

ARTICLE 3 RESIDENTIAL ZONING DISTRICTS

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

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

- Zoning Districts
- Schedule of Permitted Uses
- 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 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.
[Ord. 5673, 6/27/2007]
- (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.
[Ord. 5673, 6/27/2007]
- (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.
[Ord. 5673, 6/27/2007]
- (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. [Ord. 5555, 2/7/2003; Ord. 5673, 6/27/2007]

3.025 Establishment of the Open Space (OS) District. The OS District 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. Uses that are allowed in the OS district are listed following the Schedule of Permitted Uses and do not appear in the Schedule.

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>
Floodplain	Article 6
Wetlands	Article 6
Willamette Greenway	Article 6
Airport Approach	Article 6
Hillside Development	Article 6
Historic Overlay	Article 7

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, 6/27/2007]

(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.

(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 1.070, or

(b) When a property that has been unoccupied for more than one year. [Ord. 5673, 6/27/2007]

3.050 Schedule of Permitted Uses. The specific uses listed in the following schedule are permitted in the zones as indicated, subject to the general provisions, special conditions, additional restrictions, and exceptions

set forth in this Code. A description of each use category is in Article 22, Use Categories and Definitions.

A number appearing opposite a use in the “special conditions” column indicates that special provisions apply to the use in all zones. A number in a cell particular to a use and zone(s) indicates that special provisions apply to the use category for that zone(s). The conditions follow the schedule of uses, in Section 3.060.

The abbreviations used in the schedule have the following meanings:

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

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

[Ord. 5673, 6/27/2007]

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: One Unit per Property								
Single-Family, detached	19	Y	Y	Y	Y	Y	Y	N
Single-Family, attached		N	PD/CD	PD/CD	N	Y	Y	Y
RESIDENTIAL: Two Units per Property								
Two-Family, 2 attached units (Duplex)	3	N	Y-1	Y-1	N	Y-1	Y	Y
Two-Family, 2 detached units	2	N	PD	PD	S	PD	Y	Y
Primary Residence with one accessory unit	4	Y	Y	Y	Y	Y	Y	Y
RESIDENTIAL: Multiple Units/Property								
3 or More Single-Family Attached Units	3	N	PD/CD	PD/CD	N	S	S	S
3 or More Multiple-Family Units	3	N	N	N	N	N	S	S
Manufactured Home Parks (see Article 10)	19	N	N	S	N	S	S	S
RESIDENTIAL: Care or Treatment								
Assisted Living		CU	CU	CU	CU	CU	CU	CU
Residential Care 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								
Accessory Buildings, Garages or Carports less than 750 sf and walls not greater than 11 ft tall OR that meet the standards in Special Cond. 9	9	Y	Y	Y	Y	Y	Y	Y
Accessory Buildings, Garages or Carports not meeting standards in Special Cond. 9.	9	S	S	S	S	S	S	S
Bed & Breakfast	7	CUII	CUII	CUII	CUII	CUII	CUII	S
Child or Adult Care Home	6	Y	Y	Y	Y	Y	Y	Y
Home Occupations	20	Y	Y	Y	Y	Y	Y	Y
Recreational Vehicle Parks (See Article 10)	5, 19	N	N	N	N	N	CU	CU
Rooming or Boarding Houses		N	N	N	CU	N	S	S
Subdivision Sales Office	21	N	S	S	N	S	S	S
Unit(s) Above or Attached to a Business	17	N	N	N	N	N	N	N
Temporary Residence	8	S	S	S	S	S	S	S
INSTITUTIONAL								
Basic Utilities		CU	CU	CU	CU	CU	CU	CU
Child or Adult Care Facility		CU	CU	CU	CU	CU	CU	S
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
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
Self-Serve Storage	15	N	N	N	N	N	S	N
OTHER CATEGORIES								
Agriculture: Crop Production On-site Sales of Site-Produced Seasonal Goods Plant Nurseries and Greenhouses	10	Y Y S	Y S S	Y C S	N N N	Y C S	Y C S	Y C S

Use Categories (See Article 22 for use descriptions.)	Spec. Cond.	RR	RS-10	RS-6.5	HM	RS-5	RM	RMA
OTHER CATEGORIES								
Antennas, owned and operated by FCC licensed member of Amateur Radio Service		A	A	A	N	A	A	A
Communication Facilities over 50 ft. [Ord. 5281, 3/26/97]	16	N	N	N	Y	N	N	N
Kennels	11	S	CU	CU	N	CU	CU	N
Satellite Dish and Other Antennas	12	A	A	A	A	A	A	A

Y = Yes, allowed, no Site Plan review required

CD = Cluster Development, See Art. 11

CU = Conditional Use approval required, Type III procedure

CUII = Conditional Use approval required, Type II procedure

N = No, not allowed

PD = Planned Unit Devel., See Art. 11

S = Site Plan review required

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

OPEN SPACE (OS) DISTRICT USES

3.060 Uses Allowed Outright. The following uses are permitted outright in the OS district:

- (1) Crop production generally.
- (2) Alleys, streets, highways, bridges, sidewalks, bikepaths, and related transportation facilities, subject only to the Special District regulations of Article 6.
- (3) Neighborhood utilities, including pump stations, electric substations less than 5,000 square feet and all local utility lines.
- (4) Raising of animals and livestock, subject also to Albany Municipal Code Section 6.10.
- (5) One single-family dwelling on a legally created lot that existed prior to July 1, 1991, and where the floodplain standards of Section 11.010 can be met. No additional land divisions will be approved.

