



Oregon

Theodore R. Kulongoski, Governor

Department of Land Conservation and Development

635 Capitol Street, Suite 150

Salem, OR 97301-2540

(503) 373-0050

Fax (503) 378-5518

www.lcd.state.or.us



NOTICE OF ADOPTED AMENDMENT

04/15/2014

TO: Subscribers to Notice of Adopted Plan  
or Land Use Regulation Amendments

FROM: Plan Amendment Program Specialist

SUBJECT: City of Albany Plan Amendment  
DLCD File Number 004-13

The Department of Land Conservation and Development (DLCD) received the attached notice of adoption. Due to the size of amended material submitted, a complete copy has not been attached. A Copy of the adopted plan amendment is available for review at the DLCD office in Salem and the local government office.

Appeal Procedures\*

DLCD ACKNOWLEDGMENT or DEADLINE TO APPEAL: Friday, May 02, 2014

This amendment was submitted to DLCD for review prior to adoption pursuant to ORS 197.830(2)(b) only persons who participated in the local government proceedings leading to adoption of the amendment are eligible to appeal this decision to the Land Use Board of Appeals (LUBA).

If you wish to appeal, you must file a notice of intent to appeal with the Land Use Board of Appeals (LUBA) no later than 21 days from the date the decision was mailed to you by the local government. If you have questions, check with the local government to determine the appeal deadline. Copies of the notice of intent to appeal must be served upon the local government and others who received written notice of the final decision from the local government. The notice of intent to appeal must be served and filed in the form and manner prescribed by LUBA, (OAR Chapter 661, Division 10). Please call LUBA at 503-373-1265, if you have questions about appeal procedures.

\*NOTE: The Acknowledgment or Appeal Deadline is based upon the date the decision was mailed by local government. A decision may have been mailed to you on a different date than it was mailed to DLCD. As a result, your appeal deadline may be earlier than the above date specified. **NO LUBA Notification to the jurisdiction of an appeal by the deadline, this Plan Amendment is acknowledged.**

Cc: Anne Catlin, City of Albany  
Gordon Howard, DLCD Urban Planning Specialist  
Ed Moore, DLCD Regional Representative  
Thomas Hogue, DLCD Economic Development Policy Analyst

<paa> YA



## NOTICE OF ADOPTED CHANGE TO A COMPREHENSIVE PLAN OR LAND USE REGULATION

FOR DLCD USE

File No.: 004-13 (20138)  
[17835]  
Received: 4/11/2014

Local governments are required to send notice of an adopted change to a comprehensive plan or land use regulation **no more than 20 days after the adoption.** (See [OAR 660-018-0040](#)). The rules require that the notice include a completed copy of this form. **This notice form is not for submittal of a completed periodic review task or a plan amendment reviewed in the manner of periodic review.** Use [Form 4](#) for an adopted urban growth boundary including over 50 acres by a city with a population greater than 2,500 within the UGB or an urban growth boundary amendment over 100 acres adopted by a metropolitan service district. Use [Form 5](#) for an adopted urban reserve designation, or amendment to add over 50 acres, by a city with a population greater than 2,500 within the UGB. Use [Form 6](#) with submittal of an adopted periodic review task.

Jurisdiction: City of Albany

Local file no.: **DC-03-13**

Date of adoption: April 9, 2014

Date sent: 4/11/2014

Was Notice of a Proposed Change (Form 1) submitted to DLCD?

Yes: Date (use the date of last revision if a revised Form 1 was submitted): 12/17/14

No

Is the adopted change different from what was described in the Notice of Proposed Change? Yes No

If yes, describe how the adoption differs from the proposal:

Yes. Revisions were made to the home business standards in Ordinance Exhibit A; Ordinance Exhibit C, Section 1.083 Expiration of Land Use Approvals- language was added to clarify when the expiration date is calculated; Exhibit D, signs, 13.422 change wall sign formula to 1.5 sq ft.

Local contact (name and title): Anne Catlin, Planner 3

Phone: 541-917-7560

E-mail: [anne.catlin@cityofalbany.net](mailto:anne.catlin@cityofalbany.net)

Street address: 333 Broadalbin St SW

City: Albany

Zip: 97321-

### PLEASE COMPLETE ALL OF THE FOLLOWING SECTIONS THAT APPLY

#### **For a change to comprehensive plan text:**

Identify the sections of the plan that were added or amended and which statewide planning goals those sections implement, if any:

#### **For a change to a comprehensive plan map:**

Identify the former and new map designations and the area affected:

Change from	to	acres.	A goal exception was required for this
change.			
Change from	to	acres.	A goal exception was required for this
change.			
Change from	to	acres.	A goal exception was required for this
change.			
Change from	to	acres.	A goal exception was required for this change.

Location of affected property (T, R, Sec., TL and address):

The subject property is entirely within an urban growth boundary

The subject property is partially within an urban growth boundary

**If the comprehensive plan map change is a UGB amendment** including less than 50 acres and/or by a city with a population less than 2,500 in the urban area, indicate the number of acres of the former rural plan designation, by type, included in the boundary.

Exclusive Farm Use – Acres:	Non-resource – Acres:
Forest – Acres:	Marginal Lands – Acres:
Rural Residential – Acres:	Natural Resource/Coastal/Open Space – Acres:
Rural Commercial or Industrial – Acres:	Other: – Acres:

**If the comprehensive plan map change is an urban reserve** amendment including less than 50 acres, or establishment or amendment of an urban reserve by a city with a population less than 2,500 in the urban area, indicate the number of acres, by plan designation, included in the boundary.

Exclusive Farm Use – Acres:	Non-resource – Acres:
Forest – Acres:	Marginal Lands – Acres:
Rural Residential – Acres:	Natural Resource/Coastal/Open Space – Acres:
Rural Commercial or Industrial – Acres:	Other: – Acres:

**For a change to the text of an ordinance or code:**

Identify the sections of the ordinance or code that were added or amended by title and number:

Albany Development Code:  
Article 1, Sections 1.070, 1.080, 1.083, 1.203, 1.204, 1.280, 1.320, 1.640,  
Article 2, Sections 2.050-2.080, 2.300-2.370, 2.410-2.450  
Article 3, Sections 3.050-3.160, 3.190, 3.263  
Article 11, Sections 11.240-11.379  
Article 4, Sections 4.050-4.060  
Article 5, Sections 5.030-5.085  
Article 8, Sections 8.220-250, 8.315-480  
Article 9, Sections 9.020-130, 9.207-208  
Article 13 - most sections  
Article 22, Sections 22.040, 22.045, 22.200, 22.110, 22.155, 22.350, 22.400

**For a change to a zoning map:**

Identify the former and new base zone designations and the area affected:

Change from	to	Acres:
Change from	to	Acres:
Change from	to	Acres:
Change from	to	Acres:

Identify additions to or removal from an overlay zone designation and the area affected:

Overlay zone designation:	Acres added:	Acres removed:
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Location of affected property (T, R, Sec., TL and address):

List affected state or federal agencies, local governments and special districts:

Identify supplemental information that is included because it may be useful to inform DLCD or members of the public of the effect of the actual change that has been submitted with this Notice of Adopted Change, if any. If the

submittal, including supplementary materials, exceeds 100 pages, include a summary of the amendment briefly describing its purpose and requirements.

Several "business friendly" amendments to the ADC to remove obstacles to development: allow more variety of uses in the commercial and industrial zones; allow some commercial in EXISTING buildings in the LI zone ; create a small-scale manufacturing use; distinguish between industrial and traditional offices; create two levels of home businesses - outright or conditional use; reduce parking standards; clarify and streamline sign standards; allow extension of land use approvals

## NOTICE OF ADOPTED CHANGE – SUBMITTAL INSTRUCTIONS

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1. A Notice of Adopted Change must be received by DLCD no later than 20 days after the ordinance(s) implementing the change has been signed by the public official designated by the jurisdiction to sign the approved ordinance(s) as provided in [ORS 197.615](#) and [OAR 660-018-0040](#).

2. A Notice of Adopted Change must be submitted by a local government (city, county, or metropolitan service district). DLCD will not accept a Notice of Adopted Change submitted by an individual or private firm or organization.

3. **Hard-copy submittal:** When submitting a Notice of Adopted Change on paper, via the US Postal Service or hand-delivery, print a completed copy of this Form 2 on light green paper if available. Submit **one copy** of the proposed change, including this form and other required materials to:

Attention: Plan Amendment Specialist  
Dept. of Land Conservation and Development  
635 Capitol Street NE, Suite 150  
Salem, OR 97301-2540

This form is available here:

<http://www.oregon.gov/LCD/forms.shtml>

4. **Electronic submittals** of up to 20MB may be sent via e-mail. Address e-mails to [plan.amendments@state.or.us](mailto:plan.amendments@state.or.us) with the subject line "Notice of Adopted Amendment."

Submittals may also be uploaded to DLCD's FTP site at

[http://www.oregon.gov/LCD/Pages/papa\\_submittal.aspx](http://www.oregon.gov/LCD/Pages/papa_submittal.aspx).

E-mails with attachments that exceed 20MB will not be received, and therefore FTP must be used for these electronic submittals. **The FTP site must be used for all .zip files** regardless of size. The maximum file size for uploading via FTP is 150MB.

Include this Form 2 as the first pages of a combined file or as a separate file.

5. **File format:** When submitting a Notice of Adopted Change via e-mail or FTP, or on a digital disc, attach all materials in one of the following formats: Adobe .pdf (preferred); Microsoft Office (for example, Word .doc or docx or Excel .xls or .xlsx); or ESRI .mxd, .gdb, or .mpk. For other file formats, please contact the plan amendment specialist at 503-934-0017 or [plan.amendments@state.or.us](mailto:plan.amendments@state.or.us).

6. **Content:** An administrative rule lists required content of a submittal of an adopted change ([OAR 660-018-0040\(3\)](#)). By completing this form and including the materials listed in the checklist below, the notice will include the required contents.

Where the amendments or new land use regulations, including supplementary materials, exceed 100 pages, include a summary of the amendment briefly describing its purpose and requirements.

ORDINANCE NO. 5832

AN ORDINANCE AMENDING ORDINANCE NO. 4441, WHICH ADOPTED THE CITY OF ALBANY DEVELOPMENT CODE AND ZONING MAP, BY AMENDING THE DEVELOPMENT CODE TEXT RELATED TO ECONOMIC DEVELOPMENT, HOME BUSINESSES, PLANNED DEVELOPMENTS, AND SIGNS, AND ADOPTING FINDINGS AND DECLARING AN EMERGENCY. (FILE DC-03-13)

WHEREAS, from time to time it is appropriate to amend the Albany Development Code to address changing conditions or to clarify existing language; and

WHEREAS, several obstacles to development and redevelopment of existing sites were identified in the Albany Development Code over the last few years; and

WHEREAS, citizen participation was integrated into the planning process through appointment of a task force of Albany residents; and

WHEREAS, in May, 2012, a Business Ready Task Force (Task Force) was appointed with members representing property owners, the business community, commercial brokers, residents, home business owners, the sign industry, the Albany Planning Commission, and Albany City Council; and

WHEREAS, the Task Force met nine times between May, 2012, and November, 2013, to evaluate the following issues or standards: home business objective standards, planned development process and open space calculations, plan review process time, expiration of land use approvals, small infill site development, nonconforming sites and situations, reuse of vacant buildings in the Light Industrial zone, small-scale manufacturing opportunities in commercial and mixed-use zones, downtown residential development; and

WHEREAS, a "sign work group" was also formed to provide direction on revisions related to the city's sign standards and included representatives from the sign industry, residents, businesses, an architect, the Planning Commission, and the City Council; and

WHEREAS, on March 4, 2013, the Business Ready Task Force, Planning Commission, and City Council held a joint work session to review proposed amendments; and

WHEREAS, on January 3, 2014, the City mailed a "Measure 56" notice of the Planning Commission and City Council public hearings and an open house on the proposed Development Code amendments to all property owners within the City limits; and

WHEREAS, on January 9, 2014, City staff presented the proposed amendments to the Chamber of Commerce's Governmental Affairs subcommittee; and

WHEREAS, on January 13, 2014, the Planning Commission held a work session on the proposed amendments; and

WHEREAS, on January 14, 2014, the City held an open house on the proposed amendments; and

WHEREAS, a notice of the Planning Commission and City Council public hearings was published in the Albany Democrat Herald on January 27, 2014; and

WHEREAS, on February 3, 2014 the Planning Commission held public a hearing on the proposed amendments, and

WHEREAS, on February 17, 2014, the Planning Commission deliberated on the proposed amendments and made a recommendation to the City Council, based on public testimony and findings of fact; and

WHEREAS, the Albany City Council held a public hearing on March 12, 2014, concerning the proposed amendments recommended by the Planning Commission, reviewed the testimony presented at the public hearing, findings in the staff report and continued deliberation to April 9, 2014.

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

Section 1: The Albany Development Code text is hereby amended as shown in the attached Exhibits A-D for the sections listed below.

Exhibit A, Home Businesses in Articles 3 and 22;

Exhibit B, Planned Developments in Article 11;

Exhibit C, "Business Ready" Amendments in Articles 1, 2, 3, 4, 5, 8, 9 and 22; and

Exhibit D, Sign Standards in Article 13.

Section 2: The Findings and Conclusions contained in the staff report and attached as Exhibit E are hereby adopted in support of this decision.

Section 3: Emergency Clause. In as much as this ordinance is necessary for the immediate preservation of the public peace, health, and safety of the city of Albany, or to facilitate the prompt and timely completion of important City business, an emergency is hereby declared to exist; and this Ordinance shall take effect and be in full force and effect when signed by the Mayor.

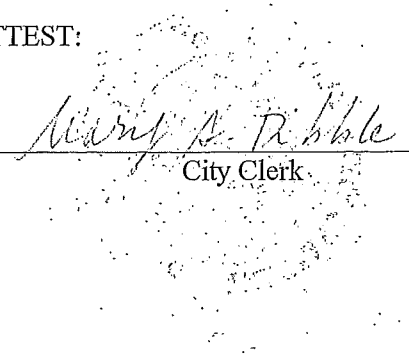
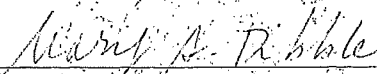
Passed by the Council: April 9, 2014

Approved by the Mayor: April 9, 2014

Effective Date: April 9, 2014

  
Mayor

ATTEST:

  
  
\_\_\_\_\_  
City Clerk

## ARTICLE 3 RESIDENTIAL ZONING DISTRICTS

**ISSUE A: HOME BUSINESSES – Several standards are subjective and are difficult to enforce if there are negative impacts in the neighborhood.**

### **HOME BUSINESSES OCCUPATIONS**

*Staff Comments: The Business Ready Task Force recommended hobbies not be included as a home occupation, so staff recommends changing the section heading and use category to "Home Business". Hobbies would be allowed at home and would be subject to standards in the Albany Municipal Code.*

*The purpose of the proposed amendments is to support home-based businesses that are compatible with the residential neighborhood in scale, intensity and off-site impacts. Due to the subjective language of most of city's standards, it is challenging to enforce the standards when we received complaints. The proposal includes setting clear and measurable standards, and creating two levels of home businesses:*

- Allow home businesses outright if they meet the revised clear and measurable standards.*
- Home businesses that cannot meet the standards to be allowed outright, would be considered through a Conditional Use review that would provide for neighborhood input.*

3.050 Schedule of Permitted Uses.

### 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: Miscellaneous</b>								
Accessory Buildings, Garages or Carports that meet the standards in Special Cond. 9	9	Y/S	Y/S	Y/S	Y/S	Y/S	Y/S	Y/S
Home <del>Business Occupations</del> (See <b>3.090-3.160 to determine if CU</b> <del>3.400</del> )		Y/CU	Y/CU	Y/CU	Y/CU	Y/CU	Y/CU	Y/CU

*Staff Comments: The purpose statement is being amended to incorporate language from the definition in Article 22.*

3.090 Purpose. The home ~~occupation~~ **business** 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~~ **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.~~

New language is in **bold**; deleted text is shown ~~struck through~~; and *staff comments are in blue italics*.

*Staff Comments: The proposed new section informs of exceptions stated in the Albany Municipal Code, clarifies that hobbies are exempt, and proposes that family child care homes be exempt.*

**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.**

*Staff Comments: The Planning Commission decided - after deliberating over testimony received primarily about welding and the proposal to prohibit "dispatch centers" in (7) below - to allow ALL uses that were formerly prohibited to be considered through the Conditional Use process. Staff does not believe this was their intent. After further consideration, the Planning Commission recommended that staff propose keeping prohibited uses (3) through (6) due to concerns about safety, offsite impacts, and neighborhood compatibility, rather than considering them through the Conditional Use process in Section 3.125.*

**3.094** ~~3.110~~ **Prohibited Uses.** The following uses are prohibited as home ~~occupations~~ **businesses**:

- ~~(1) Auto body repair and painting.~~
- ~~(2) Ongoing mechanical repair conducted outside of an entirely enclosed building.~~
- (31) 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.
- (42) Junk and salvage operations.
- ~~(53)~~ Storage and/or sale of fireworks in quantities judged by the Fire Marshal to be dangerous.
- ~~(64)~~ Storage or display of more than one motor vehicle for sale.

**3.096** **Procedures.**

- (1) **Home Business Allowed Outright.** Home ~~businesses~~ ~~occupations~~ 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, and 3.125.**
- (2) **Home Business as a Conditional Use.** Applications for a home business that cannot meet the standards in Section 3.120 ~~or 3.125~~ 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.



3.110 Standards that Apply to All Home Businesses.

- (1) ~~(3)~~ One window or wall sign is allowed, not larger than 12 inches by 18 inches.
- (2) ~~(4)~~ There is no visible outside storage of materials **or commodities** except plant materials
- (3) ~~(5)~~ 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~~ **residential use**.
- (4) **No customers or employees may enter the premises between the hours of 8:00 p.m. and 7:00 a.m.**
- (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.**

*Staff Comments: In order to better respond to complaints, the standards are proposed to be revised to be clear, objective, and measurable. Businesses that can't meet these measurable standards would be considered as a Conditional Use per standards in Section 3.125.*

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.**

- (1) **Employees.** The ~~use business~~ is carried on only by ~~members of the family residing on the premises residents~~ and not more than ~~one~~ **two** outside employees or volunteers ~~who shall work a maximum of 20 hours per week.~~ *Staff Comments: Increase standard to allow two outside employees outright. More employees may be considered with a Conditional Use review.*
- (2) **Offsite Impacts.** ~~There is no offensive noise.~~ **The business operation results in no vibration, smoke, dust, odors, heat, or glare or noise more than 60 decibels resulting from the operation 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.** *Staff Comments: 60 decibels is equivalent to normal conversation. If a business is conducted within a building, the noise level should be greatly minimized at the property line.*

*Staff Comments: The current standard "excessive generation of traffic" is being quantified by limiting the number of deliveries/pick-ups, customer vehicles, and sales for home businesses allowed outright in (3) - (5) below.*

- (3) **Deliveries.** ~~(7) There is not excessive generation of traffic created by the home occupation, including frequent~~ **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.**
- (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.**
- (5) **Sales.** **On-site sales shall be by appointment only.**

New language is in **bold**; deleted text is shown ~~struck through~~; and *staff comments are in blue italics*.

