



ORDINANCE NO. 5968

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 DEVELOPMENT CODE TEXT AND ADOPTING FINDINGS.

WHEREAS, the Oregon legislature passed House Bill 2001 (HB2001) in August 2019 in an effort to respond to concerns about the availability and affordability of housing in Oregon; and

WHEREAS, HB2001 requires Oregon cities over 25,000 in population, including Albany, to adopt standards to allow middle housing types consistent with Oregon Revised Statutes (ORS) 197.758 and Oregon Administrative Rules (OAR) Chapter 660, Division 46 by June 30, 2022, or the state's model Code for Large Cities will automatically apply; and

WHEREAS, the Oregon legislature adopted Senate Bill 458 (SB458) in June of 2021 to allow land divisions for middle housing built in accordance with middle housing ORS and OAR; and

WHEREAS, the amendments to the Albany Comprehensive Plan (Plan) and Albany Development Code (ADC) are needed to comply with HB2001 and SB458, and additional legislative amendments are needed to provide clear and objective standards for subdivisions and manufactured home parks; and

WHEREAS, the City needs to modify land use procedures for land divisions with limited discretion to comply with ORS 197 for limited land use decisions, update the Condominium section to comply with state law, and modify the planned development open space requirements to encourage innovative developments; and

WHEREAS, the City followed a public engagement strategy to incorporate a variety of methods to solicit public involvement from a variety of residents and stakeholders; and

WHEREAS, the Albany Planning Commission and City Council served as the advisory body for this project, holding six joint work sessions on the following dates to evaluate draft Plan and ADC concepts and public input: November 16, 2020; February 8, 2021; February 22, 2021; April 26, 2021; May 10, 2021; and September 20, 2021; and

WHEREAS, four focus group sessions including a variety of residents and stakeholders were held on February 10 and 11, 2021; and 328 people participated in an online survey that was available in English and Spanish to provide input on proposed code concepts; and

WHEREAS, City staff met with local builders and developers to seek input and identify any challenges with the proposed middle housing amendments; and

WHEREAS, a notice of the proposed amendments and planning commission and city council public hearings was sent to the Oregon Department of Land Conservation and Development on September 24, 2021, at least 35 days before the first evidentiary hearing in accordance with OAR 660-018-0020; and

WHEREAS, notice of the proposed amendments and public hearings was published in the Albany Democrat Herald on October 18, 2021, and notices were mailed or emailed to various agencies and interested parties; and

WHEREAS, on November 1, 2021, the planning commission held a public hearing, considered public testimony and the staff findings and conclusions, and deliberated on proposed text amendments to the Plan and ADC as described in planning files no. CP-03-21 and DC-02-21; and

WHEREAS, on November 1, 2021, the planning commission recommended that the city council adopt the proposed Plan and ADC text amendments with two minor modifications as presented in the attached ordinance; and

WHEREAS, the city council held a public hearing on the proposal on December 1, 2021, reviewed the findings and conclusions in Exhibit C, considered public testimony, and deliberated on the proposed text amendments to the Plan and ADC; and

WHEREAS, the text amendments to the Plan and ADC are presented as attachments to this ordinance as Exhibits A and B; 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 is hereby amended as shown in attached Exhibit A in track changes.

Section 2: The text of the Albany Development Code is hereby amended as shown in attached Exhibit B in track changes.

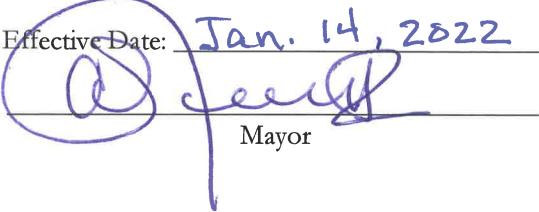
Section 3: The findings of fact and conclusions included in the staff report in Exhibit C are hereby adopted in support of this decision.

Section 4: 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 Albany Development Code.

Passed by the Council: Dec. 15, 2021

Approved by the Mayor: Dec. 15, 2021

Effective Date: Jan. 14, 2022



Mayor

ATTEST: Allison R. Luesie

City Clerk



Expanding Housing Options – Comprehensive Plan Amendments

*Draft 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: ****

MIDDLE HOUSING COMPREHENSIVE PLAN AMENDMENTS

Commentary:

Albany's housing policies already do a good job of supporting a variety of housing options. However, some of the goals, policies, and implementation methods in Chapter 4: Housing and Chapter 9: Land Use Planning of Albany's Comprehensive Plan could be revised and new policies added for consistency with the requirements of HB 2001 or OAR 660-046, or to address barriers to middle housing. Some of proposed amendments identified here came from the Housing Strategies Report that Angelo Planning Group prepared for the City of Albany in April 2020 as part of the Albany Housing Needs Analysis (HNA) update. That report recommends policies and strategies for addressing projected 20-year housing needs identified in the Albany HNA.

The proposed amendments include:

- In Chapter 4, Goal 10 (Housing), expand policies to more specifically encourage middle housing, both rental and ownership opportunities, and other 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.
- In Chapter 9, Goal 2 (Land Use), update the descriptions of Low Density Residential (LDR) and Medium Density Residential (MDR) to state that these areas are also suited or used for middle housing and that middle housing types are permitted in the residential zoning districts.

Expanding Housing Options – Comprehensive Plan Amendments

Draft 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: ***

CHAPTER 4: HOUSING

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.
 - ~~a.~~b. Attached single-family housing and condominium ownership opportunities in the Waterfront zoning district
 - ~~b.~~c. The adaptive reuse of the upper floors of structures within the Downtown Business District for residential purposes.
 - ~~c.~~d. Mixed housing types and price ranges at a minimum of ten units per acre in Village Center Comprehensive Plan districts.
 - ~~d.~~e. Neighborhoods with a variety of lot and housing sizes and types.
 - ~~e.~~f. Accessory dwelling units.
 - ~~f.~~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.

Expanding Housing Options – Comprehensive Plan Amendments

*Draft 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: ****

- 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 upgradesubstandard and deteriorating units.
 12. Encourage the development of housing with quality craftsmanship and amenities to attract newbusiness 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 areawhich 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 of a ~~range of~~ affordable and lower-cost housing in a range of types and appropriate sizes to meet Albany’s housing needs. Examples include accessory ~~apartments~~ dwelling units, manufactured housing, and middle housing ~~attached single-family houses~~.
17. Recognize groups needing specialized housing such as the elderly, ~~handicapped~~, homeless, and other disadvantaged groups when identifying housing programs and opportunities.

Expanding Housing Options – Comprehensive Plan Amendments

Draft 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: ***

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
 - ~~e~~.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
 - ~~d~~.e. Allowing increased densities within Planned Unit Developments, zero lot line setbacks, attached single-family housing, and other innovative housing techniques
 - ~~e~~.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,

Expanding Housing Options – Comprehensive Plan Amendments

*Draft 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: ****

- 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.

RECOMMENDATIONS

- 17. Encourage Linn and Benton Counties to consider the needs of the homeless and other displaced persons by:
 - a. Maintaining close contact with local social service providers in order to be able to measure needs and to be able to provide appropriate referrals.
 - b. Facilitating emergency housing assistance during severe conditions.
- 18. Encourage the Community Services Consortium (CSC) to serve as the region's "housing resource

Expanding Housing Options – Comprehensive Plan Amendments

*Draft 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: ****

center” that can serve as a “clearinghouse” for housing needs.

SUPPORTING DOCUMENTS

The following documents prepared by Angelo Planning Group, Johnson Economics, and the City of Albany between July 1, 2019, and April 1, 2020, are hereby adopted in their entirety as supporting documents to the Albany Comprehensive Plan:

- City of Albany Housing and Residential Land Needs Assessment; 20-year housing need to 2040
- Albany Building Lands Inventory – Methodology and Results.

[Ord. 5951 12/2/2020]

CHAPTER 9: LAND USE PLANNING

GOAL 2: LAND USE PLANNING

LAND USE DESIGNATIONS

BACKGROUND SUMMARY

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. [Ord. 5543, 10/23/2002]

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 and middle housing development ~~on lot sizes ranging from 5,000 to 10,000 square feet. Attached~~

Expanding Housing Options – Comprehensive Plan Amendments

*Draft 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: ****

~~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 and middle housing~~attached single-family~~ development at densities up to 35 units per acre. Manufactured home parks are permitted with Site Plan Review.

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.
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.

MIXED USE: GENERAL REQUIREMENTS

VILLAGE CENTER: Provides for a mixture of uses to serve nearby neighborhoods. These uses must include retail and residential uses and may include offices, community and personal services, and live-work units. Development within a Village Center will be pedestrian friendly, fit the desired scale and character of nearby neighborhoods and prevent the appearance of strip commercial development. Within the Village Center Plan designation there will be at least two zones. One is a mixed-use commercial zone, the other is a medium- to high- density residential zone that provides a mix of housing choices.

In order for additional land to be designated Village Center, applicants must demonstrate the need for the Village Center in a particular location and what residential populations it is intended to serve.

COMMERCIAL: GENERAL REQUIREMENTS

LIGHT COMMERCIAL: Provides for limited commercial activities that include office professional and neighborhood commercial uses. This designation is used to provide a buffer between residential and more intensive uses, (such as between the Community Commercial District and the surrounding residential areas) and also to provide neighborhood commercial areas in close proximity to residential areas.

Expanding Housing Options – Comprehensive Plan Amendments

*Draft 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: ****

GENERAL COMMERCIAL: Identifies areas from community services to regional commercial establishments, suitable for a wide range of retail sales and service establishments. Aside from recognition of existing commercial corridors, new commercial areas will develop under design guidelines to avoid the continuance of “strip commercial” development in order to more efficiently serve the shopping needs of the community and region.

INDUSTRIAL: GENERAL REQUIREMENTS

LIGHT INDUSTRIAL: Identifies areas suitable for a wide range of light industrial uses including corporate offices, research and development, high technology, manufacturing, warehousing, wholesaling, and other accessory and compatible uses that have minimal environmental effects and can conform to the Development Code performance standards for the Industrial Park and Light Industrial Zones.

HEAVY INDUSTRIAL: Provides for most types of manufacturing and processing, storage and distribution, and other types of industrial uses that require large amounts of land in proportion to the number of employees and are potentially incompatible with most other uses but comply with the development and environmental standards of the Development Code.

Expanding Housing Options – 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

ADMINISTRATION AND PROCEDURES

Commentary:

Draft amendments to “Land Use Review Procedures Generally” in Section 1.105 are proposed to comply with HB 2001 and the Oregon Administrative Rules (OAR), which require cities to apply the same review procedure to middle housing as applies to single-family detached dwellings.

Amendments to Table 1.100-1 are proposed to reflect draft changes in Article 11, including the new Middle Housing Land Division procedure and modifications to Expedited Land Divisions. In addition, minor changes are proposed to the Pre-Application Conferences and Neighborhood Meetings section for consistency with the revised housing definitions.

Lastly, a minor amendment to the Expirations, Extensions, and Modifications section in 1.320 is proposed to reflect statutory requirements for Middle Housing Land Divisions.

No changes are proposed to the following sections: General Administration of Title 20, Application Submittal and Completeness Review, Review Type Procedures, Appeals, Conduct of Quasi-Judicial Hearings, Conduct of Legislative Hearings, and Enforcement. Therefore, these sections are not included in the review materials.

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

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

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

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

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

Expanding Housing Options – 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: ****

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) 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

Expanding Housing Options – 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: ***

the enactment of an ordinance. Appeals of legislative decisions are heard by the state Land Use Board of Appeals.

Table 1.100-1 – Procedure by Application Type

Application / Action	Procedure Type	Decision Body	Pre-App Conference Required	Neighborhood Mtg Req.	Applicable Section
Adjustments	III	HB or PC	No	No	2.070
Annexations					
• Annexations mandated by state law	I	CDD	No	No	2.095
• All other annexations	IV-Q and IV-L	See 2.095	Yes	No	2.095
Comprehensive Plan and Map Amendments					
• Quasi-Judicial	IV-Q	PC or CC	Yes	No	2.210
• Legislative	IV-L	CC	Yes*	No	2.210
• Corrections to Comp Plan map	I	CDD	No	No	2.225
Conditional Use	II or III	CDD HB or PC	Yes	See 1.140	2.240
Development Code Amendments					
• Corrections to Development Code	I	CDD	No	No	2.280
• All other amendments	IV-L	CC	Yes*	No	2.280
Floodplain					
• Floodplain Appeals	II	See 6.091	Yes*	No	6.091
• Floodplain Development Permit	I, I-L, II, III	See 6.093	Yes*	See 1.140	6.093
• Floodplain Variance	II	CDD	Yes*	No	6.092
Hillside Development					
• Hillside review for development that only requires a building permit	I	CDD	No	No	6.190
• Hillside review for all other	I, I-L, II, III	See 6.190	No	See 1.140	6.190
Historic Resources**					
• Designation of a resource or district	IV-Q or IV-L	LC and CC	No	No	7.040
• Amendments to Exist. Districts	IV-L	CC	No	No	7.040
• Local Historic Inventory	I	CDD	Yes*	No	7.040

Expanding Housing Options – 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: ***

Application / Action	Procedure Type	Decision Body	Pre-App Conference Required	Neighborhood Mtg Req.	Applicable Section
Removal (outside districts, not on National Register, demolished or removed resources)					
• Individual Property Re-Rating	III	LC	Yes*	No	7.040
• Historic review of Ext. Alterations – no change in character; not visible)	I	CDD	No	No	7.120
• Historic review of Ext. Alterations – all other, including all non-residential	III	LC	Yes*	See 1.140	7.120
• Substitute materials	III	LC	Yes*	See 1.140	7.180
• New construction	I-L	CDD	Yes*	No	7.240
• Demolitions / Relocations – contributing structures	III	LC	Yes*	See 1.140	7.310
Interpretations	I, I-L, II, III	See 1.040	Yes*	No	1.040
Land Divisions and Planned Developments					
• Cluster development	III	PC	Yes	Yes	11.430
• Land division (partition or subdivision) < 20 Lots – preliminary plat	I-L	CDD	Yes	See 1.140	11.170
• Land division (subdivision) of 20 or more lots – preliminary plat	III	PC	Yes	See 1.140	11.170
• Land division – final plat	I	CDD	No	No	11.170
• Planned development – preliminary review	III	PC	Yes	Yes	11.260
• Planned development – final approval	I	CDD	No	No	11.260
• Planned development – major changes	III	PC	Yes	Yes*	11.350
• Planned development – minor changes	I	CDD	No	No	11.350
• Property line adjustment	I	CDD	No	No	11.110
• Expedited land divisions***	<u>N/A</u> (ORS 197.360)	CDD	<u>No;</u> <u>Recommended</u> <u>Yes</u>	<u>No</u> See 1.140	<u>11.445</u> <u>600</u>

Expanding Housing Options – 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: ***

Application / Action	Procedure Type	Decision Body	Pre-App Conference Required	Neighborhood Mtg Req.	Applicable Section
• <u>Middle housing land divisions***</u>	<u>N/A (ORS 197.365)</u>	<u>CDD</u>	<u>No; Recommended</u>	<u>No</u>	<u>11.610</u>
Manufactured Home Park (excluding Planned Developments)	I-L	CDD	Yes	See 1.140	10.210
Modifications					
• Modification of Approved Site Plan Review and Conditional Use Applications	Same procedure and decision body as original decision		Yes*	No	1.330
• Modification of Condition of Approval	Same procedure and decision body as original decision		Yes*	No	1.340
Natural Resource Impact Review					
• Natural Resource review without concurrent land use review	I or I-L	CDD	No	No	6.300
• Natural Resource review for all other	I, I-L, II, III	See 6.300	Yes*	See 1.140	6.300
• Natural Resource minor variance	I-L	CDD	No	No	6.450
• Natural Resource major variance	II	CDD	Yes*	No	6.450
Nonconforming Use					
• Nonconforming use review – change of use within same use category (see 2.345(1)(a) for criteria)	I	CDD	No	No	2.350
• Nonconforming use review – all other situations	II	CDD	Yes	No	2.350
Recreational vehicle park	I-L or III	CDD or PC	Yes		10.530
Signs					
• Standard Sign Permit	I	CDD	No	No	13.610
• Sign Variance	II	CDD	Yes	No	13.710
Site Plan Review	I or I-L	CDD	Yes*	See 1.140	2.415
Tree Removal					
• Site Plan Review for tree removal (5 or more trees 8' in diameter on contiguously owned	I-L	CDD	Yes*	No	9.204 and 9.205

Expanding Housing Options – 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: ***

Application / Action	Procedure Type	Decision Body	Pre-App Conference Required	Neighborhood Mtg Req.	Applicable Section
property 20,000 sf or greater)					
Vacations	IV-Q or IV-L	CC	Yes*	No	2.620
Variance					
• Major Variance	II	CDD	Yes	No	2.670
• Minor Variance	I-L	CDD	Yes*	No	2.670, 2.694
Willamette River Greenway					
• Greenway development review	II	CDD	Yes	No	6.520
Zoning Map Amendments					
• Quasi-judicial zoning map amendments	IV-Q	PC or CC	Yes	No	2.720
• Legislative zoning map amendments	IV-L	CC	Yes*	No	2.720
LEGEND: City Council (CC), Director (CDD), Hearings Board (HB), Landmarks Commission (LC), Planning Commission (PC). * Unless waived by the Community Development Director. ** Additional application review procedures applicable to Historic Resources are found in Article 7. In cases of conflict with the procedures in Article 1, the procedures in Article 7 shall prevail. <u>*** Application review procedures for Expedited and Middle Housing Land Divisions are found in Article 11, Sections 11.600 through 11.630.</u>					

[Ord. 5966, 11/12/21]

Commentary:

As described in the Plan and Code Audit, the Oregon Administrative Rules (OAR) require that middle housing be subject to the same approval process as single-family detached dwellings. In the current code, both single-family and two-family dwellings are exempt from land use review; they are permitted through ministerial review at the time of Building Permit application. The proposed amendments extend this same exemption to all middle housing types.

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.

Expanding Housing Options – 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: ****

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

For building additions greater than 2,000 square feet, see Site Plan Review applicability in Section 2.430.
- (8) A change internal to a building or other structure or use that is allowed through Site Plan Review, and the new use does not:
 - (a) Add dwelling units; or
 - (b) Require three or more new parking spaces or additional loading areas; or
 - (c) Modify site circulation or access.
- (9) An emergency measure necessary for the safety or protection of property when authorized by the City Manager with written notice to the City Council.
- (10) Any temporary use of land of up to a 30-day duration (such as a promotional event, festival, carnival, or outdoor sale) that conforms with all other requirements of this Code and other applicable City regulations, public health, and safety requirements, some of which may further limit such uses in terms of location, scope, and duration.
- (11) The establishment, construction, alteration, or maintenance of a public facility authorized by the Director of Public Works, including streets, highways, traffic control devices, drainage ways, sanitary and storm sewers, pump stations, water lines, electrical power or gas distribution lines, or telephone or television cable systems. This includes construction of staging areas of less than six months' duration but does not include major substations, treatment facilities, storage tanks, reservoirs, and towers.
- (12) Excavation and fill for foundations and all other excavation or filling of land involving 50 cubic yards or less that does not adversely affect drainage patterns and is not located in the special flood hazard area.
- (13) In middle housing zoning districts, new middle housing, including middle housing created through internal conversion of, or addition to, existing dwellings; and additions to existing middle housing.
- (14) Expedited land divisions and middle housing land divisions (see application review procedures in Article 11, Sections 11.600 through 11.630).

1.110 Determination of Review Type.

Expanding Housing Options – 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: ****

- (1) Unless specified in Table 1.100-1 or elsewhere in this Code, the Director will determine whether a permit or application is processed as Type I, I-L, II, III, IV-Q, or IV-L based on the descriptions in ADC 1.100.
- (2) When there is a question as to the appropriate type of procedure, the Director shall determine the type of procedure to be used based upon the most similar land use application procedure specified by this Code or other established policy.
- (3) When a proposal involves more than one application for the same property, the applicant(s) may submit concurrent applications that shall be processed simultaneously in accordance with the highest numbered procedure specified. When concurrent applications are received and accepted as complete, the requirements of Section 1.120 shall apply as if a single application had been made.

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 building ~~containing five or more residential units~~ within the urban growth boundary;
 - (b) At least 50 percent of the residential units included in the development will be sold or rented as affordable housing. For the purposes of this section, "affordable housing" means housing that is affordable to households with incomes equal to or less than 60 percent of the median family income for the county in which the development is built or for the state, whichever is greater; and
 - (c) The development is subject to a covenant appurtenant that restricts the owner and each successive owner of the development or a residential unit within the development from selling or renting any residential unit described in paragraph (b) of this subsection as housing that is not affordable housing for a period of 60 years from the date of the certificate of occupancy.
- (3) Time Periods. "Days" means calendar days unless otherwise specified. In computing time periods prescribed or allowed by this Article, the day of the act or event from which the designated period of time begins is not included. The last day of the period is included, unless it is a Saturday, Sunday, or a federal holiday, in which case the period runs until the end of the next day that is not on a weekend or City recognized legal holiday.

PRE-APPLICATION CONFERENCES AND NEIGHBORHOOD MEETINGS

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:

Expanding Housing Options – 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 development ~~proposing more than four units~~ that abuts a single-family zoning district.
 - (b) Commercial or industrial development that abuts any residential zoning district and the addition of outside seating areas to restaurants or bars/taverns/breweries/night clubs within 300 feet of a residence.
 - (c) Manufactured home park adjacent to any residential zoning district.
 - (d) Subdivision with more than 10 lots, excluding expedited and middle housing land divisions.
 - (e) Cluster and planned development.
 - (f) Retail Sales and Services Uses proposed in existing buildings in the Light Industrial zone that require Conditional Use approval per Section 4.060(11)(b).
 - (g) For other non-residential applications or revisions to applications that the Director determines may have a neighborhood impact, such as conditional uses. In these cases, the Director shall determine the minimum notice area for the neighborhood meeting.
- (3) Time and Location. The applicant shall consult with City staff to determine an appropriate meeting date, time, and place given the location of the proposed development and availability of staff to attend.
- (4) Notice. The applicant shall send mailed notice of the public meeting to the Director and all property owners and designated representative(s) of City Council-recognized neighborhood association(s) within the minimum notice area specified below. The broadest notice area applicable to a proposal shall apply.

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

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

- (a) Date, time, and location of the public meeting.
- (b) A brief written description of the development proposal and proposed use(s) with enough specificity so that the project is easily discernible.
- (c) The location of the subject property(ies), including address (if applicable), nearest cross streets and any other easily understood geographical reference, and a map (such as a tax assessor’s map) that depicts the subject property.

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

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

- (6) Report. A report documenting the results of any neighborhood meeting is required to be submitted with the application. The report shall contain:
- (a) The dates and locations of all meetings where citizens were invited to discuss the applicant’s proposal;
 - (b) The method(s) by which each meeting was publicized;
 - (c) Sign in sheet indicating the number of people who attended the meeting and a list of people who otherwise contacted the applicant;
 - (d) A summary of the concerns, issues, and problems raised by neighbors;
 - (e) A discussion of how the applicant has addressed or intends to address concerns, issues, and problems; and
 - (f) A discussion of any concerns, issues, and problems the applicant is unable or unwilling to address and why.

EXPIRATIONS, EXTENSIONS, AND MODIFICATIONS

- 1.310 Expiration of Land Use Approvals. All land use approvals, except Type IV approvals, shall expire three years from the date of approval, unless:
- (1) The applicant has installed all of the required public infrastructure related to the development and the infrastructure has been accepted by the City, or the applicant has provided financial assurance for all required public infrastructure per Section 12.600 or the first phase, if the development was approved for phased construction; or
 - (2) If the development did not require public infrastructure, a valid approved building permit exists for new construction or improvements, and work has commenced; or
 - (3) In the case of Phased Subdivisions or Planned Developments, when an applicant desires to develop and record final subdivision plats covering portions of an approved tentative plat in phases, the City may authorize a time schedule for platting and otherwise developing the various phases not to exceed five years for all phases. Each phase that is platted and developed shall conform to the applicable requirements of this title; or

Expanding Housing Options – 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) An extension has been filed before the expiration date, and subsequently granted approval pursuant to Section 1.320.

1.320 Extension of a Land Use Approval. Except as provided in subsection (4), ~~These~~ provisions apply to all land use approvals that have not expired.

- (1) Whenever the decision requires exercise of approval rights or satisfaction of conditions of approval within a particular period of time, the approval period may be extended one time for two years for all land use approvals, except for phased or planned developments, a second two-year extension may be granted. Applicants shall apply for an extension by filing an application for extension before the expiration date. For the purposes of this sub-section the expiration date shall be the applicable anniversary date of the Notice of Decision previously given to the applicant.
- (2) Requests for extensions shall be processed as a Type I application and shall be granted if there has been no change to all applicable local, state or federal standards since the original approval, or the development complies with any changes or can meet the current standards with limited modifications to the approved development.
- (3) If the Type I application for the extension request is not approved, the subject land use approval shall expire on the applicable anniversary date of the Notice of Decision previously issued to the applicant.

~~(4) Tentative approval of a middle housing land division is not eligible for extension.~~

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

Expanding Housing Options – 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:

Draft amendments to the Nonconforming Situations and Site Plan Review sections are shown below. No changes are proposed to the following sections: Adjustments, Annexations, Comprehensive Plan and Map Amendments, Conditional Uses, Development Code Amendments, Vacations, Variances, Major, Variances, Minor and Zoning Map Amendments. Therefore, these sections are not included in the review materials.

Commentary:

In the current Code, nonconforming lots (which do not meet the dimensional or area requirements of the zoning district) may be developed with any permitted use, as long as other development standards are met. Without any changes, this would allow middle housing to be developed on any existing legal lot, including lots that do not meet minimum lot sizes. According to the Oregon Administrative Rules (OAR), duplexes must be permitted on nonconforming lots, since single-family detached dwellings are permitted. However, other middle housing types can be required to meet minimum lot sizes, even on existing lots. Accordingly, the proposed amendment to Section 2.320 is intended to ensure that triplexes, fourplexes, townhouses, and cottage clusters are not developed on undersized lots.

Note that a new definition of “middle housing zoning districts” is proposed in Article 22 to refer to those zones subject to HB 2001.

NONCONFORMING SITUATIONS

2.320 Nonconforming Lots. Except as specified below, a legal lot or a legally established lot of record that does not meet the dimensional or area requirements of the zoning district in which it is located may be developed, subject to the other applicable requirements of the Code. In middle housing zoning districts, all middle housing types except duplexes must meet the minimum lot size and/or density requirements applicable to that housing type within the zoning district.

Expanding Housing Options – 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: ***

Commentary:

In the current Code, single-family, two-family, and multi-family development up to four units are subject to Type I Site Plan Review (where applicable*). The proposed amendments reflect the revised definition of multi-family (which excludes middle housing), and the new middle housing definition, and apply Type I Site Plan Review to all middle housing types.

* NOTE: Site Plan Review isn't required for single-family detached or middle housing in any of the middle housing zoning districts.

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 detached, two primary detached units, and middle housing development, ~~two-family, and multi-family development up to and including four (4) units~~: Type I procedure.
 - (2) Multi-family development ~~of five (5) or more units~~, units above or attached to a business, and manufactured home parks: Type I-L procedure.
 - (3) Non-residential development: Type I-L procedure.
- [Ord. 5832, 4/9/14; Ord. 5947, 1/01/21]
- 2.420 Relationship to Other Regulations. When a land use application is approved based on review criteria in this Code, the applicant must still comply with other applicable codes, ordinances, statutes, and regulations.
- [Ord. 5445, 4/12/00]
- 2.430 Applicability. In general, Site Plan Review is intended for all new development within the city that specifically requires Site Plan Review as listed in Articles 3, 4 and 5. It applies to new construction, additions or expansions, site modifications, and changes in land use categories. Sites that contain a legal nonconforming use will be processed in accordance with Section 2.350.
- [Ord. 5445, 4/12/00; Ord. 5767, 12/7/11; Ord. 5832, 4/9/14]
- (1) Any development that requires Site Plan Review, unless specifically exempt in Section 1.105.
- [Ord. 5947, 1/01/21]
- (2) A change of use or reuse of a building or site when the use is allowed through Site Plan Review, and that requires construction of three or more new parking spaces, additional loading areas, or that modifies site circulation or access.
- [Ord. 5832, 4/9/14]
- (3) Building additions or use expansions greater than 2,000 square feet or greater than 50 percent of existing building area, whichever is less, or any expansion that requires three or more new parking spaces, additional loading areas, or modifies site circulation or access.
- [Ord. 5767, 12/7/14; Ord. 5832, 4/9/14; Ord. 5886, 1/6/17]
- (4) New parking areas or expansions to existing parking areas greater than 1,000 square feet (contiguous) or modifications that change site circulation or access. [Ord. 5767, 12/7/11; Ord. 5832, 4/9/14]
 - (5) Temporary placement of a manufactured home for: (a) night watchman; (b) business office space during construction or remodeling; (c) building space for education, non-profit, and government

Expanding Housing Options – 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: ****

agencies. (See Sections 10.470-10.490.)

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

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

DRAFT

*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 the Residential Zoning Districts standards to comply with HB 2001 include the following:

- **Permitted Uses** – Update the Schedule of Permitted Uses in Section 3.050 to allow all middle housing types in the RR, RS-10, RS-6.5, HM, RS-5, and RM districts outright, as required by Oregon Administrative Rules (OAR 660-046; “the OAR”). Also permit the middle housing types outright in the RMA district, so that this higher-density residential zone does not end up being more restrictive than the lower density zones. In addition to the substantive changes to the table, the reorganization of the housing types under new headings has resulted in additional non-substantive changes. For example, a new row in the table is shown for “2 detached units” because the row has moved, but no substantive changes are proposed.
- **Minimum Lot Sizes** – Revise minimum lot sizes in Table 3.190-1 to meet minimum OAR compliance. Update minimum lot sizes in the RMA district to keep them consistent with required changes in the RM district.
- **Lot Coverage** – Revise the definition of “Lot Coverage” in Article 22 and in Note 9 of Table 3.190-1 so that lot coverage is calculated the same way for middle housing as it is for single-family detached dwellings (SFDs)—i.e., apply the same exception excluding paved areas such as driveways and patios from the lot coverage calculation. Exempt cottage clusters from maximum lot coverage standards, as required by the OAR.
- **Density** – Exempt middle housing except townhouses from maximum density calculations, as required by the OAR. Apply a maximum density for townhouses that is four times the allowed density for SFD, or 25 units per acre, whichever is less dense—as permitted by the OAR. Apply a minimum density of 4 units per acre for cottage clusters, as required by the OAR.
- **Cottage Cluster Setbacks & Height** – Add an exception for minimum front setbacks, reflecting the OAR requirement that cottage cluster setbacks not exceed 10 feet. Apply a maximum building height of 25 feet for cottage clusters.
- **Maximum Number of Attached Townhouses** – Limit the number of attached townhouses per grouping, varying the limits based on zoning district. This is intended to strike a balance between allowing flexibility while also limiting building scale in lower-density zones.

Additional amendments also include technical fixes and revisions needed for internal consistency within the Code.

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

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: ***

neighbors by stating the allowed uses and development standards for the base zones. Sites within overlay districts are also subject to the regulations in Articles 6 and 7. [Ord. 5673, 6/27/07]

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

- Zoning Districts
- Schedule of Permitted 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 DISTRICT. The RS-10 District is intended primarily for a lower density ~~single-family~~ residential environment. The average minimum detached single-family lot size is 10,000 square feet.
- (3) RS-6.5—RESIDENTIAL SINGLE-FAMILY DISTRICT. The RS-6.5 District is intended primarily for low-density urban ~~single-family~~ residential development. The average minimum detached single-family lot size is 6,500 square feet.
- (4) RS-5—RESIDENTIAL SINGLE-FAMILY DISTRICT. The RS-5 District is intended primarily for low- to moderate-density ~~single-family~~ residential development. The average minimum detached single-family lot size is 5,000 square feet. [Ord. 5673, 6/27/07]
- (5) RM—RESIDENTIAL MEDIUM DENSITY DISTRICT. The RM District is primarily intended for medium-density residential urban development. New RM districts should be located on a collector or arterial street or in Village Centers. ~~Multi-family and townhouse~~ development may not exceed 25 units per gross acre. [Ord. 5673, 6/27/07]
- (6) RMA—RESIDENTIAL MEDIUM DENSITY ATTACHED DISTRICT. The RMA District is intended primarily for medium- to high-density urban residential development. ~~All~~ Most units, whether single- or multiple-family or middle housing, ~~shall~~ 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. [Ord. 5673, 6/27/07]
- (7) HM—HACKLEMAN-MONTEITH DISTRICT. The HM district is intended primarily to preserve the existing ~~single-family~~ residential character of the Hackleman and Monteith National Register Historic Districts. Conversion of single-family residential structures to ~~other uses, including~~ non-residential or multi-family residential uses; is not allowed. [Ord. 5555, 2/7/03; Ord. 5673, 6/27/07]

*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: ****

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

<u>Special Purpose District</u>	<u>Applicable Articles</u>
Airport Approach	Article 4
Floodplain	Article 6
Hillside Development	Article 6
Significant Wetlands	Article 6
Riparian Corridors	Article 6
Wildlife Habitat	Article 6
Willamette Greenway	Article 6
Historic Overlay	Article 7

[Ord. 5764, 12/1/11]

SCHEDULE OF PERMITTED USES

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

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

[Ord. 5673, 6/27/07; Ord. 5947, 1/01/21]

(2) Where a development proposal involves a combination of uses other than accessory uses, the more restrictive provisions of this Code shall apply. For example, if a portion of a development is subject to Conditional Use approval and the balance is subject only to Site Plan Review, the entire development shall be reviewed using the Conditional Use criteria if concurrent approval of all uses is requested. [Ord. 5947, 1/01/21]

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

(a) When the change involves a change from one use category to another in the schedule of permitted uses and the Director has not waived review under the provisions of Section 1.105, or

(b) When a property that has been unoccupied for more than one year.

[Ord. 5673, 6/27/07; Ord. 5947, 1/01/21]

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

A number appearing opposite a use in the “special conditions” column indicates that special provisions apply to the use in all zones. A number in a cell particular to a use and zone(s) indicates that special

*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: ****

provisions apply to the use category for that zone(s). The conditions follow the schedule of uses, in Section 3.060.

The abbreviations used in the schedule have the following meanings:

- Y Yes; use allowed without land use review procedures but must meet development standards in this article and may be subject to special conditions.
- S Use permitted that requires a site plan approval prior to the development or occupancy of the site or building.
- CU Use permitted conditionally under the provisions of Sections 2.230-2.265 through a Type III procedure.
- CUII Uses permitted conditionally through the Type II procedure.
- PD Use permitted only through planned development approval.
- CD Use permitted only through cluster development approval.
- N No; use not permitted in the zoning district indicated.

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

[Ord. 5673, 6/27/07; Ord. 5947, 1/01/21]

DRAFT

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: ***

SCHEDULE OF PERMITTED USES

Uses Allowed in Residential Zoning Districts

Use Categories (See Article 22 for use descriptions.)	Spec. Cond.	RR	RS-10	RS-6.5	HM	RS-5	RM	RMA
RESIDENTIAL: SINGLE FAMILY: One Unit per Property <u>Single-Family Detached and Two Detached Units</u>								
Single-Family, detached	<u>491</u>	Y	Y	Y	Y	Y	Y	N
<u>Primary Residence with one accessory dwelling unit</u>	<u>4</u>	<u>Y</u>	<u>Y</u>	<u>Y</u>	<u>Y</u>	<u>Y</u>	<u>Y</u>	<u>Y</u>
<u>2 detached primary units</u>	<u>2</u>	<u>N</u>	<u>PD/CD</u>	<u>PD/CD</u>	<u>S</u>	<u>PD/CD</u>	<u>Y</u>	<u>Y</u>
Single-Family, attached (zero lot line)		N	PD/CD	PD/CD	N	Y	Y	Y
RESIDENTIAL: TWO FAMILY: Two Units per Property <u>Middle Housing</u>								
2 attached units (Duplex)	3	Y	Y-1; PD/CD-20	Y-1; PD/CD-20	Y	Y-1; PD/CD-20	Y	Y
2 detached units	2	N	PD/CD	PD/CD	S	PD/CD	Y	Y
Primary Residence with one accessory dwelling unit	4	Y	Y	Y	Y	Y	Y	Y
<u>Townhouse</u>		<u>Y</u>	<u>Y</u>	<u>Y</u>	<u>Y</u>	<u>Y</u>	<u>Y</u>	<u>Y</u>
<u>Triplex or Fourplex</u>	<u>3</u>	<u>Y</u>	<u>Y</u>	<u>Y</u>	<u>Y</u>	<u>Y</u>	<u>Y</u>	<u>Y</u>
<u>Cottage Cluster</u>	<u>3</u>	<u>Y</u>	<u>Y</u>	<u>Y</u>	<u>Y</u>	<u>Y</u>	<u>Y</u>	<u>Y</u>
RESIDENTIAL: MULTI-FAMILY: Three or More Units per Property <u>Multi-Family</u>								
3 or More Single-Family Attached Units	3	N	PD/CD	PD/CD	N	S	S	S
3 or More Multi-Family Units per property	3	N	N	N	N	N	S	S
Manufactured Home Parks (see Article 10)	10	N	N	S	N	S	S	S
RESIDENTIAL: Care or Treatment								
Assisted Living		CU	CU	CU	CU	CU	CU	CU
Child or Adult Care Home	6	Y	Y	Y	Y	Y	Y	Y
Daycare Facility		CU	CU	CU	CU	CU	CU	S
Residential Care or Treatment Facility (6 or more residents)		CU	CU	CU	CU	CU	CU	S
Residential or Group Care Home (5 or fewer residents)		Y	Y	Y	Y	Y	Y	Y
RESIDENTIAL: Miscellaneous								
<u>Manufactured Home Parks (see Article 10)</u>	<u>10</u>	<u>N</u>	<u>N</u>	<u>S</u>	<u>N</u>	<u>S</u>	<u>S</u>	<u>S</u>
Accessory Buildings, Garages or Carports	9	Y/S	Y/S	Y/S	Y/S	Y/S	Y/S	Y/S
Bed & Breakfast	7	CUH	CUH	CUH	CUH	CUH	CUH	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	<u>491</u>	N	Y	Y	N	Y	Y	Y
Unit(s) Above or Attached to a Business	17	N	N	N	N	N	N	N
Temporary Residence	8	S	S	S	S	S	S	S
INSTITUTIONAL								
Basic Utilities		CU	CU	CU	CU	CU	CU	CU
Community Services		CU	CU	CU	CU	CU	CU	CU
Educational Institutions	13	CU	CU	CU	CU	CU	CU	CU
Hospitals		N	N	N	N	N	CU	CU
Jails & Detention Facilities		N	N	N	N	N	N	N
Parks, Open Areas and Cemeteries	14	S/CU	S/CU	S/CU	CU	S/CU	S/CU	S/CU
Religious Institutions	13	CU	CU	CU	CU	CU	CU	CU
COMMERCIAL – Limited Use Types								
Entertainment and Recreation: Indoor Outdoor	18	CU CU	CU CU	CU CU	CU N	CU CU	CU CU	CU CU
Offices	17	PD/CD	PD/CD	PD/CD	PD/CD	PD/CD	PD/CD	PD/CD
Recreational Vehicle Parks (See Article 10)	5, 10	N	N	N	N	N	CU	CU
Restaurants, no drive-thru	17	PD/CD	PD/CD	PD/CD	PD/CD	PD/CD	PD/CD	PD/CD
Retail Sales and Service	17	PD/CD	PD/CD	PD/CD	PD/CD	PD/CD	PD/CD	PD/CD

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: ***

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
Self-Serve Storage	15	N	N	N	N	N	S	N
OTHER CATEGORIES								
Agriculture: Crop Production		Y	Y	Y	N	Y	Y	Y
On-site Sales of Site-Produced Seasonal Goods		Y	S	CU	N	CU	CU	CU
Plant Nurseries and Greenhouses		S	S	S	N	S	S	S
Antennas, owned and operated by FCC licensed member of Amateur Radio Service		Y	Y	Y	Y	Y	Y	Y
Communication Facilities	16	N	N	N	N	N	N	N
Kennels	11	S	CU	CU	N	CU	CU	N
Satellite Dish and Other Antennas	12	Y	Y	Y	Y	Y	Y	Y

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

N = No, not allowed
 PD = Planned Unit Development, see Art. 11
 S = Site Plan Review required

[Ord. 5281, 3/26/97; Ord. 5555, 2/7/03; Ord. 5673, 6/27/07; Ord. 5742, 7/14/10; Ord. 5801, 2/13/13; Ord. 5832, 4/9/14; Ord. 5886, 1/6/17; Ord. 5947, 1/01/21; Ord. 5949, 1/01/21]

3.060 – 3.070, *Open Space district moved to Article 6; Ord. 5764, 12/1/11.*

Commentary:

In Section 3.080 below, subsections (1) and (20) have been removed. Rather than renumber every subsection and every note in the Schedule of Permitted Uses above, (19) has been changed to (1). This way, (2) through (18) can remain as-is.

SPECIAL CONDITIONS

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

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

~~[Ord. 5445, 4/12/2000; Ord. 5635, 1/11/06; Ord. 5673, 6/27/07]~~

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

(a) The purpose of the office must be to sell lots or houses in the subdivision.

(b) The sales office must be placed on one or more of the lots in the subdivision.

[Ord. 5886, 1/6/17]

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

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: ***

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

(e) The building must be placed in accordance with Section 3.190, Table 3.190-1 Development Standards. [Ord. 5886, 1/6/17; Ord. 5947, 1/01/21]

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

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

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

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

(2) When more than one single-family detached residence is located on a property of record in a residential zoning district and the buildings were legally constructed, the property may be divided in conformance with Article 11, even if the resulting lots do not meet the required minimum lot area and dimensional standards for the zoning district, if required setbacks and lot coverage can be met.
[Ord. 5338, 1/28/98; Ord. 5673, 6/27/07]

(3) Duplexes, triplexes, fourplexes, cottage clusters, and multi-family 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. [Ord. 5673, 6/27/07; Ord. 5947, 1/01/21]

(4) Where detached single-family residences are permitted outright, one accessory dwelling unit (ADU) may be allowed ~~per~~ on each lot that has a single legally established detached single-family 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.)
[Ord. 5949, 1/01/21]

(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. [Ord. 5338, 1/28/98; Ord. 5673, 6/27/07; Ord. 5966 11/12/21]

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

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: ***

Maximum Height: 24 feet to the ridge of the roof.

[Ord. 5673, 6/27/07; Ord. 5949, 1/01/21]

- (5) In the RM District, the following criteria must be met in addition to the Conditional Use criteria for permitting RV overnight parks:
- (a) The entire site must be located within 750 feet of the Interstate 5 right-of-way.
 - (b) The RV park access is limited to the Interstate 5 frontage road or streets servicing primarily industrial or commercial development.
- (6) “Child Care Homes” that includes the day or night time care of no more than sixteen children, including the children of the provider or the care and treatment of adults for less than 24-hours are considered a residential use of the property and are allowed outright in zones that allow ~~single-family homes~~ residential dwellings per the Oregon Revised Statutes (ORS). See ADC Section 22.200.
 [Ord. 5673, 6/27/07]
- (7) Bed and Breakfast facilities shall:
- (a) Be owner occupied.
 - (b) Be limited to a maximum of four guest bedrooms.
 - (c) Except for driveway spaces, not contain guest parking facilities in the front setback area or within 10 feet of any interior residential lot line. [Ord. 5742, 7/14/10]
 - (d) Provide at least one off-street parking space for each rental room, except in the HM zone, where on-street parking along the frontage of the property line(s) may count toward the parking requirements. To count towards this standard, each on-street space must be at least 25 feet long. [Ord. 5673, 6/27/07, Ord. 5768, 12/7/11]
- (8) Temporary residences in conjunction with construction, emergency repair, or a night watchman are permitted but are limited to one year in duration. [Ord. 5673, 6/27/07]
- (9) The definitions of “Accessory Building” and “Accessory Use” in Article 22 shall apply. The Director shall have authority to initially interpret application of these terms to any proposed activity. See also Table 3.230-1 for Accessory Structure Standards.

Accessory buildings in residential districts that are 750 square feet or larger and/or with walls taller than 11 feet that meet the following standards are not subject to Site Plan Review. They will be processed as Type I staff decisions. Information must be submitted that shows the standards are met. The information shall be submitted at the time the applicant applies for building permits. The determination of whether the standards are met will be made by the Community Development Director or his/her designee. [Ord. 5767, 12/7/11; Ord. 5947, 1/01/21]

- (a) The proposed building does not exceed the height of the tallest building on adjacent property. For this section, height means the height of the building at its highest point, usually the ridge of the roof.
- (b) The square footage of the footprint of the proposed building does not exceed the square footage of the footprint of the foundation of the largest building on adjacent property.
- (c) The amount of land that will be covered by buildings if the proposed building is constructed does not exceed the applicable lot coverage restrictions of the Development Code.
- (d) The proposed building meets or exceeds the applicable setback requirements for the primary residence as listed in Table 3.230-1. [Ord. 5947, 1/01/21]

*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) The materials used on the proposed building (e.g. siding and roofing), and the color of those materials, shall be similar to those used on the primary residential structure (e.g. cement board lap siding is similar to wood lap siding).
- (f) If the proposed building is located in any of the special purpose districts listed in Articles 6 and 7 of the Development Code, the building must also be reviewed for conformance with the requirements of the applicable district.

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

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

- (g) The structure will not preclude the use of the property for housing;
 - (h) The structure must meet the requirements of Section 3.080(9) or be approved through the Site Plan Review process;
 - (i) The structure is not used for a commercial purposes; and
 - (j) Exception in RR: Buildings used for farm or agricultural product or equipment storage are permitted in the RR zone. [Ord. 5281, 3/26/97; Ord. 5673, 6/27/07; Ord. 5947, 01/21/20]
- (10) Manufactured home and RV park standards are located in Article 10. Manufactured home parks, RV parks and manufactured homes on individual lots are not allowed within the National Register Historic Districts or on land within 100 feet of a historic district, or on land adjacent to a property on the Local Historic Inventory. [Ord. 5673, 6/27/07]
- (11) Kennels in residential districts shall be restricted to properties containing a minimum of two acres. This restriction does not apply to indoor veterinary hospital kennels. [Ord. 5673, 6/27/07]
- (12) Antennas and satellite dishes are subject to the following standards:
- (a) Antenna or antenna supports may not be located within any front setback area or within any required landscape buffer yard. [Ord. 5742, 7/14/10]
 - (b) Antennas shall not extend higher than fifteen feet above the peak of the roof.
 - (c) Dish antennas exceeding 12 feet in diameter are not permitted.
 - (d) Dish antennas exceeding 36 inches in diameter may not be roof mounted.
 - (e) Dish antennas shall not exceed 15 feet in height from surrounding grade to the highest point of the structure or dish.
 - (f) Dish antennas located within ten feet of a residential lot line or located so as to be visible from a public street shall be screened up to a height of six feet with a solid screen fence, wall, hedge, or other landscaping.
 - (g) Antenna used to display sign messages shall conform to all district sign regulations in addition to the above.
 - (h) Antenna not in conformance with the above may be considered by Conditional Use review , Type II process. [Ord. 5886, 1/6/17]
- (13) Original Conditional Use approval for education and religious institutions includes the following secondary uses: educational activities; sports and other recreational activities; religious activities; political activities; meals programs; before and after school or full-time child-care activities; fundraising activities; and cultural programs. Such uses will not be required to go through the land

*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 process if all of the activities which constitute the use (excluding parking and travel to and from the site) take place on the site and there is no external noise audible or light visible between 10:30 p.m. and 7:00 a.m.