3.070 Conditional Uses. The following uses are permitted with Conditional Use approval.

- (1) Detached residential accessory buildings, garages and carports.
- (2) Non-residential accessory buildings and uses.
- (3) On-site retail sales of site-produced seasonal goods exceeding 30 days duration.
- (4) Plant nurseries and greenhouses.
- (5) Mining, quarrying, oil and gas extraction and asphalt-concrete batch plants including on-site sales of products.
- (6) Temporary staging areas for Public Works construction projects in excess of 6 months duration.
- (7) Removal of five or more trees in excess of eight inches in diameter (see Special Condition 10.)
- (8) Development within a wetland, as designated on Plate 6 of the Comprehensive Plan.
- (9) Outdoor recreational facilities (e.g. golf and country clubs, driving ranges, swimming or tennis clubs, equestrian trails, etc. not constructed as a part of planned residential development).

- (10) Public parks and recreational facilities located in a public park. See special condition 14.
- (11) Fairgrounds.
- (12) On-site parking lots for approved uses (parking lots not listed as permitted in other categories.)
- (13) Regional/community utilities including treatment plants, major power generation, major storage facilities, regional transmission facilities, major overhead power lines requiring tower support structures, etc. [Ord. 5673, 6/27/2007]

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, 1/11/2006; Ord. 5673, 6/27/2007]
- (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, 1/28/1998; Ord. 5673, 6/27/2007]
- (3) Duplexes and multi-family development may be divided so that each 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 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, 6/27/2007]
- (4) One accessory apartment is permitted per primary single-family residence, called the “primary residence.” The accessory apartment may be:
 - An addition to or within the primary residence, OR
 - In a detached building built before February 1, 1998, OR
 - On a lot in a subdivision of at least ten lots, when the tentative plat was approved after July 1, 2007.

Accessory apartments shall be incidental in size and appearance to the primary residence and meet the following standards:

- (a) One of the residences is owner occupied.
- (b) The size of an accessory apartment does not exceed 50 percent of the gross floor area of the primary residence (excluding garages or carports) or 750 square feet, whichever is less. (Note: Accessory apartments greater than 750 square feet that were legally constructed before July 1, 2007, may remain.)
- (c) At least three off-street parking spaces are provided on the property to serve the two residences. [Ord. 5338, 1/28/98]
- (d) All required building permits have been obtained. If the primary residence is on the Local Historic Inventory, historic review may be required.

- (e) The size of the property meets the minimum single-family lot area requirements for the zoning district in which the lot is located. [Ord. 5338, 1/28/1998; Ord. 5673, 6/27/2007]

Detached accessory apartment units must also meet the following development standards:

Front Setback: Greater than or equal to the location of the front wall of the primary residence; and

Interior Setback: 5 feet for one-story; 8 feet for two-story; and

Maximum Height: 24 feet to the ridge of the roof. [Ord. 5673, 6/27/2007]

- (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 per the Oregon Revised Statutes (ORS). See ADC Section 22.200. [Ord. 5673, 6/27/2007]
- (7) Bed and Breakfast facilities shall:
 - (a) Be owner occupied.
 - (b) Be limited to a maximum of four guest bedrooms.
 - (c) Except for driveway spaces, not contain guest parking facilities in the front yard setback area or within 10 feet of any interior residential lot line.
 - (d) Provide at least one off-street parking space for each rental room, except in the HM zone, where on-street parking along the frontage of the property line(s) may count toward the parking requirements. To count towards this standard, each on-street space must be at least 25 feet long and be striped. [Ord. 5673, 6/27/2007]
- (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, 6/27/2007]
- (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 2, Section 3.190 for Accessory Structure Standards.

Accessory buildings in residential districts 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.

- (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 2.

- (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:

- (a) The structure will not preclude the use of the property for housing;
- (b) The structure must meet the requirements of Section 3.080(9) or be approved through the Site Plan review process;
- (c) The structure is not used for a commercial purposes; and
- (d) Exception in RR: Buildings used for farm or agricultural product or equipment storage are permitted in the RR zone.