*Staff Comments: "Adversely affect the residential character" needs to be clear and objective. The proposed language would allow businesses in accessory buildings up to a size that could fit into the character of the neighborhood.*

~~(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.~~

(6) **Size and Scale. Home businesses located in accessory buildings may not exceed 1,000 square feet including storage.**

~~(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. *Staff Comments: The definitions in Article 22 limit the number of unrelated persons per bedroom so this standard is not needed.*~~

*Staff Comments: After deliberating over testimony received primarily about welding and the proposal to prohibit "dispatch centers" in (3) below - the Planning Commission decided to allow these formerly prohibited uses to be considered through the Conditional Use process.*

**3.125 Home Businesses Requiring Conditional Use Approval. The following uses may be considered through a Conditional Use review and approval:**

**(1) Auto body repair and painting for compensation.** *Staff Comments: Moved from 3.110 Prohibited Uses.*

**(2) Mechanical repair conducted outside of an entirely enclosed building.** *Staff Comments: Moved from 3.110 Prohibited Uses.*

**(3) Headquarters or dispatch center where employees and/or vehicles come to the site and are dispatched to other locations.** *Staff Comments: The intent of the proposal is to limit the frequent coming and going of employees and/or vehicles.*

~~3.14020~~ 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 ~~H~~home business ~~O~~ccupation based on the **applicable standards in this Code** ~~listed above.~~

~~3.15030~~ 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.**

(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:**

New language is in **bold**; deleted text is shown ~~struck through~~; and *staff comments are in blue italics*.

- (a) **Require the business be brought into compliance with applicable standards and the conditions of approval; or**
- (b) **Order the business to be terminated.**

3.160~~180~~ 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.

~~3.140 — Cessation of Home Occupations 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).~~

~~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.~~

~~3.160 — 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.~~

## ARTICLE 22 USE CATEGORIES AND DEFINITIONS

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

*Staff Comments: A definition for Hobby is needed. The Home Business definition is proposed to be amended to allow home businesses in accessory buildings and clarify that hobbies are not considered a home business.*

**Hobby**. An activity or interest pursued outside one's regular occupation and engaged in primarily for pleasure.

**Home Business**~~Occupation~~: ~~An occupation~~ **A business** carried on within a dwelling **or residential accessory building** provided the residential character of the building is maintained and the occupation is conducted in such a manner as not to give an outward appearance nor manifest any characteristics of a business in the ordinary meaning of the term, nor infringe upon the right of neighboring residents to enjoy the peaceful occupancy of their homes. **Home businesses do not include hobbies as defined in this Code.**

## ARTICLE 11 LAND DIVISIONS

### PLANNED DEVELOPMENTS

**ISSUE B: PLANNED DEVELOPMENTS – the three-step process is unnecessary, and the common/open space requirement is high compared to other cities and difficult to calculate.**

*Staff Comments: The Business Ready Task Force (BRTF) asked that staff evaluate the process time and amount of open space required in Planned Developments. Amendments are proposed to reduce both.*

11.240 Definition. A planned development is a master planned environment intended for a variety of related activities. It promotes an integrated, coordinated development of land, normally involving increased flexibility in use and design standards, with special incentives or restrictions on development. A planned development may be primarily residential uses with associated commercial uses, **a mixed use development**, or it may be a commercial or industrial development.

*Staff Comments: The purpose statement is being updated to reflect the current reasons for planned developments and to borrow from other cities' codes. (The proposed language is a combination of purpose statements from Lebanon, Roseburg and Bend.)*

11.250 Purpose. A ~~planned development provides the benefits of greater zoning flexibility, reduced lot sizes, and more variety in permitted uses. In exchange, developments must satisfy high quality master planning and performance requirements.~~ **The purposes of a Planned Development are to:**

- (1) Encourage more innovative planning that results in more desirable or sustainable environments or neighborhoods, improved protection of open spaces, transportation options, and site phasing of developments through the application of flexible and diversified land development standards than would otherwise occur under conventional land development procedures; and**
- (2) Facilitate the efficient use of land and resources in regards to land uses, buildings, circulation systems, natural features, energy conservations, open space and utilities.**

*Staff Comments: Currently the process is three steps and requires three separate submittals. Staff is proposing to eliminate the preliminary review of the plan concept step. This is already reviewed in the pre-application meeting.*

11.260 Procedure. A planned development is processed in ~~three~~ **two** steps.; ~~tentative, interim and final approvals. The preliminary application is reviewed by staff as a Type I procedure. The first step is review of the planned development project design and land uses interim application is reviewed by the Planning Commission under the Type III procedure. The final approval is reviewed by the Director through the Type I procedure.~~

11.280 Regulations Standards That May Be Modified. **The following standards may be modified in order to create developments that are superior to those that could be developed through**

**the conventional development standards:** ~~All of the site development standards of the underlying zoning district will apply to a planned development, except as follows:~~

- (1) **Development Standards.** Minimum lot area, width and frontage, height and yard requirements will not be used to dictate the development, but will act as general guidelines that may be adjusted to provide for a higher quality development.  
~~Maximum density permitted will be calculated by including street and one half of park land dedications.~~ *Staff Comments: Density is covered in Section 11.330 (3).*
- (2) **Minimum Parking.** Where the development provides common parking areas for adjacent uses, no minimum number of parking spaces will be required. It is the developer's responsibility to provide adequate off-street parking and loading areas. In proposing the parking areas, the developer shall provide the City with information on expected demand for parking, including trip generation for the uses that share the parking area.
- (3) **Streets.** Private streets may be constructed in a planned development. These streets may be narrower than usual where on-street parking is prohibited and where access is limited to pre-approved locations. Any private street in an industrial planned development must be constructed to public standards. All lots must be provided with direct access to a public or private street.

*Staff Comments: Eliminating one process step requires changes to the application contents.*

11.300 Application Contents. A planned development proposal is reviewed in ~~three~~ **two** stages, preliminary, ~~interim~~, and final. ~~At each stage, the applicant must submit increasingly detailed plans for the proposal as indicated below.~~ **The following information is required to be submitted with each stage:**

- (1) Preliminary **planned development** submittal requirements --
  - (a) ~~A schematic drawing at a minimum scale of 1" = 200' showing the proposed public and private uses and the existing physical features.~~
  - (~~b~~) **Planned Development Program.** A written statement outlining the following details: **planning objectives to be achieved through the planned development**; dwelling types and density; non-residential uses; lot layout; public and private access; parking; height of structures; lighting; landscaped areas and provisions for continued maintenance; water supply; sewage disposal; drainage; and areas devoted to various uses. **This statement should include a description of the character of the proposed development and adjacent areas, discussion of how the proposed development will relate to the natural environment and significant natural resources of the site and adjacent areas.**  
~~Interim submittal requirements in addition to the above—~~
  - (~~b~~) **The location of existing and planned water, sewerage, and drainage facilities, including line sizes and how they will tie into existing facilities.** *Staff Comments: Relocated from (2).*
  - (~~b~~) **The location of all existing and planned sidewalks, pedestrian paths, bike paths and where they will connect with existing facilities.**
  - (d) **The location and utilization of land uses and structures including public and/or private parks, open space or common areas.**
  - (e) A tabulation of land area to be devoted to each use, and a calculation of the average residential density per acre, if applicable.

New language is in **bold**; deleted text is shown ~~struck through~~; and *staff comments are in blue italics*.

- (ef) A boundary survey or a certified boundary description by a licensed surveyor.
- (dg) Data, drawings, and/or elevations clearly establishing the scale, character and relationship of buildings, streets, and open space.
- (eh) **Detailed building and landscaping plans and elevations.** *Staff Comments: Relocated from (2).*
- (hi) A transportation impact analysis, where required by the city Engineering Division, Department of Public Works.
- (fj) A development schedule for commencement and of construction, or a phasing schedule if phased development is proposed.
- (gk) If the development will be divided into different ownerships, any additional information generally required for a land division tentative plat approval and not required above.

(23) Final submittal requirements in addition to the information on the approved ~~interim~~ **preliminary plan** -

- ~~(a) The location of water, sewerage, and drainage facilities.~~
- ~~(b) Detailed building and landscaping plans and elevations.~~ *Staff Comments: Relocated to the preliminary review.*
- (ea) The character and location of signs.
- (db) Plans for street improvements and grading or earth-moving plans.
- (ec) Any additional requirements of final land division submittal, if the land is to be divided.

11.310 ~~Interim Preliminary Plan~~ Submittal Review Criteria. A planned development request will be granted interim approval by the review body if the development meets the Site Plan Review criteria of Section 2.450 and all of the following applicable criteria:

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

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

*Staff Comments: The Code is silent on whether the open space and other requirements could be distributed across phases in a phased development. Each phase should not have to meet all of the standards - such as the minimum open space - if the development overall meets the standards.*

New language is in **bold**; deleted text is shown ~~struck through~~; and *staff comments are in blue italics*.

**11.325 Phasing Planned Developments. The applicant may provide for development of the project in phases. Each phase shall provide a proportionate share of the development facilities and amenities as approved. See Section 1.080 for land use approval time periods.**

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

*Staff Comments: the Code currently requires 40 percent of the land be set aside as open space regardless of zoning. Staff recommends reducing the open space requirements and accounting for residential and mixed-use/urban areas.*

- (1) **Open Space and Common Areas in Residential, Mixed-Use and other Non-Industrial Planned Developments.** ~~Open space or Outdoor living common areas shall be provided for common enjoyment. residential developments in the following amounts:~~
  - ~~(a) In all residential developments or in and mixed use combination residential/commercial developments, 40~~ **25** percent of the gross land area shall be devoted to **open space, outdoor living area or common areas as follows.** ~~Of this required area, at least 75 percent shall be common or shared outdoor living area.~~
    - (a) **Land that may be counted towards the open space requirement includes:**
      - **Natural resources accessible to the public;**
      - **Common recreational space or commonly enjoyed amenities accessible to residents, including indoor or rooftop amenities – the total square footage of indoor amenities will be subtracted from the total land area; and**
      - **Common landscaped areas and paths, but excluding sidewalks and planter strips in the right-of-way.**
    - (b) **Locations, shapes, sizes and other characteristics of open spaces shall be consistent with their proposed uses and the purposes of the planned development.**
    - (c) **Land in the right-of-way may not count towards the open space requirement unless designed with larger planter strips to allow for mature trees, or that accommodates storm drain detention systems, a multi-use path, or a landscaped median.**
    - (d) **Side and rear yards may not count towards the minimum open space requirements.**
    - (e) ~~(b)~~ **Outdoor open space or living areas required by this Article may be dedicated to the City provided the size and amount of the proposed dedication meets the criteria of the City for neighborhood parks by one-half and if the City agrees to accept the dedication.** The square footage of land dedicated for public parks shall be deemed a part of the development site for the purpose of computing density.

*Staff Comments: With the reduced amount of open space required, one priority is to design the PD to protect existing natural features.*

- (2) **Natural Resources.** The planned development shall provide for the protection of significant landscape features including Oak groves, heritage trees as defined by the Albany Municipal Code and land located within Albany's natural resource overlay districts and any historic sites and landmarks. Natural and cultural resources shall integrate the proposed development with the environmental characteristics of the site and adjacent uses.

New language is in **bold**; deleted text is shown ~~struck through~~; and *staff comments are in blue italics*.

- (53) **Underground Utilities.** In any planned development, all electric and telephone facilities, fire alarm conduits, street light wiring, and other wiring, conduits and similar facilities shall be placed underground by the developer, unless allowed above ground by the review body.

*Staff Comments: The proposed revisions would allow all of the density to transfer from land dedicated to parks and clarifies that there is only one unit to transfer from the Open Space zone.*

- (64) **Density.** When calculating density of a proposed planned development, **the gross area including streets and park land dedications shall be included, except for land in the Significant Wetland and Waterway overlay district. The maximum density permitted per zoning district is outlined below.**

	RS-10	RS-6.5	RS-5	RM	RMA	OS
<b>Maximum dwelling units per acre</b>	<b>4</b>	<b>6</b>	<b>8</b>	<b>25</b>	<b>35</b>	<b>1*</b>

**\*Allows 1 residential unit per existing lot**

~~the regulations of the basic use district in which the development is located shall apply except when calculating density of the proposed planned development, the total area including street and one half of park land dedications shall be included.~~

*Staff Comments: The task force raised concerns with a planned development's compatibility with adjacent uses and the neighborhood. The proposed standards in (5)-(7) are intended to ensure compatibility with the neighborhood.*

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

*Staff Comments: Indoor Recreational Amenity - Most cities do not have an indoor recreational requirement in addition to open space. This requirement is proposed to be deleted.*

- ~~(2) In all planned residential developments having 50 living units or more, an indoor recreation area (see definition) shall be established using the following minimum guidelines:~~
- ~~(a) Ten square feet of indoor recreation area for each living unit in the development.~~
- ~~(a) Play equipment, athletic facilities, and/or game room facilities and equipment in amounts commensurate with the size of the building or room, to be maintained by the property owner or owners association.~~



New language is in **bold**; deleted text is shown ~~struck through~~; and *staff comments are in blue italics*.

- ~~(b) At least one restroom for all indoor recreation buildings or rooms under 600 square feet and two restrooms for all indoor recreation buildings or rooms 600 square feet or greater.~~
  - ~~(c) All indoor recreation rooms and buildings shall be fully lighted, heated, and shall meet all uniform building codes and should be designed primarily for the use of the residents of the planned development.~~
  - ~~(d) The off-street parking requirement for recreation rooms and buildings shall be one space per each 150 square feet of floor area. This requirement shall be in feet of floor area. This requirement shall be in addition to any parking required for residents.~~
- ~~(3) In an industrial planned development the following minimum percentage of landscaped open space is required, including required buffer yards and setback areas:~~
- ~~(a) IP (Industrial Park) 25 percent~~
  - ~~(b) LI (Light Industrial) 15 percent~~
  - ~~(c) HI (Heavy Industrial) 5 percent~~
- ~~(4) The requirement for indoor recreation area may be waived by the review body where increased opportunity for outdoor recreation is provided in addition to the requirements of subsection (1). Such opportunities may include court sports, playgrounds, golf, swimming, or other exceptional treatment of open spaces.~~

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

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

11.350 Changes in the Approved Plan. Changes in the approved planned development may be made as long as they continue to meet the requirements of these provisions. Major changes, as determined by the Director, shall be reviewed **by the Planning Commission using the Type III procedure** ~~under the same procedure as was used for final approval~~. Minor changes shall be reviewed under the Type I procedure.

11.360 Revocation. In the event of failure to comply with approved plans, conditions of approval, stage development schedule; the Commission may, after notice and hearing, revoke a planned

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development permit. The determination of the Commission shall become final 30 days after the date of decision unless appealed to the City Council.

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

## ARTICLE 1: ADMINISTRATION AND PROCEDURES

**ISSUE C: PLAN REVIEW PROCESS TIME/COSTS - Site Plan Review seems unwarranted for some types of activities, developments, and locations when staff can apply clear and objective standards.**

*Staff Comments: A few amendments are being proposed to clarify and streamline the review process for developments that can be reviewed against clear and objective standards including:*

- *Several minor additions and changes of use on already developed sites that now require Site Plan Review (see Section 2.430) will be exempt.*

1.070 When Land Use Applications Are Not Required. Activities and developments listed below ~~that occur outside of overlay districts~~ do not require a land use application but are nevertheless subject to the provisions of the Code, including, but not limited to setbacks, lot coverage, building height, design standards, on-site development and environmental standards.

