

ORDINANCE NO. 4807

AN ORDINANCE AMENDING ALBANY MUNICIPAL CODE, SECTION 20.04.010, KNOWN AS "THE CITY OF ALBANY DEVELOPMENT CODE," SPECIFICALLY AMENDING ARTICLES 5 AND 22 (EXHIBIT A).

The City Council hereby finds the following:

1. The City of Albany Development Code was first enacted in September of 1981, amended in October of 1982, and acknowledged with the City's Comprehensive Plan by the State Land Conservation and Development Commission in November, 1982.

2. The text of Articles 5 and 22 of the Code have not been reviewed for compliance with state goals, the Oregon Revised Statutes, administrative rules, and the City's Comprehensive Plan since 1982.

3. The City's Comprehensive Plan and state law require periodic major updates of the Comprehensive Plan and implementing regulations.

4. The planning staff, Planning Commission, City Council, and interested citizens have met in a variety of work sessions and public hearings to review proposed changes to Articles 5 and 22 of the Development Code resulting in the attached changes.

5. The proposed changes have been specifically reviewed for compliance with state goals, the Oregon Revised Statutes, administrative rules, and the City's Comprehensive Plan and have hereby been found to be in full compliance with all of the foregoing.

6. In addition to these findings, Section 1.020 of the Development Code sets forth the purpose and legislative intent of all ordinance provisions, including these amendments which are intended to further satisfy these purpose and intent statements.

7. The commentary sections in attached Exhibit A, though not adopted as part of the language of the Code, further contain specific findings and explanations providing more detailed justification for significant amendments. Thus, the City Council does hereby concur with all commentary sections and, by this reference, all commentary sections in attached Exhibit A are incorporated herein as additional findings of the City in support of these amendments.

8. The City Council, in approving these amendments, takes particular note in the commentary sections relating to the regulation of adult entertainment uses and satellite dish antennas since the regulation of these uses has been the subject of frequent litigation on a national scale. The Council finds that these particular provisions are intended to satisfy the most current rulings on these matters. Furthermore, it is not the City's intent to prohibit these uses, but merely to regulate their location for the reasons stated in the commentary sections.

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

Section 1: That Albany Municipal Code, Section 20.04.010, known as "The City of Albany Development Code," specifically amending Articles 5 and 22 is hereby amended such that the Albany City Council does hereby adopt the attached amendments (Exhibit A) to the City of Albany Development Code.

Passed by the Council: March 9, 1988

Approved by the Mayor: March 10, 1988

Effective Date of this Ordinance: April 8, 1988

Tom Holman  
Mayor

ATTEST:

W. J. Kelley  
City Recorder

ARTICLE 5

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ARTICLE 5.

ZONING DISTRICTS

5.010 Establishment of Major Zoning Districts. Land within the City is within one of the major zoning districts set forth in this Article. Where the abbreviated designation is used, it has the same meaning as the entire classification title. ~~The locations of major zoning districts are indicated on the City zoning map. The City zoning map is subject to periodic revisions in accordance with procedures set forth in this Code. The most current official zoning map shall be kept on public display in the City Planning department. If a discrepancy is found between the classification of property as shown on the official zoning map and a record of action, the record of action shall prevail.~~

COMMENTARY

See Section 5.030.

5.015 Summary of Major Open-Space and Residential Zoning Districts. The following zoning districts are hereby established to implement the policies of the Comprehensive Plan, regulate the use of land, structures, and buildings and protect the public health, safety, and welfare:

- (1) The OS OPEN SPACE DISTRICT allows is intended for the establishment, continuation, and preservation of agricultural uses, park and recreation areas, **wildlife habitats, wetlands, natural areas,** and other uses that do not involve the construction of structures other than minor facilities that might be required to conduct the principal use.
- (2) The R-1 LOW DENSITY RESIDENTIAL DISTRICT allows is intended primarily for low density urban residential development. ~~and mobile home parks and subdivisions.~~
- (3) The R-2 LIMITED MULTIPLE FAMILY RESIDENTIAL DISTRICT allows is intended primarily for low to medium density residential multiple-family development. ~~and mobile home parks and subdivisions.~~
- (4) The R-3 MULTIPLE FAMILY RESIDENTIAL DISTRICT allows is intended primarily for medium to high density residential multiple-family development.

- (5) The RP RESIDENTIAL PROFESSIONAL DISTRICT is intended to provide for a desirable mixing of residential land uses with professional offices and related limited commercial uses in possible close proximity to adjacent residential and commercial districts. The limited commercial uses allowed in this district are selected for their compatibility with residential uses. Such a district is typically appropriate along arterial or collector streets as a transitional or buffer zone between residential districts and more intense commercial or industrial districts.
- (6) The C-1 NEIGHBORHOOD COMMERCIAL DISTRICT is intended to provide for create, --preserve, --and--enhance small areas of retail establishments serving frequently recurring nearby residents' needs in convenient locations. The C-1 District is typically appropriate to small shopping clusters or service centers located within residential neighborhoods. Generally, uses located within C-1 Districts should have as their primary market area the potential population within a one-half mile radius.
- (7) The C-2 COMMUNITY COMMERCIAL DISTRICT is intended to provide for create, preserve, --and--enhance areas developments which have a wide range of retail sales and service establishments. The C-2 District is typically appropriate to large commercial clusters near intersections or along major thoroughfares.
- (8) The C-3 DOWNTOWN BUSINESS DISTRICT is intended to provide for a single district preserve--and--enhance--areas within which a high the-greatest possible concentration of service and retail-sales-and business activities will occur. The district will be applied to the "core" or "downtown" area based upon the guidelines established in the Comprehensive Land Use Plan.
- (9) The CH HEAVY COMMERCIAL DISTRICT is intended to provide areas where a mixture of commercial and light industrial activities can occur such as vehicle sales, for-used-car-lets, --heavy equipment rental and sales, and other uses that which may have extensive outside storage, truck heavy

equipment traffic and/or noise characteristics. This district is most appropriate in outlying areas or in areas intended to be compatible with or buffer heavier industrial uses.

- (10) The MP INDUSTRIAL PARK DISTRICT is intended primarily to provide for industrial uses and support activities which are characterized by large setbacks, attractive building architecture, large landscape park-like areas, and the absence of objectional external effects. ~~such-as-noise, air-and-water-pollution,-and-unsightliness.~~ The district is designed for industrial parks containing offices together with clean, non-polluting industries.
  
- (11) The ML LIGHT INDUSTRIAL DISTRICT is intended primarily to provide for a wide range of manufacturing, warehousing, processing, and related establishments which have a limited impact on surrounding properties. This district is particularly suited to areas having good rail and/or highway access.
  
- (12) The MH HEAVY INDUSTRIAL DISTRICT is intended primarily to provide for industrial uses and support activities which are potentially incompatible with most other uses and which are characterized by large amounts of traffic, extensive shipping of goods, outside storage or stockpiling or raw materials, by-products, or finished goods, and a controlled but higher level of noise and/or air pollution.