[Ord. 5281, 3/26/1997; Ord. 5673, 6/27/2007]

- (10) Site Plan Review approval is required for the felling of five or more trees larger than 25 inches in circumference (approximately 8 inches in diameter) on a lot or property in contiguous single ownership in excess of 20,000 square feet. For review criteria, see Section 9.208. [Note: A permit is required from the City Forester to remove any tree that is six and one-half feet in circumference, approximately 25 inches in diameter, or greater. See AMC 7.98.040.] [Ord. 5673, 6/27/2007]

The following activities are exempt from Site Plan review:

- (a) The action of any City official or of any public utility necessary to remove or alleviate an immediate danger to life or property, to restore utility service, or to reopen a public street to traffic.
- (b) Felling of any tree that is defined as a nuisance under the Albany Municipal Code.
- (c) Any felling necessary to maintain streets or public or private utilities within a public right-of-way or utility easement provided the Tree Commission or City Forester approves the proposed tree felling. [Ord. 5445, 4/12/2000]

- (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, 6/27/2007]

- (12) Antennas are subject to the following standards:

- (a) Antenna or antenna supports may not be located within any front yard setback area or within any required landscape buffer yard.
- (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.
- (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 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, 6/27/2007]

- (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.

- (15) Self-Serve Storage is subject to the following standards:

- (a) Freestanding facilities shall be limited to sites of one to three acres in size and maximum building coverage shall be limited to 50 percent of the parcel.
- (b) Building setbacks shall be as follows: front yards - 25 feet, interior yards - 20 feet. No fencing is permitted in front yard setbacks and a minimum ten-foot landscape buffer yard is required adjacent to all residential zones. No barbed wire fencing is permitted in residential districts.
- (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, 6/27/2007]

- (16) Public and Commercial Communication Facilities over 50 feet in height 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 Type II land use decision.) See Article 8 for telecommunication facility design standards.

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, 3/26/1997; Ord. 5445, 4/12/2000]

- (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 11.500(2).] [Ord. 5673, 6/27/2007]
- (18) In all residential zones, indoor entertainment and recreation uses are limited to athletic, exercise or 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, 6/27/2007]
- (19) 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, 6/27/2007]
- (20) Home occupation standards are in Section 3.100. [Ord. 5673, 6/27/2007]
- (21) One subdivision sales office and one parking lot to serve the office is allowed through a Type I Option C Site Plan review in a subdivision if the following requirements are met:

Standards

- (a) The purpose of the office must be to sell lots or houses in the subdivision.
- (b) The sales office and parking lot must be placed on one or more of the lots in the subdivision.
- (c) The sales office and parking lot must be established within one year of the date the final subdivision plat is signed.
- (d) At the time an application for the sales office and parking lot 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.
- (e) The building must be placed in accordance with Section 3.190, Table 1 Development Standards, except if a parking lot is constructed with the office; the setback in (i) below applies.
- (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) A parking lot is allowed with the sales office. The parking lot must be paved and meet the standards for parking lots in Article 9. The parking lot must be removed from the property within two years from the date the building permit for the sales office is issued.
- (i) The parking lot must be located at least 10 feet from front and interior property lines. The setback must be landscaped in accordance with the front yard landscaping requirements for residential zoning districts.
- (j) The temporary sales office and/or parking permit may be renewed once up to a year. [Ord. 5673, 6/27/2007]

SPECIAL STATUS

3.085 Existing Residential Uses Granted Special Status

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

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

[Ord. 5673, 6/27/2007]

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

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

- (1) 807A/807B and 805/805-1/2 3rd Avenue SW two 1-story duplexes
- (2) 410-418 5th Avenue SW: two 2-story buildings totaling 5 units
- (3) 1015 5th Avenue SW: two 2-story buildings—east building, 12 units; west building, 6 units
- (4) 430 6th Avenue SW: two-story, 12 units
- (5) 640 7th Avenue SW/707 Vine Street SW: 1-story duplex
- (6) 638-644 8th Avenue SW: duplex
- (7) 1109/1111 9th Avenue SW: duplex
- (8) 1015/1030/1036/1040 10th Avenue SW: fourplex
- (9) 417/421 11th Avenue SW: duplex
- (10) 631/641 11th Avenue SW: duplex
- (11) 651/661 11th Avenue SW: duplex
- (12) 827/829/833/837 11th Avenue SW: 1-story fourplex
- (13) 1030 11th Avenue SW: duplex
- (14) 625/635 14th Avenue SW: duplex
- (15) 522 Calapooia Street SW: 4 units
- (16) 634 Calapooia Street SW: 4 units
- (17) 1104/1108 Calapooia Street SW: duplex
- (18) 1114/1118 Calapooia Street SW: duplex
- (19) 628 Ferry Street SW: 2-story 10-unit apartment complex
- (20) 908 Ferry Street SW: 1-story 12-unit apartment building
- (21) 976/978 Ferry Street SW and 405/407 11th Avenue SW: 4 units
- (22) 721 Vine Street & 635 8th Avenue SW: duplex
- (23) 1223/1225 Vine Street SW: duplex
- (24) 1241/1245 Vine Street SW: duplex
- (25) 707/719 Washington Street SW: 1-story duplex
- (26) 505 3rd Avenue SE: 2-story fourplex
- (27) 526 3rd Avenue SE: 2-story fourplex
- (28) 627 3rd Avenue SE: 2-story, 6 units
- (29) 726/728 3rd Avenue SE: 1-story duplex
- (30) 826/828 3rd Avenue SE: two 1-story duplexes
- (31) 140 4th Avenue SE: 2-story duplex
- (32) 222/224 4th Avenue SE: 3 units total

