

## **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, 6/27/07]

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

- Zoning Districts
- Schedule of Permitted Use
- Development Standards

### **ZONING DISTRICTS**

3.020 Establishment of Residential Zoning Districts. In order to regulate and segregate the uses of lands and buildings and to regulate the density of development, the following residential zoning districts are established:

- (1) RR—RESIDENTIAL RESERVE DISTRICT. The RR District is intended to recognize areas which, because of topography, level of services, or other natural or development factors are best served by a large lot designation. This district may be applied on an interim basis until urban services become available. The minimum lot size is five acres.
- (2) RS-10—RESIDENTIAL SINGLE-FAMILY DISTRICT. The RS-10 District is intended primarily for a lower density single-family residential environment. The average minimum 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, 6/27/07]
- (5) RM—RESIDENTIAL MEDIUM DENSITY DISTRICT. The RM District is primarily intended for medium-density residential urban development. New RM districts should be located on a collector or arterial street or in Village Centers. Development may not exceed 25 units per gross acre. [Ord. 5673, 6/27/07]
- (6) RMA—RESIDENTIAL MEDIUM DENSITY ATTACHED DISTRICT. The RMA District is intended primarily for medium- to high-density urban residential development. All 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, 6/27/07]
- (7) HM—HACKLEMAN-MONTEITH DISTRICT. The HM district is intended primarily to preserve the existing single-family residential character of the Hackleman and Monteith National Register Historic Districts. Conversion of single-family residential structures to other uses, including multi-family residential, is not allowed. [Ord. 5555, 2/7/03; Ord. 5673, 6/27/07]

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

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

[Ord. 5764, 12/1/11]

### **SCHEDULE OF PERMITTED USES**

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

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

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

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

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

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

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

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

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

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

The abbreviations used in the schedule have the following meanings:

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

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

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

## 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
<b>RESIDENTIAL SINGLE FAMILY: One Unit per Property</b>								
Single-Family, detached	19	Y	Y	Y	Y	Y	Y	N
Single-Family, attached (zero lot line)		N	PD/CD	PD/CD	N	Y	Y	Y
<b>RESIDENTIAL TWO FAMILY: Two Units per Property</b>								
2 attached units (Duplex)	3	N	Y-1, PD/CD-20	Y-1, PD/CD-20	N	Y-1, PD/CD-20	Y	Y
2 detached units	2	N	PD/CD	PD/CD	S	PD/CD	Y	Y
Primary Residence with one accessory dwelling unit	4	Y	Y	Y	Y	Y	Y	Y
<b>RESIDENTIAL MULTI-FAMILY: Three or More Units per Property</b>								
3 or More Single-Family Attached Units	3	N	PD/CD	PD/CD	N	S	S	S
3 or More Multi-Family Units per property	3	N	N	N	N	N	S	S
Manufactured Home Parks (see Article 10)	10	N	N	S	N	S	S	S
<b>RESIDENTIAL: Care or Treatment</b>								
Assisted Living		CU	CU	CU	CU	CU	CU	CU
Child or Adult Care Home	6	Y	Y	Y	Y	Y	Y	Y
Daycare Facility		CU	CU	CU	CU	CU	CU	S
Residential Care or Treatment Facility (6 or more residents)		CU	CU	CU	CU	CU	CU	S
Residential or Group Care Home (5 or fewer residents)		Y	Y	Y	Y	Y	Y	Y
<b>RESIDENTIAL: Miscellaneous</b>								
Accessory Buildings, Garages or Carports	9	Y/S	Y/S	Y/S	Y/S	Y/S	Y/S	Y/S
Bed & Breakfast	7	CUH	CUH	CUH	CUH	CUH	CUH	S
Home Businesses (See 3.090-3.160 to determine if CU)		Y/CU	Y/CU	Y/CU	Y/CU	Y/CU	Y/C U	Y/CU
Rooming or Boarding Houses		N	N	N	CU	N	S	S
Subdivision Sales Office	19	N	Y	Y	N	Y	Y	Y
Unit(s) Above or Attached to a Business	17	N	N	N	N	N	N	N
Temporary Residence	8	S	S	S	S	S	S	S
<b>INSTITUTIONAL</b>								
Basic Utilities		CU	CU	CU	CU	CU	CU	CU
Community Services		CU	CU	CU	CU	CU	CU	CU
Educational Institutions	13	CU	CU	CU	CU	CU	CU	CU
Hospitals		N	N	N	N	N	CU	CU
Jails & Detention Facilities		N	N	N	N	N	N	N
Parks, Open Areas and Cemeteries	14	S/CU	S/CU	S/CU	CU	S/CU	S/CU	S/CU
Religious Institutions	13	CU	CU	CU	CU	CU	CU	CU
<b>COMMERCIAL – Limited Use Types</b>								
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/C D	PD/CD
Recreational Vehicle Parks (See Article 10)	5, 10	N	N	N	N	N	CU	CU
Restaurants, no drive-thru	17	PD/CD	PD/CD	PD/CD	PD/CD	PD/CD	PD/C D	PD/CD
Retail Sales and Service	17	PD/CD	PD/CD	PD/CD	PD/CD	PD/CD	PD/C D	PD/CD
Self-Serve Storage	15	N	N	N	N	N	S	N
<b>OTHER CATEGORIES</b>								
Agriculture:                                   Crop Production		Y	Y	Y	N	Y	Y	Y
On-site Sales of Site-Produced Seasonal Goods		Y	S	CU	N	CU	CU	CU
Plant Nurseries and Greenhouses		S	S	S	N	S	S	S