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

**Activities and development on either a non-conforming site or a site containing a non-conforming use may require a Nonconforming Situations Review in accordance with Article 2.**

- (1) Agricultural uses permitted outright in Articles 3, 4 and 5.
- (2) New detached single-family dwellings or two-~~family unit~~-dwellings and additions to existing single-family dwellings or two-~~family unit~~ dwellings.
- (3) Residential accessory buildings up to 750 square feet and walls not greater than 11 feet tall or that meet the standards in Section 3.080(9).
- (4) Non-residential accessory buildings of any size in the NC, CC, RC, IP, LI, HI and PB zones and non-residential accessory buildings up to 750 square feet in the CB, HD, ES, LE, MS, MUC, MUR, OP and WF zoning districts.
- (5) Routine property maintenance.
- (6) New parking areas or expansions to existing parking areas that **are less than 1,000 square feet in area, excluding restriping an existing lot, and do not modify site circulation or access** do not require Site Plan Review as stated in Section 2.430.
- (7) ~~Building a~~ Additions to an existing building **or use expansions that are 200 2,000 square feet or less or 25 percent of existing building area, whichever is less, and that do not:**
  - (a) **Add dwelling units; or**
  - (b) **Require three or more parking spaces or additional loading areas; or**
  - (b) **Modify site circulation or access.**

For building additions greater than ~~200~~ **2,000** square feet, see **Site Plan Review applicability** in Section 2.430,

- (8) A change internal to a building or other structure or use **that is allowed through Site Plan Review, and the new use does not:** ~~of land that does not constitute a change of use as defined in Article 22 and listed in Articles 3, 4 or 5.~~
  - (a) **Add dwelling units; or**
  - (b) **Require three or more parking spaces or additional loading areas; or**

**(c) Modify site circulation or access.**

~~If a nonconforming use of a building has been vacant for more than one year, refer to Articles 3, 4 or 5 for permitted uses in each zoning district.~~

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

**ISSUE D: EXPIRATION OF LAND USE APPROVALS – Three years is sometimes not enough time to get a project underway.**

*Staff Comments: Given the slower economy, recommendation is for one two-year extension for all land use approvals, except for phased subdivisions or planned developments would be allowed a second two-year extension, if there have been no change in applicable standards.*

1.080 Expiration of Land Use Approvals.

- (1) All land use approvals, **except Type IV approvals**, ~~as provided in (2) and (3)~~ shall expire three years from the date of approval unless:
  - (a) The applicant has installed all of the required public infrastructure related to the development and the infrastructure has been accepted by the city, or the applicant has provided financial assurance for all required public infrastructure per Section 12.600 or the first phase, if the development was approved for phased construction. ~~This provision may also be applied to developments approved prior to December 7, 2011; or~~
  - (b) If the development did not require public infrastructure, a valid **approved** building permit exists for new construction or improvements, and work has commenced; **or**

*Staff Comments: The language in (2) below being removed because land divisions also expire in three years and the language below is repetitive and/or is no longer applicable.*

- ~~(2) All approval of land divisions and development contained in Article 11 shall expire three years from the date of tentative plat approval, unless:
  - (a) The applicant has installed all of the required public infrastructure related to the development and the infrastructure has been accepted by the city, or the applicant has provided financial assurance for all required public infrastructure per Section 12.600. This provision may also be applied to developments approved prior to December 7, 2011.~~  
- (bc) Phased Subdivisions or Planned Developments.** When an applicant desires to develop and record final subdivision plats covering portions of an approved tentative plat in phases, the City may authorize a time schedule for platting and otherwise developing the various phases

~~not to exceed five years for all phases. in periods of time in excess of three years. In no case shall the total time period for all phases be greater than five years. Each phase that is platted and developed shall conform to the applicable requirements of this title. Portions platted after three years require modifications to avoid conflict with any changes in the Comprehensive Plan or implementing regulations at the local, state or federal level; or~~

(d) **An extension has been granted pursuant to Section 1.083.**

**1.083 Extension of a Land Use Approval. These provisions apply to all land use approvals that have not expired or for which a written request for an extension was received prior to the effective date of this Section 1.083.**

- (1) **Whenever the decision requires exercise of approval rights or satisfaction of conditions of approval within a particular period of time, the approval period may be extended one time for two years for all land use approvals except for phased or planned developments, a second two-year extension may be granted. Applicants shall apply for an extension by filing an application for extension at least 45 days before the expiration date. For the purposes of this sub-section the expiration date shall be the applicable anniversary date of the Notice of Decision previously given to the applicant.**
- (2) **Requests for extensions shall be processed as Type I application and shall be granted if there has been no change to all applicable local, state or federal standards since the original approval, or the development complies with any changes or can meet the current standards with limited modifications to the approved development.**
- (3) **While an application for extension is pending, no further action to develop the subject property or expand any use dependent upon the approval shall be taken subsequent to the expiration of the approval period; but existing established uses may continue during the time the extension request is pending.**

*Staff Comments: Historic review approvals currently expire in one-year if not associated with a building permit. Staff proposes the approval expire in three years like other land use decisions and be given an opportunity for an extension.*

~~(3) Expiration of Historic Review Approvals.~~

- ~~(a) Historic Review approvals not associated with a building permit shall expire one year from the date of approval; or~~
- ~~(b) Historic Review approvals associated with an approved building permit shall expire upon the expiration of the building permit.~~
- ~~(c) Expiration of a Historic Review approval shall require reapplication and payment of all application fees plus an administrative fee equal to the application fee. Applications that are the same as originally approved will be processed administratively.~~

**ISSUE: Neighborhood meetings should be held at reasonable times and should be coordinated with staff.**

1.203 Neighborhood Meeting. The purpose of a neighborhood meeting is to ensure that applicants pursue early and effective citizen participation in conjunction with their applications, giving them the opportunity to understand and try to mitigate any real or perceived impacts their application may have on the neighborhood. The meeting is not intended to produce complete consensus on all applications. It is intended to encourage applicants to be good neighbors. City staff will attend the neighborhood meeting in an advisory capacity to answer questions.

The applicant shall hold a neighborhood meeting before submitting the following types of land use applications:

- (1) Multiple-family development that abuts a single-family zoning district.

New language is in **bold**; deleted text is shown ~~struck through~~; and *staff comments are in blue italics*.

- (2) Commercial or industrial development that abuts any residential zoning district and the addition of outside seating areas to restaurants or bars/taverns/breweries/night clubs within 300 feet of a residence.
- (3) Manufactured home park adjacent to any residential zoning district.
- (4) Subdivision with more than ten lots.
- (5) Any subdivision that is an infill development.
- (6) Cluster and planned development.
- (7) **Retail Sales and Services Uses proposed in existing buildings in the Light Industrial zone that require Conditional Use approval per Section 4.060(11)(b).** *Staff Comments: The proposal to require a neighborhood meeting was suggested by the business community and would provide opportunity for the proposed business owner to become familiar with neighboring industries and vice versa.*
- (8) For other applications or revisions to applications that the Director determines may have a neighborhood impact, such as conditional uses. In these cases, the Director shall determine the minimum notice area for the neighborhood meeting.

*Staff Comments: Language is proposed in 1.204 (1) to ensure that a neighborhood meeting is scheduled on appropriate days and times in coordination with staff.*

1.204 Neighborhood Meeting Standards.

- (1) **The applicant shall consult with City staff to determine an appropriate meeting date, time, and place given the location of the proposed development and availability of staff to attend.**

*Staff Comments: The neighborhood meeting notice area should match the anticipated notice area for the project based on the project scale and the lot size, and potential off-site impacts.*

- (2+) The applicant shall send mailed notice of the public meeting to **the Community Development Department Director** and all property owners ~~and residents~~ within a **minimum distance of 300 feet of the boundaries of the subject property with the specific area to be determined by the Director based on the project scale, land use and transportation patterns or anticipated public interest in the project.** ~~and, if~~ If any part of the subject property is within the boundaries of a neighborhood association recognized by the City of Albany or within 300 feet of any other neighborhood association recognized by the City, notice shall be sent to the designated representative(s) of such neighborhood association(s). The property owner list shall be compiled from county tax assessor's property owner list from the most recent property tax assessment roll. The address for the designated representative(s) of the affected neighborhood association(s) shall be obtained from the City. The notice shall be sent a minimum of 10 days and no more than 30 days before the meeting, and shall include:
  - (a) Date, time and location of the public meeting.
  - (b) A brief written description of the development proposal and proposed use(s) with enough specificity so that the project is easily discernible.
  - (c) The location of the subject property(ies), including address (if applicable), nearest cross streets and any other easily understood geographical reference, and a map (such as a tax assessors map) that depicts the subject property.

*Staff Comments. Shown for context.*

- (3) The applicant's presentation at the neighborhood meeting shall include:
  - (a) A map depicting the location of the subject property(ies) proposed for development.

New language is in **bold**; deleted text is shown ~~struck through~~; and *staff comments are in blue italics*.

- (b) A visual description of the project including a site plan, tentative subdivision plan and elevation drawings of any proposed structures, when applicable.
- (c) A description of the nature of the proposed use(s) including but not limited to, sizes and heights of structures, proposed lot sizes, density, etc.
- (d) The expected or anticipated impacts from the proposed development (e.g. traffic, storm drainage, tree removal, etc.).
- (e) Mitigation proposed by the applicant to alleviate the expected/anticipated impacts.
- (f) An opportunity for the public to provide comments.

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

## **ACTIONS NOT INCLUDED AS LAND USE DECISIONS**

1.260 Definition. A “land use decision” does not include a decision of the City:

- (1) That is made under land use standards that do not require interpretation or the exercise of policy or legal judgment;
- (2) That approves or denies a building permit under clear and objective land use standards; **or**
- (3) That is a limited land use decision; or
- (4) That determines final engineering design, construction, operation, maintenance, repair or preservation of a transportation facility that is otherwise authorized by and consistent with the Comprehensive Plan and land use regulations.

1.270 Procedure. Land use applications that do not result in land use decisions are processed under the Type I Administrative procedure. The Director makes the decision based on the stated review criteria, without need for public hearing or notification.

*Staff Comments: The list below needs to be updated to reflect proposed amendments to streamline process.*

1.280 Examples. Examples of applications that do not result in land use decisions include, but are not limited to: lot line adjustments, ~~preliminary planned development plans~~, final subdivision plats, **land use determination letters**, and land use status letters.

## **ADMINISTRATIVE PROCESS**

1.320 Type I Procedure.

- (1) The purpose of the Type I procedure is to provide for a land use review based on standards specified in this Code that do not require interpretation or the exercise of policy or legal judgment. Approval of a Type I land use application is not a land use decision. (See Sections 1.230 and 1.260.)
- (2) Under the Type I procedure, the Director shall process an application without need for public hearing or notification.

*Staff Comments: The list below needs to be updated to reflect proposed amendments to streamline process.*

- (3) Examples of applications processed through a Type I procedure include, but are not limited to, lot line adjustments, ~~preliminary~~**final** planned developments ~~plans~~, final subdivision plats, **land use determination letters**, and land use status letters.

## LEGISLATIVE PROCESS

*Staff Comments: State law changed the requirements to notify DLCD from 45 days to 35 days, so the proposed amendment will be consistent with state law.*

1.640 Notice to the Department of Land Conservation and Development (DLCD) on Legislative Matters.

- (1) The Director shall notify the DLCD for adoption of or amendment to the Comprehensive Plan, the Development Code, or any other land use regulation. The notice shall be provided at least **35**~~45~~ days before the first evidentiary hearing on adoption and shall contain information sufficient to inform the Department about the effect of the proposal.
- (2) If the City determines that the statewide goals do not apply to a particular proposed amendment or new regulation, notice under subsection (1) of this section is not required. In addition, the City may consider an amendment or new regulation with less than **35**~~45~~ days notice if the City Council determines that there are emergency circumstances requiring expedited review. [Ord. 5446, 5/10/00]



## ARTICLE 2: REVIEW CRITERIA

### ISSUE E: SMALL INFILL SITE DEVELOPMENT – it can be challenging to meet standards on small vacant infill sites and when redeveloping small sites.

*Staff Comments: Proposed amendments to the Adjustment standards will add infill and redevelopment sites less than one acre as eligible for adjustments from numerical standards. This change will especially help with redevelopment of nonconforming sites.*

#### Staff's Additional Proposed Revisions:

- 1. Amendments would clarify when a request should be processed as an Adjustment or a Variance: Adjustments are currently processed administratively (Type I) and Variances are processed as limited-land use decisions and neighbors have the opportunity to request a hearing (Type IIs). Requests for up to 10% of numeric standard used to be processed as Adjustments and requests for deviating more than 10% were processed as Variances. The 10% threshold was removed because Adjustments became routine, as it was a "given" that you could get the adjustment, and 10% can be a large "giveaway" in some circumstances. Staff recommends adding "generally less than 10%" back into the Purpose statement. This will help applicants and staff determine when a request can be processed through the Adjustment review rather than requiring a Variance.*
- 2. The review criteria for Adjustment are discretionary. State law dictates that decisions that involve discretionary criteria shall be processed as a land use decision that is appealable. Therefore, the process needs to be changed to a Type I-L process, and staff suggests that neighbors within 100 feet be the notice area.*
- 3. The "location of a proposed structure" is not an existing condition, and therefore, it is deleted because it is not an appropriate review criterion for an Adjustment.*

## ADJUSTMENTS

- 2.060 Purpose. The adjustment review allows the Director to ~~make~~ **approve limited** modifications to the application of ~~Development Code~~ regulations. ~~Adjustment reviews provide very limited flexibility from numeric standards for unusual situations~~ **specific to the site or for existing commercial or mixed-use infill sites**, while still providing certainty and rapid processing for land use applications. Adjustments will not be considered to avoid a review process or standard in this Code. **Adjustments are typically for request less than 10 percent of a numeric standard.**

Alternative setbacks in developed areas are addressed in Sections 3.240, 4.130, and 5.130.

- 2.070 Procedures. Adjustment applications are processed through a Type I-L procedure **with a notice area of 100 feet. Adjustments to the standards in Significant Natural Resource Overlay Districts are processed using the review criteria in Section 6.450. Requests not meeting the purpose of Adjustments may be processed as Variances** ~~are processed~~ through a Type II procedure (Sections 2.660-2.690). The Director will determine whether an application is processed as an adjustment or a variance.
- 2.080 Review Criteria. The applicant must show that the following criteria have been met:

- (1) The adjustment is not requested to avoid a land use review process or increase density; **AND**
- (2) The need for the adjustment is created by the unusual configuration of the property, to protect natural features, ~~or is~~ due to the location of an existing ~~or proposed~~ structure on the site, **or the site is an infill or redevelopment site less than one acre with development on both sides; AND/OR**

New language is in **bold**; deleted text is shown ~~struck through~~; and *staff comments are in blue italics*.

- (43) The adjustment is the minimum necessary to address the unusual circumstance, **generally no more than 10 percent from a numeric standard**, and **the request is still be consistent with the purpose of the zoning district and any applicable overlay districts**.

*Staff Comments: A provision added to the Adjustment standards to allow bathrooms to be retrofitted to accommodate accessibility needs is being relocated to Article 3, Residential Zoning Districts, Section 3.263 as a setback standard. Note (4) in Section 3.190, Table 1, also needs to be amended.*

- ~~(3) The need for the adjustment is for an encroachment into the interior setback for the purpose of retrofitting an existing residential bathroom to accommodate mobility impairments. The property owner must provide information to show the following criteria are met:~~
- ~~(a) The existing bathroom does not have sufficient space for a retrofit to accommodate persons with mobility impairments; and~~
  - ~~(b) A written medical report from a licensed physician that documents a person residing in the dwelling has a mobility impairment; and~~
  - ~~(c) The adjustment is to expand the bathroom no more than 3 feet into an interior setback; and~~
  - ~~(d) A minimum of a 3-foot interior setback is retained adjacent to the expansion.~~

OR  
**ARTICLE 3  
RESIDENTIAL ZONING DISTRICTS**

**DEVELOPMENT STANDARDS**  
3.190

**TABLE 1**

RESIDENTIAL DISTRICT DEVELOPMENT STANDARDS							
STANDARD	RR	RS-10	RS-6.5	HM	RS-5	RM	RMA
<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)

- (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 is in Section 3.263; and Zero-Lot Line standards are in Sections 2.365 and 2.370; and.**

**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, 6/27/07]

**TABLE 2**

ACCESSORY STRUCTURE STANDARDS	
STRUCTURE	STANDARD

- (1) Zero-lot line provisions are in Sections 3.265 and 3.270. *Staff Comments: Administrative cross-referencing error correction.*

**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:**

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

**ISSUE F: NONCONFORMING SITUATIONS - Many redevelopment sites have lost their nonconforming status. Full compliance with today's standards can be costly and can be an obstacle to redevelopment in the current economy.**

*Staff Comments: Several changes are proposed to reduce the number of improvements required for redevelopment of non-conforming sites. See additional comments by the proposed amendments.*

## NONCONFORMING SITUATIONS

- 2.300 Purpose. Some lots, developments, and uses in the City of Albany were lawful before this Code was adopted or amended, but would no longer be allowed under the current terms of this Code. These provisions are intended to permit such nonconforming situations to continue, but not to encourage their perpetuation.
- 2.310 Status and Documentation of a Nonconforming Situation. Nonconforming situation regulations apply only to situations that were **legally established** ~~allowed when established or that were approved through a land use review~~. Nonconforming ~~uses~~ **situations** that were not allowed when established have no grandfather rights and must be removed. The property owner or applicant must document that a nonconforming situation was ~~allowed when~~ **legally established** and was maintained over time. Evidence that it was maintained over time might consist of building permits, utility hookups, tax records, business licenses, **lease agreements, business receipts**, or telephone directory listings.
- 2.320 Types of Nonconforming Situations. A lot of record may be nonconforming because it does not meet the dimensional or area standards currently required in a particular zoning district. A specific site may be nonconforming because it contains either a nonconforming use, an allowed residential use that exceeds the allowed density, a nonconforming development, or a combination of these.
- 2.32540 Nonconforming Lots of Record. **Legally established** lots of record that do not meet the dimensional or area requirements of the zoning district in which they are located may be developed. Any new structure built on the lot must conform to the development standards (such as setbacks, lot coverage, etc.) for that zoning district.
- 2.33025 Certain Residential Uses Granted Special Status. Special status has been granted to existing single-family dwellings in commercial, office and industrial zones. Special status has been granted for two or more units constructed prior to November 20, 1996, in the Hackleman Monteith zoning district. Notwithstanding the restrictions or terms of any other section of this Code, these properties shall be deemed to be conforming to the base zoning district. See Sections 3.080, 4.075, and 5.080. [Ord. 5555, 2/7/03]
- 2.333 Compliance with Former Regulations. **Every nonconforming use, structure, development site or situation shall maintain compliance with all applicable regulations, including conditions of approval on land use actions by which it was governed at the time it became nonconforming.**
- 2.33540 Loss of Nonconforming Status. *Staff Comments: Since the City does not have a business registry program, it is difficult to document when uses start or stop. Allowing for reinstatement of non-conforming status will make it easier for sites with nonconforming situations to redevelop, and extensions of up to 2 years are already available.*
- (1) ~~A~~ **The nonconforming status use** of a building, structure, or land shall be deemed to have terminated **excluding building height, setbacks or lot coverage**, if the building, structure, or land is not occupied by a permitted or legally nonconforming use for one continuous year. The "vacancy clock" stops when a land use application on the property is deemed complete. **A request may be submitted to the Community Development Department for reinstatement of nonconforming status within one year from (adoption date), or for an** ~~Extensions of up to two additional years~~ **prior to the site being vacant for one year. The extension or**

- reinstatement** may be granted under the Type II procedure **only** if the Director finds that:
- (a) Converting to a conforming use will result in a substantial economic loss; AND
  - (b) The proposed use will result in greater or equal conformance with the development standards of the zone than the previous use; OR**
  - ~~(c) Immediately surrounding properties and uses are similarly nonconforming, and the proposed use will be compatible with both the nonconforming and conforming uses in the review area.~~
- ~~(2) Nonconformance with any development standard or condition other than building setback, coverage, or height is deemed terminated if the building, structure, or land ceases for any reason to be occupied by a permitted or legally nonconforming use for one continuous year. *Staff Comments: This language repeats the language in (1) above and is being removed.*~~
- ~~(32) Any nonconforming use or development dependent upon a building or structure that has been declared a “dangerous building” and ordered demolished pursuant to the Albany Dangerous Building Code (AMC Title 18) will be considered terminated upon that declaration and order.~~
- ~~(43) Any nonconforming use or development dependent upon a building or structure that has been substantially damaged to the extent that repair or restoration of the building or structure would cost more than 70 percent of its fair market value will be considered terminated.~~
- ~~(a) Cost of repair or restoration shall be determined by the Building Official. Fair market value shall be determined by an independent appraisal acceptable to the City. The owner or applicant may appeal these determinations of value and cost to the Building Board of Appeals, or may apply for an exception under the Type II procedure.~~
  - ~~(b) The Director may allow additional reconstruction upon finding that:
    - i. Conversion to a conforming use will result in substantial economic loss, and
    - ii. The proposed use will result in greater conformance with the development standards, or
    - iii. Immediately surrounding land uses are similarly nonconforming and the reconstructed use will be compatible with both the nonconforming and conforming uses in the review area.~~
- ~~(54) Rebuilding structures that contained nonconforming uses and which have been intentionally destroyed is prohibited.~~

2.3340 **Allowances Regulations That Apply to All Nonconforming Situations.**

- (1) Their status is not affected by changes in ownership.
- (2) They may be changed to conforming situations by right **or with an applicable land use approval**. Once a conforming situation occupies a site, the nonconforming rights are lost and a nonconforming situation may not be re-established.
- ~~(3) They may change to a conditional use if approved through a conditional use review. Once a conditional use occupies the site, the nonconforming rights are lost and a nonconforming use may not be re-established.~~
- ~~(34) Normal maintenance and repair is allowed.~~
- (4) Changes that conform to the base zone development standards of the site may be made.
- (5) **Legal nonconforming uses may continue to operate.** *Staff Comment: Moved from 2.350(1).*
- (6) **A change from a legal nonconforming use to a use in the same use category or to a use not otherwise permitted in the zone may be considered through a Nonconforming Use Review in accordance with Section 2.350.** *Staff Comment: Moved from 2.350(2) and reworded.*

New language is in **bold**; deleted text is shown ~~struck through~~; and *staff comments are in blue italics*.