- (33) 420/422 4th Avenue SE: 1-story duplex
 - (34) 527 4th Avenue SE: 2-story duplex
 - (35) 538 4th Avenue SE: 2-story duplex
 - (36) 728 4th Avenue SE: 2-story, 2 units
 - (37) 208 5th Avenue SE: 2-story, 16 units
 - (38) 238 5th Avenue SE: 2-story, 3 units
 - (39) 317 5th Avenue SE, A and B: 2-story duplex
 - (40) 404/406 5th Avenue SE and 505/525 Railroad SE: two-story triplex and accessory building
 - (41) 614/616 5th Avenue SE: 1-story duplex
 - (42) 637 5th Avenue SE: 2-story, duplex
 - (43) 730 5th Avenue SE: 2-story triplex
 - (44) 205 6th Avenue SE: 2-story, 16 units
 - (45) 225 6th Avenue SE: 2-story, 4 units
 - (46) 509/519 and 521/524 6th Avenue SE: two 1-story buildings, 4 units
 - (47) 540 6th Avenue SE: 2-½ story, 5 units
 - (48) 606/616 6th Avenue SE: 2-story duplex (note: a duplex requires both lots.)
 - (49) 635 6th Avenue SE/530 Thurston SE: attached single-family
 - (50) 638 6th Avenue SE: 2 units
 - (51) 513 7th Avenue SE: 1-story duplex
 - (52) 407 Baker Street SE/206 4th Avenue SE: 2-story, 4 units
 - (53) 423 Baker Street SE: 2-story house and accessory building, 3 units
 - (54) 434 Baker Street SE: 2-story duplex
 - (55) 625 Jefferson Street SE, A and B: 2-story, 2 units
 - (56) 431 Montgomery Street SE: 2-story, 7 units
- [Ord. 5241, 5/22/1996; Ord. 5555, 2/7/2003; Ord. 5673, 6/27/2007]

Certain Properties Zoned RS-5 or HM

The intent is that each and every legally established duplex and multi-family development in areas previously zoned R-2 and R-3 prior to 1991 and zoned RM-5 since 1991 until being rezoned to RS-5 or HM on July 1, 2007, be listed here. Should an existing use not be listed here, the property owner may have the property listed upon showing that the use was legally established at the time the property was rezoned from RM-5 or RM-3. Satisfactory evidence must be provided by the property owner or applicant to document that the use existed. Examples of supporting evidence may consist of building permits, utility hookups, tax records, or telephone directory listings, for example.

The lists are sorted alphabetically by street name and then numerically by address.

East of Oak Street and North of Second Avenue SE

- 1437 1st Avenue E: 3 units
- 100-110 Chicago Street SE: 2 units
- 235-237 Chicago Street SE: 2 units
- 1632-1634 Front Avenue NE: 2 units
- 103-115 Geary Street SE: 2 units
- 375-385 Geary Street NE & 1814 Willamette Avenue NE: 3 units
- 135-137 Oak Street SE: 2 units
- 1441-1441-½ Water Avenue NE: 2 units
- 2130-2140 Water Avenue SE: 2 units
- 2275-2277 Willamette Avenue NE: 2 units

West of Elm Street SW

- 1098 8th Avenue SW/815 Tadena SW: 2 units
- 1109-1111 9th Avenue SW: 2 units
- 940, 940 1/2 10th Avenue SW: 2 units
- 1107-1107-½ 10th Avenue SW: 2 units
- 1143-1149 10th Avenue SW: 2 units