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

- (14) Public park development activity subject to Conditional Use review includes major development; expansions of activities and development within parks which currently generate substantial traffic; or construction of major structures such as swimming pools, lighted ball fields, and community centers. Conditional Use review is not required, however, for construction of play equipment, tennis courts, bike paths, picnic shelters, restrooms, landscaping, and similar activities within existing improved parks. [Ord. 5947, 1/01/21]
- (15) Self-Serve Storage is subject to the following standards:
- (a) Freestanding facilities shall be limited to sites of one to three acres in size and maximum building coverage shall be limited to 50 percent of the parcel.
 - (b) Building setbacks shall be as follows: front - 25 feet, interior - 20 feet. No fencing is permitted in front setbacks and a minimum ten-foot landscape buffer yard is required adjacent to all residential zones. No barbed wire fencing is permitted in residential districts. [Ord. 5742, 7/14/10]
 - (c) The minimum driveway width between buildings shall be 20 feet for one-way drives and 24 feet for two-way drives.
 - (d) The maximum storage unit size shall be 500 square feet.
 - (e) All outdoor lighting shall be shielded to prevent reflection on adjacent properties.
 - (f) Repair of autos, boats, motors and furniture, and the storage of flammable materials shall be prohibited on the premises and rental contracts shall so specify.
 - (g) Outside storage of vehicles and materials is prohibited within this use category and no other business activity other than the rental of storage units shall be conducted on the premises. [Ord. 5673, 6/27/07]
- (16) Public and Commercial Communication Facilities are not allowed in residential zoning districts, except when the applicant can provide supportive documentation or evidence, to the satisfaction of the Community Development Director, that, if such a facility is not allowed, there will be a gap in service that denies service to an area within the community. (This decision is a Conditional Use, Type III land use decision.) Article 8 for telecommunication facility design standards also apply. [Ord. 5886, 1/6/17]
- Such a tower will also be subject to the following conditions:
- (a) The base of the antenna and any structures associated with the antenna shall be set back from the property lines of the property on which they are sited a distance of not less than 30 feet.
 - (b) The land on which the facility is sited shall be screened from adjacent land along its full perimeter, by providing screening, as defined in ADC Section 9.250. [Ord. 5281, 3/26/97; Ord. 5445, 4/12/00]
- (17) Planned Developments allow for limited commercial uses to serve the residents within the development; see Section 11.270. Cluster Developments greater than 50 acres may develop up to 2 acres with neighborhood commercial and office uses through a Conditional Use review. [See Section 11.510(2).] [Ord. 5673, 6/27/07; Ord. 5947, 1/01/21]
- (18) In all residential zones, indoor entertainment and recreation uses are limited to athletic, exercise or

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: ***

health clubs, gyms or spas, and similar uses. Examples of outdoor entertainment and recreation uses include sports fields, clubhouses, tennis and golf facilities, swimming pools, and similar uses.

[Ord. 5673, 6/27/07]

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

Standards

- ~~(a) The purpose of the office must be to sell lots or houses in the subdivision.~~
- ~~(b) The sales office must be placed on one or more of the lots in the subdivision. [Ord. 5886, 1/6/17]~~
- ~~(c) The sales office lot must be established within one year of the date the final subdivision plat is signed. [Ord. 5887, 1/6/17]~~
- ~~(d) At the time an application for the sales office is submitted, the owner of the subdivision must own all of the lots within 100 feet of the lot where the sales office will be located. The “owner of the subdivision” is the owner of more than 50 percent of the lots in the subdivision. [Ord. 5886, 1/6/17]~~
- ~~(e) The building must be placed in accordance with Section 3.190, Table 3.190.1 Development Standards. [Ord. 5886, 1/6/17; Ord. 5947, 1/01/21]~~
- ~~(f) A manufactured building, a modular building, or a building constructed on the site is allowed for the office use. If a manufactured building is used, it must be placed in accordance with the standards for “Placement on Individual Lots” listed in Article 10. If a modular building is used, it must be removed from the property within two years of the date a building permit is issued for the sales office. If manufactured or site built building is used, the building does not have to be removed from the lot.~~
- ~~(g) Building permits must be obtained for the building. Manufactured and modular buildings must have the appropriate State of Oregon insignia that shows the appropriate construction standards are met.~~

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

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

~~Within the South Albany Area Plan boundary, attached single family and duplexes will be permitted in the RS-5, RS-6.5 and RS-10 zoning districts for up to 25 percent of the total units provided when transferring density within the Oak Creek Transition Area or when transferring density of the area necessary to preserve significant tree groves identified on the South Albany Area Plan Organizational Framework map in the Comprehensive Plan (Figure 1), and oak trees over 25 inches in diameter measured at 4.5 feet from the ground. Developments may not exceed the maximum density by zoning district in 11.495 and must meet all applicable standards in the Code.~~

~~[Ord. 5801, 2/13/13]~~

SPECIAL STATUS

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

Notwithstanding the restrictions or terms of any other section of the Albany Development Code (ADC), properties on the Special Status List shall be deemed to be conforming to the Hackleman Monteith (HM) and RS-5 Residential Single-Family (RS-5) zoning districts, as applicable. If any building on these properties is ~~substantially destroyed, as defined in ADC Section 2.335(3)~~ 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

*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: ****

the property at the time the HM or RS-5 zoning was first applied, but will be subject to the regulations of any applicable overlay zone.

[Ord. 5886, 1/6/17]

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

[Ord. 5789, 10/10/12]

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

[Ord. 5673, 6/27/07]

The intent is that each and every legally established duplex, triplex, fourplex, townhouse, and multi-family development that existed at the time the HM zone was applied or properties that were zoned RS-5 or HM from RM-3 or ~~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.

[Ord. 5789, 10/10/12]

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

HOME BUSINESSES

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, middle housing, and multiple-family developments.

[Ord. 5445, 4/12/00, Ord. 5768, 12/7/11; Ord. 5947, 1/01/21]

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 detached <u>and Duplex</u> (1)	5 acres (15)	10,000 sf	6,500 sf	5,000 sf	5,000 sf	3,500 sf	<u>Single-family detached: N/A</u> <u>Duplex: 3,500 sf</u>
Townhouse <u>Single-family, attached</u> (14)(1)(16)(19)	<u>1,500 sf</u> N/A	<u>1,500 sf</u> N/A	<u>1,500 sf</u> N/A	<u>1,500 sf</u> N/A	<u>1,500 sf</u> <u>2,800 sf</u>	<u>1,500 sf</u> <u>2,400 sf</u>	<u>1,500 sf</u> <u>1,800 sf</u>
Two primary <u>detached</u> units on one property (1)	N/A	<u>N/A</u> 14,000 sf Corner lot	<u>N/A</u> 8,000 sf Corner lot	<u>7,000 sf</u> N/A	<u>N/A</u> 7,000 sf Corner lot	<u>3,500 sf</u> <u>4,800 sf</u>	<u>3,500 sf</u> <u>3,600 sf</u>
<u>Triplex (16)</u>	<u>5 acres</u>	<u>10,000 sf</u>	<u>6,500 sf</u>	<u>5,000 sf</u>	<u>5,000 sf</u>	<u>5,000 sf</u>	<u>5,000 sf</u>
<u>Fourplex (16)</u>	<u>5 acres</u>	<u>10,000 sf</u>	<u>7,000 sf</u>	<u>7,000 sf</u>	<u>7,000 sf</u>	<u>7,000 sf</u>	<u>7,000 sf (17)</u>
<u>Cottage Cluster (16)</u>	<u>5 acres</u>	<u>10,000 sf</u>	<u>7,000 sf</u>	<u>7,000 sf</u>	<u>7,000 sf</u>	<u>7,000 sf</u>	<u>7,000 sf</u>
Multi-family, 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) <u>Townhouse</u> <u>All other uses</u> Detached S-F <u>Attached Units</u>	<u>20 ft</u> N/A N/A	<u>20 ft</u> 65 ft N/A	<u>20 ft</u> 50 ft N/A	<u>20 ft</u> 35 ft N/A	<u>20 ft</u> 40 ft <u>20 ft</u>	<u>20 ft</u> 30ft <u>20 ft</u>	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	<u>(12)N/A</u>	<u>(12)N/A</u>	<u>(12)N/A</u>	<u>(12)N/A</u>	(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)

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: ***

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.
- (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. [Ord. 5832, 4/9/14; Ord. 5947, 1/01/21]
- (5) Except for single-family homes (~~attached and detached~~) or duplexes 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 developments must also meet the setbacks in Section 8.270(3). [Ord. 5974, 1/01/21]
- (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 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. [Ord. 5947, 1/01/21]
- (11) Maximum lot coverage for parcels 20,000 square feet or less is 50%. The configuration of any development on a lot 20,000 square feet in size, or less, in an RR zoning district that covers more than 20 percent of the parcel on which it is proposed, should be located such that it does not preclude a later division of the parcel.
- (12) The minimum separation between multi-family buildings on a single parcel shall be 10 feet for single-story buildings and 20 feet for two-story or taller buildings; 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 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).~~

[Table and footnotes amended by Ord. 5281, 3/26/97; Ord. 5338, 1/28/98; Ord. 5445, 4/12/00; Ord. 5555, 2/7/03; Ord. 5673, 6/27/07, Ord. 5768, 12/7/11; Ord. 5832, 4/9/14; Ord. 5947, 1/01/21; Ord. 5866 11/12/21]

Commentary: Townhouse Density

The OAR allows cities to limit density for townhouses to four times the allowed density for single-family dwellings, or 25 units per acre, whichever is less dense. In all residential zones except RM and RMA, Albany regulates density based on minimum lot size rather than units per acre. So, in the proposed density standards below, the density limits for townhouses in the RS, RR, and HM zones are based on the minimum land area per unit than is required for the entire townhouse development. In RR and RS-10, the maximum

*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: ****

density for townhouses is four times the permitted density for single-family. For example, in RR, minimum lot size is 5 acres, so four times the density is 1.25 acres per townhouse unit ($5 \div 4 = 1.25$). In RS-6.5, RS-5, and HM, four times the density for single-family would exceed 25 units per net acre, so for those zones, 25 units per net acre is translated into 1,700 sf per unit ($43,560 \text{ SF} \div 25 \text{ units} = 1,742 \text{ SF} \rightarrow$ rounded down to 1,700 SF). These numbers are only used to establish the total number of units permitted on a site. Within a given townhouse development, individual townhouses may be on lots as small as 1,500 SF, which is the minimum lot size (as required by the OAR and provided in Table 3-190-1). Consequently, in lower density zones like RR, a townhouse development would need to have a large shared open space tract if all of the units were on small individual lots in order to compensate for the difference between the permitted density and the minimum lot size.

3.191 Development Standards for Townhouses. Townhouses shall meet the standards in subsections (1) and (2) below. Townhouses shall also meet the applicable design standards in ADC Sections 8.110 through 8.170.

(1) Maximum Density.

(a) In the RR, RS-10, RS-6.5, RS-5, and HM districts, the maximum permitted density for a townhouse project shall be based on the total area of the development site (including all townhouse lots and other tracts). For the purposes of calculating density, the gross area required for each townhouse unit shall be as follows:

- RR: 1.25 acres per townhouse unit
- RS-10: 2,500 square feet per townhouse unit
- RS-6.5, RS-5, HM: 1,700 square feet per townhouse unit

(b) In the RM and RMA districts, the maximum permitted density for a townhouse project is based on the number of units permitted per gross acre, as follows:

- RM: 25 units per gross acre
- RMA: 35 units per gross acre

(2) Number of Attached Dwelling Units.

(a) Minimum. A townhouse project must contain at least two attached units.

(b) Maximum. The maximum number of townhouse units that may be attached together to form a group is specified below.

- RR, RS-10, RS-6.5, and HM districts: maximum of 4 attached units per group
- RS-5 district: maximum of 6 attached units per group
- RM and RMA districts: maximum of 10 attached units per group

3.192 Development Standards for Cottage Clusters. Cottage clusters shall meet the standards in subsections (1) through (5) below. Cottage clusters shall also meet all of the design standards in ADC Section 8.175.

(1) Definition. A cottage cluster is a grouping of detached dwelling units (cottages) that includes a common courtyard. All cottages within a single cottage cluster must share a common courtyard. A cottage cluster project may include more than one cluster and more than one common courtyard.

(2) Minimum Density. The minimum density for a cottage cluster project is 4 units per gross acre.

(3) Setbacks.

(a) Front Setback. The minimum front setback to cottages and all other structures is 10 feet.

(b) Building Separation. Cottages shall be separated by a minimum distance of six (6) feet. The

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 distance between all other structures, including accessory structures, shall be in accordance with building code requirements.

(c) All other setbacks, including to garage or carport entrances, are provided in Tables 3.190-1 and 3.320-1.

(4) Building Height. The maximum building height for all structures is 25 feet.

(5) Footprint. Each cottage shall have a building footprint of less than 900 square feet. Individual attached garages up to 200 square feet shall be exempted from the calculation of maximum building footprint.

3.200 Lot Size Variation Within a Land Division. Up to 50 percent of the total number of detached single-family 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 ~~attached housing units, 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.

[Ord. 5673, 6/27/07]

3.210 Lot Size Variation Within Planned and Condominium Developments. In the RS-6.5, RS-5, RM, RMA, and OP districts; lot area, lot coverage, and setback requirements may be reduced for individual lot or building sites created by a filed and recorded subdivision ~~or condominiums~~ developed in accordance with the Oregon Revised Statutes; provided the difference in square footage between the standard lot area established in this Article and the square footage of lots created is secured for common use in open space by covenants or associations to be in effect for at least 20 years. [Note: Cluster developments see Section 11.400.]

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

3.220 Bonus Provisions for Reduction in Standard 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 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. [Ord. 5338, 1/28/98; Ord. 5673, 6/27/07; Ord. 5866 11/12/21]

Relationship to Transportation.

(1) For single-family detached and middle housing developments, ~~A~~ a 10 percent reduction in the average minimum lot size required in a zoning district is allowed for proposed lots that meet the following qualifications:

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

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

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

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: ***

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 units (net), 4 units can be transferred; if it would have allowed 20 multi-family units (net), 10 units can be transferred.
 - Open Space Zoning – If the lot was legally created prior to July 1, 1991, and the area is of sufficient size and dimension to comply with the development standards for a single-family home, one single-family unit can be transferred. [Ord. 5947, 1/01/21]
- (4) Development Density in Receiving Area. Up to a maximum 20 percent reduction in average minimum lot size, or lot area per unit requirements, is allowed in order to accommodate the density transfer. [Ord. 5764, 12/1/11]

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 ~~multiple family~~ 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-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.) [Ord. 5866 11/12/21]

TABLE 3.220-1

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

[Ord. 5947, 1/01/21; Ord. 5866 11/12/21]

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: ***

Moderate-Cost and Affordable Housing

- (6) Provision of Moderate-Cost and Affordable Housing. For the provision of housing that is affordable to low- and moderate-income households earning 120 percent or less of the area median income (AMI), a density bonus through reductions in lot size or area requirement is permitted for all units within the development, or development phase for phased developments, as provided in Table 3.220-2. [Ord. 5866 11/12/21]
 - (a) For the purpose of this section, “AMI” means the area median income for the county in which the project is located.
 - (b) “Affordable” means that the sales price or rental amount is within the means of a household that may occupy moderate- and low-income housing. In the case of dwelling units for sale, affordable means housing in which the mortgage, amortization, taxes, insurance, and condominium or association fees, if any, constitute no more than 30 percent of such gross annual household income for a household of the size that are most likely to or intended to occupy the unit in question. In the case of dwelling units for rent, affordable means housing for which the rent and utilities constitute no more than 30 percent of such gross annual household income for a household of the size that are most likely to or intended to occupy the unit in question. Projects must include contractual obligations for continued availability to low- and moderate-income persons for a period of at least 30 years. [Ord. 5947, 1/01/21]

TABLE 3.220-2

AFFORDABLE HOUSING DENSITY BONUS STANDARDS		
Affordability Level	Percent of units set aside for persons whose household income is less than or equal to the affordability level (including bonus units)	Area Reduction Bonus Permitted
120% AMI	50 percent of units	5 percent
100% AMI	50 percent of units	10 percent
80% AMI	5 percent of units	5 percent
	10 percent of units	10 percent
	20 percent of units	20 percent
50% AMI	5 percent of units	10 percent
	10 percent of units	20 percent
	20 percent of units	30 percent

[Ord. 5947, 1/01/21; Ord. 5866 11/12/21]

Alley Access.

- (7) Lots with vehicular access from an alley 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; Ord. 5947, 1/01/21]

SETBACKS

3.240 Alternative Setbacks in Developed Areas. When an addition or new construction is proposed in an area containing the same type of uses that have been developed to a previous setback standard, the Director may approve setbacks that are the same as those for the existing buildings on the site for additions, or the same as those for buildings on abutting parcels for new development. (~~See Section 8.140 for new infill~~)

*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: ****

~~development.~~ The Director shall approve an alternative setback request if the applicant demonstrates that the following criteria are met:

- (1) Additions to the front of a dwelling. The front setback of the dwelling does not exceed the average of the setbacks for the same uses on the abutting properties facing the same street. [Ord. 5947, 1/01/21]
- (2) Addition of a garage or carport. The front setback for a garage or carport shall meet the current setback standard and the driveway to it shall be paved. [Ord. 5742, 7/14/10]
- (3) Additions to the side or rear of a dwelling. An addition to an existing structure shall not encroach any further into a setback than the existing structure and shall not exceed the height of the existing structure within that setback. [Ord. 5947, 1/01/21]
- (4) New structures shall be setback no less than the setbacks for structures on abutting properties facing the same street. ~~See infill design standards in Section 8.140.~~ [Ord. 5742, 7/14/10; Ord. 5947, 1/01/21]
- (5) All other provisions of this Code and the applicable building code must be met. [Ord. 5446, 5/10/00; Ord. 5673, 6/27/07; Ord. 5947, 1/01/21]

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 detached dwellings, two detached units, duplexes, triplexes, fourplexes, cottage clusters and townhouses ~~and two family residences~~. Each space must be a paved area at least 10 feet wide and 20 feet long.
- (3) Required parking shall not be located in interior setback areas, except:
 - (a) Paved driveways used to fulfill parking requirements for ~~single family and two family residences~~ subject to subsection (2)(b). ~~Each space must be at least 10 feet wide and 20 feet long.~~
- (4) RVs, trailers, boats, campers, and vehicles not in daily use are not allowed in the required front setback for more than 48 consecutive hours. [Ord. 5947, 1/02/21]

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

- (1) Depressed Areas. In any district, open work fences, berms, hedges, guard railings, or other landscaping or architectural devices for safety protection around depressed areas, ramps, stairs, or retaining walls, may be located in required setbacks, provided that such devices are not more than 3-1/2 feet in height. [Ord. 5742, 7/14/10]
- (2) Projecting Building Features. The following building features may encroach up to five feet into the required front setback and up to two feet into the required interior setbacks: [Ord. 5742, 7/14/10]
 - (a) Awnings, eaves, buttresses, architectural appendages (such as, but not limited to, bay windows, planters, cantilevered stairways, balconies).
 - (b) Chimneys and fireplaces provided they do not exceed eight feet in width.
 - (c) Porches, steps, platforms or landings, raised patios, decks or other similar structures over 30 inches in height. (Structures, patios or concrete pads 30 inches or less in height are not subject to setback provisions).

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: ***

(d) Signs conforming to applicable ordinance requirements. [Ord. 5673, 6/27/07]

3.263 Exceptions to Setbacks for Accessibility Retrofits. An encroachment into the interior setback for the purpose of retrofitting an existing residential bathroom to accommodate mobility impairments is permitted if the following criteria are met:

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

[Ord. 5832, 4/9/14]

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

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

OR

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

[Ord. 5673, 6/27/07; Ord. 5947, 1/01/21]

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

3.275 Repealed by Ord. 5947, 1/01/21

BUILDING HEIGHT

3.340 Height Exceptions. Height limitations are shown in Table 3.190-1, Development Standards. See also subsection 3.080(9), Table 3.230-1, Accessory Structure Standards.

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

[Ord. 5673, 6/27/07; Ord. 5947, 1/01/21]

OFF-STREET PARKING AND LOADING REQUIREMENTS

*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: ****

- 3.350 Minimum Space Requirements. Off-street parking shall be provided for all residential development in the amounts indicated in Article 9, Table 9.020-1. All parking lots in residential districts must comply with applicable requirements in Article 9.
[Ord. 5445, 4/12/00; Ord. 5673, 6/27/17; Ord. 5832, 4/9/14; Ord. 5947, 1/01/21]

LANDSCAPING

- 3.360 Requirements. All front yards shall be landscaped in accordance with Section 9.140.
[Ord. 5673, 6/27/07]

BUFFERING AND SCREENING

- 3.370 General. Buffering and screening may be required to offset the impact of development. See Sections 9.210 through 9.270.
[Ord. 5445, 4/12/00; Ord. 5673, 6/27/07; Ord. 5947, 1/01/21]

OUTSIDE STORAGE

- 3.380 General. In any district, outside storage or display of materials, junk, parts, or merchandise shall not be permitted in required front setbacks or buffer areas.
- 3.390 Screening of Refuse Containers. The following standards apply to all residential development, except for refuse containers or disposal areas serving four or fewer dwellings~~one- and two-family dwellings~~. Any refuse container or refuse disposal area which would otherwise be visible from a public street, customer or resident parking area, any public facility, or any residential area, shall be screened from view by placement of a sight-obscuring fence, wall or hedge at least 6 feet in height. All refuse materials shall be contained within the screened area. No refuse container or refuse disposal area shall be placed within 15 feet of a dwelling window.
[Ord. 5673, 6/27/07]

Expanding Housing Options – 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:

Commercial and industrial zoning districts are not subject to the requirements of House Bill 2001. However, amendments to Article 4 are needed to reflect proposed revisions to certain terms associated with middle housing (e.g., triplexes and fourplexes are now separate from multi-family; “single-family” has been separated into “single-family detached” and “townhouse”). Other technical fixes are also needed for consistency within the Code.

No changes are proposed to Zoning Districts or Airport Approach Overlay District sections. Therefore, these sections are not included in the review materials.

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

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

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

ZONING DISTRICTS

SCHEDULE OF PERMITTED USES

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

[Ord. 5947, 1/01/21]

- Y Yes; use allowed without review procedures but may be subject to special conditions.
- S Use permitted that requires a site plan approval prior to the development or occupancy of the site

Expanding Housing Options – 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: ****

- or building.
- CU Use considered conditionally through the Type III procedure under the provisions of Sections 2.230-2.260.
- CUII Uses considered conditionally through the Type II procedure under the provisions of Sections 2.230-2.260. [Ord. 5742, 7/14/10]
- PD Use permitted only through Planned Development approval.
- N No; use not allowed in the zoning district indicated.
- X/X Some zones have two abbreviations for a use category (ex. Y/CU). Refer to the special condition to determine what review process is required based on the details of the use.

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

[Ord. 5555, 2/7/03]

DRAFT

Expanding Housing Options – 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 4.050-1
SCHEDULE OF PERMITTED USES**

Commercial, Office and Industrial Zoning Districts									
Use Categories (See Article 22 for use category descriptions.)	Spec. Cond.	OP	NC	CC	RC	TD	IP	LI	HI
INDUSTRIAL									
Contractors and Industrial Services		N	N	S-1	N	S-1	S-1	S-1	S
Manufacturing and Production	2	S/CU	N	S/CU,3	N	S/CU	S/CU	S/CU	S
Small-scale Manufacturing	2	S/CU	N	S/CU	S/CU	S/CU	S/CU	S/CU	S/CU
Railroad Yard		N	N	N	N	S	N	S	S
Warehousing and Distribution		N	N	N	N	N	CU	S	S
Waste and Recycling Related	4	N	N	CU	N	N	N	S/CU	S/CU
Wholesale Sales		N	N	N	N	N	S-5	S	N
COMMERCIAL									
Adult Entertainment		N	N	S-6	N	N	N	CU-6	N
Entertainment and Recreation: Indoor Outdoor	7	N N	N N	S-7 S	S-7 S	S N	S/CU-7 N	CUII-7 CU-7, 11 N-7	CU-7 CU
Offices: Traditional Offices		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									
Basic Utilities		CU	CU	CU	CU	CU	S	S	S
Community Services	15	S/CU	S/CU	S/CU	S/CU	S/CU	CU	CU	N
Daycare Facility		CU	CU	S	N	N	S	CU	N
Educational Institutions	16	N	N	CU	N	CU	S/CU	S/CU	N
Hospitals		CU	N	N	N	N	CU	CU	N
Jails and Detention Facilities		N	N	N	N	N	N	CU	N
Parks, Open Areas and Cemeteries	17	CU	CU	CU	N	CU	CU	CU	N
Religious Institutions	16	CU	CU	S	N	N	CU	CU	N
RESIDENTIAL									
Assisted Living Facility		CU	CU	CU	N	N	N	N	N
Home Businesses (See 3.090-3.180 to determine if CU.)		Y/CU	Y/CU	Y/CU	Y/CU	Y/CU	Y/CU	Y/CU	Y/CU
Residential Care or Treatment Facility		S	S	S	N	N	N	N	N
Single Family Detached and Two-Family Units	20	Y/CU-19	S-19	N	N	N	N	N	N
<u>Middle Housing</u>	<u>20</u>	<u>CU-19</u>	<u>S-19/N</u>	<u>N</u>	<u>N</u>	<u>N</u>	<u>N</u>	<u>N</u>	<u>N</u>
Three or More Units <u>Multi-Family</u>		CU	N	N	N	N	N	N	N
Units Above or Attached to a Business		S	S	S	CU	S	S	S	N
Residential Accessory Buildings	21	Y/S	Y/S	N	N	N	N	N	N

Expanding Housing Options – 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
OTHER CATEGORIES									
Agriculture (on Vacant Land)	22	N	N	N	Y	N	Y	Y	Y
Satellite Dish, Other Antennas, & Communication Facilities <50 ft.	23	Y	Y	Y	Y	Y	Y	Y	Y
Communication Facilities >= 50 ft.	23	N	N	CU	S	CU	CU	S	Y
Kennels	24	N	N	N	CU	N	N	S	N
Non-Res'l Accessory Buildings		S-18	Y	Y	Y	Y	Y	Y	Y
Passenger Terminals		N	N	S	CU	S	CU	CU	N
Rail And Utility Corridors		CU	CU	CU	CU	S	CU	S	S

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

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

[Ord. 5555, 2/7/03; Ord. 5728, 1/27/10; Ord. 5742, 7/14/10, Ord. 5767, 12/7/11; Ord. 5832, 4/9/14, Ord. 5886, 1/6/17; Ord. 5947, 1/01/21; Ord. 5949, 1/01/21]

SPECIAL CONDITIONS

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

(19) Single-Family ~~Detached~~ and ~~Two-Family~~ Middle Housing Units.

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

(b) In the NC zone, single-family 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 detached residence, called the “primary residence”. The ADU shall comply with the standards for ADUs in ADC 5.070(15).

[Ord. 5742, 7/14/10; Ord. 5947, 1/01/21; Ord. 5949, 1/01/21]

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

Expanding Housing Options – 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 STATUS FOR SINGLE FAMILY RESIDENCES

4.075 Existing Uses Granted Special Status (Allowed) in the Commercial and Industrial Districts. Notwithstanding the restrictions of any other section of the Albany Development Code (ADC), all legally established single-family detached and townhouse ~~residential~~ dwellings built before January 1, 2002, on commercial or industrially zoned properties shall be deemed conforming to the base zoning district. If any building on these properties is ~~substantially destroyed, as defined in ADC 2.335(3)~~ 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 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.
 [Ord. 5789, 10/10/12; Ord. 5555, 2/7/03; Ord. 5947, 1/01/21]

DEVELOPMENT STANDARDS

4.090 Purpose. Development standards are intended to promote site planning and design that consider the natural environment, site intensity, building mass, and open space. The standards also promote energy conservation, needed privacy, safe and efficient parking areas for new development, and improve the general living environment and economic life of a development. Table 4.090-1, 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, middle housing, and multiple-family developments.
 [Ord. 5445, 4/12/00, Ord. 5555, 2/7/03; Ord. 5742, 7/14/10, Ord. 5768, 12/7/11; Ord. 5947, 1/01/21]

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'
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. [Ord. 5947, 1/01/21]
- (2) New NC zones may be no more than 30,000 sq. ft. of contiguous land. [Ord. 5947, 1/01/21]

Expanding Housing Options – 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. Approved vegetated post-construction stormwater quality facilities are allowed in landscaped areas. [Ord. 5842, 1/01/15]
- (4) The minimum lot size for supporting commercial uses may be smaller than 3 acres.
- (5) Structures on property abutting residential districts and/or uses require 1 foot of setback for each foot of finished wall height with a minimum setback of 10 feet.
- (6) No setbacks are required for buildings abutting railroad rights-of-way.
- (7) Lot coverage for single-family detached and middle housing development shall only include the area of the lot covered by buildings or structures. [Ord. 5768, 12/7/11]
- (8) Unless in Airport Approach Overlay District. See Sections 4.400 to 4.440.
- (9) Ten or more multiple-family units require common open space. See Section 8.220.
- (10) The maximum business footprint for supporting commercial uses allowed in IP is 5,000 square feet. The maximum business footprint for convenience-oriented and personal service-oriented retail uses in NC and OP is 5,000 square feet. Convenience-oriented and personal service-oriented retail uses in buildings constructed prior to February 7, 2003 in the NC and OP districts are exempt from the maximum business footprint. [Ord. 5742, 7/14/10; Ord. 5923, 2/8/19]
- (11) When adjacent to or across the street from residentially zoned land, the setback shall be 1 foot for each foot of building height over 30 ft. Buildings may increase in height (“step” up) as the setback increases. For example, at the minimum setback in LI, a building may be 30 feet tall but may increase in height up to 50 feet when set back 50 feet from the property line.
- (12) Higher structures permitted by Conditional Use approval.
- (13) The maximum building size may be exceeded for non-commercial and non-office uses when the building is multi-story.

[Table and footnotes amended by Ord. 5445, 4/12/00; Ord. 5555, 2/7/03; Ord. 5556, 2/21/03; Ord. 5742, 7/14/10; Ord. 5768, 12/7/2011; Ord. 5842, 1/01/15; Ord. 5923, 2/8/19; Ord. 5947, 1/01/21]

SETBACKS

- 4.160 Interior Setbacks for Attached Dwellings. The interior setback requirement for ~~attached single-family dwellings~~ townhouses is zero where the units adjoin; however, all other setbacks must conform to the requirements of this Code. The setback requirements for residential uses do not apply to a dwelling legally located above a commercial use. [Ord. 5445, 4/12/00]

- 4.220 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 detached, duplex, triplex, fourplex, cottage cluster, and townhouse ~~two-family~~ residences. Each space must be at least 10 feet wide and 20 feet long. [Ord. 5555, 2/7/03; Ord. 5742, 7/14/10; Ord. 5947, 1/01/21]

OUTSIDE STORAGE

Expanding Housing Options – 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: ***

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

4.310 to 4.320 Fence standards moved to Article 9, Ord. 5751, 3/9/11.

DRAFT

Expanding Housing Options – 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 5 MIXED USE ZONING DISTRICTS

Commentary:

Albany is required to permit middle housing in areas “zoned for residential use.” As interpreted by the Department of Land Conservation and Development (DLCD), this means any residential or mixed-use zone in which residential is a primary use and single-family detached dwellings (SFDs) are permitted. The **Mixed Use Residential (MUR)** and **Mixed Use Commercial (MUC)** zoning districts meet this definition; therefore, they must comply with Oregon Administrative Rule (OAR 660-046; “the OAR”). Middle housing is already permitted in these zoning districts today—either outright or through Site Plan Review. All middle housing types must be permitted outright in these districts to comply with the OAR.

The proposed amendments to Article 5 reflect the requirements applicable to the MUR and MUC zoning districts, as well as revisions to development standards needed to comply with the OAR. One other proposed change is to allow cottage clusters in the DMU district through Site Plan Review; cottage clusters would not be permitted in any other mixed-use zone where the OAR does not require them to be allowed. In addition to the substantive changes to the use table, the reorganization of the housing types under new heading has resulted additional non-substantive changes. The amendments to other zones and standards are limited to technical fixes needed for consistency within the Code, and are intended to be policy-neutral.

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

Expanding Housing Options – 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: ***

■ Development Standards

[Ord. 5673, 6/27/07]

ZONING DISTRICTS

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

- (1) HD – HISTORIC DOWNTOWN DISTRICT. The HD district is intended for a dense mixture of uses with an emphasis on entertainment, theaters, restaurants, nightlife and specialty shops. High-density residential infill on upper floors is encouraged, as is the continued presence of the government center and supporting uses. [Ord. 5894, 10/14/17]
- (2) DMU – DOWNTOWN MIXED USE DISTRICT. The DMU district is intended for a mix of retail, services, institutions, offices, and housing that supports businesses in and around the Historic Downtown District. Mixed uses are encouraged both horizontally and vertically. High-density residential infill and office employment are both encouraged. [Ord. 5894, 10/14/17]
- (3) CB – DOWNTOWN CENTRAL BUSINESS DISTRICT. The CB district is intended for a broad mix of residential and non-residential uses. Mixed uses are encouraged both horizontally and vertically. High-density residential infill is encouraged to support nearby businesses. [Ord. 5894, 10/14/17]
- (4) MUR – MIXED USE RESIDENTIAL DISTRICT. The MUR district is intended primarily to create a residential district that allows a mixture of neighborhood commercial uses that meet the daily needs of area residents. [Ord. 5673, 6/27/07]
- (5) WF – WATERFRONT DISTRICT. The WF district is intended to transition Albany’s Willamette River waterfront into a vibrant center characterized by a variety of housing choices and a mixture of housing, office, and retail uses. Infill and redevelopment are encouraged, as well as adaptive reuse of existing buildings until the area is redeveloped. Development and design standards will result in great neighborhoods, a pedestrian-friendly environment, and an enhanced community image. [Ord. 5635, 1/11/06; Ord. 5832, 4/9/14]
- (6) LE – LYON-ELLSWORTH DISTRICT. The LE district is intended primarily as a location for development that serves the Historic Downtown district and Downtown Central Business district. This district is the most desirable location in the Central Albany area for parking structures with ground-floor commercial uses.
- (7) MS – MAIN STREET DISTRICT. The MS district is intended primarily as an employment center with supporting commercial and retail services for residents and employees in the area. Infill and redevelopment are encouraged provided there is no adverse impact to surrounding residences. [Ord. 5832, 4/9/14]
- (8) ES – ELM STREET DISTRICT. The ES district is intended primarily to provide enough land for Albany General Hospital and associated medical uses while maintaining compatibility with adjacent residences in scale and design. Light commercial and personal services are encouraged to serve the nearby residents. Removal of existing residences and landscapes is discouraged. New parking facilities should be underground or completely screened. Only the amount of parking that is necessary should be allowed for uses in this district, to minimize the amount of land consumed by parking.
- (9) PB – PACIFIC BOULEVARD DISTRICT. The PB district is intended as an auto-oriented commercial area along Pacific Boulevard in the Central Albany area. Design guidelines and front-yard

Expanding Housing Options – 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 will provide a coordinated look and enhance the community image along this major corridor as it develops or redevelops. Commercial infill and redevelopment are encouraged. Sound and visual buffers should be used to protect nearby residential areas. [Ord. 5832, 4/9/14]

- (10) MUC – MIXED USE COMMERCIAL DISTRICT. The MUC zoning district is intended primarily to provide a mix of convenience commercial, personal services, offices and medium density residential uses. The district would typically be anchored by a grocery store and may include a mix of smaller retailers, offices, live-work units, and residences. The MUC district is easily accessible to nearby residences, and commercial uses are compatible in scale and design with adjacent neighborhoods. Uses in the MUC zone will serve area residents and should not draw from the region.[Ord. 5556, 2/21/03; Ord. 5577, 7/28/04; Ord. 5555, 2/7/03]

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

<u>Special Purpose District</u>	<u>Applicable Articles</u>
Airport Approach	Article 4
Floodplain	Article 6
Wetlands	Article 6
Willamette Greenway	Article 6
Hillside Development	Article 6
Historic Overlay	Article 7

[Ord. 5555, 2/7/03]

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

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

SCHEDULE OF PERMITTED USES

5.050 Interpretation. Each use category in the schedule of permitted uses is described in Article 22, Use Categories and Definitions. Article 22 classifies land uses and activities into categories based on common functional, product, or physical characteristics. Characteristics include the type and amount of activity, the type of customers or residents, how goods and services are sold or delivered, and certain site factors. In addition to the clarification in Article 22, the following provisions shall be used to interpret the schedule of permitted uses found in this Article: [Ord. 555, 2/7/03]

- (1) The schedule of permitted uses cannot anticipate all uses that may be located within the city. There are also situations where proposed uses may relate to more than one type of use. In both instances, the Director will determine the appropriate use category based on operating characteristics and land use impacts. Where ambiguity exists concerning the appropriate classification of a particular use, the use may be reviewed as a Conditional Use where the Director determines that the proposed use is consistent with other uses allowable within the subject district due to similar characteristics. [Ord. 5947, 1/01/21]
- (2) Where a development proposal involves a combination of uses other than accessory uses, the more

Expanding Housing Options – 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: ****

restrictive provisions of this Code shall apply. For example, if a portion of a development is subject to Conditional Use approval and the balance is subject only to Site Plan Review, the entire development shall be reviewed utilizing the Conditional Use criteria if concurrent approval of all uses is sought.

- (3) A change in the use of a property is subject to review as specified by the schedules of permitted uses:
 - (a) When the change involves a change from one use category to another in the schedule of permitted uses and the Director has not waived review under the provisions of Section 1.105, or
 - (b) When a property that has been unoccupied for more than one year and is non-conforming under the provisions of Article 2 is proposed to be occupied. [Ord. 5947, 1/01/21]

5.060 Schedule of Permitted Uses. The specific uses listed in the following schedule (Table 5.060-1) are permitted in the zones as indicated, subject to the general provisions, special conditions, additional restrictions, and exceptions set forth in this Code. A description of each use category is in Article 22, Use Categories and Definitions. The abbreviations used in the schedule have the following meanings:

[Ord. 5947, 1/01/21]

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

A number appearing opposite a use in the “special conditions” column indicates that special provisions apply to the use in all zones. A number in a cell particular to a use and zone(s) indicates that special provisions apply to the use category for that zone(s). These conditions are found following the schedule in Section 5.070.

[Ord. 5555, 2/7/03; Ord. 5673, 6/27/07]

**TABLE 5.060-1
SCHEDULE OF PERMITTED USES**

Use Categories (See Article 22 for use category descriptions.)	Spec. Cond.	MUC	WF	HD	DMU	CB	LE	PB	MS	ES	MUR
INDUSTRIAL											
Contractors and Industrial Services	1	N	N/ CU-24	N	N	CU	S	S	N	N	N
Manufacturing and Production	2	N	N/ CU-24	CU-3	N	CU-3	S/CU	N	N	N	N
Small-scale Manufacturing - less than 5,000 sq. ft. -5,000 to 10,000 sq. ft.	2	S/CU CU	S/CU CU	S/CU CU	S/CU CU	S/CU CU	S/CU CU	S/CU CU	S/CU CU	N N	N N
Warehousing and Distribution		N	N/ CU-24	N	N	N	N	N	N	N	N
Waste and Recycling		N	N	N	N	N	N	N	N	N	N
Wholesale Sales		N	N/ CU-24	N	N	CU	N	N	N	N	N

Expanding Housing Options – 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 Categories (See Article 22 for use category descriptions.)	Spec. Cond.	MUC	WF	HD	DMU	CB	LE	PB	MS	ES	MUR
COMMERCIAL											
Adult Entertainment	4	N	N	S	S	S	N	N	N	N	N
Entertainment and Recreation Indoor Outdoor		S-5 CU	S-5/ CU-24 CU-6	S N	S N	S CU-6	S N	S-5 S	S-5 N	S-5 N	CU N
Offices Traditional		S CU	S S	S S	S S	S S	S S	S S	S S	S N	S N
Industrial		S CU	S S	S S	S S	S S	S S	S S	S S	S N	S N
Parking		S	CU	CU	CU	CU	S	S	S	CU-7	CU
Recreational Vehicle Park		N	N	N	N	N	N	N	N	N	N
Restaurants, no drive-thru with drive-thru or mostly delivery	23	S CU	S N	S N	S N	S N	S S	S S	S N	CUII N	S N
Retail Sales and Service		S-8	S-8/ CU-24	S-8	S-8	S	S	S	S-8	S-8	S-8
Self-Serve Storage	9	N	N	N	N	N	N	N	N	N	N
Taverns, Bars, Breweries, Nightclubs	23	CUII	CUII	S	S/ CUII (25)	S/ CUII (25)	S	S	CUII	CU	CUII
Vehicle Repair		N	N/ CU-24	N	N	CU	N	S	N	N	N
Vehicle Service, Quick (gas/oil/wash)		S	N	N	N	N	N	S	S	S	N
INSTITUTIONAL											
Basic Utilities	10	CU	CU	CU	CU	CU	CU	CU	CU	CU	CU
Daycare Facility		S	S	S	S	S	N	CU	S	S	S
Community Services	11	CU	CU	S	S	S	S	S	S	S	CU
Educational Institutions	12	CU	CU	CU	CU	CU	CU	N	CU	CU	CU
Hospitals		N	CU	CU	CU	S	S	CU	N	CU	CU
Jails & Detention Facilities		N	N	N	N	N	N	N	N	N	N
Parks, Open Areas and Cemeteries	13	CU	CU	CU	CU	CU	CU	CU	CU	CU	CU
Religious Institutions	12	CU	CU	CU	CU	S	S	CU	CU	CU	CU
RESIDENTIAL											
Residential Care or Treatment Facility	14	S	CU	S	S	S	S	N	S	S	S
Assisted Living Facility		CU	CU	CU	CU	CU	CU	CU	CU	CU	CU
Single Family <u>Detached</u> and Two Family Units	15	Y-17	S-16	N/Y-16	<u>N/Y-S-16</u>	<u>N/Y-S-16</u>	<u>N/Y-16</u>	N	N-16	<u>N/Y-CU-16</u>	Y
<u>Duplex</u>	<u>15</u>	<u>Y-17</u>	<u>S-16</u>	<u>N</u>	<u>S-16</u>	<u>S-16</u>	<u>Y</u>	<u>N</u>	<u>N</u>	<u>CU</u>	<u>Y</u>
<u>Townhouse</u>	<u>15</u>	<u>Y-17</u>	<u>S-16</u>	<u>N</u>	<u>S-16</u>	<u>S-16</u>	<u>N</u>	<u>N</u>	<u>N</u>	<u>CU</u>	<u>Y</u>
<u>Triplex or Fourplex</u>		<u>Y-17</u>	<u>S-17</u>	<u>N</u>	<u>S-17</u>	<u>S-17</u>	<u>S</u>	<u>N</u>	<u>CU</u>	<u>CU</u>	<u>Y</u>
<u>Cottage Cluster</u>		<u>Y-17</u>	<u>N</u>	<u>N</u>	<u>S</u>	<u>N</u>	<u>N</u>	<u>N</u>	<u>N</u>	<u>N</u>	<u>Y</u>
Three or More Units <u>Multi-Family</u>	47	S-17	S-17	N	S-17	S-17	S	N	CU	CU	S

Expanding Housing Options – 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 Categories (See Article 22 for use category descriptions.)	Spec. Cond.	MUC	WF	HD	DMU	CB	LE	PB	MS	ES	MUR
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	CUH	N	Y/CUH	Y/CUH	Y/S
OTHER CATEGORIES											
Agriculture (on Vacant Land)	19	N	N	N	N	N	N	N	N	N	N
Satellite Dish, Other Antennas, & Communication Facility <50 ft.	20	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y
Communication Facility >= 50 ft.	21	CU	N	N	N	CU	CU	CU	N	CU	N
Kennels	22	N	N	N	N	N	N	N	N	N	N
Non-Res'l Accessory Buildings, larger than 750 sq. ft.		S	S	S	S	S	S	S	S	S	S
Passenger Terminals		CU	N	CU	CU	CU	CU	S	CU	N	N
Rail And Utility Corridors		CU	CU	N	N	CU	CU	CU	CU	CU	N

Y = Yes, allowed, no Site Plan review required
 CU = Conditional Use review required, Type III procedure
 CUH = Conditional Use review required, Type II procedure
 N = No, not allowed
 S = Site Plan Review required

[Schedule of Uses amended by Ord. 5555, 2/7/03; Ord. 5556, 2/21/03; Ord. 5635, 1/11/06; Ord. 5673, 6/27/07; Ord. 5728, 1/27/10, Ord. 5742, 7/14/10; Ord. 5767, 12/7/11; Ord. 5832, 4/9/14; Ord. 5886, 1/6/17; Ord. 5894, 10/14/17; Ord. 5947, 1/01/21]

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:

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

[Ord. 5673, 6/27/07]

Accessory Dwelling Units. Where detached single-family residences are permitted, one accessory dwelling unit (ADU) may be allowed ~~per~~ on each lot that has a single legally established detached single-family residence, called the “primary residence”.
 [Ord. 5949, 1/01/21]

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

Expanding Housing Options – 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) 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. [Ord. 5966, 11/12/21]
 - (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. [Ord. 5673, 6/27/07; Ord. 5949, 1/01/21]
- (16) Single-Family ~~Detached, Townhouse, and Duplex~~ Two-Family Units.
- ~~(a) Limited Uses in DMU, CB, ES, LE, and WF: New construction of single-family units is limited to attached units (one unit per lot or condominiums) and two-family units (a duplex). [Ord. 5742, 7/14/10; Ord. 5894, 10/14/17]~~
 - ~~(b)~~ (a) In CB, ES, ~~HD~~, DMU, and LE: Buildings originally built as a single-family detached house or church may be converted to a single-family residential use without requiring a land use application. In HD all other single-family and two-family units are prohibited. [Ord. 5673, 6/27/07; Ord. 5894, 10/14/17]
 - ~~Limited Uses in HD: Buildings originally built as a single-family house or church may be converted to a single-family residential use without requiring a land use application. All other single-family and two-family units are prohibited.~~
 - ~~(c)~~ (b) In CB, WF, and DMU: Single-family attached Townhouse units and duplex two-family 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). [Ord. 5947, 1/01/21]
- (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. [Ord. 5556, 2/21/03; Ord. 5947, 1/01/21]
 - (b) In HD, dwelling units above or attached to a business are limited as follows. For the purposes of this section, the non-residential portion of a live/work dwelling unit is regulated as part of the dwelling unit and subject to all of the standards below. [Ord. 5894, 10/14/17; Ord. 5947, 1/01/21]
 - i. Units above a business: Dwelling units on the second story or above are permitted. [Ord. 5894, 10/14/17]
 - ii. Units behind a business: Dwelling units on the first story that are separated from the front lot line by a non-residential use are permitted. The non-residential use may be located within the same building or in another building. [Ord. 5894, 10/14/17]

Expanding Housing Options – 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. Units attached to a business on a multiple frontage lot: On a lot with three or more street frontages, dwelling units are permitted on the first story facing a street line that is considered an interior lot line pursuant to the definition of front lot line in Article 22; however, in no case shall first-story dwelling units face onto First or Second Avenue. Street-facing first-story dwelling units shall meet all applicable setbacks and design standards in Articles 5 and 8 as if the street line that the units are facing were a front lot line. [Ord. 5894, 10/14/17]
- iv. All other units above or attached to a business are prohibited. [Ord. 5894, 10/14/17]
- (c) In CB, WF, and DMU, triplexes, fourplexes, and multifamily 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]

SPECIAL STATUS

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

Single-Family Detached, Townhouse, and Duplex Dwellings ~~Homes~~. Notwithstanding the restrictions or terms of any other section of the Albany Development Code (ADC), all single-family detached, townhouse, and duplex dwellings ~~residential units~~ legally established before January 1, 2002, shall be deemed to be conforming to the base zoning district. If any building on these properties is damaged or destroyed by fire or other causes beyond the control of the owner ~~substantially destroyed, as defined in ADC Section 2.335(3)~~, it may be rebuilt to the same density, size (square feet) and setbacks as existed on the property at the time it was destroyed, but will be subject to the regulations of any applicable overlay zone. If any single-family 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 is determined that the residence was not legally established prior to January 1, 2002.