*Staff Comments: The proposed amendments would reduce the process time and cost by allowing some nonconforming uses to be processed through a Type I procedure rather than through a Type II procedure.*

2.350 **Nonconforming Uses Review Procedure.** A nonconforming use is reviewed through either a Type I or Type II procedure as described below.

~~(1) Nonconforming uses may continue to operate. Changes in operations are allowed. However, nonconforming uses in residential zones may not extend their hours of operation into the period between 11 p.m. and 6 a.m.~~ *Staff Comment: Moved to review criteria 2.360(2)(e).*

(1) **Type I Procedure.** The following situations will be processed through a Type I procedure, as established in Section 1.320.

(a) **Changes of use within the same use category.** A change of use within the same land use category if the nonconforming use was not created unlawfully, and the new use requires no more than two new parking spaces.

(b) ~~2.360~~ **Building Additions When There Are Nonconforming Residential Densities.** Existing dwelling units may continue, may be removed or enlarged, and amenities may be added to the site. There may not be a net increase in the number of dwelling units and the building may not move further out of compliance with the base zone development standards. *Staff Comments: Renumbered from 2.360.*

<b>ISSUE G: REUSE OF VACANT INDUSTRIAL BUILDINGS – allowed when changing from a legal nonconforming use.</b>
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*Staff Comments: Subsection (c) below allows a site occupied by a nonconforming use to change to a use that is not allowed in the base zone - such as commercial uses in industrial zones. New criteria in 2.360 would ensure that the existing transportation facilities and site can accommodate the proposed use and a change to a use not allowed in the zone would not preclude the site being used by an allowed use in the future.*

(2) **Type II Land Use Review.** The following nonconforming situations will be processed through a Type II procedure as established in Section 1.350:

(a) **Extension or reinstatement of nonconforming status per Section 2.340.**

(b) **A change to another use in the same use category that requires three or more new parking spaces or has increased hours, staffing, traffic, outside storage areas, or off-site impacts.**

(c) **A change from a legal nonconforming use to a use in a category not otherwise permitted in the base zone may be permitted if it meets the applicable review criteria in Section 2.360.**

(d) **Changes in operational characteristics such as increased hours, staffing, or expansions to outside storage areas.**

(e) **New construction or structural expansions of nonconforming uses.**

~~(2) A change to another use in the same use category is allowed. A change to a use in a use category prohibited by the base zone may be allowed through a nonconforming use review.~~

~~2.360~~~~2.395~~ **Nonconforming Use Review Criteria for Type II Decisions.** A request will be approved for nonconforming uses if the review body finds that the application meets all of the following criteria:

(1) The nonconforming ~~use situation~~ was not created unlawfully. See Section 2.310.

(2) With mitigation measures, there will **not** be a net ~~decrease~~ in overall ~~detrimental~~ **adverse** impacts (over the impacts of the previous use or development) on the surrounding area taking into account factors such as:

- (ea) Noise, vibration, dust, odor, fumes, glare, and smoke;
- (db) Potential for increased litter;
- (ec) The amount, location, and nature of any outside displays, storage, or activities; ~~either (3) or (4) below~~;
- (d) The appearance of the new use or development will not detract from the desired function and character of the zone.
- (e) **The operating characteristics of the proposed use are compatible with the existing and anticipated uses. The hours of operation in residential zones cannot be extended into the period of 11 p.m. and 6 a.m.;** *Staff Comments: Moved from 2.350(1).*
- (f) ~~Vehicle trips to the site and impact on surrounding on-street parking~~ **The street system has adequate capacity to accommodate the use through the horizon year of the current TSP;**
- (g) **The site has adequate on-site parking to accommodate the development or adequate parking will be provided in accordance with Article 9;**
- (h) **Parking areas and entrance-exit points are designed to facilitate traffic and pedestrian safety and avoid congestion;**
- (i) **Public services for water, sanitary sewer, stormwater, water management, and for fire and police protection, can serve the proposed use;**
- (j) **Activities and developments within overlay districts must comply with the regulations described in Article 4 (Airport Approach), 6 (Natural Resources, (and 7 (Historic), as applicable;**
- (k) **If a commercial use is proposed in an existing building in an industrial zone, the development shall not alter the existing building or site in a way that would discourage or preclude its later conversion back to an industrial use; and**
- (l) **Any applicable criteria in (3) and (4) below.**

(3) Structural Expansions shall be limited to the following:

<u>Existing Gross Floor Area</u>	<u>% of Expansion Allowed</u>
Buildings under 4,000 sq. ft.	25%
Buildings between 4,000 and 10,000 sq. ft.	20%
Buildings larger than 10,000 sq. ft.	15%

- (4a) **Nonconforming uses and buildings may expand one time only and must comply with current development standards.**
  - (5b) Expansion of a nonconforming use onto another site is prohibited, except when:
    - ~~(a)~~i. The expansion site abuts the site of the nonconforming use; and
    - ~~(b)~~ii. The expansion site was in the same ownership as the nonconforming site when it became nonconforming; and
    - ©iii. Prior zoning regulations on the expansion site would have allowed the use; and
    - ~~(d)~~iv. The expansion is approved through a nonconforming use review.
  - (6c) Addition of new residential units to a nonconforming residential use is prohibited.
- (4) **Nonconforming Uses or Expansions in Residential Areas.** If the nonconforming use is in a residential zone **or in a mixed-use zone with residential uses adjacent to the site,** ~~and if any changes are proposed to the site,~~ the appearance of the new use or development will not lessen the residential character of the area. This is based on taking into account factors such as:
- (a) Building scale, placement, and facade;
  - (b) Parking area placement;
  - (c) Buffering and the potential loss of privacy to abutting residential uses; and
  - (d) Lighting and signs.

**ISSUE F: NONCONFORMING SITES – it can be difficult to find tenants for nonconforming sites, especially if the site must be brought into full compliance, which can be costly.**

*Staff Comments: Currently the Code requires improvements "commensurate with proposed changes." The following revisions would only require improvements to the non-conforming aspects of site when necessary building permits are applied for that value more than \$25,000, tracked cumulatively. The list of required improvements has been reordered, putting more costly improvements, such as to parking lots, at the end.*

2.370 ~~Nonconforming Site Review Criteria Development. This section promotes upgrades to features of nonconforming development that affect a site's appearance and impact. Sites that are nonconforming with the current development standards and that have lost their nonconforming status are required to bring the site into compliance with current Code standards. Incremental improvements are allowed in accordance with Subsection (1).~~

**(1) Incremental Improvements to Nonconforming Sites. Once the cumulative value of one or more building improvements, expansions or site modifications exceeds \$25,000, excluding the costs associated with voluntarily bringing the site into compliance with applicable development standards, 10% of the cost of all improvements proposed thereafter must be allocated toward improvements that bring the site into compliance with standards in this Code unless all of the standards listed below can be met at lesser cost. The value of a proposed building or site investment will be the value stated on the application for building permits or calculated by the Building Official, whichever is higher. Improvements that bring the site into compliance with the standards of this Code shall be implemented in the following order of priority, unless a greater benefit is achieved by implementing a lower order of priority item first:**

- (a) If the site is within the Willamette River Greenway, funds will be used to enhance the natural areas closest to the waterfront in accordance with the criteria in Section 6.540.**
- (b) Access to public streets in accordance with Section 12.100.**
- (c) Front yard landscaping standards in accordance with Article 9, unless there is not enough physical room and an Adjustment is approved;**
- (d) Buffering and screening standards in accordance with Article 9, unless there is not enough physical room and an Adjustment is approved;**
- (e) Parking space and lot improvement standards in accordance with Sections 9.120 and 9.130;**
- (f) Parking lot landscaping improvement standards in accordance with Section 9.150;**
- (g) Screening of refuse containers; and**
- (h) Other improvements necessary to bring the site into compliance with the standards of this Code.**

~~Nonconforming developments may continue unless specifically limited by Subsection (2) below or by other regulations in this Title.~~

~~(1) Changes that conform to the base zone development standards of the site may be made.~~

~~(2) Development that does not comply with the following standards must be brought closer into compliance with the base zone standards in the following priority order to an extent commensurate with the proposed changes:~~

- ~~(a) Interior parking lot landscaping;~~
- ~~(b) Landscaping in existing building setbacks;~~
- ~~(c) Minimum landscaped area (where land is not used for structures, parking, or exterior improvements);~~
- ~~(d) Screening;~~
- ~~(e) Paving of surface parking and exterior storage and display areas; and~~
- ~~(f) Commercial and multi-family design standards.~~

*Staff Comments: The standard in 2.380 is confusing. Proposed language in Section 9.030(1) would not require new parking when less than 2 additional parking spaces are needed makes this standard unnecessary.*

~~2.380 Sites Nonconforming in Parking Spaces. When a site is nonconforming in the number of required parking spaces, and changes to a use or building are made that increase the number of required parking spaces, only the number of spaces relating to the increase must be provided.~~



## SITE PLAN REVIEW

**ISSUE C: PLAN REVIEW PROCESS TIME/COSTS – Site Plan Review seems unwarranted for some types of activities, developments, and locations when staff can apply clear and objective standards.**

*Staff Comments: Amendments include not requiring Site Plan Review (Type I-L land use process) for some minor modifications to already developed sites and some change of uses. This would reduce the processing time and costs when full land use review is unwarranted.*

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

~~2.41080~~ Procedure. A Type I-L limited land use procedure is followed for a Site Plan Review application with the Director acting as the review body. A Site Plan Review application that includes Hillside Development is reviewed as a Type III procedure (See Sections ~~6.1970~~ **through 6.230**).

2.420 Relationship to Other Regulations. When a land use application is approved based on review criteria in this Code, the applicant must still comply with other applicable codes, ordinances, statutes, and regulations.

2.430 Applicability. ~~When Site Plan Review is Required~~. In general, a Site Plan Review covers is intended for **all new development within the city that specifically requires Site Plan Review as listed in Articles 3, 4 and 5. It applies to new construction, additions or expansions, site modifications, and changes in land use categories. Sites that contain a legal nonconforming use will be processed in accordance with Section 2.350.**

~~all proposed exterior alterations included in the development proposal, but does not cover portions of the existing development that are not being modified except for non-conforming development as stated in Section 2.370.~~

(1) Any development listed in ~~Articles 3, 4 or 5~~ that specifically that requires Site Plan Review, **unless specifically exempt in Section 1.070.**

(2) **A change of use or reuse of a building or site when the use is allowed through Site Plan Review, and that requires construction of three or more new parking spaces, additional loading areas, or that modifies site circulation or access.**

~~A change internal to a building or other structure or of land that constitutes a change of use as defined in Article 22 and listed in Articles 3, 4 or 5.~~

~~(3) Any development or change of use to a nonconforming use of a building, structure, or land is not occupied by a permitted or legally nonconforming use for one continuous year may require Site Plan Review as listed in Articles 3, 4 or 5.~~

(34) **Building additions or use expansions greater than 12,000 square feet or greater than 2025% of existing building area, whichever is less, or any expansion that results in-requires three or more new parking spaces, additional loading areas, or modifies site circulation or access. a reduction of required parking spaces Any additions within special purpose districts must comply with the regulations described in Articles 4, 6, and 7, as applicable.** *Staff Comments: Compliance with special purpose district standards is addressed in 2.450(5).*

New language is in **bold**; deleted text is shown ~~struck through~~; and *staff comments are in blue italics*.

- (45) New parking areas or expansions to existing parking areas greater than 1,000 square feet ~~or greater than 10% of any existing parking area, whichever is less,~~ **or modifications that change site circulation or access.**
- (56) Temporary placement of a manufactured home for: (a) night watchman; (b) business office space during construction or remodeling; (c) building space for education, non-profit, and government agencies. (See Sections 10.470-10.490.)

2.450 Review Criteria. Site Plan Review approval will be granted if the review body finds that the application meets all of the following criteria that are applicable to the proposed development.

- (1) Public utilities can accommodate the proposed development.
- (2) The transportation system can safely and adequately accommodate the proposed development
- (3) Parking areas and entrance-exit points are designed to facilitate traffic and pedestrian safety and avoid congestion.
- (4) The design and operating characteristics of the proposed development are reasonably compatible with surrounding development and land uses, and any negative impacts have been sufficiently minimized.
- (5) Activities and developments within special purpose districts must comply with the regulations described in Articles 4 (Airport Approach), 6 (Natural Resources), and 7 (Historic), as applicable.
- (6) **The site is in compliance with prior land use approvals.**
- (7) **Sites that have lost their nonconforming status must be brought into compliance, and may be brought into compliance incrementally in accordance with Section 2.370.**

~~2.470~~ ~~Applicability. This level of review is intended for new development within the City.~~ *Combined with 2.430.*

## ARTICLE 4 COMMERCIAL AND INDUSTRIAL ZONING DISTRICTS

**ISSUE G: REUSE OF VACANT BUILDINGS IN THE LI ZONE – many non-industrial uses are interested in these buildings.**

**ISSUE H: SMALL-SCALE MANUFACTURING AND INDUSTRIAL OFFICE USES - are limited primarily to industrial zones.**

*Issue G: The city has received numerous requests for commercial uses in vacant LI buildings. The proposal is to allow most Retail Sale and Service uses and a few additional Indoor Recreational uses in existing buildings in the LI zone subject to standards that ensure that the transportation system and site can accommodate the proposed use, and that changes do not preclude the use from returning to an industrial use (see 4.060 Special Conditions 7 and 11).*

*Issue H: The Code limits manufacturing uses in mixed use and commercial zones. The proposed revisions to the Schedule of Permitted Uses in Section 4.050 and Special Conditions 4.060 would allow small-scale industries that make artisan goods or specialty foods and sell most of their goods off-site but may have incidental on-site sales within the OP, NC, CC, RC, TD, IP and LI zoning districts. See the use category description proposed for Small-scale Manufacturing in Section 22.045.*

*The Business Ready Task Force also supported creating an "Industrial Office" category for industrial uses that can be conducted in an office-like setting. See the proposed use category description in Section 22.110 (2). Industrial offices would be allowed in some of the commercial and mixed-use zoning districts.*

4.050 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. The abbreviations used in the schedule have the following meanings:

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

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

**SCHEDULE OF PERMITTED USES**

<b>Commercial, Office and Industrial Zoning Districts</b>									
<b>Use Categories (See Article 22 for use category descriptions.)</b>	<b>Spec. Cond.</b>	<b>OP</b>	<b>NC</b>	<b>CC</b>	<b>RC</b>	<b>TD</b>	<b>IP</b>	<b>LI</b>	<b>HI</b>
<b>INDUSTRIAL</b>									
Manufacturing and Production	2	S/CU	N	S/CU,3	N	S/CU	S/CU	S/CU	S
<b>ISSUE H</b> Small-scale Manufacturing	<b>2</b>	<b>S/CU</b>	<b>N</b>	<b>S/CU</b>	<b>S/CU</b>	<b>S/CU</b>	<b>S/CU</b>	<b>S/CU</b>	<b>S/CU</b>
<b>COMMERCIAL</b>									
Entertainment and Recreation <b>ISSUE G</b> Indoor		N	N	S-7	S-7	S	CU-7	CUII-7	CU-7
<b>ISSUE H</b> Offices: <b>Traditional Offices</b> <b>Industrial Offices</b>		S <b>S</b>	S <b>N</b>	S <b>S</b>	S <b>N</b>	S <b>N</b>	<del>S</del> <b>SCUII-8</b> S-8	N S-9	N <b>S</b>
<b>ISSUE H</b> Retail Sales and Services		S-11	S-11	S	S	S	S-11	N/S/CU,11	N
<b>RESIDENTIAL</b>									
<b>ISSUE A</b> Home Business (See 3.090-3.180 to determine if CU)		Y/CU	Y/CU	Y/CU	Y/CU	Y/CU	Y/CU	Y/CU	Y/CU

**SPECIAL CONDITIONS**

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

*Staff Comments: Only the relevant special conditions are shown.*

- (2) Manufacturing and Production. The environmental performance standards of Article 9 may limit the placement of certain uses in some districts. If the site is located within 300 feet of residentially zoned land, the use may require a eConditional uUse approval.
- (3) Manufacturing in the CC zone. Manufacturing uses in CC must have a retail storefront and sell their products to the public on site.

**ISSUE G: REUSE OF VACANT BUILDINGS IN LI ZONE– allowing some commercial uses in the LI zone.**

*Staff Comments: Add exercise and health clubs/gyms through a Conditional Use Type III review in (d) that would allow input from surrounding property owners through a public hearing process.*

- (7) Indoor Entertainment and Recreation in the CC, RC, IP, LI and HI zones.
  - (a) Limited uses in CC. Indoor firing ranges or gun clubs, coliseums, and stadiums are not permitted.
  - (b) Limited uses in RC. Indoor firing ranges or gun clubs are not permitted.
  - (c) Limited uses in IP. Exercise and health clubs or gyms are permitted through Site Plan Review. Convention centers, coliseums and stadiums are considered through a Conditional Use **Type III** review. All other indoor entertainment uses are not permitted.
  - (d) Limited uses in LI. Indoor firing ranges or gun clubs, pool halls, paint gun facilities, cheerleading, tumbling, gymnastics, fairgrounds, coliseums and stadiums are considered through a Conditional Use Type II review. **Exercise and health clubs or gyms are considered through a Conditional Use review and must meet the additional criteria in Special Condition (11)(b)**. All other indoor entertainment uses are not permitted.
- (8) Offices in the IP zone. **Traditional** Offices intended to serve customers on site are considered through the eConditional uUse **Type II** review. **Industrial** Offices ~~with limited customer traffic~~

New language is in **bold**; deleted text is shown ~~struck through~~; and *staff comments are in blue italics*.

are permitted through Site Plan Review. See Article 22 for Office examples.