HOME OCCUPATIONS

- 3.090 Purpose. The home occupation provisions recognize the needs of many persons who are engaged in small scale business ventures or personal hobbies, whether conducted for profit or not, which could not be sustained if it were necessary to lease commercial quarters, or because the nature of the activity would make it impractical to expand to a full scale enterprise.
- 3.100 Standards. A home occupation shall be allowed as a permitted accessory use to a residence provided that all of the following conditions are met:
- (1) The use is carried on only by members of the family residing on the premises and not more than one outside employee or volunteer who shall work a maximum of 20 hours per week.
 - (2) There is no offensive noise, vibration, smoke, dust odors, heat or glare resulting from the operation noticeable at or beyond the property line.
 - (3) One window or wall sign is allowed, not larger than 12 inches by 18 inches.
 - (4) There is no display, other than the allowed sign, which would indicate from the exterior that the building is being used for any purpose other than a dwelling.
 - (5) There is no visible outside storage of materials other than plant materials.
 - (6) The use does not adversely affect the residential character of the neighborhood, nor infringe upon the right of neighboring residents to enjoy the peaceful occupancy of their homes.
 - (7) There is not excessive generation of traffic created by the home occupation, including frequent deliveries and pickups by trucks or other vehicles.
 - (8) The rental of separate living quarters within a single family residence is limited to not more than one bedroom which does not contain separate cooking facilities and which has a maximum occupancy of two persons.
- 3.110 Prohibited Uses. The following uses are prohibited as home occupations:
- (1) Auto body repair and painting.
 - (2) Ongoing mechanical repair conducted outside of an entirely enclosed building.
 - (3) Storage and/or distribution of toxic or flammable materials, and spray painting or spray finishing operations that involves toxic or flammable materials which in the judgment of the Fire Marshal pose a dangerous risk to the residence, its occupants, and/or surrounding properties.
 - (4) Junk and salvage operations.
 - (5) Storage and/or sale of fireworks in quantities judged by the Fire Marshal to be dangerous.
 - (6) Storage or display of more than one motor vehicle for sale. [Ord. 5673, 6/27/2007]

- 3.120 Initiation of Complaints. Complaints may be originated by the City of Albany or the public. Complaints from the public shall clearly state the objection to the Home Occupation based on the standards listed above.
- 3.130 Review Procedures. The Director shall make an initial determination of whether the alleged violation requires discretionary review. If the Director determines that review of the complaint is discretionary, the complaint will be reviewed by the Hearings Board. All other complaints will be reviewed by staff. An investigation of the complaint will be performed and the use will either be approved as it exists, ordered terminated, or brought into compliance with the standards.
- 3.140 Cessation of Home Occupation Pending Review. If it is determined by the Director, or his designee, that the Home Occupation in question will affect public health and safety, the use may be ordered to cease pending Hearings Board review and/or exhaustion of all appeals. Violation of an order to cease shall be an infraction subject to the penalties set forth in Section 3.180 below.
- 3.150 Notice of Hearing. Written notice of the hearing, including its date, time, and place shall be given to the property owner and the person undertaking the use, if other than the property owner, as well as property owners within 100 feet of the use, and any complainant(s).
- 3.160 Hearings Board Review. The Hearings Board shall either approve the use as it exists, order it to be terminated, or restrict and/or condition the use in order to ensure compatibility with the neighborhood.
- 3.170 Notice of Decision and Appeal. Written notice of the Hearings Board's decision and associated findings shall be sent to the person undertaking the activity, the property owner(s) if different than the above, and persons participating in the above proceedings.
- 3.180 Penalties. Non-compliance with the orders of the Director, or his designee, or Hearings Board, as referred to above, are an infraction punishable as per AMC Section 1.04.01. In addition, each violation of this Article shall bear an additional minimum civil penalty of \$50 per violation. The procedure for adjudication for infractions shall be as set forth at AMC Section 1.05. [Ord. 5673, 6/27/2007]

DEVELOPMENT STANDARDS

- 3.190 Purpose. Development standards are intended to promote site planning and design which consider the natural environment, maintain the required dimensional standards while promoting 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 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 and multiple-family developments. [Ord. 5445, 4/12/2000]

TABLE 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)							
Single-family detached, (1)	5 acres (16)	10,000 sf	6,500 sf	5,000 sf	5,000 sf	3,500 sf	N/A
Single-family, attached (14)(1)	N/A	N/A	N/A	N/A	2,800 sf	2,400 sf	1,800 sf
Duplex (1)	N/A	14,000 sf Corner lot	8,000 sf Corner lot	N/A	7,000 sf Corner lot	4,800 sf	3,600 sf
Multi-family, Studio and 1-bedroom units	N/A	N/A	N/A	N/A	N/A	2,000 sf/ unit	1,500 sf/ unit
2-and 3 bedroom units	N/A	N/A	N/A	N/A	N/A	2,400 sf/ unit	1,800 sf/ unit
4+ bedroom units	N/A	N/A	N/A	N/A	N/A	3,000 sf/ unit	2,200 sf/ unit
Minimum Lot Widths: Detached S-F Attached Units	N/A N/A	65 ft N/A	50 ft N/A	35 ft N/A	40 ft 20 ft	30ft 20 ft	None None
Minimum Lot Depth	N/A	100 ft	80 ft	65 ft	70 ft	60 ft	None
Setbacks (4):							
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	N/A	N/A	N/A	N/A	(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 (15)
Maximum Lot Coverage (9)	20%(11)	50%	60%	60%	60%	70% (9)	70% (9)
Minimum Open Space	N/A	N/A	N/A	N/A	N/A	(13)	(13)
Min. Landscaped Area	None	(2)	(2)	(2)	(2)	(3)	(3)

N/A means not applicable.