Use Categories	Spec. Cond.	RR	RS-10	RS-6.5	HM	RS-5	RM	RMA
<b>OTHER CATEGORIES</b>								
Antennas, owned and operated by FCC licensed member of Amateur Radio Service		Y	Y	Y	Y	Y	Y	Y
Communication Facilities	16	N	N	N	N	N	N	N
Kennels	11	S	CU	CU	N	CU	CU	N
Satellite Dish and Other Antennas	12	Y	Y	Y	Y	Y	Y	Y

Y = Yes, allowed, no Site Plan review required

CD = Cluster Development, see Art. 11

CU = Conditional Use approval required, Type III procedure

CUII = Conditional Use approval required, Type II procedure

N = No, not allowed

PD = Planned Unit Development, see Art. 11

S = Site Plan Review required

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

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

### SPECIAL CONDITIONS

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

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

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

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

[Ord. 5338, 1/28/98; Ord. 5673, 6/27/07]

- (3) Duplexes 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 3.190-1, however, the amount of land on which each unit is located does not need to be split equally between the individual units - one may be larger and one smaller. [Ord. 5673, 6/27/07; Ord. 5947, 1/01/21]

- (4) Where detached single-family residences are permitted outright, one accessory dwelling unit (ADU) may be allowed per legally established detached single-family residence, called the “primary residence”. The ADU shall comply with the following standards:

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

- (a) The size of an ADU does not exceed 50 percent of the gross floor area of the primary residence (excluding garages or carports) or 900 square feet, whichever is less. (Note: ADUs greater than 900 square feet that were legally constructed before July 1, 2007, may remain.)

[Ord. 5949, 1/01/21]

- (b) All required building permits have been obtained. If the primary residence is on the Local Historic Inventory, historic review may be required.

- (c) The size of the property meets the minimum single-family lot area requirements for the zoning district in which the lot is located.

[Ord. 5338, 1/28/98; Ord. 5673, 6/27/07]

Detached ADUs must also meet the following development standards:

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

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

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

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

- (5) In the RM District, the following criteria must be met in addition to the Conditional Use criteria for permitting RV overnight parks:
  - (a) The entire site must be located within 750 feet of the Interstate 5 right-of-way.
  - (b) The RV park access is limited to the Interstate 5 frontage road or streets servicing primarily industrial or commercial development.
- (6) “Child Care Homes” that includes the day or night time care of no more than sixteen children, including the children of the provider or the care and treatment of adults for less than 24-hours are considered a residential use of the property and are allowed outright in zones that allow single-family homes per the Oregon Revised Statutes (ORS). See ADC Section 22.200.

[Ord. 5673, 6/27/07]
- (7) Bed and Breakfast facilities shall:
  - (a) Be owner occupied.
  - (b) Be limited to a maximum of four guest bedrooms.
  - (c) Except for driveway spaces, not contain guest parking facilities in the front setback area or within 10 feet of any interior residential lot line.

[Ord. 5742, 7/14/10]
  - (d) Provide at least one off-street parking space for each rental room, except in the HM zone, where on-street parking along the frontage of the property line(s) may count toward the parking requirements. To count towards this standard, each on-street space must be at least 25 feet long.