5.020 Establishment of Special Purpose Districts. Special purpose districts are overlay districts which may be combined with a major zoning district. The regulations of a special purpose district shall be supplementary to the regulations of the underlying major zoning district, and the regulations of a special purpose district and the major zoning district shall all apply. 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 which apply in such districts are summarized below:

Table -4.030

<u>Special Purpose District</u>	<u>Additional Sections Applicable</u>
Flood Plain	Section 11.010 - 11.060
Willamette Greenway	Section 11.110 - 11.150
Planned Development	Section 11.310 - 11.430
Airport Approach	Section 11.500
Planned Industrial Development	Section 11.600 - 11.660

5.030 The Official Zoning Map. The locations of major zoning districts are indicated on the official zoning map which is hereby adopted by reference. The official zoning map shall be maintained by the Director in a secure location. The official zoning map may consist of several sheets or pages, each of which shall bear a distinctive identifying number assigned by the Director and the date of latest revision. A facsimile of the official zoning map shall be maintained in the Planning Department for public display. All other zoning maps are unofficial and no representation as to their accuracy is made or implied. Upon request, the Director shall supply written verification of the official zoning of property which can be accurately described in relation to the official zoning map. Where uncertainty exists as to the boundaries of districts as shown on the official zoning map, the following rules shall apply:

- (1) Boundaries indicated as approximately following the centerlines of streets, highways, or alleys shall be construed to follow such centerlines.
- (2) Boundaries indicated as approximately following platted lot lines shall be construed as following such lot lines.
- (3) Boundaries indicated as approximately following city limits shall be construed as following city limits.
- (4) Boundaries indicated as following railroad lines shall be construed to be the center of the railroad right-of-way.
- (5) Boundaries indicated as approximately following the centerlines of streams, rivers, canals, lakes, or other bodies of water shall be

construed to follow such centerlines as determined by the most current information.

- (6) Boundaries indicated as parallel to or extensions of features indicated in subsections (1) through (5) above shall be so construed.
- (7) Distances not specifically indicated on the official zoning map shall be determined with reference to the scale of the map.
- (8) In all cases where a zoning or rezoning action was made with reference to a specific property description, that description shall establish the district boundary.
- (9) Where physical or cultural features existing on the ground are at variance with those shown on the official zoning map, or in other circumstances not covered by subsections (1) through (6) of this section, the Director shall interpret the district boundaries, and if need be, may refer the matter to the Planning Commission for its interpretation.

5.035

Amendments to the Official Zoning Map. Amendments to the official zoning map are accomplished through the procedures outlined in Article 3. The Director shall update the official zoning map as soon as possible after amendments to it are adopted by the Council and take effect.

COMMENTARY

The previous two subsections regarding the official zoning map contain common provisions found in other zoning codes which are intended to both give direction to City staff regarding maintenance of an official map and to set forth protections and objective standards for making map interpretations.

5.040

Interpretation of Schedules of Permitted Uses. The following rules shall be used to interpret the schedules of permitted uses as found in this Article:

- (1) The schedules of permitted uses are not all inclusive of uses which may be appropriately located within the city; therefore, those uses that are listed shall be interpreted by the Director to include other uses which have very similar characteristics and which are not more particularly identifiable with a permitted use listed elsewhere within the schedules.



However, where ambiguity still exists concerning the appropriate classification of the particular use within the intent of this Code the use may be considered as a conditional use where the Director determines that the proposed use is consistent with other uses allowable within the subject district due to similar characteristics.

- (2) The schedules shall not be interpreted to allow a use in one zoning district when the use in question is more closely related to another specified use that is permissible in other zoning districts whether by Site Plan Review or Conditional Use Permit.
- (3) Where a development proposal involves a combination of uses other than accessory uses, the more restrictive provisions of this Code shall apply. For example, if a portion of a development is subject to conditional use approval and the balance is subject only to Site Plan Review, the entire development shall be reviewed utilizing the conditional use procedures if concurrent approval of all uses is sought.
- (4) A change in the use of a property occurs and is subject to review as specified by the schedules of permitted uses:
  - (a) When the change involves a change from one use category to another in the schedule of permitted uses and the Director has not waived review under the provisions of Section 1.070(6), or
  - (b) When a property which has been unoccupied for more than one year and is non-conforming under the provisions of Article 1 is proposed to be occupied.

#### COMMENTARY

The existing Code contains no explicit rules for making interpretations relative to the schedules. Questions do occasionally occur which require some interpretation and staff has probably erred on the side of making liberal interpretations where possible. These rules will give staff additional authority and guidelines for making such interpretations. In addition, these rules spell out the rules of interpretation that staff have historically applied to the schedules.

Schedule of Permitted Uses in Open-Space and Residential-Zoning Districts. The following specific buildings and 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. The abbreviations used within the schedule shall have the following meanings:

- A Use allowed without special conditions or review procedures.
- S Use permitted that requires a site plan to be approved prior to for the development or occupancy of the entire site or building. prior to the issuance of any building permits.
- C Use permitted conditionally under the provisions of Article 14. which requires a permit that may have conditions attached to it.
- D Use permitted only through Planned Development approval.
- \* Use not permitted in the major zoning district indicated.

A number appearing opposite a use in the "special conditions" column indicates that special provisions apply to the use which are found at the end of this article in Section 5.060.

#### COMMENTARY

The preceding sections are primarily a reordering of existing provisions with modifications as indicated. A major change here and in the following schedule (Section 5.050, Schedule of Permitted Uses) is grouping of all of the zoning district descriptions and schedule of permitted uses into a more usable format. This new schedule format allows easy reference for determining within which zones various uses are permitted, a reference to the parking standard which applies to each use where applicable, and an indication of any special use conditions which might apply. The "special conditions" column allows a convenient method for identifying and regulating uses which may warrant application of unique conditions within certain zones. The wording of the special conditions is located at the end of the chapter.

Due to the complete reworking of this schedule, it is not possible to indicate actual revisions; therefore, the use of the strike out and bold typing format has not been utilized. The schedule should thus be reviewed as entirely new language even though many provisions are in effect unchanged.

Section 1.000: The existing Code contains no size standards for garages, carports, and accessory buildings. This has created problems of incompatibility in some neighborhoods with no opportunity for review or application of special conditions as could occur with conditional use review.

Section 2.220: Allowing small accessory apartments on single family lots with extra site capacity is an increasingly popular trend, particularly in cities like Albany with numerous large older homes built when average family sizes were much larger.

Section 2.500: This expanded list of group care facilities is intended to better differentiate between these widely varying types of uses and to comply with recently revised state laws pertaining to group care and child care facilities.

Sections 2.620-2.630: The provisions for Bed and Breakfast homes in residential zones are new and probably would impact the historic districts.

Section 3.500: These provisions are new and could be considered controversial. However, protection of significant trees, or at least consideration as to how they might be integrated into future site development, is important to achieving city beautification objectives. Wood cutting for personal or commercial use is presently unregulated and dealt with only on a noise complaint basis. The increasing popularity of wood heat increases the need for better standards and possible enforcement.

Sections 4.200-4.500: The definitions of high volume and low volume traffic generation will be included in the definitions chapter. These performance standards will provide a better method of differentiating between commercial and industrial uses with different impacts without attempting to itemize each possible use. A definition of "low-volume traffic generation" would include uses such as furniture, floor covering, and major appliance stores, etc. that sell items that are large and bulky, that need a relatively large amount of storage or display area for each unit offered for sale and that generate less customer traffic per square foot of floor space than stores selling smaller items. High volume traffic generation would then be defined as all other uses in the same category.

