB 4027 – ADC Amendments
*Omitted sections are indicated by asterisks: ****

ARTICLE 7 HISTORIC OVERLAY DISTRICT

Commentary:

The removal of additions to the Historic Review of New Construction

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

The following list is a summary of the major headings in this article.

- Designation, Re-Rating or Removal of Historic Landmarks and Districts
- Historic Review of Exterior Alterations
- Historic Review of Substitute Materials
- Historic Review of New Construction
- Historic Review of Demolitions or Relocations

HISTORIC REVIEW OF NEW CONSTRUCTION

7.230 Purpose. The purpose of reviewing the exterior design of new construction within an historic district is to ensure that new structures over 100 square feet are compatible with the character of that district.

7.240 Procedure. The Community Development Director will review and decide on applications for new construction. At the Director's discretion, an application may be referred to the Landmarks Commission for a decision.

New construction to buildings participating in Oregon's Special Assessment of Historic Property Program will also require review and approval by the State Historic Preservation Office.

For all requests, the applicant and adjoining property owners within 100 feet will receive notification during the 14-day comment period before the City decision.

HB 2583 & HB 4027 – ADC Amendments

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

ARTICLE 8 DESIGN STANDARDS

Commentary:

Amendments to replace the term “family”, as it pertains to housing residential dwelling type, with “dwelling unit”, as required to comply with HB 2583.

Amendments to correct scrivener’s errors.

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

An applicant for a development that does not meet the design standards in Article 8 may apply for one or more Adjustments pursuant to ADC 2.060-2.080 except that Adjustments are not permitted to the standards in Section 8.500 (Telecommunication Facilities) and Section 8.600 through 8.620 (Supplemental Design Standards for the Oak Creek Transition Area).

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

- Single-Family **Dwelling Unit** Homes and Middle Housing
- Multiple Family **Dwelling Unit** Development
- Commercial and Institutional Site Design
- Supplemental Standards in Village Centers
- Telecommunications Facilities
- Supplemental Design Standards for the Oak Creek Transition Area

SINGLE-FAMILY **DWELLING UNIT** HOMES AND MIDDLE HOUSING

8.110 Applicability.

- (1) The standards of ADC Sections 8.110 through 8.170 apply to all new single-family **dwelling** detached units, manufactured homes, duplexes, two detached primary units, townhouses, triplexes, and fourplexes in all zones that allow these housing types, except as otherwise noted.
- (2) In addition, except as otherwise noted, the standards of ADC Sections 8.110 through 8.160 apply to multiple-family **dwelling units** with individual driveways permitted pursuant to ADC 12.100(2) that are located in the WF, CB, or DMU zone, or in the HD zone in a building where ground-floor residential use is permitted pursuant to ADC 5.070(17).
- (3) These standards do not apply to detached accessory dwelling units, existing structures, new additions to existing structures, or to homes in manufactured home parks.
- (4) Development on flag lots or on lots that slope up or down from the street with an average slope of 20 percent or more is exempt from these standards in Section 8.130 through 8.160.

HB 2583 & HB 4027 – ADC Amendments

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

- (5) New cottage cluster development shall meet the standards in Sections 8.175 in all zoning districts where permitted.
- (6) If a duplex, triplex, fourplex, or cottage cluster has been divided by a middle housing land division, the design standards in ADC 8.130 through 8.175 that are applicable to the lot or applicable on a per-lot basis shall apply to the middle housing parent lot, not to the middle housing child lots.



Figure 8.133-1. Single-Family Dwelling Unit and Middle Housing Window Coverage

8.175 Cottage Cluster Design Standards. Cottage clusters are clusters of small, detached dwelling units (cottages) that are oriented around a common courtyard. Cottage clusters typically share amenities such as open space and parking. The purpose of this section is to provide standards that promote quality development; create a sense of openness and community; and enhance the livability, walkability, and safety of the community.

- (1) Number of Dwellings. The purpose of these standards is to place appropriate limits on the scale of cottage clusters, and to limit the number of cottages that can be developed on an individual lot.
 - (a) A single cottage cluster shall contain a minimum of three (3) and a maximum of eight (8) cottages.
 - (b) A lot shall contain no more than one cottage cluster.
- (2) Floor Area. The purpose of these standards is to ensure that cottages are limited in size while providing flexibility for a range of unit sizes within a cottage cluster. Limiting unit size promotes lower-cost housing choices and promotes accessibility for residents of various ages and abilities.
 - (a) “Floor area” is defined in ADC Section 22.400; however, for the purpose of this section, “floor area” includes stairwells, ramps, shafts, chases, and the area devoted to garages. Floor area does not include porches, exterior balconies, or other similar areas, unless they are enclosed. Floor area is measured for each floor from the exterior faces of a building or structure.
 - (b) Floor Area. The maximum permitted floor area of each cottage is 1,400 square feet.
 - (c) Average Floor Area. The maximum average floor area permitted for a cottage cluster is 1,000 square feet

HB 2583 & HB 4027 – ADC Amendments

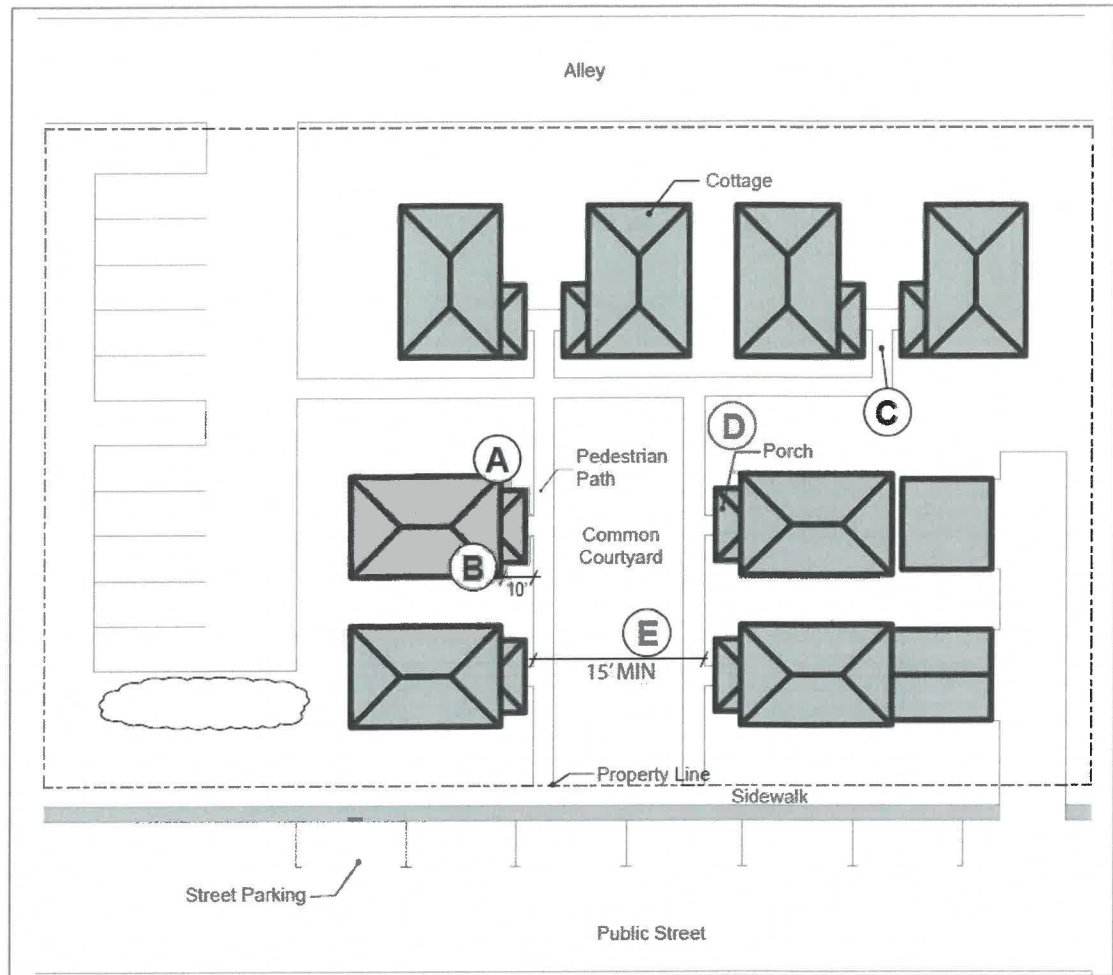
Draft code amendments are written as follows: additions in *red underlined* and deletions in ~~strike-out~~.
Sections not amended are omitted unless needed for context. Omitted sections are indicated by asterisks: ***

per cottage. Community buildings shall be included in the average floor area calculation for a cottage cluster.

- (3) Cottage Orientation. The purpose of these standards is to provide a sense of community within a cottage cluster, and to ensure that each dwelling has access to a common courtyard. Cottages must be clustered around a common courtyard and must meet the following standards (see Figure 8.175-1):
- (a) Each cottage within a cluster must either abut the common courtyard or must be directly connected to it by a pedestrian path.
 - (b) A minimum of 50 percent of cottages within a cluster must be oriented to the common courtyard and must:
 - i. Have a main entrance facing the common courtyard;
 - ii. Be within 10 feet from the common courtyard, measured from the façade of the cottage to the nearest edge of the common courtyard; and
 - iii. Be connected to the common courtyard by a pedestrian path.
 - (c) Cottages within 20 feet of a street property line may have their entrances facing the street.
 - (d) Cottages not facing the common courtyard or the street must have their main entrances facing a pedestrian path that is directly connected to the common courtyard.
- (4) Common Courtyard Design Standards. The purpose of these standards is to ensure that common courtyards provide usable shared spaces that are adequately sized, located, and functional, and that are an integral part of the overall cottage cluster design. Each cottage cluster must share a common courtyard. Common courtyards must meet the following standards (see Figure 8.175-1):
- (a) The common courtyard must be a single, contiguous piece.
 - (b) Cottages must abut the common courtyard on at least two sides of the courtyard.
 - (c) The common courtyard must contain a minimum of 150 square feet per cottage within the cluster.
 - (d) The common courtyard must be a minimum of 15 feet wide at its narrowest dimension.
 - (e) The common courtyard shall be developed with a mix of landscaping, lawn area, pedestrian paths, and/or paved courtyard area, and may also include recreational amenities. Impervious elements of the common courtyard shall not exceed 75 percent of the total common courtyard area.
 - (f) Pedestrian paths must be included in a common courtyard. Paths that are contiguous to a courtyard shall count toward the courtyard's minimum dimension and area. Parking areas, required setbacks, and driveways do not qualify as part of a common courtyard.

HB 2583 & HB 4027 – ADC Amendments

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



- (A)** A minimum of 50% of cottages must be oriented to the common courtyard.
- (B)** Cottages oriented to the common courtyard must be within 10 feet of the courtyard.
- (C)** Cottages must be connected to the common courtyard by a pedestrian path.
- (D)** Cottages must abut the courtyard on at least two sides of the courtyard.
- (E)** The common courtyard must be at least 15 feet wide at it narrowest width.

(a) **FIGURE 8.175-1. Cottage Cluster Orientation and Common Courtyard Standards**

- (5) Community Buildings. The purpose of these standards is to allow development of community buildings for the shared use of residents that provide space for accessory uses such as community meeting rooms, guest housing, exercise rooms, daycare, or community eating areas. The purpose is also to ensure that community buildings are compatible in scale with dwellings in a cottage cluster. Community buildings must meet the following standards:
- (a) Each cottage cluster is permitted one community building.
 - (b) The community building shall have a maximum floor area of 1,400 square feet. In addition, the community building shall count towards the maximum average floor area of the cottage

HB 2583 & HB 4027 – ADC Amendments

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

- cluster, pursuant to subsection 8.175(2)(c).
- (c) Community buildings shall not be used for long-term residential occupancy. For the purposes of this standard, long-term residential occupancy shall mean the continued use by the same occupant for longer than 14 days in any 60-day timeframe or for more than 30 days in a calendar year.
- (6) Pedestrian Access. The purpose of these standards is to ensure that pedestrian circulation systems are designed to provide safe and convenient connections within a cottage cluster development and to adjacent public streets/sidewalks.
- (a) An accessible pedestrian path must be provided that connects the main entrance of each cottage to the following:
- i. The common courtyard;
 - ii. Shared parking areas;
 - iii. Community buildings; and
 - iv. Sidewalks in public rights-of-way abutting the site or rights-of-way if there are no sidewalks.
- (b) The pedestrian path must be hard-surfaced and a minimum of four (4) feet wide.
- (7) Windows. Cottages within 20 feet of a street property line must meet the Street-Facing Windows requirements of ADC Section 8.133.
- (8) Parking Design. ~~The purpose of these standards is to support a pedestrian-friendly street environment and to support livability for cottage cluster residents by minimizing the impacts of parking areas and garages (see Figure 8.175-2).~~
- (a) Off-street parking may be provided with individual cottages or arranged in clusters (shared parking lots).
- (b) Clustered parking. If clustered parking is proposed, it must meet the following standards:
- i. A parking cluster must not exceed five (5) contiguous spaces.
 - ii. Parking clusters must be separated from other spaces by at least four (4) feet of landscaping.
 - iii. Clustered parking areas may be covered.
 - iv. Parking areas must also meet the standards in ADC Section 9.120, and parking areas that exceed 1,000 square feet must meet the standards in ADC Sections 9.130 and 9.150, except where they conflict with the standards in this subsection.
- (c) Parking location and access.
- i. Off-street parking spaces and vehicle maneuvering areas shall not be located:
 - Within 20 feet from any street property line, except alley property lines;
 - Between a street property line and the front façade of cottages located closest to the street property line. This standard does not apply to alleys.
 - ii. Off-street parking spaces shall not be located within 10 feet of any other property line, except alley property lines. Driveways and drive aisles are permitted within 10 feet of other property lines.
 - iii. Driveways shall meet the access standards in ADC Section 12.100.
- (d) Screening. Landscaping, fencing, or walls at least three feet tall shall separate clustered parking areas and parking structures from common courtyards and public streets.

Garages and carports.