[Ord. 5673, 6/27/07, Ord. 5768, 12/7/11]
- (8) Temporary residences in conjunction with construction, emergency repair, or a night watchman are permitted but are limited to one year in duration.

[Ord. 5673, 6/27/07]
- (9) The definitions of “Accessory Building” and “Accessory Use” in Article 22 shall apply. The Director shall have authority to initially interpret application of these terms to any proposed activity. See also Table 3.230-1 for Accessory Structure Standards.

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

[Ord. 5767, 12/7/11; Ord. 5947, 1/01/21]

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

[Ord. 5947, 1/01/21]

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

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

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

- (g) The structure will not preclude the use of the property for housing;
  - (h) The structure must meet the requirements of Section 3.080(9) or be approved through the Site Plan Review process;
  - (i) The structure is not used for a commercial purposes; and
  - (j) Exception in RR: Buildings used for farm or agricultural product or equipment storage are permitted in the RR zone. [Ord. 5281, 3/26/97; Ord. 5673, 6/27/07; Ord. 5947, 01/21/20]
- (10) Manufactured home and RV park standards are located in Article 10. Manufactured home parks, RV parks and manufactured homes on individual lots are not allowed within the National Register Historic Districts or on land within 100 feet of a historic district, or on land adjacent to a property on the Local Historic Inventory. [Ord. 5673, 6/27/07]
- (11) Kennels in residential districts shall be restricted to properties containing a minimum of two acres. This restriction does not apply to indoor veterinary hospital kennels. [Ord. 5673, 6/27/07]
- (12) Antennas and satellite dishes are subject to the following standards:
- (a) Antenna or antenna supports may not be located within any front setback area or within any required landscape buffer yard. [Ord. 5742, 7/14/10]
  - (b) Antennas shall not extend higher than fifteen feet above the peak of the roof.
  - (c) Dish antennas exceeding 12 feet in diameter are not permitted.
  - (d) Dish antennas exceeding 36 inches in diameter may not be roof mounted.
  - (e) Dish antennas shall not exceed 15 feet in height from surrounding grade to the highest point of the structure or dish.
  - (f) Dish antennas located within ten feet of a residential lot line or located so as to be visible from a public street shall be screened up to a height of six feet with a solid screen fence, wall, hedge, or other landscaping.
  - (g) Antenna used to display sign messages shall conform to all district sign regulations in addition to the above.
  - (h) Antenna not in conformance with the above may be considered by Conditional Use review , Type II process. [Ord. 5886, 1/6/17]
- (13) Original Conditional Use approval for education and religious institutions includes the following secondary uses: educational activities; sports and other recreational activities; religious activities; political activities; meals programs; before and after school or full-time child care activities; fundraising activities; and cultural programs. Such uses will not be required to go through the land use process if all of the activities which constitute the use (excluding parking and travel to and from the site) take place on the site and there is no external noise audible or light visible between 10:30 p.m. and 7:00 a.m.

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

- (14) Public park development activity subject to Conditional Use review includes major development; expansions of activities and development within parks which currently generate substantial traffic; or construction of major structures such as swimming pools, lighted ball fields, and community centers. Conditional Use review is not required, however, for construction of play equipment, tennis courts, bike paths, picnic shelters, restrooms, landscaping, and similar activities within existing improved parks. [Ord. 5947, 1/01/21]
- (15) Self-Serve Storage is subject to the following standards:
- (a) Freestanding facilities shall be limited to sites of one to three acres in size and maximum building coverage shall be limited to 50 percent of the parcel.
  - (b) Building setbacks shall be as follows: front - 25 feet, interior - 20 feet. No fencing is permitted in front setbacks and a minimum ten-foot landscape buffer yard is required adjacent to all residential zones. No barbed wire fencing is permitted in residential districts. [Ord. 5742, 7/14/10]
  - (c) The minimum driveway width between buildings shall be 20 feet for one-way drives and 24 feet for two-way drives.
  - (d) The maximum storage unit size shall be 500 square feet.
  - (e) All outdoor lighting shall be shielded to prevent reflection on adjacent properties.
  - (f) Repair of autos, boats, motors and furniture, and the storage of flammable materials shall be prohibited on the premises and rental contracts shall so specify.
  - (g) Outside storage of vehicles and materials is prohibited within this use category and no other business activity other than the rental of storage units shall be conducted on the premises. [Ord. 5673, 6/27/07]
- (16) Public and Commercial Communication Facilities are not allowed in residential zoning districts, except when the applicant can provide supportive documentation or evidence, to the satisfaction of the Community Development Director, that, if such a facility is not allowed, there will be a gap in service that denies service to an area within the community. (This decision is a Conditional Use, Type III land use decision.) Article 8 for telecommunication facility design standards also apply. [Ord. 5886, 1/6/17]