[Ord. 5789, 10/10/12; Ord. 5555, 2/7/03, Ord. 5635, 1/11/06; Ord. 5947, 1/01/21]

HOME BUSINESS STANDARDS

5.087 Home Businesses. See Article 3, Residential Zoning Districts, Sections 3.090 to 3.160, for home business standards. [Ord. 5555, 2/7/03; Ord. 5894, 10/14/17; Ord. 5947, 1/01/21]

DEVELOPMENT STANDARDS

5.090 Purpose. Development standards are intended to promote site planning and design that consider the natural environment; site intensity, building mass and open space. The standards also promote energy conservation, needed privacy, and safe and efficient parking areas for new development; and improve the general living environment and economic life of a development. Table 5.090-1 summarizes the basic development standards. It should be used with the sections immediately following the table, which addresses special circumstances and exceptions. Additional design standards are located in Article 8.

[Ord. 5445, 4/12/00; Ord. 5768, 12/7/11; Ord. 5947, 1/01/21]

Expanding Housing Options – 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 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>detached</u> (20)(21)	None	None	None	None	None	N/A	N/A	N/A	5,000	None
Townhouse Attached single-family, Per lot (21)	None	1,600	N/A	None	None	N/A	N/A	None	None	None
Duplex Two-family (21)	None	3,600	N/A	None	None	N/A	N/A	N/A	7,000	None 3,600
<u>Cottage Cluster</u> (21)	<u>None</u>	<u>N/A</u>	<u>N/A</u>	<u>7,000</u>	<u>N/A</u>	<u>N/A</u>	<u>N/A</u>	<u>N/A</u>	<u>N/A</u>	<u>7,000</u>
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)										
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)	(4) (4)	0' (1)(4)	0'(4)	0' (1) (4)	0' (1) (4)	(4)	(4)	(1)(4)	5'	10' (4) (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 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 ~~attached dwelling units~~ townhouses. [Ord. 5742, 7/14/10; Ord. 5894, 10/14/17]
- (2) All yards adjacent to streets. Approved vegetated post-construction stormwater quality facilities are allowed in

Expanding Housing Options – 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: ****

- 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.
- (6) Achievement of maximum lot coverage is subject to meeting all other standards of the ADC, including, but not limited to, landscaping, buffering and setback requirements. Lot coverage for single-family detached 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]
- (7) To prevent parked vehicles from intruding in the right-of-way, garage entrances shall be set back five feet or at least 20 feet. A setback of more than 5 feet and less than 20 feet is not permitted. Garage entrances may not be located closer to the front lot line than the front façade of the building. [Ord. 5894, 10/14/17]
- (8) Garage setback for non-vehicle entrance must conform to the requirements for interior setbacks.
- (9) For garages with alley access, see Table 5.100-1. [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 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 Sections 5.150 and 5.160 for zero lot line options and attached dwelling units. ~~For multi-family and commercial developments, no parking or circulation will be allowed between the building with the primary entrance and the adjacent street.~~ [Ord. 5742, 7/14/10]
- (12) Ten or more residential multi-family units require common open space. See Section 8.220. [Ord. 5894, 10/14/17]
- (13) The building and business footprint maximum is 80,000 square feet if a grocery store occupies at least fifty percent (50 percent) of the total square footage. This footprint may include one or more businesses or attached buildings. For purposes of this section, a grocery store is defined as a business that sells primarily food and household supplies. Ancillary grocery uses include uses such as pharmacy, bakery, and florist.
- (14) Properties adjacent to the Willamette River see also the Willamette Greenway standards in Sections 5.200 - 5.207 and Sections 6.500-6.560.
- (15) Except for residential development, which has a maximum setback of 25 feet. See Sections 8.200 – 8.305 for multiple-family 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 detached housing is not permitted in a given Mixed Use zone, minimum lot size for single-family refers to legally established existing single-family uses with special status. [Ord. 5894, 10/14/17]
- (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

Expanding Housing Options – 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: ****

exceed 7,000 square feet.

(23) Maximum height for cottage clusters is in Section 5.092.

(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.

[Table and footnotes amended by Ord. 5555, 2/7/03; Ord. 5556, 2/21/2003; Ord. 5627, 7/27/05; Ord. 5673, 6/27/07; Ord. 5768, 12/7/2011; Ord. 5894, 10/14/17; Ord. 5947, 1/01/21; Ord. 5966, 11/12/21]

5.091 Standards for Townhouses. Where permitted, townhouses shall meet the standards below. Townhouses shall also meet the applicable design standards in ADC Sections 8.110 through 8.170.

(1) Number of Attached Dwelling Units.

(a) Minimum. A townhouse project must contain at least two attached units.

(b) Maximum. The maximum number of townhouse units that may be attached together to form a group is specified below.

- MUC and MUR districts: maximum of 10 attached units per group
- Other mixed-use districts: no limit

5.092 Standards for Cottage Clusters. Where permitted, cottage clusters shall meet the standards in subsections (1) through (5) below. Cottage clusters shall also meet all of the design standards in ADC Section 8.175.

(1) Definition. A cottage cluster is a grouping of detached dwelling units (cottages) that includes a common courtyard. All cottages within a single cottage cluster must share a common courtyard. A cottage cluster project may include more than one cluster and more than one common courtyard.

(2) Minimum Density. The minimum density for a cottage cluster project is 4 units per gross acre, unless a higher minimum density is required in the zoning district.

(3) Setbacks.

(a) Front Setback. In zoning districts where the minimum front setback exceeds 10 feet, the minimum front setback to cottages and all other structures is 10 feet.

(b) Building Separation. Cottages shall be separated by a minimum distance of six (6) feet. The minimum distance between all other structures, including accessory structures, shall be in accordance with building code requirements.

(c) All other setbacks, including to garage or carport entrances, are provided in Tables 5.190-1 and 5.100-1.

(4) Building Height. The maximum building height for all structures is 25 feet.

(5) Footprint. Each cottage shall have a building footprint of less than 900 square feet. Individual attached garages up to 200 square feet shall be exempted from the calculation of maximum building footprint.

SETBACKS

5.130 Alternative Setbacks in Developed Areas. When an addition or new development is proposed in an area containing the same type of uses that have been developed to a previous setback standard, the Director or review body may approve setbacks that are the same as those for the existing buildings on the site for

Expanding Housing Options – 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: ****

additions, or the same as those for buildings on abutting parcels for new development. ~~(See Section 8.140 for new infill development.)~~ The Director or review body shall approve an alternative setback request if the applicant demonstrates that the following criteria are met: [Ord. 5947, 1/01/21]

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

[Ord. 5742, 7/14/10; Ord. 5947, 1/01/21]

(2) Addition of a garage or carport. The front setback for a garage or carport meets the current front setback standard, and the driveway to it is paved. [Ord. 5742, 7/14/10]

(3) Additions to the side or rear of a dwelling. The proposed structure does not encroach any further into the setback than the existing structure.

(4) No wall of one dwelling unit is closer than 10 feet to a window of another dwelling unit.

(5) All other provisions of this Code must be met. [Ord. 5446, 5/10/00]

5.160 Setbacks for Townhouses ~~Attached Single Family Dwellings.~~ The interior setback requirement for townhouses ~~attached single family dwellings~~ is zero where the units adjoin; however, all other setbacks must conform to the requirements of this Code. [Ord. 5742, 7/14/10]

5.220 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 detached ~~and two-family residences, duplexes, triplexes, fourplexes, cottage clusters, and townhouses.~~ Each space must be a paved area at least 10 feet wide and 20 feet long.

[Ord. 5445, 4/12/00; Ord. 5555, 2/7/03]

OUTSIDE STORAGE

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

[Ord. 5555, 2/7/03]

5.380 to 5.410 *Fence standards moved to Article 9, Ord. 5751, 3/9/11.*

*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:

Explanatory commentary boxes are provided in each section of Article 8 in which amendments are proposed. No changes are proposed to the following sections: Multiple-Family Development, Commercial and Institutional Site Design, Supplemental Commercial Institutional Design Standards in Village Centers, Telecommunication Facilities, and Supplemental Design Standards for the Oak Creek Transition Area. Therefore, these sections are not included in the review materials.

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).

[Ord. 5947, 1/01/21]

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

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

[Ord. 5445, 4/12/00, Ord. 5801, 2/13/13; Ord. 5832, 4/9/14]

Section 8.100 repealed by Ordinance 5947, 1/01/21.

Commentary:

The existing single-family design standards in this Article apply to single-family detached dwellings (SFDs), manufactured homes, duplexes, two detached units, and single-family attached units (townhouses). Per Oregon Administrative Rules (OAR) compliance, the City can apply these standards to middle housing if the standards do not scale by the number of units (e.g., special requirements for main entries cannot apply to each unit). The proposal is to apply the single-family Home Orientation and Street-Facing Windows design standards to duplexes and townhouses, triplexes, and fourplexes with slight modifications to ensure they comply with the OAR.

*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: ****

Regarding the “Additional Standards for Infill and Redevelopment” (Section 8.140), these standards do not comply with the OAR for middle housing and cannot be applied to those housing types. Rather than retaining them only for SFD, they are proposed to be deleted. However, please keep in mind that all infill development is still subject to the same base design standards that apply to all other development, as well as any additional standards applicable to development in protected areas such as historic districts or natural resource overlays. Additional commentary explaining proposed new design standards for middle housing is also provided below.

SINGLE-FAMILY HOMES AND MIDDLE HOUSING

8.110 Applicability.

- (1) The standards of ADC Sections 8.110 through 8.170~~60~~ apply to all new single-family detached units, manufactured homes, ~~two-family units (duplexes), two detached primary units, and single-family attached units on individual lots~~ townhouses, triplexes, and fourplexes in all zones that allow ~~these single-family housing~~ types, except as otherwise noted. [Ord. 5894, 10/14/17; Ord. 5947, 1/01/21]
- (2) In addition, except as otherwise noted, the standards of ADC Sections 8.110 through 8.160 apply to multiple-family units with individual driveways permitted pursuant to ADC 12.100(2) that are located in the WF, CB, or DMU zone, or in the HD zone in a building where ground-floor residential use is permitted pursuant to ADC 5.070(17). [Ord. 5894, 10/14/17; Ord. 5947, 1/01/21]
- (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. [Ord. 5894, 10/14/17; Ord. 5949, 1/01/21]
- ~~(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 Sections 8.130 through 8.160. [Ord. 5445, 4/12/00; Ord. 5894, 10/14/17]
- ~~(5)~~ New cottage cluster development shall meet the standards in Sections 8.175 in all zoning districts where permitted.
- ~~(4)(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.

8.120 Relationship to Historic Overlay Districts. For property inside the Historic Overlay Districts and properties designated as Historic Landmarks, the provisions in Article 7 also apply. For development subject to historic review under Article 7, the review body may grant flexibility in meeting any of the design standards where necessary to achieve historic compatibility. [Ord. 5445, 4/12/00; Ord. 5894, 10/14/17]

8.130 Home Orientation. The purpose of these standards is to create pedestrian-friendly, sociable, safe, and attractive ~~single-family~~ neighborhoods through human-scale design. By ensuring that the pedestrian entrance is visible or clearly identifiable from the street, these standards enhance public safety for residents and visitors and provide opportunities for community interaction. [Ord. 5947, 1/01/21]

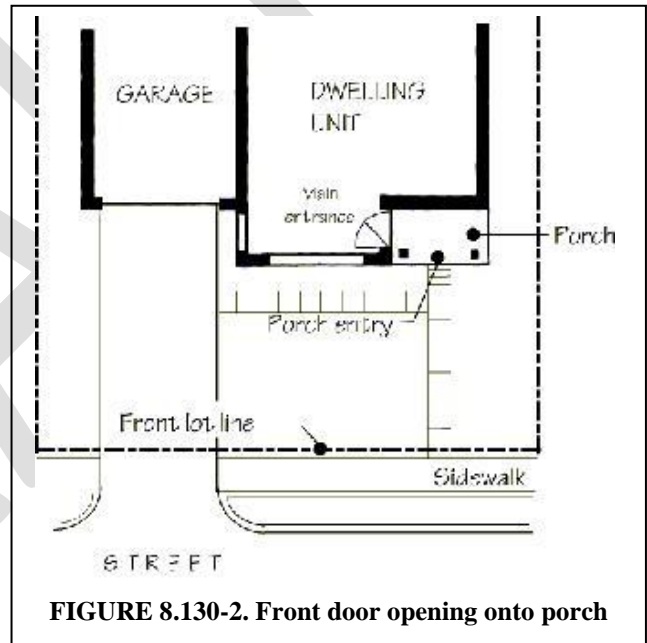
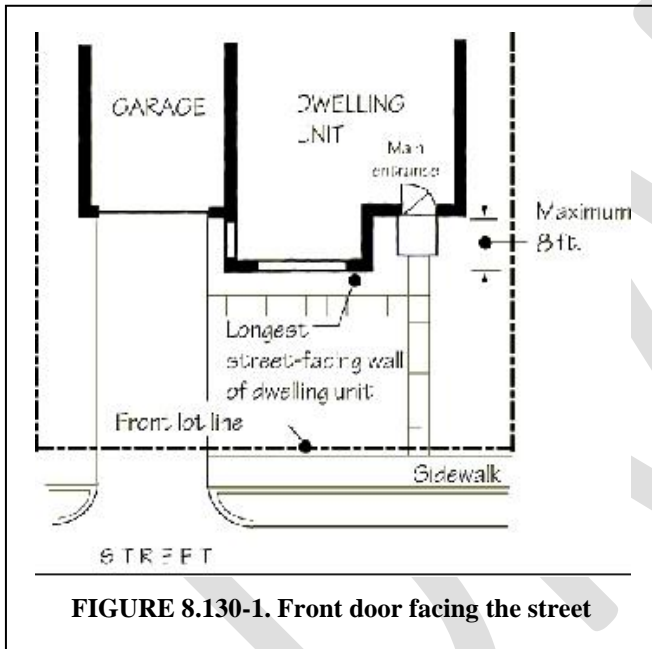
- (1) On each lot, A at least one main entrance of each new home shall be within eight feet of the longest street-facing wall of the dwelling unit (excluding the garage); and either: [Ord. 5894, 10/14/17]
 - (a) Face the street (see Figure 8.130-1);
 - (b) Be at an angle of up to 45 degrees from the street; or

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) Open onto a porch (see Figure 8.130-2). The porch must:
 - i. Be at least 25 square feet in area;
 - ii. Have at least one entrance facing the street; and
 - iii. Have a roof that is:
 - No more than 12 feet above the floor of the porch; and
 - At least 30 percent solid. This standard may be met by covering 30 percent of the porch area with a solid roof, or by covering the entire area with a trellis or other open material if no more than 70 percent of the area of the material is open.
- [Ord. 5445, 4/12/00; Ord. 5947, 1/01/21]

(2) On sites with frontage on both a private street and a public street, the standards apply to the site frontage on the public street. On all other sites with more than one street frontage, the applicant may decide on which frontage to meet the standards, except as provided in subsection (3). [Ord. 5947, 1/01/21]

~~(2)~~(3) For a corner lot, any street-facing façade with a main entrance must meet the standards in subsection (1).



[Ord. 5947, 1/01/21]

~~(3)~~(4) In the DMU, CB, HD, and WF zoning districts, in order to provide a transition between public space (the sidewalk) and private space (the home) while maintaining a visual and physical connection to the street, entrances to individual dwelling units must be set back at least five feet from the front lot line. The entrance must be covered for a depth of at least three feet.

[Ord. 5894, 10/14/17]

8.133 Street-Facing Windows. The purpose of these standards is to create pedestrian-friendly, sociable, safe, and attractive neighborhoods. The standards enhance public safety by allowing people to survey their neighborhood from inside their residences; and also provide a more pleasant pedestrian environment by preventing large expanses of blank facades along streets. [Ord. 5947, 1/01/21]

- (1) At least 15 percent of the area of each façade that faces a street lot line must be windows or main pedestrian entrance doors (see Figure 8.133-1). [Ord. 5894, 10/14/17; Ord. 5947, 1/01/21]

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) All windows on a street-facing façade, including windows in garage and pedestrian doors and windows in doors that are not the main pedestrian entrance, may be counted toward meeting this standard. [Ord. 5947, 1/01/21]
- (3) For a pedestrian door to count toward meeting this standard, it must be the main entrance and face the street. For structures with more than one dwelling unit, each main entrance door that faces the street may count toward this standard. [Ord. 5894, 10/14/17]
- (4) For a corner lot, any street-facing façade with a main entrance ~~only one side of the unit~~ must meet this standard. [Ord. 5445, 4/12/00; Ord. 5894, 10/14/17]

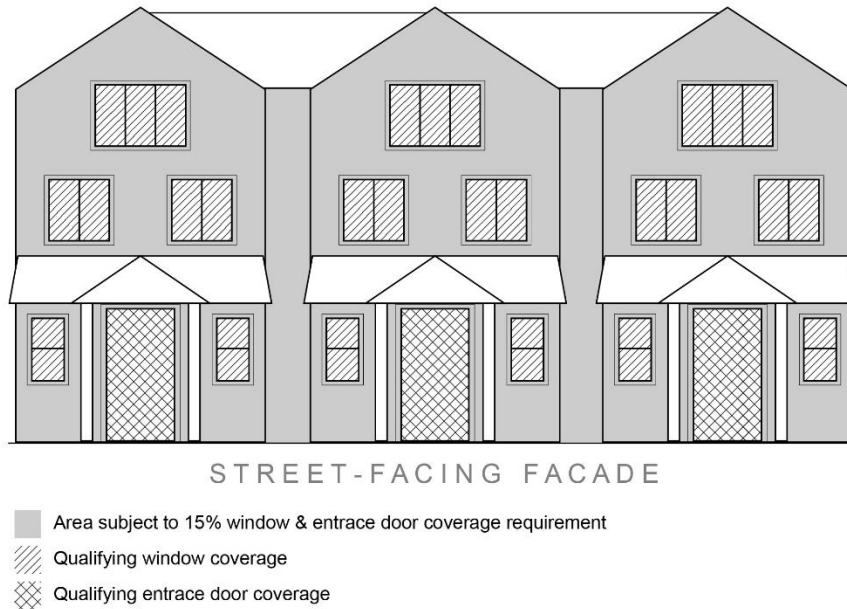


FIGURE 8.133-1. Single-Family and Middle Housing Window Coverage

8.140 Driveway Spacing. The purpose of this standard is to preserve space for on-street parking and opportunities for front yard landscaping. The following standard applies to all lots for which street driveway access is provided, except for flag lots and lots where parking is accessed via an alley. Spacing between driveways is measured along the front property line.

Each lot must meet one of the following:

- (1) Two off-street parking spaces per unit are provided and the driveway(s) meets the minimum separation standard in ADC Subsection 12.100(2); or
- (2) A minimum of 22 feet of contiguous street frontage (uninterrupted by driveways) is provided; or
- (3) The driveway(s) are spaced a minimum of 22 feet from adjacent driveways. Driveways may be shared by two abutting lots.

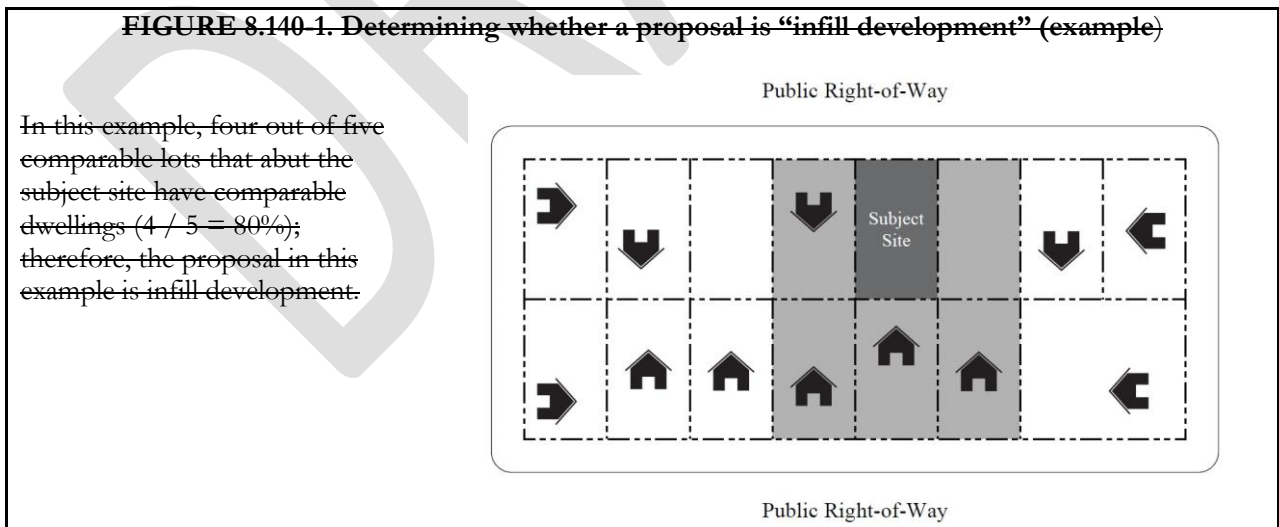
~~8.140 Additional Standards for Infill and Redevelopment. The purpose of these standards are to preserve continuity in neighborhood appearance so that new homes fit in with the existing homes in the neighborhood in terms of features such as setbacks, height, and garages. These standards only apply to proposals for infill development in residential zoning districts that allow single family housing.~~

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

~~(1) Definitions. For the purposes of this section, the following terms are defined:~~

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) ~~“Comparable Dwelling” means an existing detached single-family dwelling (including manufactured dwellings), an attached single-family dwelling, or a duplex that is located on a comparable lot as defined below.~~
 - (b) ~~“Comparable Lot” means a vacant or developed lot within a residential zoning district that allows detached single-family dwellings and that is not separated from the subject site by public right-of-way. Vacant lots smaller than one-fourth (1/4) the minimum lot size are not included within the definition of “comparable lots.”~~
 - (c) ~~“Subject Site” means a property within a residential zoning district that allows detached single-family dwellings that is the site of a proposed new detached single-family dwelling (including manufactured dwellings), an attached single-family dwelling or a duplex. Subject sites include both vacant sites and those sites where a dwelling was, or will be, removed to allow for the new development. Sites larger than four times the minimum lot size of the applicable zone are not included within the definition of “subject site.”~~ [Ord. 5947, 1/01/21]
- (2) ~~Determining whether a proposal is “infill development.” To determine whether the proposed development on the subject site is infill development (see example in Figure 8.140-1):~~
- (a) ~~Identify the total number of comparable lots that abut the subject site (i.e., share a common property line with the subject site, including those that touch at the corners):~~
 - (b) ~~Identify the number of comparable lots abutting the subject site with comparable dwellings, excluding those lots that are larger than four times the minimum lot size of the applicable zone.~~
 - (c) ~~If the number of lots with comparable dwellings identified in subsection (2)(b) is equal to or greater than 75 percent of the total number of comparable lots identified in subsection (2)(a), then the proposal is “infill development” and subject to the standards of subsections (3) through (6), below.~~ [Ord. 5947, 1/01/21]



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: ***

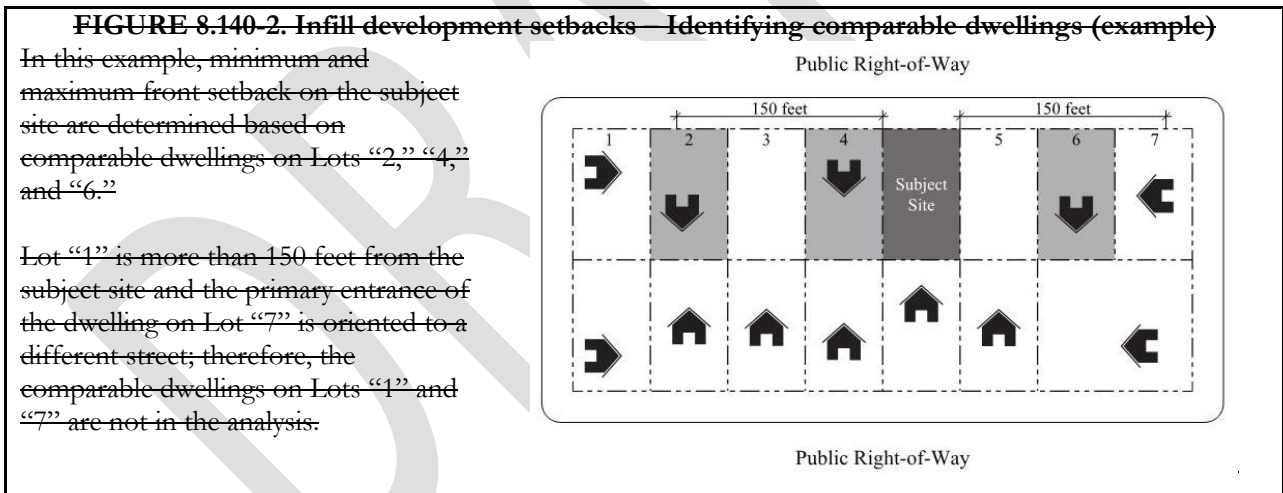
[Ord. 5947, 1/01/21]

~~(3) Submittal Requirements. At the time of application for a building permit, an applicant for infill development shall submit a vicinity/site plan that demonstrates how the proposed infill development on the subject site complies with standards in subsections (4) through (6) below. The vicinity/site plan must show the following for comparable lots: lot lines, footprints of dwellings, garages and carports, and the direction buildings are facing. Setbacks from the street shall be noted. Building heights must also be noted for those comparable dwellings used to demonstrate compliance with the infill height requirements in standard (6).~~ [Ord. 5947, 1/01/21]

~~(4) Minimum and Maximum Front Setbacks. The minimum and maximum front setbacks of an infill development are based on an evaluation of comparable dwellings that meet the following criteria (see example Figure 8.140-2):~~

- ~~• All or a portion of the comparable dwelling’s lot is within 150 feet of the subject site;~~
- ~~• The comparable dwelling’s lot has frontage on the same street as the subject site and is not a flag lot;~~
- ~~• The comparable dwelling’s lot is not larger than four times the minimum lot size of the applicable zone; and;~~
- ~~• The primary entrance of the comparable dwelling is oriented toward the same street as the proposed dwelling.~~

~~If only one comparable dwelling meets the above criteria, the subject site is exempt from the infill setback standards in this subsection.~~



(a) Infill development is subject to the minimum and maximum setback standards in Table 8.140-1 (see example in Figure 8.140-3). Notwithstanding the foregoing, no development shall be located such that it violates minimum setback standards for the zoning district.

[Ord. 5947, 1/01/21]

TABLE 8.140-1: Minimum and Maximum Setback Standards for Infill Development

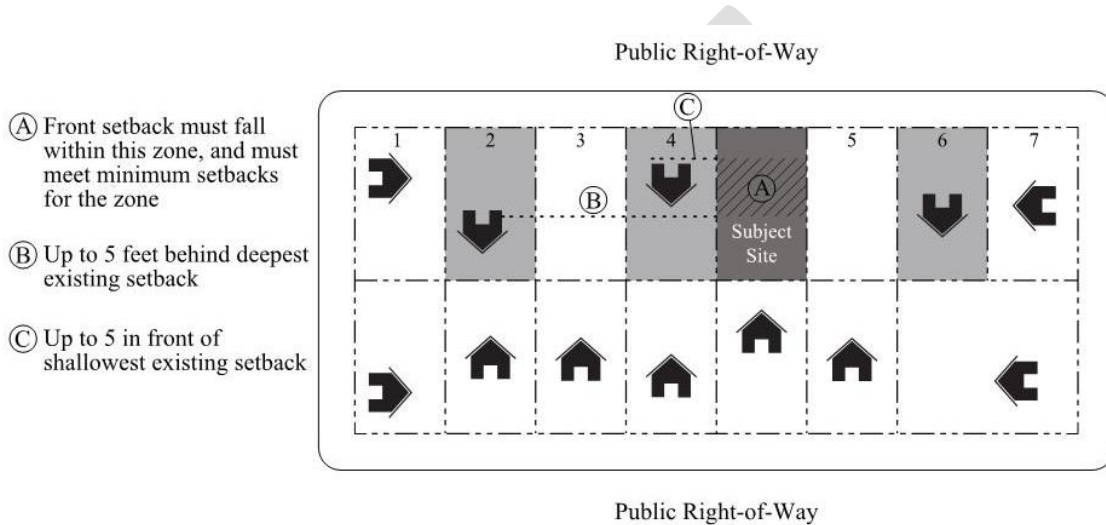
Proposed Infill Development	Minimum Setback	Maximum Setback
Dwelling	No more than 5 feet closer to the front property line than the closest comparable dwelling on a comparable lot meeting the criteria in 8.140(4)	No more than 5 feet farther from the front property line than the farthest comparable dwelling on a comparable lot meeting the criteria in 8.140(4)

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: ***

Garage or Carport	No more than 5 feet closer to the front property line than the closest garage or carport of a comparable dwelling on a comparable lot meeting the criteria in 8.140(4)	None
-------------------	--	------

[Ord. 5947, 1/01/21]

FIGURE 8.140-3. Infill development setbacks—Applying the setback standards (example)



Minimum setback – dwelling. Of the comparable dwellings on Lots “2,” “4,” and “6,” the dwelling on Lot “4” is the closest to its front property line; therefore, a dwelling on the subject site can be no closer to its front property line than five feet closer than the dwelling on Lot “4,” while still meeting the minimum setbacks for the zone.

Maximum setback – dwelling. Of the dwellings on Lots “2,” “4,” and “6,” the dwelling on Lot “2” is the farthest from its front property line; therefore, a dwelling on the subject site can be no farther from its front property line than five feet farther than the dwelling on Lot “2,” while still meeting the minimum setbacks for the zone.

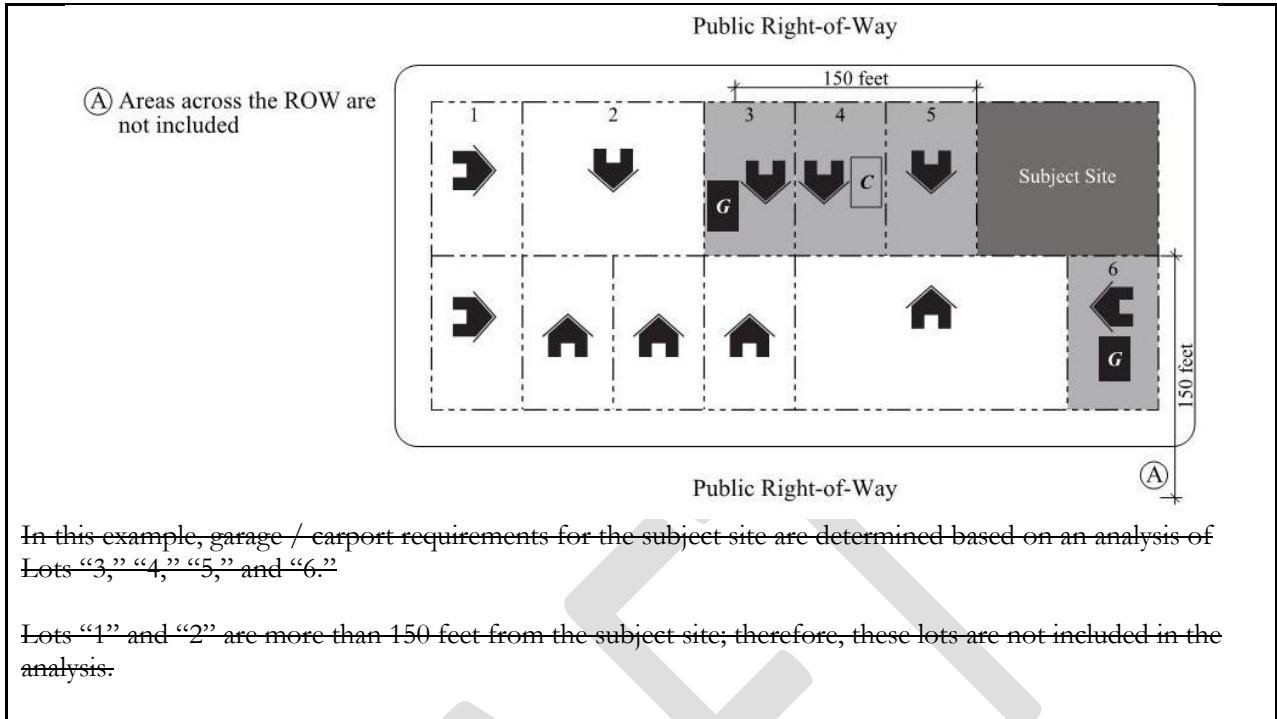
[Ord. 5947, 1/01/21]

- (5) Required Garage or Carport. Infill development may be required to have a garage or carport based on elevation of comparable dwellings that meet the following criteria (see example in Figure 8.140-4):
- All or a portion of the comparable dwelling’s lot is within 150 feet of the subject site;
 - The comparable dwelling’s lot has frontage on the same street; and,
 - The comparable dwelling’s lot is not larger than four times the minimum lot size of the applicable zone.

If only one comparable dwelling meets the above criteria, the subject site is exempt from the infill garage and carport standards in this subsection.

FIGURE 8.140-4. Infill Development garage / carport requirements – Identifying comparable lots (example)

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. 5947, 1/01/21]

- (a) ~~A proposed infill development requires a garage or carport as specified in Table 8.140-2 (see example in Figure 8.140-5).~~ [Ord. 5947, 1/01/21]

TABLE 8.140-2: Infill Garage and Carport Requirements

If more than 50 percent of the comparable dwellings on comparable lots meeting the criteria in subsection (5):	Proposed infill development requires:
i. Have a garage	A garage
ii. Have a carport	A carport or garage
iii. Have either a carport or a garage	A carport or garage, provided that if (i) is true, a garage is required.

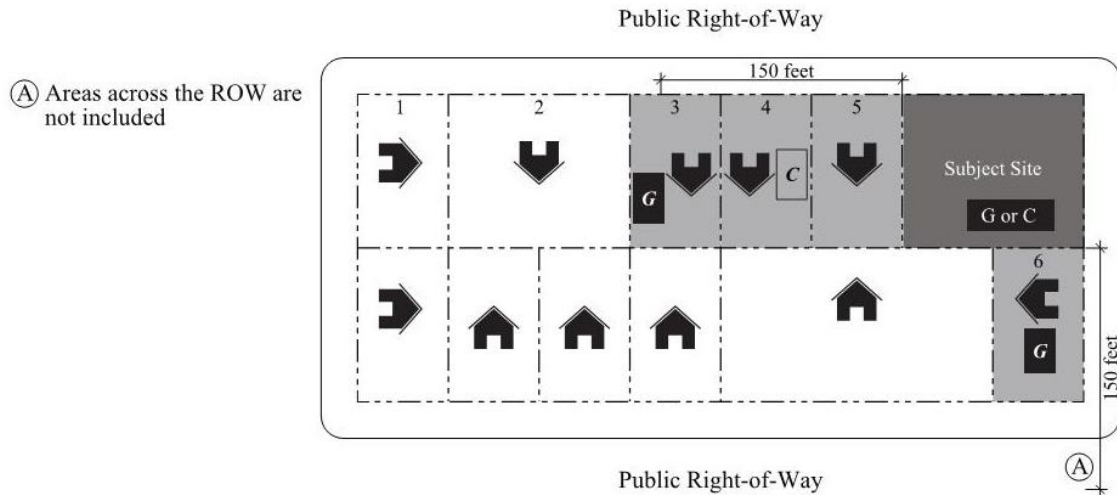
[Ord. 5947, 1/01/21]

- (b) ~~The garage or carport may be attached or detached from the dwelling.~~
- (c) ~~The garage or carport’s exterior walls and roof shall not be constructed of the following materials: polyethylene, plastic, or vinyl (except vinyl residential siding), fabric, untreated wood (except cedar or redwood), corrugated metal, or sheet metal.~~

[Ord. 5947, 1/01/21]

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: ***

FIGURE 8.140-5. Infill Development – Applying the garage / carport requirements (example)



In this example, there are 4 comparable lots that meet the criteria in subsection (5). Of the 4 lots:

- 2 dwellings have garages (50%)
- 1 dwelling has a carport (25%)
- 3 dwellings have either a Carport or a Garage (75%)

Because more than 50% of the dwellings on comparable lots have a garage or carport (and more than 50% are not garages), the infill development on the subject site must have either a carport OR a garage.

{Ord. 5947, 1/01/21}

~~(6) Maximum Building Height. The maximum building height of an infill development is based on an evaluation of comparable dwellings on comparable lots that meet the following criteria:~~

- ~~The comparable dwelling’s lot is abutting the subject site;~~
- ~~The comparable dwelling’s lot has frontage on the same street; and~~
- ~~The comparable dwelling’s lot is not larger than four times the minimum lot size of the applicable zone.~~

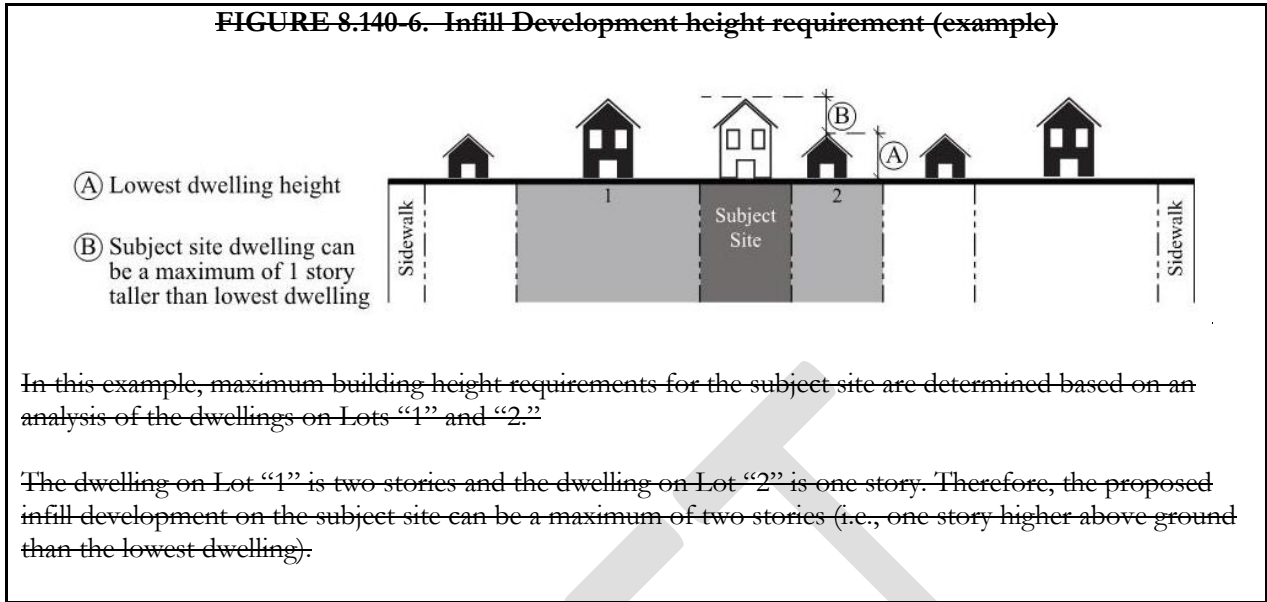
~~If only one comparable dwelling meets the above criteria, the subject site is exempt from the infill height standards in this subsection (see example in Figure 8.140-6).~~

~~(a) Maximum Building Height. A proposed dwelling on the subject site shall be no more than one story higher above ground than the lowest comparable dwelling that meets the criteria in subsection (6).~~

~~(b) Notwithstanding the foregoing, no development shall be constructed such that it violates height standards for the zoning district.~~

—————{Ord. 5947, 1/01/21}

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. 5947, 1/01/21]

~~(7) Home Orientation. The main entrance of each home shall comply with home orientation standards in Section 8.130.~~

~~(8) Street Facing Windows. The street-facing façade of each home shall comply with the window standards in Section 8.133.~~ [Ord. 5445, 4/12/00; Ord. 5947, 1/01/21]

8.150 Parking and Access in the DMU, CB, HD, and WF Zoning Districts. These standards are intended to support a pedestrian-friendly street environment by minimizing the visual and safety impacts of driveways, parking, and garages; and to preserve on-street parking. See Article 12 for additional access standards.

[Ord. 5894, 10/14/17]

(1) Driveway standards.

(a) Development sites abutting an alley: Vehicle access shall be via the alley rather than the public street. [Ord. 5894, 10/14/17]

(b) Development sites that do not abut an alley: Vehicle access shall meet i or ii, below.

i. Provide vehicle access from not more than one driveway to each public street abutting the development site. [Ord. 5894, 10/14/17]

ii. Provide vehicle access to properties within the development site from shared or paired driveways with a minimum spacing between driveways of ~~25~~22 feet (see Figure 8.150-1). The distance between driveways is measured along the front property line.

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

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: ***

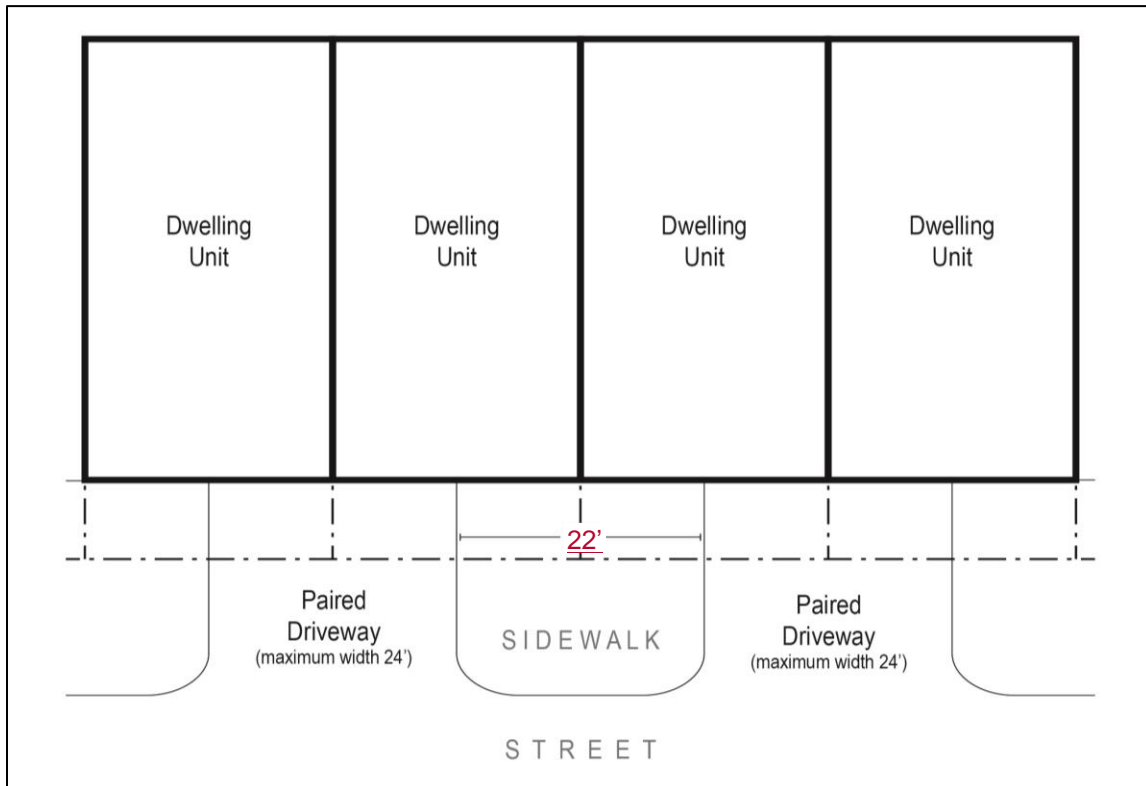


FIGURE 8.150-1. Paired driveway example.

[Ord. 5947,1/01/21]

- (2) Parking location. Parking between the building façade and the front lot line is not permitted, except in driveways serving individual units (including shared or paired driveways), where permitted under (1), above. [Ord. 5894, 10/14/17]
- (3) Garages. When parking is provided in a garage attached to the primary structure, and garage doors for motor vehicle ingress/egress face a street, the following standards must be met. A garage door is considered to be facing a street where the opening is parallel to, or within 45 degrees of, a front lot line. [Ord. 5894, 10/14/17]
 - (a) No more than one street-facing garage door for motor vehicle ingress/egress is permitted per dwelling unit. Each street-facing garage door for motor vehicle ingress/egress may not exceed 12 feet in width. [Ord. 5894, 10/14/17]
 - (b) See ADC Table 5.090-1 for garage setback standards. [Ord. 5894, 10/14/17; Ord. 5947, 1/01/21]
- (4) The standards of ADC Section 12.230 regarding design requirements abutting arterials do not apply. However, the standards of ADC 12.100 regarding limiting the location, width, and number of accesses to arterials do apply. [Ord. 5894, 10/14/17]

8.160 Facade design and articulation in the DMU, CB, HD, and WF Zoning Districts. [Ord. 5894, 10/14/17]

- (1) In order to promote buildings that provide visual interest and façade details that give a sense of quality and permanence, the front façade shall include a minimum of two of the architectural features listed below for each dwelling unit. For a corner lot, only one front façade of the dwelling unit(s) must meet these standards. Lots with frontage on First or Second Avenue shall meet this standard on the First or Second Avenue frontage. [Ord. 5894, 10/14/17]
 - (a) Porch: must meet the standards in ADC 8.130(1)(c). [Ord. 5894, 10/14/17]

*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: ****

- (b) Dormer: minimum width of four feet, inset at least three feet from all side walls. [Ord. 5894, 10/14/17]
 - (c) Balcony: facing the street and accessible from an interior room, with a minimum depth of three feet. [Ord. 5894, 10/14/17]
 - (d) Eaves: overhang of not less than 12 inches. [Ord. 5894, 10/14/17]
 - (e) Offset: offset in facade or roof of at least two feet that extends for at least four feet. [Ord. 5894, 10/14/17]
 - (f) Bay window: projects from front elevation by 12 to 24 inches. [Ord. 5894, 10/14/17]
 - (g) Other: feature not listed but providing visual relief or contextually appropriate design similar to options a-f. [Ord. 5894, 10/14/17]
- (2) To provide privacy for ground floor residential uses, for residential buildings within 5 feet of the front lot line, street-facing ground floor windows shall be separated from the front lot line with a landscaped buffer at least three feet deep extending the for at least the width of the window(s). The landscaped buffer shall meet at least one of the following standards. [Ord. 5894, 10/14/17]
- (a) For every three linear feet of width, provide at least one three-gallon shrub, with the remaining area treated with suitable living ground cover, lawn, or decorative treatment of bark, rock, or other attractive ground cover. [Ord. 5894, 10/14/17]
 - (b) For every two linear feet of width, provide at least 1 one-gallon shrub or perennial that typically achieves a mature height of at least three feet, with the remaining area treated with suitable living ground cover, lawn, or decorative treatment of bark, rock, or other attractive ground cover. [Ord. 5894, 10/14/17]
 - (c) Other suitable landscaping that provides both privacy and visual interest and includes living plants, shrubs, and/or trees. [Ord. 5894, 10/14/17]

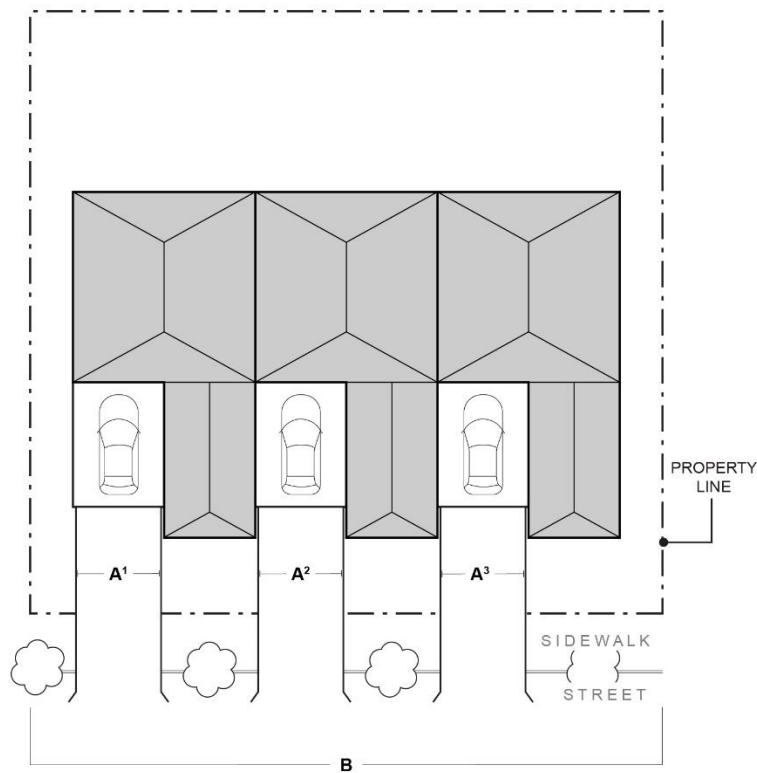
Commentary:

The proposed amendments apply the single-family Home Orientation and Street-Facing Windows design standards to triplexes and fourplexes (as noted above) and incorporate the Model Code standards for garages, off-street parking areas, and driveways into Albany’s Code. Some modifications to the Model Code standards are proposed for better consistency with Albany’s existing access standards in Article 12.