(1) Section 3.220 bonus provisions may reduce minimum lot size and area, such as alley access.

(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.

(5) Except for single-family homes (attached and detached) or duplexes, 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(1).

(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 3.310.

- (9) For multiple family developments, lot coverage includes buildings, parking, private streets and driveways.
 - (10) See Table 2 for garages with alley access.
 - (11) Maximum lot coverage for parcels 20,000 square feet or less is 50%. The configuration of any development on a lot 20,000 square feet in size, or less, in an RR zoning district that covers more than 20 percent of the parcel on which it is proposed, should be located such that it does not preclude a later division of the parcel.
 - (12) The minimum separation between multi-family buildings on a single parcel shall be 10 feet for single-story buildings and 20 feet for two-story or taller buildings.
 - (13) Ten or more units require open space. See Section 8.220.
 - (14) See Section 8.240 for standards.
 - (15) When multiple-family developments abut a single-family use or zone, the setback shall be one foot for each foot of building height. See Section 8.270(1).
 - (16) 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.
- [Table and footnotes amended by Ord. 5281, 3/26/1997; Ord. 5338, 1/28/1998; Ord. 5445, 4/12/2000; Ord. 5555, 2/7/2003; Ord. 5673, 6/27/2007]

3.200 Lot Size Variation Within a Land Division. Up to 50 percent of the total number of detached single-family 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 application of all density bonuses. No reduction in the minimum lot size is permitted for lots created for attached housing units. 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, 6/27/2007]

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 yard requirements may be reduced for individual lot or building sites created by filed and recorded subdivision or condominiums developed in accordance with the Oregon Revised Statutes; provided the difference in square footage between the standard lot area established in this Article and the square footage of lots created is secured for common use in open space by covenants or associations to be in effect for at least 20 years. [Note: Cluster developments see Section 11.400.] [Ord. 5673, 6/27/2007]

3.220 Bonus Provisions for Reduction in Standard Lot Size Requirements. The following standards may be applied to development sites 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. Some bonuses are available for lot design only, with additional bonuses available due to building design or construction. [Ord. 5338, 1/28/1998; Ord. 5673, 6/27/2007]

Relationship to Transportation

- (1) 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:
 - At least 50 percent of the lot area is located within 200 feet of a designated collector or arterial street; and
 - 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, 6/27/2007]

- (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, 6/27/2007]

Design Factors

- (1) Protection of Natural Features. A density bonus of up to 5 percent can be granted when it is shown that minimal disturbance will be made to existing features. The amount of bonus is related to both the amount of protection and the importance of features on the site.

Energy Conservation

- (1) 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 bonus of 10 percent may be allowed. The amount of bonus depends on the restrictiveness of the covenant and the percentage of units affected. In subdivisions, a covenant or other mechanism that provides and protects solar access for the southerly building area of 80 percent or more of the lots from 9:30 a.m. to 2:30 p.m. on December 21 shall be given the full 10 percent bonus. In multiple unit developments, if 80 percent or more of the units receive this same protection for south facing walls, and south facing glass of those units totals at least 7 percent of the conditioned area, the full bonus may be allowed. (South facing is defined as being within 25 degrees of true south.)

Moderate-Cost Housing

- (1) Provision of Moderate-Cost Housing. If 50 percent of the units meet the following performance standards, a density bonus may be permitted as follows:
 - (a) Affordable for persons whose income is 1.2 times the median income for Linn or Benton Counties - 5% density increase.
 - (b) For projects that are affordable for persons whose income is equal to the median income for Linn or Benton Counties – 10 percent density increase.
 - (c) For projects that are affordable for persons whose income is equal to, or less than, .8 times the median income for Linn or Benton Counties – 15 percent density increase.

[Ord. 5673, 6/27/2007]

Affordable means that the annual mortgage payments, with no more than a 10% down payment required, or the annual rent for a unit equals no more than 28 percent of the income level for which the density bonus points are being applied. Projects must have a guaranteed sale price, interest, or rental price, and include contractual obligations for continued availability to low- and moderate-income persons.

Alley Access

Lots with alley access may be up to 10 percent smaller than the minimum lot size for the zone.