Such a tower will also be subject to the following conditions:

- (a) The base of the antenna and any structures associated with the antenna shall be set back from the property lines of the property on which they are sited a distance of not less than 30 feet.
  - (b) The land on which the facility is sited shall be screened from adjacent land along its full perimeter, by providing screening, as defined in ADC Section 9.250. [Ord. 5281, 3/26/97; Ord. 5445, 4/12/00]
- (17) Planned Developments allow for limited commercial uses to serve the residents within the development; see Section 11.270. Cluster Developments greater than 50 acres may develop up to 2 acres with neighborhood commercial and office uses through a Conditional Use review. [See Section 11.510(2).] [Ord. 5673, 6/27/07; Ord. 5947, 1/01/21]
- (18) In all residential zones, indoor entertainment and recreation uses are limited to athletic, exercise or health clubs, gyms or spas, and similar uses. Examples of outdoor entertainment and recreation uses include sports fields, clubhouses, tennis and golf facilities, swimming pools, and similar uses. [Ord. 5673, 6/27/07]
- (19) One subdivision sales office is allowed in a subdivision for two years from the date it opens if the following requirements are met: [Ord. 5767, 12/7/11; Ord. 5886, 1/6/17]



## Standards

- (a) The purpose of the office must be to sell lots or houses in the subdivision.
  - (b) The sales office must be placed on one or more of the lots in the subdivision. [Ord. 5886, 1/6/17]
  - (c) The sales office lot must be established within one year of the date the final subdivision plat is signed. [Ord. 5887, 1/6/17]
  - (d) At the time an application for the sales office is submitted, the owner of the subdivision must own all of the lots within 100 feet of the lot where the sales office will be located. The “owner of the subdivision” is the owner of more than 50 percent of the lots in the subdivision. [Ord. 5886, 1/6/17]
  - (e) The building must be placed in accordance with Section 3.190, Table 3.190-1 Development Standards. [Ord. 5886, 1/6/17; Ord. 5947, 1/01/21]
  - (f) A manufactured building, a modular building, or a building constructed on the site is allowed for the office use. If a manufactured building is used, it must be placed in accordance with the standards for “Placement on Individual Lots” listed in Article 10. If a modular building is used, it must be removed from the property within two years of the date a building permit is issued for the sales office. If manufactured or site-built building is used, the building does not have to be removed from the lot.
  - (g) Building permits must be obtained for the building. Manufactured and modular buildings must have the appropriate State of Oregon insignia that shows the appropriate construction standards are met.
- (h) and (i) removed by Ordinance 5886, adopted January 6, 2017*
- (h) The sales office permit may be renewed once up to a year. [Ord. 5673, 6/27/07; Ord. 5886, 1/6/17]
- (20) Within the South Albany Area Plan boundary, attached single-family and duplexes will be permitted in the RS-5, RS-6.5 and RS-10 zoning districts for up to 25 percent of the total units provided when transferring density within the Oak Creek Transition Area or when transferring density of the area necessary to preserve significant tree groves identified on the South Albany Area Plan Organizational Framework map in the Comprehensive Plan (Figure 1), and oak trees over 25-inches in diameter measured at 4.5 feet from the ground. Developments may not exceed the maximum density by zoning district in 11.495 and must meet all applicable standards in the Code. [Ord. 5801, 2/13/13]

## **SPECIAL STATUS**

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

Notwithstanding the restrictions or terms of any other section of the Albany Development Code (ADC), properties on the Special Status List shall be deemed to be conforming to the Hackleman Monteith (HM) and RS-5 Residential Single-Family (RS-5) zoning districts, as applicable. If any building on these properties is substantially destroyed, as defined in ADC Section 2.335(3), it can be rebuilt to the same size (square feet) and density as existed on the property at the time the HM or RS-5 zoning was first applied, but will be subject to the regulations of any applicable overlay zone.