Section 8.150: The current City Code makes all adult entertainment activities (presumably defined as sexually-oriented adult entertainment) conditional uses without any specific standards. If the City chooses to regulate such uses as distinguished from similar uses with a different form of entertainment, the regulations cannot unduly restrict such uses from locating within the city. However, a recent U.S. Supreme Court decision clarifies that a city may establish restrictive locational requirements which are intended to reduce potentially adverse affects of such uses on surrounding properties. Similar locational requirements have been adopted by many cities in response to studies in Seattle, Detroit, and elsewhere that adult entertainment uses, when allowed to congregate, have generated numerous neighborhood problems.

Section 9.000: Essentially, all industrial processes are grouped into the few performance categories listed here. The environmental performance standards regulating odors, noise, vibrations,

and emissions will further help define which businesses are appropriate to various zones depending on their performance characteristics.

SECTION 5.060 SCHEDULE OF PERMITTED USES

OS	ZONING DISTRICTS											PARKING GROUP	SPECIAL CONDS.	USE DESCRIPTIONS			
	R-1	R-2	R-3	RP	C-1	C-2	C-3	CH	MP	ML	MH						
																1.000	<u>ACCESSORY BUILDINGS AND USES</u>
																1	1.100 Within Residential Districts:
*	A	A	A	A	*	*	*	*	*	*	*	*	*	*	*		1.110 Accessory buildings, garages, carports attached to the dwelling & totaling less than 1,000 sq. ft.
C	A	A	A	A	*	*	*	*	*	*	*	*	*	*	*		1.120 Detached accessory buildings, garages, carports totaling less than 750 sq. ft. & having walls not greater than 11' in height.
C	C	C	C	C	*	*	*	*	*	*	*	*	*	*	*		1.130 All other residential district accessory buildings, garages and carports.
C	*	*	*	A	A	A	A	A	A	A	A	A	A	A	A	1	1.200 Non-Residential Accessory Buildings and Uses
																	2.000 <u>RESIDENTIAL, RENTAL ROOMS, &amp; GROUP CARE</u>
																	2.100 Single Family Residences:
*	A	A	A	A	C	*	*	*	*	*	*	*	*	*	*		2.110 Single family detached, one dwelling per lot
*	D	S	S	D	*	*	*	*	*	*	*	*	*	*	*		2.120 Single family detached, more than one dwelling per lot
*	C	S	S	C	*	*	*	*	*	*	*	*	*	*	*	2,3	2.130 Two units attached at common wall property line
*	D	S	S	D	*	*	*	*	*	*	*	*	*	*	*		2.140 Multiple single family attached units
*	C	C	C	C	C	C	C	C	*	*	*	*	*	*	*	4	2.150 Conversion of multiple family to single family attached
*	C	C	C	C	*	*	*	*	*	*	*	*	*	*	*		2.160 Manufactured homes (See Article 12)
*	S	S	S	D	*	*	*	*	*	*	*	*	*	*	*		2.170 Manufactured home parks and subdivisions (See Article 12)
*	*	*	*	S	S	S	S	S	S	S	S	S	S	S	S		2.180 Single family attached and accessory to business use
*	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A		2.190 Home occupations (See Article 16)

SECTION 5.060 SCHEDULE OF PERMITTED USES

OS	ZONING DISTRICTS										PARKING SPECIAL		USE DESCRIPTIONS	
	R-1	R-2	R-3	RP	C-1	C-2	C-3	CH	MP	ML	MH	GROUP		CONDS.
														<b>2.200 Two-Family Residences:</b>
*	C	A	A	C	*	*	*	*	*	*	*			2,3 2.210 Duplexes
*	C	A	A	C	C	*	*	*	*	*	*			5 2.220 Primary residence with accessory apartment
*	*	*	*	C	C	S	S	S	*	*	*			2.230 Two-family residence located above first floor of business use
														<b>2.300 Multiple Family Residences:</b>
*	D	C	C	C	*	*	C	*	*	D	D			2.310 Located within Willamette River Greenway Boundary
*	*	*	*	D	*	S	S	*	D	*	*			2.320 Located above first floor of business use
*	D	S	S	D	*	*	C	*	*	*	*			2.330 Quad or quint apartment dwellings
*	D	S	S	D	*	*	C	*	*	*	*			2.340 All other multiple family dwellings
*	*	C	C	*	*	C	*	S	*	S	*			6 2.400 Overnight Recreational Vehicle Parks (See Article 12)
														<b>2.500 Homes &amp; Institutions Providing Special Services, Treatment, or Supervision:</b>
*	A	A	A	A	S	S	S	S	C	C	*			7 2.510 Group care home
*	*	C	C	C	C	C	C	C	C	C	*			2.520 Residential care institutions
*	*	*	C	C	C	S	S	S	C	C	*			2.530 Hospital
*	A	A	A	A	A	A	A	A	*	*	*			8 2.540 Child care home
*	C	C	S	C	C	S	S	C	C	C	C			2.550 Child care institution
*	*	*	*	*	*	C	C	S	*	S	S			2.560 Jails & detention facilities
														<b>2.600 Miscellaneous Rooms for Rent Situations:</b>
*	*	C	C	*	*	S	S	*	*	*	*			2.610 Rooming houses, boarding houses
*	C	C	S	C	*	S	S	*	*	*	*			9 2.620 Bed & breakfast home
*	*	*	*	*	*	S	S	S	*	C	*			2.630 Hotels & motels
*	S	S	S	S	S	S	S	S	S	S	S			10 2.700 Temporary Residence in Conjunction with New Construction, Emergency Repair, or Night Watchman Use

SECTION 5.060 SCHEDULE OF PERMITTED USES

OS	ZONING DISTRICTS										PARKING SPECIAL		USE DESCRIPTIONS		
	R-1	R-2	R-3	RP	C-1	C-2	C-3	CH	MP	ML	MH	GROUP		CONDS.	
														3.000	<u>AGRICULTURE &amp; NATURAL RESOURCES</u>
A	A	A	A	A	A	A	A	A	A	A	A	A	A	3.100	Crop Production Generally
C	C	C	C	C	S	S	S	S	S	S	S	S	S	3.200	On-site Retail Sales of Site-produced Seasonal Goods Exceeding 30 days duration
C	C	C	C	C	C	C	C	S	S	S	S	S	S	3.300	Plant Nurseries and Greenhouses
*	*	*	*	*	*	C	*	C	*	S	S	S	S	3.310	Bulk sales of landscape construction materials & rock products
C	*	*	*	*	*	*	*	C	*	C	S	S	S	3.400	Mining, Quarrying, Oil and Gas Extraction & Asphalt-Concrete Batch Plants Including On-site Sales of Products
C	C	C	C	C	S	S	C	S	S	S	S	S	S	3.410	Temporary staging areas for Public Works construction projects in excess of 6 months duration
														3.500	Tree Cutting & Firewood Cutting:
C	S	S	S	S	S	S	S	S	S	S	S	S	S	11 3.510	Removal of 5 or more trees in excess of 10" in diameter
*	*	*	*	*	*	S	*	S	*	S	S	S	S	3.520	Commercial firewood sales lots
C	C	C	C	C	C	C	C	C	C	C	C	C	C	3.600	Development Within a Wetland
														4.000	<u>SALES, RENTAL &amp; SERVICING OF GOODS, MERCHANDISE &amp; EQUIPMENT</u>
														4.100	Automotive, Marine, Trucks, RV's, Agricultural Machinery:
*	*	*	*	*	*	S	S	S	*	C	C	C	C	4.110	Sales & rentals, including servicing
*	*	*	*	*	*	S	S	S	*	S	S	S	S	4.120	Parts & accessories sales which may include installation services