8.165 Garages, Off-Street Parking Areas, and Driveways for Triplexes and Fourplexes. In all zoning districts except HD, CB, DMU, and WF, new triplex and fourplex developments shall meet the standards of this section. These standards are intended to support a pedestrian-friendly street environment by minimizing the visual and safety impacts of driveways, parking areas, and garages; and to preserve on-street parking.

(1) Garages and Off-Street Parking Areas. The combined width of all garages and outdoor on-site parking and maneuvering areas shall not exceed a total of 50 percent of the street frontage (see Figure 8.165-1).

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: ***



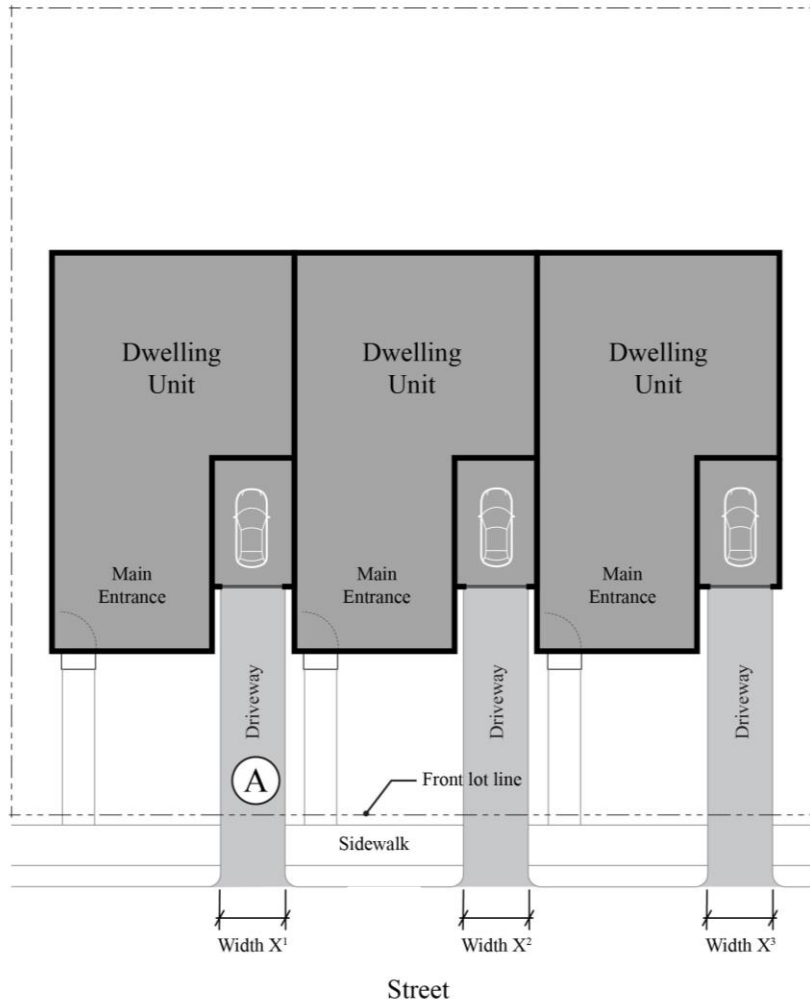
- (A) Garage and on-site parking and maneuvering areas
 (B) Total street frontage

$$\frac{A^1 + A^2 + A^3}{B} \leq 50\%$$

Figure 8.165-1. Triplex and Fourplex: Width of Garages and Parking Areas

- (2) Driveway Approach. Driveway approaches for triplexes and fourplexes must comply with the following:
- (a) The total width of all driveway approaches must not exceed 40 feet per frontage, as measured at the property line (see Figure 8.165-2). For lots with more than one frontage, see subsection (b).
- (b) In addition, lots with more than one frontage must comply with the following:
- i. Lots must access the street with the lowest transportation classification for vehicle traffic. For lots abutting an alley that is improved according to the standards of Article 12, vehicle access shall be via the alley rather than the public street (see Figure 8.165-3).
 - ii. Lots may have either:
 - Two driveway approaches not exceeding 40 feet in total width on one frontage (see Figure 8.165-4); or
 - One maximum 20-foot-wide driveway approach per frontage (see Figure 8.165-5).
- (c) Driveway approaches for triplexes and fourplexes must also meet the standards of ADC Section 12.100.

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 $X^1 + X^2 + X^3 (+X^4 \text{ if present})$ must not exceed 40 feet per frontage

Figure 8.165-2. Triplex and Fourplex: Driveway Approach Width

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: ***

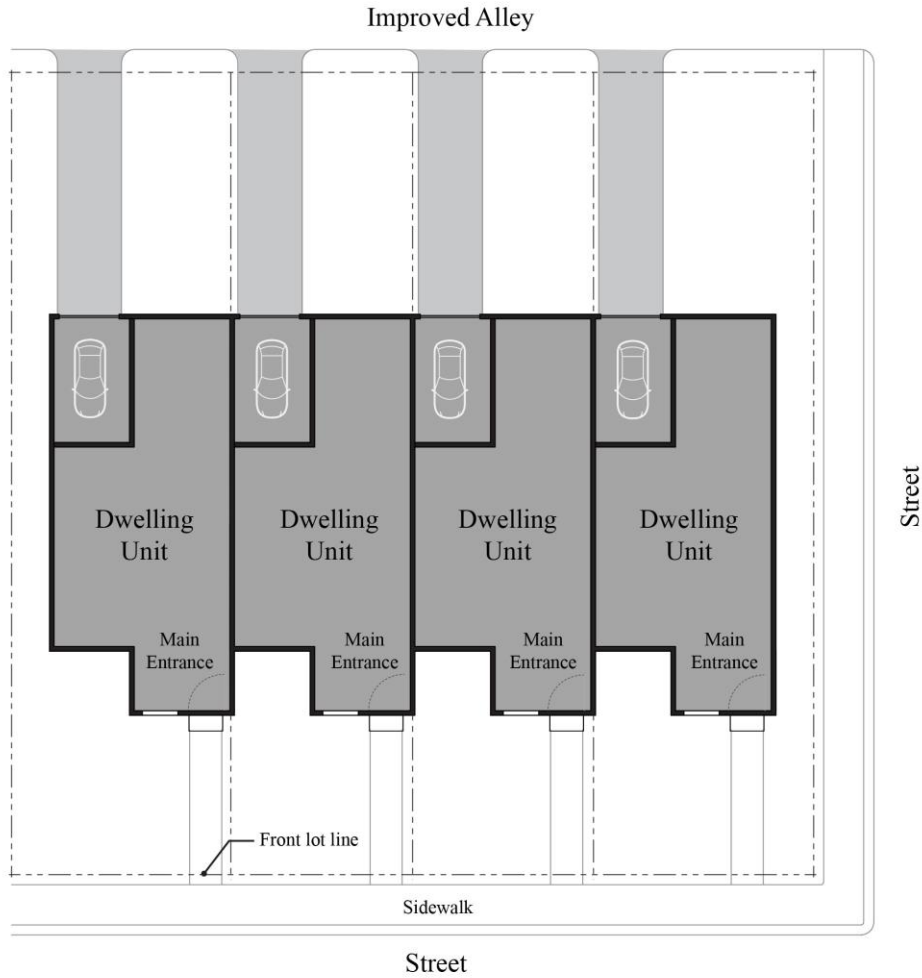


Figure 8.165-3. Triplex, Fourplex, and Townhouse: Alley Access Example

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: ***

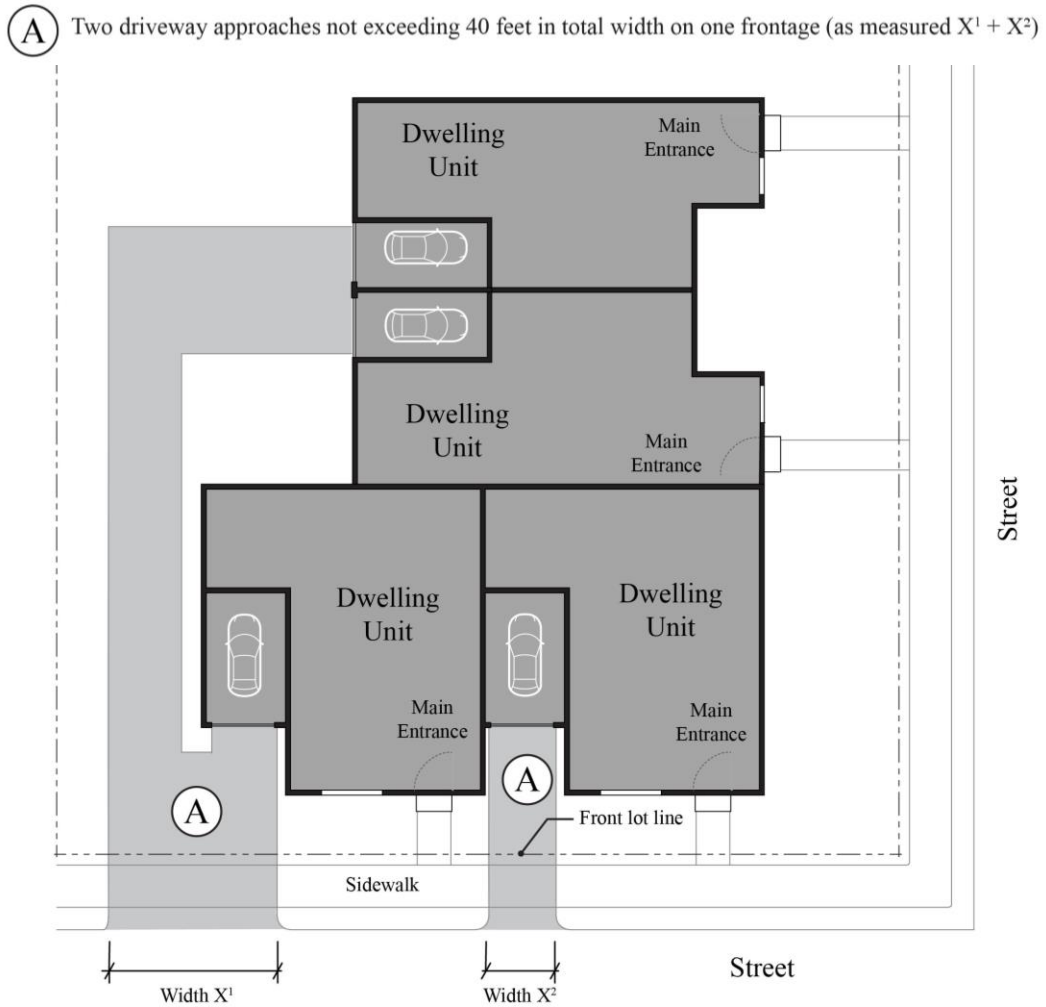


Figure 8.165-4. Triplex and Fourplex: Driveway Approach Options for Multiple Street Frontages – Driveways on One Frontage

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: ***

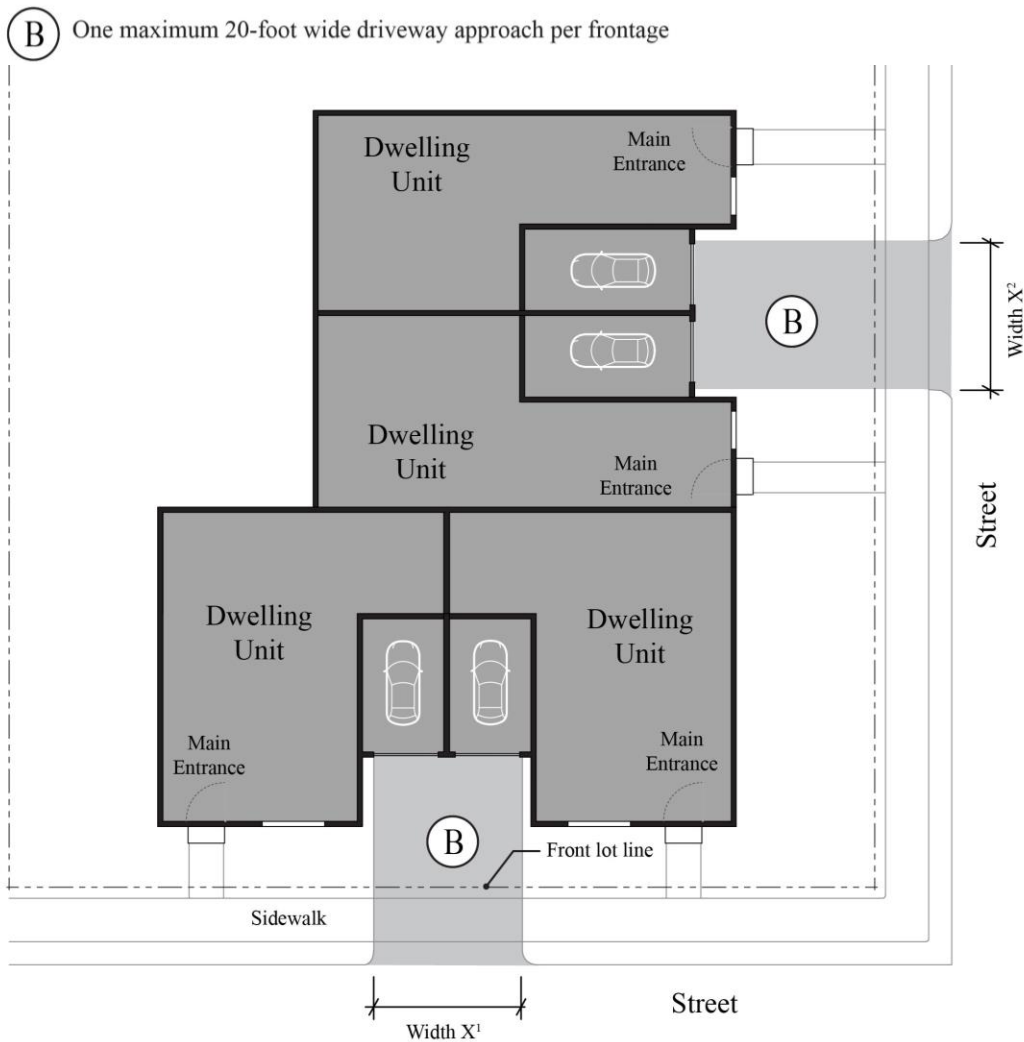


Figure 8.165-5. Triplex and Fourplex: Driveway Approach Options for Multiple Street Frontages – Driveways on Both Frontages

Commentary:

As noted above, the proposed amendments would continue applying the single-family Home Orientation and Street-Facing Windows design standards to townhouses. The amendments also incorporate the Model Code design standards for unit definition (articulation) and driveway access and parking into Albany's Code, as described below.

- **Unit Articulation** – The proposed standards for unit articulation are intended to break up long, interrupted facades by requiring architectural detail for each townhouse unit. These standards are adapted from the Model Code; however, to keep consistency within the ADC, the proposed amendments incorporate the design menu that is used in the downtown zone articulation standards (Section 8.160).

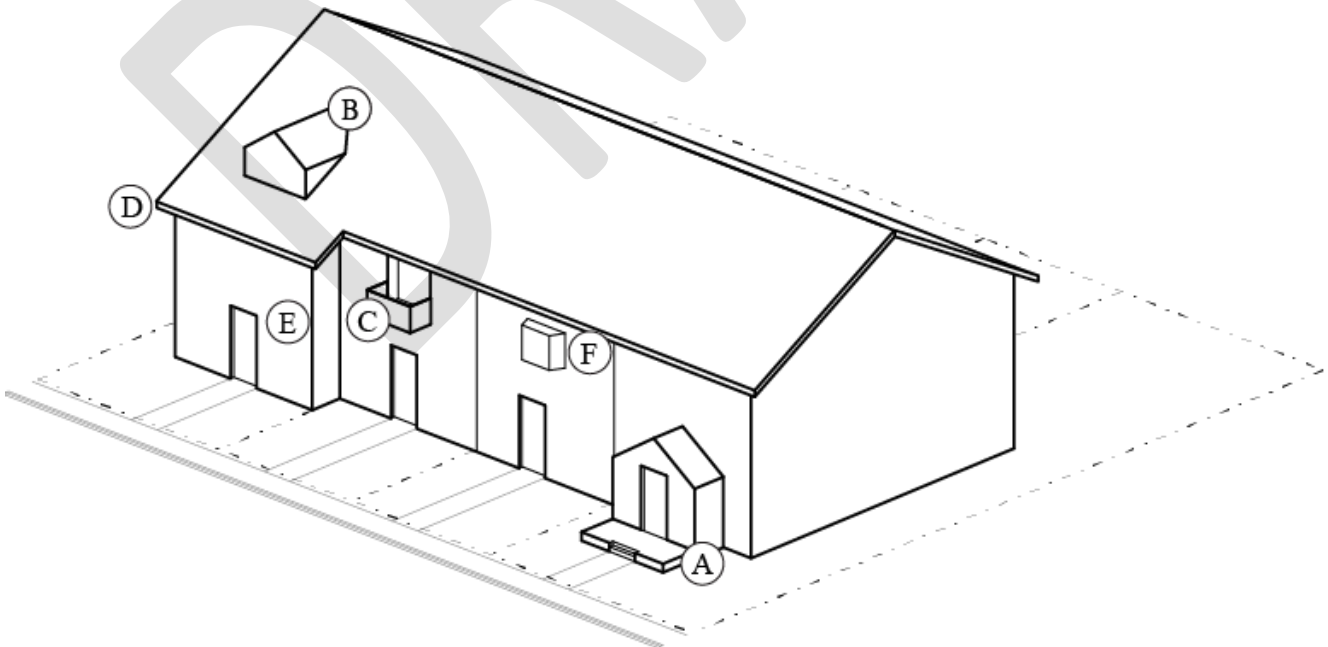
Draft code amendments are written as follows: additions in red underlined and deletions in ~~strike-out~~. Sections not amended are omitted unless needed for context. Omitted sections are indicated by asterisks: ***

- **Driveway Access and Parking** – The proposed Code language in this section is a hybrid of the Model Code and Albany’s current standards for the downtown zones (Section 8.150). ~~The primary change from the Model Code is that when front access is provided, driveways must be paired (similar to Section 8.150), in order to preserve on-street parking.~~

8.170 Design Standards for Townhouses. In all zoning districts except HD, CB, DMU, and WF, new townhouse developments shall meet the standards of this section.

(1) Unit Articulation. The purpose of this standard is to promote townhouse development that provides visual interest and façade details that give a sense of quality and permanence. Each townhouse unit must include at least one of the following architectural features on at least one street-facing façade (see Figure 8.170-1):

- (a) Porch: must meet the standards in ADC 8.130(1)(c).
- (b) Dormer: minimum width of four feet, inset at least three feet from all side walls.
- (c) Balcony: facing the street and accessible from an interior room, with a minimum depth of three feet.
- (d) Eaves: overhang of not less than 12 inches.
- (e) Offset: offset in façade or roof of at least two feet that extends for at least four feet.
- (f) Bay window: projects from front elevation by 12 to 24 inches.



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) Porch: must meet the standards in ADC 8.130(1)(c).
- (B) Dormer: minimum width of four feet, inset at least three feet from all side walls.
- (C) Balcony: facing the street and accessible from an interior room, with a minimum depth of three feet.
- (D) Eaves: overhang of not less than 12 inches.
- (E) Offset: offset in facade or roof of at least two feet that extends for at least four feet.
- (F) Bay window: projects from front elevation by 12 to 24 inches.

Figure 8.170-1. Townhouse Unit Articulation

- (2) Driveway Access and Parking. The purpose of these standards is to support a pedestrian-friendly street environment by minimizing the visual and safety impacts of driveways, parking, and garages; and to preserve on-street parking. See Article 12 for additional access standards.
- (a) For development sites abutting an alley that is improved according to the standards of Article 12, vehicle access shall be via the alley rather than the public street (see Figure 8.165-3).
 - (b) Garages on the front façade of a townhouse, off-street parking areas in the front yard, and driveways in front of a townhouse are allowed if they meet the following standards (see Figure 8.170-2).
 - i. A maximum of one (1) driveway is allowed for every townhouse unit. Driveway approaches and/or driveways may be shared.
 - ii. Outdoor on-site parking and maneuvering areas do not exceed 12 feet wide on any lot.
 - iii. No more than one (1) street-facing garage door for motor vehicle ingress/egress is permitted per townhouse unit. Each street-facing garage door for motor vehicle ingress/egress may not exceed 12 feet in width.

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: ***

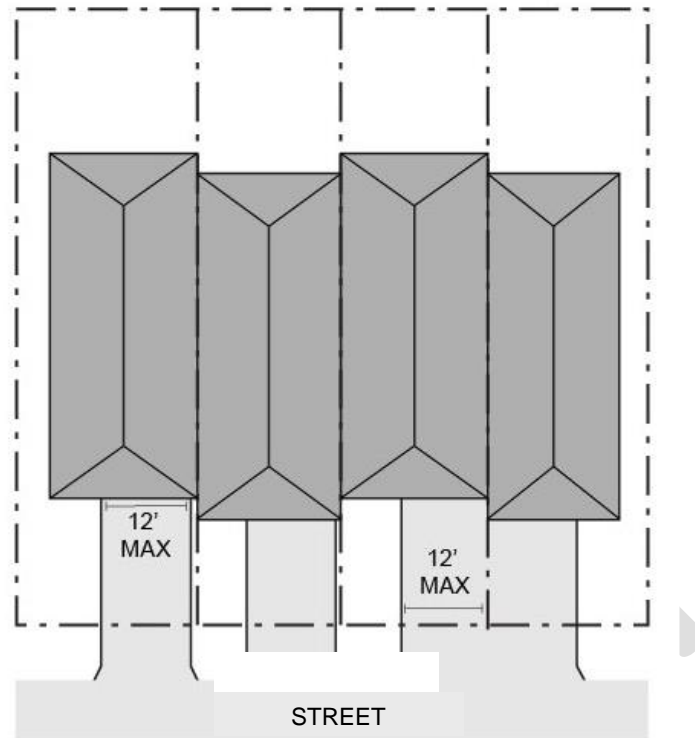


FIGURE 8.170-2. Driveway example for Townhouses

- (c) The following standards apply to driveways and parking areas for townhouse projects that do not meet all of the standards in subsection (a) or (b).
- i. Off-street parking areas shall be accessed on the back façade or located in the rear yard. No off-street parking shall be allowed in the front yard or side yard of a townhouse.
 - ii. A townhouse project that includes a corner lot shall take access from a single driveway approach on the side of the corner lot. See Figure 8.170-3. Shared driveways serving four (4) or more townhouses must be public alleys or a private access created through a Planned Development.

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: ***

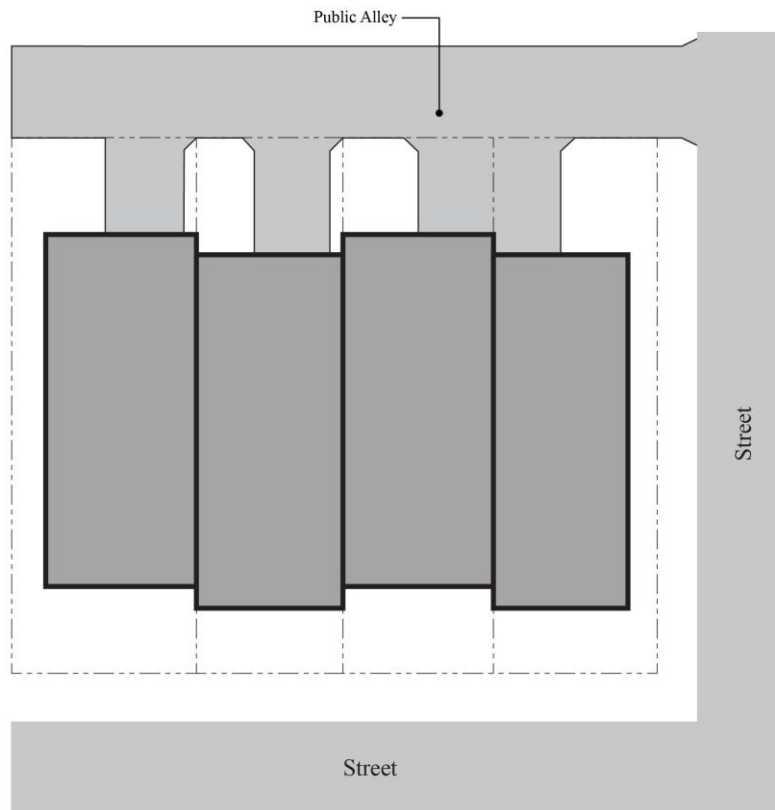


Figure 8.170-3. Townhouses on Corner Lot with Shared Access

- iii. Townhouse projects that do not include a corner lot shall consolidate access for all lots into a single driveway. The driveway and approach are not allowed in the area directly between the front façade and front lot line of any of the townhouses. See Figure 8.170-4. Shared driveways serving four (4) or more townhouses must be public alleys or a private access created through a Planned Development.

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: ***

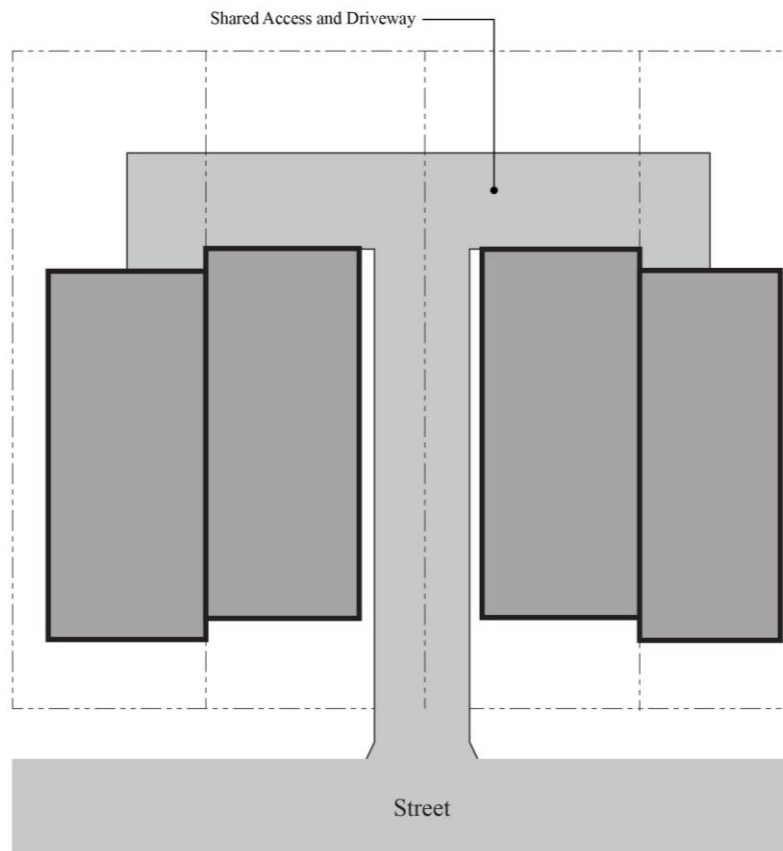


Figure 8.170-4. Townhouses with Consolidated Access (created through Planned Development)

- (d) A townhouse project that includes consolidated access or shared driveways shall grant access easements to allow normal vehicular access and emergency access.
- (e) The standards of ADC Section 12.230 regarding design requirements abutting arterials do not apply. However, the standards of ADC 12.100 regarding limiting the location, width, and number of accesses to arterials do apply.

Commentary:

The proposed amendments for cottage cluster design standards include the following:

- **Number of Dwelling Units** – Establish a minimum of 3 and maximum of 8 units per cottage cluster; allow only one cluster per lot (for the clear and objective standard). Additional units in each cluster would be considered through the Adjustment process. A primary intent of limiting cottage clusters to 8 cottages per lot is to limit the size of a cottage cluster project that could be developed without triggering street improvements. (Per the OAR, Albany cannot require street frontage improvements for middle housing on existing lots, since improvements are not required for single-family detached dwellings developed on

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: ***

existing lots. However, a land division would trigger frontage improvements.) A larger cottage cluster project with multiple clusters could be developed, but each cluster would need to be on its own lot.

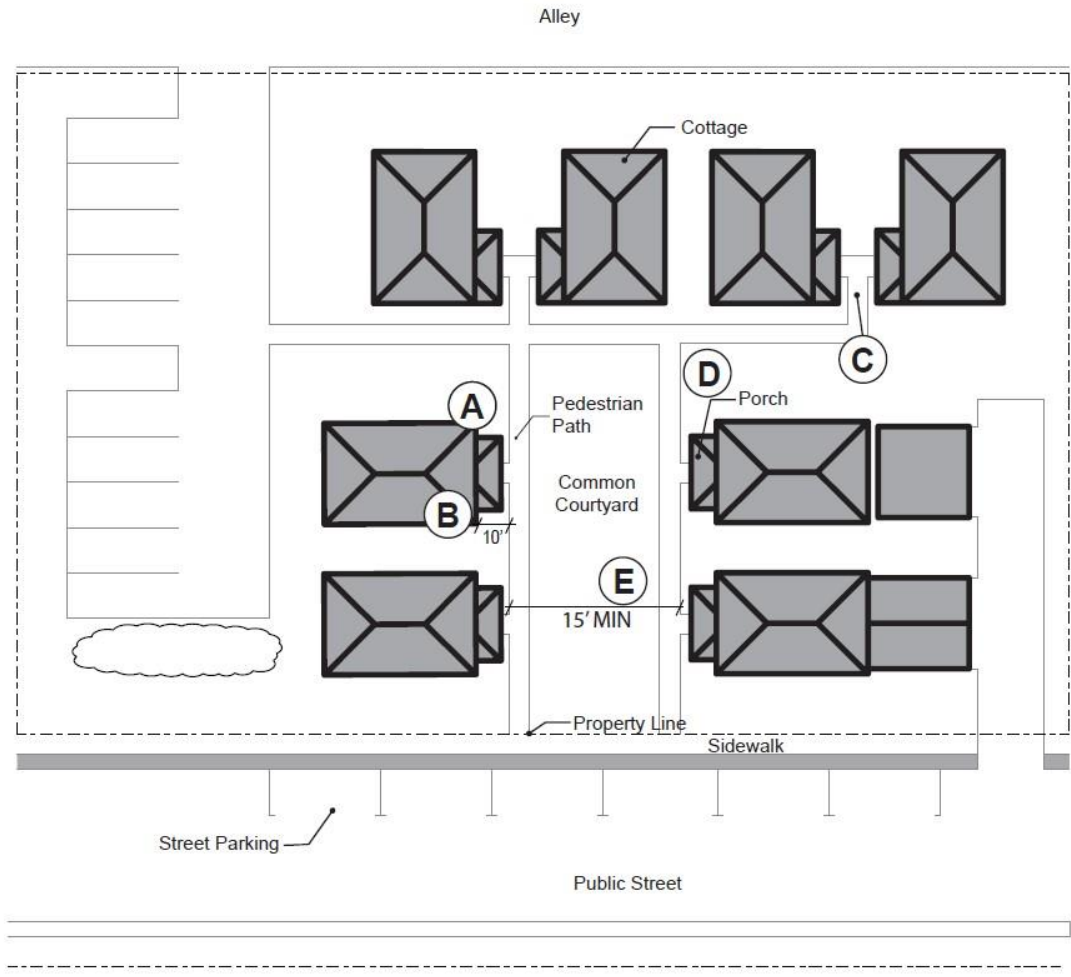
- **Dwelling Unit Size** – The proposed amendments both limit the size of each dwelling to 1,400 sf and limit the average unit size to 1,000 sf. This is intended to allow flexibility for larger units in combination with smaller units and also to ensure that all units are fairly small-scale.
- **Model Code Design Standards** – Many of the Model Code design standards for cottage clusters have been adapted to fit with Albany’s Code. Standards for cottage orientation, common courtyard design, community buildings, pedestrian access, windows, parking design, and existing structures have been incorporated, with some minor modifications.

- 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 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.

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: ***

- (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.

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 its narrowest width.

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:

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) 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 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.
- (e) Garages and carports.

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. Garages and carports (whether shared or individual) must not abut common courtyards.
- ii. Individual detached garages must not exceed 400 square feet in floor area.
- iii. Garage doors for attached and detached individual garages must not exceed 20 feet in width.
- iv. Garages shall not be converted into living space.

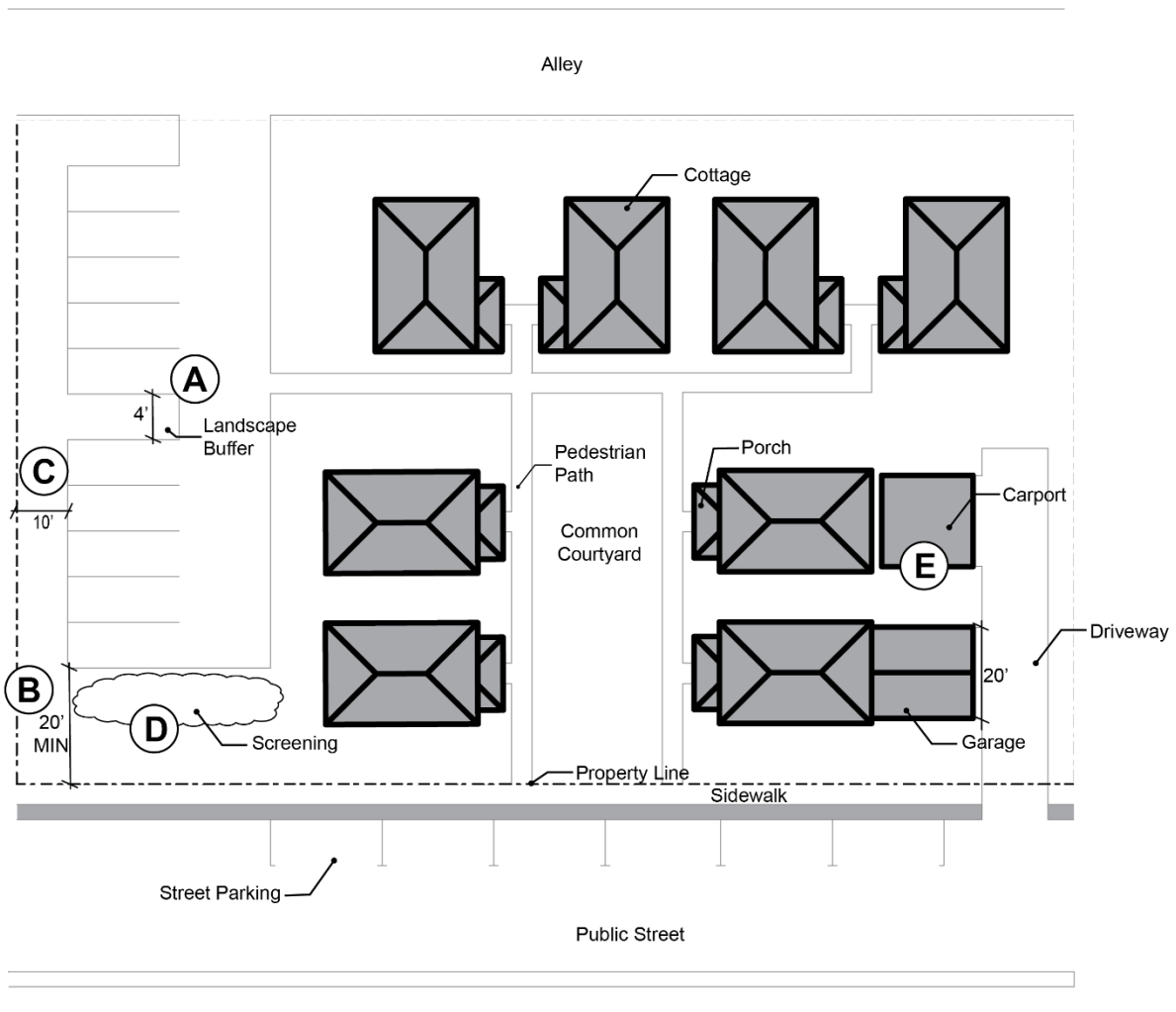
(9) Accessory Structures. The purpose of this standard is to ensure that accessory structures are appropriately sized relative to the scale of cottage cluster dwellings.

- (a) Accessory structures must not exceed 400 square feet in floor area.

(10) Existing Structures. An existing detached single-family dwelling 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).

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)** Parking allowed in clusters of up to 5 spaces. Clusters separated by minimum 4 feet of landscaping.
- (B)** No parking or vehicle area within 20 feet from street property line (except alley).
- (C)** No parking within 10 feet from other property lines (except alley). Driveways and drive aisles permitted within 10 feet.
- (D)** Screening required between clustered parking areas or parking structures and public streets or common courtyards.
- (E)** Garages and carports must not abut common courtyards. Garage doors for individual garages must not exceed 20 feet in width.

Figure 8.175-2. Cottage Cluster Parking Design Standards

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: ***

SUPPLEMENTAL RESIDENTIAL DESIGN STANDARDS IN VILLAGE CENTERS

8.480 Applicability. These standards apply to residential development in mixed-use and residential zones within the Village Center Comprehensive Plan designation. They are in addition to the other residential design standards for ~~Single Family Homes and Multiple Family Homes~~ in this article.
[Ord. 5556, 2/21/03; Ord. 5947, 1/01/21]

8.485 Purpose. These provisions are intended to promote the design of an urban environment that is built to human scale and to foster a mixed-use character for village centers with an emphasis on a high-quality pedestrian environment, high-quality and attractive building materials, and architectural details that reduce exterior building mass.
[Ord. 5947, 1/01/21]

Standards.

- (1) A minimum of 75 percent of a building's exterior shall be surfaced with wood, brick, stucco, stone, masonry, or lap siding. [Ord. 5947, 1/01/21]
 - (2) Rooflines shall incorporate at least one of the following elements: parapets, cornices, gables, dormers, varied roof heights, or top-level balconies. [Ord. 5947, 1/01/21]
 - (3) All exterior HVAC equipment shall be screened from street-level view.
 - (4) Creation of alleys is not required as a development standard but is encouraged in order to provide a friendly street frontage and to set driveways and garages in the rear. [Ord. 5947, 1/01/21]
- (4) *Covered bike parking repealed by Ord. 5832, 4/9/14.*

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:

The proposed amendments to Article 9 include the following.

- **Off-Street Parking Ratios** – Update the parking requirements in Table 9.020-1 to comply with the minimum Oregon Administrative Rules (OAR) standards for middle housing.
- **Parking Area Design and Landscaping** – Revise standards so that parking areas for middle housing are treated the same as for single-family detached dwellings (SFDs) (as required by the OAR). Add a numeric trigger for parking area design and landscaping standards (e.g., parking area is over 1000 sf) that would apply to all housing types.
- **Buffering and Screening** – Exempt middle housing from the 10-foot buffer requirement (which does not comply with the OAR), so it only applies to multi-family dwellings.

No changes are proposed to the following sections: Tree Protection, Fences and Environmental. Therefore, these sections are not included in the review materials.

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.

[Ord. 5764, 12/1/11; Ord. 5445, 4/12/00; Ord. 5947, 1/01/21]

OFF-STREET PARKING

9.020 Space Requirements. Off-street parking and loading must be provided for all development in the amounts indicated in Table 9.020-1 subject to any applicable reductions permitted in this Article. All required parking must be developed in accordance with the standards in this Article.

[Ord. 5832, 4/9/14; Ord. 5947, 1/01/21]

- (1) Calculating Floor Area for Parking. The area measured is the combined floor area of each level of a building exclusive of vent shafts, courtyards, stairwells, elevator shafts, restrooms, storage rooms and rooms designed and used for the purpose of storage and operation of maintenance equipment, and covered or enclosed parking areas.

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) Employees. The number of employees shall include those working on the premises, plus proprietors, during the largest shift at peak season.
- (3) Fractional Space Requirements shall be counted to the nearest whole space; half spaces will be rounded up.
- (4) Unspecified Uses and Alternative Standards. When a use is not specifically listed in Table 9.020-1: Parking Requirements, the Director will determine if the use is similar to a listed use in terms of parking needs. When a use is not similar to a use listed in Table 9.020-1 or the applicant has documentation that demonstrates a different parking demand, the Director may approve alternative parking standards. Acceptable documentation may include parking standards from other cities of similar size, company data on parking demand, parking demand studies, or the ITE Parking Generation Manual. [Ord. 5832, 4/9/14; Ord. 5947, 1/01/21]
- (5) Off-street parking for one use shall not be considered as providing parking facilities for any other use except through the provisions of Section 9.080, Joint Use of Parking Facilities.
- (6) Downtown Assessment District. Parking spaces are not required for uses located within the Downtown Off-Street Assessment District as established by separate ordinance. (A map of the district is located at the end of this Article as Figure 9.020-1.) However, improvement of parking areas within this District must comply with the standards of this Article. [Ord. 5947, 1/01/21]
- (7) Maximum Parking in the ES, Elm Street Medical District. Parking provided with new development in the ES zone shall be only the minimum required. No additional off-street parking will be allowed for development in this district.
- (8) Site Plan Review may be required for new parking areas or expansions to existing parking areas unless specified in Section 2.430.
- (9) Temporary uses of less than 120 days, as defined in AMC Chapter 5.10 Transient and Itinerant Merchants and Vendors, are not required to meet the standards in this section. [Ord. 5832, 4/9/14]

**TABLE 9.020-1
PARKING REQUIREMENTS**

USE	MINIMUM SPACES REQUIRED
COMMERCIAL AND RECREATION	
Animal hospitals and clinics and animal grooming salons	1 per 400 sq ft
Banks and financial institutions, real estate services, insurance	1 per 300 sq ft on the first floor plus 1 per 600 sq ft above the first floor
Beauty and barber shops and other personal services	1 per 200 sq ft plus 1 per 3 employees

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
Entertainment and Recreation: (a) Athletic/fitness gym, billiard or pool hall skating rinks with no grandstands, all other unspecified indoor recreation and entertainment (excluding restaurant, café or bar areas) (b) Bowling alleys (c) Golf courses (including clubhouses and accessory uses) (d) Stadiums, grandstands, coliseums, auditoriums, and theaters, and other sports facilities with seating (e) Swimming pools, aquatic centers	(a) 1 per 300 sq ft (b) 4 per lane (c) Subject to land use review (d) 1 per 4 seating capacity (e) 1 per 200 sq ft
Funeral houses and mortuaries	1 per 4 seats or 8 feet of bench length
Kennels, animal boarding	1 per employee plus 1 per 500 sq ft excluding exercise areas
Laundries and cleaners	1 per 300 sq ft
Motels and hotels	1 per rental unit plus additional as required for accessory uses
Office - Professional: (a) Medical and dental clinics (b) All other business and professional	(a) 1 per 250 sq ft (b) 1 per 400 sq ft
Vehicle repair and fuel or other service stations	1 per 2 employees plus 2 per each service stall
Private clubs, lodges and meeting rooms	1 per 200 sq ft
Radio and television stations and studios	1 per 2 employees plus 1 per 300 sq ft over 2,000 sq ft
Restaurants: (a) Carry out, drive-thru or drive-in (b) Sit-down restaurants, taverns, bars, brewpubs, and nightclubs	(a) 1 per 100 sq ft (b) 1 per 200 sq ft including outdoor seating not exempt per 9.030(3).
Retail Sales: (a) Bulky items such as home or business furnishings, appliances, building materials, farm and agricultural equipment, machine and office equipment; (b) motor vehicles, trailers, mobile homes, boats, modular houses (c) Greenhouses and nurseries, garden supplies (d) All other retail sales	(a) 1 per 800 sq ft plus 1 per 3 employees (b) 2 per employee (c) 2 per employee (d) 1 per 300 sq ft sales floor area
Services and Repair: tailor, shoemaker, locksmith, printing, binding, publishing, framing, upholsterer, photography studio, dry cleaner, mailing, etc.	1 per 500 sq ft
Self-Serve Storage Units	1 per 100 units, with a minimum of 3, plus 1 per employee/caretaker
INDUSTRIAL	
Air, rail and motor freight terminals	Subject to land use review
Contractors and Industrial Services	1 per 1.25 employees plus 1 per company vehicle
Customer Service/Call Centers	1 per 250 sq ft
Industrial Offices, research or laboratory facilities	1 per 500 sq ft
Manufacturing, production or processing	1 per 2 employees plus 1 per company vehicle
Testing, repairing, cleaning, servicing of materials, goods or products	1 per 2 employees plus 1 per 300 sq ft of patron serving area, plus 1 per company vehicle
Warehousing and wholesale	1 per 2 employees plus 1 per 300 sq ft of patron serving area plus 1 per company vehicle

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
Wrecking yards and junkyards	1 per employee plus 1 per 10,000 sq ft lot area
INSTITUTIONAL, PUBLIC and SEMI-PUBLIC	
Daycare, Nursery Schools, Kindergarten and Daycare Homes or Facilities	1 per employee plus 1 per 10 persons being cared for
Education: Elementary, junior high and other children’s day school	1 per classroom plus 1 per 2 employees
Education: high schools, colleges, universities, and trade or business schools	Subject to land use review
Hospitals	1 per 2 beds plus 1 per staff doctor plus 1 per 2 full-time employees
Jails and Detention Facilities	1 per 5 beds
Libraries, reading rooms, museums, and art galleries	1 per 2 employees plus 1 per 500 sq ft
Parks, open areas, and cemeteries	Subject to land use review
Religious assembly	1 per 6 seats or 12 feet of bench length
RESIDENTIAL	
Assisted Living, Residential Care facilities, Nursing or Convalescent homes	1 per 3 beds at capacity
Single-Family <u>Detached</u> Units	2 spaces
<u>Duplex</u>	<u>1 space per unit</u>
Duplex and Two <u>Primary Detached</u> Units on One Lot	4 total spaces
<u>Townhouse</u>	<u>1 space per unit</u>
<u>Triplex or Fourplex</u>	<u>1 space per unit</u>
<u>Cottage Cluster</u>	<u>1 space per unit</u>
Multi-Family: Studio and 1-bedroom units	1 space per unit, plus 1 visitor space every 4 units
Multi-Family: 2-bedroom units	1.5 spaces per unit, plus 1 visitor space every 4 units
Multi-Family: 3 or more bedroom units	2 spaces per unit, plus 1 visitor space every 4 units
Multi-Family: Quad and quint units (<u>SRO</u>)	0.75 space per unit
Senior housing	1 space per 2 units
Student housing	1 per 2 students at capacity
Boarding and rooming houses	1 space per 2 occupants at capacity
Group or residential care homes	1 space per employee plus 1 space per 5 beds

[Ord. 5555, 2/7/03; Ord. 5742, 7/14/10; Ord. 5832, 4/9/14; Ord. 5947, 1/01/21]

9.025 Parking in the Public Right-of-Way. Parking spaces in a public right-of-way may not be counted as fulfilling any part of the parking requirements except when permitted below. Any parallel parking spaces in the right-of-way that are counted toward fulfilling the parking requirements must be at least 25 feet long.