[Ord. 5886, 1/6/17]

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

[Ord. 5789, 10/10/12]

If any of the listed buildings are converted to single-family use, the special status granted here is rescinded, and the use of the property must thereafter conform to the requirements of this article. The special status granted here will be lost if it is determined that the use that existed at the time the zone was created was not then lawfully in existence. [Ord. 5673, 6/27/07]

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

The property will be added to the list administratively if the owner or the City provide documents that clearly and objectively establish that the use existed prior to adoption of City zoning in 1946; or if the City can clearly and objectively verify the use was allowed in the zoning district at the time it was established and met the minimum lot size, maximum lot coverage and parking standards, as applicable. All other requests will be reviewed through the Type I-L land use process and notice will be given to property owners within 100 feet. In order to approve the request, the applicant must document when the use was established and whether the use received the relevant approvals at that time. Satisfactory evidence must be provided by the property owner or applicant to document that the use was legally established. Such evidence may consist of Sanborn Fire Insurance Maps, land use approvals or letters, building permits, utility hookups, tax records, or telephone directory listings, for example. When a request is approved, the property will be added to the list. [Ord. 5789, 10/10/12]

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

## HOME BUSINESSES

3.090 Purpose. The home business provisions recognize the needs of many persons who are engaged in small-scale business ventures which could not be sustained if it were necessary to lease commercial quarters, or which because of the nature of the activity would make it impractical to expand to a full-scale enterprise and that the business is incidental to the residential use. The purpose of these standards is to allow home businesses that can be compatible in scale and operating characteristics within a residential neighborhood without infringing on the right of neighboring residents to enjoy the peaceful occupancy of their homes. Home businesses do not include hobbies as defined in this Code. [Ord. 5832, 4/9/14]

3.092 Applicability. The provisions of this section apply to all home businesses except for the following:

- (1) Garage, yard or estate sales from the site that comply with Albany Municipal Code Section 7.84.190.
- (2) Open houses and other events involving the sale of goods or services as long as they comply with the frequency of garage sales allowed in Albany Municipal Code Section 7.84.190.
- (3) Hobbies.
- (4) Registered or certified family child care homes per ORS 657A.440. [Ord. 5832, 4/9/14]

3.094 Prohibited Uses. The following uses are prohibited as home businesses:

- (1) 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.
- (2) Junk and salvage operations.
- (3) Storage and/or sale of fireworks in quantities judged by the Fire Marshal to be dangerous.
- (4) Storage or display of more than one motor vehicle for sale. [Ord. 5673, 6/27/07; Ord. 5832, 4/9/14]

*3.094 (1) and (2) Repealed by Ord. 5832, 4/9/14.*

- 3.100 Procedures.
- (1) Home Business Allowed Outright. Home businesses shall be allowed outright as a permitted accessory use to a residence provided that the business or businesses cumulatively meet all of the standards in Section 3.110 and 3.120. [Ord. 5832, 4/9/14]
  - (2) Home Business as a Conditional Use. Applications for a home business that cannot meet the standards in Section 3.120 will be processed as a Conditional Use Type III. The business shall meet the standards in Section 3.110 and the Conditional Use review criteria in Article 2, Section 2.250. [Ord. 5832, 4/9/14]
- 3.110 Standards that Apply to All Home Businesses. [Ord. 5832, 4/9/14]
- (1) One window or wall sign is allowed, not larger than 12 inches by 18 inches.
  - (2) There is no visible outside storage of materials or commodities other than plant materials.
  - (3) 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 residential use.
  - (4) No customers or employees may enter the premises between the hours of 8:00 p.m. and 7:00 a.m. [Ord. 5832, 4/9/14]
  - (5) All required building and other permits pertaining to the proposed business must be obtained. A home business that is classified as commercial or industrial occupancies by the building codes must comply with the applicable requirements of the Uniform Building Code and Uniform Fire Code. [Ord. 5832, 4/9/14]
- 3.120 Standards for Home Businesses Allowed Outright. In order to be allowed outright, a home business shall meet all of the following standards. If more than one business is proposed at the same residence, then all businesses must cumulatively meet these standards. [Ord. 5832, 4/9/14]
- (1) Employees. The business is carried on only by residents and not more than two outside employees or volunteers. [Ord. 5832, 4/9/14]
  - (2) Offsite Impacts. The business operation results in no vibration, smoke, dust, odors, heat, glare or noise more than 60 decibels noticeable at or beyond the property line sustained for more than 10 minutes between the hours of 7:00 a.m. and 6:00 p.m. [Ord. 5832, 4/9/14]
  - (3) Deliveries. The business will not average more than three deliveries and pickups by trucks or other commercial vehicles per day, excluding deliveries from the post office. [Ord. 5832, 4/9/14]
  - (4) Customer Vehicles. No more than three customer or client vehicles are permitted on the property or in the right-of-way at one time. [Ord. 5832, 4/9/14]
  - (5) Sales. On-site sales shall be by appointment only. [Ord. 5832, 4/9/14]
  - (6) Size and Scale. Home businesses located in accessory buildings may not exceed 1,000 square feet including storage. [Ord. 5832, 4/9/14]
- 3.125 Home Businesses Requiring Conditional Use Approval. In addition to home business that cannot meet the standards to be allowed outright per Section 3.100 (2), the following uses may only be considered through a Conditional Use review and approval: [Ord. 5832, 4/9/14]
- (1) Auto body repair and painting for compensation. [Ord. 5832, 4/9/14]
  - (2) Mechanical repair conducted outside of an entirely enclosed building. [Ord. 5832, 4/9/14]
  - (3) Headquarters or dispatch center where employees and/or vehicles come to the site and are dispatched to other locations. [Ord. 5832, 4/9/14]
- 3.140 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 business based on the applicable standards in this Code.