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

SETBACKS

- 3.230 Setback Measurements. All setbacks must meet the minimum standards as set forth in Tables 1 and 2 in this Article, as appropriate. Setback distances shall be measured perpendicular to all portions of a property line. In addition to the setbacks in this article, all development must comply with Section 12.180, Clear Vision Area. See also Table 2, Accessory Structure Standards. [Ord. 5673, 6/27/2007]

TABLE 2

ACCESSORY STRUCTURE STANDARDS	
STRUCTURE	STANDARD
All Accessory Structures	Front setback, see Table 1, by zone if not noted below
Detached Structure walls less than or equal to 8 feet tall (2)	Interior setback = 3 feet (1)
Attached Structure	Interior setback = 5 feet (1)
Detached Structure walls greater than 8 feet tall (2)	Interior setback = 5 feet
Accessory Apartment Building	Front setback is equal or greater than primary residence Interior setback, one-story = 5 feet (1) Interior setback, two-story = 8 feet (1)
Garage or carport with access to an alley	Alley setback = 20 feet, less the width of the alley right-of-way, but at least 3 feet. Other interior setbacks=see Table 1
Structures, including fences, intended for housing animals	Interior setback = 10 feet
Fences greater than or equal to 6 feet tall	See Table 1, by zone; building permit required.
Outdoor swimming pools with depths greater than or equal to 24 inches	Interior setback = 10 feet
Decks less than or equal to 30 inches from grade, with no rails or covers	No setback from property lines
Decks greater than 30 inches from grade	Interior setback = 5 feet

(1) Zero-lot line provisions are in Section 3.270.

(2) The slab or foundation of accessory structures is not included in the wall height unless it is greater than 24-inches from the ground. [Table and footnotes modified by Ord. 5673, 6/27/2007]

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

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

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

3.250 Parking and Other Restrictions in Setback Areas.

- (1) Vehicles in daily use may not park in the required front yard setback, except on the paved driveway leading to a garage or carport or a driveway that provides required parking spaces. Trailers, boats, campers, and other vehicles not in daily use may not park in the required front yard setback for more than 48 consecutive hours. Recreational vehicle, trailer and miscellaneous storage pads or buildings are not allowed in the required front yard setbacks.
- (2) Required parking spaces, driveways or travel aisles for residential development shall not be located in a required front or side yard except that circular driveways providing drop-off service to the front door and driveways providing access to garages and carports for any residential development may be used to fulfill the requirements.

[Ord. 5673, 6/27/2007]

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

- (1) Depressed Areas. In any district, open work fences, berms, hedges, guard railings, or other landscaping or architectural devices for safety protection around depressed areas, ramps, stairs, or retaining walls, may be located in required setbacks, provided that such devices are not more than 3-1/2 feet in height.
- (2) Projecting Building Features. The following building features may encroach up to five feet into the required front yard and up to two feet into the required interior yards:
 - (a) Awnings, eaves, buttresses, architectural appendages (such as, but not limited to, bay windows, planters, cantilevered stairways).
 - (b) Chimneys and fireplaces, provided they do not exceed eight feet in width.
 - (c) Porches, steps, platforms or landings, raised patios, 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).
 - (d) Signs conforming to applicable ordinance requirements.

[Ord. 5673, 6/27/2007]

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

- (1) There are no openings or windows in the lot line wall and a 6-foot setback and maintenance easement must be recorded on the adjoining property deed or plat for accessory structures and a 10-foot setback and maintenance easement for dwellings. 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, 6/27/2007]

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

3.275 Setbacks for Properties Adjacent to Designated Farmlands. For properties adjacent to designated and zoned productive farmland outside the Urban Growth Boundary, the habitable portion of new residential dwelling units shall be setback 125 feet from the property line on land zoned Exclusive Farm Use (EFU). This requirement does not apply to the residential development if the adjacent EFU-zoned property is a golf course, contains locally significant wetlands adjacent to the residential development,

residential land uses on 5 acres or less, or where the separation cannot be achieved due to lot size constraints or other physical factors beyond the control of the property owner. Screening and buffering are encouraged to be incorporated into the site design in addition to the 125-foot separation. Road and right-of-way widths may be included in the required separation distance where appropriate. [Ord. 5673, 6/27/2007]

3.290 Setback and Fencing for Swimming Pools. Swimming pools shall conform to the setback regulations for main buildings, except that outdoor swimming pools shall be set back not less than 10 feet from all interior lot lines. Also, all swimming pools shall be fenced or equipped with electric alarm systems in a manner that will prevent entry or trigger an alarm upon entry. Required pool fencing must be at least 4 feet tall and be equipped with a self-locking gate that closes automatically. [Ord. 5673, 6/27/2007]

3.300 Setbacks for Properties Abutting Future Street Rights-of-Way. Where the adopted Comprehensive Plan and proposed future street plans include the widening or connecting of existing streets or the establishment of new streets, the placement of all buildings and the establishment of all required yards shall be in relation to the proposed street right-of-way boundaries. Also, no building shall be erected on a lot that abuts a proposed street right-of-way unless the lot will contain the width and depth needed to complete the street width plus the width and depth of the setbacks required on the lot. [Ord. 5673, 6/27/2007]

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

- (1) For river-oriented uses, the angle shall be 30 degrees.
- (2) For non river-oriented uses, the angle shall be 15 degrees.