[Ord. 5832, 4/9/14]

- (1) Religious Assembly. On-street parking within 500 feet of the building, except in residential zones, may be used toward fulfilling the minimum parking requirements.
- (2) Private Clubs, Lodges or Meeting Rooms. On-street parking in non-residential zones within 800 feet of the main assembly room or building may be used toward fulfilling the minimum parking requirements.

*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) Stadiums, grandstands, coliseums, auditoriums, and theaters. On-street parking in non-residential zones within 1,000 feet of the main assembly room or building may be used toward fulfilling the minimum parking requirements.
- (4) Mixed Use Zones. On-street parking spaces abutting the development may be counted towards meeting parking requirements in the MUR, Mixed Use Residential District; HD, Historic Downtown District; DMU, Downtown Mixed Use District; CB, Central Business District; WF, Waterfront District; and LE, Lyon Ellsworth District. [Ord. 5894, 10/14/17]
- (5) Non-Residential Development. The amount of off-street parking required may be reduced by one space for every on-street space abutting the development for up to 25 percent of the minimum parking requirement, except when the development is proposed in a residential zoning district in Article 3 or in the ES (Elm Street) zone. [Ord. 5832, 4/9/14]
 - (a) The on-street parking spaces must be at least 100 feet from a residential zoning district or the ES zoning district.
 - (b) On-street parking credits can only be granted for developments with frontage on streets that allow parking on both sides and with approval from the Director of Public Works. [Ord. 5832, 4/9/14]
- (6) Village Centers. Pursuant to ADC Section 8.460, a commercial or office development within the Village Center Comprehensive Plan designation may count on-street parking spaces within 100 feet of the development towards meeting the parking requirement. [Ord. 5894, 10/14/17]

9.030 Reductions or Exemptions to Minimum Parking Space Requirements. The following actions and situations can further reduce the minimum parking required on-site. [Ord. 5832, 4/9/14; Ord. 5894, 10/14/17]

- (1) Change of Use or Redevelopment. No additional parking shall be required when an existing structure is changed from one Use Category to another as listed in Article 22 when the new use requires no more than two additional vehicle and/or bicycle parking spaces. 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 detached dwelling. [Ord. 5832, 4/9/14]
- (2) Tree Preservation. Minimum parking may be reduced by one parking space for each tree 8 inches in diameter and larger that is preserved within the developable area, for up to a maximum of 10 percent of the total parking space requirement. [Ord. 5832, 4/9/14]
- (3) Outdoor Seating Areas. Seasonal outdoor seating up to 500 square feet shall be exempt from the parking calculations. Permanent outdoor seating is not exempt. [Ord. 5832, 4/9/14]
- (4) Mixed-Use or Multi-Tenant Developments. In the case of mixed-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. [Ord. 5832, 4/9/14; Ord. 5894, 10/14/17]
- (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: [Ord. 5832, 4/9/14]
 - (a) Up to two vehicle spaces may be waived if sheltered bicycle parking is provided beyond the minimum requirements in Section 9.120 (13) at a rate of three bicycle spaces to one motor-vehicle space.
 - (b) One vehicle space may be waived for each shower and two lockers provided for employees who commute by bicycle.

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) 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. [Ord. 5894, 10/14/17]
 - (a) All commercial and recreation uses listed in Table 9.020-1 shall provide parking at a minimum of one space per 600 square feet or the minimum stated in Table 9.020-1, whichever is less. [Ord. 5894, 10/14/17; Ord. 5497, 1/01/21]
 - (b) ~~Single-family attached dwellings, duplexes,~~ 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. [Ord. 5894, 10/14/17; Ord. 5947, 1/01/21]
 - i. Studio, one-bedroom, and two-bedroom units: one space per unit [Ord. 5894, 10/14/17]
 - ii. three or more bedroom units: 1.75 spaces per unit [Ord. 5894, 10/14/17]

9.120 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. [Ord. 5832, 4/9/14; Ord. 5842, 1/01/15]
- (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. [Ord. 5842, 1/01/15]
- (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, ~~except those required~~

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 conjunction with a single or two family dwelling~~ 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.
[Ord. 5832, 4/9/14; Ord. 5842, 1/01/15]
- (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, except for those required in conjunction with a single or two family dwelling,~~ 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), ~~Except for single family and duplex dwellings, groups of more than two 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 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.
[Ord. 5832, 4/9/14]
- (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 dwellings ~~(three or more 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.
[Ord. 5832, 4/9/14; Ord. 5886, 1/6/17]
- (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.

*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: ****

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.
[Ord. 5894, 10/14/17]
- (f) Each required bicycle parking space must have a parking rack securely fastened to the ground. Parking racks must support each bicycle at a 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.
[Ord. 5673, 6/27/07]
- (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.
[Ord. 5720, 08/12/09]
- (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.

9.130 Off-Street Parking Lot Design. All off-street parking lots over 1,000 square feet (contiguous) must be designed in accordance with City standards for stalls and aisles as set forth in Table 9.130-1: Parking Lot Design and supplemental drawings. Stall dimensions are measured from inside the stripes.
[Ord. 5720, 08/12/09; Ord. 5947, 1/01/21]

- (1) Compact spaces shall be at least 8 feet wide by 16 feet long.
- (2) Accessible spaces shall be a minimum of 9 feet wide and 17 feet long and designed in accordance with the Oregon Structural Specialty Code (OSSC). An adjacent access aisle must be provided that is at least eight feet wide and 17 feet long for a van-accessible space, and six feet wide for a standard accessible space.
- (3) Stall Width. Long-term parking spaces must be at least 8.5 feet wide. Parking stalls for grocery stores or adjacent to planter islands must be at least 9.5 feet wide.
- (4) Minimum Aisle Widths. Aisles for two-way traffic and emergency vehicle operations must be at least 24 feet wide. One-way aisles and one-way emergency vehicle access must be at least 20 feet wide.
- (5) The design of driveways and on-site maneuvering and loading areas for commercial and industrial developments shall include 20 feet of storage length for entering and exiting vehicles, in order to prevent vehicles from backing into the flow of traffic on the public street or causing unsafe conflicts with on-site circulation.

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

9.140 General Requirements. Landscaping requirements by type of use are listed below:

- (1) Landscaping Required – Residential. All front setbacks (exclusive of accessways and other permitted intrusions) must be landscaped or have landscaping guaranteed in accordance with ADC 9.190 before an occupancy permit will be issued or final building permit approved. In the case of middle housing land divisions, the minimum landscaping standard below applies to the parent lot, not the child lots. In all residential districts except Rural Residential (RR), the minimum landscaping acceptable for every 50 lineal feet of street frontage (or portion thereof, deducting the width of the driveway) is:
[Ord. 5886, 1/6/17]
 - (a) One tree at least six feet tall.
 - (b) Four one-gallon shrubs or accent plants.
 - (c) The remaining area treated with ~~attractive~~ ground cover (e.g., lawn, bark, rock, ivy, and evergreen shrubs).

9.150 Parking Lot Landscaping. The purpose of landscaping in parking lots is to provide shade, reduce stormwater runoff, and direct traffic. Incorporation of approved vegetated post-construction stormwater quality facilities in landscaped areas is encouraged. Parking lots over 1,000 square feet (contiguous) must be landscaped in accordance with the following minimum standards: [Ord. 5720, 8/12/09; Ord. 5842, 1/01/15]

- (1) Planter Bays. Parking areas shall be divided into bays of not more than 12 parking spaces. At both ends of each parking bay, there shall be curbed planters at least five feet wide, excluding the curb. Gaps in the curb may be allowed for connections to approved post-construction stormwater quality facilities. Each planter shall contain one canopy tree at least 10 feet high and decorative ground cover containing at least two shrubs for every 100 square feet of landscape area. Neither planter bays nor their contents may impede access on required public sidewalks or paths, or handicapped-accessible parking spaces. [Ord. 5720, 8/12/09; Ord. 5842, 1/01/15]
- (2) Entryway Landscaping. Both sides of a parking lot entrance shall be bordered by a minimum five-foot-wide landscape planter strip meeting the same landscaping provisions as planter bays, except that no sight-obscuring trees or shrubs are permitted.
- (3) Parking Space Buffers. Parking areas shall be separated from the exterior wall of a structure by pedestrian walkways or loading areas or by a five-foot strip of landscaping materials.
- (4) Alternate Plan. An alternate plan may be submitted that provides landscaping of at least five percent of the total parking area exclusive of required landscaped yard areas and that separates parking areas of more than 100 spaces into clusters divided by landscape strips. Each planter area shall contain one tree at least 10 feet tall and decorative ground cover containing at least two shrubs for every 100 square feet of landscape area. Landscaping may not impede access on required public sidewalks or paths, or handicapped-accessible parking spaces.
[Ord. 5720, 08/12/09]
- (5) Landscape Protection. Required landscaped areas adjacent to graveled areas must be protected, either by railroad ties secured by rebar driven 18 inches into the ground, by large boulders, or by another acceptable means of protection.

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: ***

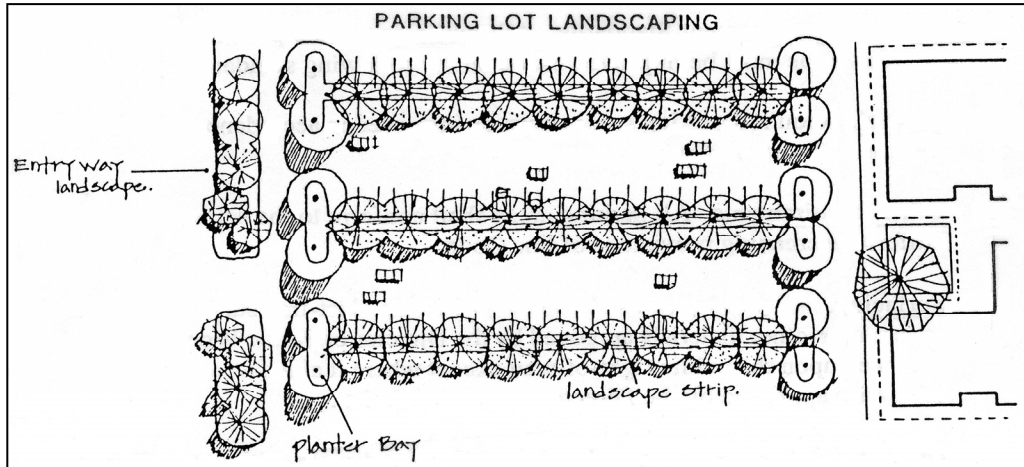


FIGURE 9.150-1. Parking lot landscaping example.

[Ord. 5947, 1/01/21]

9.160 Irrigation of Required Landscaping. All required landscaped areas must be provided with an irrigation system unless a licensed landscape architect, landscape construction professional, or certified nurseryman submits written verification that the proposed plants do not require irrigation. Irrigation systems installed in the public right-of-way require an encroachment permit. [Ord. 5768, 12/7/11]

9.170 Identification of Existing Trees. In all proposed developments, existing trees over 25 inches in circumference (8 inches in diameter) as measured 4.5 feet above mean ground level from the base of the trunk shall be noted on all development plans, with notations indicating whether they are to be removed or utilized in the development. To obtain the circumference of a tree with multiple trunks, add the individual trunk circumferences, which are greater than six inches in circumference. Clusters of trees in open space and floodplain areas may be noted in approximate locations. [Ord. 5842, 1/01/15]

9.180 Landscape Plans. With the exceptions noted below, all development applications involving buildings and parking areas 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:

- (1) Single-family dwellings, ~~duplexes, and triplexes~~ and middle housing.
- (2) Accessory buildings.
- (3) Changes internal to an existing structure.
- (4) Building additions involving less than 500 square feet.

TREE PROTECTION

BUFFERING AND SCREENING

9.208 Purpose. These regulations provide screening and buffering between uses in order to reduce the potential objectionable impacts of higher intensity uses on adjacent lower intensity uses. These impacts include, but are not limited to, light pollution and glare, noise, visual impacts, and loss of privacy. [Ord. 5947, 1/01/21]

9.210 General Requirements/Matrix. Buffering and screening are required in accordance with the matrix provided

*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 Table 9.210-1. The property owner of each proposed development is responsible for the installation and maintenance of such buffers and screens. The Director may approve an Adjustment to waive the buffering/screening requirements of this section where such has been provided on the abutting property in conformance with this Code. Where a use would be abutting another use except for separation by right-of-way, buffering (but not screening) shall be required as specified in the matrix. Where a proposed use abuts undeveloped property, only one-half of the buffer width shall be required.

[Ord. 5445, 4/12/00; Ord. 5947, 1/01/21]

- 9.220 Delineation of Area. A buffer consists of an area within a required setback adjacent to a property line. It has a depth equal to the amount specified in the buffer matrix and contains a length equal to the length of the property line of the abutting use or uses.
- 9.230 Occupancy. A buffer area may only be occupied by utilities, screening, sidewalks, bikeways, landscaping, and approved vegetated post-construction stormwater quality facilities. No buildings, vehicular access ways or parking areas are allowed in a buffer area except where vehicular access way has been approved by the City. [Ord. 5842, 1/01/15; Ord. 5947, 1/01/21]
- 9.240 Buffering. The minimum improvements within a buffer area consist of the following:
- (1) At least one row of trees. These trees will be not less than 10 feet high at the time of planting for deciduous trees and spaced not more than 30 feet apart and five feet high at the time of planting for evergreen trees and spaced not more than 15 feet apart. This requirement may be waived by the Director when it can be demonstrated that such trees would conflict with other purposes of this Code (e.g. solar access).
 - (2) At least 5 five-gallon shrubs or 10 one-gallon shrubs for each 1,000 square feet of required buffer area.
 - (3) The remaining area treated with attractive ground cover (e.g., lawn, bark, rock, ivy, evergreen shrubs).
- 9.250 Screening. Where screening is required or provided, the following standards apply in addition to conditions (1) and (3) above:
- (1) One row of evergreen shrubs that will grow to form a continuous hedge at least four feet tall within two years of planting, or
 - (2) A fence or masonry wall at least five feet tall constructed to provide a uniform sight-obscuring screen, or
 - (3) An earth berm combined with evergreen plantings or a fence that forms a sight and noise buffer at least six feet tall within two years of installation.
- 9.260 Clear Vision. Buffering and screening provisions are superseded by the clear vision requirements of Section 12.180 and by the fence and wall height restrictions of the zone when applicable. [Ord. 5445, 4/12/2000]
- 9.270 Landscape Plan. In lieu of these standards a detailed landscape plan, which provides the same degree of desired buffering utilizing alternative designs, may be submitted for approval.
- 9.330 *Repealed by Ord. 5445, 4/12/00.*

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 9.210-1. Buffer and screening matrix.

BUFFER MATRIX	PROPOSED USE								
	Detached <u>single-family</u> dwelling	Attached dwelling <u>1-story Middle housing</u>	Attached dwelling <u>2+ stories and Multi-family</u>	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' <u>(4)</u>	10' (4)	10' S (1)	10' (4)	10'	10'	10'	10'
Commercial, professional, mixed-use, and institutional	10'	10' <u>(4)</u>	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>									

[Ord. 5445, 4/12/00; Ord. 5886, 1/6/17; Ord. 5894, 10/14/17; Ord. 5947, 1/01/21]

*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 Article 10 are needed to comply with state law, which requires all housing (including manufactured housing) to be allowed through a clear and objective review path. Currently, Article 10 contains standards and review criteria that are not entirely clear and objective. Proposed amendments include the following:

- **Placement on Individual Lots** – Revise the most important “compatibility” criteria to be clear and objective and remove the criteria that are outdated or unnecessary.
- **Manufactured Home Parks** – Revise discretionary standards to be clear and objective and to provide greater specificity where needed.

There are no changes proposed to the General Provisions, Classification of Manufactured Homes, Temporary Placements and Recreational Vehicle Parks sections; therefore, these sections have not been included in this packet.

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

GENERAL PROVISIONS

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]

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: ***

- 10.180 Review Criteria. In order to be approved, the manufactured home must meet all of the following standards: be found to have design compatibility with other single family dwellings in the “review area,” which is the area within 150 feet of the subject lot or parcel or the nearest five dwellings. The criteria for determining acceptable compatibility shall be based upon a review of the following design elements:
- (1) ~~Roofing shall be similar in color, material, and appearance to the roofing material commonly used on residential dwellings within the community or comparable to the predominant materials used on dwellings within the review area.~~ 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) ~~Exterior siding shall be similar in color, material, and appearance to the exterior siding material commonly used on residential dwellings within the community or comparable to the predominant materials used on dwellings within the review area.~~
 - (3) A garage is required if more than 50% of the homes in the review area have a garage. If more than 50% of the homes in the review area have a carport, then a carport or garage is required. If there is a mixture of garages or carports for more than 50% of the homes in the review area, then a carport or garage is required. The garage or carport shall be of like materials and color as the home. The garage or carport may be required to be attached if other dwellings in the review area have attached garages.
 - (4)(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 with a 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. ~~enclosure that is similar in appearance to foundations or enclosures in the area.~~
 - (5)(3) The manufactured home shall comply with the design standards of Article 8 for ~~s~~Single-~~f~~Family ~~h~~Homes and Middle Housing and infill and redevelopment.

MANUFACTURED HOME PARKS

GENERAL

10.190 *Repealed by Ord. 5445, 4/12/00*

10.200 Definitions. A manufactured home park is a land-lease residential community. The land is under the same ownership; home sites within the community are leased to individual homeowners.

[Ord. 5445, 4/12/00]

10.205 Applicability. The following standards apply to the design of new manufactured home parks and to the expansion of existing manufactured home parks. These standards are not intended to apply to existing manufactured home parks or to render unlawful any existing manufactured home park.

However, there may be spaces in existing manufactured home parks that were constructed under previous standards where a replacement manufactured home could not now be placed in conformance with these standards. It is not the purpose of these standards to prohibit continued use of those spaces. The applicant may either select a home that could be placed in such a space in full compliance with these standards, or the applicant could seek relief as allowed by other provisions of this Code.

[Ord. 5445, 4/12/00]

10.210 Where Permitted. Manufactured home parks are permitted with Site Plan Review approval in the RS-6.5, RS-

*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, RM and RMA Districts in accordance with the standards of this Article and the standards for site plan approval, Article 2. In addition, manufactured home parks may be planned under the provisions for Planned Developments (Article 11), which may be used to provide for individual ownership of manufactured homes and sites and common ownership and maintenance of other lands and facilities. The Manufactured Home Park standards of this article may be modified through a Planned Development. Manufactured home parks are not permitted in other zoning districts.

[Ord. 5445, 4/12/00]

10.220 Same Standards Apply as for Conventional Development. Except as specified otherwise by this article, the standards for developing land within manufactured home parks are the same as for all other developments in accordance with the provisions of this Code. [Ord. 5445, 4/12/00]

10.230 Improvement Standards. The improvement of driveways, walkways, streets, drainage and other utilities shall conform to adopted State standards for such or shall conform to the City's Standard Construction Specifications Manual, whichever is more restrictive. [Ord. 5445, 4/12/00]

10.240 Minimum Park Size. The minimum area of the park shall be at least one acre. [Ord. 5338, 1/28/98; Ord. 5445, 4/12/00]

10.250 Density. The maximum number of manufactured homes allowed within a manufactured home park shall be computed by dividing the total land area of the park, including private streets and common areas by the minimum lot area per dwelling unit allowed within the subject zone. The total density shall not exceed 10 units per acre. [Ord. 5445, 4/12/00]

10.260 Permitted Uses. A manufactured home park may contain manufactured homes and accessory structures incidental to the primary use. Accessory uses may include: community laundry and recreation facilities, common buildings for use by park residents only, a manager's office, and one residence (that may be other than a manufactured home) for the use of a caretaker or a manager responsible for maintaining or operating the property. Only those manufactured homes that have an insignia of compliance from either the Department of Housing and Urban Development (HUD) or the State of Oregon are permitted in a manufactured home park. [Ord. 5445, 4/12/00]

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

- (1) Space Size. The size of spaces on the perimeter of the park is determined by the use of ~~adjoining~~ 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 ~~adjoining~~ abutting land may be zoned alike.

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

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

A Major Variance to this standard may be appropriate where the adjacent land is protected from

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: ***

development (e.g. floodways, wetlands, steep slopes) and creates a natural buffer area between developable areas. [Ord. 5947, 1/01/21]

- (2) Home Orientation. ~~Homes on perimeter spaces shall be oriented to the street so the front door faces the street.~~ See Section 10.290(2).
- (3) Perimeters on Public Streets. These standards apply to spaces abutting public streets on the perimeter of the park.
 - (a) Setbacks. Homes and accessory structures shall meet the minimum front yard setback for the underlying zoning district.
 - ~~(b) Home Orientation. Homes adjacent to local residential streets shall be oriented to the public street so the front door faces the street.~~
 - ~~(c)~~ (b) Screening along collector and arterial streets. Buffering and screening shall be provided along collector and arterial streets in accordance with Sections 9.210 through 9.250. Architectural screening to include sight-obscuring fencing may be used for screening along streets classified as a collector or arterial. ~~Long~~ Expanses of fence or wall along streets that are longer than 50 feet shall be designed to prevent visual monotony through the use of offsets, landscaping, and change in materials. Fencing closer than 15 feet to the public right-of-way shall be subject to the district's restrictions on front yard fencing (4-foot maximum height). [Ord. 5445, 4/12/00; Ord. 5947, 1/01/21]

10.280 Site Development Standards.

- (1) Connectivity, Streets, and Parking.
 - (a) Connectivity. Streets that are needed to connect to and extend the transportation network shall be public streets. Other streets may be public or private. Walkways are required to make pedestrian connections to park amenities and neighboring developments. Gated residential streets are prohibited. Access locations needed for emergency vehicle access shall be open to the public and not barricaded.
 - (b) Streets. Either public or private streets may be constructed in manufactured home communities, subject to the connectivity requirements above.
 - i. Private Streets. Private streets shall be paved a minimum width of 20 feet if there is no parking allowed (community/visitor parking is required) or 30 feet if on-street parking is allowed. The layout of private streets shall foster circulation and access throughout the park. Private streets shall meet the standards outlined in Section 12.250.
 - ii. Public Streets. Public streets shall meet local residential street standards as described in Article 12.
 - iii. Alleys. The use of alleys and garages located at the back of the property are allowed. Alleys facilitate the efficient layout of home spaces and parking areas and narrower streets.
 - (c) Block Length. Block dimensions shall be determined by existing street and development patterns, connectivity needs, topography, and adequate space size. The average block length shall not exceed 600 feet unless adjacent layout or physical conditions justify a greater length. Block length is defined as the distance along a street between the centerline of two intersecting through streets. Physical conditions may include existing development, steep slopes, wetlands, creeks, and mature tree groves. Blocks along the perimeter of the park may be longer if clustered spaces, small bulb-outs or similar design features break up the block.
 - (d) Street Trees. Street trees shall be provided along all streets, public and private within the park and

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: ***

around the perimeter of the park, in a manner consistent with Article 12. Trees shall be located within the landscape strip of public roads and within 8 feet of the curb on private streets. Street trees may be used towards the landscaping requirements of the individual home spaces and common areas. The developer may incorporate planting medians into street designs.

- (e) Walkways. A street sidewalk (or an equivalent pedestrian walking system) at least 4 feet wide shall connect each manufactured home space with common areas, public streets, and play areas. All walkways must be separated, raised or protected from vehicular traffic and provide access for handicapped persons. The walkway system must connect with neighboring public sidewalk systems. A walkway at least 3 feet wide shall be provided from each manufactured home main entrance to the nearest public or private street.
- i. Public Sidewalks. Setback sidewalks are required along all public streets within parks and on perimeters ~~adjoining~~ abutting a public right-of-way. The sidewalks shall be set back 6 feet and be a minimum of 5 feet wide.
 - ii. Private Sidewalks or Paths. The developer may construct walking/biking paths in combination with open space and buffer areas to create a park-like setting and “gathering places” in lieu of sidewalks on private streets. The “path” shall circulate throughout the community, providing pedestrian access throughout the development and access to parks and other amenities.
- (f) Parking.
- i. Home Parking. Each manufactured home space must provide two (2) on-site parking spaces.
 - ii. Visitor Parking. If the park streets do not allow on-street parking, visitor parking of one space per eight units shall be provided in clustered community parking areas so that no home is more than 200 feet from a parking area.
 - iii. Office and Common Building Parking. Office and common buildings shall be provided with one space for each 300 square feet of floor area. This requirement may be partially filled by required visitor parking located within 300 feet of the building.
- (g) Lighting. All streets shall be lighted at intersections and pedestrian crossings. Fixtures shall not produce direct glare on adjacent properties.
- (h) Street Identification. All streets shall be named and identification signs shall be provided according to applicable City requirements. All spaces shall be addressed.
- (i) Entry Signage. One freestanding non-illuminated sign identifying the manufactured home park is allowed at each entrance to the park. Such signs may not exceed 32 square feet and are subject to the clear vision area requirements of Section 12.180.
- (j) Park Information Sign. A permanent map layout of a park is required for parks with more than 30 spaces.
- (2) Common and Recreation Areas. Common and recreation areas shall be located within the park development. All homes shall be within 600 feet of a common area and children’s play area. Approved vegetated post-construction stormwater quality facilities are allowed in common and recreation areas.
[Ord. 5842, 1/01/15]

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) Common Area. A minimum of 200 square feet of outdoor or indoor recreation or gathering area shall be provided for manufactured home spaces less than 5,000 square feet. Spaces larger than 5,000 square feet shall provide a minimum of 100 square feet of common space per home space. Common areas may be in one or more locations in the park. ~~Recreation and children's play areas may count towards the common area requirement.~~ Required common 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 area.
 - 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 area.
 - iii. Indoor community room. This amenity may not account for more than 50 percent of the required common open space requirements.
 - iv. 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 area.
 - v. 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.
 - vi. Areas within Significant Natural Resource overlay districts, per ADC 6.260, or stands of mature trees greater than or equal to six inches in diameter when measured at 4.5 feet above the mean ground level from the base of the trunk 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 area. Areas used for cluster development density transfers are not eligible for meeting common open space requirements.
 - vii. Approved vegetated post-construction stormwater quality facilities. This amenity may not account for more than 20 percent of the required common open space.
 - viii. Children's play areas, as provided in subsection (2)(c) below.
- ~~(a)~~(b) Recreation Area Standard. At least one recreation area must be a minimum of 5,000 square feet and must provide one of the amenities in subsections (a)(i)-(viii). If the manufactured home park is smaller than 30 spaces, then only 2,500 square feet of recreation area is required.
- ~~(a)~~(c) Children's Play Area Standards. A separate play area must be provided in all manufactured home parks to accommodate children. The play area must be a minimum of 2,500 square feet in area with at least 100 square feet of play area provided for each manufactured home space. Each children's play area must include a play structure at least 100 square feet in area, and at least two (2) 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

*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: ****

space within 50 feet of the play structure may be included.

- ~~(c)~~(d) Credits. If the manufactured home park is within one half mile of a public park or public school playground that has similar recreational amenities, the standard in subsection (b) may be reduced by one-fourth (1/4) if there is a pedestrian connection to the public park.
- (3) Park Landscaping. A landscape plan for the park is required with the site plan application. This plan shall be drawn to scale. The plan will show the location of existing trees, vegetation proposed to be removed, vegetation proposed to be retained, the location and design of landscaped areas, the varieties and sizes of trees and plant materials to be planted, contour lines indicating any earth sculpting to be used, approved vegetated post-construction stormwater quality facilities within the landscape area and other pertinent landscape information. [Ord. 5842, 1/01/15]
- All common areas within a manufactured home park – exclusive of required buffer areas, buildings, and streets – shall be landscaped and maintained in accordance with the following minimum standards per each 1,000 square feet of open area.
- (a) One 10-foot tree or two trees at least 5 feet in height.
 (b) Three shrubs or perennials.
 (c) The remaining area must be landscaped in an attractive ground cover (see Article 9).
 (d) Long expanses of fence or wall along public streets shall be designed to prevent visual monotony through the use of offsets, landscaping, and change in materials. Fencing closer than 15 feet to the public right-of-way shall be subject to the zoning district's restrictions on front yard fencing.
- (4) Storage Areas. Manufactured home parks may provide outside or covered storage areas for recreational vehicles or other equipment used by park residents provided that such areas are surfaced and drained (gravel is acceptable) in accordance with City Standards and provide buffering and screening as required in Article 9.
- (5) Utilities. All manufactured home parks shall provide each lot or space with storm drainage, public sanitary sewer, electric, telephone, and public water, with easements dedicated where necessary to provide such services. All utilities shall be located underground unless waived by the City Engineer where underground service would require an exception to local prevalent conditions. Approved vegetated post-construction stormwater quality facilities are allowed. [Ord. 5842, 1/01/15]
- (6) Fire Hydrants. If a manufactured home space or permanent structure in the park is more than 500 feet from a public fire hydrant, the park must have water supply mains designed to serve fire hydrants. Hydrants must be provided within 500 feet of any space or structure. Each hydrant within the park must be located on a vehicular way and conform in design and capacity to the public hydrants in the city. [Ord. 5445, 4/12/00]

10.290 Manufactured Home Space Requirements.

- (1) Manufactured Home Spaces. Manufactured home spaces shall be indicated on the development plan and each space clearly identified by number. In design of a manufactured home park, it shall be demonstrated that planned spaces can reasonably accommodate a variety of manufactured home types with accessory structures and required setbacks. For the purpose of subsections (a) - (d) below, "lot" shall mean a manufactured home space.
- (a) Minimum Lot width - 30 feet.
 (b) Minimum Lot depth - 40 feet.
 (c) Maximum Lot Coverage - 60% on perimeter spaces. There is no maximum lot coverage for interior

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: ***

spaces.

- (d) Minimum space size - There is no minimum space size for spaces that do not abut the perimeter of the park.
- (2) Home Orientation.
- (a) For perimeter spaces, homes shall be oriented to the street so the front door faces the street. For interior spaces, the front door of each home may face the street of address or open onto a porch that faces the street.
- ~~(b) Spaces should be arranged to avoid uniform placement of homes.~~
- ~~(c) A walkway of not less than three feet in width shall be provided from each manufactured home main entrance to the nearest public or private street.~~
- ~~(d)~~ (b) Carports and garages must be located so the home's front door or porch is visible from the street and the carport or garage comprises no more than 50% of the ~~front~~ street-facing façade.
- (3) Setbacks. The following minimum setbacks shall apply within manufactured home parks:
- (a) Front yard setback - The distance of a manufactured home or accessory structure from a private street is a minimum of 8 feet. Where a public street runs through a manufactured home park, the homes shall be at least 10 feet from the front property line. For spaces located along a public street that abuts the perimeter of the park, see Section 10.270(3)(a).
- (b) Interior setbacks - The distance of a manufactured home or accessory structure from the side or rear edge of the manufactured home space is a minimum of 3 feet ~~minimum~~.
- (c) Distance between manufactured homes - 10 feet minimum.
- (d) Distance from a park building other than an accessory structure - 10 feet minimum.
- (e) Distance of a manufactured home or accessory structure from a sidewalk intended for public use shall be a minimum of 5 feet.
- (f) A detached accessory structure shall not be located closer than 6 feet to any dwelling or other accessory building on adjacent space without an appropriate fire separation. A double carport or garage may be built which serves two adjacent buildings if appropriate fire separation is provided.
- (g) The distance of a manufactured home or accessory structure from an exterior park boundary shall be a minimum of 10 feet.
- (4) Space Landscaping. All manufactured home spaces shall be landscaped within six months of manufactured home placement. Landscaping shall be the responsibility of the park owner unless under terms of the space rental agreement the renter assumes responsibility for landscaping. Minimum landscaping acceptable for each front yard is as follows:
- (a) One tree at least 6 feet tall.
- (b) Four 1-gallon shrubs, perennials or accent plants.
- (c) The remaining area treated with attractive ground cover (e.g. lawn, bark, rock, ivy, and evergreen shrubs.)
- (5) Patio/Deck. Each manufactured home shall have a patio or deck constructed of concrete, flagstone, wood, or other equivalent surface materials totaling at least 120 square feet of area and not less than 8 feet wide in any dimension. [Ord. 5338, 1/28/98; Ord. 5445, 4/12/00]

*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: ****

APPLICATION REQUIREMENTS

10.300 Plot Plans Required. The application for a new or expansion of an existing manufactured home park shall be accompanied by ten copies of the plot plan of the proposed park. The plot plan ~~should~~must show the general layout of the entire manufactured home park and ~~should~~must be drawn to a scale not smaller than 1" = 40'. In addition to the application requirements for Site Plan Review, the plan must include the following information:

- (1) The location of adjacent streets and all private right-of-way existing and proposed within 300 feet of the development site.
- (2) A legal survey.
- (3) The boundaries and dimensions of the manufactured home park.
- (4) The size (in square feet), location, dimensions and number of each manufactured home space.
- (5) The name and address of manufactured home park.
- (6) The scale and north point of the plan.
- (7) The location and dimensions of each existing or proposed structure, together with the usage and approximate location of all entrances, height, and gross floor area.
- (8) The location and width of access ways and walkways.
- (9) The extent, location, arrangement, and proposed improvements of all off-street parking and loading facilities, open space, landscaping, fences and walls, and garbage receptacles.
- (10) Architectural drawings and sketches demonstrating the planning and character of the proposed development.
- (11) The total number of manufactured home spaces.
- (12) The location of each lighting fixture for lighting manufactured home spaces and grounds.
- (13) The location of recreation areas, buildings, and area of recreation space in square feet.
- (14) The point where the manufactured home park water and sewer system connects with the public system.
- (15) The location of available fire and irrigation hydrants.
- (16) A manufactured home shall be drawn on each space to demonstrate how each of the space standards will be met. Dimensions shall be shown for the size of the manufactured home and to demonstrate compliance with the orientation standards.
- (17) The location and species of trees that are at least 25 inches in circumference (approximately eight inches in diameter).

*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:

A summary of proposed amendments to Article 11 is provided below. Direction from the Planning Commission and City Council was to change the procedures in ADC 11.170 for large subdivisions over 20 lots and all cluster developments to a Type II staff-level review with local appeal. However, upon further research and discussions with the City Attorney, it appears that subdivisions must be subject only to limited land use decisions (per ORS 197.015) —in Albany, that’s the Type I-L process. Therefore, the review procedure for all subdivisions and partitions has been updated to Type I-L. For cluster development, because this is an optional process that involves more flexibility and complexity, and some discretion by the reviewer, the project team suggests retaining the current Type III review.

The amendments to the Lot and Block Arrangement standards in subsection 11.090(5) are to ensure that standards applicable to residential subdivisions are clear and objective. Similarly, tentative plat approval criteria for Subdivisions and Partitions in ADC 11.180 have also been revised to be clear and objective.

Amendments to the Planned Development (PD) provisions in Sections 11.270-11.330 are proposed to make PDs a more useful tool for a broader range of developments. An option for PDs to provide less than the currently required 25% open space is proposed, consistent with direction provided at prior work sessions. Middle housing has also been incorporated into the PD provisions. The PD process offers a more flexible way for middle housing—especially cottage clusters—to be developed than would otherwise be permitted, and allows individual cottages to be divided and sold as “fee-simple” lots. Proposed PD amendments facilitate cottage cluster development by exempting them from most of the open space requirements, provided they meet the common courtyard design standards in Article 8.

The procedure language in the Condominiums section 11.390 has been updated as required by State law.

The Cluster Development standards in sections 11.490-11.500 have been updated for consistency with the HB 2001 requirements for middle housing.

A new section has been added for Expedited Land Divisions and Middle Housing Land Divisions (sections 11.600- 11.630). Both procedures are subject to statutory requirements; Middle Housing Land Divisions were established in June 2021 by Senate Bill 458 (SB 458). SB 458 allows lot divisions for middle housing, enabling dwelling units to be sold and owned individually without the need to go through the condominium conversion process. Starting on July 1, 2022, the legislation requires cities to allow land divisions for any HB 2001 middle housing type (duplexes, triplexes, fourplexes, townhouses, and cottage clusters) built in accordance with the cities’ middle housing code provisions adopted under HB 2001 (ORS 197.758). SB 458 also establishes the review procedure that cities must follow for Middle Housing Land Divisions (the same procedure as for Expedited Land Divisions), it limits the review criteria and conditions of approval that cities can apply, and it applies other specifications and restrictions. These statutory requirements are reflected in the draft amendments. Also, the review procedure for Expedited and Middle Housing Land Divisions has been incorporated into the ADC, instead of referring to the ORS procedure (as the Code currently does for Expedited Land Divisions).

*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: ****

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

[Ord. 5668, 4/11/07]

GENERAL PROVISIONS

11.010 Relationship to State Law. Oregon Revised Statutes (ORS) Chapter 92 governs all land divisions. This chapter permits the City to develop its own procedures and review criteria. Because the state law particularly limits the City's discretion in these matters, users of this Code are encouraged to review ORS Chapter 92 at the same time. Because of the many state requirements in this area, this article cannot be relied upon to provide all of the regulations that are applicable to land divisions. At the time of adoption of this article in 1992, the following provisions of state law were identified as particularly applicable:

- ORS 92.025 - Prohibition of sales of lots or certain interests prior to recordation of plat.
- ORS 92.050 - Requirements of survey and plat of subdivisions and partitions.
- ORS 92.060 - Monument requirements for subdivisions, partitions and property line adjustments.
- ORS 92.090 - Requisites for approval of tentative subdivision or partition plat.
- ORS 92.120(5) - Disclosure of water rights information when dividing land.
- ORS 92.180 - Authority to review replats.
- ORS 92.205 - Policy on undeveloped subdivisions.

The foregoing is not intended to be an exclusive list of all of the provisions of state law, which must be considered by an applicant or staff in reviewing land division applications. By the same token, the provisions of state law, which are listed above, are not mandatory provisions of this Code. Rather they are merely intended to warn the reader of the need for careful contemporaneous review of state law.

11.020 Relationship to Public Improvements Article. All proposed developments governed by this article must meet the applicable design, and construction standards of Article 12 - Public Improvements.

11.030 Relationship to Other Local Regulations. All proposed development governed by this article must meet the underlying zoning district standards, applicable lot and block standards under this Section, the applicable on-site improvements of Article 9 (e.g., off-street parking, landscaping, buffering and screening), the applicable Natural Resource District Requirements of Article 6 (e.g., open space, floodplain, hillside development, significant wetlands, habitat assessment, riparian corridor, and Willamette River Greenway), and the post-construction stormwater quality requirements in Title 12 of the Albany Municipal Code.[Ord. 5764, 12/01/11; Ord. 5842, 1/01/15, Ord. 5886, 1/6/17]

*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: ****

- 11.040 Pre-application Conference. A pre-application conference, in accordance with Section 1.130, is required prior to submittal of an application for any land division. A pre-application conference is not mandatory for property line adjustments. [Ord. 5947, 1/01/21]
- 11.050 Acceptance of Application. The Director will review the application for compliance with established application requirements within thirty (30) working days. If the application is found to be incomplete, the Director will notify the applicant of the reasons, and advise the applicant of the requirements for an acceptable application.
- 11.060 Expiration Dates. See Section 1.310 for expiration of land division appeals. [Ord. 5768, 12/7/11; Ord. 5947, 1/01/21]
- 11.065 Recording Final Plats. Once city approval is granted for a final plat, it must be recorded with the Linn or Benton County Records Division. [Ord. 5475, 4/11/2001; Ord. 5768, 12/7/11, Ord. 5886, 1/6/17]
- 11.080 Subsequent Land Divisions and Property Line Adjustments. No subsequent land division or property line adjustment may be approved on the same lot or parcel until the previously approved land division or property line adjustment has been filed and recorded, or the previous approval is withdrawn or otherwise invalidated.

LOT AND BLOCK ARRANGEMENT

- 11.090 Lot and Block Arrangements. In any land division for single-family residential or middle housing development, lots and blocks shall conform to the following standards in this Article and other applicable provisions of this Code:
- (1) Lot arrangement must be such that there will be no foreseeable difficulties, for reason of topography or other condition, in securing building permits to build on all lots in compliance with the requirements of this Code with the exception of lots designated Open Space.
 - (2) Lot dimensions must comply with the minimum standards of this Code. When lots are more than double the minimum area designated by the zoning district, those lots must be arranged so as to allow further subdivision and the opening of future streets where it would be necessary to serve potential lots. An urban conversion plan may be required in conjunction with submittal of tentative subdivision or partition plat.
 - (3) Double frontage lots shall be avoided except when necessary to provide separation of residential developments from streets of collector and arterial street status or to overcome specific disadvantages of topography and/or orientation. When driveway access from arterials is necessary for several adjoining lots, those lots must be served by a combined access driveway in order to limit possible traffic hazards on such streets. The driveway ~~shall~~ should be designed and arranged so as to avoid requiring vehicles to back into traffic on arterials. An access control strip shall be placed along all lots abutting arterial streets requiring access onto the lesser class street where possible.
 - (4) Side yards of a lot shall run at right angles to the street the property faces, except that on a curved street the side property line shall be radial to the curve.
 - (5) ~~Block dimensions shall be determined by existing street and development patterns, connectivity needs, topography, and adequate lot size. The average block length shall not exceed 600 feet, unless adjacent layout or physical conditions justify a greater length. Block length is defined as the distance along a street between the centerline of two intersecting through streets (Figure 11.090-1). Physical conditions may include existing development, steep slopes, wetlands, creeks, and mature tree groves. The City may grant an exception to the average block length standard based on one or more of the conditions~~

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 subsections (a) through (c) below.

[Ord. 5947, 1/01/21]

(a) Physical conditions preclude an average block length of 600 feet or less. Such conditions may include steep slopes or the existence of physical features, including, but not limited to: wetlands, riparian corridors, mature tree groves, or a resource under protection by State or Federal law.

(b) Existing transportation or utility facilities, buildings, or other existing development on adjacent lands, including previously subdivided but vacant lots or parcels, physically preclude an average block length of 600 feet or less, considering the potential for redevelopment.

(c) An existing public street or streets terminating at the boundary of the development site have a block length exceeding 600 feet or are situated such that the extension of the street(s) into the development site would create a block length exceeding 600 feet. In such cases, the average block length shall be as close to 600 feet as practicable.

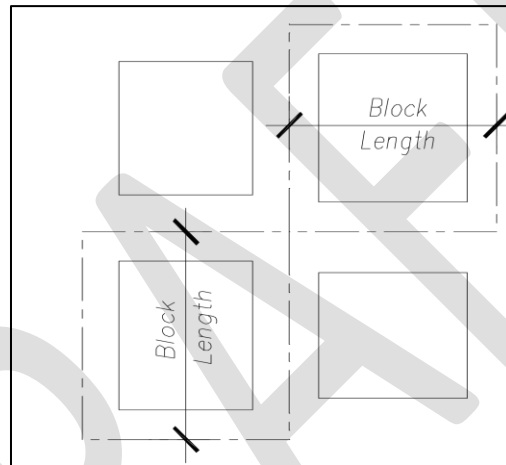


FIGURE 11.090-1. Block Length

[Ord. 5947, 1/01/21]

(6) Off-street pedestrian pathways shall be connected to the street network and used to provide pedestrian and bicycle access in situations where a public street connection is not feasible.

~~(7) The recommended minimum distance between arterial street intersections is 1800 feet. In order to provide for adequate street connectivity and respect the needs for access management along arterial streets, the Community Development Director/City Engineer may require either a right in/right out public street connection or public access connection to the arterial in lieu of a full public street connection. When a right in/right out street connection is provided, turning movements shall be defined and limited by raised medians to preclude inappropriate turning movements.~~

(7)(8) With the exception of townhouse development, the minimum frontage of a lot on a cul-de-sac shall be 22 feet as measured perpendicular to the radius. [Ord. 5886, 1/6/17]

(8)(9) Flag lots are allowed only when the City Engineer has determined that absolutely necessary to provide adequate access to buildable sites and only where the dedication and improvement of a public street is determined by the City Engineer to be not feasible or not practical. The minimum width for a flag is 22 feet, except when access is shared by an access and maintenance agreement in which case each lot shall have a minimum width of 12 feet and a combined minimum of 24 feet. [Ord. 5886, 1/6/17]

*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)(40)~~ At all street intersections, an arc along the property lines shall be established so that construction of the street at maximum allowable width, centered in the right-of-way, shall require not less than a twenty-foot radius of the curb line. [Ord. 5445, 4/12/00; Ord. 5912, 7/11/18]

PROPERTY LINE ADJUSTMENTS

- 11.100 Definition. A property line adjustment means the relocation of a common property line between two abutting properties. It occurs when property lines separating two or three properties are moved to add and remove land from the properties. A property line adjustment does not result in the creation of a new lot.
- 11.110 Procedure. Property line adjustments are reviewed through the Type I procedure, with the Director acting as review body.
- 11.120 Review Criteria. The Director will approve, approve with conditions, or deny the request for a property line adjustment based on the following criteria:
- (1) The property line adjustment does not create a new lot or a land-locked parcel.
 - (2) The adjusted properties are not reduced below the minimum dimensions of the zoning district and do not otherwise violate standards of this Code, or the adopted building codes.
 - (3) The adjusted properties are in compliance with any adopted transportation, public facilities, or neighborhood plan.
 - (4) The adjusted properties comply with any previous requirements or conditions imposed by a review body.
- 11.130 Submittal Requirements. An application for a property line adjustment shall include the following:
- (1) A completed application form signed by all property owners involved in the proposed adjustment.
 - (2) A written narrative describing the proposed development and explanation of how the development satisfies applicable Albany Development Code standards and review criteria, including information required by Article 6 – Natural Resource Districts; and [Ord. 5886, 1/6/17]
 - (3) A map showing the following details:
 - (a) The scale, north point and date of the map.
 - (b) The County Assessor’s tax map and lot number identifying each parcel involved in the adjustment.
 - (c) The location, width and purpose of any easements and driveway access to public right-of-way, existing or proposed.
 - (d) The area, before and after the property line adjustment, of each parcel.
 - (e) The proposed property lines and dimensions of each parcel.
 - (f) Existing and proposed utility services and stub locations, including water, sanitary sewer, drainage, power, gas and telephone.
 - (g) Adjacent rights-of-way with width shown. [Ord. 5886, 1/6/17]

*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: ****

- 11.140 Recording Requirements. Property line adjustments must meet the recording requirements of ORS Chapter 92 and be executed by deed.