- 3.150 Review Procedures for Complaints. An investigation of the complaint will be performed accordingly:
- (1) If the Director finds that a home business allowed outright does not meet the standards in Sections 3.110 and 3.120, the Director will:
    - (a) Require the business be brought into compliance with the applicable standards; or
    - (b) Require the business be processed as a Conditional Use; or
    - (c) Order the business to be terminated. [Ord. 5832, 4/9/14]
  - (2) If the complaint is regarding a home business approved as a Conditional Use, the Director will review the complaint against the standards in Sections 2.250 and 3.110, and any conditions of approval in the notice of decision. If the Director determines the business is in violation of applicable standards or conditions of approval, the Director will:
    - (a) Require the business be brought into compliance with applicable standards and the conditions of approval; or
    - (b) Order the business to be terminated. [Ord. 5832, 4/9/14]
- 3.160 Penalties. Non-compliance with the orders of the Director, or his designee, Planning Commission, 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, 6/27/07; Ord. 5832, 4/9/14]

*3.130, 3.150, 3.160, 3.170 Repealed by Ord. 5832, 4/9/14.*

## DEVELOPMENT STANDARDS

- 3.190 Purpose. Development standards are intended to promote site planning and design that consider the natural environment, site intensity, building mass, and open space. The standards also promote energy conservation, needed privacy, safe and efficient parking areas for new development, and improve the general living environment and economic life of a development. Table 3.190-1, on the following page, summarizes the basic development standards. It should be used in conjunction with the sections immediately succeeding the table, which address special circumstances and exceptions. See Article 8 for design standards for single-family and multiple-family developments. [Ord. 5445, 4/12/00, Ord. 5768, 12/7/11; Ord. 5947, 1/01/21]

**TABLE 3.190-1**

RESIDENTIAL DISTRICT DEVELOPMENT STANDARDS							
STANDARD	RR	RS-10	RS-6.5	HM	RS-5	RM	RMA
<b>Minimum Property Size or Land Requirements by Unit Type(1)</b>							
Single-family detached, (1)	5 acres (15)	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
Two primary units on one property (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

RESIDENTIAL DISTRICT DEVELOPMENT STANDARDS							
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
<b>Setbacks (4):</b>							
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
Maximum Lot Coverage (9)	20% (11)	50%	60%	60%	60%	70%	70%
Minimum Open Space	N/A	N/A	N/A	N/A	N/A	(13)	(13)
Min. Landscaped Area	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; exceptions to Setbacks for Accessibility Retrofits are in Section 3.263; Zero-Lot Line standards are in Sections 3.265 and 3.270. [Ord. 5832, 4/9/14; Ord. 5947, 1/01/21]
- (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(3). [Ord. 5974, 1/01/21]
- (7) Garage front setback for non-vehicle-entrance = 15 feet, except in RR and RS-10 zoning districts where the setback shall be 20 feet.
- (8) See exceptions to height restrictions, Section 3.340.
- (9) Lot coverage for single-family detached development shall only include the area of the lot covered by buildings or structures.
- (10) See Table 3.230-1 for garages with alley access. [Ord. 5947, 1/01/21]
- (11) Maximum lot coverage for parcels 20,000 square feet or less is 50%. The configuration of any development on a lot 20,000 square feet in size, or less, in an RR zoning district that covers more than 20 percent of the parcel on which it is proposed, should be located such that it does not preclude a later division of the parcel.
- (12) The minimum separation between multi-family buildings on a single parcel shall be 10 feet for single-story buildings and 20 feet for two-story or taller buildings.
- (13) Ten or more units require open space. See Section 8.220.
- (14) See Section 8.240 for standards.
- (15) A property line adjustment between two existing RR properties may be allowed as long as no new lots are created and the resulting properties are at least 20,000 square feet and approval of a septic system has been obtained by Benton County.