- v. Garages and carports (whether shared or individual) must not abut common courtyards.
 - vi. Individual detached garages must not exceed 400 square feet in floor area.
 - vii. Garage doors for attached and detached individual garages must not exceed 20 feet in width.
 - viii. Garages shall not be converted into living space.
- (9) Accessory Structures. The purpose of this standard is to ensure that accessory structures are appropriately

HB 2583 & HB 4027 – ADC Amendments

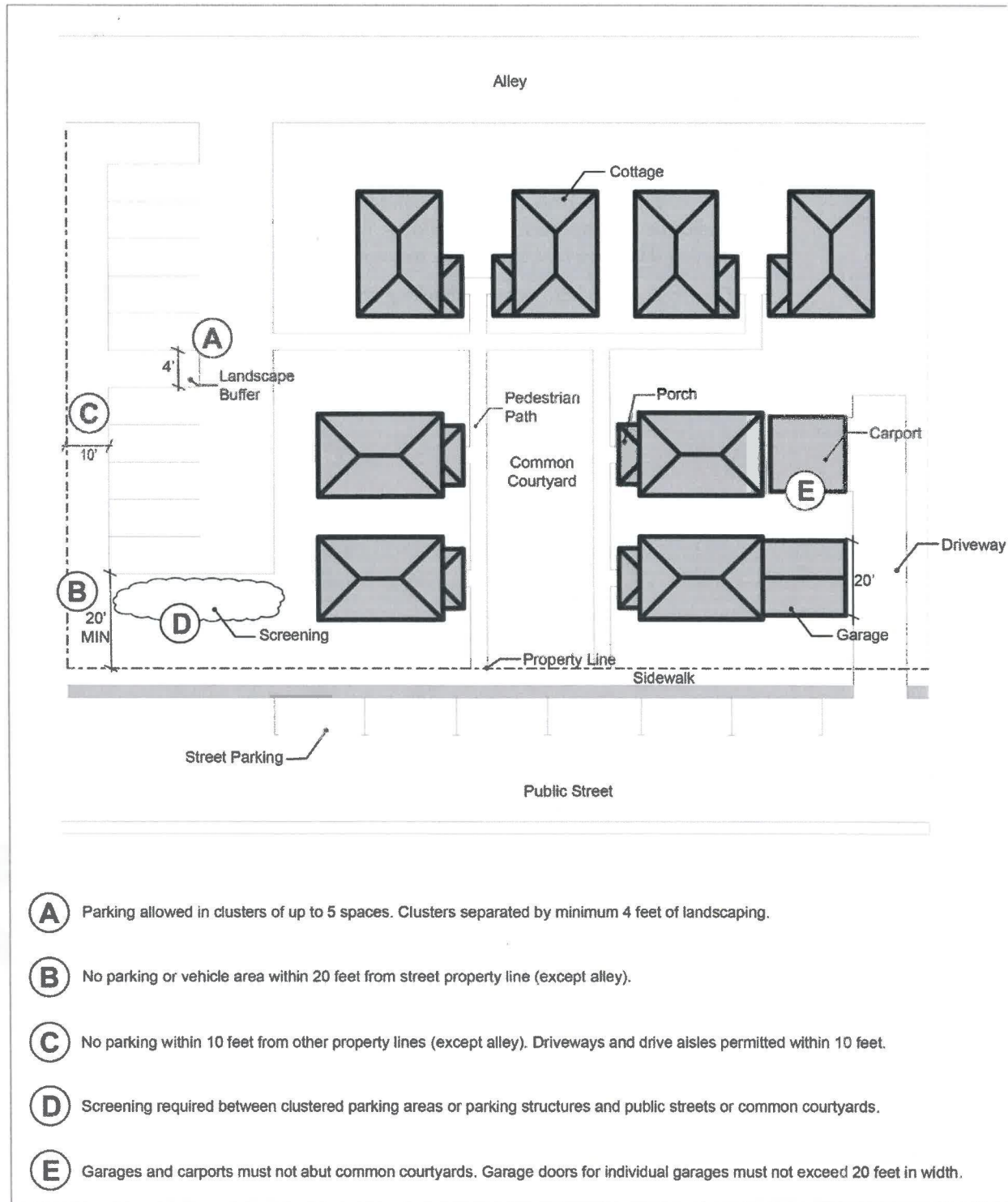
Draft code amendments are written as follows: additions in red underlined and deletions in ~~strike-out~~. Sections not amended are omitted unless needed for context. Omitted sections are indicated by asterisks: ***

sized relative to the scale of cottage cluster dwellings.

- (a) Accessory structures must not exceed 400 square feet in floor area.
- (10) Existing Structures. An existing detached single-family dwelling unit on a lot or parcel to be used for a cottage cluster project may remain within the cottage cluster project area under the following conditions:
- (a) The existing dwelling may be nonconforming with respect to the requirements of this Section 8.175.
 - (b) The existing dwelling may be expanded up to the maximum height (ADC 3.192(4) or 5.092(4), as applicable) or the maximum building footprint (ADC 3.192(5) or 5.092(5) as applicable); however, existing dwellings that exceed the maximum height and/or footprint standards may not be expanded.
 - (c) The floor area of the existing dwelling shall be excluded from the calculation of average floor area for the cottage cluster, per subsection 8.175(2)(c).
 - (d) The existing dwelling shall be excluded from the calculation of orientation toward the common courtyard, per subsection 8.175(3)(b).

HB 2583 & HB 4027 – ADC Amendments

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



MULTIPLE-FAMILY DWELLING UNIT DEVELOPMENT

8.200 Purpose. These sections are intended to set standards for quality designs in new multiple-family dwelling unit developments. Good design results when buildings are visually compatible with one another and adjacent neighborhoods and contribute to a residential neighborhood that is attractive, active, and safe.

HB 2583 & HB 4027 – ADC Amendments

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

8.205 Applicability.

- (1) Except as specified in ADC Section 8.110(2), the standards of ADC Sections 8.220 through 8.300 apply to the development of new Multiple-Family Dwelling Unit residential buildings (accessory buildings are exempt) and to the residential components of new buildings with Units Above or Attached to a Business (see ADC Section 22.310). Non-residential components of mixed-use development are subject to the Commercial and Institutional Site Design Standards of Sections 8.330 through 8.390.
- (2) Except as required to meet building code, fire code, or other regulations, expansions, and modifications to existing buildings and sites must not decrease conformance with these standards.
- (3) Unless otherwise specified, these standards apply in all zoning districts

8.210 Relationship to Historic Overlay Districts. For property inside the Historic Overlay Districts and properties designated as Historic Landmarks, the provisions of Article 7 also apply. For development subject to historic review under Article 7, the review body may grant flexibility in meeting any of the design standards where necessary to achieve historic compatibility.

8.220 Recreation and Open Space Areas. The purpose of these standards is to ensure that new multiple-family dwelling unit developments and mixed-use developments with multiple-family dwelling units provide spaces for outdoor recreation and relaxation that are adequately sized, located, and functional. The standards are also intended to ensure that a development project’s open space is an integral part of the overall development design, not merely leftover space.

The applicability and minimum requirements for common open space, children’s play areas, and private open space are stated in Table 8.220-1.

TABLE 8.220-1. Recreation and Open Space Requirements by Zoning District

Open Space	CB, HD, DMU, LE, WF and MUR Zoning Districts	All Other Zoning Districts
Common Open Space		
• Developments with fewer than 10 units	Not required	Not required
• Developments with 10 or more units as part of a multiple-family <u>dwelling unit</u> development or 10 or more units above or attached to a business	250 square feet (useable floor area) in size subject to ADC 8.220(1)	15% of the total development site area, and subject to the standards in ADC 8.220(2)
Children’s Play Areas		
• Developments with fewer than 10 units that each have 2 or more bedrooms	Not required	Not required
• Developments with 10 or more units that each have 2 or more bedrooms	Not required	Required and subject to the standards in ADC 8.220(2)(a)(ix)
Private Open Space	Not required	Required for at least 80% of units and subject to the standards in ADC 8.220(3)

- (1) Common Open Space in the CB, HD, DMU, WF, LE and MUR Zoning Districts. When required by Table 8.220-1, common open space shall provide a minimum of one indoor or outdoor common area amenity with no dimension less than 15 feet. Common area amenities must include fixed or movable seating.
- (2) Common Open Space in All Other Zoning Districts. When required by Table 8.220-1, in all zoning districts except the CB, HD, DMU, WF, LE, and MUR Zoning Districts, the following standards apply.

HB 2583 & HB 4027 – ADC Amendments

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

- (a) Required common open space areas shall have no horizontal dimension less than 20 feet and shall be entirely improved with one or more of the following amenities:
- i. Inground permanent swimming pools with a minimum area of 400 square feet, or inground spas or hot tubs. Patios and decks within 50 feet of the swimming pool, spa, or hot tub may be included. These amenities may not account for more than 60 percent of the required common open spaces.
 - ii. Regulation sized and equipped sports courts for tennis, handball, volleyball, and/or basketball. These amenities may not account for more than 50 percent of the required common open space.
 - iii. Gardens for use by residents to grow food. Gardens must have irrigation available for use by the residents. This amenity may not account for more than 50 percent of the required common open space.
 - iv. Lawn, ornamental gardens, and landscaped areas including trees and shrubs. Areas may include picnic tables, benches, and drinking fountains. This amenity may not account for more than 70 percent of the required common open space. If this amenity accounts for more than 50 percent of the required common open space, at least one bench or picnic table must be provided. Pathways, decks, or other hard surface areas or covered areas may be included but may not exceed 30 percent of the landscaped area.
 - v. Rooftop terrace accessible to residents. Terrace must include barbeques, tables, and seating that are available for use by residents.
 - vi. Areas within Significant Natural Resource overlay districts, per ADC 6.260, or stands of mature trees greater than or equal to six inches diameter at breast height that form a contiguous tree canopy (including areas within 10 feet of the drip line). These amenities may not account for more than 50 percent of the required common open space. Areas used for cluster development density transfers are not eligible for meeting common open space requirements.
 - vii. Indoor community room. This amenity may not account for more than 50 percent of the required common open space requirements.
 - viii. Approved vegetated post-construction stormwater quality facilities. This amenity may not account for more than 20 percent of the required common open space.
 - ix. Children's Play Areas. Each children's play area must include a play structure at least 100 square feet in area, and at least three (3) of the following: a swing structure with at least two (2) swings, a slide, a permanent sand box, permanent wading pool, or other children's play equipment approved for use in a public playground. Required play equipment may or may not be attached to the primary play structure. Equipment must be manufactured to American Society for Testing and Materials (ASTM) F1487-11 standards or other comparable standards applicable to public playground equipment. Open space within 50 feet of the play structure may be included. Each children's play area must be fenced along any perimeter that is within 10 feet of a street, alley, property line, or parking area.
- (b) Limitations to Common Open Space Areas.
- i. Streets and parking areas, including areas required to satisfy parking lot landscape standards, shall not be applied toward the minimum usable open space requirement.
 - ii. Required setback areas may be applied toward the minimum usable open space requirement, except that sport courts, swimming pools and spas, and children's play areas shall not be allowed in any required setbacks.
 - iii. No more than 20 percent of the common open space requirement shall be on land with slopes greater than 20 percent.
- (c) Common Open Space Area Credit.
- i. A credit, not to exceed 25 percent of the required common open space area, shall be granted if there is direct access by a pedestrian path, not exceeding ¼ mile, from the proposed multiple-family dwelling unit development to an improved public park and recreation area or public school

HB 2583 & HB 4027 – ADC Amendments

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

playground.

- ii. A credit toward the minimum common open space area required by Table 8.220-1 shall be granted to development projects providing high value outdoor recreation amenities. Provision of high value amenities is determined by the dollar amount spent on the amenities as a proportion of the overall project cost (including all construction costs except land cost). The credit is calculated as follows: if one percent (1%) of the overall project development cost is spent on outdoor recreation facilities, the minimum amount of required common open space shall be reduced by 10 percent. Further reductions in the minimum required common open space area shall be proportional to spending. For example, if 1.5 percent of a project's cost is spent on outdoor recreation facilities, the minimum required common open space area shall be reduced by 15 percent. The total reduction shall not exceed 20 percent of the minimum required open space area. It is the responsibility of the applicant to document the overall project cost and the cost of the recreation amenities by providing cost estimates at the time of land use application.

8.240 Setbacks and Building Orientation.

- (1) Purpose. The purpose of the standards in this section is to create and maintain street frontages that are attractive, create an environment that is conducive to walking, and provide natural surveillance of public spaces. The standards are also intended to promote building and site design that contributes positively to a sense of neighborhood and to the overall streetscape by carefully relating building mass, entries, and yards to public streets.
- (2) Applicability. In all zoning districts except HD, CB, DMU, and WF, new multiple-family dwelling unit developments shall meet the maximum setback and building orientation standards of this section. New multiple-family dwelling unit development in the HD, CB, DMU and WF zoning districts is subject to maximum setback standards in ADC Section 5.120 and building orientation standards in ADC Section 8.265.

8.270 Transition to Lower Density Uses.

- (1) Purpose. The standards of this section are intended to create transitions between multiple-family dwelling unit developments and nearby, lower-density residential development, in order to reduce the impacts of the multiple-family dwelling unit development on lower-density development. These impacts may include incompatible building mass and scale, reduced privacy, and loss of solar access for the lower-density development.
- (2) Applicability. These standards apply to multiple-family dwelling unit housing in all zoning districts except HD, DMU, CB, and WF, which are subject to special interior setbacks in ADC Section 5.115. These standards shall not apply when the abutting property is developed with a non-residential use.
- (3) Multiple-family dwelling unit buildings shall be set back at least one foot for each foot in building height from a shared property line, up to a maximum required setback of 30 feet, when the abutting lot sharing the property line meets criteria (a) or (b) below, or both. Building height is measured from the average grade to the top of the wall facing the property line or to the top of the highest window or door, whichever is higher.
 - (a) The abutting lot is in a residential single-family dwelling unit zoning district or in the HM zoning district and is developed with single-family dwelling unit residential or middle housing uses or is underdeveloped or vacant.
 - (b) The abutting lot has a pre-existing single-family dwelling unit home and is in a zoning district other than the NC, CC, RC, LI, HI, or IP. For the purposes of this section a “pre-existing single-family dwelling unit home” is one constructed prior to January 1, 2021.

HB 2583 & HB 4027 – ADC Amendments

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

- (4) Active recreation areas, loading areas and dumpsters shall not be located between multiple-family dwelling unit buildings and abutting pre-existing single-family dwelling unit homes.

8.280

Pedestrian Connections.

- (1) Purpose. The standards of this section are intended to ensure that pedestrian circulation systems are designed to provide clear, identifiable, safe, and convenient connections within the multiple-family dwelling unit development and to adjacent uses and public streets/sidewalks.

Each multiple-family dwelling unit development shall contain an internal pedestrian circulation system that makes connections between individual units and parking areas, common open space areas, children's play areas, and public rights-of-way. In order to ensure that connections are clear, easily identifiable, and safe, all pedestrian connections shall meet the following standards:

- (a) Except as required for crosswalks, per ADC Section 8.280(4), where a walkway abuts a vehicle circulation area, it shall be physically separated by a curb that is raised at least six inches or by bollards.
- (b) Ways shall be constructed of concrete, asphalt, brick or masonry pavers, or other hard surface, and not less than five feet wide.

All pedestrian ways shall comply with the requirements of the Americans with Disabilities Act.

- (4) In order to provide safe crossings of streets, driveways, and parking areas, crossings shall be clearly marked with either contrasting paving materials (such as pavers, light-color concrete inlay between asphalt, or similar contrasting material) or reflective striping that emphasizes the crossing under low light and inclement weather conditions.[Ord. 5947, 1/01/21]
- (5) Pedestrian connections shall be provided between the multiple-family dwelling unit development and all adjacent parks, schools, retail areas, bus stops, and other pedestrian ways. At least one connection shall be made to each adjacent street and sidewalk for every 200 linear feet of street frontage. Sites with less than 200 linear feet of street frontage shall provide at least one connection to the street and/or sidewalk.[Ord. 5445, 4/12/00; Ord. 5947, 1/01/21]

8.290

Vehicle Circulation System.

- (1) Purpose. The standards of this section are intended to ensure that on-site vehicle circulation is clearly identifiable, safe, and pedestrian-friendly.
- (2) Applicability. These standards apply to multiple-family dwelling unit developments in all zoning districts except HD, DMU, CB and WF.
- (3) Interior drive aisles meeting the standards in subsections (3)(a) through (3)(c) are required when a connecting drive aisle is more than 100 feet in length. "Connecting drive aisles" provide a link between public or private streets and parking stalls and do not include those drive aisles that are lined with angled or perpendicular parking stalls.
- (a) Drive aisles shall have raised curbs and a minimum 5-foot-wide sidewalk on at least one side, which is unobstructed by obstacles that would impede pedestrians, including overhanging cars.
- (b) Drive aisles shall have a minimum 5-foot-wide landscaped strip on a least one side of the drive aisle with trees planted in accordance with the standards in ADC 9.240(1).
- (c) Traffic calming shall be provided through at least one of the following techniques:
- i. Meandering the drive aisle to achieve a maximum design speed of 15 mph.
 - ii. Installing speed bumps or speed humps at a minimum interval of one every 300 feet of drive aisle. A minimum of one speed hump or speed bump must be provided if the drive aisle is less than 300 feet long.
 - iii. Providing parallel parking on at least one side for at least 50 percent of the length of the drive aisle.
 - iv. Planting trees on both sides along the full length of the drive aisle in accordance with the standards

HB 2583 & HB 4027 – ADC Amendments

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

in ADC 9.240(1) to visually narrow the drive aisle.