- (9) Offices in the LI zone. **Traditional** Offices intended to serve customers on site are not allowed. **Industrial** Offices ~~with limited customer traffic~~ are permitted through Site Plan Review. See Article 22 for Office examples.

**ISSUE G: REUSE OF VACANT LI BUILDINGS IN THE LI ZONE– allowing some commercial uses in existing buildings in the LI zone.**

- (11) Retail Sales and Services in the OP, NC and IP **and LI** zones.

- (a) Limited uses in OP, NC and IP. The only retail uses allowed are convenience-oriented retail and personal services-oriented retail intended to serve nearby residences and employees. See Article 22 for examples of convenience-oriented and personal service-oriented businesses. Businesses are limited to a 5,000-square-foot maximum building footprint. Vehicle repair-oriented services, motor vehicle sales, large equipment sales, and bulk sales are prohibited. *Staff Comments: FYI, the IP zone allows some commercial uses.*

*Staff Comments: The proposed new language would increase the types of uses allowed in vacant industrial buildings subject to criteria that ensure the site can return to industrial use in the future and that the commercial uses will fit into the LI zone.*

- (b) Retail Sales and Service Uses in Existing Buildings in the LI zone. To encourage the reuse of buildings constructed prior to (insert adoption date) in the LI zone, **Repair-Oriented Retail Sales and Service uses as described in Section 22.140 will be permitted through Site Plan Review. Personal Service-Oriented uses and Sales and Service-Oriented Retail Sales uses as described in Section 22.140 may be permitted through a Conditional Use review. Retail Sales and Service uses permitted in accordance with this subsection are subject to the following additional review criteria:**
- i. **The street system has adequate capacity to accommodate the use through the horizon year of the current Transportation Systems Plan;**
  - ii. **The site has adequate on-site parking to accommodate the development, or adequate parking will be provided; and**
  - iii. **The development will not alter the existing building or site in a way that would discourage or preclude its later conversion back to an industrial use.**
  - iv. **The new commercial user shall acknowledge that existing industrial uses have a right to operate free from new user complaining about externalities typical of industrial use.**

## ARTICLE 5 MIXED USE ~~VILLAGE CENTER~~ ZONING DISTRICTS

**ISSUE D: INFILL AND REDEVELOPMENT – it can be challenging to meet standards on some infill sites.**

*Staff Comments: Some of the mixed-use zoning district purpose statements are being amended to encourage infill and redevelopment.*

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

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

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this major corridor as it develops or redevelops. **Commercial infill and redevelopment are encouraged.** Sound and visual buffers should be used to protect nearby residential areas.

- (9) MUC – MIXED USE COMMERCIAL DISTRICT. The MUC zoning district is intended primarily to provide a mix of convenience commercial, personal services, offices and medium density residential uses. The district would typically be anchored by a grocery store, and may include a mix of smaller retailers, offices, live-work units and residences. The MUC district is easily accessible to nearby residences, and commercial uses are compatible in scale and design with adjacent neighborhoods. Uses in the MUC zone will serve area residents and should not draw from the region.
- (10) ~~RM – RESIDENTIAL MEDIUM DENSITY~~ Note: ~~The RM zone is also compatible with the Village Center Comprehensive Plan design, but because it is a residential zone, it is located in Article 3.~~ *Staff Comments: The RM zone is in Article 3. We are removing the "Village Center" from the Article's title, so this information is no longer needed.*

**ISSUE H: SMALL-SCALE MANUFACTURING AND INDUSTRIAL OFFICE uses in mixed-use and commercial zones.**

*Staff Comments: The Code limits manufacturing uses in mixed-use and commercial zones. The proposed revisions to the Schedule of Permitted Uses in Section 5.060 would allow small-scale industries that make artisan goods or specialty foods and sell most of their goods off-site but may have incidental on-site sales in the MUC, WF, HD, CB, LE, PB and MS zoning districts. See the use category description proposed for Small-scale Manufacturing in Section 22.045.*

*The Business Ready Task Force supported creating an "Industrial Office" category for industrial uses that can be conducted in an office-like setting. This use is proposed to be permitted in the WF, CB, LE, PB and MS zones. See the proposed use category description in Section 22.110 (2).*

### SCHEDULE OF PERMITTED USES

5.060 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. The abbreviations used in the schedule have the following meanings:

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

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

**SCHEDULE OF PERMITTED USES**

Use Categories (See Article 22 for use category descriptions.)	Spec. Cond.	MUC	WF	HD	CB	LE	PB	MS	ES	MUR
<b>INDUSTRIAL</b>										
Manufacturing and Production	2	N	N	S/CU	S/CU	S/CU	N	N	N	N
<b>Small-scale Manufacturing</b> - less than 5,000 sq. ft. -5,000 to 10,000 sq. ft.	2	S/CU CU	S/CU CU	S/CU CU	S/CU CU	S/CU CU	S/CU CU	S/CU CU	N N	N N
<b>COMMERCIAL</b>										
Offices										
<b>Traditional Offices</b>		S	S	S	S	S	S	S	S	S
<b>Industrial Offices</b>		CU	S	CU	S	S	S	S	N	N
<b>RESIDENTIAL</b>										
<b>Home Business</b> (See 3.090-3.180 to determine if CU)		Y/CU	Y/CU	Y/CU	Y/CU	Y/CU	Y/CU	Y/CU	Y/CU	Y/CU

**SPECIAL CONDITIONS**

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

*Staff Comments: Only special condition (2) referenced in the table above is shown below.*

- (2) Manufacturing. The environmental performance standards of Article 9 may further limit the placement of certain uses in some districts. Developments on sites located within 300 feet of residentially zoned land may require a Conditional Use approval.

**ISSUE E: INFILL AND REDEVELOPMENT – clarify rebuilding of destroyed buildings.**

*Staff Comments: Determining whether a new development has no greater off-site impacts can require an expensive analysis and cannot be handled administratively. The proposed amendments make replacement of a destroyed building clear and objective.*

5.085 Special Status for Industrial and Commercial Uses in the WF Zone. The regulations below apply to properties on the Special Status List and eligible properties in the Waterfront (WF) zoning district. The Special Status List is maintained by the Community Development Director.

Notwithstanding the restrictions or terms of any other section of the Albany Development Code (ADC), all industrial and commercial uses legally in operation before January 11, 2006, shall be deemed to be conforming to the WF zoning district. When any listed buildings are converted to a permitted use in the Waterfront zoning district, the special status granted here is rescinded, and the use of the property must thereafter conform to the requirements of this article.

If any building on these properties is substantially destroyed, as defined in ADC Section 2.340(4), it can be rebuilt for the same use provided that the **new development is no larger (in square feet and in building footprint) than the original development and the new development is more compliant than the original development.** ~~off-site impacts are no greater than its impacts on January 11, 2006.~~



## ARTICLE 8 DESIGN STANDARDS

### ISSUE I: RESIDENTIAL DEVELOPMENT DOWNTOWN – common and open space requirements may not be compatible with urban setting or historic districts.

*Staff Comments: In order to encourage urban residential development downtown, the following amendments are proposed in the CB, HD, LE, WF and MUR zones*

- In lieu of open space/common area formula in Section 8.220 (2) require only 1 common recreation or open space area - either indoor or outdoor in (1).*
- Exempt multi-family from the children's play area in Section 8.220 (2) because this area is close to the Dave Clark path and Monteith Riverfront Park.*
- Exempt new development or redevelopment in the CB, HD and LE zones from requiring private open space in Section 8.230. (Why? Most properties are in the historic overlay district. Private open space is often in the form of balconies and walk-out patios which can be challenging to provide in an urban setting and be compatible with existing development.)*
- Amendments in Section 8.250 would clarify that the building design standards are for new construction and would not apply to redevelopment of existing buildings.*

### **MULTIPLE-FAMILY DEVELOPMENT HOMES**

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

8.210 Relationship to Historic Overlay Districts. For residential property inside the Historic Overlay Districts, see Article 7 for additional historic review criteria.

8.220 Recreation and Open Space Areas. In **all new** multiple-family developments a portion of the land not covered by buildings and parking shall be of adequate size and shape and in the proper location to be functional for outdoor recreation and relaxation. The standards are also intended to ensure that project open space is an integral part of the overall development design, not merely leftover space. In larger developments there should be a variety of ~~open~~ **common** space activities.

(1) Common ~~Open~~-Space. For projects of 10 or more units, common ~~open~~-space shall be required at a ratio of 0.25 square feet for each 1.0 square feet of living space. **In lieu of the common space standards below, new construction of 10 or more units in the CB, HD, LE, WF and MUR zoning districts shall provide one indoor or outdoor common area amenity at least 250 square feet, with no dimension less than 20 feet.**

(a) Areas designated as common ~~open~~-space shall be at least 500 square feet in size with no horizontal dimension less than 20 feet. The ~~open~~ space shall be functional **or protect natural features** and shall include one or more of the following types of uses:

- swimming pools, spas, and adjacent patios and decks
- developed and equipped adult recreation areas
- sport courts (tennis, handball, volleyball, etc.)
- community centers
- food and ornamental gardens
- lawn, **deck** or hard surface areas in which user amenities such as trees, shrubs, pathways, covered picnic tables, benches, and drinking fountains have been placed
- natural areas

(b) Developments shall provide a mix of passive and active recreational uses from the above list if the open space can accommodate more than one use.

New language is in **bold**; deleted text is shown ~~struck through~~; and *staff comments are in blue italics*.

- (c) Indoor or covered recreational space may count towards 50 percent of the common open space requirement.
  - (d) No more than 20 percent of the common ~~open~~-space requirement shall be on land with slopes greater than 20 percent.
  - (e) Areas Excluded. Streets and parking areas, including areas required to satisfy parking lot landscape standards, shall not be applied toward the minimum useable open space requirement. Required setback areas may be applied toward the minimum useable ~~open~~ space requirement, ~~with the exception of active, noise-generating activities~~ **amenities must meet required setbacks**.
  - (f) Designated on Site Plan. Areas provided to satisfy the minimum ~~useable open~~ **common** space requirement shall be so designated on the development site plan and shall be reserved as ~~open~~ **common** space. Adult recreation areas shall not be allowed in any required setback and shall be centrally located.
  - (g) Open Space and Recreation Area Credit. ~~An open space~~ credit, not to exceed 25 percent of the common ~~open~~-space requirements, may be granted if there is direct access by a pedestrian path, not exceeding 1/4 mile, from the proposed multiple family development to an improved public park and recreation area or public school playground.
- (2) Children's Play Areas. Multiple family developments larger than 10 units (excluding 1-bedroom and studio units) shall designate one or more children's play areas. **Developments located in the CB, HD, LE, WF and MUR zoning districts are exempt from this standard.**  
*The standards in (a)-(d) are not changing and are not shown.*

*Staff Comments: Exempt new multi-family in the HD, CB and LE zones from being required to provide private open space. Many properties in these zones are historic overlay district. Private open space is often in the form of balconies and walk-out patios which can be challenging to provide in an urban setting and be compatible with existing development.*

8.230 Private Open Space. In all newly constructed multiple family developments **except in the CB, HD and LE zoning districts**, private open space shall be provided as follows:

*Staff's Proposed Revisions: Recommend deleting ADC 8.230(1) because it prohibits balconies or patios counted as private open space from facing the street. This standard is sometimes not feasible to meet depending on site conditions; especially balconies. If the original intent behind this standard was to limit or screen personal storage from the public view, sub-section (4), below achieves this purpose at the ground level.*

- ~~(1) Building Orientation. Buildings shall be oriented so that no private open space or rear entrance faces a public street.~~
- (12) At-Grade Dwellings. Dwellings located at finished grade, or within 5 feet of finished grade, shall provide at least 96 square feet of private open space per unit, with no dimension less than 8 feet. Private open space for at-grade dwellings may be provided within interior courtyards created within a single building or cluster of buildings. Private open space for at-grade dwellings shall be screened from view from public streets.
- (23) Above-Grade Dwellings. Dwellings located more than 5 feet from finished grade shall provide a minimum of 80 square feet of private open space per dwelling unit (such as a yard, deck or porch), with no dimension less than 6 feet. Private open space for units located more than 5 feet above grade may be provided individually, as with a balcony or collectively by combining into a larger area that serves multiple units.
- (34) Access to Private Open Space. All private open space shall be directly accessible from the dwelling unit through a doorway.
- (45) Privacy Requirements. ~~Ground level p~~Private open space, **excluding front porches**, shall be

physically and visually separated from common open space.

8.250 Functional Design and Building Details. These standards are intended to promote functional design and building details **in new construction** that contribute to a high-quality living environment for residents and enhance compatibility with the neighborhood.

- (1) **The design of new B**~~buildings design~~ shall avoid long, flat, uninterrupted walls or roof planes. Changes in wall plane and height, and inclusion of elements such as balconies, porches, arbors, dormers, gables and other human-scale design elements such as landscaping should be used to achieve building articulation.
- (2) Buildings shall be massed so individual units ~~are~~ **or the common main entrance is** clearly identifiable from the private or public street that provides access **unless the units are located on upper floors above non-residential uses**. *Staff Comments: The proposed language would better allow for mixed-use buildings.*
- (3) Stairways shall be incorporated into the building design. External stairways, when necessary, should be recessed into the building, sided using the same siding materials as the building, or otherwise incorporated into the building architecture.
- (4) Building facades shall be broken up to give the appearance of a collection of smaller buildings.  
[Ord. 5445, 4/12/00]

## COMMERCIAL AND INSTITUTIONAL SITE DESIGN

### ISSUE E: Infill and Redevelopment- it can be challenging to meet design standards on small sights surrounded by development.

*Staff Comments: The proposed language in 8.330 (1)(a) and 8.350(3) would allow flexibility from the design standards for infill development.*

*Staff's Proposed Revisions: Additional revisions are proposed primarily to clarify exiting language or intent. The design standards were intended to apply to all development except for industries. This would include new institutional uses - like churches, hospital, etc., and mixed use developments. "Institutional" is being added where necessary.*

8.310 Purpose. These sections are intended to set threshold standards for quality design in new commercial, **mixed-use, and institutional** development. Good design results in buildings that are visually compatible with one another and adjacent neighborhoods and contribute to a commercial district that is attractive, active and safe. These qualities in turn contribute to the creation of commercial districts that facilitate easy pedestrian movement and a rich mixture of land uses.

8.315 Applicability. These standards apply to the design of new commercial, **mixed-use, or institutional** development and to the expansion of existing ~~commercial~~ developments in any district.

8.330 Building Orientation. Building orientation and maximum setback standards are established to help create an attractive streetscape and pleasant pedestrian environment.

(1) New ~~commercial~~ buildings shall be oriented to existing or new public streets. Building orientation is demonstrated by placing buildings and their public entrances close to streets so pedestrians have a direct and convenient route from the street sidewalk to building entrances.

(a) On sites smaller than three acres, ~~commercial~~-**new** buildings shall be oriented to the public street/sidewalk and off-street parking shall be located to the side or rear of the building(s), except where it is not feasible due to limited or no street frontage, **the site is an infill site less than one acre, conservation of natural resources**, or where there are access restrictions.

(b) Buildings on sites larger than three acres may be setback from the public street and oriented to traffic aisles on private property; if the on-site circulation system is developed like a public street with pedestrian access, landscape strips and street trees.

*Staff Comments: The first sentence is repetitive and confusing with the standards in (1).*

(2) ~~At least one major public entrance shall be visible from the abutting public street. Corner entrances may be used to provide orientation to two streets.~~ Customer entrances should be clearly defined, highly visible, using features such as canopies, porticos, arcades, arches, wing walls, and planters. [Ord. 5445, 4/12/00]

8.350 Street Connectivity and Internal Circulation. The following standards emphasize the importance of connections and circulation between uses and properties. The standards apply to both public and private streets.

*Staff Comments: Only (3) is shown.*

(3) Traffic ~~aisles~~ lanes shall be internal to the site and shall not be located between the building(s) and the sidewalk(s), except as provided in (4) below, **or where drive-through windows are permitted, sites are constrained by natural resources, or are infill sites less than one acre.**

## SUPPLEMENTAL ~~COMMERCIAL~~ DESIGN STANDARDS IN VILLAGE CENTERS

- 8.405 Village Center Character. The purpose of these standards is to contribute to the desired character of ~~the Albany's~~ village centers. They are intended to promote the design of an urban environment that is built to human scale with attractive street fronts and interconnected walkways that promote pedestrian usage and accommodate vehicles. Development in the village center must contribute to a cohesive, visually compatible and functionally linked pattern through street and sidewalk layout, building siting and character, and site design. Details count. [Ord. 5556, 2/21/03]
- 8.410 Applicability. These standards apply to ~~commercially zoned properties~~ **commercial, office, mixed-use and institutional** development within the Village Center Comprehensive Plan designation. They are in addition to the Commercial **and Institutional** Design Standards in this article ~~for commercial, and office development~~. Taken together, these design standards are intended to foster a mixed-use character for village centers. [Ord. 5556, 2/21/03]

## SUPPLEMENTAL RESIDENTIAL DESIGN STANDARDS IN VILLAGE CENTERS

- 8.480 Applicability. These standards apply to residential development in mixed-use and residential zones within the Village Center Comprehensive Plan designation. They are in addition to the residential design standards for Single-Family Homes and Multiple Family Homes in this article.