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

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 accounting for 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, 6/27/07]

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

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

3.220 Bonus Provisions for Reduction in Standard Lot Size 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, 1/28/98; Ord. 5673, 6/27/07]

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:

(a) At least 50 percent of the lot area is located within 200 feet of a designated collector or arterial street; and

(b) The lot will not have direct access to an arterial.

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

[Ord. 5673, 6/27/07]

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

[Ord. 5673, 6/27/07]

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

(3) Development Density to Transfer from Overlay Districts. The land area from which density can be transferred excludes developed and unbuildable areas, such as water bodies, areas below ordinary high water mark, floodways, the unbuildable portions of lands within the Significant Natural Resource Overlay Districts, and easements.

- Residential Zoning – The applicant may choose to transfer up to 50 percent of the development density if the above standard is met. For example, if the base zoning would have allowed 8 single-family units (net), 4 units can be transferred; if it would have allowed 20 multi-family units (net), 10 units can be transferred.

- Open Space Zoning – If the lot was legally created prior to July 1, 1991, and the area is of sufficient size and dimension to comply with the development standards for a single-family home, one single-family unit can be transferred.

[Ord. 5947, 1/01/21]

- (4) Development Density in Receiving Area. Up to a maximum 20 percent reduction in average minimum lot size, or lot area per unit requirements, is allowed in order to accommodate the density transfer. [Ord. 5764, 12/1/11]

Energy Conservation.

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

**TABLE 3.220-1**

<b>ENERGY CONSERVATION BONUS STANDARDS</b>		
<b>Development Type</b>	<b>Percentage of Lots or Units Protected</b>	<b>Density Bonus Permitted</b>
Subdivision	80 percent or more of lots	10 percent
	At least 60 percent and up to 80 percent	5 percent
Multiple-unit Development	80 percent or more of units	10 percent
	At least 60 percent and up to 80 percent	5 percent

[Ord. 5947, 1/01/21]

Moderate-Cost and Affordable Housing

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

[Ord. 5947, 1/01/21]

**TABLE 3.220-2**

<b>AFFORDABLE HOUSING DENSITY BONUS STANDARDS</b>		
<b>Affordability Level</b>	<b>Percent of units set aside for persons whose household income is less than or equal to the affordability level</b>	<b>Density Bonus Permitted</b>
120% AMI	50 percent of units	5 percent
100% AMI	50 percent of units	10 percent
80% AMI	5 percent of units	5 percent
	10 percent of units	10 percent
	20 percent of units	20 percent
50% AMI	5 percent of units	10 percent
	10 percent of units	20 percent
	20 percent of units	30 percent

[Ord. 5947, 1/01/21]

Alley Access.

(7) Lots with vehicular access from an alley may be up to 10 percent smaller than the minimum lot size for the zone. [Ord. 5338, 1/28/98; Ord. 5445, 4/12/00; Ord. 5947, 1/01/21]

**SETBACKS**

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

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

**TABLE 3.230-1**

<b>ACCESSORY STRUCTURE STANDARDS</b>	
<b>STRUCTURE</b>	<b>STANDARD</b>
All Accessory Structures	Front setback, see Table 3.190-1, 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 vehicular access from 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 3.190-1
Structures, including fences, intended for housing animals	Interior setback = 10 feet
Fences greater than 6 feet tall	See Table 3.190-1, by zone; building permit may be required.
Outdoor swimming pools with depths greater than or equal	Interior setback = 10 feet



ACCESSORY STRUCTURE STANDARDS	
STRUCTURE	STANDARD
to 24 inches	
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