SECTION 5.060 SCHEDULE OF PERMITTED USES

OS	ZONING DISTRICTS											PARKING GROUP	SPECIAL CONDS.	USE DESCRIPTIONS	
	R-1	R-2	R-3	RP	C-1	C-2	C-3	CH	MP	ML	MH				
*	*	*	*	*	*	S	S	S	*	S	S			4.130	Service, minor repair, & detail shops
*	*	*	*	*	*	C	C	S	*	S	S			4.140	Paint & body work & major repair (eg frame straightening, engine rebuilding)
*	*	*	*	*	C	S	S	S	C	S	S			4.150	Automobile oriented fuel sales with or without accessory service bays or accessory convenience sales
*	*	*	*	*	C	S	S	S	C	S	S			4.160	Car washes
*	*	*	*	*	*	C	*	S	*	S	S			4.170	Truck fuel sales, truck servicing, overnight trucking facilities & related services
														<b>4.200</b>	<b>High Volume Traffic Generation Uses Conducted Within Enclosed Buildings:</b>
*	*	*	*	*	S	S	S	S	*	*	*			4.210	Retail sales serving frequent neighborhood needs (ie grocery, small hardware & garden supply, pharmacies, video rentals, stationery, flowers, etc)
*	*	*	*	*	C	S	S	S	S	C	*			4.220	Other retail sales
*	*	*	*	*	C	S	S	S	C	S	S			4.230	Miscellaneous rental merchandise & equipment
*	*	*	*	*	C	S	S	S	S	S	S			4.240	Servicing of goods, merchandise, equipment (i.e. laundromats, small appliance repair, shoe repair, tailoring, etc.)
*	*	*	*	S	S	S	S	S	S	S	S			4.250	Personal services (i.e. barber & beauty shops, therapeutic massage, tanning salons, etc.)
*	*	*	*	*	*	S	S	S	C	S	S			4.260	Wholesale sales
														<b>4.300</b>	<b>Low Volume Traffic Generation Uses Conducted Within Enclosed Buildings:</b>
*	*	*	*	*	*	S	S	S	*	C	*			4.310	Retail sales (ie furniture, appliance, floor covering, bldg. supplies, industrial supplies, etc)
*	*	*	*	*	*	S	S	S	*	S	C			4.320	Miscellaneous equipment, appliances, & furniture rental



SECTION 5.060 SCHEDULE OF PERMITTED USES

OS	ZONING DISTRICTS											PARKING GROUP	SPECIAL CONDS.	USE DESCRIPTIONS
	R-1	R-2	R-3	RP	C-1	C-2	C-3	CH	MP	ML	MH			
*	*	*	*	*	*	S	C	S	*	S	S			4.330 Servicing of appliances, furniture, lawn & garden, industrial, mechanical, heating & cooling, & other bulky equipment or merchandise
*	*	*	*	*	*	S	S	S	C	S	S			4.340 Services offered primarily off-site (i.e. janitorial, contractors, carpet cleaning, catering, landscaping, utility services etc.)
*	*	*	*	*	*	C	C	S	C	S	S			4.350 Wholesale sales
														<b>4.400 High Volume Traffic Generation Uses Involving Storage or Display Outside Fully Enclosed Building:</b>
*	*	*	*	*	*	S	C	S	*	C	*			4.410 Retail sales (ie lawn & garden variety stores with regularly maintained outdoor sales, building supplies, etc.)
*	*	*	*	*	*	S	C	S	S	S	S			4.420 Servicing merchandise & equipment
*	*	*	*	*	*	S	S	S	*	S	S			4.430 Wholesale sales
														<b>4.500 Low Volume Traffic Generation Uses Involving Storage or Display Outside Fully Enclosed Building:</b>
*	*	*	*	*	*	S	C	S	*	C	*			4.510 Retail sales & related services
*	*	*	*	*	*	S	C	S	*	S	S			4.520 Miscellaneous goods & equipment rental
*	*	*	*	*	*	C	*	S	*	S	S			4.530 On-site servicing of appliances, furniture, lawn & garden, heating & cooling, industrial, mechanical, & other bulky equipment or merchandise
*	*	*	*	*	*	C	*	S	*	S	S			4.540 Services offered primarily off-site (see 4.340)
*	*	*	*	*	*	C	C	S	*	S	S			4.550 Wholesale sales
														<b>5.000 <u>EATING &amp; DRINKING ESTABLISHMENTS:</u></b>
*	*	*	*	C	S	S	S	S	S	S	S			5.100 No Substantial Carry-Out or Delivery Service & no Drive-In Service.

SECTION 5.060 SCHEDULE OF PERMITTED USES

OS	ZONING DISTRICTS											PARKING SPECIAL		USE DESCRIPTIONS	
	R-1	R-2	R-3	RP	C-1	C-2	C-3	CH	MP	ML	MH	GROUP	CONDS.		
*	*	*	*	C	S	S	S	S	S	S	S	S	S	5.200	Delicatessen, Bake Shop, & Sales of Other Prepared Food Products Where Substantial Consumption is Expected to Occur Off-Premises and not Involving Drive-Up or Delivery Service
*	*	*	*	*	*	S	C	S	C	S	S			5.300	Food Establishments with Drive-Up Windows.
*	*	*	*	*	C	S	S	S	S	S	S			5.400	All Other Restaurants & Eating Establishments
*	*	*	*	*	*	S	S	S	*	C	C			5.500	Taverns, Bars, Nightclubs
														6.000	<u>OFFICES, SERVICES, &amp; RESEARCH NOT PRIMARILY RELATED TO ON-SITE RETAIL SALES OR MANUFACTURE OF GOODS OR MERCHANDISE:</u>
*	*	*	*	S	S	S	S	S	C	C	C			6.100	Offices Intended to Attract & Serve Customers or Clients on Premises (ie attorneys, physicians, counselors, financial institutions, insurance, travel agents, investment services, advertising agencies, real estate, mortuaries, etc.)
*	*	*	*	S	*	S	S	S	S	S	S			6.200	Offices with Limited - Customer or Client Traffic (i.e. corporate offices, newspaper, radio, & television offices & studios, engineers, answering or dispatch service, etc.)
														7.000	<u>EDUCATIONAL, CULTURAL, RELIGIOUS, PHILANTHROPIC, SOCIAL, FRATERNAL USES:</u>
														7.100	Schools:
*	C	C	C	C	*	C	C	*	*	*	*			7.110	Primary, elementary, & secondary school (includes associated grounds, facilities & administrative offices)