*Staff's Proposed Revisions: Recommend deleting covered bike parking requirement in 8.485(4). Because Section 9.120(13) now requires covered bike parking based on the percentage of parking spaces for cars.*

- 8.485 Purpose. These provisions are intended to promote the design of an urban environment that is built to human scale and to foster a mixed-use character for village centers with an emphasis on a high-quality pedestrian environment.  
~~(4) Covered bike parking shall be provided for 50 percent of the dwelling units in shelters, individual storage lockers or garages.~~

## ARTICLE 9 ON-SITE DEVELOPMENT AND ENVIRONMENTAL STANDARDS

**ISSUE J: PARKING SPACE REQUIREMENTS - Minimum parking requirements are relatively high, some are missing, and there is no clear option is available to propose alternatives.**

*Staff Comments: The following changes are proposed to reduce the amount of parking that is required and to address missing standards:*

- *Reduce the minimum parking space requirements for many uses;*
- *Add missing standards;*
- *Add allowance for unspecified uses and alternative standards;*
- *Remove requirement for temporary uses to meet the parking requirements;*
- *Add allowances for on-street parking and reductions to on-site parking spaces*

### OFF-STREET PARKING AND LOADING REQUIREMENTS

*Staff Comments: The parking standards are proposed to be moved from Articles 3, 4 and 5 to Article 9 so that the standards are in one place and in the same location as the parking lot layout standards. Some administrative edits are included related to relocating the parking and adding headings to make the standards easier to use. Moved text is not shown in bold so you can see the new language that is being proposed.*

9.020 ~~Space Requirements. Minimum parking and loading space requirements based on type of use are found in Sections 3.350 and 3.360 (residential); Sections 4.250 and 4.260 (commercial and industrial), and Sections 5.260 and 5.270 (mixed use zones). Off-street parking and loading must be provided for all development in the amounts indicated in the table below **subject to any applicable reductions permitted in this Article. All required** parking must be developed in accordance with **the standards in this Article-9.**~~

- (1) **Calculating Floor Area for Parking.** The area measured is the combined floor area of each level of a building exclusive of vent shafts, court yards, stairwells, elevator shafts, restrooms, storage rooms and rooms designed and used for the purpose of storage and operation of maintenance equipment, and covered or enclosed parking areas.
- (2) **Employees.** The number of employees shall include those working on the premises, plus proprietors, during the largest shift at peak season.
- (3) **Fractional Space Requirements** shall be counted to the nearest whole space; half spaces will be rounded up.

~~In the case of mixed uses, the total requirements for off street parking shall be the sum of the requirements for the various uses. *Staff Comments - this is being relocated to 9.030, a new section on parking reductions.*~~

*Staff Comments: The Code does not have a provision to allow the Director to approve parking standards for uses not listed in the table or for applicants to present alternative parking demand proposals. The proposed provision would allow the Director to approve parking for uses not listed in the parking ratios table and to consider alternative parking standards.*

- (4) **Unspecified Uses and Alternative Standards.** When a use is not specifically listed in the **Table 1: Parking Requirements**, the Director will determine if the use is similar to a listed use in terms of parking needs. When a use is not similar to a use listed in Table 1 or the applicant has documentation that demonstrates a different parking demand, the Director may approve alternative parking standards. Acceptable documentation may include

New language is in **bold**; deleted text is shown ~~struck through~~; and *staff comments are in blue italics*.

- parking standards from other cities of similar size, company data on parking demand, parking demand studies, or the ITE Parking Generation Manual.**
- (5) Off-street parking for one use shall not be considered as providing parking facilities for any other use except through the provisions of Section 9.080, Joint Use of Parking Facilities.
  - (6) ~~9-100 Downtown Assessment District~~. Parking spaces are not required for uses located within the Downtown Off-Street Assessment District as established by separate ordinance. (A map of the district is located at the end ~~of this Article-5.~~) However, improvement of parking areas within this District must comply with the standards of this Article.
  - (7) Maximum Parking in the ES, Elm Street Medical District. Parking provided with new development in the ES zone shall be only the minimum required. No additional off-street parking will be allowed for development in this district.
  - (8) Site Plan Review may be required for new parking areas or expansions to existing parking areas unless specified in Section 2.430.
  - (9) **Temporary uses of less than 120 days, as defined in AMC Chapter 5.10 Transient and Itinerant Merchants and Vendors, are not required to meet the standards in this section.**

*Staff Comments: Missing uses are being added to the parking requirements table; and several parking ratios are being reduced based on a review of requirements in other Oregon cities.*

**Table 1: PARKING REQUIREMENTS FOR COMMERCIAL AND INDUSTRIAL USES**

USE	MINIMUM SPACES REQUIRED
<b>COMMERCIAL AND RECREATION</b>	
Animal hospitals and clinics <b>and animal grooming salons</b>	1 per 400 sq ft <del>GFA</del>
Banks and financial institutions, real estate services, insurance	1 per <del>200-300</del> sq ft on first floor plus 1 per 600 sq ft above first floor
Beauty and barber shops and other personal services	1 per 200 sq ft plus 1 per 3 employees
Commercial recreation and assembly	Subject to Site Plan Review
<b>Entertainment and Recreation:</b> <b>(a) Athletic/fitness gym, billiard or pool hall skating rinks with no grandstands, all other unspecified indoor recreation and entertainment (excluding restaurant, café or bar areas)</b> <b>(b) Bowling alleys</b> <b>(c) Golf courses (including clubhouses and accessory uses)</b> <b>(d) Stadiums, grandstands, coliseums, auditoriums, and theaters, and other sport facilities with seating</b> <b>(e) Swimming pools, aquatic centers for pool only</b>	<b>(a) 1 per 300 sq ft</b>  <b>(b) 4 per lane</b> <b>(c) Subject to Site Plan Review land use review</b>  <b>(d) 1 per 4 seating capacity (3)</b>  <b>(e) 40-plus-1 per 150200 sq ft pool surface area</b>
Funeral houses <b>and mortuaries</b>	1 per 4 seats or 8 feet of bench length
<b>Kennels, animal boarding</b>	<b>1 per employee plus 1 per 500 sq ft excluding exercise areas</b>
Laundries and cleaners	1 per 300 sq ft <del>GFA</del>
Motels and hotels	1 per rental unit plus additional as required for accessory uses

New language is in **bold**; deleted text is shown ~~struck through~~; and *staff comments are in blue italics*.

USE	MINIMUM SPACES REQUIRED
Office - <b>Professional</b> : (a) Medical and dental clinics (b) All other business and professional	(a) 1 per <del>200</del> <b>250</b> sq ft GFA (b) 1 per <del>300</del> <b>400</b> sq ft GFA
<del>Motor</del> Vehicle repair and <b>fuel or other</b> service stations	1 per <del>each</del> 2 employees plus 2 per each service stall
<del>Private</del> clubs, and lodges <b>and</b> meeting rooms	1 per <del>4</del> <b>200</b> sq ft GFA plus 1 per 200 sq ft GFA (2)
Radio and television stations and studios	1 per 2 employees plus 1 per 300 sq ft over 2,000 sq ft GFA
<del>Building materials sales</del>	1 per 500 sq ft. GFA
Restaurants: (c) <b>Carry out, drive thru or D</b> drive-in (b) Sit-down and <del>carry-out/drive thru</del> restaurants, taverns, bars, <b>brewpubs</b> and nightclubs	(c) 1 per <del>50</del> <b>100</b> sq ft GFA (b) 1 per <del>4</del> <b>200</b> sq ft GFA <b>including outdoor seating not exempt per 9.030(3)</b> .
<b>Retail Sales:</b> (a) <b>Bulky items such as furniture, home or business furnishings, appliances, building materials, farm and agricultural equipment,</b> machine and office equipment sales; (b) motor vehicles, trailers, mobile homes, boats, modular houses (c) Greenhouses and nurseries, <b>garden supplies</b> (d) <b>All other retail sales</b>	(a) 1 per <del>500</del> <b>800</b> sq ft GFA plus 1 per 3 employees (b) 2 per employee (c) 2 per employee (d) 1 per <del>200</del> <b>300</b> sq ft sales floor area
Retail: Specialty shops and other retail stores under 6,000 sq ft	1 per 300 sq ft GFA plus 1 per 3 employees
<b>Services and Repair: tailor, shoemaker, locksmith, printing, binding, publishing, framing, upholsterer, photography studio, dry cleaner, mailing, etc.</b>	<b>1 per 500 sq ft</b>
<b>Self-Serve Storage Units</b>	<b>1 per 100 units, with a minimum of 3, plus 1 per employee/caretaker</b>
<b>INDUSTRIAL</b>	
Air, rail and motor freight terminals	Subject to <b>land use review</b> <del>Site Plan Review</del>
<b>Contractors and Industrial Services</b>	<b>1 per 1.25 employees plus 1 per company vehicle</b>
<b>Customer Service/Call Centers</b>	<b>1 per 250 sq ft</b>
<b>Industrial Offices, research or laboratory facilities</b>	<b>1 per 500 sq ft</b>
Manufacturing, production or processing	1 per 2 employees plus 1 per company vehicle
Rail and bus passenger terminals	<b>5 plus 1 per 100 sq ft waiting area</b>
Testing, repairing, cleaning, servicing of materials, goods or products and <del>warehousing and wholesale</del>	1 per 2 employees plus 1 per 300 sq ft of patron serving area, plus 1 per company vehicle
Warehousing and wholesale	1 per 2 employees plus 1 per 300 sq ft of patron serving area plus 1 per company vehicle
Wrecking yards and junkyards	1 per employee plus 1 per 10,000 sq ft lot area
<b>INSTITUTIONAL, PUBLIC and SEMI-PUBLIC</b>	
<b>Daycare, Nursery Schools, Kindergarten and Daycare Homes or Facilities</b>	<b>1 per employee plus 1 per 10 persons being cared for</b>
Education: Elementary, junior high and other children's day school	1 per classroom plus 1 per 2 employees
Education: High schools, colleges, universities, and trade or business schools	Subject to <b>land use review</b> <del>Site Plan or Conditional Use Review</del>
Hospitals	1 per 2 beds plus 1 per staff doctor plus 1 per 2 full-time employees
<b>Jails and Detention Facilities</b>	<b>1 per 5 beds</b>
Libraries, reading rooms, museums and art galleries	1 per 2 employees plus 1 per 500 sq ft GFA
<b>Parks , Open Areas and Cemeteries</b>	<b>Subject to land use review</b>



New language is in **bold**; deleted text is shown ~~struck through~~; and *staff comments are in blue italics*.

USE	MINIMUM SPACES REQUIRED
<del>Philanthropic, charitable and nonprofit institutions (excluding churches)</del>	<del>1 per 2 employees plus 1 per 500 sq ft GFA</del>
<del>Religious assembly churches and places of</del>	<del>1 per 6 seats or 12 feet of bench length (1)</del>
<b>RESIDENTIAL</b>	
<b>Assisted Living, Residential Care facilities, Nursing or Convalescent homes</b>	<b>1 per 3 beds at capacity</b>
Single-Family Units	2 spaces
Duplex and Two Units on One Lot	4 total spaces
<b>Multi-Family: Studio and 1-bedroom units</b>	1 space per unit, plus 1 visitor space every 4 units
<b>Multi-Family: 2-bedroom units</b>	1.5 spaces per unit, plus 1 visitor space every 4 units
<b>Multi-Family: 3-<del>and 4-</del>or more bedroom units</b>	<del>2-2.5</del> spaces per unit, plus 1 visitor space every 4 units
<b>Multi-Family: Quad and quint units</b>	<b>0.75 space per unit</b>
Senior <b>housing</b> <del>-citizen apartments</del>	1 space per <b>2 units</b> <del>each 2 bedrooms</del>
Student housing	1 per <del>each</del> 2 students at capacity
Boarding and rooming houses	1 space per 2 occupants at capacity
Group <b>or residential</b> care homes	1 space per employee plus 1 space per 5 beds

[Ord. 5555, 2/7/03; Ord. 5742, 7/14/10]

*Staff Comments: On-street parking abutting a development is proposed to be allowed to count towards some of the minimum required on-site parking in non-residential areas and where on-street parking is provided.*

~~9.44025~~ **Parking in the Public Right-of-Way.** Parking spaces in a public right-of-way may not be counted as fulfilling any part of the parking requirements except when **permitted below**~~allowed for in this Code~~. **Any parallel parking spaces in the right-of-way that are counted toward fulfilling the parking requirements must be at least 25 feet long.**

- (1) **Religious Assembly.** On-street parking within 500 feet of the building, except in residential ~~zones~~ **areas**, may be used toward fulfilling their **minimum parking** requirements.
- (2) **Private Clubs, Lodges or Meeting Rooms.** On-street parking in non-residential ~~zones~~ **areas** within 800 feet of the main assembly room or building may be used toward fulfilling their **minimum parking** requirements.
- (3) **Stadiums, grandstands, coliseums, auditoriums and theaters.** On-street parking in non-residential ~~zones~~ **areas** within 1,000 feet of the main assembly room or building may be used toward fulfilling their **minimum parking** requirements.
- (4) **Mixed Use Zones.** On street parking spaces abutting the property in the MUR, Mixed Use Residential District; CB, Central Business District; and LE, Lyon Ellsworth District, may be counted towards meeting parking requirements. ~~Parallel parking spaces must be at least 25 feet long.~~
- (5) **Non-Residential Development.** The amount of off-street parking required may be reduced by one space for every on-street space abutting the development for up to 25 percent of the minimum parking requirement, except when the development is proposed in a residential zoning district in Article 3 or in the ES (Elm Street) zone.

New language is in **bold**; deleted text is shown ~~struck through~~; and *staff comments are in blue italics*.

- (a) **The on-street parking spaces must be at least 100 feet from a residential zoning district or the ES zoning district.**
- (b) **On-street parking credits can only be granted for developments with frontage on streets that allow parking on both sides and with approval from the Director of Public Works.**

*Staff Comments: Staff proposes the following incentives and reductions to the minimum required parking spaces.*

**9.030 Reductions or Exemptions to Minimum Parking Space Requirements.** The following actions can further reduce the minimum parking required on-site.

- (1) **Change of Use or Redevelopment.** No additional parking shall be required when an existing structure is changed from one Use Category to another as listed in Article 22 when the new use requires no more than two additional vehicle and/or bicycle parking spaces.
- (2) **Tree Preservation.** Minimum parking may be reduced by one parking space for each tree 8 inches in diameter and larger that is preserved within the developable area, for up to a maximum of 10 percent of the total parking space requirement.
- (3) **Outdoor Seating Areas.** Seasonal outdoor seating up to 500 square feet shall be exempt from the parking calculations. Permanent outdoor seating is not exempt.
- (4) **Mixed-Use or Multi-Tenant Developments.** ~~9.070~~ In the case of mixed-uses and multi-tenant developments, the total requirements for off-street parking **may be reduced by up to 10 percent of** ~~shall be~~ the sum of the requirements for the various uses.
- (5) **Alternative Modes, Carpooling.** For businesses that will employ 10 or more people, the total number of required vehicle spaces may be reduced up to a maximum of 10 percent based on the following incentives:
  - (a) Up to 2 vehicle spaces may be waived if sheltered bicycle parking is provided beyond the minimum requirements in Section 9.120 (13) at a rate of 3 bicycle spaces to 1 motor-vehicle space.
  - (b) One vehicle space may be waived for each shower and 2 lockers provided for employees who commute by bicycle.
  - (c) Each vehicle space designated for carpool/vanpool parking only that is also located closer to the building than other employee spaces, will count as two required parking spaces. One carpool/vanpool parking space is permitted per 20 employees, with a minimum of 1 space. Spaces must be clearly marked “Reserved-Carpool/Vanpool Only”.
- (6) ~~9.040~~ **(a) Reduction for Transit.** Existing development will be allowed to redevelop up to 25 percent of ~~an~~ existing parking areas for transit oriented uses, including bus stops and pullouts, bus shelters, park and ride stations, transit-oriented developments, and similar facilities, where appropriate.

## **PARKING AREA IMPROVEMENT STANDARDS**

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

*Staff Comments: Only the standards proposed to be amended are shown.*

- (3) **Surfacing.** All ~~areas of a parking lot~~ **required parking**, including travel aisles and access, shall have a durable, dust-free surface of asphalt, cement concrete, or other materials approved by the Director of ~~Public Works~~. Parking lot surfacing shall not encroach upon the public right-of-way

except when it abuts a concrete public sidewalk, or has been otherwise approved by the Director of Public Works.

- (5) Perimeter Curb. Perimeter curbing is required for protection of landscaped areas and pedestrian walkways, and to prevent runoff onto adjacent properties. All parking areas except those required in conjunction with a single- or two-family dwelling **or approved overflow parking areas** shall provide a curb at least 6 inches high along the perimeter of all parking areas.
- (9) Connecting to Adjacent Parking Areas. Where **an existing or** proposed parking area is adjacent to a developed or undeveloped site within the same zoning district, **any modifications to the proposed** parking areas must be designed to connect to the existing or future adjacent parking area. This requirement may be waived by the Director when it is deemed impractical or inappropriate due to the nature of the adjoining uses.
- (13) Bicycle Parking. Bicycle parking space requirements are as follows:
  - (a) For multiple-family dwellings (three or more units) – one space per four units.
  - (b) For industrial development – one space for every 10 automobile spaces required.
  - (c) For commercial or office development - at least two spaces, plus one space for every 10 automobile spaces required. ~~Up to two motor vehicle parking spaces may be deleted if additional sheltered bicycle parking is provided at a rate of five bicycle spaces to one motor vehicle space.~~ *Staff Comments: relocated to the new section 9.030(5)(i).*
  - (d) Exemptions - the Director may allow exemptions to or reductions in required bicycle spaces in connection with temporary uses or uses that are not likely to need bicycle parking.

*No other changes are proposed, so (e)-(h) are not shown.*

<b>ISSUE J: PARKING SPACE REQUIREMENTS - Overflow parking is occasionally needed but it is costly to construct to current paved standards.</b>
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*Staff Comments: The Business Ready Task Force asked that the City consider allowing parking beyond what is required to be unpaved. The proposed amendments would establish standards for unpaved parking for occasional overflow parking needs. Of interest, staff research did not find very many localities that allow for occasional overflow parking. The proposed standards are based on Salem's standards.*

**9.125 Occasional Overflow Parking Needs. The Director may approve for the use of gravel surfacing for parking above the minimum parking requirements intended for occasional needs. As used in this section, "occasional" means limited to a unique or an annually occurring event or condition or infrequent use. The application must demonstrate how the site and owners will meet the following minimum standards:**

- (1) **The construction plans for the unpaved parking area must be approved by the Building Official and Public Works Director or their designees.**
- (2) **The overflow parking area must conform to the dimensional standards in Section 9.130, Table 2 - Parking Lot Design, applicable Americans with Disabilities Act (ADA) requirements, and storm drainage requirements.**
- (3) **Overflow parking areas may not exceed 15,000 square feet per property, site or use.**
- (4) **Wheel stops shall be provided to designate and protect each parking space.**
- (5) **Gravel parking and loading areas shall be screened from all adjacent uses by a sight-obscuring fence, wall, or hedge.**

New language is in **bold**; deleted text is shown ~~struck through~~; and *staff comments are in blue italics*.