3.320 Special Noise Corridor Setbacks. Residential developments adjacent to the following listed streets and highways shall maintain the setbacks listed from the designated right-of-way in addition to the required setbacks for the Zoning District:

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

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

3.330 Special Setbacks for Education and Religious Institutions, Public and Semi-Public Buildings. Any new construction of an educational institution, religious institution, or public or semi-public building shall be set back at least 25 feet from any property line adjoining or directly across public right-of-way from any residential district. No required front or interior yard of the lot on which such building or use is located shall be used for stockpiling or storage of materials or equipment. All other setbacks of the district where the property is located continue to apply. [Ord. 5673, 6/27/2007]

BUILDING HEIGHT

3.340 Height Exceptions. Height limitations are shown in Table 1, Development Standards. See also Table 2, 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, 6/27/2007]

OFF-STREET PARKING AND LOADING REQUIREMENTS

3.350 Minimum Space Requirements. Off-street parking shall be provided for all residential development in the amounts indicated in Table 3 below. For uses not listed in this Table, see the parking standards of the Commercial or Industrial Districts. All parking lots in residential districts must comply with applicable requirements in Article 9. Fractional space requirements shall be counted to the nearest whole space; half spaces will be rounded up. Compact spaces may make up no more than 40 percent of the total number of parking spaces. [Ord. 5445, 4/12/2000]

TABLE 3

RESIDENTIAL DISTRICT PARKING STANDARDS	
Use	Standard
Single-Family Units	2.0 spaces
Duplex and Two Units on One Lot	4.0 total spaces
MULTIPLE-FAMILY UNITS:	
Studio and 1-bedroom units	1.0 space per unit, plus 1 visitor space every 4 units
2-bedroom units	1.5 spaces per unit, plus 1 visitor space every 4 units
3- and 4-bedroom units	2.25 spaces per unit, plus 1 visitor space every 4 units
Quad and quint units	.75 space per unit
Senior-citizen apartments	1.0 space per each 2 bedrooms
Student housing	1.0 per each 2 students at capacity
Boarding and rooming houses	1.0 space per 2 occupants at capacity
Group care homes	1.0 space per employee plus 1 space per 5 beds

[Ord. 5673, 6/27/2007]

LANDSCAPING

3.360 Requirements. All front yards (exclusive of accessways and other permitted intrusions) are required to be landscaped prior to issuance of an occupancy permit or final building inspection approval. A temporary occupancy permit may be issued if the developer posts a bond with the City. In all residential

districts except Rural Residential (RR), minimum landscaping acceptable per 50 lineal feet (or portion thereof, deducting the width of the driveway) of street frontage is:

- (1) One tree at least six feet tall.
- (2) Four 1-gallon shrubs or accent plants.
- (3) The remaining front yard area treated with ground cover (e.g., lawn, bark, rock, ivy, and evergreen shrubs).

[Ord. 5673, 6/27/2007]

BUFFERING AND SCREENING

- 3.370 General. Buffering and screening may be required to offset the impact of development. See Sections 9.280 through 9.325. [Ord. 5445, 4/12/2000; Ord. 5673, 6/27/2007]

OUTSIDE STORAGE

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

- 3.390 Screening of Refuse Containers. The following standards apply to all residential development, except for 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, 6/27/2007]

FENCES

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

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

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

Exceptions to Height:

- (a) A single-family use or zone that shares an interior property line with a multiple-family use or zone may have a fence up to 8 feet tall along the property line.
 - (b) Properties listed on the National Register of Historic Places may have front yard fences taller than 4 feet if the fence is appropriate to the building style and scale, and is approved by the Landmarks Advisory Commission. [Ord. 5689, 3/12/2008]
- (2) Corner properties, which by definition have two front yards, may have a fence of up to 6 feet tall in the front yard adjacent to the street that does not contain the dwelling's main door entrance when the 6-foot-tall fence does not extend in front of the house and one of the following conditions is met:

- (a) If the adjoining street is improved with sidewalks and a planter strip, the fence may be on or behind the property line.
 - (b) If the adjoining street is improved with sidewalks but no planter strip, the fence is located a minimum of 3 feet from the sidewalk.
 - (c) If the adjoining street is improved with curbs and gutters but no sidewalks, the fence is located 10 feet from the face of the curb.
 - (d) If the adjoining street is unimproved, the fence is no closer than 3 feet from the property line.
[Ord. 5673, 6/27/2007; Ord. 5689, 3/12/2008]
- (3) Fences more than 6 feet tall require a building permit prior to construction. Except when a taller fence is permitted at the lot line [see subsection (1) above], fences more than 6 feet tall shall meet building setback requirements.
- (4) In no instance shall a fence extend beyond the property line.
- (5) All fencing shall comply with the requirements of the clear vision area (Section 12.180) for streets and driveways.
- (6) Fence height shall be measured from the average height of the grade adjacent to where the fence is to be located. If a fence is to be constructed on top of a berm, the height shall be measured from the bottom of the berm.

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

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