8.300 Parking Location.

- (1) Purpose. The standards of this section are intended to ensure that residents of multiple-family ~~family~~ dwelling unit developments have convenient access to parking areas on-site.
- (2) Applicability. These standards apply in all zoning districts except HD, DMU, CB, and WF, which are subject to ADC Section 8.305. See Article 9 for additional parking lot standards.
- (5) (3) Required parking must be located within 100 feet of the building entrance for a minimum of 50 percent of units in a development.

8.315 Applicability. These standards apply to the design of new development and to the expansion of existing developments where commercial and/or institutional uses, as defined in Article 22, are existing or proposed, including when such uses are part of a mixed-use development or live/work dwelling unit, with the following exceptions:

- Modifications to existing developments for which the Director has waived review under the provisions of ADC Section 1.105 are not subject to these standards.
- Utility substations and other utility facilities that do not have on-site personnel are not subject to these standards. However, telecommunication facilities are subject to other design standards in Article 8.
- Only the non-residential portion of a mixed-use development is subject to these standards. New residential Units Above or Attached to a Business are subject to Multiple-Family Dwelling Unit Design Standard as stated in Section 8.205.

Certain standards provide additional exemptions for modifications to existing sites or buildings. Unless otherwise specified, these standards apply in any zoning district except the Heavy Industrial (HI) Zoning District.

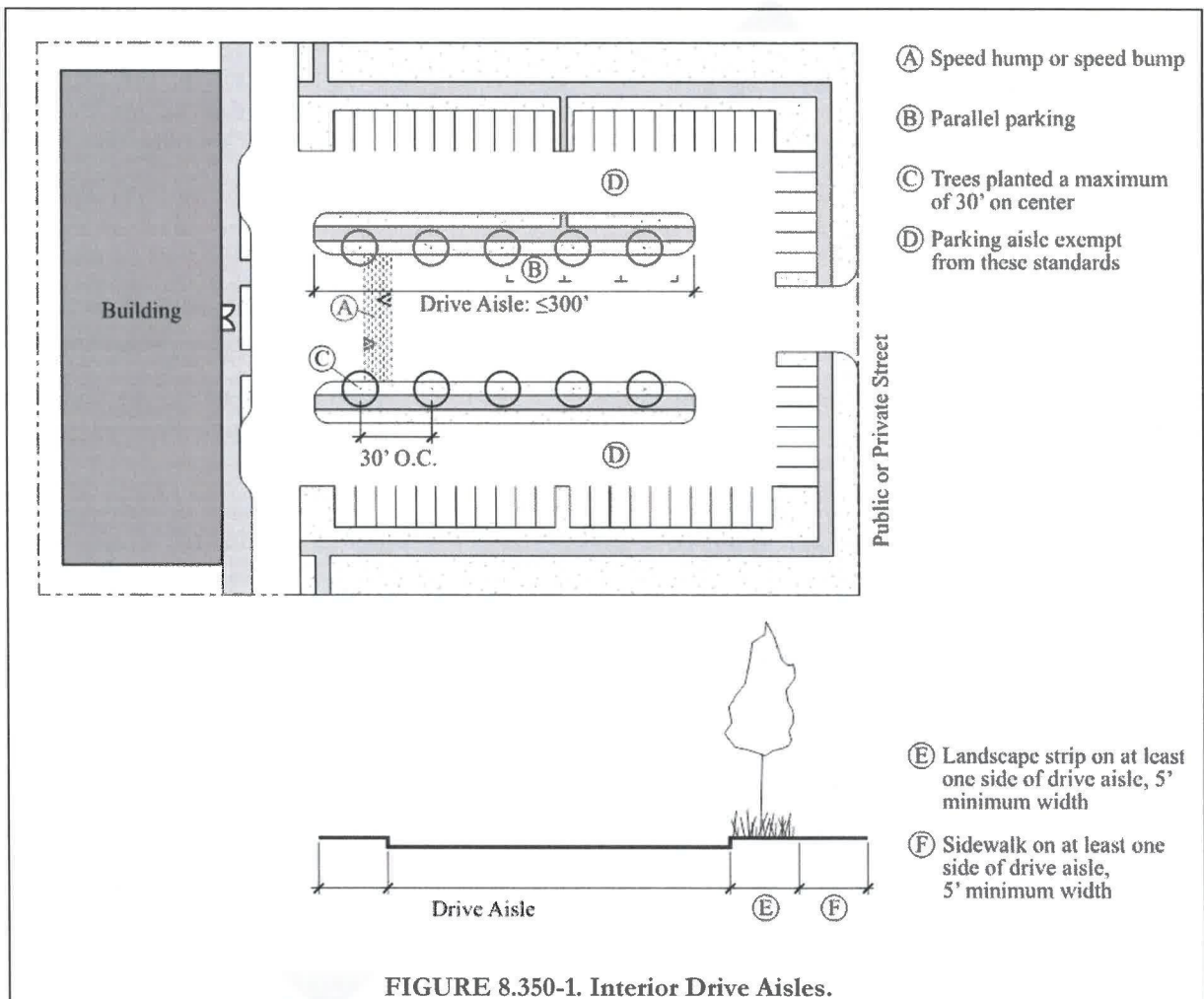
8.350 Street Connectivity and Internal Circulation. The following standards emphasize the importance of connections and circulation between uses and properties. They are intended to promote efficient circulation between properties and a pedestrian-friendly street edge and to improve safety for both drivers and pedestrians.

- (1) Applicability. The standards apply to both public and private streets. Development in the HD, DMU, CB and WF zoning districts on sites under three acres is exempt from these standards.
- (2) Connectivity between sites. To promote connectivity and dispersal of traffic and efficient circulation between properties, new development may be required to provide street or driveway stubs and reciprocal access easements to, and for, adjacent properties.
- (3) Internal circulation system.
 - (a) Interior drive aisles meeting the standards in subsection (b) are required when a connecting drive aisle is more than 100 feet in length. "Connecting drive aisles" provide a link between public or private streets and parking stalls and do not include those drive aisles that are lined with angled or perpendicular parking stalls.
 - (b) Interior drive aisles required by subsection (a) shall meet standards (i) through (iii), below. See Figure 8.350-1.
 - i. Drive aisles shall have raised curbs and a minimum 5-foot-wide sidewalk on at least one side, which is unobstructed by obstacles that would impede pedestrians, including overhanging cars.
 - ii. Drive aisles shall have a minimum 5-foot ~~wide~~ wide landscaped strip on at least one side of the drive aisle with trees planted in accordance with the standards in ADC 9.240(1).

HB 2583 & HB 4027 – ADC Amendments

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

- iii. Traffic calming shall be provided through at least one of the following techniques:
 - Meandering the drive aisle to achieve a maximum design speed of 15 mph.
 - Installing speed bumps or speed humps at a minimum interval of one every 300 feet of drive aisle. A minimum of one speed hump or speed bump must be provided if the drive aisle is less than 300 feet long.
 - Providing parallel parking on at least one side for at least 50 percent of the length of the drive aisle.
 - Planting trees on both sides along the full length of the drive aisle in accordance with the standards in ADC 9.240(1) to visually narrow the drive aisle.



- (4) Drive aisles shall continue the adjacent public street pattern wherever possible.
- (5) Drive aisles shall not be located between the building(s) and the sidewalk(s), except as provided in (a) or (b) below:
 - (a) Where drive-through windows are permitted, sites are constrained by natural resources, or are infill sites less than one acre.
 - (b) Where drop-off facilities are provided that have been designed to meet the requirements of the Americans with Disabilities Act but that still provide for direct pedestrian circulation.

HB 2583 & HB 4027 – ADC Amendments

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

**ARTICLE 9
ON-SITE DEVELOPMENT AND ENVIRONMENTAL STANDARDS**

Commentary:

Amendments to replace the term “family”, as it pertains to housing residential dwelling type, with “dwelling unit”, as required to comply with HB 2583.

Amendments to allow “battery-charged fence” as a use within the residential zones with standards and definitions.

Amendments to correct scrivener’s errors.

9.010

Overview. The City of Albany has established standards for on-site improvements and environmental protection. These standards are intended to foster high-quality development throughout the City and to minimize adverse effects on surrounding property owners or the general public. This article contains the following standards:

- Off-Street Parking
- Landscaping
- Tree Protection
- Buffering and Screening*
- Fences
- Environmental

*As identified in Section 9.210, in limited circumstances, an applicant can apply for an Adjustment to the Buffering and Screening standards.

OFF-STREET PARKING

HB 2583 & HB 4027 – ADC Amendments

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

TABLE 9.020-1

PARKING REQUIREMENTS
MINIMUM SPACES REQUIRED

USE	MINIMUM SPACES REQUIRED
COMMERCIAL AND RECREATION	
Animal hospitals and clinics and animal grooming salons	1 per 400 sq ft
Banks and financial institutions, real estate services, insurance	1 per 300 sq ft on the first floor plus 1 per 600 sq ft above the first floor
Beauty and barber shops and other personal services	1 per 200 sq ft plus 1 per 3 employees
Entertainment and Recreation:	
(a) Athletic/fitness gym, billiard or pool hall skating rinks with no grandstands, all other unspecified indoor recreation and entertainment (excluding restaurant, café or bar areas)	(a) 1 per 300 sq ft
(b) Bowling alleys	(b) 4 per lane
(c) Golf courses (including clubhouses and accessory uses)	(c) Subject to land use review
(d) Stadiums, grandstands, coliseums, auditoriums, and theaters, and other sports facilities with seating	(d) 1 per 4 seating capacity
(e) Swimming pools, aquatic centers	(e) 1 per 200 sq ft
Funeral houses and mortuaries	1 per 4 seats or 8 feet of bench length
Kennels, animal boarding	1 per employee plus 1 per 500 sq ft excluding exercise areas
Laundries and cleaners	1 per 300 sq ft
Motels and hotels	1 per rental unit plus additional as required for accessory uses
Office - Professional:	
(a) Medical and dental clinics	(a) 1 per 250 sq ft
(b) All other business and professional	(b) 1 per 400 sq ft
Vehicle repair and fuel or other service stations	1 per 2 employees plus 2 per each service stall
Private clubs, lodges and meeting rooms	1 per 200 sq ft
Radio and television stations and studios	1 per 2 employees plus 1 per 300 sq ft over 2,000 sq ft
Restaurants:	
(a) Carry out, drive-thru or drive-in	(a) 1 per 100 sq ft

HB 2583 & HB 4027 – ADC Amendments

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

USE	MINIMUM SPACES REQUIRED
(b) Sit-down restaurants, taverns, bars, brewpubs, and nightclubs	(b) 1 per 200 sq ft including outdoor seating not exempt per 9,030(3).
Retail Sales:	
(a) Bulky items such as home or business furnishings, appliances, building materials, farm and agricultural equipment, machine and office equipment;	(a) 1 per 800 sq ft plus 1 per 3 employees
(b) motor vehicles, trailers, mobile homes, boats, modular houses	(b) 2 per employee
(c) Greenhouses and nurseries, garden supplies	(c) 2 per employee
(d) All other retail sales	(d) 1 per 300 sq ft sales floor area
Services and Repair: tailor, shoemaker, locksmith, printing, binding, publishing, framing, upholsterer, photography studio, dry cleaner, mailing, etc.	1 per 500 sq ft
Self-Serve Storage Units	1 per 100 units, with a minimum of 3, plus 1 per employee/caretaker
INDUSTRIAL	
Air, rail and motor freight terminals	Subject to land use review
Contractors and Industrial Services	1 per 1.25 employees plus 1 per company vehicle
Customer Service/Call Centers	1 per 250 sq ft
Industrial Offices, research or laboratory facilities	1 per 500 sq ft
Manufacturing, production or processing	1 per 2 employees plus 1 per company vehicle
Testing, repairing, cleaning, servicing of materials, goods or products	1 per 2 employees plus 1 per 300 sq ft of patron serving area, plus 1 per company vehicle
Warehousing and wholesale	1 per 2 employees plus 1 per 300 sq ft of patron serving area plus 1 per company vehicle
Wrecking yards and junkyards	1 per employee plus 1 per 10,000 sq ft lot area
INSTITUTIONAL, PUBLIC and SEMI-PUBLIC	
Daycare, Nursery Schools, Kindergarten and Daycare Homes or Facilities	1 per employee plus 1 per 10 persons being cared for
Education: Elementary, junior high and other children's day school	1 per classroom plus 1 per 2 employees
Education: high schools, colleges, universities, and trade or business schools	Subject to land use review

HB 2583 & HB 4027 – ADC Amendments

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

USE	MINIMUM SPACES REQUIRED
Hospitals	1 per 2 beds plus 1 per staff doctor plus 1 per 2 full-time employees
Jails and Detention Facilities	1 per 5 beds
Libraries, reading rooms, museums, and art galleries	1 per 2 employees plus 1 per 500 sq ft
Parks, open areas, and cemeteries	Subject to land use review
Religious assembly	1 per 6 seats or 12 feet of bench length
RESIDENTIAL	
Assisted Living, Residential Care facilities, Nursing or Convalescent homes	1 per 3 beds at capacity
Single-Family <u>Dwelling Unit</u> Detached	2 spaces
Duplex	1 space per unit
Two Primary Detached Units on One Lot	4 total spaces
Townhouse	1 space per unit
Triplex or Fourplex	1 space per unit
Cottage Cluster	1 space per unit
Multi-Family <u>Multiple Dwelling Unit</u> : Studio and 1-bedroom units	1 space per unit, plus 1 visitor space every 4 units
Multi-Family <u>Multiple Dwelling Unit</u> : 2-bedroom units	1.5 spaces per unit, plus 1 visitor space every 4 units
Multi-Family <u>Multiple Dwelling Unit</u> : 3 or more bedroom units	2 spaces per unit, plus 1 visitor space every 4 units
Multi-Dwelling Unit Quad and quint units (SRO)	0.75 space per unit
Senior housing	1 space per 2 units
Student housing	1 per 2 students at capacity
Boarding and rooming houses	1 space per 2 occupants at capacity
Group or residential care homes	1 space per employee plus 1 space per 5 beds

9.030 Reductions or Exemptions to Minimum Parking Space Requirements. The following actions and situations can further reduce the minimum parking

HB 2583 & HB 4027 – ADC Amendments

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

required on-site.

- (1) Change of Use or Redevelopment. No additional parking shall be required when an existing structure is changed from one Use Category to another as listed in Article 22 when the new use requires no more than two additional vehicle and/or bicycle parking spaces. No additional parking shall be required when a duplex, triplex, or fourplex is created through internal conversion of, or addition to, an existing single-family ~~dwelling unit~~ detached dwellings.
- (2) Tree Preservation. Minimum parking may be reduced by one parking space for each tree 8 inches in diameter and larger that is preserved within the developable area, for up to a maximum of 10 percent of the total parking space requirement.
- (3) Outdoor Seating Areas. Seasonal outdoor seating up to 500 square feet shall be exempt from the parking calculations. Permanent outdoor seating is not exempt.
- (4) Mixed-Use or Multi-Tenant Developments. In the case of mixed-uses and multi-tenant developments, the total requirements for off-street parking are the sum of the requirements for the various uses, except that the total may be reduced by up to 10 percent of the minimum total requirement.
- (5) Alternative Modes, Carpooling. For businesses that will employ 10 or more people, the total number of required vehicle spaces may be reduced up to a maximum of 10 percent based on the following incentives:
 - (a) Up to two vehicle spaces may be waived if sheltered bicycle parking is provided beyond the minimum requirements in Section 9.120 (13) at a rate of three bicycle spaces to one motor-vehicle space.
 - (b) One vehicle space may be waived for each shower and two lockers provided for employees who commute by bicycle.
 - (c) Each vehicle space designated for carpool/vanpool parking only that is also located closer to the building than other employee spaces will count as two required parking spaces. One carpool/vanpool parking space is permitted per 20 employees, with a minimum of 1 space. Spaces must be clearly marked “Reserved-Carpool/Vanpool Only”.
- (6) Reduction for Transit. Existing development will be allowed to redevelop up to 25 percent of existing parking areas for transit-oriented uses, including bus stops and pullouts, bus shelters, park and ride stations, transit-oriented developments, and similar facilities, where appropriate.
- (7) Reduced parking minimums in the HD, CB, DMU, and WF zoning districts. To promote more pedestrian-friendly development, minimum parking requirements in HD, CB, DMU, and WF are reduced as follows.
 - (a) All commercial and recreation uses listed in Table 9.020-1 shall provide parking at a minimum of one space per 600 square feet or the minimum stated in Table 9.020-1, whichever is less.
 - (b) Middle housing and developments of up to 70 multiple-family ~~dwelling units~~ shall provide parking at the ratios in paragraphs i and ii below. Developments of more than 70 multiple-family ~~dwelling units~~ shall provide parking at the ratios listed in Table 9.020-1, except that visitor parking shall not be required.