- (6) **A buffer area at least five feet in depth, which may include the required screening, shall be provided along the perimeter of each gravel parking area and be landscaped in accordance with Section 9.240.**
- (7) **The overflow parking area must be at least 20 feet from a public right-of way and have at least 20 feet of pavement travel distance to the right-of-way. Gravel is not permitted in or within 500 ft of the HD, LE, ES, CB, or any residential zone or use, unless allowed through Conditional Use approval.**

9.130 Off-Street Parking lot Design. All off-street parking lots must be designed in accordance with City standards for stalls and aisles as set forth in ~~Table 12~~: Parking Lot Design and supplemental drawings. Stall dimensions are measured from inside the stripes.

*Staff Comment: The table number is changing but the table is not changing so it is not shown.*

**Table 21: PARKING LOT DESIGN (in feet)**

## TREE PROTECTION

**ISSUE: TREE CUTTING ON INDUSTRIAL LAND – There is currently little flexibility to account for the unique environmental and site needs of some types of industries.**

*Staff Comment: Flexibility is especially limited if tree removal is requested prior to applying for land use review. Tree regulations will be revisited in their entirety within the next year or so.*

9.207 Applicability. Site Plan Review approval is required for the felling of 5 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 in any zone.

9.208 Tree Felling Criteria. The following review criteria replace the Site Plan Review criteria found elsewhere in this code for the purpose of reviewing tree felling. A Site Plan Review for tree felling will be processed as a Type I-L land use decision.

- (1) The Community Development Director or his/her designee shall approve a Site Plan Review for tree felling when the applicant demonstrates that the felling of the tree(s) is warranted because of the condition of the tree(s) with respect to disease, hazardous or unsafe conditions, danger of falling, proximity to existing structures or proposed construction, or interference with utility services or pedestrian or vehicular safety. **The Director, in consultation with the City Arborist, may also grant an exception to any of the tree cutting standards for industrial development on industrially zoned land.** The Director may require the applicant to provide a Certified Arborist's report.

## ARTICLE 22 USE CATEGORIES AND DEFINITIONS

<b>ISSUE H: SMALL-SCALE MANUFACTURING AND INDUSTRIAL OFFICE USES – allow in mixed-use and commercial zones.</b>
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*Staff Comments: There has been interest by small artisan manufacturers - like a distillery - in Albany's mixed use and commercial zones. Amendments to this article would create two new use categories in order to allow more manufacturing uses in commercial and mixed-use zoning districts.*

### INDUSTRIAL USE CATEGORIES

*Staff Comments: Creating the two new manufacturing categories (small-scale manufacturing and industrial offices) requires a few amendments to the Exceptions in (3).*

#### 22.040 Manufacturing and Production

- (1) Manufacturing and Production businesses manufacture, process, fabricate, package, or assemble products or energy. Natural, man-made, raw, secondary, or partially completed materials may be used. Products may be finished or semi-finished and are generally made for the wholesale market, for transfer to other plants, or to order for firms or consumers. Goods are generally not displayed or sold on site. If they are, they are a subordinate part of sales. Relatively few customers come to the manufacturing site.
- (2) *Use Examples.* Types of uses include, but are not limited to: the manufacturing, researching, testing, experimentation and development of products, including engineering and laboratory research, pharmaceuticals, medical and dental devices and instruments; manufacturing, assembly, or packaging of products from previously prepared materials (excluding vehicle repair shops); weaving or production of textiles or apparel; manufacture or assembly of machinery, equipment, instruments, including musical instruments, appliances, precision items, and other electrical items; movie production facilities; production of artwork and toys; printing, publishing and book binding; catering establishments; processing of food, beer, wine and related products, including slaughterhouses and meat packing; woodworking, including cabinet makers; production of chemical, rubber, leather, clay, bone, plastic, stone, or glass materials or products; sign making; crematoriums; wood products manufacturing; concrete and asphalt mixing; production or fabrication of metals or metal products including enameling and galvanizing; production of prefabricated structures, including manufactured homes; and energy production.
- (3) *Exceptions.*
  - (a) Manufacturing of goods to be sold primarily on site and to the general public is classified as Retail Sales and Service, **unless defined under Small-scale Manufacturing.**
  - (b) ~~Small-scale manufacturing or assembly that is compatible with an office building is classified as Office.~~ **Industrial Office uses are classified as Offices.**
  - (c) Manufacturing and production of goods from composting organic material is classified as Waste and Recycling Related uses.

*Staff Comments: The Code limits manufacturing uses in mixed use and commercial zones. The proposed revisions would allow for small-scale manufacturing uses that can be compatible in commercial and mixed-use zones.*

#### 22.045 Small-scale Manufacturing

- (1) **Small-scale manufacturers are those that manufacture artisan goods or specialty foods occupying no more than 10,000 square feet of building space. Goods are generally not sold on site; any retail component is incidental. Small-scale manufacturing businesses are intended to be allowed when the use can be compatible with adjacent uses. The**

**environmental performance standards of Article 9 will apply to ensure there are no objectionable off-site impacts concerning noise, vibration, odors, and glare to nearby commercial businesses or residential uses.**

- (2) *Use Examples.* **Types of uses include, but are not limited to: sugar and confectionary, fruit and vegetable preserving and specialty foods, bakeries and tortilla manufacturing; microbreweries, micro distilleries, and wineries; artisan leather, glass, jewelry, cutlery, hand tools, wood, paper, ceramic, textile and yarn products; musical instruments, pens, pencils, sporting and athletic goods, toys, brooms and brushes, buttons, costume novelties, and other miscellaneous small-scale manufacturing industries.**
- (3) *Exceptions.*
  - (a) **Manufacturing of goods to be sold primarily on site and to the general public is classified as Retail Sales and Service.**

## COMMERCIAL USE CATEGORIES

*Staff Comments: The proposed amendments clarify the types of uses included in the Entertainment and Recreation use category.*

### 22.100 Entertainment and Recreation, Indoor and Outdoor

- (1) Entertainment and Recreation uses provide entertainment or recreational activity either indoors or outdoors. Activities are both spectator and participatory. Some entertainment uses draw large numbers of people to specific events or shows.
- (2) *Use Examples, Indoor:* Types of uses include, but are not limited to: ~~public or private athletic, or fitness exercise and health clubs or gyms;~~ **gymnasiums;** bowling alleys; skating rinks; game arcades; pool halls; theaters; indoor firing ranges, **coliseums, or convention centers.**
- (3) *Use Examples, Outdoor:* Types of uses include, but are not limited to: miniature golf, driving ranges; drive-in theaters; fairgrounds; ~~convention centers;~~ sports complexes, ball fields, coliseums or stadiums; equestrian centers and animal arenas; theme and water parks.

*Staff Comments: The Office use category is being split into two types: Traditional Offices and a new Industrial Offices subcategory to allow manufacturing uses that can be conducted in an office-like setting in some of the commercial and mixed-use zoning districts.*

### 22.110 Offices

- (1) **Traditional Office** uses provide direct services to consumers generally focusing on business, government, professional, medical, or financial services. Business activities are conducted in an office setting.
  - (2) **Industrial Office** uses are characterized by activities that, while conducted in an office-like setting, are more compatible with industrial activities, businesses, and industrial park settings and districts. Their operations are less service-oriented than Traditional Office uses and focus on the development, testing, production, processing, packaging, or assembly of goods and products in an office-like setting with no off-site impacts and may include digital products such as internet home pages, media content, designs and specifications, computer software, advertising materials, and others. They primarily provide products to other businesses. They do not require customers or clients to visit the site; any such visits are infrequent and incidental.
- (23) *Use Examples.*
- (a) **Traditional Office:** ~~Offices with limited customer traffic:~~ Types of uses include, but are not limited to: **professional services such as lawyers, accountants, employment services,**

**insurance and travel agencies; financial and investment services such as banks, lenders, or brokerage houses; real estate agents; sales offices; public utility offices; real estate agents; sales offices; some government offices;** corporate offices, company headquarters or financial and operational divisions; ~~insurance headquarters; financial headquarters for brokerage houses, banks or other lenders; data processing; public utility offices; newspaper, television and radio offices and studios; and research labs.~~ **medical and dental clinics, or urgent care facilities; veterinarians and animal hospitals; and blood-collection facilities.**

~~(b) Offices intended to provide personal or professional services to customers on site. Types of uses include, but are not limited to: professional services such as lawyers, accountants, employment services, insurance and travel agencies; financial and investment services such as banks, lenders, or brokerage houses; real estate agents; sales offices; some government offices; medical and dental clinics, labs, or urgent care facilities; veterinarians and animal hospitals; and blood collection facilities.~~

**(b) Industrial Office: Software and internet content development and publishing; computer systems design and programming; graphic and industrial design; engineers; architects; telecommunication service providers; data processing; television, video, radio, and internet studios and broadcasting; scientific and technical services; and medical and dental labs, and similar uses with similar impacts.**

**(34) *Exceptions.***

(a) Offices that are part of and located with a firm in another category are considered accessory to the firm's primary activity. Headquarters offices, when in conjunction with or adjacent to a primary use in another category, are considered part of the other use category.

(b) Contractors and others who perform services off site are included in the Office category if equipment and materials are not stored on the site and fabrication, services, or similar work is not carried on at the site. Otherwise, contractor offices are included in the Contractors and Industrial Services category.

*Staff Comments: Breweries and wineries are often stand-alone industries without a restaurant or retail component. They are classified under Manufacturing and Small-scale Manufacturing and are being removed from this use category.*

**22.155 Taverns, Bars, Brewpubseries, Nightclubs**

(1) A business or part of a business that sells alcoholic beverages to be consumed on the premises, and which prohibits minors for a portion of the operating hours per Oregon Administrative Rules (845-006-0340) as established by the Oregon Liquor Control Commission. Businesses may also provide entertainment. [Ord. 5472, 7/14/10]

(2) *Use Examples.* Types of uses include, but are not limited to: taverns, bars, sports bars, ~~breweries, brewery pubs, wineries,~~ night clubs, and businesses that ~~offer both a restaurant area open to all ages and/or an area~~ **have hours of operation or space within the business** restricted to minors.

(3) *Exceptions.* Beverage **and/or food** sales at events and entertainment centers are accessory uses to the primary use ~~type~~.

**22.350 Kennels**

*Staff Comments: The Planning Commission's discussion about uses allowed as home businesses included discussion about kennels. Kennels are their own "use category" and require Conditional Use review and approval in most residential zones. The Planning Commission asked whether "adult domestic animals" in the Kennel use category description referred to dogs only and asked that "adult" be clarified. The Municipal Code uses 6 months to determine when an animal is an adult so that is proposed here. Staff recommends retaining "domestic animals" since other animals are boarded at Kennels.*

New language is in **bold**; deleted text is shown ~~struck through~~; and *staff comments are in blue italics*.

- (1) Kennels provide overnight boarding, training or breeding of three or more ~~dogs and/or~~ **other** domestic animals **older than six months** typically for compensation.
- (2) *Exceptions.*
  - (a) Veterinary hospitals or clinics that keep animals overnight are classified as Offices.
  - (b) Small animal daycare or training facilities that do not provide overnight care are classified as Personal Services under the Retail Sales and Services use category.

22.400 Definitions.

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



New language is in **bold**; deleted text is shown ~~struck through~~; and *staff comments are in blue italics*.

## ARTICLE 13 SIGNS

*Staff Comment: The BRTF suggested revising the temporary sign allowances and staff suggested revisions to the standards to allow for more signage and to clarify existing standards.*

### ISSUE J: Sign Allowances are too limiting and confusing to calculate.

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

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

- General Provisions
- Review Procedures
- General Sign Regulations
- Standards by Sign District
- Standards by Sign Type
- Standards by Special Sign Function
- Variances
- Nonconforming Signs

### GENERAL PROVISIONS

13.110 Purpose. To help implement the Comprehensive Plan, provide equitable methods of business identification, reduce signage conflicts, promote traffic and pedestrian safety, increase the aesthetic value and economic viability of the City, all by classifying and regulating the location, size, design, type and number of signs and related matters.

13.120 Definitions. The following definitions are in addition to those of Article 22 that shall be used in combination for purposes of this article. When there is duplication, the definitions of this article shall be used.

A-frame sign: See portable sign.

Alteration: Any change in the size, shape, method of illumination, sign face, position, location, construction, or supporting structure of a sign.

Area: The area of a sign shall be the entire area within any type of perimeter or border that encloses the outer limits of any writing, representation, emblem, figure, or character. The area of the sign having no such perimeter or border shall be computed by enclosing the entire area within a parallelogram or a triangle of the smallest size sufficient to cover the entire area of the sign and computing the area of the parallelogram or a triangle. For the purpose of computing the number of signs, all writing included within such a border shall be considered one sign.

Awning: A shelter supported entirely from the exterior wall of a building and composed of non-rigid materials except for the supporting framework.

Building Face: The single wall surface of a building facing a given direction.

Building Frontage: The portion of the building face most closely in alignment with an adjacent right-of-way **or alley** or fronting a parking lot when so defined as allowed in this article.

Building Official: The officer or other designated authority charged with the administration and

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enforcement of this Code or his/her duly authorized representative.

Bulletin Display: Two poster panels side by side on the same structure.

Business: Any commercial or industrial enterprise.

Changeable Copy Sign: A sign that contains numbers, letters or symbols that are designed to be moved, interchanged, or replaced (i.e., reader board). Sign area denoting price is also considered changeable copy.

Changing Electronic Message Sign: A sign or portion thereof that displays electronic, non-pictorial, text information in which each alphanumeric character, graphic, or symbol is defined by elements using different combinations of light emitting diodes (LED's), fiber optics, light bulbs or other illumination devices within the display area. Changing electronic message signs include computer programmable microprocessor controlled electronic displays. [Ord. 5794, 11/7/12]

Construct: Build, erect, attach, hang, place, suspend, paint in new or different word, affix, or otherwise bring into being.

Construction Project Sign: A sign erected in conjunction with construction projects and used to inform the public of the architects, engineers and construction organizations participating in the project and/or indicating "future home of" information.

Direct Illumination: A source of illumination on the surface of a sign or from within a sign.

Double Face Sign: A sign with advertising on two surfaces back to back, with the angle between the two sides less than 25 degrees.

**Facade: A façade is an exterior side of a building.**

Fence Sign: A sign attached to or painted on a fence.

Finish Ground Level: The average elevation of the ground (excluding mounds or berms, etc. located only in the immediate area of the sign) adjoining the structure or building upon which the sign is erected, or the curb height of the closest street, whichever is the lowest.

Flashing Sign: A sign any part of which pulsates or blinks on and off, except time and temperature signs and message centers allowed by conditional use.

Freestanding Sign: A sign supported by one or more uprights, poles or braces placed in or upon the ground, or a sign supported by any structure primarily for the display and support of the sign.

Freeway Interchange Area: An area zoned CC, RC, LI, or TD area within a 1500 foot radius measured from the center intersection point of Interstate 5 and Knox Butte Road and Santiam Highway, or within a 70-foot strip along the east boundary of the I-5 right-of-way, as shown in Figure 1. (Ord. 5281, 3/26/97)

Frontage: See Building Frontage or Street Frontage.

Garage Sale Sign: A sign advertising garage sales or similar non-regular sales operated out of a residence.

Gas Station Price Sign: A changeable copy sign for the single purpose of advertising gasoline prices.

New language is in **bold**; deleted text is shown ~~struck through~~; and *staff comments are in blue italics*.

Historical Markers: Signs erected or maintained by public authority or by a recognized historical society or organization identifying sites, buildings, districts, or structures of recognized historical value.

Home Occupation Sign: A sign used in conjunction with a home occupation as established in Section 3.100(3).

Indirect Illumination: A source of illumination directed toward such sign so that the beam of light falls upon the exterior surface of the sign.

Industrial Park Area: Those industrial properties with three or more business tenants as occupants of the property or that share a common off-street parking area, whether or not the businesses, buildings, or land are under common ownership.

Integrated Business Center: A group of two or more businesses **or industries** that are planned or designed as a center, or share a common off-street parking area or access, whether or not the businesses, buildings, or land are under common ownership.

Joint Use Sign: When two or more businesses combine their principal signs into one freestanding sign for each common frontage of such business or for each frontage for an integrated **business shopping** center in which such businesses are located.

~~Major Integrated Center: A commercial development having at least two anchor stores or major tenants, each containing a minimum of 40,000 square feet in gross floor area.~~

**Major Tenant: A tenant occupying a minimum of 40,000 square feet in gross floor area.**

Mansard Roof: A roof with two 2 slopes on all sides, the lower slope being nearly vertical and the upper nearly horizontal.

Marquee: A permanent roofed structure attached to and supported by the building and projecting over public property that is constructed for purposes other than signage.

~~Minor Integrated Center: A commercial development with more than one tenant space that does not meet the minimum standards for Major Integrated Center.~~

Mural: A graphic illustration or artful presentation which is painted or otherwise applied without projections to an outside wall of a structure.

Name Plate: A sign identifying a name, street address, occupation and/or profession of the occupant of the premises.

Nonconforming Sign: Any sign that lawfully exists prior to the effective date of this article but, which due to the requirements adopted herein, no longer complies with the height, area, and placement regulations or other provisions of this title.

Off-Premises Directional Sign: A directional sign that displays only the name, logo, and/or address of a business or other use and a directional indicator and is located on another's property.

Opening Banner: A banner announcing the opening of a new business ("Grand Opening" or words to that effect).

New language is in **bold**; deleted text is shown ~~struck through~~; and *staff comments are in blue italics*.

Portable Sign: A sign that is not permanently affixed to a building, structure, or the ground that is designed to be moved from place to place. Real estate signs conforming to Section 13.320(10) and garage sale signs conforming to Section 13.320(2) are excluded from this definition.] Portable signs (not limited to A-frame signs) primarily include signs attached to wood or metal frames designed to be self-supporting and movable.

Projecting Signs: A sign projecting more than 12 inches from a structure and meeting the standards of Section 13.530.

Public Safety and Convenience Sign: Sign designed primarily to be read by a person on the premises and used only to identify and locate an office, entrance, exit, telephone, and similar place, service, or route.

Real Estate Sign: A sign for the purpose of rent, lease, sale, etc. of real property, building opportunities, or building space.

Roof Line: Either the eave of the roof or the top of the parapet, at the exterior wall. (A “mansard roof” is below the top of a parapet and is considered a wall for sign purposes.)

Roof Sign: A sign or any portion of which is displayed above the roof line.

Rotating/Revolving Sign: A sign all of or a portion of which moves in some manner.

Sandwich Board Sign: A two-sided portable sign designed to fold flat. **Also called an A-frame sign.** See also portable sign.