Commentary:

The Expedited Land Divisions section has been combined with the new Middle Housing Land Divisions regulations and moved to the end of Article 11. See Sections 11.600 – 11.630.

EXPEDITED LAND DIVISIONS

- 11.145 ~~An expedited land division, as defined by ORS 197.360(1), provides an alternative to the standard review procedures for land divisions set forth in this Article and Article 1 – Administration and Procedures of the Albany Development Code. When an applicant requests and qualifies for an expedited land division, the application shall be processed as provided in ORS 197.360 through 197.380. [Ord. 5912, 7/11/18]~~

SUBDIVISIONS AND PARTITIONS

- 11.150 Difference Between Partitions and Subdivisions. A subdivision relates to the division of land into four or more lots within a calendar year. A partition relates to the division of land into two or three parcels within a calendar year. A partition does not include the three exclusions set forth in ORS 92.010 (7), including property line adjustments as described in Section 11.100 of this article.
- 11.160 Explanation of Process. Partitions and subdivisions are reviewed at two stages. A tentative plat is reviewed primarily for design aspects, such as connections to existing and future streets, preservation of natural features, drainage and floodplain considerations, and compliance with requirements of other portions of this Code. The tentative plat need not be prepared by a surveyor. The final plat is reviewed for conformance to the tentative plat as approved (with or without conditions) and applicable state or county laws or rules. The final plat must be prepared by a licensed land surveyor and is the instrument by which the land division is recorded.
- 11.170 Procedure.
- (1) ~~Except as provided in subsection (2), a~~ A tentative subdivision or partition plat is reviewed through the ~~Type III I-L procedure for 20 or more lots or for all cluster development.~~
 - (2) A tentative subdivision plat that is reviewed concurrently with a Planned Development or a Cluster Development is subject to the Type III procedure. All other tentative plats are reviewed through the Type I-L procedure.
 - (3) A final subdivision or partition plat is reviewed through the Type I procedure. [Ord. 5562, 10/10/03]
- 11.180 Tentative Plat Review Criteria. Approval of a tentative subdivision or partition plat, including for Planned Development, will be granted if the review body finds that the applicant has met all of the following criteria which apply to the development:
- (1) The proposal meets the development standards of the underlying zoning district, and applicable lot and block standards of this ~~Section~~ Article. [Ord. 5886, 1/6/17]
 - (2) Development of any remainder of property under the same ownership can be accomplished in accordance with this Code.

*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) Adjoining land can be developed or is provided access that will allow its development in accordance with this Code.
- (4) The Public Works Director has determined that transportation improvements are available to serve the proposed subdivision or partition in accordance with Article 12 or will be available at the time of development.~~The proposed street plan affords the best economic, safe, and efficient circulation of traffic possible under the circumstances.~~
- (5) The Public Works Director has determined that public facilities and utilities are available to serve the proposed subdivision or partition in accordance with Article 12 or will be made available at the time of development.~~The location and design allow development to be conveniently served by various public utilities.~~
- (6) Activities and developments within special purpose districts must comply with the regulations described in Articles 4 (Airport Approach), 6 (Natural Resources), and 7 (Historic), as applicable.
[Ord. 5764, 12/1/11]

11.190 Tentative Plat Conditions of Approval. The City may attach conditions of approval of a tentative subdivision or partition plat to ensure that the proposal will conform to the applicable review criteria.

11.200 Appeal of a Tentative Plat Decision. A decision to approve, approve with conditions, or deny a tentative subdivision or partition plat is a limited land use decision that may be appealed in accordance with the appeal procedures in Article 1.
[Ord. 5947, 1/01/21]

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:
 - (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.

*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) 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
 - (d) Slopes greater than 12 percent. [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.

*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, 12/01/11; 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 dwellings, 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:
 - (a) The names and addresses of all owners within 300 feet of the proposed land division.
 - (b) Total acreage in the subdivision and the percent of land dedicated to the public, not including easements.
 - (c) All public improvements proposed to be installed and the approximate time of installation including the method of financing.
 - (d) 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.
 - (e) An urban conversion plan for large acreage subdivisions. [Ord. 5562, 10/10/03]

11.220 Final Plat Review Criteria. Approval of a final subdivision or partition plat will be granted if the review body finds that the applicant has met the following criteria:

- (1) The final plat is in substantial conformance with the tentative plat.
- (2) Conditions of approval attached to the tentative plat have been satisfied.

11.230 Final Plat Submittal. A partition or subdivision final plat must include the following information:

- (1) The date, scale, north point, legend, and controlling topography such as creeks, ditches, highways, and railroad right-of-way.
- (2) Legal description of the tract boundaries and the City of Albany case file number of the subdivision or partition.
- (3) Name and address of the owner(s), subdivider, and surveyor.

*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) Reference points of existing surveys identified, related to the plat by distances and bearings, and referenced to a field book or map as follows:
 - (a) Stakes, monuments, or other evidence found on the ground and used to determine the boundaries of the land division.
 - (b) Adjoining corners of adjoining subdivisions.
 - (c) Other monuments found or established in making the survey of the land division or required to be installed by provisions of this Code.

- (5) National Geodetic Survey Control points as recorded in the County Surveyor's office; description and "ties" to such control points, to which all dimensions, angles, bearings and similar data on the plat shall be referred.

- (6) The location and width of streets and easements intercepting the boundaries of the tract.

- (7) The location of the 100-year floodplain for any body of water or natural drainageway (see Section 6.070), together with the method or source of such determination.

- (8) Lines with dimensions, bearings or deflection angles, radii, arcs, points of curvature and tangent bearings for tract, lot, and boundaries and street bearings shall be shown to the nearest second with basis of bearings. All distances shall be shown to the nearest one-hundredth foot.

- (9) The width of the portion of streets being dedicated, the width of any existing right-of-way and the width of each side of the center line. For streets that curve, curve data shall be based on the street center line and, in addition to center line dimensions, the radius, chord distance, bearing, and central angle shall be indicated.

- (10) Public utility and private easements, including access easements to the City of Albany for inspection and maintenance of approved private and/or public post construction stormwater quality facilities, clearly identified and, if already of record, their recorded reference. When possible, the bearing, and sufficient ties to locate the easement with respect to the land division, shall be shown. If the easement is being dedicated by the map, it shall be properly referenced in the owner's certificates of dedication. The purposes of easements shall also be identified.

[Ord. 5842, 1/01/15]

- (11) Lot numbers beginning with the number "1" and continuing consecutively through the subdivision. No block numbers or letters will be used unless the subdivision is a continued phase of a previously recorded subdivision of the same name that has previously used block numbers or letters.

- (12) Identification of land to be dedicated for any purpose, public or private, to distinguish it from lots or parcels intended for sale, the following phrasing shall be used when identifying open space dedications:
 - (a) Common Open Space - shall be used to identify those parcels of land created for the purpose of common ownership, enjoyment and maintenance by an approved homeowner's association group or is listed as being held in common ownership, with appropriate deed restrictions and responsibilities, by owners of property within the subdivision.
 - (b) Public Open Space - shall be used when identifying those parcels of land dedicated to the City of Albany for open space purposes.
 - (c) Open Space Easement - shall be used to identify that portion of a lot, or lots that have established an open space easement agreement with the City of Albany.

*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: ****

- (13) Special building setback lines (as may be required by this Code) and solar easements, if any, which are to be made a part of the subdivision's deed restrictions. These must be shown in writing on the face of the plat, not graphically shown.
- (14) The following certificates, which may be combined when appropriate. All signatures on the original subdivision or partition plat must be in permanent black India type ink.
 - (a) A certificate signed by the City Community Development Director certifying City approval.
 - (b) A certificate signed and acknowledged by all parties having record title interest in the land, consenting to the preparation and recording of the plat.
 - (c) A certificate signed and acknowledged as above, dedicating to the public all land shown on the final plat intended for public access, use, or benefit.
 - (d) A certificate signed by the surveyor responsible for the survey and final map, the signature accompanied by seal, attesting that applicable requirements of City, state and county requirements have been met.
 - (e) A certificate signed by the County Surveyor.
 - (f) Other certifications as appropriate.
- (15) Filing of separate legal documents to achieve any of the above requirements (1 through 14) may be permitted by the Director when it can be shown that placing such information on the final plat is not required to achieve the purposes of this code. When a separate legal document is filed describing a geographically based restriction (such as an easement) the described area shall be marked with colored ink (other than black) on the City copy. A description of or reference to any other restrictions attached to the land division approval shall also be noted on the City copy.
- (16) Supplementary Information.
 - (a) A copy of any deed restrictions.
 - (b) A copy of any dedication requiring separate documents.
 - (c) Legal documents conveying property to the City.
 - (d) Assurance satisfactory to the Director of Public Works that improvements installed by the subdivider will be in conformity with the standards of the City and that streets and pedestrian ways will be improved.
 - (e) Financial assurances for all required improvements per Article 12, Public Improvements.
 - (f) Boundary and lot closure computations and total area of each lot, parcel, and open space dedication, in square feet or acres.
 - (g) Title Report.
- (17) For subdivisions, all monumentation shall comply with standards established in ORS 92.060. Witness corners may be set when it is impractical or impossible to set a monument in its true position providing course and distance is given to the true position. All monuments shall be clearly identified with the surveyor's name or registration number. Unless waived by the Director of Public Works, the intersection of all street centerlines shall be monumented according to County specifications.

PLANNED DEVELOPMENTS

*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: ****

Commentary:

One of the concepts that was identified at PC/CC work sessions was to provide an option for subdividing cottage clusters so cottages can be on their own lots. The focus group attendees also expressed a need for more affordable options for first-time homebuyers and generally supported the characteristics of cottage cluster housing. Enabling individual ownership of cottage lots (“fee-simple” ownership), in addition to condominium ownership of cottages on a shared lot, provides a wider range of homeownership options. Initial concepts included creating a modified set of PD criteria to streamline the land division process for cottage clusters. However, now that SB 458 has been passed and provides an even more streamlined process for cottage cluster land divisions, this is no longer necessary. Still, the PD process will continue to provide a more flexible alternative to single-lot cottage cluster development or Middle Housing Land Divisions. For example, with a PD, a property owner could divide only one or two cottages onto their own lots, leaving the remaining cottages on the same lot—this flexibility is not provided under the state-prescribed Middle Housing Land Division standards. Also, the proposed PD amendments exempt cottage clusters from most of the open space requirements, provided they meet the common courtyard design standards in Article 8. This provides a simpler, less stringent option, particularly for smaller-scale cottage cluster developments.

- 11.240 Definition. A planned development is a master planned environment intended for a variety of related activities. It promotes an integrated, coordinated development of land, normally involving increased flexibility in use and design standards, with special incentives or restrictions on development. A planned development may be primarily residential uses with associated commercial uses, a mixed-use development, or it may be a commercial or industrial development.
- 11.250 Purposes. The purposes of a Planned Development are to:
- (1) Encourage more innovative planning that results in more desirable or sustainable environments or neighborhoods, improved protection of open spaces, transportation options, and site phasing of developments through the application of flexible and diversified land development standards than would otherwise occur under conventional land development procedures; and
 - (2) Facilitate the efficient use of land and resources in regard to land uses, buildings, circulation systems, natural features, energy conservations, open space and utilities. [Ord. 5832, 4/9/14]
- 11.260 Procedure. A planned development is processed in two steps. The first step is review of the planned development project design and land uses by the Planning Commission under the Type III procedure. The final approval is reviewed by the Director through the Type I procedure. [Ord. 5832, 4/9/14]
- 11.270 Permitted Buildings and Uses. The following buildings and uses are permitted individually or in combination in a planned development:
- (1) Residential areas:
 - (a) Accessory buildings and uses (permitted in combination with principal uses only);
 - ~~(b) Duplexes;~~
 - ~~(c)~~ (b) Dwellings, multiple-family;

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: ***

~~(d)~~(c) _____ Dwellings, single-family;

(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.

(2) Industrial areas:

(a) Any use allowed outright through Site Plan Review, or by Conditional Use approval in the underlying zone is permitted. Uses specified as Conditional Uses in the underlying zone are limited to 25 percent of the site except that additional amounts may be approved through the Conditional Use process. [Ord. 5947, 1/01/21]

(b) Up to 25 percent of the total site area may be occupied by retail and service establishments not otherwise permitted within industrial districts provided that at least an equal area of the development has been previously or simultaneously developed for other permitted uses.

(c) Up to 25 percent of the total site area may be occupied by office uses not pertinent to industrial uses within the development or otherwise permitted within the underlying zoning district.

(d) Office uses, services, and other accessory uses totally supported by other permitted uses are allowed in addition to the percentage amounts specified above.

11.280 Standards That May Be Modified. The following standards may be modified in order to create developments that are superior to those that could be developed through the conventional development and design standards:

(1) Development Standards. Except as noted in Table 11.330-1, minimum lot area, width and frontage, height and yard requirements (and for manufactured home parks, the manufactured home park standards in Article 10) will not be used to dictate the development but will act as general guidelines that may be adjusted to provide for a higher quality development.

(2) Design Standards. Except as noted herein, design standards in Article 8 may be modified through a planned development if the Adjustment criteria in ADC 2.080 are met. Design standards identified in ADC 8.000 as not being eligible for Adjustments are also not eligible for modification through a Planned Development.

(3)(2) Minimum Parking. Where the development provides common parking areas for adjacent uses, no minimum number of parking spaces will be required. It is the developer's responsibility to provide adequate off-street parking and loading areas. In proposing the parking areas, the developer shall provide the City with information on expected demand for parking, including trip generation for the uses that share the parking area.

(4)(3) Streets. Private streets may be constructed in a planned development. These streets may be narrower than usual where on-street parking is prohibited and where access is limited to pre-approved locations. Any private street in an industrial planned development must be constructed to public standards. All lots must be provided with direct access to a public or private street.

(5) Cottage Clusters. A cottage cluster project may be developed as a planned development (with a concurrent standard land division application) in order to provide the developer with flexibility in the number and configuration of units and lots. This is an alternative to the middle housing land division

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: ***

process under ADC 11.600-11.630. Cottage clusters that are divided as provided herein shall continue to be classified as Middle Housing.

11.290 Professional Design Team Required. An applicant for a planned development approval must certify in writing that a member of each of the following professions will be used in the planning and design process for the proposed development:

- (1) A licensed architect or professional designer;
- (2) A certified nurseryman, landscape architect, or landscape designer approved by the Director; and
- (3) A registered engineer or land surveyor.

11.300 Application Contents. A planned development proposal is reviewed in two stages. The following information is required to be submitted with each stage: [Ord. 5832, 4/9/14]

- (1) Preliminary planned development submittal requirements:
 - (a) Planned Development Program. A written statement outlining the following details: planning objectives to be achieved through the planned development; dwelling types and density; non-residential uses; lot layout; public and private access; parking; height of structures; lighting; landscaped areas and provisions for continued maintenance; water supply; sewage disposal; drainage; and areas devoted to various uses. This statement should include a description of the character of the proposed development and adjacent areas, discussion of how the proposed development will relate to the natural environment and significant natural resources of the site and adjacent areas.
 - (b) The location of existing and planned water, sewerage, and drainage facilities, including line sizes and how they will tie into existing facilities.
 - (c) The location of all existing and planned sidewalks, pedestrian paths, bike paths and where they will connect with existing facilities.
 - (d) The location and utilization of land uses and structures including public and/or private parks, open space or common areas.
 - (e) A tabulation of land area to be devoted to each use, and a calculation of the average residential density per acre, if applicable.
 - (f) A boundary survey or a certified boundary description by a licensed surveyor.
 - (g) Data, drawings, and/or elevations clearly establishing the scale, character and relationship of buildings, streets, and open space.
 - (h) Detailed building and landscaping plans and elevations.
 - (i) A transportation impact analysis, where required by the City Engineering Division of the Public Works Department.
 - (j) A development schedule for commencement and of construction, or a phasing schedule if phased development is proposed.
 - (k) If the development will be divided into different ownerships, any additional information generally required for a land division tentative plat approval and not required above.
 - (l) Other applicable Site Plan Review information in Section 2.490(5).

[Ord. 5832, 4/09/14; Ord. 5842, 1/01/15; Ord. 5947, 1/01/21]

Interim submittal requirement repealed per Ord. 5832, 4/09/14.

*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) Final submittal requirements in addition to the information on the approved preliminary plan:
 - (a) The character and location of signs.
 - (b) Plans for street improvements and grading or earth-moving plans.
 - (c) Any additional requirements of final land division submittal, if the land is to be divided.

[Ord. 5832, 4/09/14]

11.310 Preliminary Plan Submittal Review Criteria. A planned development request will be granted interim approval by the review body if the development meets the Site Plan Review criteria of Section 2.450, Section 2.455 (if applicable), and all of the following applicable criteria: in (1) through (7). [Ord. 5947, 1/01/21]

- (1) The increased flexibility in Code standards and permitted uses will result in an improved development for the City, the surrounding area, and users of the development as compared to strict compliance with Code provisions.
- (2) The project design results in a more efficient provision of open space or utilization of the natural features of the site.
- ~~(2)~~(3) The project design results in a more efficient utilization of materials and public resources including streets, utilities, and energy supplies.
- ~~(3)~~(4) Provisions will be established to ensure the continued maintenance of any common areas.
- ~~(4)~~(5) More usable and suitable recreational facilities and other common areas are provided than would normally be provided under conventional development standards.
- (6) The planned development satisfies the development standards in Section 11.330.
- ~~(5)~~(7) Proposals for land divisions satisfy the standards in Sections 11.090 and 11.180, except as modified by the proposed planned development.

[Ord. 5832, 4/9/14]

11.320 Conditions of Approval. The City may attach conditions of approval of a planned development to ensure that the proposal will conform to the applicable review criteria.

11.325 Phasing Planned Developments. The applicant may provide for development of the project in phases. Each phase shall provide a proportionate share of the development facilities and amenities as approved. See Section 1.310 for land use approval time periods. [Ord. 5832, 4/9/14; Ord. 5947, 1/01/21]

11.330 Planned Development Standards. In conjunction with standard requirements for setbacks and landscaped areas, the following standards apply to planned developments:

- (1) Open Space and Common Areas in Residential, Mixed-Use and other Non-Industrial Planned Developments. Open space or common areas shall be provided for common enjoyment. In all residential developments and mixed-use developments, except as provided in subsections (b) and (h), 25 percent of the gross land area shall be devoted to open space, outdoor living area or common areas as follows.
 - (a) Land that may be counted towards the open space requirement includes:
 - Natural resources accessible to the public;

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: ***

- Common recreational space or commonly enjoyed amenities accessible to residents, including indoor or rooftop amenities – the total square footage of indoor amenities will be subtracted from the total land area; and
 - Common landscaped areas and paths but excluding sidewalks and planter strips in the right-of-way.
- (b) If proposing less than 25 percent open space, the applicant must demonstrate that the amount of open space proposed is appropriate to the scale and character of the planned development and well located to serve the residents and public, with high quality improvements designed to address the enjoyment, safety, and comfort of users. In no case shall open space of less than 15 percent of the gross land area be approved.
- (c) Locations, shapes, sizes and other characteristics of open spaces shall be consistent with their proposed uses and the purposes of the planned development.
- ~~(b)~~(d) Land in the right-of-way may not count towards the open space requirement unless designed with larger planter strips to allow for mature trees, a multi-use path, or a landscaped median.
- ~~(e)~~(e) Side and rear yards may not count towards the minimum open space requirements. Front yards may count toward the open space requirements in residential developments if they are shared by more than one dwelling unit.
- ~~(f)~~(f) Outdoor open space or living areas required by this Article may be dedicated to the City provided the size and amount of the proposed dedication meets the criteria of the City for neighborhood parks by one-half and if the City agrees to accept the dedication. The square footage of land dedicated for public parks shall be deemed a part of the development site for the purpose of computing density.
- (g) Approved vegetated post-construction stormwater quality facilities are allowed in open space, outdoor living area and common areas. [Ord. 5832, 4/09/14; Ord. 5842, 1/01/15]
- ~~(e)~~(h) Cottage clusters are exempt from the 25 percent open space requirement and subsections (a) through (f); however, subsection (g) applies. Cottage clusters must meet the common courtyard standards in ADC 8.175(4), except as modified by the proposed planned development pursuant to subsection 11.280(2) or as modified through Adjustment review.
- (2) Natural Resources. The planned development shall provide for the protection of significant landscape features including Oak groves, heritage trees as defined by the Albany Municipal Code and land located within Albany’s natural resource overlay districts and any historic sites and landmarks. Natural and cultural resources shall integrate the proposed development with the environmental characteristics of the site and adjacent uses. [Ord. 5832, 4/9/14]
- (3) Underground Utilities. In any planned development, all electric and telephone facilities, fire alarm conduits, street light wiring, and other wiring, conduits and similar facilities shall be placed underground by the developer, unless allowed above ground by the review body.

Commentary:

Table 11.330-1 below regulates maximum residential density in Planned Developments. Density maximums are included here because minimum lot sizes can be modified as part of a PD. The proposed amendments are intended to recognize that middle housing can be included in a PD and that doing so

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: ***

may increase the density. However, the middle housing lots would need to meet the standards of the base zone.

- (4) Density. When calculating density of a proposed planned development, the gross area including streets and park land dedications shall be included, except for land in the Significant Wetland ~~and overlay district~~ and ~~Waterways overlay districts~~. The maximum density permitted per zoning district is outlined in Table 11.330-1 below. [Ord. 5947, 1/01/21]

TABLE 11.330-1. Maximum density permitted per zoning district.

	RS-10	RS-6.5	RS-5 & HM	RM	RMA	OS
Maximum dwelling units per acre*	4	6	8	25	35	1**

* In Middle Housing Zoning Districts, additional density to allow for middle housing may be permitted. Middle housing lot sizes shall not be less than the minimum lot size for the housing type in the applicable zoning district.

**Allows 1 residential unit per existing lot

[Ord. 5801, 2/13/13; Ord. 5832, 4/9/14; Ord. 5947, 1/01/21]

- (5) Building Spacing and Yard Requirements. The plan shall provide adequate building separation to allow for light, ventilation, and visual and acoustic privacy for residences and other structures. Fences, insulation, walks, barriers, and landscaping shall be used, as appropriate, for the protection and aesthetic enhancement of property and the privacy of its occupants, screening of objectionable views, and reduction of noise. [Ord. 5832, 4/9/14]
- (6) Building Locations. Taller buildings shall be located within the planned development in such a way as to avoid adverse impact on neighboring lower buildings and shall not invade the privacy of the occupants of adjacent lower buildings. [Ord. 5832, 4/9/14]
- (7) Perimeter Compatibility. The plan shall minimize adverse impacts of proposed uses and structures in the planned development on existing and anticipated uses and structures on adjacent properties and neighborhoods. The buffering and screening standards in Sections 9.210-9270 apply. If topographical or other physical barriers do not provide reasonable privacy and mitigation of potential adverse impacts on existing uses adjacent to the development, the development shall provide additional setbacks, buffering or screening between residential and non-residential uses. [Ord. 5832, 4/9/14]

11.340 Dedication and Maintenance of Facilities. The review body may, as a condition of approval for any planned development, require that portions of the tract or tracts be set aside, improved, conveyed, or dedicated for the following uses:

- (1) Parks or playgrounds set aside, improved, or permanently reserved for the owners, residents, employees, or patrons of the development.

*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) Whenever private common outdoor living area is provided, an association of owners must be created under state law. Owners of property within the development will automatically be members and will be assessed levies for maintenance of the outdoor living area. The period of existence of such association will be at least 20 years, and it will continue thereafter until a majority vote of the members shall terminate it.
- (3) Right-of-way width within the development must be maintained as private streets or be dedicated to the City when necessary in accordance with the Albany Comprehensive Plan. Other streets necessary to the proper development of adjacent properties may also be required to be dedicated. Streets must be constructed in accordance with city standards.
- (4) Easements necessary for the orderly extension of, maintenance of, or access to, public utilities.

11.350 Changes in the Approved Plan. Changes in the approved planned development may be made as long as they continue to meet the requirements of these provisions. Major changes, as determined by the Director, shall be reviewed by the Planning Commission using the Type III procedure. Minor changes shall be reviewed under the Type I procedure. [Ord. 5832, 4/9/14]

11.360 Revocation. In the event of failure to comply with approved plans, conditions of approval, stage development schedule; the Commission may, after notice and hearing, revoke a planned development permit. The determination of the Commission shall become final 30 days after the date of decision unless appealed to the City Council.

11.370 Failure to Adhere to Approved Plan, Satisfy Conditions, or Comply with Phased Development Schedule. Failure to comply with approved preliminary or final development plans, conditions of approval, or phased development schedule, shall constitute a violation of this ordinance as prescribed in Article 1.

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.

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 development or middle housing) planned development process. ~~A proposal for conversion of existing units into condominiums is reviewed through the Conditional Use process in conjunction with planned development requirements.~~ All condominium proposals must meet the appropriate requirements of ORS Chapter 100.

[Ord. 5947, 1/01/21]

CLUSTER DEVELOPMENT

11.400 Purpose. Cluster development is intended to protect and/or restore natural and other special features in the development of a site. In return, the more flexible standards found in this section may supersede other stricter standards of this Code. Cluster developments may provide greater flexibility, reduced and/or varied lot sizes, and more variety in permitted uses. Residential density may be transferred within the development in exchange for restoring degraded or marginal quality resources located in a Significant Natural Resource overlay district or for protecting natural or other special features of the site. Developments must satisfy high-quality master planning and design requirements.

[Ord. 5923, 2/8/19]

11.405 Optional Nature. Cluster development is an optional form of development. Cluster development proposals are reviewed as part of the land division, site plan, or Conditional Use application processes.

[Ord. 5947, 1/01/21]

*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: ****

- 11.410 Eligibility. To be eligible to apply for cluster development, all of the following are required:
- (1) Residential Zoning. The site must be located in a residential zoning district.
 - (2) Natural and Other Special Features. The site must contain one or more of the features listed in Section 11.460
 - (3) Professional Designer. An applicant for cluster development approval must certify in writing that a certified landscape architect, site planner, or landscape designer, approved by the Director, will be used in the planning and design process for the proposed development. [Ord. 5668, 4/11/07]
- 11.420 Relationship to Other Regulations. If the applicant chooses the cluster development option, and the site is deemed eligible by the City, these standards will supplement other provisions of this Code. For example, a subdivision proposed as a cluster development is also subject to other provisions of Article 11 of the Development Code. Other types of residential development are subject to Site Plan Review or Conditional Use review. These provisions apply to issuance of building permits in a cluster development and to ongoing uses and activities in a cluster development.
[Ord. 5562, 10/10/03; Ord. 5668, 4/11/07; Ord. 5947, 1/01/21]
- 11.430 Procedure. Cluster development proposals are reviewed as a Type III procedure.
[Ord. 5562, 10/10/03; Ord. 5668, 4/11/07]
- 11.440 Review Criteria. The review criteria for a cluster development are those that apply to a particular type of development. For example, the tentative plat criteria in Article 11 apply to cluster land divisions. (See Section 11.420 for relation to the other requirements.) Also, the review body must find that the application meets the following additional criteria~~on~~:
- (1) The proposed development meets all of the requirements for cluster development.
 - (2) The proposed development preserves or restores natural or other special features as identified and prioritized in ADC 11.460.
[Ord. 5562, 10/10/03; Ord. 5668, 4/11/07; Ord. 5764, 12/1/11; Ord. 5923, 2/8/19]
- 11.450 Natural Area Requirements. Cluster developments must provide a minimum of 20 percent of the site as permanent natural areas. Land designated as Open Space on the Comprehensive Plan or Zoning maps may not be used to fulfill this requirement.
[Ord. 5562, 10/10/03; Ord. 5668, 4/11/07; Ord. 5764, 12/1/11]
- 11.460 Designation of Permanent Natural Area. The required natural area may be public or private. The minimum 20 percent of the gross acreage of the development site set aside as natural area in a cluster development ~~shall~~ should be designated in the following priority order:
- (1) The first priority for natural area designation is significant tree groves identified on the South Albany Area Plan Organizational Framework map in the Comprehensive Plan (Figure 1), and Oregon White Oak (*Quercus garryana*) trees citywide equal to or greater than six and one-half feet in circumference (approximately 25-inches in diameter) measured as defined in Article 9.203(4). For individual trees, the natural area boundary is defined as the critical root zone (as defined in Article 9.203 (1)) plus a 10-foot buffer.
[Ord. 5801, 2/13/13; Ord. 5947, 1/01/21]
 - (2) The second priority for natural area designation is natural resources within the Significant Natural Resource overlay districts that are of degraded or marginal quality and subsequently restored to good quality in accordance with the quality levels in ADC Section 6.410(5). This priority shall be satisfied in the following order:
 - (a) Habitat for western painted and northwestern pond turtles within the Habitat Assessment Overlay (/HA), as identified by a turtle habitat assessment, that is restored to good quality.

*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: ****

- (b) Wetland within the Significant Wetland overlay district (/SW) that is restored to good quality.
 - (c) Riparian area within the Riparian Corridor overlay district (/RC) that is restored to good quality.
- (3) The third priority for natural area designation is protection of other environmentally sensitive areas, or natural and scenic features of the site. This priority shall be satisfied in the following order:
- (a) Good quality habitat for western painted and northwestern pond turtles near Thornton Lakes within the Habitat Assessment overlay (/HA) as identified by a turtle habitat assessment.
 - (b) Good quality wetland within the Significant Wetland overlay district (/SW).
 - (c) Good quality riparian area within the Riparian Corridor overlay district (/RC).
 - (d) Other wetlands not within the Significant Wetland overlay district, as shown on the City's Local Wetland Inventories, or by a delineation approved by the Oregon Department of State Lands.
 - (e) Existing channels identified in the most current version of the City of Albany Storm Water Master Plan.
 - (f) Springs.
 - (g) Land with natural slopes 12 percent or greater as designated by the Hillside Development overlay district (/HD).
 - (h) Wooded area with five or more healthy trees over 25 inches in circumference (approximately eight inches in diameter) measured as defined in Article 9.203(4), if approved by the City Forester.
[Ord. 5947, 1/01/21]
 - (i) Land that provides bike or walking trails that connect to existing or proposed parks or trails, inventoried natural features, or areas zoned Open Space; or areas otherwise protected as permanent natural areas.
 - (j) Incorporate public parks, trails, trailheads or open space designated in the Parks, Recreation and Open Space Plan, the North Albany Refinement Plan, and the South Albany Area Plan.
[Ord. 5801, 2/13/13]
 - (k) Other features of the site unique to Albany, if approved by the Director.
- (4) The fourth priority for natural area designation is to create “open spaces” in and around neighborhoods. This priority is satisfied by any of the following:
- (a) Continuity of adjacent open space corridors or parkways.
 - (b) A network of interconnected open space corridors.
 - (c) A buffer between neighborhoods.

11.470 Creation of Permanent Natural Areas.

- (1) Natural areas in a cluster development may be set aside and managed in one or more of the following ways:
 - (a) Portions of one or more individual lots; or
 - (b) Common ownership by residents of the development; or
 - (c) Third party (non-profit organization) whose primary purpose is to hold or manage the open space, subject to a reversionary clause in the event of dissolution of the non-profit organization; or
 - (d) Dedicated to City of Albany, if the City agrees to accept ownership and maintain the space.

*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) Except for Subsection (1)(d) above, natural areas shall be subject to restrictive covenants and easements reviewed by the Community Development Director and recorded and filed when the subdivision plat for the project area is recorded. Except when allowed in 11.480, an easement shall include permanent provisions prohibiting the placement of structures or impervious surfaces, alteration of the ground contours, or any other activity or use inconsistent with the purpose of these provisions. [Ord. 5562, 10/10/03; Ord. 5668, 4/11/07]

11.480 Protection of Permanent Natural Areas.

- (1) If any applicable overlay districts allow it, the development may encroach into permanent natural areas, only under the following circumstances:
- (a) Meets the requirements of all overlay districts in Articles 4, 6 and 7; and
 - (b) The encroachment is necessary to meet transportation, utility infrastructure requirements, or post construction stormwater quality requirements; or
 - (c) The encroachment is necessary to provide bike or walking trails that connect to existing or proposed parks or trails, inventoried natural features, or areas zoned Open Space or otherwise protected as permanent natural areas. [Ord. 5801, 2/13/13; Ord. 5842, 1/01/15]
- (2) Permanent alteration by grading may be authorized for the purpose of natural resource enhancement, such as wetland, riparian, or wildlife habitat restoration.
- (3) Significant wetlands, riparian corridors, and intermittent streams preserved as natural areas in a cluster development may be used for conveyance of storm waters only when the applicant has demonstrated that the discharge is compatible with the protection of the natural resource. These natural features shall not be used for drainage improvements, such as detention or retention ponds, or any other utility improvement necessary for development of the lots.
- (4) Areas set aside for permanent natural areas in a cluster development cannot be further subdivided.
- (5) Fences are permitted in and around the natural areas if consistent with the expressed purpose of the natural areas.
- (6) Provisions must be established to ensure the continued maintenance of areas designated as natural areas through Cluster Development. See Section 11.470. [Ord. 5562, 10/10/03; Ord. 5668, 4/11/07]

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

- (1) On development sites greater than 20 acres, up to 20 percent of the housing units in RS-6.5 and RS-10 may be ~~attached single-family or condominium housing~~ multi-family dwellings.
- (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. [Ord. 5947, 1/01/21]
- ~~(3) Within the South Albany Area Plan boundary, attached single-family and duplexes will be permitted in the RS-5, RS-6.5 and RS-10 zoning districts for up to 25 percent of the total units provided when transferring density within the Oak Creek Transition Area or when transferring density of the area necessary to preserve significant tree groves identified on the South Albany Area Plan Organizational Framework map in the Comprehensive Plan (Figure 1), and oak trees over 25 inches in diameter measured at 4.5 feet from the ground. Developments may not exceed the maximum density by zoning district in 11.495 and must meet~~

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: ***

all applicable standards in the Code. [Ord. 5801, 2/13/13]

Commentary:
 Similar to the Planned Development section, amendments to the table regulating maximum density in Cluster Developments are proposed in order to allow middle housing. See Table 11.495-1 below.

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

[Ord. 5923, 2/8/19; Ord. 5947, 1/01/21]

TABLE 11.495-1. Allowable dwelling units in density ranges per zone.

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

(1) In Middle Housing Zoning Districts, additional density to allow for middle housing may be permitted. Density for middle housing shall be based on the minimum lot size for the housing type in the applicable zoning district.

(1)(2) Lots on the perimeter of the cluster development shall meet the standards in 11.500.

(2)(3) Except, when lots are adjacent to existing development on the same side of the street, the setback shall be within 5 feet of the adjacent house(s) setback(s).

(4) The maximum lot coverage may be up to 100 percent for lots that provide land only for the building footprint.

(5) Allows 1 residential unit per existing lot.

[Ord. 5801, 2/13/13; Ord. 5947, 1/01/21]

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

(1) Standards. The term “standard minimum lot size” as used in this section, means the minimum lot size allowed in the underlying base zone without any reductions in size allowed elsewhere in this Code.

(a) When the proposed cluster development abuts developed property in a lower density residential zoning district, the size of lots on the perimeter of the proposed cluster development shall be at least the standard minimum lot size applicable to the proposed housing type that is allowed in the zone underlying the cluster development.

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: ***

Example:

<p>Proposed Cluster Development <u>RS-6.5</u> <i>Perimeter lots must be at least 6,500 sf</i></p>	<p>Abutting Property w/ Lower Density Residential <u>RS-10 Zoning</u></p>
---	--

- (b) When the proposed cluster development abuts developed property in the same residential zoning district as the proposed cluster development, the size of lots on the perimeter of the cluster development shall be at least 70 percent of the standard minimum lot size applicable to the proposed housing type that is allowed in of the underlying zoning district.

Example:

<p>Proposed Cluster Development <u>RS-10.0</u> <i>Perimeter lots must be at least 7,000 sf (70% of minimum lot size for underlying zoning)</i></p>	<p>Abutting Property w/ Same Residential Zoning: <u>RS-10</u></p>
--	--

(2) Exceptions. The Perimeter Lot Compatibility standards do not apply in the following cases:

- (a) Perimeter lots that are adjacent to land that is zoned for higher density housing, mixed-use or non-residential uses, or to residentially zoned property not in residential use (such as educational, institutional, religious or park uses).
- (b) Where the same property owner owns the property abutting the proposed cluster development or when the perimeter lots share a property line with the Urban Growth Boundary.
- (c) If a buffer area is created as a separate property along the perimeter and is at least 20 feet wide, the buffer area shall become a permanent natural area and shall meet the provisions in Sections 11.470 and 11.480.

Example:

<p>Cluster Development with Buffer Area <i>No minimum lot size required on perimeter</i></p>	<p>Buffer Area at least 20 feet wide</p>	<p>Any Residential Zoning</p>
--	---	--------------------------------------

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

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

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: ***

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

[Ord. 5562, 10/10/03; Ord. 5668, 4/11/07; Ord. 5947, 1/01/21]

- 11.520 Street Standards for Cluster Development. Local streets in a cluster development may be constructed to the Residential Street Design for Constrained Sites as described in Section 12.122(4). ~~If the City subsequently adopts street standards specifically designated for cluster development, those standards shall supersede and replace this section.~~
- 11.530 South Albany Connectivity. Developments within the South Albany Area Plan boundary shall provide a connected street and pathway network. [Ord. 5801 2/13/13]

EXPEDITED AND MIDDLE HOUSING LAND DIVISIONS

11.600 Expedited Land Divisions. Expedited land divisions are defined by ORS 197.360(1).

- (1) Eligibility Criteria. For an expedited land division application to be considered, the application must demonstrate how the proposed division complies with each of the following provisions:
- (a) The land is zoned for residential use and is within the urban growth boundary.
 - (b) The land is solely for the purpose of residential use, including recreational or open space uses accessory to residential use.
 - (c) The land division will not provide for dwellings or accessory buildings to be located on land that is specifically mapped and designated in the comprehensive plan and land use regulations for full or partial protection of natural features under the statewide planning goals that protect:
 - i. Open spaces, scenic and historic areas, and natural resources; or
 - ii. The Willamette River Greenway.
 - (d) The land division satisfies minimum street or other right-of-way connectivity standards established by the City's Transportation System Plan, Engineering Design Standards, Standard Construction Specifications, and Albany Development Code.
 - (e) The land division will result in development that either:
 - i. Creates enough lots or parcels to allow building residential units at 80 percent or more of the maximum net density permitted by the zoning designation of the site; or
 - ii. Will be sold or rented to households with incomes below 120 percent of the median family income for the county in which the project is built.
- (2) Tentative Plat Submittal. In addition to the items listed in ADC 11.210, an application for an expedited land division shall describe the manner in which the proposed division complies with each of the provisions in subsection (1) of this section.
- (3) Review Criteria. Approval of an expedited land division shall be based on the tentative plat review criteria in ADC 11.180.

*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) Tentative Plat Conditions of Approval. Expedited land division shall be subject to the same conditions of approval as a subdivision or partition (ADC 11.190).

11.610 Middle Housing Land Division. A middle housing land division is a partition or subdivision of a lot or parcel within a middle housing zoning district on which a middle housing project has been developed or approved for development under the provisions of this Code and ORS 197.758. Middle housing land divisions are regulated by this Code and ORS Chapter 92.

(1) Review Criteria. Approval of a tentative plat for a middle housing land division will be granted if the Director finds that the applicant has met all of the following criteria:

(a) The middle housing development complies with the Oregon residential specialty code and the applicable ADC middle housing regulations, including but not limited to, the provisions in the base zone and in Sections 8.110-8.175. To demonstrate compliance with this criterion, the applicant shall submit approved building permits demonstrating that existing or proposed structures comply with the Oregon Residential Specialty Code and ADC middle housing regulations.

(b) Separate utility service connections for public water, sewer, and stormwater will be provided for each dwelling unit.

(c) Easements will be provided as necessary for each dwelling unit on the site for:

i. Locating, accessing, replacing, and servicing all utilities;

ii. Pedestrian access from each dwelling unit to a private or public road;

iii. Any common use areas or shared building elements;

iv. Any dedicated driveways or parking; and

v. Any dedicated common area.

(d) Exactly one dwelling unit will be located on each resulting lot (referred to as middle housing child lots), except for lots or tracts used as common areas, on which no dwelling units will be permitted.

(e) Buildings or structures on a resulting child lot will comply with applicable building codes provisions relating to new property lines.

(f) Notwithstanding the creation of new child lots, structures or buildings located on the newly created lots will comply with the Oregon Residential Specialty Code.

(g) Where a resulting child lot abuts a street that does not meet City standards, street frontage improvements will be constructed and, if necessary, additional right-of-way will be dedicated, pursuant to ADC 12.140 and 12.200.

(2) Tentative Plat Submittal. In addition to the items listed in ADC 11.210, an application for a middle housing land division shall include the following:

(a) A description of the manner in which the proposed division complies with each of the provisions of subsection (1) of this section, including copies of approved building permits and other evidence necessary to demonstrate:

i. How buildings or structures on a resulting child lot will comply with applicable building codes provisions related to new property lines; and

ii. Notwithstanding the creation of new lots, how structures or buildings located on the newly created child lots will comply with the Oregon Residential Specialty Code.

(b) In addition to the items listed in ADC 11.210(1) – (20), copies of a plat showing the following details:

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. Separate utility connections for each dwelling unit, demonstrating compliance with approval criterion 11.610(1)(b).
- ii. Existing or proposed easements necessary for each dwelling unit on the plan, demonstrating compliance with the criterion 11.610(1)(c).
- (c) Copies of all required easements in a form approved by the City Attorney.

(3) Tentative Plat Conditions of Approval.

- (a) The City may attach conditions of approval of a tentative plat for a middle housing land division to:
 - i. Prohibit further division of the resulting child lots.
 - ii. Require that a notation appear on the final plat indicating:
 - The approval was given under ORS Chapter 92.
 - The type of middle housing approved on the subject site and noting that this middle housing type shall not altered by the middle housing land division.
 - Accessory dwelling units are not permitted on child lots resulting from a middle housing land division.
 - iii. Ensure that improvements associated with review criteria in ADC 11.610 are provided.
- (b) In accordance with ORS Chapter 92, the City shall not attach conditions of approval requiring that a child lot require driveways, vehicle access, parking, or minimum or maximum street frontage.
- (c) The tentative approval of a middle housing land division is void if and only if a final middle housing land division plat is not approved within three years of the tentative approval.

11.620 Tentative Plat Procedures for Expedited and Middle Housing Land Division. Unless the applicant requests to use the procedure set forth in ADC 11.170, the City shall use the following procedure for an expedited land division, as described in ORS 197.360, or a middle housing land division. An expedited or middle housing land division is not a land use decision or a limited land use decision under ORS 197.015 or a permit under ORS 215.402 or 227.160.

(1) Completeness Review.

- (a) If the application for an expedited or middle housing land division is incomplete, the City shall notify the applicant of exactly what information is missing within 21 days of receipt of the application and allow the applicant to submit the missing information. For purposes of computation of time, the application shall be deemed complete on the date the applicant submits the requested information or refuses in writing to submit it.
- (b) If the application was complete when first submitted or the applicant submits the requested additional information within 180 days of the date the application was first submitted, approval or denial of the application shall be based upon the standards and criteria that were applicable at the time the application was first submitted.

(2) Notice of Application.

- (a) On receipt of a complete application, written notice shall be provided to owners of property within 100 feet of the entire contiguous site for which the application is made and to any City Council-recognized neighborhood association(s) whose boundaries include the site. Notice shall also be provided to any agency responsible for providing public services or facilities to the subject site. The notification list shall be compiled from the most recent property tax assessment roll. For purposes of appeal to the referee under ORS 197.375, this requirement shall be deemed met when the City can provide an affidavit or other certification that such notice was given.

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: ***

- (b) The notice shall include the following information:
 - i. The deadline for submitting written comments;
 - ii. A statement that issues that may provide the basis for an appeal to the referee must be raised in writing prior to the expiration of the comment period; and
 - iii. A statement that issues must be raised with sufficient specificity to enable the City to respond to the issue.
 - iv. The applicable criteria for the decision.
 - v. The place, date, and time that comments are due.
 - vi. A time and place where copies of all evidence submitted by the applicant will be available for review.
 - vii. The street address or other easily understood geographical reference to the subject property.
 - viii. The name and telephone number of a City contact person.
 - ix. A brief summary of the local decision-making process for the land division decision being made.
- (3) There shall be a 14-day period to allow for submission of written comments prior to the Director's decision.
- (4) There shall be no public hearing on the application.
- (5) The Director shall make a decision to approve or deny the application within 63 days of receiving a completed application.
- (6) The Director's decision shall be based on applicable elements of the Albany Development Code and Comprehensive Plan. An approval may include conditions to ensure that the application meets the applicable land use regulations.
- (7) Notice of the decision shall be provided to the applicant and to those who received notice under subsection (2) within 63 days of the date of a completed application. The notice of decision shall include:
 - (a) A summary statement explaining the determination; and
 - (b) An explanation of appeal rights under ORS 197.375.
- (8) Failure to approve or deny application within specified time.
 - (a) Except as provided in subsection (b), if the City does not make a decision on an expedited or middle housing land division within 63 days after the application is deemed complete, the applicant may apply in the circuit court for the county in which the application was filed for a writ of mandamus to compel the City to issue the approval. The writ shall be issued unless the City shows that the approval would violate a substantive provision of the applicable land use regulations or the requirements of ORS 197.360. A decision of the circuit court under this section may be appealed only to the Court of Appeals.
 - (b) After seven days' notice to the applicant, the City Council may, at a regularly scheduled public meeting, take action to extend the 63-day time period to a date certain for one or more applications for an expedited or middle housing land division prior to the expiration of the 63-day period, based on a determination that an unexpected or extraordinary increase in applications makes action within 63 days impracticable. In no case shall an extension be to a date more than 120 days after the application was deemed complete. Upon approval of an extension, the provisions of ORS 197.360 to 197.380, including the mandamus remedy provided by subsection (a), shall remain applicable to the expedited or middle housing land division, except that the extended period shall be substituted for the 63-day period wherever applicable.
- (9) The applicant, or any person or organization that files written comments in the comment period established under subsection (3), may appeal the Director's decision within 14 days of the mailing of the decision notice

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: ***

and the appeal shall be based solely on allegations as listed in ORS 197.375(1)(c)(A) through (1)(c)(D) and shall be accompanied by a \$300 deposit for costs which is refundable if the appellant prevails.

- (10) The Director shall appoint a referee to decide the appeal decision and the appointed referee shall comply with ORS 197.375(3) through (6) when issuing a decision. The referee may not be a City employee or official.

11.630 Final Plat Requirements for Expedited and Middle Housing Land Division

- (1) Expedited Land Division - Final Plan Review Criteria. Approval of a final plat for an expedited land division shall be consistent with the review criteria for subdivisions and partitions (ADC 11.220).
- (2) Middle Housing Land Division - Final Plan Review Criteria. Approval of a final plat for a middle housing land division will be granted if the review body finds that the applicant has met the following criteria:
- (a) The final plat is in substantial conformance with the tentative plat.
- (b) Conditions of approval attached to the tentative plat have been satisfied.
- (c) All proposed improvements required to satisfy applicable standards of the ADC have been constructed.
- (3) Final Plat Submittal. An application for an expedited or middle housing land division final plat shall include the items listed in ADC 11.230.