SECTION 5.060 SCHEDULE OF PERMITTED USES

OS	ZONING DISTRICTS											PARKING SPECIAL		USE DESCRIPTIONS
	R-1	R-2	R-3	RP	C-1	C-2	C-3	CH	MP	ML	MH	GROUP	CONDS.	
*	*	*	*	C	*	S	S	S	S	S	S			7.120 Trade or vocational schools
*	C	C	C	C	*	C	C	*	C	C	*			7.130 Colleges, universities, community colleges (including associated facilities like doms, offices, athletic fields, stadiums, research facilities, etc.)
*	C	C	C	C	C	S	S	S	C	C	*			7.200 Churches, Synagogues, & Temples (includes associated structures for religious personnel, accessory uses like day nurseries; excludes elemen./second. schools that require other permits)
*	*	*	*	S	S	S	S	S	*	*	*			7.300 Art Studios, Galleries, & Centers, Fine Arts Conservatories, Music Schools, Dance Studios, & Similar Cultural Uses (includes associated educational & instructional activities)
*	*	*	*	S	C	S	S	S	C	C	C			7.400 Libraries, Museums
*	*	*	*	*	*	S	S	S	*	S	S			7.500 Fraternal Clubs & Lodges, Union Halls
														8.000 <u>RECREATION &amp; AMUSEMENT, ENTERTAINMENT, PUBLIC ASSEMBLY:</u>
														8.100 Activities Conducted Primarily within Structures:
*	*	*	*	*	*	S	S	S	*	C	C			8.110 Bowling alleys, skating rinks, pool halls
*	*	C	C	C	C	S	S	S	C	S	S			8.120 Indoor racquet sports clubs; spas; athletic, exercise, & health clubs; and similar facilities not constructed as part of planned residential development
*	*	C	C	C	C	S	S	S	*	*	*			8.130 Youth clubs, senior centers, community centers
*	*	*	*	*	*	S	S	S	*	*	*			8.140 Theaters

SECTION 5.060 SCHEDULE OF PERMITTED USES

OS	ZONING DISTRICTS											PARKING GROUP	SPECIAL CONDS.	USE DESCRIPTIONS
	R-1	R-2	R-3	RP	C-1	C-2	C-3	CH	MP	ML	MH			
*	*	*	*	*	*	S	S	S	*	C	C		12	8.150 Adult entertainment
*	*	*	*	*	*	S	S	S	*	*	*			8.160 Games, amusements, arcades
*	*	*	*	*	*	C	C	C	C	C	C			8.170 Coliseums, stadiums
*	*	*	*	*	*	C	*	C	*	C	C			8.180 Indoor gun clubs
*	*	*	*	*	*	S	S	S	C	C	*			8.190 Convention Center
														<b>8.200 Activities Conducted Primarily Outside Enclosed Buildings:</b>
C	C	C	C	C	C	C	C	C	C	C	C			8.210 Outdoor recreational facilities (i.e. golf & country clubs, driving ranges, swimming or tennis clubs, etc. not constructed as part of planned residential development, equestrian trails, etc.)
*	*	*	*	*	C	C	*	C	*	C	*			8.220 Miniature golf, skateboard parks, water slides, & similar uses
C	C	C	C	C	C	C	C	C	C	C	C		13	8.230 Public parks & recreational facilities located therein
*	*	*	*	*	*	*	*	C	*	*	C			8.240 Motor race tracks
*	*	*	*	*	*	*	*	C	*	*	*			8.250 Drive-in movie theaters
C	C	C	*	*	*	C	*	S	*	C	*			8.260 Fairgrounds
													14	<b>9.000 <u>ASSEMBLING, PROCESSING, ANALYZING, MANUFACTURING, PACKAGING, CREATING, TREATING, &amp; RENOVATING GOODS, MERCHANDISE, FOOD, PRODUCTS &amp; EQUIPMENT</u></b>
														<b>9.100 Operations &amp; Related Storage Conducted Entirely within Enclosed Buildings (except shipping &amp; loading):</b>
*	*	*	*	*	*	S	S	S	C	S	S		14	9.110 Majority of dollar volume of business done with walk-in trade
*	*	*	*	*	*	*	C	C	S	S	S		14	9.120 Majority of dollar volume of business not done with walk-in trade

SECTION 5.060 SCHEDULE OF PERMITTED USES

OS	ZONING DISTRICTS							PARKING SPECIAL				USE DESCRIPTIONS		
	R-1	R-2	R-3	RP	C-1	C-2	C-3	CH	MP				ML	MH
*	*	*	*	*	*	*	*	C	*	S	S	14	9.200	Operations Conducted Partially or Wholly Outside of Enclosed Buildings (including storage)
														10.000 <u>STORAGE &amp; WAREHOUSING:</u>
														10.100 Warehousing or Storage of Goods Not Including Sale or Use of Those Goods on the Same Property Where They are Stored Except as Accessory Use Activity:
*	*	*	*	*	*	*	C	S	C	S	S			10.110 All storage within completely enclosed structures
*	*	*	*	*	*	*	*	C	*	S	S			10.120 Outside storage or combination of inside & outside storage
*	*	C	C	*	*	C	*	S	C	S	S	15	10.130	Mini-warehouses/self service storage facilities intended for domestic storage
														11.000 <u>PARKING LOTS:</u>
														11.100 Vehicle & Equipment Parking not Incidental or Accessory to Another Use Located on the Same Property:
*	*	*	*	*	*	*	*	S	*	S	S			11.110 Overnight or long-term vehicle or equipment storage lots (i.e. RV storage, contractor equipment storage, etc.)
*	*	*	*	C	*	S	C	S	S	S	S			11.120 Commercial parking, garages, pay lots
*	*	C	C	C	C	S	C	S	S	S	S			11.130 Off-site parking lots for commercial, education, religious, & institutional uses
C	C	S	S	S	S	S	S	S	S	S	S			11.200 All Other On-Site Parking Lots for Approved Uses
														12.000 <u>RECYCLING, SALVAGE, JUNK YARDS:</u>
														12.100 Recycling Centers:

SECTION 5.060 SCHEDULE OF PERMITTED USES

OS	ZONING DISTRICTS											PARKING GROUP	SPECIAL CONDS.	USE DESCRIPTIONS	
	R-1	R-2	R-3	RP	C-1	C-2	C-3	CH	MP	ML	MH				
*	*	*	*	*	*	C	*	S	*	S	S			12.110	Processing & sorting operations conducted entirely within enclosed structures & containing a total building area of less than 5,000 sq. ft.
*	*	*	*	*	*	*	*	C	*	C	S			12.120	All other material recycling operations excluding metal salvage yards & junkyards
*	*	*	*	*	*	*	*	*	*	*	C			12.130	Salvage yards & junkyards
*	*	*	*	*	*	*	*	*	*	*	C			12.140	Sanitary landfills
*	*	*	*	*	*	*	*	C	*	C	C			12.150	Refuse transfer stations
<b>13.000 SERVICES &amp; ENTERPRISES RELATED TO ANIMALS:</b>															
A	A	A	A	A	A	A	*	A	A	A	A			13.100	Raising of Animals, Livestock (subject also to Albany Municipal Code Section 6.10)
*	*	*	*	*	*	*	*	*	*	*	C			13.200	Livestock Feedlots, Slaughter Houses, Tanneries & Animal Auction Yards
*	C	C	*	*	*	*	*	C	*	S	S	16	13.300	Kennels	
*	C	*	*	*	*	*	*	S	*	C	C			13.400	Animal Arenas, Commercial Stables, Equestrian Center
*	*	*	*	C	C	S	S	S	C	S	S			13.500	Veterinarians, animal hospitals
<b>14.000 PUBLIC &amp; SEMI-PUBLIC USES:</b>															
*	C	C	C	C	C	S	S	S	S	S	S			14.100	Emergency Services (i.e. police & fire stations, ambulance & rescue services)
*	*	*	*	C	*	S	S	S	C	C	C			14.200	Government Offices
A	A	A	A	A	A	A	A	A	A	A	A			14.300	Alleys, Streets, Highways, Bridges, Sidewalks, Bikepaths, & Related Transportation Facilities subject only to special district regulations of Article 11.