[Ord. 5832, 4/9/14; Ord. 5947, 1/01/21; Ord. 5949, 1/01/21]

- (1) Zero-lot line provisions are in Sections 3.265 and 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. [Ord. 5673, 6/27/07]

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

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

3.250 Parking Standards in Setback or Yard Areas.

- (1) Vehicles in daily use shall not park in the front yard, except on a paved driveway that leads to a garage, carport, or on a driveway that provides required parking spaces.
- (2) Parking spaces shall not be located in a required front setback, except:
  - (a) Circular driveways providing drop-off service to the front door.
  - (b) Driveways used to fulfill parking requirements for single-family and two-family residences. Each space must be a paved area at least 10 feet wide and 20 feet long.
- (3) Required parking shall not be located in interior setback areas, except:
  - (a) Paved driveways used to fulfill parking requirements for single-family and two-family residences. Each space must be at least 10 feet wide and 20 feet long.
- (4) RVs, trailers, boats, campers, and vehicles not in daily use are not allowed in the required front setback for more than 48 consecutive hours. [Ord. 5947, 1/02/21]

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

(1) Depressed Areas. In any district, open work fences, berms, hedges, guard railings, or other landscaping or architectural devices for safety protection around depressed areas, ramps, stairs, or retaining walls, may be located in required setbacks, provided that such devices are not more than 3-1/2 feet in height. [Ord. 5742, 7/14/10]

(2) Projecting Building Features. The following building features may encroach up to five feet into the required front setback and up to two feet into the required interior setbacks: [Ord. 5742, 7/14/10]

(a) Awnings, eaves, buttresses, architectural appendages (such as, but not limited to, bay windows, planters, cantilevered stairways).

(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, 6/27/07]

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

(1) The existing bathroom does not have sufficient space for a retrofit to accommodate persons with mobility impairments; and

(2) A written medical report from a licensed physician that documents a person residing in the dwelling has a mobility impairment; and

(3) The adjustment is to expand the bathroom no more than 3 feet into an interior setback; and

(4) A minimum of a 3-foot interior setback is retained adjacent to the expansion.

[Ord. 5832, 4/9/14]

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

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

OR

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

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

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

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

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, 6/27/07]

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

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, unless the property is exempt in Section 5.207.

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, 6/27/07]

## **BUILDING HEIGHT**

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

- (1) Roof Structures and Architectural Features. Roof structures for the housing of elevators, stairways, tanks, ventilating fans and similar equipment required to operate and maintain the building, fire walls, skylights, towers, flagpoles, chimneys, smokestacks, wireless masts, antennas, steeples, and similar structures may be erected above the height limits prescribed in this Article provided that no roof structure, feature, or any other device above the prescribed height limit shall be allowed or used for the purpose of providing additional floor space.

- (2) Religious Institutions and Public and Semi-Public Buildings. In districts where religious institutions and certain public and semi-public buildings require Conditional Use approval, the height restrictions may be waived as a part of the Conditional Use proceedings provided that a request for such has been noted in the public hearing notice.

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

### **OFF-STREET PARKING AND LOADING REQUIREMENTS**

- 3.350 Minimum Space Requirements. Off-street parking shall be provided for all residential development in the amounts indicated in Article 9, Table 9.020-1. All parking lots in residential districts must comply with applicable requirements in Article 9.

[Ord. 5445, 4/12/00; Ord. 5673, 6/27/17; Ord. 5832, 4/9/14; Ord. 5947, 1/01/21]

### **LANDSCAPING**

- 3.360 Requirements. All front yards shall be landscaped in accordance with Section 9.140.

[Ord. 5673, 6/27/07]

### **BUFFERING AND SCREENING**

- 3.370 General. Buffering and screening may be required to offset the impact of development. See Sections 9.210 through 9.270.

[Ord. 5445, 4/12/00; Ord. 5673, 6/27/07; Ord. 5947, 1/01/21]

### **OUTSIDE STORAGE**

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

- 3.390 Screening of Refuse Containers. The following standards apply to all residential development, except for one- and two-family dwellings. Any refuse container or refuse disposal area which would otherwise be visible from a public street, customer or resident parking area, any public facility, or any residential area, shall be screened from view by placement of a sight-obscuring fence, wall or hedge at least 6 feet in height. All refuse materials shall be contained within the screened area. No refuse container or refuse disposal area shall be placed within 15 feet of a dwelling window.

[Ord. 5673, 6/27/07]