HB 2583 & HB 4027 – ADC Amendments

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

- i. Studio, one-bedroom, and two-bedroom units: one space per unit
- ii. ~~three~~ Three or more bedroom units: 1.75 spaces per unit

9.120 Parking Area Improvement Standards. All public or private parking areas, loading areas and outdoor vehicle sales areas must be improved based on the following standards:

- (1) General. All parking spaces must be improved in accordance with these standards and available for use at the time of project completion.
- (2) Other Requirements. All parking areas shall conform to the setback, clear vision, landscaping, and buffering/screening provisions of this Code.
- (3) Surfacing. All required parking, including travel aisles and access, shall have a durable, dust-free surface of asphalt, cement concrete, or other materials approved by the Director. Parking lot surfacing shall not encroach upon the public right-of-way except when it abuts a concrete public sidewalk or has been otherwise approved by the Director of Public Works. Pervious pavements, such as pervious asphalt or pervious concrete, may be allowed by the Director of Public Works.
- (4) Drainage. All parking lots must provide a drainage system to dispose of the runoff generated by the impervious surface. Post-construction stormwater quality facilities are required per Title 12 of the Albany Municipal Code when applicable. Provisions shall be made for the on-site collection of drainage water to eliminate sheet flow of such water onto sidewalks, public rights-of-way, and abutting private property. All drainage systems must be approved by the Director of Public Works.
- (5) Perimeter Curb. Perimeter curbing is required for protection of landscaped areas and pedestrian walkways, and to prevent runoff onto adjacent properties. All parking areas over 1,000 square feet (contiguous) for residential dwellings, parking areas of any size for all other uses, or approved overflow parking areas shall provide a curb at least 6 inches high along the perimeter of all parking areas. Exceptions may be allowed for connections to approved vegetated post-construction stormwater quality facilities.
- (6) Wheel Bumper. In parking areas over 1,000 square feet (contiguous) for residential dwellings, or parking areas of any size for all other uses, all parking stalls fronting a sidewalk, alleyway, street or property line shall provide a secured wheel bumper at least six inches high and at least six feet long, set back from the front of the stall at least 2-1/2 feet, but no more than three feet. If the sidewalk is widened to seven feet six inches to allow for vehicle encroachment, no wheel bumpers are required.
- (7) Turnaround. For parking areas that meet one of the thresholds in subsections (a) or (b), parking spaces must be located and served by an aisle or turnaround so that their use will require no backing movements or other maneuvering in a street right-of-way other than an alley.
 - (a) Residential dwellings: Parking areas over 1,000 square feet (contiguous). Driveways that could provide additional tandem parking spaces are

HB 2583 & HB 4027 – ADC Amendments

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

not included in this calculation.

- (b) All other development: Two or more parking spaces.
 - (8) Striping. Lots containing more than two parking spaces must have all required spaces permanently and clearly striped. Stripes must be at least four inches wide. When motorcycle parking, compact, or handicapped parking spaces are provided, they shall be designated within the stall.
 - (9) Connecting to Adjacent Parking Areas. Where an existing or proposed parking area is adjacent to a developed or undeveloped site within the same zoning district, any modifications to the parking areas must be designed to connect to the existing or future adjacent parking area. This requirement may be waived by the Director when it is deemed impractical or inappropriate due to the nature of the adjoining uses.
 - (10) Parking Lot Landscaping. Parking lots over 1,000 square feet (contiguous) shall be landscaped according to the standards in Section 9.150.
 - (11) Compact Car Parking. No more than 40 percent of parking spaces provided may be designated for compact cars. Compact spaces must be signed and/or the space painted with the words “Compact Car Only.”
 - (12) Parking Accessible to the Disabled. All parking areas must provide accessible parking spaces in conformance with the Oregon Structural Specialty Code.
 - (13) Bicycle Parking. Bicycle parking space requirements are as follows:
 - (a) For multiple ~~family~~ dwelling-units and units above or attached to a business – one space per four units.
 - (b) For industrial development – one space for every 10 automobile spaces required.
 - (c) For commercial or office development – one space for every 10 automobile spaces required with a minimum of two spaces.
 - (d) Exemptions -- the Director may allow exemptions to or reductions in required bicycle spaces in connection with temporary uses or uses that are not likely to need bicycle parking.
- Bicycle parking spaces shall meet the following standards:
- (e) Required spaces should be visible and not hidden, and must be located as near as possible to building entrances used by automobile occupants. Within the HD, CB, CMU, and WF zoning districts, bicycle parking may be located on a public sidewalk with approval from the City Engineer.
 - (f) Each required bicycle parking space must have a parking rack securely fastened to the ground. Parking racks must support each bicycle at a

HB 2583 & HB 4027 – ADC Amendments

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

- minimum of two points, including at least one point on the frame, and must allow the frame and at least one wheel to be locked with a U-type lock.
- (g) Bicycle parking areas must provide at least three feet of clearance around all three sides of a fully-loaded bicycle rack and have an overhead clearance of at least seven feet.
- (h) At least one-half of required bicycle parking spaces must be sheltered. Spaces must be protected from precipitation by a roof overhang or a separate roof at least seven feet tall. Bicycle parking spaces within roofed buildings and bike lockers are considered sheltered spaces.
- (14) Lighting. Any lights provided to illuminate any public or private parking area or vehicle sales area must be arranged to reflect the light away from any abutting or adjacent properties.
- (15) Pedestrian Access. Walkways and accessways shall be provided in all new off-street parking lots and additions to connect sidewalks adjacent to new development to the entrances of new buildings. All new public walkways and handicapped accessible parking spaces must meet the minimum requirements of the Oregon Structural Specialty Code.
- (16) When employee parking is designated in new developments, parking for carpools and vanpools shall be provided and located near the employee entrances to buildings.
- 9.125 Occasional Overflow Parking Needs. The Director may approve for the use of gravel surfacing for parking above the minimum parking requirements intended for occasional needs. As used in this section, "occasional" means limited to a unique or an annually occurring event or condition or infrequent use. The application must demonstrate how the site and owners will meet the following minimum standards:
- (1) The construction plans for the unpaved parking area must be approved by the ~~Building Official~~ and Public Works Director or their designees.
 - (2) The overflow parking area must conform to the dimensional standards in Table 9.130-1 - Parking Lot Design, applicable Americans with Disabilities Act (ADA) requirements, and storm drainage requirements.
 - (3) Overflow parking areas may not exceed 15,000 square feet per property, site or use.
 - (4) Wheel stops shall be provided to designate and protect each parking space.
 - (5) Gravel parking and loading areas shall be screened from all adjacent uses by a sight-obscuring fence, wall, or hedge.
 - (6) A buffer area at least five feet in depth, which may include the required screening, shall be provided along the perimeter of each gravel parking area and be landscaped in accordance with Section 9.240.
 - (7) The overflow parking area must be at least 20 feet from a public right-of-way and have at least 20 feet of pavement travel distance to the right-of-way. Gravel is not permitted in or within 500 ft of the HD, DMU, LE, ES, CB, or any residential zone or use unless allowed through Conditional Use approval.

HB 2583 & HB 4027 – ADC Amendments

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

LANDSCAPING

- 9.180 Landscaping Plans. With the exceptions noted below, all development applications involving buildings and parking areas over 1,000 square feet (contiguous) must include landscape plans. The following uses are required to meet the landscaping requirements of this code but are not required to submit landscape plans:
- (13) Single-family dwelling units and middle housing.
 - (14) Accessory buildings.
 - (3) Changes internal to an existing structure.
 - (4) Building additions involving less than 500 square feet.

TREE PROTECTION

- 9.206 Clear and Objective Criteria for Tree Felling associated with the Development of Housing. For property where a building permit, Site Plan Review, subdivision, or partition application has been approved or is currently under review for the development of housing on a property, the applicant proposing the felling of trees may choose to meet the criteria in Section 9.206 rather than the criteria in Section 9.205. A Site Plan Review application for tree felling subject to the criteria in Section 9.206 will be processed as a Type I decision. The Community Development Director, City Forester, or his/her designee shall approve the Site Plan Review application when the applicant demonstrates that all of the following review criteria are met:
- (1) The critical root zone of each tree to be felled is no more than five feet from proposed roads, driveways, utilities, and required site improvements, ~~of~~ **or** 10 feet from proposed residential building pads.
 - (2) The proposed felling is consistent with other applicable sections of the Development Code (such as Article 6, Significant Natural Resource Overlay Districts) and City ordinances, including tree regulations in the Albany Municipal Code.

Trees that do not meet the criterion (1) shall be preserved (see AMC 7.98.215 for recommended methods for protecting residual trees).

BUFFERING AND SCREENING

TABLE 9.210-1. Buffer and screening matrix.

BUFFER MATRIX					PROPOSED USE				
ABUTTING USE OR ZONING DISTRICT	Detached single-family dwelling unit	Middle housing	Multi-family Multiple dwelling units	Manufactured home park or subdivision	Commercial/professional, mixed-use, and institutional	Industrial Park use	Light Industrial use	Heavy Industrial use	Parking lot with at least 5 spaces
Dwellings in RR, RS-10, RS-6.5, RS-5, HM, RM, MUR and RMA districts	0'	0'	10' (3)	0'	10' S (3)	30' S	30' S	40' S	10' S
Manufactured home park or subdivision in any district	0'	0'	0'	0'	10'S	30'S	30'S	40'S	10'S
Any arterial street (2)	10'	10' (4)	10' (4)	10' S (1)	10' (4)	10'	10'	10'	10'
Commercial, professional, mixed-use, and institutional	10'	10' (4)	10' (4)	10' S	0'	20'	0'	20' S	0'
Industrial Park District	20'	20'	20'	20'S	0'	0'	0'	5'	0'
Light Industrial District	30' S	30' S	30' S	30' S	0'	20'	0'	0'	0'

Heavy Industrial District	40' S	40' S	40' S	40' S	20'	20'	0'	0'	0'
Any parking lot with at least 5 spaces	10' S	5' S	5' S	5' S	0'	0'	0'	0'	0'
<p>“S” indicates screening required. (1) See Section 10.270(3)(c) for buffering and screening along arterials and collectors. (2) The buffer/screening standard does not apply along arterial streets where it conflicts with other provisions of this code. (3) Within the HD, CB, DMU, and WF zoning districts, the required screening and/or buffer does not apply abutting the MUR district. (4) Does not apply in the HD, CB, DMU, and WF zoning districts.</p>									

FENCES

9.360 Purpose. Fences can create a sense of privacy, protect children and pets, provide separation from busy streets, and enhance the appearance of property. The negative effects of fences can include the creation of street walls that inhibit police and community surveillance, decrease the sense of community, hinder emergency access, lessen solar access, hinder the safe movement of pedestrians and vehicles, and create an unattractive appearance. These standards are intended to promote the positive aspects of fences and to limit the negative ones.

9.370 Materials. Fences and walls shall 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 on top of a six-foot-tall fence in commercial, industrial, and mixed-use zones except for HD, DMU, MUC, and MUR. The total height of the fence and barbed wire is limited to 8 feet. Barbed-wire-only fences are prohibited except as allowed under subsection (2).
- (2) Correctional Institutions and High-Security Areas. Concertina wire or barbed-wire only fences may be used around correctional institutions and high-security areas provided that the fences are posted at 15-foot intervals with clearly visible warnings of the hazard.
- (3) Large Animal Containment. Where cattle, sheep, horses or other livestock are permitted or existed when the property was annexed to the City, barbed wire is permitted within six inches from the top of a fence at least four feet tall that is used to contain or restrict large animals. Fences for this purpose must meet the standards in AMC 6.10.
- (4) Battery-Charged Fence: A fence that interfaces with an alarm system in a manner that enables the fence to cause the connected alarm system to transmit a signal intended to summon law enforcement in response to an intrusion and has an energizer that is driven by battery. Battery-charged fences are permitted when the following standards can be met:
 - (a) Must use a battery that is not more than 12 volts of direct current; and
 - (b) Must produce an electric charge on contact that does not exceed energizer characteristics set for electric fence energizers by IEC standards; and
 - (c) Must be surrounded by a nonelectric perimeter fence or all that is not less than five feet in height; and
 - (d) May not be higher than the greater of 10 feet in height or two feet higher than the height of the non-

electric perimeter fence or all; and

(e) Must be marked with conspicuous warning signs that are located on the fence at not more than 30-foot intervals and that read: "WARNING: ELECTRIC FENCE."

- (5) Electrically charged fences are permitted in the LI and HI zones when the following standards can be met:
- (a) The fence is located outside the front setback and required landscaping, buffering or screening; and
 - (b) The electrically charged fence shall not exceed 10 feet in height; and
 - (c) The electrically charged fence shall be a pulsed charge system and not a continuous charge system.
 - (d) No electric fence shall be installed or used unless it is completely surrounded by a perimeter non-electrical fence or wall that is not less than six feet tall; and
 - (e) Warning signs stating, "Warning, Electric Fence" shall be posted at intervals not less than 50 feet; and
 - (f) When property lines are shared with a residential zoning district, the following additional standard shall be met:
 - i. A solid fence or wall between 6 and 8 feet tall shall be placed at the shared property line(s); and
 - ii. Warning signs shall be posted at intervals of not less than 25 feet.
 - (g) The fence shall be tested and approved by the State of Oregon approved testing laboratory; and
 - (h) The fence shall be installed and used accordance with the Oregon Electrical Specialty Code, the listing, and the manufacturer's installation instructions; and
 - (i) Electrical permits and inspections shall be required for the installation. Work must be performed by a licensed Oregon electrician.
 - (j) In addition to the Fire Department access requirements in the Oregon Fire Code, the following additional standards are required for properties protected by an electric fence:
 - i. Each vehicle gate shall open automatically using a sensing device approved by the fire department. This automatic operation shall be supplemented by the installation of a Knox electric switch (with dust cover) to be installed in an approved location.
 - ii. The gate opening equipment shall be equipped with a battery backup in the advent of power failure (both ingress & egress sides).
 - iii. Power to the electrified fence, excluding gate opening controls, shall be deactivated upon activation of automatic or manual fire department access for ingress or egress through the gate.
 - iv. The vehicle gate shall provide a means for the fire department to egress from the site.
 - v. A pedestrian type gate shall be installed immediately adjacent to all vehicle access gates.

9.380 Standards. Fences and walls shall meet the following standards. If a fence or wall is used to meet required screening, it shall meet the provisions of Section 9.385.