SECTION 5.060 SCHEDULE OF PERMITTED USES

OS	ZONING DISTRICTS											PARKING GROUP	SPECIAL CONDS.	USE DESCRIPTIONS		
	R-1	R-2	R-3	RP	C-1	C-2	C-3	CH	MP	ML	MH					
																<b>14.400 Utility Facilities:</b>
A	A	A	A	A	A	A	A	A	A	A	A	A				14.410 Neighborhood utilities including pump stations, electric substations less than 5,000 sq. ft. & all local utility lines
C	C	C	C	C	C	C	C	C	C	S	S	S				14.420 Regional/community utilities including treatment plants, major power generation, major storage facilities, regional transmission facilities, major overhead power lines requiring tower support structures, etc.
*	C	C	C	*	*	*	*	C	*	C	*					14.500 Cemeteries, Crematoriums, & Mausoleums
																<b>15.000 ANTENNAS &amp; TOWERS:</b>
*	*	*	*	*	*	C	C	C	C	C	C	C				15.100 Public & Commercial Communication Towers & Transmitters Over 50 Feet in Height
*	A	A	A	A	A	A	A	A	A	A	A	A				15.200 Antennas, Regardless of Size, Owned & Operated by FCC Licensed Member of Amateur Radio Service
*	A	A	A	A	A	A	A	A	A	A	A	A		17		15.300 Satellite Dish & All Other Antennas
																<b>16.000 TRANSPORTATION:</b>
*	*	*	*	*	*	C	S	S	*	S	*					16.100 Bus Stations
*	*	*	*	*	*	S	*	S	*	S	S					16.200 Train Stations
*	*	*	*	*	*	S	S	S	*	S	*					16.300 Taxi Business
*	*	*	*	*	*	*	*	S	*	S	S					16.400 Trucking
*	*	*	*	*	*	*	*	S	*	S	S					16.500 Railroad Switching Yard & Major Loading & Unloading Facilities
*	*	*	*	*	*	*	*	*	*	C	C					16.600 Airport
*	*	*	*	C	*	C	C	C	C	C	C					16.700 Heliport

Special Conditions. Where numbers appear in the column "special conditions" in the Schedule of Permitted Uses, the corresponding numbered conditions below shall apply to the particular use category as additional clarification or restriction:

- (1) Beyond the standards provided herein for establishment of accessory buildings and uses, the definitions of "Accessory Building" and "Accessory Use" in Article 22 shall apply. The Director shall have authority to initially interpret applicaiton of these terms to any proposed activity.
- (2) In the R-1 and RP Districts, two-unit dwellings must be located on corner lots except in Planned Developments.
- (3) Two-unit dwellings are permitted outright in the R-1 and RP Districts on corner lots which are designated for such at the time of subdivision approval where all adjacent parcels are under the same ownership.
- (4) Two-unit dwellings may be converted to unit ownership with Site Plan Review.

COMMENTARY

These provisions related to two unit dwellings are basically unchanged from existing ordinance provisions.

- (5) Accessory apartments are permitted as additions to or within single family residences when:
  - (a) the principal residence is owner occupied;
  - (b) the apartment remains incidental to the primary residence in size and appearance;
  - (c) at least two off-street parking spaces are available on the property for use; and
  - (d) all required building permits have been obtained.

COMMENTARY

Accessory apartments are becoming increasingly popular for a variety of reasons. Accessory apartments can provide better utilization of existing larger homes built in an era when average household sizes were significantly larger. They also can provide a means of semi-supervised care for individuals who might otherwise be institutionalized. In many instances, this would include relatives; although, the ordinance makes no attempt to differentiate based on relationship.



(6) In R-2 Districts, the following criteria shall be considered in addition to the conditional use criteria for permitting RV overnight parks:

- (a) Entire site must be located within 750 feet of a freeway right of way.
- (b) The RV park access is limited to a freeway frontage road or streets servicing primarily industrial or commercial development.

COMMENTARY

These provisions are intended to allow limited establishment of RV parks in the R-2 district along the freeway such as along Century Drive and Airport Road.

- (7) Includes care of five or fewer individuals.
- (8) Includes day time care of less than thirteen children including the children of the provider. These homes may require a license by the State of Oregon Children's Services Division.
- (9) Within the R-1 and R-2 residential districts 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 within the front yard setback area or within 10 feet of any interior residential lot line.
  - (d) Provide at least one off-street parking space for each rental room.
- (10) Limited to one year in duration except for night watchman in a non-residential zone.

- (11) Tree Removal Criteria: Section 3.510 applies only to parcels or property in contiguous single ownership in excess of 20,000 square feet upon which five or more trees, each in excess of ten inches in diameter, are proposed for removal within one calendar year. The Director shall approve tree cutting in the above instances only when it can be demonstrated that:
- (a) Wooded areas associated with natural drainageways and water areas shall be maintained to preserve riparian habitat and minimize erosion.
  - (b) Wooded areas along ridge lines and hilltops shall be retained for their scenic and wildlife value.
  - (c) Wooded areas along property lines shall be retained to serve as buffers from adjacent properties except with the concurrence of adjacent owners where removal is desired for sunlight or to protect against windfall.
  - (d) Large-scale clear cuts of developable areas shall be avoided to retain the wooded character of future building sites and so preserve housing and design options for future city residents.
  - (e) If concurrent with a development project application, the removal of trees is the minimum necessary to accomplish the objectives of the development while retaining the most trees possible within the intent of the above criteria and Comprehensive Plan policies.

#### COMMENTARY

Tree removal provisions are modeled after similar Development Code provisions in Springfield where that city recently experienced a protracted battle over preventing a clear cut which they viewed as a violation of their Comprehensive Plan. We have similar Comprehensive Plan policies intended to preserve wooded areas; but, we lack any regulatory scheme to protect them. Many cities have gone further in order to protect significant individual trees through a tree cutting permit system. This ordinance does not propose any permits for the cutting of up to five trees on any property within one calendar year regardless of size.

(12) Adult entertainment:

- (a) An adult entertainment use shall not be established or expanded within 300 feet of the district boundary line of any residential zoning district.
- (b) An adult entertainment use shall not be established or expanded within 300 feet of any other adult entertainment use.
- (c) An adult entertainment use shall not be established or expanded within 300 feet of the property line of a church, school, or public park.
- (d) Exceptions to the above may be considered by the variance procedures.

COMMENTARY

The regulation of adult entertainment uses is an often litigated and controversial subject. The attempt here is a compromise between the City's present Code, other highly restrictive ordinances, and ordinances which are silent on the subject. All such uses in the City's present Code are conditional, thus giving the City ultimate authority to deny all applications on grounds of incompatibility. The proposal here is to allow such uses outright in some districts based on more objective standards. However, the City has the option based on defensible legal principles of allowing such uses outright within a single district and, if appropriate, conditionally in others.

There are two basic approaches used by cities to legally regulate the location of adult uses more severely than other similar commercial activities. One is to confine all such uses to a particular area of the city where, in concentration, such uses often benefit from close proximity. The advantage to the public in this situation is that buyers, renters, and users of the district are more likely to be aware of the uses and can decide for themselves whether being in proximity to such activities is objectionable. The principal disadvantage is the cumulative effects that such concentration can have on a limited area and the community as a whole. The August 1985 issue of "Zoning News," published by the American Planning Association, reports on studies from the cities of Detroit, Amarillo, Los Angeles, Indianapolis, Phoenix, St. Paul, and Beaumont; all of which document the adverse effects of concentrated adult entertainment uses. These effects

range from blighting influences on surrounding properties, dramatically increased crime rates in the subject districts and surrounding neighborhoods, neighborhood deterioration, and business closures.