*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:

The key Oregon Administrative Rules (OAR) provisions for middle housing relevant to Article 12 are:

- Standards for utilities and public facilities are considered “siting standards.” Middle housing must not be subject to more restrictive siting standards than single-family detached dwellings (SFDs), unless otherwise noted in the OAR.
- Exceptions to public works standards that are granted to SFDs must also be granted to all duplexes and to other middle housing created through the addition to, or conversion of, an existing SFD.
- Cities must apply the same off-street parking surfacing, dimensional, landscaping, access, and circulation standards to triplexes, fourplexes, and townhouses that apply to SFD.

Proposed amendments to the Public Improvements standards needed to comply with these OAR provisions include:

- **Access to Public Streets (12.100)** – Extend the same exemptions that apply to SFDs to duplexes and other middle housing that is created by converting or adding to an existing SFD. Also add references to new driveway design standards for triplexes, fourplexes, and townhouses in Article 8.
- **Local Residential Streets (12.122)** – Update Table 12.122-1 to clarify that middle housing is subject to the same street standards as single-family detached dwellings.
- **Right-of-Way Improvements (Sections 12.140, 12.200, and 12.290)** – Extend the same exemptions for SFDs related to dedicating right-of-way and constructing frontage improvements and sidewalks to middle housing.
- **Water and Sewer (12.420 and 12.480)** – In the current Code, one SFD is permitted on an existing lot with a private well system or private septic system. Per the OAR, duplexes must also be permitted on such lots. The OAR allows other middle housing types to be limited on lots lacking “sufficient infrastructure”—which includes connections to public water and sewer systems.

NOTE: No changes are proposed to the following sections: General Provisions, Street Trees, Bikeways, Utilities—General, Storm Drainage, and Improvement Assurances. Therefore, these sections are not included in the review materials.

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. [Ord. 5947, 1/01/21]

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

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: ***

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

[Ord. 5673, 6/27/07]

GENERAL PROVISIONS

STREETS

12.090 Creation of Access Easements. Except for lots created by a middle housing land division, Creation of easements to provide access to the public street system shall be approved when the applicant has demonstrated that all of the following criteria have been met:

- (1) No more than two residentially zoned parcels or uses will be served by the proposed access easement; [Ord. 5947, 1/01/21]
- (2) There is not enough room for a public right-of-way due to topography, lot configuration, or placement of existing buildings; and
- (3) The City Engineer has determined that there is no need for a public street in this location.

12.100 Access to Public Streets. With the exceptions noted in Section 1.105, 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:

[Ord. 5947, 1/01/21]

(1) Approaches and driveways to City streets and alleys must be paved and constructed in accordance with the Standard Construction Specifications. Driveways serving more than one property shall be paved the full length of the shared portion. [Ord. 5720, 08/12/2009]

(2) Driveways for single-family detached dwellings and middle housing and two-family dwellings must have a minimum width of 10 feet and a maximum width of 24 feet (not to exceed the width of the driveway curb cut) and minimum separation of 5 feet. 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.

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: ***

~~Up to four multiple family units that front on a public street may have separate driveways. The driveways shall meet the same standards as for single and two family dwellings.~~

Driveways for all other uses must have widths of 12-16 feet for one-lane (one-way) driveways, 24-32 feet for two-lane driveways, and 36 feet for three-lane driveways. Three-lane driveways must have designated lanes and turning movements. Industrial driveways shall have a width of 24-48 feet. There must be a minimum separation of 22 feet between all driveways except for single- and two-family dwellings, and multi-family dwellings of four units or less. The width of a driveway will be determined by measuring at the curb line and will exclude the transitions which must conform to standards fixed by the City Engineer. [Ord. 5947, 1/01/21]

- (3) All driveways must be located as far as practical from a street intersection, and in no instance shall the distance from an intersection be less than the following, as measured from the nearest curb return radius:

Arterial Street	40 feet
Collector Street	20 feet
Local Street	10 feet

At intersections with bulb-outs or post-construction stormwater quality curb extensions incorporated into the curb return the measurement will be made from the nearest curb return radius. When different classes of streets intersect, the distance required is between an access point and the intersection of the street type that requires the greater distance. [Ord. 5842, 1/01/15]

- (4) The location, width, and number of accesses to a public street may be limited for developments that are subject to land use review. [Ord. 5947, 1/01/21]
- (5) Access points to a public street shall be the minimum necessary to provide reasonable access while not inhibiting the safe circulation and carrying capacity of the street. [Ord. 5720, 8/12/2009]
- (6) Properties with frontage on more than one street may be restricted to access on the street(s) of a lower classification through site plan, land division, or other review procedures.
- (7) A common access point at a property line is encouraged and may be required in order to reduce the number of access points to streets. Construction of common access points must be preceded by recording of joint access and maintenance easements.
- (8) ~~With the exception of single family residential development, a~~ Driveways shall comply with applicable fire and building codes. Approach grades must not exceed 10 percent slope within 20 feet of a public street, except as specified below. ~~Driveways for single family residential development shall comply with applicable fire and building codes.~~
- (a) Residential driveways serving four (4) or fewer units may exceed the maximum slope specified above.
- (9) Access to designated state highways is subject to the provisions of this Article in addition to requirements of the State Highway Division and State Department of Transportation. When regulations of the City and State conflict, the more restrictive requirements apply.
- (10) For developments on property larger than five acres in contiguous ownership fronting on an arterial street or limited access highway, a frontage road may be required in order to provide a single access determined by the review body to be the most appropriate location for safety and convenience.
- (11) When access is allowed on an arterial street, efforts shall be made to locate it adjacent to the interior property line where it could be shared by the adjacent property.

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. 5338, 1/28/1998; Ord. 5445, 4/12/2000]

12.122 Local Residential Streets. There are two classes of local streets, based on projected traffic volumes. The applicant is responsible for demonstrating that each proposed street is designed for the appropriate traffic volume.

TABLE 12.122-1. Summary of local street design standards.

SUMMARY OF STREET DESIGN STANDARDS	SINGLE-FAMILY <u>AND MIDDLE HOUSING</u> DEVELOPMENT			MULTI-FAMILY 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'
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

[Ord. 5445, 4/12/2000; Ord. 5562, 10/10/2003; Ord. 5947, 1/01/21]

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 detached~~ and two-family 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.

[Ord. 5947, 1/01/21]

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 detached home or middle housing duplex on an existing lot.

[Ord. 5886, 1/6/17]

*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 future improvement assurance, as described in Section 12.600, may be accepted by the City when the City Engineer determines that the street improvement would not be timely. [Ord. 5338, 1/28/1998]

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 detached houses and middle housing units ~~duplexes~~ if they are located on arterial or collector streets or on curbed local streets, if there is an existing sidewalk within 500 feet on the same side of the street. [Ord. 5947, 1/01/21]

Sidewalks shall be built when arterial and collector streets are constructed and at the discretion of the City Engineer during their reconstruction. This provision shall also apply to local streets that serve commercial and multi-family development. Sidewalks are required on both sides of all streets. If an interim street standard is being constructed which does not include bike lanes or sidewalks, interim bikeways or walkways for pedestrians shall be provided by paved roadway shoulders at least 8 feet wide on arterials and 6 feet on other streets. Provision of sidewalks may be waived when the street serves a use or combination of uses that generate fewer than 50 trips a day (based on ITE standards) and cannot be continued or extended to other properties. [Ord. 5445, 4/12/2000]

WATER

- 12.410 When Public Water is Available. All new development, including a single-family 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 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.

SANITARY SEWERS

- 12.470 When Public Sewer is Available. All new development must extend and connect to the public sewer system when service is available within 300 feet of the property.
- 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 detached dwelling 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 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 13¹

SIGNS

Commentary:

The Code currently allows multi-family developments to have a “neighborhood” sign. Cottage clusters are classified as multi-family under the current multi-family definition but are proposed to be reclassified as middle housing. To maintain the current sign allowance for this housing type, cottage cluster has been added to the list of uses that qualify for a neighborhood sign per Section 13.560. Because no other changes are proposed, all other sections of Article 13 have been omitted from the materials.

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

13.560 Neighborhood Signs. For subdivisions, multiple-family 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 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.

¹ Entire article replaced with Ordinance 5909, June 27, 2018.

Expanding Housing Options – 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 the Use Categories and Definitions in Article 22 include the following:

Use Categories – The substantive changes are to the Residential Use Categories. Create a new middle housing use category and modify the other use categories as necessary to reflect this change. Minor changes to the wording of the “Daycare Facility category” (in Institutional uses) are proposed for consistency. No changes are proposed to the Industrial Use Categories, Commercial Use Categories, or Other Use Categories.

Definitions:

- Revise the definitions of duplex, triplex, fourplex, and townhouse to be consistent with Oregon Administrative Rules (OAR 660-046; “the OAR”) and to reference Middle Housing Land Divisions (see additional comments below).
- Consolidate the townhouse definition with the existing definition of “dwelling, single-family attached”.
- Create a new definition for cottage cluster that is consistent with the OAR.
- Update the definition of “dwelling, multiple family” to exclude triplexes, fourplexes, and cottage clusters.

Additional amendments are proposed for consistency within the Code and to add definitions where needed for new middle housing standards.

In addition, new definitions are proposed to reflect the new Middle Housing Land Division provisions in Article 11, which implement the requirements of Senate Bill 458 (signed into law in June 2021).

NOTE: Only those use categories and definitions which are proposed to be amended or which are particularly pertinent to the amendments have been included in the materials.

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

Expanding Housing Options – 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 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
- 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 Detached and; Two Family Detached Units
- 22.285 Middle Housing
- 22.300 Multiple Family: ~~Three~~ 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

[Ord. 5742, 7/14/10]

Expanding Housing Options – 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: ****

22.020 Description of Use Categories.

- (1) Considerations. Uses are assigned to the category whose description most closely describes the nature of the primary use. Each use category is described and defined. Developments may have more than one primary use. Developments may also have one or more accessory uses. The following are considered in determining what category the use is in, and whether the activities constitute primary uses or accessory uses:
 - The description of the activity(ies) in relationship to the characteristics of each use category;
 - The relative amount of site or floor space and equipment devoted to the activity;
 - Relative amounts of sales from each activity;
 - The customer type for each activity;
 - The relative number of employees in each activity;
 - Hours of operation;
 - Building and site arrangement;
 - Vehicles used with the activity;
 - The relative number of vehicle trips generated by the activity;
 - Signs;
 - How the use advertises itself; and
 - Whether the activity would be likely to be found independent of other activities on the site.

- (2) Developments with multiple primary uses. When all of the primary uses of a development fall into one use category, the development is assigned to that use category. For example, a development that contains a retail bakery and a café would be classified in the Retail Sales and Service category because all of the primary uses are in that category. When the primary uses of a development fall into different use categories, each primary use is classified in the applicable category and is subject to the regulations for that category.

- (3) Accessory Uses. Accessory uses are incidental to the primary use category and may contribute to the comfort, convenience, or necessity of the principal use. Examples of accessory uses include but are not limited to storage, employee and customer parking, and employee facilities. These uses are allowed by right in conjunction with the use unless stated otherwise in the regulations. Unless otherwise stated, they are subject to the same regulations as the primary use. [Ord. 5742, 7/14/10]

Lists of accessory uses were deleted from the use categories in Sections 22.030 to 22.370 by Ord. 5742, adopted 7/14/10].

- (4) Use Examples. The “Use Examples” subsection of each use category provides a list of examples of uses that are included in the category. The names of uses on the lists are generic. They are based on the common meaning of the terms and not on what a specific use may call itself. For example, a use whose business name is “Wholesale Liquidation” but that sells mostly to consumers would be included in the Retail Sales and Service category rather than the Wholesale Sales category. This is because the actual activity on the site matches the description of the Retail Sales and Service category.

INDUSTRIAL USE CATEGORIES

INSTITUTIONAL USE CATEGORIES

22.200 Daycare Facility.

Expanding Housing Options – 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: ****

- (1) A daycare facility is defined in Oregon Revised Statutes (ORS) as a “child care” or “adult care” facility that provides regular care, supervision and guidance in a place other than the child’s or adult’s home, is operated with or without compensation, and is certified by the state for the care of children, teenagers or adults who need assistance or supervision for a portion of the day. [Ord. 5742, 7/14/10]
- (2) Use Examples. Types of uses include, but are not limited to: day nurseries or daycare centers, nursery schools, preschools, before- and after-school care facilities, child development centers and adult care programs that do not provide 24-hour care. [Ord. 5742, 7/14/10]
- (3) Exceptions.
 - (a) Daycare Facility use does not include home based care given by the parents, guardians, or relatives of the children, or by babysitters; or by a person who cares for children from only one family other than the person’s own family; or by a person who cares for no more than three children other than the person’s own children, or as noted in ORS 657A.250.
 - (b) Daycare Facility use also does not include care given by a “registered or certified family child care home” provider as defined by ORS 657A.440 if the care is given to no more than 16 children at any one time, including the children of the provider. ~~Family child care homes are single-family dwellings in residential, mixed-use and commercial districts.~~ These homes may require a license from the State of Oregon Children's Services Division.
 - (c) Daycare Facility use does not include a facility that primarily provides education to a pre-school child or that is operated by a school district.
 - (d) Residential care, treatment, or training facilities for six or more individuals on a 24-hour basis are classified as a Residential Care or Treatment Facility. Care for five or fewer individuals are group or residential care homes, which are considered ~~single-family~~residential dwellings. Refer to ORS443.400 to 443.455. [Ord. 5742, 7/14/10]

RESIDENTIAL USE CATEGORIES22.260 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. [Ord. 5742, 7/14/10]
- (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 ~~single-family homes~~ residential dwellings per ORS

Expanding Housing Options – 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: ***

197.665.

- (b) A registered or certified family ~~child care home~~ or adult foster care or treatment homes, where residential care is provided in a homelike environment for five or fewer non-related individuals are considered a residential use of property and shall be permitted in areas zoned for residential or commercial purposes (per ORS 197.665 and ORS 657A.440) ~~classified under Single-Family and Two-Family Homes.~~
- (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 Detached, Two Detached Units, Middle Housing ~~and Two-Family~~, or Multi-Family ~~Three or More~~ Units.
- (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.

[Ord. 5742, 7/14/10]

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.

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

- (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 Detached, Two Detached Units, Middle Housing, ~~and Two-Family~~ or Multi-Family ~~Three or More~~ Units.
 - (b) Lodging where tenancy may be arranged for periods of less than one month is considered a hotel or motel use and is classified in the Retail Sales and Service category. However, in certain situations, lodging where tenancy may be arranged on a short-term basis may be classified as a Community Service use (such as short-term housing or homeless shelters).

[Ord. 5742, 7/14/10]

22.280 Single-Family Detached and Two-Family Detached Units.

- (1) Single-family 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. ~~Single units may be attached or detached, with the opportunity to be owner-occupied. A two-family unit (duplex) is a building with two separate households, on the same property.~~ [Ord. 5742, 7/14/10]
- (2) Use Examples. Single-family detached units, two detached units ~~duplexes~~, manufactured homes, and child and adult care or treatment homes for five or fewer individuals ~~housing, and other structures with self-contained dwelling units on individual lots.~~

Expanding Housing Options – 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) 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.

[Ord. 5894, 10/14/17]

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.
- (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.
- (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.
- (c) With the exception of a cottage cluster, any lot with five or more dwelling units is classified as Multiple Family.

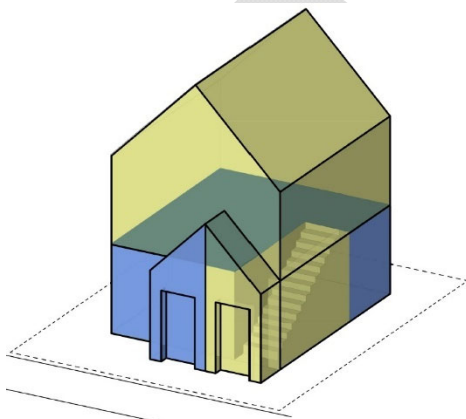


Figure 22.285-1. Stacked Duplex

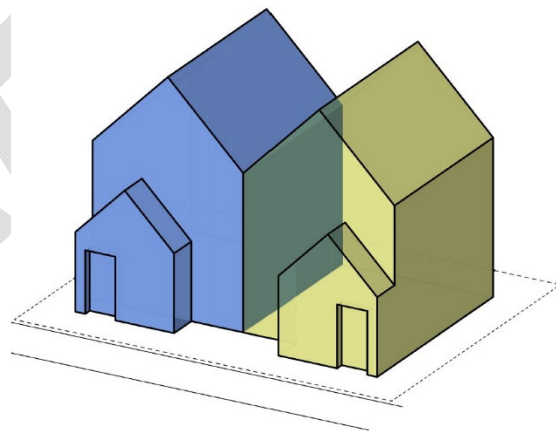


Figure 22.285-2. Side-by-Side Duplex

Expanding Housing Options – 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: ***



Figure 22.285-3. Duplex Attached by Breezeway

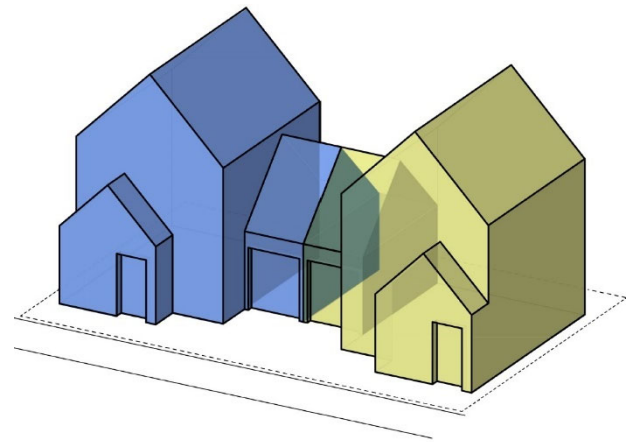


Figure 22.285-4. Duplex Attached by Garage Wall



Figure 22.285-5. Triplex Front and Back.

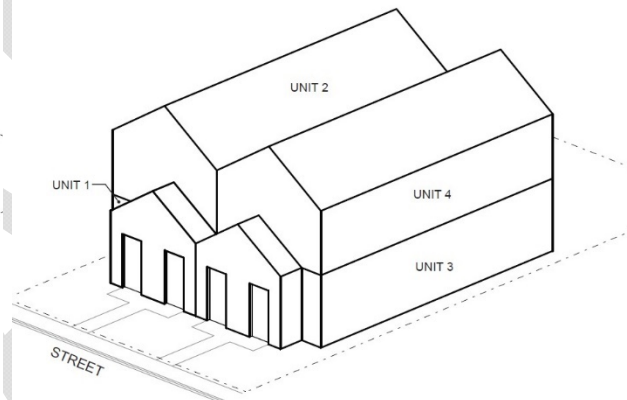


Figure 22.285-6. Stacked Fourplex.

22.290 Deleted per Ord. 5742, adopted on July 14, 2010.

22.300 Multiple Family: ~~Three~~ Five or More Units.

- (1) A Multiple-Family development is ~~three~~ five or more dwelling units on one property or development site, attached or detached, including a building or collection of buildings, and excluding Middle Housing, ~~under single or common ownership designed and used for occupancy by three or more families, all living independently of each other, and having separate housekeeping facilities for each family.~~ Residential developments of three to four units are also classified as Multiple Family if the development cannot otherwise be classified as Middle Housing.

[Ord. 5742, 7/14/10; Ord. 5801, 2/13/13]

- (2) Use Examples. ~~Three~~ Five or more detached dwelling units on one property (excluding cottage clusters), ~~triplexes, fourplexes,~~ single-room occupancy development, a building containing ~~three~~ five or more dwelling units in any vertical or horizontal arrangement often called an apartment building, condominiums, and any other similar configuration of ~~3~~ five or more units on one property or development site.

[Ord. 5801, 2/13/13]

Expanding Housing Options – 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) Accessory Uses. Accessory uses commonly found are recreational activities, raising of pets, hobbies, and parking of the occupants' vehicles. Home occupations, ~~accessory dwelling units~~, and bed and breakfast facilities are accessory uses that are subject to additional regulations.
- (4) Exceptions.
 - (a) Lodging in a dwelling unit or Single Room Occupancy (SRO) unit where less than two-thirds of the units are rented on a monthly basis is considered a hotel or motel use and is classified in the Retail Sales and Service category.
 - (b) 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]
 - (c) 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. [Ord. 5894, 10/14/17]
 - (d) Cottage clusters are a type of Middle Housing and are not considered Multiple-Family development.

22.310 Unit(s) Above or Attached to a Business.

- (1) One or more residential dwelling units located above, behind or contiguous to a business or office on the ground floor(s), where the business has street frontage. [Ord. 5742, 7/14/10]
- (2) Use Examples. Apartments, condominiums, retirement center apartments, and other structures with self-contained dwelling units located above a business.
- (3) Exceptions.
 - (a) Lodging in a dwelling unit or Single Room Occupancy (SRO) unit where less than two-thirds of the units are rented on a monthly basis is considered a hotel or motel use and is classified in the Retail Sales and Service category.
 - (b) SROs that contain programs that include common dining are classified as a Group or Residential Care Home or Residential Care or Treatment Facility.
 - (c) Live/work dwelling units in which the dwelling unit and the business are internally connected without passing through a common area are considered to have multiple primary uses, with the residential and non-residential uses each subject to the regulations for their respective use categories. [Ord. 5894, 10/14/17]

22.320 Residential Accessory Buildings.

- (1) A detached building that is subordinate to and consistent with the principal use of the property located on the same property as the principal dwelling. Residential accessory buildings are permitted in residential and mixed-use zones if they meet the following standards:
 - (a) Detached residential accessory buildings (other than Accessory Dwelling Units, which are addressed below), garages, and carports are allowed outright if they are less than 750 square feet and have walls equal to or less than eleven feet in height. Larger buildings may be permitted through Site Plan Review, refer to the following standards:
 - In residential zoning districts in Article 3, refer to Section 3.080(9).
 - In commercial or industrial zones in Article 4, refer to Section 4.060(21).
 - In mixed-use zones in Article 5, refer to Section 5.070(18).
 - (b) Accessory Dwelling Units have special conditions in Articles 3 and 5, Sections 3.080(4) and 5.070(15) respectively.

Expanding Housing Options – 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. 5742, 7/14/10; Ord. 5947, 1/01/21; Ord. 5949, 1/01/21]

OTHER USE CATEGORIES

DEFINITIONS

Commentary:

NOTE: Only those definitions which are proposed to be amended or which are particularly pertinent to the amendments have been included in the materials.

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

Bed and Breakfast Home: An owner-occupied single-family detached dwelling that provides temporary lodging and breakfast for compensation. [Ord. 5742, 7/14/10]

Cluster Development: A development design technique that concentrates buildings in specific areas on a site to allow remaining land to be used for recreation, common open space, or the preservation of environmentally or historically sensitive features. See Article 11, Sections 11.400 through 11.530.

[Ord. 5742, 7/14/10; Ord. 5947, 1/01/21]

Common Courtyard: A common area for use by residents of a cottage cluster or other type of residential development. A common courtyard may function as a community yard. Hard and soft landscape features may be included in a common courtyard, such as pedestrian paths, lawn, groundcover, trees, shrubs, patios, benches, or gazebos.

Common Wall: A wall or set of walls in a single structure shared by two or more dwelling units. The common wall must be shared for at least 25 percent of the length of the side of the building of the dwelling units. The common wall may be any wall of the building, including the walls of attached garages.

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

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

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 or single-family 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.

Cottage Cluster Project: A development site with one or more cottage clusters. Each cottage cluster as part of a cottage cluster project must have its own common courtyard.

Expanding Housing Options – 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: ***

Courtyard: A landscaped area enclosed by two or more walls. A “common courtyard” within a cottage cluster does not need to be enclosed by two or more walls.

Density, Gross: The number of living units or jobs per gross acre of land (for example, units/acre or jobs/acre). [Ord. 5742, 7/14/10]

Density, Net: The average number of dwelling units per net acre of land, which is calculated by taking the total gross acreage and subtracting the area in the right-of-way for streets and roads and any undevelopable areas such as water bodies and open space. [Ord. 5742, 7/14/10]

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

Commentary:
 With Senate Bill 458, cities must allow middle housing to be divided so that each unit is on its own lot. SB 458 also says that following a “middle housing land division,” the type of housing remains the same— e.g., a fourplex will remain a fourplex (and won’t become townhouses), even if each unit is now on its own lot. To recognize this allowance, the definitions of duplex, triplex, and fourplex have been updated to indicate that units may be on separate lots where a middle housing land division has been approved.

Duplex: A single detached building containing two dwelling units. Both dwelling units are located on a single lot, except where a middle housing land division has been approved. ~~under single or common ownership designed or used exclusively for the occupancy of two families living independently of each other and having separate housekeeping facilities.~~

[Ord. 5801, 2/13/13]

Commentary:
 The names of the housing types below have been reordered so that “Dwelling” no longer comes first (e.g., renamed as “Multiple Family Dwelling,” “Single-Family Dwelling,” etc.). Accordingly, the terms have been moved into the appropriate alphabetical order. See below.

~~Dwelling, Multiple Family: Three or more units on one property or development site, attached or detached, including a building or collection of buildings under single or common ownership designed and used for occupancy by three or more families, all living independently of each other, and having separate housekeeping facilities for each family.~~ [Ord. 5742, 7/14/10; Ord. 5801, 2/13/13]

Expanding Housing Options – 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: ***

~~Dwelling, Single-Family Detached: A building designed or used exclusively for the occupancy of one family and having housekeeping facilities for only one family on one property. [Ord. 5742, 7/14/10]~~

~~Dwelling, Single-Family Attached: A dwelling for one family located on an individual lot that is joined horizontally to another dwelling at one or more sides by a party wall or walls, lot, also known as a zero-lot-line dwelling, townhouse, or row house. [Ord. 5742, 7/14/10]~~

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

Façade: The plane of a wall of a structure that is visible from one side or perspective. [Ord. 5742, 7/14/10]

Façade, Front: The walls or any part of an exterior wall or elevation on a building that faces a public street. [Ord. 5742, 7/14/10]

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

Floor Area Ratio: The ratio of gross floor area of all structures on a lot to total lot area. [Ord. 5742, 7/14/10]

Fourplex: A single ~~structure~~ detached building containing four dwelling units. All dwelling units are located on a single lot, except where a middle housing land division has been approved. [Ord. 5801, 2/13/13]

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

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

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 detached dwellings. See Oregon Revised Statutes Chapter 443. [Ord. 5742, 7/14/10]

Household: Person or persons who live together in one dwelling unit [Ord. 5742, 7/14/10]

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 detached and middle housing development shall only include the area of the lot covered by buildings

Expanding Housing Options – 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: ****

or structures.

[Ord. 5768, 12/7/11]

Lot, Depth: The horizontal distance from the midpoint of the front lot line to the midpoint of the rear lot line excluding any “panhandles.”

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

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

Main Entrance: The entrance to a building that most pedestrians or customers are expected to use. Generally, each building has one main entrance. [Ord. 5742; 7/14/10]

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

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

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

Manufactured Home Subdivision: A subdivision developed under the provisions outlined in Article 11 in this Code and that meets the standards for conventional subdivisions as prescribed by State Statutes and this Code. Manufactured home subdivisions are designed for the sale of lots for residential occupancy by manufactured homes.

Middle Housing: A class of housing types that includes duplexes, triplexes, fourplexes, townhouses, and cottage clusters.

Middle Housing Child Lot: A unit of land created from the division of a middle housing parent lot through a middle housing land division.

Middle Housing Land Division. A partition or subdivision of a lot or parcel on which the development of middle housing is allowed under ORS 197.758 (2) and the partition or subdivision is processed in accordance with the provisions of ORS Chapter 92 and ADC 11.610 – 11.630. The lot or parcel that is the subject of the land division is referred to as the middle housing parent lot; a lot created by the division is referred to as a middle housing child lot.

Expanding Housing Options – 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: ***

Middle Housing Parent Lot: A lot or parcel that is developed, or proposed to be developed, with middle housing, and which may therefore be further divided through a middle housing land division to create middle housing child lots.

Middle Housing Zoning District. A zoning district in which residential dwellings are the primary use and single-family 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 District
- RS-6.5 Residential Single-Family District
- RS-5 Residential Single-Family District
- HM Hackleman-Monteith District
- RM Residential Medium Density District
- MUR Mixed Use Residential District
- MUC Mixed Use Commercial District

Mobile Home: See “Manufactured Home.”

Multiple Family Development: See Dwelling, Multiple Family. Five or more dwelling 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 defined as Multiple Family if the development cannot otherwise meet the definition of Middle Housing.

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

Single-Family Detached Dwelling: 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 detached dwellings for the purposes of this Code.

Single-Room Occupancy Dwellings: A building, that has separate sleeping and living quarters for four or more individuals that provides a common kitchen facility. For purposes of this Code, density shall be calculated as one unit for every 2 rooms or fraction thereof. [Ord. 5801, 2/13/13]

Subdivide Land: To divide a land into four or more lots within a calendar year. [Ord. 5742, 7/14/10]

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

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

Expanding Housing Options – 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: ***

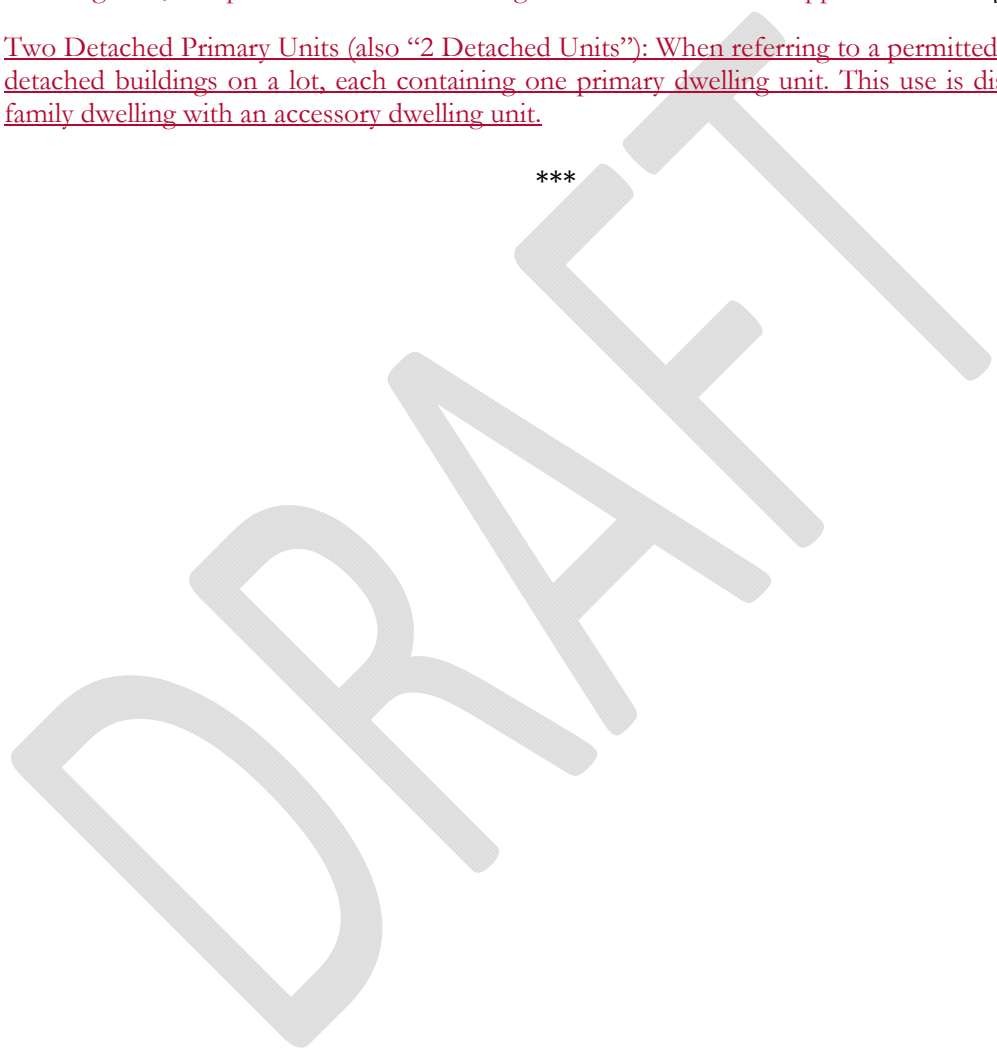
rowhouses, and zero-lot-line houses.

[Ord. 5742, 7/14/10]

Townhouse Project: One or more townhouse structures constructed, or proposed to be constructed, together with the development site where the land has been divided, or is proposed to be divided, to reflect the townhouse property lines and any commonly owned property.

Triplex: A single ~~structure~~ detached building containing three dwelling units. All dwelling units are located on a single lot, except where a middle housing land division has been approved. [Ord.5801, 2/13/13]

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 with an accessory dwelling unit.





COMMUNITY DEVELOPMENT

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

Staff Findings and Conclusions

Albany Comprehensive Plan and Development Code Text Amendments

CP-03-21 and DC-02-21

November 18, 2021

HEARING BODIES:	Planning Commission	City Council
HEARING DATES:	Monday, November 1, 2021	Wednesday, December 1, 2021
HEARING TIMES:	5:15 p.m.	6:00 p.m.
VIRTUAL OPTIONS:	Both hearings will be conducted virtually per the instructions below.	
	<ul style="list-style-type: none"> • Planning Commission: https://www.gotomeet.me/CommunityDevelopmentCityofAlbany/pc To join the Planning Commission meeting by phone, call 1-571-317-3122; access code 498-239-709 • City Council: Go to www.cityofalbany.net/calendar, City Council Meeting, and select “join meeting remotely”. Council Livestream: http://www.cityofalbany.net/livestream 	

Executive Summary

The Community Development Department is requesting legislative amendments to the Albany Comprehensive Plan and the Albany Development Code (ADC) to allow middle housing types where required by House Bill 2001, middle housing land divisions per Senate Bill 458, provide clear and objective path for residential developments, comply with ORS 197 for limited land use decision procedures, and modify open space requirements in Planned Developments.

Middle Housing Amendments to the ADC and Comprehensive Plan are needed to comply with House Bill 2001 and related Oregon Administrative Rules that require cities to enhance housing options in residential areas by permitting middle housing types (duplexes, triplexes, fourplexes, townhouses, and cottage clusters) where single-family residences are permitted out right. Amendments will also comply with Senate Bill 458, recently adopted that requires cities to permit middle housing land divisions, which may enable more home ownership opportunities. Amendments are proposed in ADC Articles 1, 2, 3, 4, 5, 8, 9, 11, 12, and 22, and in Comprehensive Plan Chapter 4 (Goal 10 Housing) and Chapter 9 (Goal 2, Land Use Planning).

Clear and Objective Standards updates to the Manufactured Home Park standards in Article 10 and land division standards in Article 11 to provide a clear and objective path for residential subdivisions and developments in compliance with state law.

Land Division Procedures and Standards: With proposed clear and objective standards for land divisions, modify the land division procedures in Article 11 where limited discretion is needed from a Type III to a Type I-L to comply with ORS 197 for limited land use decision procedures, modify the Planned Development open space requirements to encourage innovative developments, and update the Condominium section to comply with State law.



Process Overview

Amendments to the ADC and Comprehensive Plan 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. The applicable review criteria listed in ADC Sections 2.220 and 2.290 must be met for the proposed amendments to be approved. 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.

Staff's analysis of consistency with the applicable approval criteria begins on page four.

Notice Information

Public notice was issued in accordance with legislative amendment requirements in the ADC Section 1.260. Specifically,

- Notice was provided to the Oregon Department of Land Conservation and Development (DLCD) on September 24, 2021, at least 35 days before the first evidentiary hearing, in accordance with Oregon Administrative Rule (OAR) 660-018-0020 and the ADC.
- Notice of the proposed amendments was mailed on October 18, 2021, to various agencies and both counties, and emailed to interested parties.
- Notice of the public hearings was published in the *Albany Democrat-Herald* on October 18, 2021, two weeks before the first public hearing on November 1, 2021.

The staff report and proposed code amendments will be posted on the City's website (www.cityofalbany.net/hb2001 and www.cityofalbany.net/ on October 18, 2021, more than seven days before the first public hearing.

Planning Commission Recommendation

The Planning Commission held a hearing November 1, 2021, on the proposed amendments as described in planning files CP-03-21 and DC-02-21. The Planning Commission considered written and verbal testimony, deliberated, and voted 8-0 to recommend City Council approve the proposed amendments with two changes to clarify the term "floor area" as used in ADC Section 8.175(2)(a) and clarify that parking for cottage cluster units may be with the cottages or in shared/clustered parking areas in ADC Section 8.175(8).

Middle Housing Proposal Background

Housing needs vary - small families, young adults, and the growing population of elderly need housing options that offer a smaller footprint, lower maintenance, and easier access to public transportation, services, and social opportunities. These options are not generally available in neighborhoods composed exclusively of single detached housing that requires high maintenance and transportation costs. Currently, many Albany residents are paying too much for the housing they have and are limited to renting or buying detached single-unit homes.

Albany's **Expanding Housing Options** project aims to improve housing choices in the short term, and housing affordability in the long term for Albany residents. The project is the first step in a broader effort by the City to evaluate and consider ways to improve housing choices and housing affordability within the city. Enabling more housing and a greater variety of housing options can impact affordability, and thus help address racial and economic equity. In addition, the project will explore ways to increase the affordability of "middle housing" as well as remove barriers that would discourage the development of "middle housing" through unreasonable costs or delay. The outcome of this

project will shape how the community develops and will expand opportunities for where people can choose to live, and what type of homes they live in.

What is Middle Housing? Middle housing refers to a range of attached or clustered housing types that are typically built at a similar scale as single-family detached houses. The term “missing middle” housing was coined by urban planner Daniel Parolek to refer to housing that fits in between single-family homes and larger apartment buildings but that’s largely been missing from most cities’ neighborhood patterns since World War II. Many cities, including Albany, now prohibit or significantly limit middle housing in single-family neighborhoods. For the purpose of this project (and House Bill 2001), middle housing refers to: duplexes, triplexes, fourplexes, townhouses, and cottage cluster.



The **Expanding Housing Options** project will update the Albany Comprehensive Plan (Plan) and Albany Development Code (ADC) to help Albany comply with House Bill 2001 (2019) and Senate Bill 458 (2021), two laws requiring cities over 25,000 to enhance housing options in residential areas by permitting “middle housing” types and allowing land division of middle housing developments. In addition, amendments to the ADC include items identified in the 2017 Code audit to provide a clear and objective path for residential land divisions, planned developments, and manufactured home parks; reduce process time for large subdivisions; and include changes that are needed to comply with HB 2001.

House Bill 2001 (ORS 197.758 and OAR 660 Division 46): House Bill 2001 (HB 2001) aims to provide Oregonians with more housing choices, especially housing choices more people can afford. The law, passed by the 2019 Oregon Legislature, expands the ability of property owners to build certain traditional housing types, like duplexes, in residential zones. These housing types already exist in most cities in older traditional neighborhoods but were outlawed for decades in many newer neighborhoods. These limitations have contributed to fewer housing choices and increased housing costs over time. People need a variety of housing choices. HB 2001 will let people build certain housing types—duplexes, triplexes, fourplexes, townhouses and cottage clusters, collectively known as “middle housing”—in areas where they otherwise might only be allowed to build single-family detached housing. The Bill is very prescriptive and provides very specific standards that cities must comply with. Building up the supply of housing is anticipated to make homes more affordable and help meet the housing needs of many younger people, older people, and people who can’t afford a large, detached house of their own.

Senate Bill 458: Senate Bill 458 (SB 458) was adopted by the Oregon Legislature in June 2021 as a follow up to HB 2001 to allow land divisions for any HB 2001 middle housing type built in accordance with Oregon Revised Statutes (ORS) 197.758. SB 458 sets forth parameters on how a city must process middle housing land division applications. These requirements are proposed to be included in the ADC in Article 11.

Proposed Amendments

Proposed amendments as they would appear in the Comprehensive Plan and ADC are included as Exhibits A and B to the ordinance:

A: Comprehensive Plan Amendments

B: Development Code Amendments

In the Exhibits, proposed new text is in red underlined font and proposed deleted text is in ~~black strike-out font~~.

Commentary boxes in both attachments provide additional background about the proposed amendments. Should the proposed amendments be approved, the text boxes with the explanations will be removed and the approved amendments made part of the ADC.

Analysis of Comprehensive Plan Criteria

Comprehensive Plan Amendment (file no. CP-03-21)

Section 2.220 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.

Because the proposed Development Code Amendments and Comprehensive Plan Amendments work as a package, and because the criteria for both types of amendments require consistency with the Comprehensive Plan goals and policies, **the findings below that address consistency with Comprehensive Plan goals and policies apply to the Plan and Development Code text amendments.**

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-03-21 and DC-02-21) would amend policies and implementation measures in Comprehensive Plan Chapter 4: Housing and Chapter 9: Land Use Planning for consistency with the requirements of House Bill 2001 (2019, HB 2001), implementing statutes (ORS 197.758), and associated Oregon Administrative Rules (OAR) in Chapter 660, Division 46 (OAR 660-046).
- 1.2 Chapter 4: Housing amendments would expand references to specific housing types to include middle housing types and update implementation methods to encourage middle housing and other housing types that may meet the needs of low-or moderate-income residents.
- 1.3 Chapter 9: Land Use Planning amendments would update the residential plan designations to include the types of housing that will be permitted with the corresponding amendments to ADC Article 3.
- 1.4 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).
- 1.5 The Comprehensive Plan describes the City’s obligation regarding goals as follows: “The City cannot take action which opposes a goal statement unless: 1) It is taking action which clearly supports another goal; and 2) There are findings indicating the goal being supported takes precedence (in the particular case) over the goal being opposed,” (Comprehensive Plan, page ii).
- 1.6 The Comprehensive Plan (page ii) defines a policy as, “a statement identifying a course of action or City position.”

- 1.7 The Comprehensive Plan (page iii) describes the City’s obligation regarding policies as follows: “The City must follow relevant policy statements in making a land use decision or show cause why the Comprehensive Plan should be amended consistent with statewide goals. Such an amendment must take place following prescribed procedures prior to taking a land use action that would otherwise violate a Plan policy. However, in the instance where specific Plan policies appear to be conflicting, then the City must seek solutions that 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 must consider whether the policy contains mandatory language (e.g., shall, require) or more discretionary language (e.g., may, encourage).”
- 1.8 The Comprehensive Plan (page iii) defines implementation methods as: “A statement that outlines a specific City project or standard to implement a goal or policy. Projects are statements that would require expenditure of funds and/or staff time, are specific as to what is to be done, and have a starting and ending point. Standards are statements indicating a proposed regulation or guideline.”
- 1.9 The Comprehensive plan (page iii) describes the City’s obligations regarding implementation methods as follows: “Completion of any project will depend on a number of factors such as specific City priorities, City financing, grant availability, etc. The City must periodically review project statements as part of a process to determine a priority list of projects to be completed. The list can be any length, and inclusion of an item on the list does not obligate the City to complete that project within the time period allocated.
- 1.10 Since implementation methods are suggestions to future City decision-makers to implement the goals and policies set forth in the Plan, the listing of any implementation method in this Plan does not, by virtue of the listing alone, obligate the City to undertake any particular implementation method.”
- 1.11 The Oregon Statewide Land Use Planning Goals and applicable City of Albany Comprehensive Plan goals and policies are addressed below. Goals and policies are shown below in bold print followed by findings of fact and conclusions. Findings are organized by applicable Statewide Planning Goals, except Goal 10: Housing follows Goal 2: Land Use Planning.

Statewide Planning Goal 1

Citizen Involvement: To develop a citizen involvement program that ensures the opportunity for citizens to be involved in all phases of the planning process.

Comprehensive Plan Chapter 9: Citizen Involvement

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

Policy 2: When making land use and other planning decisions:

- a. **Actively seek input from all points of view from citizens and agencies and assure that interested parties from all areas of the Urban Growth Boundary have the opportunity to participate.**
- b. **Utilize all criteria relevant to the issue.**
- c. **Ensure the long-range interests of the general public are considered.**
- d. **Give particular attention to input provided by the public.**
- e. **Where opposing viewpoints are expressed, attempt to reach consensus where possible.**

Policy 3: Involve the general public in the use, evaluation, and periodic review and update of the Albany Comprehensive Plan.

Findings of Fact

- 1.12 In 2020, the Land Conservation and Development Commission (LCDC) adopted new administrative rules governing how some Oregon jurisdictions regulate middle housing and established a deadline for compliance of June 30, 2022.
- 1.13 The Albany Planning Commission and City Council served as the advisory body for this project. Six joint work sessions with the advisory body were held on November 16, 2020; February 8, 2021; February 22, 2021; April 26, 2021; May 10, 2021; and September 20, 2021, to discuss working concepts and draft Comprehensive Plan and Code amendments. All work sessions were open to the public, with notification to stakeholders and interested parties. For the first three work sessions, planning commission and city council members were asked to fill out written questionnaires, with the intent of providing additional opportunities to comment on the project and working concepts and pose questions to the project team.
- 1.14 Four focus group sessions were held on February 10 and 11, 2021. The session participants included individuals who were renters, homeowners, seniors, young adults, parents with young children, realtors, veterans, housing developers, builders, and single moms. While the focus group discussions were not focused on specific code or plan concepts, the team did seek community input on the benefits and challenges associated with developing middle housing in Albany.
- 1.15 An online survey was developed and made available in English and Spanish from February 1 to February 28, 2021. A total of 328 people participated. While the survey did not ask about specific code or plan concepts, it did seek community input on the benefits of middle housing and potential concerns as well as some of the general design concepts being considered.
- 1.16 Interested individuals were invited to sign up for an “interested parties” mailing list and to provide general comments. The interested parties list includes more than 200 people, including 100 residents and interested parties that signed up through the project website. A total of 23 comments were received through the online sign-up form and 9 letters or emails were sent directly to City staff.
- 1.17 A project website was maintained throughout the project and periodically updated when new project documents were completed.
- 1.18 City staff shared project updates at key stages of the project through press releases, social media posts (on Facebook, Twitter, and Instagram), and in the City Bridges newsletter.
- 1.19 After the draft Plan and Code amendments were made available to the public, City staff reached out directly to numerous stakeholders via phone or email to seek direct input on the draft amendments.
- 1.20 Input received from stakeholders, community members, and the planning commission and city council was incorporated into revisions to draft Plan and Code concepts and draft Plan and Code amendments.
- 1.21 A notice of the proposed text amendments (planning files CP-03-21 and DC-02-21) was issued to the Oregon Department of Land Conservation and Development (DLCD) on September 27, 2021, at least 35 days before the first evidentiary hearing, in accordance with OAR 660-018-0020 and ADC 1.260.
- 1.22 A notice of public hearing (planning files CP-03-21 and DC-02-21) was mailed on October 18, 2021, to Linn and Benton County Planning Divisions, City of Millersburg, and the Oregon State Historic Preservation Office. A notice of public hearing was published in the Albany Democrat-Herald on October 18, 2021. These notices informed the public that the amendments would be considered during the November 1, 2021, Planning Commission and December 1, 2021, City Council public hearings, consistent with the legislative hearing notice requirements of ADC 1.260.

- 1.23 A press release announcing the proposed amendments and public hearing dates was distributed and sent out through NextDoor. The City will hold two HB 2001 question and answer sessions for the public October 22 and October 26, 2021.
- 1.24 A staff report concerning the proposed text amendments (planning files CP-03-2103-21 and DC-02-21) was posted on the City’s website on October 18, 2021, at least seven days before the first evidentiary public hearing.
- 1.25 Through the notification and public hearing process, all interested parties are afforded the opportunity 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.