Standards in Residential, MUR and MUC zones:

- (1) Fences in front setbacks. Fences shall be no taller than 4 feet in required front setbacks unless allowed below.
 - (a) 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 Commission.
- (2) Corner properties, which by definition have two front yards, may have a fence no taller than 6 feet in the front yard adjacent to the street that does not contain the main door entrance when the fence does not extend in front of the building 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 three 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 three feet from the property line.
- (3) Interior Setbacks.
Fences in a residential zone in Article 3 or in the MUR or MUC zone may have fences up to six feet tall in the interior setbacks except that a single-family dwelling unit use or zone that shares an interior property line with a multiple-family dwelling unit, commercial or industrial use or zone may have a fence up to eight feet tall along the property line.

Standards in Commercial, Industrial, ES, LE, MS, PB, and TD zones:

- (4) Fences in front setbacks. Fences shall be no taller than 6 feet in required front setbacks. 6-foot fences containing barbed wire on top or fences taller than 6 feet are not permitted in the front setback.

Standards in HD, DMU, CB, and WF zones:

- (5) Fences in front setbacks. Fences shall be no taller than 4 feet within 10 feet of a front lot line unless allowed under (a)-(c), below. Barbed wire on top of fences is not permitted within 10 feet of a front lot line.
- (a) Properties listed on the National Register of Historic Places may have fences taller than four feet within 10 feet of a front lot line if the fence is appropriate to the building style and scale and is approved by the Landmarks Commission.
 - (b) The following uses (where allowed in the applicable zone) may have fences up to six feet tall within 10 feet of a front lot line:
 - i. All industrial uses
 - ii. All institutional uses
 - iii. Vehicle Repair
 - iv. Rail and Utility Corridors
 - (c) Corner properties, which by definition have two front yards, may have a fence no taller than six feet within 10 feet of the front lot line that does not contain the main door entrance provided the fence does not extend in front of the building.

Standards for All fences:

- (6) In no instance or zone shall a fence exceed eight feet except when permitted in 9.370.

~~Fences over seven feet tall require a building permit prior to construction.~~ Fences over six feet tall shall meet building setbacks, except when permitted along property lines in Sections 9.370(4)(d) or permitted in required setbacks in 9.380(3)(a).

- (7) In no instance shall a fence extend beyond the property line.
- (8) All fences shall meet the Clear Vision Area standards in Section 12.180.
- (9) Measuring Fence Height. 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, or arbors and trellises at entrance gates.
- (a) Maintenance. 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.

DRAFT

HB 2583 & HB 4027 – ADC Amendments

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

**ARTICLE 10
MANUFACTURED HOME DEVELOPMENT STANDARDS**

Commentary:

Amendments to replace the term “family”, as it pertains to housing residential dwelling type, with “dwelling unit”, as required to comply with HB 2583.

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

- General Provisions
- Classification of Manufactured Homes
- Placement on Individual Lots
- Manufactured Home Parks
- Temporary Placements
- Recreational Vehicle Parks

PLACEMENT ON INDIVIDUAL LOTS

10.170 Manufactured Home Placements. Manufactured homes are permitted on individual parcels or lots outside of manufactured home parks in accordance with the placement standards set forth in Sections 10.100 and 10.120 and all other provisions of the Development Code for site-built dwellings. They are not allowed within the National Register Historic Districts or on residential land immediately adjacent to a historic landmark. [Ord. 5446, 5/10/00]

10.180 Review Criteria. In order to be approved, the manufactured home must meet all of the following standards:

- (1) The roof pitch shall be a minimum of nominal 3/12. Manufactured homes placed in RM or RMA districts may have a roof pitch of nominal 2/12.
- (2) All Class A and Class B manufactured homes outside of manufactured home parks shall be placed on an excavated and back-filled foundation (e.g., pit set) and enclosed at the perimeter such that the manufactured home is located not more than 12 inches above grade. The perimeter foundation enclosure shall be of pressure treated wood, masonry, or concrete wall construction.
- (3) The manufactured home shall comply with the design standards of Article 8 for Single-Family Dwelling Unit Homes and Middle Housing.

MANUFACTURED HOME PARKS

GENERAL

HB 2583 & HB 4027 – ADC Amendments

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

10.270 Compatibility and Park Perimeter Standards. These standards apply only to spaces on the perimeter of the park.

- (1) Space Size. The size of spaces on the perimeter of the park is determined by the use of abutting land and the zoning district. This standard does not apply to spaces that abut public streets on the perimeter of the park. For purposes of this section, “developed” means that the number of dwelling units per acre exceeds 50 percent of the maximum density allowed by the zone. For RS-10, 50 percent of the maximum density is two units/acre; for RS-6.5, four units per acre; for RS-5, five units/acre; for RM, ten units/acre; and for RMA, 20 units/acre. This definition applies equally to adjoining land that is used for a subdivision, apartment, or manufactured home park. Each side of the manufactured home park is considered separately even though the abutting land may be zoned alike.

If the abutting land is developed, spaces shall be at least 90 percent of the minimum single-family dwelling unit detached lot size of the abutting zoning district. (For example, in the RS-6.5 zoning district, spaces must be 90 percent of 6,500 square feet.)

If the abutting land is not developed, spaces shall be at least 90 percent of the minimum single-family dwelling unit detached lot size in the underlying zoning district.

HB 2583 & HB 4027 – ADC Amendments

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

ARTICLE 11

LAND DIVISIONS AND PLANNED DEVELOPMENTS

Commentary:

Amendments to replace the term “family”, as it pertains to housing residential dwelling type, with “dwelling unit”, as required to comply with HB 2583.

Amendments for scrivener’s errors.

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

The following is a list of the main headings in this article.

- General Provisions
- Lot and Block Arrangement
- Property Line Adjustments
- Subdivisions and Partitions
- Planned Developments
- Condominiums
- Cluster Development
- Expedited and Middle Housing Land Divisions

LOT AND BLOCK ARRANGEMENT

- 11.090 Lot and Block Arrangements. In any land division for single-family dwelling unit residential or middle housing development, lots and blocks shall conform to the following standards in this Article and other applicable provisions of this Code:

SUBDIVISIONS AND PARTITIONS

- 11.210 Tentative Plat Submittal. All applications for tentative partition or subdivision approval must include a complete application form and copies of a plat showing the following details. The tentative plat need not be a finished drawing, but it should show all pertinent information to scale.

- (1) When the land to be subdivided contains only part of the tract owned or controlled by the subdivider, a sketch is required of a tentative layout for streets and utilities in the undivided portion indicating connections to existing or future improvements.
- (2) If the tentative plat does not show the following information, a vicinity map at a scale of 400 feet to the inch shall be prepared showing:

HB 2583 & HB 4027 – ADC Amendments

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

- (a) All existing subdivisions, streets and tract lines of acreage land parcels immediately adjoining the proposed subdivision and between it and the nearest existing arterial streets.
 - (b) Name of the record owners of all contiguous land parcels.
 - (c) How streets and alleys in the proposed subdivision may connect with existing or proposed streets and alleys in neighboring subdivisions or undeveloped property to produce the most advantageous development of the entire neighborhood area.
- (3) The tentative plat shall be drawn to a standard engineer's scale where 1 inch equals 20 - 60 feet; or for areas over 100 acres, 1 inch equals 200 feet (1"=200').
 - (4) The name, if any, of the land division; this name must not duplicate or resemble the name of another subdivision in the same county or in the same area within six miles of Albany and must be approved by the Director and the County Surveyor.
 - (5) Date, north point, and scale of drawing.
 - (6) Location of the land division by section, township and range, and a legal description sufficient to define the location and boundaries of the proposed tract or the tract designation or other description according to the real estate records of the County Assessor.
 - (7) Names and addresses of the property owner(s), subdivider, surveyor, and engineer, if applicable.
 - (8) The location, widths and names of all existing or platted streets or other public ways within or directly adjacent to the tract; and other important features, such as railroad rights-of-ways, and City boundary lines.

The location on the site and in the adjoining streets or property of existing and proposed sanitary sewers, storm drain facilities, (including post-construction stormwater quality facilities, detention facilities and supporting calculations), and water mains and services, culverts, ditches and drain pipes, all other utilities such as electric, gas and telephone conduits with invert elevations of sanitary and storm sewers at points of proposed connections.
[Ord. 5720, 8/12/09; Ord. 5842, 1/01/15]
 - (9) Contour lines showing proposed excavations, fills and grading and having the following minimum intervals:

One-foot contour intervals for ground slopes less than 5 percent.
Two-foot contour intervals for ground slopes between 5 and 10 percent.
Five-foot contour intervals for ground slopes exceeding 10 percent.

The elevations of all control points which are used to determine the contours. Contours shall be related to City of Albany datum. [Ord. 5842, 1/01/15]
 - (10) Approximate location of areas subject to storm water inundation or overflow with approximate high-water elevation.
 - (11) Location, width, direction and flow of all water courses.
 - (12) Location of properties within the 100-year floodplain and other areas subject to flooding or ponding (see the Floodplain standards in Article 6).
 - (13) Location of the following significant natural resources:
 - (a) Significant wetlands identified on the City's Local Wetlands Inventory;
 - (b) Significant riparian areas on the City's Riparian Corridor Inventory;
 - (c) Significant wildlife habitat, if known;
 - (d) Existing channels or drainage ways as shown in the most current version of the City of Albany Stormwater Master Plan; and
 - (e) Slopes greater than 12 percent.

HB 2583 & HB 4027 – ADC Amendments

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

[Ord. 5764, 12/1/11; Ord. 5842, 1/01/15]

- (14) Location of the following natural features
- (a) Non-significant wetlands identified on the City's Local Wetlands Inventory, and other wetlands;
 - (b) Trees over 25 inches in circumference (approximately 8 inches in diameter) measured 4½ feet above the mean ground level from the base of the trunk. (To obtain the circumference of a tree with multiple trunks, add the individual trunk circumferences, which are greater than 6 inches in circumference);
 - (c) Springs; and
 - (d) Trees proposed for protection and method of protection.
- [Ord. 5764, 12/01/11; Ord. 5842, 1/01/15]
- (15) Existing uses of the property and adjacent property within 100 feet, including the location of all existing structures and other impervious surfaces to remain on the property. [Ord. 5842, 1/01/15]
- (16) Zoning of and adjacent to the tract.
- (17) Any proposed streets: location, widths, names, approximate radii or curves. The relationship of all streets to any projected streets as shown on any development plan approved by the City.
- (18) Existing and proposed easements on the site and any existing easements on adjoining properties, showing the width and purpose of all easements.
- (19) Approximate dimensions of all lots, minimum lot size, proposed lot numbers, and block numbers [see Section 11.230 (11)].
- (20) Sites, if any, allocated for multiple ~~family~~ dwelling units, shopping centers, churches, industry, parks, schools, playgrounds, or public or semi-public buildings.
- (21) The following additional information must be submitted with the tentative plat:
- (d) The names and addresses of all owners within 300 feet of the proposed land division.
 - (e) Total acreage in the subdivision and the percent of land dedicated to the public, not including easements.
 - (f) All public improvements proposed to be installed and the approximate time of installation including the method of financing.
 - (g) Special improvements to be made by the developer and the approximate time such improvements are to be completed (examples include entrance signs or walks, berms, bus stands, etc.). Sufficient detail regarding proposed improvements shall be submitted so that they may be checked for compliance with the objectives of these regulations, State laws and other applicable City ordinances. If, however, the nature of the improvement is such that it is impractical to prepare all necessary details prior to approval of the tentative plat, the additional details shall be submitted at least 30 days prior to approval of the final plat.

PLANNED DEVELOPMENTS

11.270 Permitted Buildings and Uses. The following buildings and uses are permitted individually or in combination in a planned development:

- (22) Residential areas:
- (a) Accessory buildings and uses (permitted in combination with principal uses only);
 - (b) Dwellings, multiple ~~family~~ dwelling units;

HB 2583 & HB 4027 – ADC Amendments

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

- (c) Dwellings, single-family ~~dwelling unit~~ dwelling unit;
- (d) Middle housing;
- (e) Open space;
- (f) Parks, playgrounds, golf courses, driving ranges, community centers, or recreation facilities supported by the planned development; and
- (g) Commercial services to primarily serve the Residential Planned Development.

CONDOMINIUMS

- 11.380 Definition. A condominium is a building, or group of buildings, in which units are individually owned, and the shared structure, common areas and facilities are owned by all of the unit owners on a proportional, undivided basis. [Ord. 5968, 1/14/22]
- 11.390 Procedure. A proposal for new construction of a condominium or conversion of existing units into condominiums is reviewed through the procedure applicable to the housing type (e.g., ~~multi-family~~ multiple dwelling unit development or middle housing). All condominium proposals must meet the appropriate requirements of ORS Chapter 100.

PLANNED DEVELOPMENTS

- 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 ~~multi-family~~ multiple dwelling units.
 - (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.

HB 2583 & HB 4027 – ADC Amendments

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

ARTICLE 12 PUBLIC IMPROVEMENTS

Commentary:

Amendments to replace the term “family”, as it pertains to housing residential dwelling type, with “dwelling unit”, as required to comply with HB 2583.

Amendments for scrivener’s errors.

- 12.000 Overview. This article provides public improvement standards to address the City’s concerns relative to public health, safety, and welfare as it relates to the management of public transportation systems and utilities. These standards are used with the procedural and design requirements contained in other articles of the Albany Development Code.

The following is a list of the main headings in this article.

- General Provisions
- Streets
- Sidewalks
- Street Trees
- Bikeways
- Utilities—General
- Water
- Sanitary Sewer
- Storm Drainage
- Improvement Assurances
- Addresses and Street Names

GENERAL PROVISIONS

- 12.040 Conditions of Approval. Development approval may be conditioned upon the provision and/or guarantee of public improvements called for in an adopted public facilities master plan, or any other public improvements necessitated by the development. Development approval may likewise be conditioned when private facilities are proposed to be shared by two or more parcels. Construction of off-site improvements may be required to mitigate impacts resulting from development that relate to capacity deficiencies and public safety; and/or to upgrade or construct public facilities to City standards.

All development decisions shall be consistent with constitutional limitations concerning the taking of private property for public use.

To provide an adequate transportation system, development approvals may include conditions that require facilities for safe and convenient pedestrian and bicycle access within and from new subdivisions, ~~multi-family~~ multiple dwelling unit developments, planned developments, shopping centers and commercial districts to adjacent residential areas and transit stops, and to neighborhood activity centers within one-half mile of the development.

- (1) “Neighborhood activity centers” includes, but is not limited to, existing or planned schools, parks, shopping areas, transit stops or employment centers;

HB 2583 & HB 4027 – ADC Amendments

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

- (2) “Safe, convenient and adequate” means bicycle and pedestrian routes, facilities, and improvements that:
 - (a) Are reasonably free from hazards, particularly types or levels of automobile traffic which would interfere with or discourage pedestrian or cycle travel for short trips;
 - (b) Provide a reasonably direct route of travel between destinations, such as between a transit stop and a store; and
 - (c) Meet needs of cyclists and pedestrians, considering destination and length of trip, and considering that the optimum trip length of pedestrians is generally 1/4 to 1/2 mile.

STREETS

12.100 Access to Public Streets. With the exceptions noted in Section 1.105, the location and improvement of an access point onto a public street shall be included in the review of a development proposal. In addition, the following specific requirements shall apply to all access points, curb cuts, and driveways:

- (1) Approaches and driveways to City streets and alleys must be paved and constructed in accordance with the Standard Construction Specifications. Driveways serving more than one property shall be paved the full length of the shared portion.
- (2) Driveways for single-family dwelling unit detached dwellings and middle housing must have a minimum width of 10 feet and a maximum width of 24 feet (not to exceed the width of the driveway curb cut) and minimum separation of 5 feet. See also the additional driveway standards in ADC Section 8.140. Spacing between driveways is measured along the front property line.

Triplexes and fourplexes are also subject to the driveway design standards in ADC Section 8.165. Townhouses are also subject to the driveway design standards in ADC Section 8.170. Where the standards in Sections 8.165 or 8.170 conflict with this subsection (2), the Article 8 standards shall control.