The second approach (which recently received U.S. Supreme Court approval in a case involving the City of Renton, WA) is to separate adult entertainment uses from residential areas, schools, churches, and from each other in order to reduce the adverse effects previously documented. It is important that the dimensional separation requirements still provide a reasonable selection of permissible sites within the community. However, the proposed standards of this ordinance probably error on the permissive side of this point. Indeed, these ordinance provisions are substantially more liberal than were the standards found in the Renton, WA ordinance.

- (13) Public park development activity which is subject to conditional use permit review includes major development or expansion activities and development within parks of substantial traffic generators or major structures such as swimming pools, lighted ball fields, community centers, and the like. Conditional use permit 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.

#### COMMENTARY

Some forms of park development can have negative impacts on a surrounding area, justifying the use of the conditional use process. Examples include lighted ball fields, municipal swimming pools, regional or community parks which can be expected to generate substantial amounts of traffic on residential streets, and other noise or traffic generating facilities.

- (14) The environmental performance standards of Article 8 may further limit the placement of certain uses in some districts by application of additional criteria not specified in this schedule.
- (15) Development standards for self-service storage facilities (mini-warehouses) include:

- (a) Within the R-2 and R-3 Districts, freestanding facilities shall be limited to sites of one to three acres in size and maximum building coverage shall be limited to 50% of the parcel.
- (b) Within the R-2 and R-3 Districts, building setbacks shall be as follows: front yards - 25 feet, interior yards - 20 feet. No fencing is permitted within front yard setbacks and a minimum ten-foot landscape buffer yard is required adjacent to all residential zones. No barbed wire fencing is permitted within residential districts.
- (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 in residential districts and 1,000 square feet in industrial and commercial districts.
- (e) All outdoor lighting shall be shielded so as to not reflect 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) In residential districts, 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.

#### COMMENTARY

These standards are derived principally from a document, "Standards for Self-Service Storage Facilities," Planning Advisory Service Report, Number 396, a publication of the American Planning Association. The current code contains no specific standards for this specialized use of property. Specific standards are appropriate since this is an industrial type use allowed within some residential districts and also because these facilities have unique operational characteristics.

- (16) Kennels within or adjacent to residential districts shall be restricted to sites containing a minimum of two acres. This section does not apply to indoor veterinary hospital kennels

(17) Antenna Placement Standards: The placement of antenna structures, including satellite dish antenna shall be permitted outright in all districts subject to the following standards:

- (a) No antenna or antenna supports shall be located within any front yard setback area or within any required landscape buffer yard.
- (b) Within residential districts: 1) antennas shall not extend higher than fifteen feet above the peak of the roof; 2) dish antennas exceeding 12 feet in diameter shall not be permitted; 3) dish antennas exceeding 36 inches in diameter shall not be roof mounted; and 4) dish antennas shall not exceed 15 feet in height from surrounding grade to the highest point of the structure or dish.
- (c) Dish antenna 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.
- (d) Antenna used to display sign messages shall conform to all district sign regulations in addition to the above.
- (e) Antenna not in conformance with the above may be considered by Conditional Use Permit review.

#### COMMENTARY

The advent of home use satellite dish antennas and the increasing popularity of other forms of external sending and receiving devices has caused many communities to revise zoning regulations to minimize the visual clutter which has resulted. The Federal Communications Commission has placed some restrictions on the use of zoning powers to limit such communication equipment which these provisions are intended to satisfy. At the Planning Commission public hearing on this matter, numerous amateur radio operators submitted testimony relative to their unique needs for exemption from local regulation. They were convincing in their argument of serving a legitimate public need, particularly during local and national emergencies. In agreeing to exempt these antenna facilities, the City takes particular note of Federal Communications Commission (FCC) ruling PRB-1, adopted September 16, 1985, in which additional findings are offered regarding the importance of these antenna facilities and the need to exceed certain height and location restrictions.

In the matter of satellite dish antenna regulation, the City has relied heavily on the American Planning Association Planning Advisory Service Report, Number 394, "Regulating Satellite Dish Antennas," May 1986. This report reviews FCC requirements for local regulation, technical requirements for adequate reception, and various approaches for local zoning control (based on safety and aesthetics). The proposed requirements address Albany's concern for maintaining the aesthetic qualities intended by the City's Comprehensive Plan and Development Code while still allowing reasonable opportunities for effective placement of dish antennas in residential areas.

## ARTICLE 22

### DEFINITIONS

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

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

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

Accessory Apartment: A self-contained living unit which is attached to or a part of a single family dwelling and which is incidental and subordinate to the principal dwelling unit.

Accessory Building: A detached or semi-detached building of less than 1,000-sq.-ft. the use of which is subordinate to and consistent with the principal use of the property.

Accessory Use: A use on the same lot with and of a nature customarily incidental and subordinate to the principal use.

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

Active, Passive Solar Systems: Active or indirect solar heating utilizes heat collection which is separate from the area being heated, with a mechanical method of transferring heat between the two areas. A passive solar system is any method which requires no external energy input to collect and disperse solar heat. In new building design, this means utilizing site design, building orientation, window placement, insulation, vegetation, etc. to heat and cool a building. Passive solar



systems may also include the addition of such solar collectors as greenhouses, water traps, improved insulation, or other weatherization techniques.

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

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

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

Alley: A public way not over 30 feet wide providing a secondary means of access to private property.

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

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

Apartment House: See Dwelling, Multiple.

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

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

Basement: -- Any floor level below the first story in a building, except that a floor level in a building having only one floor level shall be classified as a basement unless such floor level qualifies as a first story is defined herein.

Bed and Breakfast Home: A structure designed for and occupied as a single-family dwelling, in which travellers are lodged for sleeping purposes for two weeks or less and a morning meal is provided, and for which compensation is paid.

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

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

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

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

Board: See Hearings Board

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

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

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

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

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

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

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

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

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

Child Care Institution Day-Nursery: An institution, establishment, or place in which are regularly commonly received at one time thirteen five

or more children ~~not-of-common-parentage~~, under the age of fifteen six years, for a period not exceeding 12 hours, for the purpose of being given board, care, or training apart from their parents or guardians for compensation ~~or-reward~~ and which also requires a license from the State of Oregon Children's Services Division.

City: The City of Albany.

City Council: The ~~common~~-Council of the City of Albany.

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

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

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

~~Clinic - Small - Animal:~~ ~~--- A - business - establishment - in - which - veterinary services - are - rendered - to - small - domestic - pets - on - an - outpatient - basis - with no - overnight - boarding - allowed.~~

Code: Shall mean the City of Albany Development Code.

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

Commission: The Albany City Planning Commission.

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

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

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

Coverage: See Lot coverage.

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

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

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

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

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

Density: The number of living units per acre of land.

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

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

Development Plan: -- Any plan adopted by the Planning Commission for the guidance of growth and improvement of the city. -- The Planning Commission

~~may - make - adjustments - in - any - such - plan - from - time - to - time - to - meet  
unanticipated - problems - and - conditions - affecting - the - public - or - land  
owners:~~

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

Director: Director of the City's Planning Department or his/her designee.