Statewide Planning Goal 2

Land Use Planning: 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.

Comprehensive Plan Chapter 9: Land Use Planning Updating and Amending the Comprehensive Plan

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.**

Policy 2: Base approval of Comprehensive Plan amendments upon consideration of the following:

- a. **Conformance with goals and policies of the Plan,**
- b. **Citizen review and comment,**
- c. **Applicable Statewide Planning Goals,**
- d. **Input from affected governmental units and other agencies,**
- e. **Short - and long-term impacts of the proposed change,**
- f. **Public need for the change, and**
- g. **The amendments will best meet the identified public need versus other available alternatives.**

Findings of Fact

- 1.26 In accordance with the Goal for Updating and Amending the Comprehensive Plan, the proposed amendments are intended to ensure the Plan remains consistent with state laws (House Bill 2001 and ORS 197.758) and administrative rules (OAR 660-046). *These state laws require cities to allow middle housing in all areas zoned for residential use that allow for development of single-family detached dwellings.* Accordingly, proposed amendments to Chapter 9: Land Use Planning add middle housing to the descriptions of the Low Density Residential and Medium Density Residential plan designations, in acknowledgment that middle housing types will now be allowed in areas with these plan designations. This will also ensure that the Plan is consistent with Albany Development Code by aligning the plan designation descriptions with the amended regulations for the residential zones.
- 1.27 Also, in accordance with the above Goal, the proposed amendments help ensure the Comprehensive Plan remains current and responsive to community needs by amending policies in Chapter 4: Housing to incorporate middle housing. Through the Expanding Housing Options project, members of the public have expressed that increasing housing choices—especially more affordable and lower-cost housing options—is a primary concern to the Albany community. According to projections in Albany’s 2020 Housing Needs Analysis, roughly 3,800 units will be needed by 2040 for residents earning below 120 percent of the area median income. Middle housing types will be needed to help address this need. Albany’s housing stock is predominantly single-family-detached, manufactured homes, and multi-family. Between 2010 and 2020, 5 percent of the residential building permits were for middle housing types, while 63 percent were for detached single-family dwellings.

- 1.28 The proposed amendments respond to this community need by adding middle housing types (duplexes, triplexes, fourplexes, townhouses, and cottage clusters) as examples of housing types that can promote housing choices, housing alternatives, and lower-cost options. In the Implementation Methods for Chapter 4, the proposed amendments also expand on the Plan’s techniques for reducing housing costs by encouraging features of middle housing that help reduce costs—such as “smaller unit sizes, lower construction costs, and lower sales prices per unit, which can help meet the needs of low- or moderate-income households.”
- 1.29 Consistency with Policy 2 is demonstrated by all findings in response to the Comprehensive Plan Amendment Review Criteria.
- 1.30 The amendments to Chapters 4 and 9 of the Comprehensive Plan are consistent with the goals and policies of the Comprehensive Plan as described in Findings 1.36-1.55. The Findings of Fact and Conclusions are included herein by reference.
- 1.31 Many opportunities for citizen review and comment were provided throughout the process, as described in Findings 1.13-1.25, which are included herein by reference.
- 1.32 Input from affected governmental units and other agencies was solicited as described in Finding 1.22, which is incorporated herein by reference.
- 1.33 The projected impacts of the proposed changes include facilitating development of middle housing in areas zoned for residential use, which will benefit Albany residents over the longer term by providing a wider variety of housing choices.
- 1.34 The public need for the change is for housing options that meet the needs of all Albany residents, including lower-income households. The proposed amendment helps meet this need by facilitating middle housing development.
- 1.35 The proposed Comprehensive Plan amendments are consistent with the policies noted above.

Statewide Planning Goal 10, Housing

To provide for the housing needs of citizens of the state.

Comprehensive Plan Chapter 4: Housing (Goal 10)

Goal 1: Provide a variety of development and program opportunities that meet the housing needs of all Albany citizens.

Goal 2: Create a city of diverse neighborhoods where residents can find and afford the values they seek.

Policy 2: Provide a variety of choices regarding type, location, density, and cost of housing units corresponding to the needs and means of city residents.

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

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

Policy 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.

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

Policy 17: Recognize groups needing specialized housing such as the elderly, handicapped, homeless, and other disadvantaged groups when identifying housing programs and opportunities.

Findings of Fact

- 1.36 The proposed amendments strongly support housing goals: Provide a variety of development and program opportunities that meet the housing needs of all Albany’s citizens; and create a city of diverse neighborhoods where residents can find and afford the values they seek. Amendments to the policies in this chapter are recommended to expand housing types to comply with HB 2001 as implemented by OAR 660-046. According to City of Albany data, a large portion of the city is currently zoned exclusively for single-family homes. The RR, RS-10, RS-6.5, HM zoning districts collectively make up 76.5 percent of the land in Albany and only permit single-family detached homes, plus duplexes on larger corner lots. According to City permit data, less than 5 percent of housing units developed in Albany between 2010-2020 were duplexes, triplexes, or fourplexes. Allowing middle housing types that were previously prohibited in zones that allow detached single-family housing will provide more housing choices within existing and new neighborhoods and may result in housing that is more affordable than typical single-family detached housing development.
- 1.37 The proposed Comprehensive Plan and Development Code amendments to allow middle housing types in compliance with OAR 660-046 will support Chapter 4 Housing policies 2, 3, 6, 9, 16 and 17 listed above by:
- increasing housing choices and variety;
 - helping meet the needs of a wider range of residents;
 - enabling more infill development in areas where services are available;
 - allowing more options for “aging in place” within the same neighborhood; and
 - enabling development of more housing overall, which can reduce housing costs over the long term. Middle housing—particularly cottage clusters—also offer more physically accessible options, because of their smaller size.
- 1.38 The proposed new Middle Housing Land Division provisions in ADC Article 11, pursuant to Senate Bill 458 (2021), will further increase housing choices by facilitating “fee-simple” ownership of middle housing units, thereby supporting opportunities for more affordable homeownership. The proposed new design standards for Middle Housing in Article 8 will help ensure attractive and pedestrian-oriented development that will complement and enhance the surrounding area and existing neighborhoods.
- 1.39 On November 2, 2020, the Albany City Council passed Ordinance 5951, which adopted the 2020 Buildable Land Inventory (BLI) and the 2020 Housing and Residential Land Needs Analysis (HNA) and updated the background section of Comprehensive Plan Chapter 4: Housing, with current information from the 2020 BLI and HNA. In adopting the amendments in compliance with HB 2001, the City of Albany has considered how these regulations will affect its compliance with Goal 10, including how it affects its recently adopted BLI and HNA, to ensure sufficient availability of buildable lands to accommodate needed housing types identified in the HNA.
- 1.40 The HNA analysis reflects the coordinated population forecast prepared by the Oregon Population Forecast Program at the Population Research Center at Portland State University (PSU) in 2017 that projects Albany will experience an annual average growth rate (AAGR) of 1.27 percent to 2040. The HNA was based on the 20-year need assessment requirements of ORS and OAR 660 Division 8 for statewide planning Goal 10, Housing. It projected the number and types of units by tenure and cost based on the PSU population projections to 2040 and compares housing demand to residential land supply.
- 1.41 The HNA found Albany is projected to add roughly 6,500 new households by 2040; of these, roughly 3,800 housing units will be needed for households with incomes below 120 percent of the area median income. Middle housing types (2 to 4-plexes, townhouses and cottages) are housing types typically affordable to residents with lower incomes. The analysis concluded Albany will need 1,328 acres to accommodate projections to 2040 in a mix of low-, medium- and high-density housing types and zoning districts. [Albany estimated the average units per acre based on analysis of the existing mix and density of Albany’s housing stock, residential development

trends, and housing affordability needs, and used a 2% increased capacity factor anticipating compliance with HB 2001.]

- 1.42 The BLI estimates the city has 1,397 buildable acres for residential development and another 1,278 acres in the urban growth boundary available for residential development. The projections of housing types needed calculate a deficit of medium density land for attached housing types in the city limits, but a surplus of both lower density and higher density land that allows for single-family development and higher density housing in the city limits. While there is sufficient land designated medium density outside the city limits in the UGB to accommodate projected needs to 2040 there is uncertainty about when land would be annexed into the City and what the zoning designations will be. Further, allowing middle housing types in areas currently zoned for single-family development may help the City maintain medium density land for multiple-family developments of five or more units.
- 1.43 Consideration of Other Ways to Increase Middle Housing Affordability. House Bill 2001 requires local governments to consider ways to increase the affordability of middle housing, including considerations related to waiving or deferring system development charges (SDC), property tax exemptions, and construction excise taxes.
- a. The proposed “Expanding Housing Options” amendments are one part of a broader effort by the City to address housing affordability and related housing needs facing residents. As a part of that broader effort, the City is considering ways to increase the affordability of middle housing, such as exploring incentives and barriers within the development code, SDC methodologies, and incentives for regulated affordable housing development.
 - b. The Council agreed to appoint a Housing Affordability Task Force to consider and evaluate policies and actions the City can take to increase housing affordability in Albany, including the affordability of middle housing types. The task force is anticipated to begin meeting in late 2021. A primary purpose of the task force will be to consider whether the City should assess a construction tax under ORS 320.192 and 320.195, and consider deferral or waivers of Systems Development Charges (SDC)s. The Task force will also evaluate the other tools noted above that could increase the affordability of middle housing.
 - c. Regarding consideration of tax exemptions available for affordable housing - In 1993, the City of Albany and the Greater Albany Public School District adopted the provisions of ORS 307.540 to 307.547. This action means that if an affordable housing project and its owner meet the requirements of ORS 307.541, the Council may then review a yearly application for property tax exemption submitted by the owner. To meet the ORS requirements, the project must be owned by a non-profit exempt from federal income tax and be occupied by low-income residents. Every year, the Council considers requests for the property tax exemption for five properties owned by an eligible non-profit, the Albany Partnership for Housing and Community Development.
 - d. In 2021, the Oregon legislature adopted House Bill 2008 amending ORS 307.140 to extend the tax exemption provided to religious organizations to land or buildings on the land owned by religious organizations that is held or used solely to provide affordable housing to low-income households as specified in ORS 197.311.
 - e. The City was recently awarded a grant from the Department of Land Conservation and Development to prepare a Housing Implementation Plan. The grant will enable the City to hire a consultant to help the City facilitate robust community conversations around consideration of a construction tax and deferral or waiver of SDCs, as well as evaluation of other ways to improve housing affordability, address housing needs, and develop an actionable implementation plan. This work will commence in November of 2021 and be completed in May of 2023.

Statewide Planning Goal 3

Agriculture: To preserve and maintain agricultural lands.

Albany Comprehensive Plan Chapter 1 – Natural Resources

Agriculture Goal: Preserve existing agricultural land within the Urban Growth Boundary until it is needed for conversion to urban uses.

Policy 1: Encourage development to occur within the UGB in an orderly and compact fashion to conserve existing agricultural lands until it is needed for urban development.

Findings of Fact

1.44 The proposed amendments apply to residential lands within the Urban Growth Boundary and are therefore not directly applicable to agricultural lands; however, the amendments are supportive of goal to encourage development within the UGB in a more compact and efficient land use pattern that helps to preserve agricultural lands.

Statewide Planning Goal 5

Natural Resources, Scenic and Historic Areas, and Open Spaces: To protect natural resources and conserve scenic and historic areas and open spaces.

Albany Comprehensive Plan Chapter 1: Natural Resources

Vegetation and Wildlife Goal 3: Balance compact development patterns with natural resource protection.

Albany Comprehensive Plan Chapter 2: Special Areas

Historic and Archaeological Resources Goal: Protect Albany’s historic resources and utilize and enhance those resources for Albany residents and visitors.

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

- a. Except where public safety is jeopardized, allow the demolition of historic structures only when the existing structure cannot be economically rehabilitated or moved, or there is a demonstrated public need for the new use; and the proposed development is compatible with the adjacent properties.
- b. Ensure that exterior alterations of historic structures maintain the historic value of the structure and conform with the Secretary of the Interior’s Standards for Historic Preservation.
- c. Ensure that the design of new construction within historic districts does not detract from the architectural qualities of the district.
- d. Where the original or intended use of a structure is not feasible, encourage compatible adaptive uses of historic structures (i.e. establishment of bed and breakfast operations, specialty shops, restaurants, and professional offices) provided the historic integrity of the structure is maintained.

Albany Comprehensive Plan Chapter 7: Social Amenities

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

Findings of Fact

1.45 The City’s natural resource regulations will continue to apply and to protect Goal 5 resources; there is no change to the standards related to water, air and sound quality. The City will limit the development of Middle Housing other than Duplexes in significant natural resource sites identified and protected pursuant to Goal 5 as allowed by OAR 660-046.

1.46 The Code and Comprehensive Plan amendments to comply with HB 2001 will not change the applicability of Article 7 Historic Overlay District standards to local landmarks on the Local Historic Inventory. Specifically, historic review and approval will be required for conversion of any Landmark or Local Historic Inventory resource subject to the standards in Article 7 to middle housing that results in any exterior alterations and for

construction of middle housing in Albany’s historic districts. The use of substitute materials and demolition or relocation of Local Historic Inventory resources are subject to the standards in Article 7, as applicable.

Statewide Planning Goal 7

Areas Subject to Natural Hazards: To protect people and property from natural hazards.

Albany Comprehensive Plan Chapter 2: Special Areas

Flood Hazards and Hillside Goal: Protect life and property from natural disasters and hazards.

Policy 5: Recognize that development within areas subject to flooding is subject to regulations to protect life and property and that certain types of development may not be allowed.

Policy 10: For construction, remodeling, or major repairs to structures (including prefabricated and mobile homes) within the floodplain, review building permits to ensure that:

- a. **Building location and grading are designed to protect the structure during a base year flood.**
- b. **Construction materials and utility equipment are resistant to flood damage.**
- c. **Construction methods and practices will minimize flood damage.**
- d. **Where appropriate, structures are designed or modified to prevent flotation, collapse, or lateral movement of the structure.**

Policy 11: Development approval within the flood fringe shall be reviewed to protect property and public safety and significant natural values.

Findings of Fact

1.47 The City’s Hillside Development Overlay District (/HD) will continue to apply to development including Middle Housing. Within Special Flood Hazard Areas, the City determines that the development of Middle Housing presents a greater risk to life or property than the development of detached single-family dwellings from the identified hazard. Greater risk includes but is not limited to actions or effects such as:

- o Increasing the number of people exposed to a hazard;
- o Increasing risk of damage to property, built, or natural infrastructure; and
- o Exacerbating the risk by altering the natural landscape, hydraulics, or hydrology

1.48 As permitted by OAR, the City will limit Middle Housing in Special Flood Hazard Areas as identified on the applicable Federal Emergency Management Agency Flood Insurance Rate Map.

Statewide Planning Goal 9

Economic Development: To provide adequate opportunities throughout the state for a variety of economic activities vital to the health, welfare, and prosperity of Oregon’s citizens.

Albany Comprehensive Plan Chapter 3: Economic Development

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

Policy 2. Support the retention and expansion of existing businesses and industries, especially those that are locally owned.

Findings of Fact

1.49 The proposed amendments will remove code barriers to Middle Housing, thereby enabling additional housing options. Improving opportunities for work force housing is one way the City can provide a supportive environment for the development and expansion of desired businesses.

Statewide Planning Goal 11

Public Facilities and Services: To plan and develop a timely, orderly and efficient arrangement of public facilities and services to serve as a framework for urban and rural development.

Albany Comprehensive Plan Chapter 6: Public Facilities and Services

Water Policy 1. Provide an adequate supply of water to meet projected demands based on the Comprehensive Plan land use designations and adopted population projections.

Storm Drainage Goal 1. Work toward the elimination of existing drainage problems and minimize future drainage problems within the Albany Urban Growth Boundary area.

Wastewater Policy 3. Review and regulate development proposals to ensure adequate wastewater service improvements will be provided to the development and to future developments and ensure that adequate assurances have been secured for participation in the public system when these services become available.

Police and Fire Policy 2. Ensure that all development can be provided with adequate police and fire protection. Particular

consideration shall be given to:

- a. Fire hydrant distribution and sufficient water flow capabilities for adequate fire protection to promote a high level of public safety.
- b. Street layout and site design features that promote easy emergency vehicle access and building identification.
- c. Exterior site lighting.
- d. Building layout and site landscaping.
- e. Building proximity and relationship to other buildings on and off the site.

Education Policy 2. Review all major residential proposals for:

- a. Safe and efficient access to school and park sites.
- b. Potential impacts on the school system.
- c. The adequacy of existing facilities and the need for new facilities

Findings of Fact

1.50 Public facilities and services standards in Articles 11 and 12 will apply to Middle Housing and the City's procedures for the review of building permits will continue to apply. As described in OAR 660-046, the City will apply these standards and will work with applicants developing Middle Housing to determine whether Sufficient Infrastructure will be provided, or can be provided, upon submittal of a triplex, fourplex, townhouse or cottage cluster development application. As defined in 660-046-0020(16) "Sufficient Infrastructure" means the following level of public services to serve new Triplexes, Quadplexes, Townhouses, or Cottage Cluster development:

- a. Connection to a public sewer system capable of meeting established service levels.
- b. Connection to a public water system capable of meeting established service levels.
- c. Access via public or private streets meeting adopted emergency vehicle access standards to a city's public street system.
- d. Storm drainage facilities capable of meeting established service levels for storm drainage.

1.51 Proposed standards in Article 11 require that each unit of middle housing that is divided through a middle housing land division has its own utility service connections for public water, sewer, and stormwater, as required by Senate Bill 458 (SB 458).

Statewide Planning Goal 12

Transportation: To provide and encourage a safe, convenient, and economic transportation system.

Albany Comprehensive Plan –Chapter 5: Transportation

Goal 2. Provide a safe transportation system.

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

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

Findings of Fact

- 1.52 The City’s residential single family street standards in Articles 11 and 12 will apply to Middle Housing to help ensure a safe transportation system.
- 1.53 The increased density that could be provided by Middle Housing helps support a compact urban form which can be more transit-supportive and pedestrian and bicycle-friendly thus potentially reducing the number and length of automobile trips.

Goal 14 Urbanization

To provide for an orderly and efficient transition from rural to urban land use, to accommodate urban population and urban employment inside urban growth boundaries, to ensure efficient use of land, and to provide for livable communities.

Albany Comprehensive Plan –Chapter 8: Urbanization

Goal 1: Achieve stable land use growth which results in a desirable and efficient land use pattern.

Policy 2. Discourage low-density sprawl development within the unincorporated portion of the Urban Growth Boundary that cannot be converted to urban uses when urban services become available.

Policy 15. Encourage land use patterns and development plans which take advantage of density and location to reduce the need for travel and dependency on the private automobile, facilitate energy-efficient public transit systems, and permit building configurations which increase the efficiency of energy use.

Findings of Fact

- 1.54 The proposed amendments are supportive of goal to achieve stable land use growth which results in a desirable and efficient land use pattern and discourage low-density sprawl. The amendments also support land use patterns and development plans which take advantage of density and location to reduce the need for travel and dependency on the private automobile, facilitate energy-efficient public transit systems, and permit building configurations which increase the efficiency of energy use.

Statewide Planning Goal 15

Willamette River Greenway: To protect, conserve, enhance and maintain the natural, scenic, historical, agricultural, economic and recreational qualities of lands along the Willamette River as the Willamette River Greenway.

Albany Comprehensive Plan –Chapter 2: Special Areas

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

Policy 1: Maintain and enhance the natural vegetative fringe along the banks and terraces of the river through establishment of special setbacks and other available means in order to protect wildlife habitat, provide food and shelter for fish, mitigate erosion and flood damage, and provide scenic character.

Findings of Fact

- 1.55 The City’s Willamette River Greenway goals and policies will continue to be implemented through the Willamette River Greenway Overlay District (/WG). These standards will apply to all development including Middle Housing.

Conclusions: Comprehensive Plan Amendments Criterion 1

- 1-1 The proposed Comprehensive Plan text amendments are consistent with the Comprehensive Plan policies and the Statewide Planning Goals. In particular, the proposed amendments to allow middle housing types and land divisions will support Statewide Planning Goal 10 to provide for the housing needs of residents, and will support the city’s Plan policies provide a variety of housing choices to meet the needs and means of wider range of Albany residents.

1-2 Based on the above analysis, this criterion is satisfied.

Comprehensive Plan Amendment - Review Criterion 2.220(2)

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

Findings of Fact

- 2.1 The proposed amendment package would bring the Albany Comprehensive Plan into compliance with House Bill 2001, ORS 197.758, and OAR 660-046. The purposes of the statute and HB 2001 are to increase housing choices by expanding the ability of property owners to build middle housing types (duplexes, triplexes, fourplexes, townhouses, and cottage clusters) in areas zoned for residential use. OAR 660-046 prescribes standards guiding the development of middle housing types as provided in ORS 197.758, including standards related to the siting and design of middle housing.
- 2.2 The proposed amendments to Article 11 outline the requirements for middle housing land division and expedited land division processes specified in SB 458 and ORS 197. These state-mandated procedures apply regardless of whether they are adopted into the Albany Development Code; however, the City has opted to include the provisions in the ADC to make the process more accessible to applicants and easier to apply. Amendments also include complying with procedures for limited land use decisions outlined in ORS 197.195 and for Condominiums per ORS 100.
- 2.3 The proposed amendments to the Albany Development Code are needed to comply with ORS 197.758 and OAR 660-046. The amendments modify the residential zoning districts, as well as mixed-use districts meeting the state's definition of "areas zoned for residential use that allow for the development of detached single-family dwellings," to allow all middle housing types outright. They also modify the siting and design standards in the ADC to comply with the standards in OAR 660-046.
- 2.4 The Comprehensive Plan amendments are needed to maintain consistency with the required ADC amendments and reflect the new allowances for middle housing within the Low Density Residential (LDR) and Medium Density Residential (MDR) plan designations.
- 2.5 The Plan amendments also add references to middle housing types in the Goal 10: Housing Policies and Implementation Measures to reflect the new allowances for these housing types.

Conclusions: Comprehensive Plan Amendments Criterion 2

- 2-1 The proposed Comprehensive Plan text amendments and implementing ADC amendments are needed to meet new laws and changing conditions related to housing needs.
- 2-2 Based on the above analysis, this criterion is satisfied.

Comprehensive Plan Amendment - Review Criterion 2.220(3)

The requested designation for a quasi-judicial map amendment meets all of the following tests:...

Findings of Fact and Conclusions

- 3.1 This criterion is not applicable.

Analysis of Development Code Criteria

Development Code Text Amendment (file no. DC-02-21)

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

4.1 See findings 1.1 through 1.55 above, incorporated herein by reference on how proposed amendments better achieve the goals and policies of the Comprehensive Plan.

Conclusions: Development Code Amendments Criterion 1

4-1 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 consider public comments prior to making a final decision. These procedures meet the requirements of citizen involvement in the land use planning process.

4-2 The proposed text amendments support goals of the Comprehensive Plan applicable to housing opportunities, economic development, natural resources and hazards, and public facilities and services.

4-3 In summary, the proposed development code text amendments are consistent with the Comprehensive Plan goals and policies.

4-5 Given the above analysis, this review criterion is met.

Development Code Amendment - Review Criterion 2.290(2)

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

Findings of Fact

5.1 ADC 2.290(2) requires ADC amendments to be consistent with ADC policies and purpose statements for the affected base zones or development regulations where the amendments are proposed. 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 8 – Design Standards, Article 9 – On-site Development and Environmental Standards, Article 10 – Manufactured Home Development Standards, Article 11 – Land Divisions and Planned Development, Article 12 – Public Improvements, Article 13 – Signs, and Article 22 – Use Categories and Definitions.

Article 1 – Administration and Procedures, Introduction

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

1. Serve as the principal vehicle for implementation of the City's Comprehensive Plan in a manner that protects the health, safety, and welfare of the citizens of Albany.
2. Satisfy relevant requirements of federal law, state law, statewide goals, and administrative rules.
3. Facilitate prompt review of development proposals and the application of clear and specific standards.
4. Provide for public information, review, and comment on development proposals that may have a significant impact on the community.

5. Guide public and private planning policies and actions to ensure provision of adequate water, sewage, transportation, drainage, parks, open space and other public facilities and services for each development.
6. Establish procedures and standards requiring that the design of site improvements and building improvements are consistent with applicable standards and design guidelines.
7. Provide for review and approval of the relationship between land uses and traffic circulation in order to minimize congestion, with particular emphasis on not exceeding the planned capacity of residential streets.
8. Require that permitted uses and development designs provide reasonable protection from fire, flood, landslide, erosion, or other natural hazards, as well as prevent the spread of blight, and help prevent crime.
9. Protect and enhance the City's beauty and character.
10. Protect constitutional property rights, provide due process of law, and give consideration in all matters to affected property owner interests in making land use decisions.

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

Article 1 Purposes – Findings of Fact and Conclusions

- 5.2 The proposed amendments support the Comprehensive Plan goals and policies, as demonstrated in Findings 1.1-1.55. The amendments will strengthen the Development Code as an implementing tool of these Plan goals and policies.
- 5.3 The proposed development code text amendments provide clear and objective standards for review of housing, consistent with ORS 197.307(4) and OAR 660-008-0015 and implement the middle housing requirements of ORS 197.758 and OAR 660-046.
- 5.4 The proposed development code text amendments facilitate prompt review of development proposals by streamlining land use review processes for certain land divisions where potential concerns can be addressed through clear and objective development standards.
- 5.5 The proposed development code text amendments continue to protect and enhance the beauty and character of Albany through refinements to development and design standards that ensure attractive, pedestrian-oriented development in the city.
- 5.6 Specific code changes are included in Attachment B and a summary of how these code changes address these issues are included in the Summary of Proposed Changes on page 2.
- 5.7 The proposed development code text amendments are consistent with the purposes noted above.

Article 2 Review Criteria Purpose Statement

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: ...

Article 2 Purposes – Findings of Fact and Conclusions

- 5.8 The proposed code amendments amend the nondiscretionary criteria for Site Plan Review to apply to all types of middle housing, which provide clear and objective standards for the review of middle housing applications.
- 5.9 The proposed code amendments amend the standards for Nonconforming Lots of Record with nondiscretionary requirements that middle housing developed in zoning districts subject to HB 2001 must meet the minimum lot sizes of the zoning district.
- 5.10 The proposed development code text amendments are consistent with the purpose statement for Article 2.

Article 3 Residential Zoning Districts Purpose Statement

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.

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 (*current*):

- (1) **RR—RESIDENTIAL RESERVE DISTRICT.** The RR District is intended to recognize areas which, because of topography, level of services, or other natural or development factors are best served by a large lot designation. This district may be applied on an interim basis until urban services become available. The minimum lot size is five acres.
- (2) **RS-10—RESIDENTIAL SINGLE-FAMILY DISTRICT.** The RS-10 District is intended primarily for a lower density single-family residential environment. The average minimum lot size is 10,000 square feet.
- (3) **RS-6.5—RESIDENTIAL SINGLE-FAMILY DISTRICT.** The RS-6.5 District is intended primarily for low-density urban single-family residential development. The average minimum lot size is 6,500 square feet.
- (4) **RS-5—RESIDENTIAL SINGLE-FAMILY DISTRICT.** The RS-5 District is intended primarily for low-to moderate-density single-family development. The average minimum detached single-family lot size is 5,000 square feet.
- (5) **RM—RESIDENTIAL MEDIUM DENSITY DISTRICT.** The RM District is primarily intended for medium-density residential urban development. New RM districts should be located on a collector or arterial street or in Village Centers. Development may not exceed 25 units per gross acre.
- (6) **RMA—RESIDENTIAL MEDIUM DENSITY ATTACHED DISTRICT.** The RMA District is intended primarily for medium- to high-density urban residential development. All units, whether single- or multiple-family, shall be attached. New RMA districts should be located on a collector or arterial street or in Village Centers. Development may not exceed 35 units per gross acre.
- (7) **HM—HACKLEMAN-MONTEITH DISTRICT.** The HM district is intended primarily to preserve the existing single-family residential character of the Hackleman and Monteith National Register Historic Districts. Conversion of single-family residential structures to other uses, including multi-family residential, is not allowed.

Article 3 Purposes – Findings of Fact and Conclusions

- 5.11 The proposed code amendments enable additional housing options within the residential zoning districts, which helps preserve land for housing. In the single-family residential districts, the proposed amendments allow middle housing development on lots that are currently only allowed to have single-family homes. Allowing additional dwelling units to be built on these lots helps free up land elsewhere in residential zones for additional housing.
- 5.12 The purpose of the residential zoning districts is to provide housing. The proposed amendments will allow a wider variety of housing types by allowing middle housing in all residential districts.
- 5.13 The proposed amendments implement the requirements of OAR 660-046 within the context of Albany’s seven residential zoning districts. Amendments to the purpose statements include removing the term “single-family” in the zones where middle housing must be allowed and updating the density provisions in conformance with the OARs for middle housing.
- 5.14 The proposed amendments continue to provide varying density standards within the residential districts through differing minimum lot sizes for middle housing, where allowed by OAR 660-046.
- 5.15 To the extent allowed by OAR 660-046, the existing development standards—such as setbacks and height—have been retained for middle housing, to ensure compatibility with the City’s various neighborhoods.
- 5.16 New development standards for cottage cluster and townhouse help ensure that those housing types are compatible with the City’s various neighborhoods.
- 5.17 Proposed amendments to Article 8 will apply the single-family design standards to middle housing, which also helps promote compatibility within residential neighborhoods. Further, the new proposed standards will promote quality design for middle housing, which also helps maintain neighborhood compatibility.
- 5.18 The proposed development code text amendments are consistent with the purpose statements for the Residential Zoning Districts.

Article 4 Commercial and Industrial Zoning Districts Purpose Statement

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

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

Article 4 Purposes – Findings of Fact and Conclusions

- 5.19 The Commercial and Industrial Zoning Districts are not subject to the requirements of HB 2001. OAR 660-046-0010 states that cities need not comply with the requirements for “Lots or Parcels that are not zoned for residential use, including but not limited to Lots or Parcels zoned primarily for commercial, industrial, agricultural, or public uses.”

- 5.20 The proposed code amendments to Article 4 are minor. In Article 22, middle housing was added as a use category distinct from single-family detached and multi-family. Triplexes and fourplexes are now separate from the multi-family use, and “single-family” has been separated into “single-family detached” and “townhouse.” Amendments to the Schedule of Permitted Uses and associated notes were made in order to retain the current regulatory approach to these uses. No changes to the development standards in Article 4 are proposed; therefore, the standards continue to allow for flexibility of development while minimizing impacts on surrounding uses.
- 5.21 The proposed development code text amendments are consistent with the purpose statement for the Commercial and Industrial Zoning Districts.

Article 5 Mixed Use Zoning Districts Purpose Statement

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

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

Article 5 Purposes – Findings of Fact and Conclusions

- 5.22 Of the ten Mixed Use Zoning Districts, only Mixed Use Residential (MUR) and Mixed Use Commercial (MUC) meet the three criteria for HB 2001 applicability: 1) Residential Comprehensive Plan Designation (this includes both residential comprehensive plan designations and mixed-use comprehensive plan designations as they are both commercial and residential); 2) Primarily Residential Zoning Districts (based on purpose and allowed uses); and 3) allows single-family detached dwellings as a permitted use.
- 5.23 The proposed amendments implement the requirements of HB 2001 and OAR 660-046 by permitting middle housing outright in the MUR and MUC zoning districts. The City has also chosen to amend the code to allow cottage cluster development in the Downtown Mixed Use district through Site Plan Review because multi-family is permitted in the zone.
- 5.24 Most middle housing types are already permitted in the MUR and MUC districts, either outright or through Site Plan Review; for example, triplexes and fourplexes are currently allowed in these districts as “multi-family.” The proposed amendments enable additional housing options through clear and objective review by permitting middle housing outright in these districts.
- 5.25 To the extent allowed by OAR 660-046, the existing development standards—such as setbacks and height—have been retained for middle housing, to ensure consistency within the City’s mixed use areas.
- 5.26 New development standards for cottage cluster and townhouse help ensure that those housing types are compatible with the City’s mixed use areas.
- 5.27 The proposed development code text amendments are consistent with the purpose statement for the Mixed Use Zoning Districts.

Article 8 Design Standards Purpose Statement

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.

Article 8: Findings of Fact

- 5.28 The design standards for Single Family Homes currently apply to single-family detached dwellings, manufactured homes, duplexes, two detached units, and single-family attached units (townhouses). As allowed by OAR 660-046, the applicability of the single-family design standards has been expanded to include the other middle housing types—triplexes, fourplexes, and cottage clusters. A statement has also been added to clarify that where middle housing is divided through a middle housing land division, design standards that apply to a lot, or on a per-lot basis, apply only to the parent lot, not to the child lots; this is a requirement of SB 458.
- 5.29 The proposed amendments include removal of the Additional Standards for Infill and Redevelopment in ADC 8.140. These standards do not comply with the OAR for middle housing and cannot be applied to those housing types. Therefore, if they were retained, they could only be applied to single-family detached dwellings. In addition, the standards are overly complicated and restrictive, provide relatively little benefit, in terms of reducing adverse effects on surrounding property owners, ensuring high-quality development, or enhancing the environment walking, cycling, or mass transit. Therefore, rather than retaining the infill standards only for single-family detached dwellings, the standards are proposed to be deleted. It should be noted that all infill development is still subject to the same base development and design standards that apply to all other development, as well as any additional standards applicable to development in protected areas such as historic districts or natural resource overlays.
- 5.30 The proposed amendments also add design standards to this section of Article 8 specifically for middle housing. The added standards for triplexes and fourplexes address garage and off-street parking area width and driveway width and spacing. The added standards for townhouses address façade articulation and driveway width and spacing. The added standards for cottage clusters address the size and scale of buildings and development, building orientation, common courtyard design, pedestrian access, window coverage, parking design, and the size of community and accessory buildings. These proposed standards will promote quality development and enhance the environment for walking, consistent with the purpose of the design standards in Article 8.

8.130 Home Orientation. The purpose of these standards is to create pedestrian-friendly, sociable, safe, and attractive single-family neighborhoods through human-scale design. By ensuring that the pedestrian entrance is visible or clearly identifiable from the street, these standards enhance public safety for residents and visitors and provide opportunities for community interaction.

Article 8 (8.130): Findings of Fact

- 5.31 The proposed amendments modify the Home Orientation purpose statement to remove the term “single-family,” since standards will apply to both single-family and middle housing development.
- 5.32 Minor amendments are also proposed to ensure the standards comply with OAR.660-046, which allows single-family design standards to be applied to middle housing only if the standards do not scale by the number of units. Accordingly, the Home Orientation standards have been modified to apply to each lot, rather than to each home. This minor change ensures compliance with State law while ensuring consistency with the purpose of the Home Orientation standards.
- 5.33 Another proposed amendment would clarify that the standards apply to each street-facing façade with a main entrance. This ensures that on corner lots, main entrances on both facades will be close to and visible from the

street. This added provision is consistent with the purpose of creating pedestrian-friendly, sociable, safe, and attractive neighborhoods through human-scale design.

8.133 Street-Facing Windows. The purpose of these standards is to create pedestrian-friendly, sociable, safe, and attractive neighborhoods. The standards enhance public safety by allowing people to survey their neighborhood from inside their residences; and also provide a more pleasant pedestrian environment by preventing large expanses of blank facades along streets.

Article 8 (8.133): Findings of Fact

5.34 Minor amendments are proposed to clarify the application of the Street-Facing Windows standards to middle housing. Because middle housing could have more than one “main pedestrian entrance door,” clarification is needed to ensure standards are clear and objective and easy to implement.

5.35 The amendments also add a new figure to illustrate the window standards, which will facilitate implementation of the standards.

5.36 These proposed amendments ensure that the standards continue to serve the purpose of creating pedestrian-friendly, sociable, safe, and attractive neighborhoods, if applied to middle housing.

Article 8 Purposes – Conclusions

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

Article 9 On-site Development and Environmental Standards Purpose Statements

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

Off-Street Parking

9.020 Space Requirements. Off-street parking and loading must be provided for all development in the amounts indicated in Table 9.020-1 subject to any applicable reductions permitted in this Article. All required parking must be developed in accordance with the standards in this Article.

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:

9.130 Off-Street Parking Lot Design. All off-street parking lots over 1,000 square feet (contiguous) must be designed in accordance with City standards for stalls and aisles as set forth in Table 9.130-1: Parking Lot Design and supplemental drawings. Stall dimensions are measured from inside the stripes.

Article 9 (Off-Street Parking): Findings of Fact

5.38 Amendments to the minimum parking requirements in Table 9.020-1 and in 9.030(1) are necessary for compliance with OAR 660-046, which limits the amount of off-street parking that cities can require for middle housing.

5.39 The proposed driveway spacing standards for triplexes, fourplexes, and townhouses in Article 8 are intended to preserve the availability of on-street parking by ensuring there is adequate room for a parked vehicle between driveways. These proposed standards are, in part, a response to the reduced off-street parking requirements for middle housing in Article 9. The standards should help minimize adverse effects on surrounding property owners and the public by reducing the loss of available on-street parking.

5.40 Amendments to the Parking Area Improvement Standards and Off-Street Parking Lot Design are necessary for compliance with OAR 660-046, which requires that parking areas for middle housing be treated the same as for single-family detached dwellings. In the current code, there is no numeric or size trigger for these parking area/parking lot standards, so it is unclear whether they would apply to parking areas for middle housing. The

proposed amendments apply a threshold of 1,000 square feet; therefore, any parking area that exceeds this size would trigger the standards (even parking for a single-family home). Most single-family and middle housing will not trigger these standards. However, if a large parking area is proposed for a middle housing development, these standards will minimize adverse effects on surround properties and public by ensuring the parking area is designed with perimeter curbs, wheel bumpers, space to turn around, and adequate dimensions for parking stalls and drive aisles.

Landscaping

9.135 Purpose. These regulations are intended to enhance aesthetic value in new developments and the community as a whole; minimize erosion; slow the rate of surface water runoff and improve water quality; cool buildings and parking lots in summer months with shade; enhance ecological functions; and provide access to nature.

9.150 Parking Lot Landscaping. The purpose of landscaping in parking lots is to provide shade, reduce stormwater runoff, and direct traffic. Incorporation of approved vegetated post-construction stormwater quality facilities in landscaped areas is encouraged.

Article 9 (Landscaping): Findings of Fact

5.41 Amendments to the Parking Lot Landscaping are necessary for compliance with OAR 660-046, which requires that parking areas for middle housing be treated the same as for single-family detached dwellings. In the current code, there is no numeric or size trigger for these parking lot landscaping standards, so it is unclear whether they would apply to parking areas for middle housing. The proposed amendments apply a threshold of 1,000 square feet; therefore, any parking area that exceeds this size would trigger the standards. This will ensure that any large parking areas for middle housing provide shade, reduce stormwater runoff, direct traffic, and have improved aesthetics.

Buffering and Screening

9.208 Purpose. These regulations provide screening and buffering between uses in order to reduce the potential objectionable impacts of higher intensity uses on adjacent lower intensity uses. These impacts include, but are not limited to, light pollution and glare, noise, visual impacts, and loss of privacy.

Article 9 (Buffering and Screening): Findings of Fact

5.42 Amendments to the buffering and screening requirements in Table 9.210-1 are necessary for compliance with OAR 660-046, which prohibits cities from applying larger setbacks to middle housing than apply to single-family detached dwellings. Currently, the table requires an extra 10-foot buffer for “attached dwellings 2+ stories,” but not for “detached dwellings.” This currently applies to attached middle housing types with two or more stories, but not to single-family detached housing. The proposed amendments revise the standards to remove the extra buffer for middle housing, thereby treating middle housing the same as single-family detached.

5.43 The refinements to Table 9.210-1 do not change the standards’ consistency with the Article 9 purpose of minimizing adverse effects on surrounding property owners or the general public.

Article 9 Purposes – Conclusions

5.44 The proposed development code text amendments are consistent with the existing purpose statements for the applicable standards in Article 9.

Article 10 Manufactured Home Development Standards Purpose Statements

10.000 Overview. This article contains the standards of development for manufactured housing placed on individual lots and in manufactured home parks within the City. Manufactured homes provide a wide choice of housing types suitable for a variety of households, lifestyles and income levels. The standards contained in

this article are intended to provide a suitable living environment for residents of manufactured homes and establish development standards that will increase compatibility with adjacent land uses. The following is a list of the main headings in this article.

Article 10 Purposes – Findings of Fact and Conclusions

- 5.45 Amendments to the Manufactured Home Development Standards are necessary to comply with state law, which requires all housing (including manufactured housing) to be allowed through a clear and objective review path.
- 5.46 Proposed amendments to the review criteria for Placement on Individual Lots retain the criteria that are most important for compatibility with adjacent land uses—roof pitch and perimeter foundation enclosure criteria—and make them clear and objective. Criteria that are outdated or unnecessary for ensuring compatibility with adjacent land uses have been removed. Manufactured homes will continue to be subject to the design standards for single-family homes in Article 8.
- 5.47 Proposed amendments to the Manufactured Home Park standards are intended to make these standards clear and objective and establish more specific standards for acceptable Common and Recreation Area amenities. The improvements to the common area standards will help ensure that manufactured home parks provide a suitable living environment for residents, consistent with the purpose for the Article 10 standards. Refinements to make the standards clear and objective do not change the standards’ consistency with the Article 10 purpose of increasing compatibility with adjacent land uses.
- 5.48 The proposed development code text amendments are consistent with the purpose statement for Manufactured Home Development Standards.

Article 11 Land Divisions and Planned Developments Purpose Statements

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

Article 11: Findings of Fact

- 5.49 Amendments to Article 11 are necessary to comply with state law, which requires all housing to be allowed through a clear and objective review path. Proposed amendments to the Lot and Block Arrangement standards and Tentative Plat Review Criteria for subdivisions and partitions are intended to ensure that standards applicable to residential subdivisions are clear and objective. The intent is that the outcomes resulting from the amended standards and criteria will be generally consistent with the existing regulations but will be easier and more straightforward to apply. As such, the proposed amendments to not alter the regulations’ consistency with the Land Divisions and Planned Developments purpose statements.
- 5.50 Proposed amendments also change the review procedure for large subdivisions from Type III to Type I-L. With clear and objective review criteria in place, there is no longer the need for a public hearing in front of the Planning Commission. Further, ORS 197.015 requires that subdivisions are subject only to limited land use decisions, which in Albany is the Type I-L process. This will streamline the approval process for subdivisions, while still ensuring standards are met, consistent with the purpose statements.
- 5.51 A new section has been added for Expedited Land Divisions and Middle Housing Land Divisions (Sections 11.600-11.630) to incorporate the processes specified in SB 458 and ORS 197. SB 458 establishes the review procedure that cities must follow for Middle Housing Land Divisions (the same procedure as for Expedited Land Divisions), it limits the review criteria and conditions of approval that cities can apply, and it applies other

specifications and restrictions. These state-mandated procedures apply regardless of whether they are adopted into the ADC; however, the City has opted to include the provisions in the ADC in order to make the process more accessible to applicants and easier to apply.

11.250 Purposes. The purposes of a Planned Development are to:

- (1) Encourage more innovative planning that results in more desirable or sustainable environments or neighborhoods, improved protection of open spaces, transportation options, and site phasing of developments through the application of flexible and diversified land development standards than would otherwise occur under conventional land development procedures; and**
- (2) Facilitate the efficient use of land and resources in regard to land uses, buildings, circulation systems, natural features, energy conservations, open space and utilities.**

Article 11 (Planned Development): Findings of Fact

5.52 The proposed amendments to the Planned Development (PD) provisions allow an option for all PDs to provide less than the currently required 25% open space if applicants can demonstrate that the amount of open space proposed is high-quality and appropriate to the scale and character of the PD. The intent of these amendments is to make PD a more flexible tool and more useful for a broader range of innovative developments, consistent with the purpose statements for PD.

5.53 Middle housing has also been incorporated into the PD provisions. The PD process offers a more flexible way for middle housing—especially cottage clusters—to be developed than would otherwise be permitted and allows individual cottages to be divided and sold as “fee-simple” lots. Proposed PD amendments facilitate cottage cluster development by exempting them from most of the open space requirements, provided they meet the common courtyard design standards in Article 8.

5.54 Proposed amendments to the Condominiums are required for consistency with ORS Chapter 100.

11.400 Purpose. Cluster development is intended to protect and/or restore natural and other special features in the development of a site. In return, the more flexible standards found in this section may supersede other stricter standards of this Code. Cluster developments may provide greater flexibility, reduced and/or varied lot sizes, and more variety in permitted uses. Residential density may be transferred within the development in exchange for restoring degraded or marginal quality resources located in a Significant Natural Resource overlay district or for protecting natural or other special features of the site. Developments must satisfy high-quality master planning and design requirements.

Article 11 (Cluster Development): Findings of Fact

5.55 Amendments to the Cluster Development Section are necessary for consistency with the HB 2001 and OAR 660-046 requirements for middle housing. These minor changes do not alter the Cluster Development standards’ consistency with the purpose statements.

Article 11 Purposes – Conclusions

5.56 The proposed development code text amendments are consistent with the existing purpose statements for the applicable standards in Article 11.

Article 12 Public Improvements Purpose Statement

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

Article 12 Purposes – Findings of Fact and Conclusions

5.57 Amendments to the Public Improvements standards are necessary for compliance with OAR 660-046, which generally requires that cities apply the same public improvement standards to the development of middle housing

as apply to development of single-family detached dwellings. As such, the proposed amendments do not alter the standards' consistency with the purpose of Article 12.

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

Article 22 – Use Categories and Definitions

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.

Article 22 Purposes – Findings of Fact and Conclusions

5.59 Amendments to the Use Categories and Definitions are necessary for compliance with OAR 660-046 for middle housing and to ensure the terms used in the proposed ADC amendments are clearly defined. As such, the proposed amendments do not alter the standards' consistency with the purpose of Article 22.

5.60 The proposed development code text amendments are consistent with the purpose statement for Use Categories and Definitions.

Article 13 Signs

13.110 Purpose (applicable)

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

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

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

Articles 6, 7 and 13 Purposes - Findings of Fact and Conclusions

5.61 No changes are proposed to Articles 6 or 7.

5.62 The purpose of the standards in Articles 6 are to manage development in the floodplain, on hillsides and in the Willamette River Greenway and to protect the City's significant natural resources.

5.63 The purpose of the Historic Overlay District standards in Article 7 are to protect the City's historic landmarks.

- 5.64 Middle Housing is subject to all applicable standards in the ADC including those in Article 6 and Article 7. Middle housing development that results in exterior alterations or additions to historic landmarks or new construction within one of Albany’s historic districts is subject to the standards in Article 7.
- 5.65 The proposed amendments in Section 13.560 would add cottage clusters to the types of residential development eligible for one neighborhood sign.
- 5.66 The proposed development code text amendments are consistent with the purpose statements for Articles 7 and 13.

Conclusions: Development Code Amendment Criterion 2

- 5-1 The proposed Development Code amendments are consistent with applicable purpose statements in Articles 1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, 13, and 22, as described in Findings 5.1 through 5.66.
- 5-3 Based on the above analysis, this criterion is satisfied.

Overall Conclusion

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

Acronyms

ADC	Albany Development Code
AMC	Albany Municipal Code
CP	Comprehensive Plan Amendment File Designation
DC	Development Code Amendment File Designation
DLCD	Oregon Department of Land Conservation and Development
LUBA	Oregon Land Use Board of Appeals
OAR	Oregon Administrative Rule
ORS	Oregon Revised Statutes