Driveways for all other uses must have widths of 12-16 feet for one-lane (one-way) driveways, 24-32 feet for two-lane driveways, and 36 feet for three-lane driveways. Three-lane driveways must have designated lanes and turning movements. Industrial driveways shall have a width of 24-48 feet. There must be a minimum separation of 22 feet between all driveways except for single- and two-unit dwellings, and multiple unit dwellings of four units or less. The width of a driveway will be determined by measuring at the curb line and will exclude the transitions which must conform to standards fixed by the City Engineer.

(3)

(4) **TABLE 12.122-1. Summary of local street design standards.**

SUMMARY OF STREET DESIGN STANDARDS	SINGLE-FAMILY DWELLING UNIT AND MIDDLE HOUSING DEVELOPMENT			MULTI-FAMILY, <u>MULTIPLE DWELLING UNIT</u> DEVELOPMENT ON LOCAL STREETS
	MINOR LOCAL STREETS	NETWORK LOCAL STREETS	NARROW NETWORK LOCAL STREETS	
Right-of-way	54'	56'	52'	56'
Pavement width	30'	32'	28'	32'

HB 2583 & HB 4027 – ADC Amendments

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

On-street parking	Both sides	Both sides	One side	Both sides
Bike lanes	No	No	No	No
Curb & gutter	Yes	Yes	Yes	Yes
Sidewalks	5' setback	5' setback	5' setback	5' setback
Planter strip	6' planter	6' planter	6' planter	6' planter

12.140 Additional Rights-of-Way. A development project requiring land use review is required to dedicate additional right-of-way if an existing street abutting or within the development does not meet the widths designated in Section 12.120. This provision does not apply to property line adjustments or historic review. While not required to dedicate additional right-of-way, single-family dwelling unit detached dwellings and middle housing (and related accessory buildings) and parking lot and building additions listed in Section 1.105 are subject to setbacks from future street rights-of-way as provided in Section 3.190.

12.200 Street Abutting New Development. Sections of existing streets that directly abut a new development and do not meet City standards shall be constructed to City standards. The City Engineer may approve construction of a partial-width street, provided the design is determined to be adequate to accommodate needed public facilities, storm drainage runoff, traffic volumes, and traffic loadings. The design of the improvement shall consider the ultimate design of the fully widened street. For purposes of this section, “development” does not include the construction of a single-family dwelling unit detached home or middle housing on an existing lot.

SIDEWALKS

12.290 Requirement. All development for which land use applications are required, and all expedited and middle housing land divisions, must include sidewalks adjacent to public streets. This requirement also applies to new single-family dwelling unit detached houses and middle housing units if they are located on arterial or collector streets or on curbed local streets, if there is an existing sidewalk within 500 feet on the same side of the street.

Sidewalks shall be built when arterial and collector streets are constructed and at the discretion of the City Engineer during their reconstruction. This provision shall also apply to local streets that serve commercial and multiple family dwelling unit development. Sidewalks are required on both sides of all streets. If an interim street standard is being constructed which does not include bike lanes or sidewalks, interim bikeways or walkways for pedestrians shall be provided by paved roadway shoulders at least 8 feet wide on arterials and 6 feet on other streets. Provision of sidewalks may be waived when the street serves a use or combination of uses that generate fewer than 50 trips a day (based on ITE standards) and cannot be continued or extended to other properties

12.300 Design, Width, and Location. All sidewalks must be constructed, replaced or repaired in accordance with the Standard Construction Specifications. The required width and location of sidewalks is as follows:

- (1) The required width for a sidewalk on an arterial or collector street is 7 feet. This may be reduced to 6 feet if the sidewalk is separated from the curb by a landscaped planter strip at least 5 feet wide. When there is inadequate right-of-way for additional width and no additional right-of-way can be obtained as a condition of development approval, the sidewalk width may be reduced to 5 feet. In all cases, any right-of-way remaining outside the sidewalk is to be landscaped and maintained by the adjoining property owner.
- (2) Sidewalks along residential and other local streets must be at least 5 feet wide. A planter strip at least 6 feet wide shall separate the sidewalk from the street. Curbside sidewalk is allowed on cul-de-sac bulbs. Street trees shall be selected from the list of approved street trees established by the City. The planter strip shall be of permeable materials. Locating approved street-side post-construction stormwater quality facilities in the planter strip is encouraged.

HB 2583 & HB 4027 – ADC Amendments

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

- (3) In the Historic Downtown and Central Business districts, as defined on the zoning map, sidewalks must be at least 10 feet wide and be installed adjacent to the curb.
- (4) Regardless of other provisions contained in this article, any sidewalk project that is less than 200 feet in length and connects on either end to an existing sidewalk may be designed to match the existing pattern with the approval of the City Engineer.
- (5) When obstructions exist or are proposed (including, but not limited to, mailboxes, utility poles, trees, planters, fire hydrants, signs, benches, bus stops, post-construction stormwater quality facilities, etc.), provisions must be made to maintain a minimum of 4 feet of unobstructed sidewalk width on local streets, 5 feet on collector and arterial streets, and 6 feet in the Historic Downtown (HD) and Central Business (CB) districts. [Ord. 5842, 1/01/15]
- (6) Clustered mailboxes shall be on an accessible path and shall include a 72” minimum accessible turning space. Adjacent sidewalks may be incorporated in the measurement of the turning space. Where constructed in the public right-of-way, construction shall be in accordance with the Standard Construction Specifications.
- (7) Maintenance of sidewalks and planter strips shall be the continuing obligation of the adjacent property owner except for approved post-construction stormwater quality facilities located in planter strips or when a double frontage ~~single-family~~ or two-dwelling unit lot backs onto an arterial. Other than approved post-construction stormwater quality facilities, planter strips shall be landscaped and maintained in like manner to the front yard setback requirements of Article 9.
- (8) Sidewalks shall be designed to parallel streets in line and grade and shall avoid unnecessary meandering from the curb line and elevation changes except as necessary to avoid significant trees or traverse topographic barriers.
- (9) Public paths not adjacent to a public street shall be a minimum of 10 feet wide.

BIKEWAYS

- 12.340 Provisions for Bikeways. Developments adjoining or containing proposed bikeways identified in the Transportation System Plan shall construct and extend said facilities to and through the property’s frontage and along its interior, or to a point identified by the City Engineer to accommodate likely system expansion. Where the City Engineer has determined construction is untimely, provisions shall be made for the future construction and extension of said facilities.

In the case of arterial or collector streets, bike facilities shall be built during their construction and considered during their reconstruction. This provision shall also apply to local streets in other than single-~~family~~-dwelling unit residential developments.

WATER

- 12.410 When Public Water is Available. All new development, including a single-~~family~~-dwelling unit residence, must extend and connect to the public water system when service is available within 150 feet of the property. Fire hydrants, mains, and related appurtenances shall be installed as required by the City Fire Marshal.
- 12.420 When Public Water is Not Available. No new development is allowed on private well systems, except for construction of one single-~~family~~-dwelling unit detached dwelling or one duplex on an existing lot of record. Residential lots created by a land partition may be served by private wells if approved by the City, and provided the new lots are subject to a Petition for Improvement/Waiver of Remonstrance for a future assessment district for public water. If a second partition plat is filed on the same parcel, the application will be subject to the subdivision requirement that the development be served by public water.

HB 2583 & HB 4027 – ADC Amendments

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

12.480 When Public Sewer is Not Available. Where sewer is not available within 300 feet of the property, no development is allowed on private septic systems, except for construction of one single-family dwelling unit detached or one duplex on an existing lot of record or on a parcel no smaller than five acres created through the land division process. Any private on-site system allowed by this section must be approved by the county.

DRAFT

HB 2583 & HB 4027 – ADC Amendments

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

ARTICLE 12

SIGNS

Commentary:

Amendments to replace the term “family”, as it pertains to housing residential dwelling type, with “dwelling unit”, as required to comply with HB 2583.

13.000 Overview. This article contains the City’s standards for signage.

The following is a list of the main headings in this article.

- General Provisions
- General Sign Regulations
- Exemptions
- Temporary Signs or Displays
- Permanent Signs
- Review Procedures
- Variances
- Nonconforming Signs
- Definitions

PERMANENT SIGNS

13.560 Neighborhood Signs. For subdivisions, multiple-family dwelling unit developments, cottage cluster projects, Assisted Living, Daycare Facility (exceeding thresholds for Home Business Allowed Outright), and Residential Care or Treatment Facility (6 or more residents) uses, or identified neighborhood areas, one single- or double-faced, indirectly lit sign not to exceed 24 square feet for one face or 48 square feet in surface area for two or more faces is permitted. If the sign is not attached to a building, the sign may be no more than four feet tall. The applicant for the sign permit must own or represent a majority of the lots or dwelling units within the subdivision, multiple-family dwelling unit development, cottage cluster project, assisted living or care facility, identified neighborhood area, or the applicable homeowner’s association. If the sign pertains to any development request, then the location and design shall be subject to the appropriate review.

HB 2583 & HB 4027 – ADC Amendments

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

**ARTICLE 22
USE CATEGORIES AND DEFINITIONS**

Commentary:

Amendments to replace the term “family”, as it pertains to housing residential dwelling type, with “dwelling unit”, as required to comply with HB 2583.

Amendments to add definitions for “battery-charged fence” to comply with HB 4027

Amendments to correct scrivener’s errors.

The following is a list of content in this article.

- Use Categories 22.030 – 22.370
- Definitions 22.400
- Natural Resource Definitions 22.500

USE CATEGORIES

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

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

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

INDUSTRIAL USE CATEGORIES

- 22.030 Contractors and Industrial Services
- 22.040 Manufacturing and Production
- 22.045 Small-scale Manufacturing
- 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
- 22.125 Recreational Vehicle Park
- 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

HB 2583 & HB 4027 – ADC Amendments

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

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 Residential Care or Treatment Facility
- 22.270 Assisted Living Facility
- 22.280 Single-Family Dwelling Unit Detached and Two Detached Units
- 22.285 Middle Housing
- 22.300 Multiple Family Dwelling Unit: Five or More Units
- 22.310 Unit(s) Above or Attached to a Business
- 22.320 Residential Accessory Buildings

OTHER USE CATEGORIES

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

RESIDENTIAL USE CATEGORIES

22.260 Residential Care or Treatment Facility.

- (1) A Residential Care or Treatment Facility is a public or private facility for six or more unrelated persons who reside on site and who are physically, mentally, or socially handicapped, delinquent, or drug- or alcohol-dependent; with a person residing on site who is not related by blood, marriage, legal adoption or guardianship to the residents, and who may be responsible for supervising, managing, monitoring them and/or providing care, training or treatment to them. Larger facilities may offer shared facilities for eating, hygiene and/or recreation. Tenancy is for longer than one month. Group or Residential Care Facilities includes the state definition of residential care, training or treatment facility in ORS 443.
- (2) Use Examples. Types of uses include but are not limited to: group homes (for six or more residents); residential programs for drug and alcohol treatment; and alternative or post-incarceration facilities.
- (3) Exceptions.
 - (a) “Residential Care or Treatment Homes” providing care for or housing five or fewer physically, mentally or socially handicapped, delinquent persons or persons in need of treatment by a person who is not the parent or guardian of, and who is not related by blood, marriage, or legal adoption of, such persons are allowed in zones that allow residential dwellings per ORS 197.665.
 - (b) A registered or certified family child care home or adult foster care or treatment home, where residential care is provided in a homelike environment for five or fewer non-related individuals are considered a

]

HB 2583 & HB 4027 – ADC Amendments

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

residential use of property and shall be permitted in areas zoned for residential or commercial purposes (per ORS 197.665 and ORS 657A.440).

- (c) A place providing care and treatment on less than a 24-hour basis is classified as a Daycare Facility.
- (d) Hospitals and medical treatment facilities with overnight care are classified as Hospitals.
- (e) Nursing homes and hospice care facilities for elderly or disabled persons are classified as Assisted Living.
- (f) Lodging where tenancy may be arranged on a short-term basis may be classified as a Community Service use (such as short-term housing or mass shelters).
- (g) Lodging where the residents meet the definition of a household, and where tenancy is arranged on a month-to-month basis, or for a longer period, is classified as ~~Single-Family~~ Dwelling Unit Detached, Two Detached Units, Middle Housing, or ~~Multi-Family~~ Multiple Dwelling Unit Housing.
- (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 Facility.

Assisted Living facilities are places that provide housing, personal care or assistance to unrelated residents that need help with activities of daily living, who are usually elderly or disabled persons. At least one person responsible for providing daytime care, protection, supervision, monitoring and/or training or treatment of residents is present on the site at all times. Larger group-living facilities may offer shared facilities for eating, hygiene and/or recreation. Tenancy is for longer than one month.

- (1) Use Examples. Types of uses include, but are not limited to: nursing and convalescent homes; life care or continuing care services, hospice care facility, dementia care and assisted living facilities.
 - (a) Retirement housing units that are separate units and are owner-occupied or rented are classified as ~~Single-Family~~ Dwelling Unit Detached, Two Detached Units, Middle Housing, or ~~Multi-Family~~ Multiple Dwelling Unit Housing.
 - (b) Lodging where tenancy may be arranged for periods of less than one month is considered a hotel or motel use and is classified in the Retail Sales and Service category. However, in certain situations, lodging where tenancy may be arranged on a short-term basis may be classified as a Community Service use (such as short-term housing or homeless shelters).

22.280 Single-Dwelling Unit Detached and Two Detached Units.

- (1) ~~Single-family~~ dwelling detached units are one detached dwelling unit on one lot, with or without an accessory dwelling unit. Two detached units are two primary detached dwelling units on one lot.
- (2) Use Examples. ~~Single-family~~ detached units, two detached units, manufactured homes, and child and adult care or treatment homes for five or fewer individuals.
- (3) Exceptions.
 - (a) In certain situations, lodging where tenancy may be arranged for periods less than one month, such as short-term housing or homeless shelter, may be classified as Community Service uses.
 - (b) Dwelling units located above, behind, or contiguous to a business or office on the ground-floor(s) are classified as Units Above or Attached to a Business.

22.285 Middle Housing.

- (1) Middle housing includes the following housing types as defined in Section 22.400: duplexes, triplexes, fourplexes, townhouses, and cottage clusters.

HB 2583 & HB 4027 – ADC Amendments

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

- (2) Use Examples. Duplexes, triplexes, fourplexes, townhouses, and cottage clusters. See Figures 22.285-1 – 22.285-6 for examples of possible configurations for duplexes, triplexes, and fourplexes.
- (3) Exceptions.
- In certain situations, lodging where tenancy may be arranged for periods less than one month, such as short-term housing or homeless shelter, may be classified as Community Service uses.
 - Dwelling units located above, behind, or contiguous to a business or office on the ground floor(s) are classified as Units Above or Attached to a Business.
 - With the exception of a cottage cluster, any lot with five or more dwelling units is classified as Multiple Family Dwelling Unit Housing.

22.300 Multiple Family Dwelling Unit Housing: Five or More Units.

- A Multiple Family Dwelling Unit development is five or more dwellings units on one property or development site, attached or detached, including a building or collection of buildings, and excluding Middle Housing. Residential developments of three to four units are also classified as Multiple Family Dwelling Unit Housing if the development cannot otherwise be classified as Middle Housing.
- Use Examples. Five or more detached dwelling units on one property (excluding cottage clusters), single-room occupancy development, a building containing five or more dwelling units in any vertical or horizontal arrangement often called an apartment building, condominiums, and any other similar configuration of five or more units on one property or development site.
- Accessory Uses. Accessory uses commonly found are recreational activities, raising of pets, hobbies, and parking of the occupants' vehicles. Home occupations and bed and breakfast facilities are accessory uses that are subject to additional regulations.
- Exceptions.
 - 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.
 - Single-room occupancy situations where care is provided are classified as a Group or Residential Care Home or Residential Care or Treatment Facility. [Ord. 5801, 2/13/13]
 - Dwelling units located above, behind or contiguous to a business or office on the ground floor(s) are classified as Units Above or Attached to a Business.
 - Cottage clusters are a type of Middle Housing and are not considered Multiple Family Dwelling Unit development.