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

Dividing Land: See Land Divisions.

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

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

Dwelling, Multiple: A building under single or common ownership designed and used for occupancy by two or more families, all living independently of each other, and having separate housekeeping facilities for each family.

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

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

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

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

Easement: A recorded interest in land owned by another that entitles its holder to a specific limited use or enjoyment.

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

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

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

Flood: Any relatively high stream flow which overtops the natural or artificial banks of any part of a stream or river and that covers land not usually under water. The Intermediate Regional or Base Flood (often referred to as the hundred-year flood) is a flood with a one percent

chance of occurrence in any given year. This flood is mapped by the Army Corps of Engineers and is used by the Federal Emergency Management Agency and the City of Albany for purposes of regulating development within flood boundaries.

Flood Fringe: The area bordering the floodway and within the floodplain and which acts as a reservoir of flood waters.

Floodplain: The combined area of the floodway and floodfringe as defined herein.

Floodway: The minimum area necessary for the passage of flood waters including the channel and adjacent land areas which must be reserved in order to discharge the 100-year flood without cumulatively increasing the water surface elevation more than one foot; or any area designated as a floodway on the Comprehensive Plan Map or Zoning Map, whichever is more restrictive.

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

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

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

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



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

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

Goals: Statements identified as such in the Comprehensive Plan.

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

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

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

Group Care Home: Any private or public institution maintained and operated for the care, boarding, housing, or training of five four or fewer more 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.

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

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

Height of Building: The vertical distance above "Grade" as defined herein to the highest point of the coping of a flat roof or to the deck line of a mansard roof or to the average height of the highest gable of a pitched or hipped roof. The measurement may be taken from the highest adjoining sidewalk to ground surface within a five-foot horizontal distance of the exterior wall of the building, when such sidewalk or ground surface is not more than 10 feet above grade. The height of a stepped or terraced building is the maximum height of any segment of the building.

High Volume Traffic Generation: All uses involving the sales, rental, and servicing of goods, merchandise, and equipment which cannot be classified in the 4.100, 4.300, and 4.500 subsections of Article 5, Section 5.050, Schedule of Permitted Uses (see definition of Low Volume Traffic Generation).

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

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

Hospital, Small Animal: A building, together with animal runs, in which veterinary services, clipping, bathing, boarding, and other services are rendered to dogs, cats, and other small animals and domestic pets.

Hotel (Motel, Motor Hotel, Tourist Court): A building or group of buildings used for transient residential purposes containing six or more rental units which are designed to be used, or which are used, rented, or hired out for sleeping purposes.

Indoor Recreation Area: A room or rooms within an enclosed building which is designed and used for recreational purposes by the public and/or occupants of a residential development. Activities provided for within an indoor recreation area may include, but are not limited to, the following: indoor swimming pools, saunas, gymnasiums, exercising rooms, dance floors, tennis or handball courts, and games such as pool, ping pong, shuffleboard, etc.

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

Land Divisions: The creation of a lot or parcel of land through the process of subdividing or partitioning land or through the leasing of land for more than three years, or less than three years if the lease may be renewed under the terms of the lease for a total period more than three years; or through the sale of interest in a condominium as that term is defined in ORS Chapter 91; or through sale of any security interest under a land sales contract, trust deed, or mortgage.

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

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

Lot: A portion of a subdivision intended as a unit for transfer of ownership or for development. Lots may be occupied by principal and accessory structures, together with the yards or open spaces required, and must have legal access to public right-of-way.

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

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

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

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

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

Lot Line: Any property line bounding a lot.

Lot Line, Front: A property line contiguous with any street line.

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

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

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

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

Lot, Width: The average horizontal distance between the side lot lines, ordinarily measured parallel to the rear lot line (excluding lot "pan-handles") at the front and rear setbacks.

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

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

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

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

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

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

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

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

Manufactured Home Park: A parcel of land under common ownership on which four or more manufactured homes are occupied as residences and which 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 12 in this Code and that meets the standards for conventional subdivisions as prescribed by State Statutes and this Code. Manufactured home subdivisions are designed for sale of lots for residential occupancy by manufactured homes.

Mobile Home: See "Manufactured Home."

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

Motel or Tourist Court: See Hotel.

Motor Vehicle and Trailer Sales Area: A lot used for display, sale, or rental of new or used motor vehicles or trailers where no repair work is done except minor, incidental repairs of motor vehicles or trailers to be displayed, sold, or rented for use off the premises.

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

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

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

Non-Conforming Situation: An inclusive term for non-conforming lot, non-conforming use, non-conforming building, and/or non-conforming development.

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

Nursing - Home: --- A home, -- place, -- or -- institution -- which -- operates -- and maintains facilities providing convalescent or chronic care, -- or -- both; for a period exceeding 24 hours for five or more ill or infirm patients not related to the nursing home administrator by blood or marriage; Convalescent and chronic care may include, -- but need not be limited to; the procedures commonly employed in nursing and caring for the sick.

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

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

Parking Area, Private: Privately or publicly owned property, other than streets and alleys, on which parking spaces are defined, designated, or



otherwise identified for use by the tenants, employees, or owners of the property for which the parking area is required and not open for use by the general public.

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

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

Partition: The process of dividing a single property into two or three parcels for sale, taxation, development, or other purpose.

Pedestrian Way: A right-of-way through a block to facilitate pedestrian access to adjacent streets and properties.

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

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

Plat: The map, drawing, or chart on which the subdivider's plan of subdivision is presented and which he/she submits for approval and intends in final form to record.

Private Driveway: A driveway to serve residential premises.

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

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

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

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

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

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

Service Station: A place or station selling motor fuel and oil for motor vehicles, servicing batteries, furnishing repair and service, excluding painting, body work, steam cleaning, tire recapping, and

mechanical car washing which necessitates equipment to wash more than one car at a time and at which accessory sales or incidental services are conducted.

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

Setback Line: The innermost line of any required yard area on a lot (see Yard).

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

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

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

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

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

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

Street Line: A lot line abutting a street.

Structure: Anything constructed or built, an edifice or building of any kind, or any piece of work artificially built up or composed of parts joined together in some definite manner.

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

Subdivision: Means either an act of subdividing land or a tract of land subdivided as defined in this Code.

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

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

Townhouse: Two or more common wall single family dwelling units, each unit of which is built upon an individually owned subdivided or partitioned lot or parcel.

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

Trailer: See Travel Trailer.

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

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

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

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

Wetland: Land which is transitional between terrestrial and aquatic where the water table is usually at or near the surface or the land is covered by shallow water. Wetlands are inundated or saturated by surface or groundwater at a frequency and duration to support, and under normal circumstances do support, a prevalence of vegetation typically adapted for life in saturated soil conditions. Wetlands generally include swamps, marshes, bogs, and similar areas. However, wetlands do not include privately owned land that otherwise satisfies this definition if it was created by human activity after November 19, 1982 and it was created with development permit approved under the provisions of

this Code. This exclusion does not include area created directly or indirectly to be wetlands for mitigation purposes pursuant to ORS 541.605 to 541.695, or wetlands for which a permit would be required under Section 404 of the Federal Water Pollution Control Act (PL 92-500 as amended).

#### COMMENTARY

The above definition is a combination of interpretations from the Division of State Lands Army Corps of Engineers and the exclusion is from recent state law amending ORS 197.747 to 197.757.

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

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

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

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

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