DEFINITIONS

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

Accessory Dwelling Unit: A self-contained living unit that is attached to or interior to the primary single-family dwelling unit, a detached structure, or in a portion of a detached accessory structure (e.g. above a garage or workshop) that is incidental and subordinate to the principal dwelling unit (primary residence).

Alarm System: Any electrical, mechanical, or electronic device or sensor used to prevent, detect, or alert law enforcement or occupants of burglary, theft, or intrusion of a structure or a vehicle used as a commercial structure.

HB 2583 & HB 4027 – ADC Amendments

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

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

Apartment House: See Dwelling, Multiple ~~Family~~ Dwelling Unit Housing.

Battery-Charged Fence: A fence that interfaces with an alarm system in a manner that enables the fence to cause the connected alarm system to transmit a signal intended to summon law enforcement in response to an intrusion and has an energizer that is driven by battery.

Bed and Breakfast Home: An owner-occupied single-family dwelling unit detached dwelling that provides temporary lodging and breakfast for compensation.

Cottage Cluster: A grouping of detached dwelling units (cottages) with a density of at least four dwellings per gross acre, a footprint of less than 900 square feet each, and that includes a common courtyard. Cottage clusters are considered a type of middle housing and are not considered ~~multi-family~~ multiple dwelling units or single-family dwelling unit detached dwellings. Cottage clusters typically have multiple cottages sharing a single lot; however, cottage clusters can also be divided so that cottages are on individual lots.

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

Group Home or Residential Care Home: Any privately-owned or public institution-owned home that is 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 unit detached dwellings. See Oregon Revised Statutes Chapter 443.

IEC Standards: The standards set by the International Electrotechnical Commission as most recently published on or before January 1, 2021.

Lot, Coverage: That portion of a lot which, when viewed directly from above, would be covered by a building, or structure, pavement, or any area not vegetated or in a naturally permeable state. Lot coverage for single-family dwelling unit detached and middle housing development shall only include the area of the lot covered by buildings or structures.

Middle Housing Zoning District: A zoning district in which residential dwellings are the primary use and single-family dwelling unit detached dwellings are permitted, and which implements a residential comprehensive plan map designation in accordance with OAR 660-046-0020. In the City of Albany that includes the following zoning districts:

- RR Residential Reserve District
- RS-10 Residential Single-Family Dwelling Unit District
- RS-6.5 Residential Single-Family Dwelling Unit District
- RS-5 Residential Single-Family Dwelling Unit District
- HM Hackleman-Monteith District
- RM Residential Medium Density District
- MUR Mixed Use Residential District
- MUC Mixed Use Commercial District

Multiple-Family Dwelling Unit Development: Five or more dwelling units on one property or development site, attached or detached, including a building or collection of building, and excluding Middle Housing. Residential developments of three to four units are also defined as Multiple ~~Family~~ Dwelling Unit Housing if the development cannot otherwise meet the definition of Middle Housing.

Public and Semi-Public Building: A building or use owned or operated by a government agency or a public utility. Such buildings and uses include: fire stations, law enforcement facilities, educational facilities, utility substations, parks, playgrounds, or community centers.

HB 2583 & HB 4027 – ADC Amendments

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

Single-Family Dwelling Unit Detached: A single detached building containing one dwelling unit on a lot. Dwelling units on individual lots that are part of a cottage cluster are not single-family dwelling unit detached dwellings for the purposes of this Code.

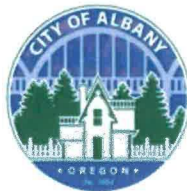
Townhouse: A dwelling unit that is part a grouping of two or more common wall dwelling units, each unit of which is built upon an individual subdivided or partitioned lot or parcel. Townhouses are also called single-family dwelling unit attached houses, rowhouses, and zero-lot-line houses.

Two Detached Primary Units (also “2 Detached Units”): When referring to a permitted use, this means two detached buildings on a lot, each containing one primary dwelling unit. This use is distinct from a single-family dwelling unit with an accessory dwelling unit.

HB 2583 & HB 4027 – ADC Amendments

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

DRAFT



COMMUNITY DEVELOPMENT

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

Staff Report

Comprehensive Plan and Albany Development Code Text Amendments

Files: CP-03-22 & DC-01-22

October 10, 2022

HEARING BODIES:	Planning Commission	City Council
HEARING DATES:	Monday, October 17, 2022	Wednesday, November 9, 2022
HEARING TIMES:	5:15 p.m.	7:15 p.m.
HEARING LOCATION:	Council Chambers, Albany City Hall, 333 Broadalbin Street SW	

Application Information

Proposal:	Comprehensive Plan Amendment amendments to become compliant with House Bill 2583 ; Albany Development Code Amendment (IV-Legislative) to become compliant with House Bills 2583 and 4027, and miscellaneous clarifying updates throughout the ADC.
Review Bodies:	Planning Commission and City Council (Type IV - Legislative review process)
Applicant:	City of Albany, Community Development Department, 333 Broadalbin Street SW, Albany, OR 97321.
Address/Location:	Not applicable; the code amendment is not site specific
Staff Report Prepared by:	Jennifer Cepello, Project Planner

Overview

Sections 2.210 and 2.280 of the Albany Development Code (ADC) allows for the Community Development director to initiate legislative amendments to the Albany Comprehensive Plan (Plan) and ADC. The City has implemented a process to periodically evaluate and adopt changes to the Plan and ADC to include both clarifying and policy edits. The proposed amendment package (planning files CP-01-22 & DC-03-22) would:

- Amend sections of Chapters 4, 7, 8, 9, and Appendices I, IIA, and IV of the Plan to remove the term “family” from all references to the type of residential dwelling(s) and residential zoning designations in accordance with House Bill 2583.
- Amend all sections of ADC to remove the term “family” from all references to the type of residential dwelling(s) and residential zoning designations in accordance with House Bill 2583.
- Amendments to correct scrivener’s errors and clarification to Articles 1, 2, 4, 5, 6, 7, 8, 9, 10, 11, and 22 within the ADC.



- Add “Battery-Charged Fence” as it pertains to House Bill 4027 to ADC 9.370 and Article 22.

Amendments to the term “family” as it pertains to residential dwellings and zoning designation

On May 12, 2021, Governor Brown signed into effect House Bill (HB) 2583, which became effective January 1, 2022. HB 2583 removes a maximum occupancy limit for any residential dwelling unit, as defined in ORS 90.100, by any public body as defined by ORS 174.109, including the State Fire Marshal, the Department of Consumer and Business Services, or any local government or district. These amendments included the reassignment of the term “family” as it pertains to type of residential dwelling(s) and zoning designation to “dwelling unit” (Attachment A).

Proposed amendments to the Plan and ADC will resolve the requirements of HB 2583 by removing the term “family” from all residential dwelling and zoning designation references.

Battery-Charged Fence

On March 3, 2022, Governor Brown signed House Bill (HB) 4027, which becomes effective on January 1, 2023. HB 4027 is a new act which allows the use of a “Battery-charged fence” in all zoning districts. The HB includes definitions and standards of which local jurisdictions must allow. (Attachment B)

This staff report addresses proposed amendments to comply with HB 4027 – the addition of “battery-charged fence”. Proposed amendment to the ADC will resolve the requirements of HB 4027 by allowing “battery-charged fence” with standards and defining “battery-charged fence” in Article 22.

Proposed Amendments

Proposed amendments as they would appear in the Plan and ADC are included as attachments (Attachments C and D). In this report and attached section amendments, proposed new text is in red font and proposed deleted text is in red strike-out font. A “clean” copy of proposed section amendments, without red strike-out font, is provided in Attachments E and F. Should the proposed amendments be approved, the approved amendments made part of the Plan and ADC.

Notice Information

Public notice was issued in accordance with legislative amendment requirements. A notice was issued to the Oregon Department of Land Conservation and Development (DLCD) on September 12, 2022, at least 35 days before the first evidentiary hearing, in accordance with OAR 660-018-0020 and ADC 1.640. A Notice of Public Hearing was mailed on October 3, 2022 to Linn and Benton County Planning Divisions. A Notice of Public Hearing was provided for publication to the *Albany Democrat-Herald* on September 26, 2022. The staff report for the proposed development code and comprehensive plan amendments was posted on the City’s website on October 10, 2022, at least seven days before the first evidentiary public hearing. As of the date of this report, no comments have been received by the Community Development Department.

Review Process and Appeals

Amendments to the Plan and ADC are made through a Type IV legislative land use review process. Following this process, the Planning Commission will hold a public hearing to consider proposed amendments and will make a recommendation to the City Council. The Planning Commission’s recommendation cannot be appealed. The City Council will hold a subsequent public hearing to consider the proposed amendments. After closing the public hearing, the City Council will deliberate and make a final decision. Within five days of the City Council’s final action on the proposed amendments, the Community Development director will provide written notice of the decisions to any parties entitled to notice. A City Council decision can be appealed to the Oregon Land Use Board of Appeals (LUBA) if a

person with standing files a Notice of Intent to Appeal within 21 days of the date the decision is reduced to writing and bears the necessary signatures of the decision makers.

Analysis of Development Code Criteria

Comprehensive Plan Text Amendment (file no. CP-03-22)

Section 2.220(1)(2) of the ADC includes the following review criteria that must be met for this legislative text amendment to be approved. Code criteria are written in ***bold italics*** and are followed by findings and conclusions.

Comprehensive Plan Amendment - Review Criterion 2.220(1)

A legislative amendment is consistent with the goals and policies of the Comprehensive Plan, the statewide planning goals, and any relevant area plan adopted by the City Council.

Findings of Fact

- 1.1 The proposed amendment package (planning files CP-03-22 & DC-01-22) would: (1) Amend sections of Chapter 4, 7, 8, 9 and Appendix IV of the Plan to remove the term “family” as it pertains to housing from all title references to “dwelling unit” in accordance with recent House Bill 2583; (2) Amend all Articles of ADC with the verbiage of “single-family or multi-family” dwellings to “residential dwelling unit(s)” in order to comply with House Bill 2583. (3) Amend sections of ADC Articles 7 and 22 to include the term, use, and standards of “battery-charged fence” in residential zones in accordance with recent House Bill 4027 (4) Correction of scriveners’ errors within Articles 1, 2, 4, 5, 6, 7, 8, 9, 10, 11, and 22 of the ADC.
- 1.2 Legislative amendments must be consistent with goals and policies outlined in the Oregon Statewide Planning Goals, Albany’s Comprehensive Plan, and any relevant plan adopted by City Council.
- 1.3 The Comprehensive Plan defines a goal as, “a general statement indicating a desired end, or the direction the City will follow to achieve that end” (Comprehensive Plan, page ii).
- 1.4 The Comprehensive Plan describes the City’s obligation in regard to goals as follows: “The City cannot take action which opposes a goal statement unless: 1) It is taking action which clearly supports another goal; and 2) There are findings indicating the goal being supported takes precedence (in the particular case) over the goal being opposed,” (Comprehensive Plan, page ii).
- 1.5 The Comprehensive Plan (page 2) defines a policy as, “a statement identifying a course of action or City position.”
- 1.6 The Comprehensive Plan describes the City’s obligation regarding policies as follows: “The City must follow relevant policy statements in making a land use decision . . . [I]n the instance where specific Plan policies appear to be conflicting, then the City shall seek solutions which maximize each applicable policy objective within the overall content of the Comprehensive Plan and in a manner consistent with the statewide goals. In balancing and weighing those statements, the City can refer to general categories of policies and does not have to respond to each applicable policy. Also, in this weighing process, the City shall consider whether the policy contains mandatory language (e.g., shall, require) or more discretionary language (e.g., may, encourage),” (Comprehensive Plan, page iii).
- 1.7 The following Comprehensive Plan goals and policies are applicable to the proposed Development Code amendments. Goals and polices are shown below in **bold** print followed by findings of fact and conclusions.

Statewide Planning Goal 1: To develop a citizen involvement program that ensures the opportunity for citizens to be involved in all phases of the planning process.

Statewide Planning Goal 2: To establish a land use planning process and policy framework as a basis for all decisions and actions related to the use of land and to assure an adequate factual bases for such decisions.

Goal: Undertake Periodic Review and Update of the Albany Comprehensive Plan to ensure the Plan:

- 1. Remains current and responsive to community needs.**
- 2. Retains long-range reliability.**
- 3. Incorporates the most recent and reliable information**
- 4. Remains consistent with state laws and administrative rules.**

- 1.8 In 2021, the Oregon Governor signed House Bills 4027 and 2583 respectively. House Bill 4027 created an Act for the mandatory allowance, standards, and definitions of “Battery-Charged Fencing” within residential zoning districts. House Bill 2583 prohibits any public body as defined by ORS 174.109, including the State Fire Marshal, the Department of Consumer and Business Services, or any local government or district from establishing a maximum occupancy limit for any residential dwelling unit. See findings 2.2 and 2.3, incorporated herein by reference.
- 1.9 A notice of the proposed text amendments (planning files CP-03-22 and DC-01-22) was issued to the Oregon Department of Land Conservation and Development (DLCD) on September 12, 2022, at least 35 days before the first evidentiary hearing, in accordance with OAR 660-018-0020 and ADC 1.640.
- 1.10 A Notice of Public Hearing (planning files CP-03-22 and DC-01-22) was mailed on October 3, 2022 to Linn and Benton County Planning Divisions, and City of Millersburg. A Notice of Public Hearing was provided for published in the Albany Democrat-Herald on September 26, 2022. These notices informed the public that the amendments would be considered during the October 17, 2022 Planning Commission and November 9, 2022 City Council public hearings, consistent with the legislative hearing notice requirements of ADC 1.600.
- 1.11 A staff report concerning the proposed text amendments (planning files CP-03-22 and DC-01-22) was posted on the City’s website on October 10, 2022, at least seven days before the first evidentiary public hearing.
- 1.12 Through the notification and public hearing process, all interested parties are afforded the opportunity for the to review proposed text amendments, comment on the proposal, attend the public hearings, and for decisionmakers to consider testimony as they recommend or decide on the final amendments.

Findings of Fact and Conclusions

- 1.1 The process of crafting the proposed development code text amendments included multiple outreach efforts to the public and stakeholders, and incorporated input from a variety of perspectives. The process to review and adopt the proposed code amendments, which includes issuing notices and making information available prior to the public hearings, also ensures the public can effectively participate in the decision-making process. In addition, public hearings are held before the Planning Commission and the City Council to take into account public comments prior to making a final decision. These procedures meet the requirements of citizen involvement in the land use planning process.
- 1.2 The proposed code amendments to replace the term “family”, as it pertains to residential dwelling type, with “dwelling unit”, are required to comply with HB 2583.
- 1.3 The proposed development code amendments are consistent with the noted goals and policies because they do not alter the intent or the content of the Plan or the development code.
- 1.4 In summary, the proposed development code amendments are consistent with the Comprehensive Plan goals and policies.
- 1.5 Given the above analysis, this review criterion is met.

Comprehensive Plan Amendment - Review Criterion 2.220(2)

A legislative amendment is needed to meeting changing conditions or new laws.

Findings of Fact

- 2.1 In 2021, the Oregon Legislative Assembly approved, and the Oregon Governor signed House Bill 2583.
- 2.2 House Bill 2583 amended ORS 659A.421 as follows: **“A maximum occupancy limit may not be established or enforced for any residential dwelling unit, as defined in ORS 90.100, by any public body, as defined by ORS 174.109, including the State Fire Marshal, the Department of Consumer and Business Services, or any local government or district.**
- 2.3 Amendments to the Plan replaced the term “family”, as it pertains to dwelling type, to “dwelling unit” in Chapters 4, 7, 8, 9, and Appendix IV.

Development Code Text Amendment (file no. DC-01-22)

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

Development Code Amendment - Review Criterion 2.290(1)

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

Findings of Fact

- 1.1 See findings 1.1 through 1.12 above, incorporated herein by reference on how proposed amendments better achieve the goals and policies of the Comprehensive Plan.
- 1.2 The following Comprehensive Plan goals and policies are applicable to the proposed Development Code amendments. Goals and policies are shown below in **bold** print followed by findings of fact and conclusions.

Land Use

Goal 3: Incorporates the most recent and reliable information

Goal 4: Remains consistent with state laws and administrative rules.

- 1.3 House Bill 2583 passed into state law and is effective January 1, 2022. House Bill 2583 amended ORS 659A.421 Section 1 to read: **A maximum occupancy limit may not be established or enforced for any residential dwelling unit, as defined in ORS 90.100, by any public body, as defined by ORS 174.109, including the State Fire Marshal, the Department of Consumer and Business Services, or any local government or district.**
- 1.4 The proposed development code updates will replace the term “family”, as is used to define a dwelling type, to “dwelling unit(s)”. The proposed change does not alter the intent or context of the ADC but changes the language to a precise term of “dwelling unit(s)”.
- 1.5 House Bill 4027 passed into state law the allowance of “battery-charged fence”. The proposed amendment will allow “battery-charged fence” as a use within the residential zones with standards and definitions.
- 1.6 In the process of amending the ADC to be consistent with the updated state law there were scrivener’s errors throughout the development code which are proposed to be updated.

- 1.7 In general, the proposed amendments to the development code are intended to improve the land use process rather than significantly change the outcomes. The proposed amendments are intended to ensure consistency with state law by making the terms and standards easier to interpret and apply.
- 1.8 The proposed development code text amendments are consistent with the goals noted above because they are consistent with state law and are the most recent and reliable information.

Development Code Amendment - Review Criterion 2.290(2)

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

Findings of Fact

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

Article 1 – Administration and Procedures

Introduction

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

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

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

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

Article 1 Purposes - Findings of Fact and Conclusions

- 2.1 As described previously under findings 2.220(1) 1.1 through 1.12, and 2.290(1) 1.1 through 1.8 incorporated herein by reference, proposed amendments are consistent with applicable Plan goals, policies, and implementation methods. Proposed amendments. Given this, the proposed amendments are consistent with Article 1 purpose statements 1, 2, and 3.
- 2.2 The proposed development code text amendments replace the term “family”, as it relates to dwelling type, with “dwelling unit(s)”, which is consistent with House Bill 2583.
- 2.3 The proposed development code text amendments to allow, define, and establish standards for a “battery-charged fence” within the residential zoning district is consistent with House Bill 4027.
- 2.4 The proposed development code text amendments to clean up scribes’ errors continues to provide clear and specific text through-out the development code.
- 2.5 Proposed amendments comply with state law and are consistent with the Plan. Thus, they are consistent with the provisions in ADC 1.050 – Consistency with Plan and Laws.

Article 2 – Review Criteria

2.190 Purpose. The Comprehensive Plan is the City’s official and controlling land use document, guiding public and private activities that affect Albany’s growth, development, and livability. The Plan is intended to be a flexible document, reflecting changing circumstances and community attitudes through occasional amendments. This section provides a process for amending the Comprehensive Plan without violating its integrity or frustrating its purposes. This process applies to proposed changes to the Comprehensive Plan Map designations, text and the Urban Growth Boundary.

Article 9 – On-site Development and Environmental Standards

9.370(4) Battery-Charged Fence: A fence that interfaces with an alarm system in a manner that enables the fence to cause the connected alarm system to transmit a signal intended to summon law enforcement in response to an intrusion and has an energizer that is driven by battery. Battery-charged fences are permitted when the following standards can be met.

- (a) Must use a battery that is not more than 12 volts of direct current; and
- (b) Must produce an electric charge on contact that does not exceed energizer characteristics set for electric fence energizers by IEC standards; and
- (c) Must be surrounded by a nonelectric perimeter fence or all that is not less than five feet in height; and

(d) May not be higher than the greater of 10 feet in height or two feet higher than the height of the non-electric perimeter fence or all; and

(e) Must be marked with conspicuous warning signs that are located on the fence at not more than 30-foot intervals and that read: "WARNING: ELECTRIC FENCE".

Article 22 – Definitions

22.400 Alarm System: Any electrical, mechanical, or electronic device or sensor used to prevent, detect, or alert law enforcement or occupants of burglary, theft, intrusion of a structure or a vehicle used as a commercial structure.

Battery-Charged Fence: A fence that interfaces with an alarm system in a manner that enables the fence to cause the connected alarm system to transmit a signal intended to summon law enforcement in response to an intrusion and has an energizer that is driven by battery.

Article 9 and 22 Purposes - Findings of Fact and Conclusions

2.6 The proposed amendments to sections 9.370 and 22.400 concerning naming of "battery-charged fence" and the associated definition and standards.

Overall Conclusion

Based on the analysis in this report, the proposed Comprehensive Plan text amendments concurrent with the Development Code text amendments meets all of the applicable review criteria as outlined in this report.

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

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

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

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

Staff Recommendation

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

I move that the Planning Commission recommend that the City Council approve the proposed Comprehensive Plan and Development Code text amendments under planning files CP-03-22 and DC-01-22. This motion is based on the findings and conclusions in the October 10, 2022 staff report, and the findings in support of the application made by the Planning Commission during deliberations on this matter.

Attachments

- A. Proposed Plan Amendments - red font strike-out
- B. Proposed ADC Amendments – red font strike-out
- C. Proposed Plan Amendments - clean
- D. Proposed ADC Amendments - clean
- E. House Bill 2583
- F. House Bill 4027

Acronyms

ACP Albany Comprehensive Plan

ADC	Albany Development Code
CP	Comprehensive Plan Text Amendment File Designation
DC	Development Code Text Amendment File Designation
HB	House Bill
LUBA	Oregon Land Use Board of Appeals
OAR	Oregon Administrative Rule
ORS	Oregon Revised Statutes

81st OREGON LEGISLATIVE ASSEMBLY--2021 Regular Session

House Bill 2583

Sponsored by Representative FAHEY (Pre-session filed.)

SUMMARY

The following summary is not prepared by the sponsors of the measure and is not a part of the body thereof subject to consideration by the Legislative Assembly. It is an editor's brief statement of the essential features of the measure as introduced.

Prohibits establishment or enforcement of occupancy limits on residential dwelling units by public bodies.

A BILL FOR AN ACT

1
2 Relating to maximum occupancy of residential dwelling units.

3 **Be It Enacted by the People of the State of Oregon:**

4 **SECTION 1. A maximum occupancy limit may not be established or enforced for any**
5 **residential dwelling unit, as defined in ORS 90.100, by any public body, as defined by ORS**
6 **174.109, including the State Fire Marshal, the Department of Consumer and Business Ser-**
7 **vices, or any local government or district.**

8 **SECTION 2.** ORS 659A.421 is amended to read:

9 659A.421. (1) As used in this section:

10 (a) "Dwelling" means:

11 (A) A building or structure, or portion of a building or structure, that is occupied, or designed
12 or intended for occupancy, as a residence by one or more families; or

13 (B) Vacant land offered for sale or lease for the construction or location of a building or
14 structure, or portion of a building or structure, that is occupied, or designed or intended for occu-
15 pancy, as a residence by one or more families.

16 (b) "Purchaser" includes an occupant, prospective occupant, renter, prospective renter, lessee,
17 prospective lessee, buyer or prospective buyer.

18 (c) "Real property" includes a dwelling.

19 (d)(A) "Source of income" includes federal rent subsidy payments under 42 U.S.C. 1437f and any
20 other local, state or federal housing assistance.

21 (B) "Source of income" does not include income derived from a specific occupation or income
22 derived in an illegal manner.

23 (2) A person may not, because of the race, color, religion, sex, sexual orientation, national ori-
24 gin, marital status, familial status or source of income of any person:

25 (a) Refuse to sell, lease or rent any real property to a purchaser. This paragraph does not pre-
26 vent a person from refusing to lease or rent real property to a prospective renter or prospective
27 lessee:

28 (A) Based upon the past conduct of a prospective renter or prospective lessee provided the re-
29 fusal to lease or rent based on past conduct is consistent with local, state and federal law, including
30 but not limited to fair housing laws; or

31 (B) Based upon the prospective renter's or prospective lessee's inability to pay rent, taking into

NOTE: Matter in **boldfaced** type in an amended section is new; matter [*italic and bracketed*] is existing law to be omitted.
New sections are in **boldfaced** type.

1 account the value of the prospective renter's or prospective lessee's local, state and federal housing
2 assistance, provided the refusal to lease or rent based on inability to pay rent is consistent with
3 local, state and federal law, including but not limited to fair housing laws.

4 (b) Expel a purchaser from any real property.

5 (c) Make any distinction, discrimination or restriction against a purchaser in the price, terms,
6 conditions or privileges relating to the sale, rental, lease or occupancy of real property or in the
7 furnishing of any facilities or services in connection therewith.

8 (d) Attempt to discourage the sale, rental or lease of any real property to a purchaser.

9 (e) Publish, circulate, issue or display, or cause to be published, circulated, issued or displayed,
10 any communication, notice, advertisement or sign of any kind relating to the sale, rental or leasing
11 of real property that indicates any preference, limitation, specification or unlawful discrimination
12 based on race, color, religion, sex, sexual orientation, national origin, marital status, familial status
13 or source of income.

14 (f) Assist, induce, incite or coerce another person to commit an act or engage in a practice that
15 violates this section.

16 (g) Coerce, intimidate, threaten or interfere with any person in the exercise or enjoyment of,
17 or on account of the person having exercised or enjoyed or having aided or encouraged any other
18 person in the exercise or enjoyment of, any right granted or protected by this section.

19 (h) Deny access to, or membership or participation in, any multiple listing service, real estate
20 brokers' organization or other service, organization or facility relating to the business of selling or
21 renting dwellings, or discriminate against any person in the terms or conditions of the access,
22 membership or participation.

23 (i) Represent to a person that a dwelling is not available for inspection, sale or rental when the
24 dwelling in fact is available for inspection, sale or rental.

25 (j) Otherwise make unavailable or deny a dwelling to a person.

26 (3)(a) A person whose business includes engaging in residential real estate related transactions
27 may not discriminate against any person in making a transaction available, or in the terms or con-
28 ditions of the transaction, because of race, color, religion, sex, sexual orientation, national origin,
29 marital status, familial status or source of income.

30 (b) As used in this subsection, "residential real estate related transaction" means any of the
31 following:

32 (A) The making or purchasing of loans or providing other financial assistance:

33 (i) For purchasing, constructing, improving, repairing or maintaining a dwelling; or

34 (ii) Secured by residential real estate; or

35 (B) The selling, brokering or appraising of residential real property.

36 (4) A real estate licensee may not accept or retain a listing of real property for sale, lease or
37 rental with an understanding that a purchaser may be discriminated against with respect to the sale,
38 rental or lease thereof because of race, color, religion, sex, sexual orientation, national origin,
39 marital status, familial status or source of income.

40 (5) A person may not, for profit, induce or attempt to induce any other person to sell or rent
41 any dwelling by representations regarding the entry or prospective entry into the neighborhood of
42 a person or persons of a particular race, color, religion, sex, sexual orientation, national origin,
43 marital status, familial status or source of income.

44 (6) This section does not apply with respect to sex distinction, discrimination or restriction if
45 the real property involved is such that the application of this section would necessarily result in

1 common use of bath or bedroom facilities by unrelated persons of opposite sex.

2 (7)(a) This section does not apply to familial status distinction, discrimination or restriction with
3 respect to housing for older persons.

4 (b) As used in this subsection, "housing for older persons" means housing:

5 (A) Provided under any state or federal program that is specifically designed and operated to
6 assist elderly persons, as defined by the state or federal program;

7 (B) Intended for, and solely occupied by, persons 62 years of age or older; or

8 (C) Intended and operated for occupancy by at least one person 55 years of age or older per
9 unit. Housing qualifies as housing for older persons under this subparagraph if:

10 (i) At least 80 percent of the dwellings are occupied by at least one person 55 years of age or
11 older per unit; and

12 (ii) Policies and procedures that demonstrate an intent by the owner or manager to provide
13 housing for persons 55 years of age or older are published and adhered to.

14 (c) Housing does not fail to meet the requirements for housing for older persons if:

15 (A) Persons residing in the housing as of September 13, 1988, do not meet the requirements of
16 paragraph (b)(B) or (C) of this subsection. However, new occupants of the housing shall meet the
17 age requirements of paragraph (b)(B) or (C) of this subsection; or

18 (B) The housing includes unoccupied units that are reserved for occupancy by persons who meet
19 the age requirements of paragraph (b)(B) or (C) of this subsection.

20 (d) Nothing in this section limits the applicability of any [*reasonable local, state or*] federal re-
21 strictions regarding the maximum number of occupants permitted to occupy a dwelling.

22 (8) The provisions of subsection (2)(a) to (d) and (f) of this section that prohibit actions based
23 upon sex, sexual orientation or familial status do not apply to the renting of space within a single-
24 family residence if the owner actually maintains and occupies the residence as the owner's primary
25 residence and all occupants share some common space within the residence.

26 (9) Any violation of this section is an unlawful practice.
27

Enrolled
House Bill 4027

Sponsored by Representative WALLAN (Presession filed.)

CHAPTER

AN ACT

Relating to alarms.

Be It Enacted by the People of the State of Oregon:

SECTION 1. (1) As used in this section:

(a) "Alarm system" means any electrical, mechanical or electronic device or sensor used to prevent, detect or alert law enforcement or occupants of burglary, theft, or intrusion of a structure or a vehicle used as a commercial structure.

(b) "Battery-charged fence" means a fence that interfaces with an alarm system in a manner that enables the fence to cause the connected alarm system to transmit a signal intended to summon law enforcement in response to an intrusion and has an energizer that is driven by battery.

(c) "IEC standards" means the standards set by the International Electrotechnical Commission as most recently published on or before January 1, 2021.

(2) A battery-charged fence:

(a) Must use a battery that is not more than 12 volts of direct current;

(b) Must produce an electric charge on contact that does not exceed energizer characteristics set for electric fence energizers by IEC standards;

(c) Must be surrounded by a nonelectric perimeter fence or wall that is not less than five feet in height;

(d) May not be higher than the greater of 10 feet in height or two feet higher than the height of the nonelectric perimeter fence or wall; and

(e) Must be marked with conspicuous warning signs that are located on the fence at not more than 30-foot intervals and that read: "WARNING: ELECTRIC FENCE."

(3) Except as required by state building code, a local government, as defined in ORS 197.015, may not adopt or enforce any ordinance, land use regulation or building code for property not zoned or used for residential use that:

(a) Prohibits the installation or use of a battery-charged fence.

(b) Imposes installation or operational requirements inconsistent with IEC standards or this section for an alarm system or battery-charged fence.

(c) Requires a permit for the installation or use of a battery-charged fence that is additional to an alarm system permit issued by the local government.

Passed by House February 11, 2022

.....
Timothy G. Sekerak, Chief Clerk of House

.....
Dan Rayfield, Speaker of House

Passed by Senate February 23, 2022

.....
Peter Courtney, President of Senate

Received by Governor:

.....M.,....., 2022

Approved:

.....M.,....., 2022

.....
Kate Brown, Governor

Filed in Office of Secretary of State:

.....M.,....., 2022

.....
Shemia Fagan, Secretary of State