Sign: Any writing (including letter, word, or numeral); pictorial presentation (including illustration or decoration); emblem (including device, symbol or trademark); flag (including banner or pennant); or any other device figure or similar thing which is a structure or any part thereof, or is attached to, painted on, or in any other manner represented on a building or structure or device; and is used to announce, direct attention to, or advertise; and is visible from any public right-of-way.

Sign Height: The distance from the finished ground level, to the top of the sign or the highest portion of the sign structure or frame, whichever is greater.

Single Face Sign: A sign with a display on only one surface of a sign structure.

Special Event Sign: A sign advertising or pertaining to any special event taking place within Linn or Benton Counties.

Static Display: A sign capable of displaying words, symbols, figures or images that can be electronically or mechanically changed by remote or automatic means where messages change with no transition. [Ord. 5794, 11/7/12]

Street Frontage: That portion of a property that abuts a paved street right-of-way and measured by the lineal distance of the property adjacent to such right-of-way. **Street frontage excludes that portion of a property that abuts an alley.**

Temporary Signs: **Signs not permanently attached to a building, structure or the ground, which are to be used for a limited period of time. Temporary signs include, but are not limited to: real estate signs, construction project signs, banners, A-frame, inflatable displays, feather signs, pennants and special event signs.**

New language is in **bold**; deleted text is shown ~~struck through~~; and *staff comments are in blue italics*.

Transition: A visual effect used on an electronic message display to change from one message to another. [Ord. 5794, 11/7/12]

Wall Sign: A sign attached to, erected against or painted on a wall of a building or structure, with the exposed face of the sign in a plane approximately parallel to the face of said wall and not projecting more than 12 inches. A sign painted on an awning in which the face of the sign is approximately parallel to and within 3.5 feet of the wall shall also be considered a wall sign.

Window Sign: A sign outside or inside a window that is designed and placed so as to be read by people from a public right-of-way, excluding open and closed and/or business hours signs. [Ord. 5445, 4/12/00]

## REVIEW PROCEDURES

- 13.210 Permit Needed. Except as specifically excluded herein, no property owner, lessee, contractor, or other person shall display or cause to be displayed any sign requiring a permit as set forth in this Code, except for maintenance of signs that conform with this ordinance, without first obtaining from the Building Official a written permit to do so, paying the fees prescribed therefore, and otherwise complying with all of the applicable provisions of this ordinance. If a governmental agency requires the relocation of a sign, the fee described above shall be waived.
- 13.211 Approval of Permits. Unless otherwise authorized by this ordinance, no permit shall be issued for any new sign within the city until such sign is reviewed and approved by the Building Official or his designee. When a sign is to be located on a lot occupied by a structure listed on the official city historic inventory, then the sign shall be considered an exterior alteration subject to the provisions of Article 7.
- 13.212 Permit Fees. The permit fees shall be established by Council resolution. If a sign is installed without a permit and the sign conforms to all other provisions of this ordinance, a double fee shall be collected. Other signs installed without permits shall subject the persons responsible to any and all penalties provided by this Code.
- 13.213 Application Requirements. An application for a sign permit shall be made on a form prescribed by the Building Official and shall be filed with the Building Division. The application shall include, at a minimum, a sketch drawn to scale indicating the proposed sign and identifying existing signs on the premises, the sign's location, graphic design, structural and mechanical design and engineering data which ensures its structural stability. The application shall also contain the names and addresses of the sign company, person authorizing erection of the sign and the owner of the subject property.
- 13.214 Permit Issued if Application in Order. It shall be the duty of the Building Official, upon the filing of an application for a sign permit, to examine such plans and specifications and other data and the premises upon which it is proposed to erect the sign, and if it shall appear that the proposed sign is in compliance with all the requirements of this ordinance and all other laws and ordinances of the City of Albany, he/she shall then issue the sign permit.
- 13.215 Enforcement. In addition to the enforcement criteria set forth in Section 1.110 through 1.190 of the Development Code and Chapter 1.04 of the Municipal Code, the following provision applies:

Enforcement shall be as set forth in Section 1.110 through 1.190 of the Development Code and Chapter 1.04 of the Municipal Code. Unsafe signs, abandoned signs, signs erected without a permit, and nonconforming signs past the conformance deadline may be subject to the abatement procedure listed under Title 18 of the Albany Municipal Code (AMC), Dangerous Buildings, Structures and Premises, in addition to the other remedies set forth in this Code.

## GENERAL SIGN REGULATIONS

- 13.310 Standard Sign Exemptions. No permit is necessary before placing, constructing, or erecting the following signs:
- (1) Governmental street signs, such as traffic signs or informational and directional signs as may be authorized by the City.
  - (2) Signs of public utility companies indicating danger, or that serve as an aid to public safety, or that show the location of underground facilities or of public telephones.
  - (3) Signs that are not meant to be visible off-site, such as signs in a stadium that are visible only to patrons, and signs on the interior of a mall or building not visible from a public right-of-way.
  - (4) Official or legal signs which are erected by public officers performing official duties including those erected pursuant to law, administrative order, or court order.
- 13.320 Conditional Sign Exemptions. No permit is necessary before placing, altering, constructing or erecting the following signs as long as the applicable standards have been met:
- (1) Construction Project Signs. ~~One sign not to exceed 64 square feet per frontage, and two signs per project shall be the maximum allowed.~~ **Construction project signs are allowed only during the period of project construction. The maximum height for freestanding construction project signs is 10 feet.** *Staff Comment: The limitation on the number and square footage of construction signs is removed. These signs are usually banners located along a perimeter fence, but in the event a freestanding sign is used, the height is limited to 10 feet. These signs are allowed only during the period of constructing the project.*
  - (2) Garage, Yard and Other Temporary Residential Sales. Shall not exceed 4 square feet per face and 4 feet in height. Such signs shall not be erected prior to one week before this event and shall be removed no later than the day after the event, or no more than a total of 15 consecutive days for extended sales. ~~Not more than two on premises and two off premises directional signs shall be allowed.~~ They shall not be placed in the public right-of-way or vision clearance areas and must be posted with the property owner's permission. *Staff Comment: More signs are typically used in these circumstances so the limit on the number of signs is removed.*
  - (3) Historical Markers. As defined.
  - (4) Home Occupation Signs. One sign not larger than 12 inches by 18 inches may be placed in a window or attached to the building.
  - (5) House and Building Numbers. Individual characters shall not be less than 3 inches tall nor exceed 12 inches in width or height.
  - (6) Nameplate. One nameplate, not exceeding 2 square feet total shall be allowed for each occupant; the nameplate shall be affixed to the building wall.
  - (7) Search Lights. Search lights may be permitted if they are part of an opening or promotional event as allowed in Section 13.680, but no business shall utilize search lights more than 5 days in duration or 15 days total in any calendar year.

New language is in **bold**; deleted text is shown ~~struck through~~; and *staff comments are in blue italics*.

- (8) Permanent Building Plaques. One sign per building frontage with a combined size of 4 square feet or less, which may only indicate the building name and date of construction and be affixed to the building wall.
- (9) Political Signs. Signs shall be erected and maintained entirely on private property with the consent of the occupant of the premises, and be limited to an area of 4 square feet per face in a residential zone and 8 square feet per face in a commercial or industrial zone and a maximum dimension or height of 3 feet in a residential zone and 5 feet in a commercial or industrial zone. Billboards are excluded from this provision. No signs shall be erected or maintained on utility poles or upon trees, rocks or other natural features. Signs shall not be erected prior to 45 days from the date the ballots are mailed to the general public, and shall be removed within 7 days after the election. Violation of this ordinance shall result in enforcement procedures against the candidate or property owner. [Ord. 5768, 12/7/11]
- (10) Real Estate Signs. Signs shall conform to the following restrictions:
- (a) Commercial and Industrial Zones. In commercial and industrial zones, real estate signs shall conform to all restrictions (such as number and size) applicable to that zone, except that no sign shall exceed 100 square feet in area per face and 10 feet in height. If a developed property meets or exceeds the maximum signage allowed, then one additional wall sign per frontage shall be allowed not exceeding 10 percent of the wall face area.
- (b) Residential Zones. When single-family, duplexes, or multi-family units are for rent, lease, or sale, the following regulations apply:
1. The owner or the owner's authorized representative may erect one sign per frontage with a maximum of two signs per lot.
  2. Up to two directional signs may be erected off premises with the property owner's permission, but no more than one off-premises sign may be located on any tax lot.
  3. Signs shall not exceed 6 square feet per face.
  4. A-frame signs are allowed if they do not exceed 4 square feet per face and shall be removed at dusk and not replaced before sunrise.
  5. For placement in a city right-of-way, a right-of-way use permit is required (per AMC 13.33).
- (c) Subdivisions. Subdivisions involving more than three contiguous lots shall be allowed advertising signs subject to the following restrictions:
1. Signs shall be limited to one double-faced sign of 32 square feet per face, placed at a right angle to the street, or two 24 square foot signs facing the street. Such signs shall be at least 700 feet apart and shall not exceed a height of 8 feet.
  2. Signs shall be placed within the subject subdivision.
  3. Signs shall be removed at the end of 2 years, or when 90 percent of the subdivision lots contain a completed structure, whichever occurs first. (For permanent neighborhood marker signs, see Section 13.610.)
- (11) Directional, Public Safety and Convenience. Signs that are for public safety and convenience such as parking directional signs, store hours, open/closed, credit card acceptance, restroom facilities, and taxi signs - when attached to a building, etc. shall be located and sized commensurate with their function but shall not exceed 8 square feet per face per sign. **The maximum height for freestanding directional/public safety/convenience signs is 3 feet.** ~~No more than 50 percent of the sign area can be a business identification or logo.~~ All signs must be placed outside of any vision clearance area. *Staff Comment: Deleted 50% limitation on logos*

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*because it is an unnecessary restriction, added "Directional" for clarification and added a 3' height limit if these signs are freestanding.*

- (12) Window Sign. Product advertising signs inside a window are allowed without regard to other aggregate or number sign restrictions. Window signs shall not obscure more than 50 percent of any individual window.
- (13) Seasonal Sign. Seasonal sales signs for temporary businesses such as Christmas tree sales and fireworks booths shall be allowed as follows:
- (a) One sign per frontage.
  - (b) Sign area can be no greater than 32 square feet.
  - (c) Signs can be displayed only for the following periods:
    1. For Christmas related signs, day after Thanksgiving to January 4th.
    2. For Fourth of July related signs, from June 15 to July 6.
    3. For Easter related signs, from 15 days before Easter to 5 days after.
    4. Other seasonal sign time limits may be determined by the Building Official, but shall not exceed 30 days.
  - (d) Seasonal murals shall be allowed subject to the time limits above.
- (14) Awning or Marquee. A sign located on the valance or bottom vertical 12 inches of the awning or on the face or vertical edge of a marquee and advertising only the name of the business.
- (15) Alteration of Sign Faces or Change in Copy Information. Provided that the sign structure is in conformance with all other provisions of this Article and the subject use has received all required development permits, only structural modifications or enlargements shall be subject to sign permit requirements. See 13.811 for copy changes to nonconforming signs.
- (16) [Repealed by Ord. 5768, 12/7/11]

13.330 Prohibited Signs. The following signs are prohibited and may not be placed within the City of Albany:

- (1) Obstructing Signs. A sign or sign structure that is attached to or placed against a building or other structure in such a manner as to prevent or inhibit ingress or egress through any door or window required or designated for access to any building or that is attached to or obstructs a fire escape, exit, or standpipe.
- (2) Portable Sign. Except as allowed in Section 13.320(10) (Real Estate Signs), Section 13.320(2) (Garage Sale Signs), Section 13.680 (~~Temporary Business Signs Promotional Displays~~), **Section 13.685 (Temporary Event Signs)**, and those signs allowed as per Albany Municipal Code Chapter 13.33.
- (3) Obscene Sign. It shall be unlawful for any person to display upon any sign any obscene, indecent, or immoral matter.
- (4) Roof Signs. A sign or any portion of which is displayed above the roof line.
- (5) Flashing, Animated, Rotating or Revolving Signs, or signs that glare, change color more than three times per minute, reflect, blink, or appear to do any of the above except for clocks,



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approved time and temperature signs, and barber poles not more than 4 feet long and 1 foot in diameter.

- (6) Signs in vision clearance areas as defined in Section 12.180, except for Public Safety and Convenience Signs approved under a site plan review procedure and sign poles that meet the standards of Section 12.180.
- (7) Pennants, streamers, festoon lights and other similar devices with parts intended to be moved by the wind except as allowed in Section 13.680.
- (8) Signs attached to any tree or public utility pole, other than warning signs issued by public utilities.
- (9) Signs using bare-bulb illumination or lit so that the immediate source of light is exposed to direct view from a public street or highway. This is not intended to prohibit the use of neon as a source of illumination.
- (10) Signs using flame as a source of light.
- (11) Any sign that purports to be or is an imitation of or resembles an official traffic sign or signal, or that bears the words "STOP, GO, SLOW, CAUTION, DANGER, WARNING," or similar words, when used in a manner resembling an official traffic sign.
- (12) Any sign, which by reason of its size, location, movement, content, coloring or manner of illumination may be confused with or construed as a traffic control device, or that hides from view any traffic sign or signal.
- (13) Inflatable signs containing advertising or logos except for promotional purposes as allowed per Section 13.680.
- (14) Changeable copy signs that take up more than 50 percent of the sign face except for theaters, churches, and service station price signs.
- (15) Any sign placed on the roof of a marquee.
- (16) Any sign or portion thereof erected within future street right-of-way as depicted in the Transportation System Plan as amended, unless and until an agreement is recorded stipulating that the sign will be removed or relocated upon street widening at no expense to the City.
- (17) Signs placed to be viewed primarily from the freeway except for those signs allowed under Section 13.440.
- (18) Signs in the public right-of-way except as listed in Section 13.310 **13.670, 13.680(6)** or Albany Municipal Code Chapter 13.33 (Temporary Right-of-Way Use Permits). [Ord. 5768, 12/7/11]

13.340 Abandoned Signs. Signs existing beyond 60 days or sign structures existing beyond 12 months from when a bona fide business is no longer conducted or a product sold shall be taken down and removed by the owner, agent or person having the beneficial use of the building or structure upon which such sign may be found.

13.350 Construction Standards. All signs shall be designed and constructed to meet the requirements of the State of Oregon Structural Specialty Code. Any electrical apparatus used in connection with a sign must be covered by an electrical permit. The amperage and voltage of such apparatus must be

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permanently affixed to the sign.

13.360 Maintenance of Signs. All signs, together with all of their supports, braces, guys and anchors, shall be kept in good repair and be maintained in a safe, neat, clean and attractive condition, free from rust, corrosion, peeling paint or other surface deterioration.

*Staff Comment: Combined Pedestrian Areas with Commercial and Industrial Areas to reduce redundancy and provide clarity.*

#### **SIGN STANDARDS BY SIGN ZONING DISTRICT**

##### PEDESTRIAN AREAS

~~13.411 District Areas. The Pedestrian Area shall consist of the CB (Central Business), HD (Historic Downtown), MUC (Mixed Use Commercial), and LE (Lyon Ellsworth) zones. [Ord. 5446, 5/10/00; Ord. 5556, 2/21/03]~~

~~13.412 Aggregate Sign Restrictions. The total number and area of signs in pedestrian areas shall conform to the following:~~

- ~~———— (1) ——— The aggregate number of signs allowed for each business shall be no more than two signs for each building frontage.~~
- ~~———— (2) ——— The aggregate area of all signs per building frontage, except for exclusive use of wall signs in Section 13.413(2), shall not exceed an area equal to one square foot for each lineal foot of building frontage with a minimum aggregate area restriction of 30 square feet and a maximum aggregate area of 120 square feet.~~
- ~~———— (3) ——— As an option to the above, when a customer entrance/exit is used by a group of businesses for access, then each business with frontage can have one wall sign or marquee sign no greater than ½ foot for each foot of the business fronting on the street. In addition, one sign is allowed using the entire building frontage for all businesses located within, which shall not exceed 1 square foot for each 1 foot of lineal frontage.~~
- ~~———— (4) ——— Aggregate area and number provisions do not include nameplates, directional signs, awning and marquee signs as prescribed in Sections 13.320 (3, 5, 6, 8, 11, 12, and 14).~~

~~13.413 Wall Signs. Wall signs in pedestrian areas shall comply with the following provisions:~~

- ~~———— (1) ——— No wall sign shall exceed 60 square feet, unless increased by the following provision.~~
- ~~———— (2) ——— If wall signs are used exclusively, the area allowed shall be calculated at 1.5 square feet for each lineal foot of wall frontage up to a maximum individual sign size of 75 square feet and a maximum aggregate area of 150 square feet.~~

~~13.414 Freestanding Signs. Freestanding signs in pedestrian areas shall comply with the following provisions:~~

- ~~———— (1) ——— Signs shall be no higher than 25 feet.~~
- ~~———— (2) ——— One sign shall be permitted for each lot with a street frontage in excess of 50 lineal feet. Two or more parcels of less than 50 feet may be combined for purposes of meeting the foregoing standard, provided that all businesses are identified on such signs.~~
- ~~———— (3) ——— Signs shall not exceed a total face area of ¾ square feet for each lineal foot of street frontage~~

New language is in **bold**; deleted text is shown ~~struck through~~; and *staff comments are in blue italics*.

~~with a maximum face area of 50 square feet for one face or a total of 100 square feet for two or more faces.~~

- ~~(4) Signs shall be placed on the central 50 percent of the street frontage of the business(es) or 40 feet from any adjacent freestanding sign. Signs on corner properties may be placed near the corner if vision clearance provisions are met.~~

~~13.415 Projecting Signs. Projecting signs in pedestrian areas shall comply with the following provisions:~~

- ~~(1) One sign shall be permitted for each business or group of businesses occupying a single common space or suite instead of a freestanding sign.~~
- ~~(2) Signs shall not exceed an area of 3/4 square feet for each lineal foot of business frontage to which the sign pertains, except that any business may have one projecting sign of 12 square feet per face. The maximum area of any projecting sign shall be 50 square feet per face.~~

#### COMMERCIAL AND INDUSTRIAL AREAS

13.421 ~~Zoning Districts Areas. The commercial and industrial areas shall consist of the~~ **The following sign standards apply to signs in the CB (Central Business), HD (Historic Downtown), MUC (Mixed Use Commercial), LE (Lyon-Ellsworth), OP (Office Professional), NC (Neighborhood Commercial), CC (Community Commercial), RC (Regional Commercial), MUR (Mixed Use Residential), MS (Main Street), WF (Waterfront), TD (Transit District), ES (Elm Street), PB (Pacific Boulevard), LI (Light Industrial), HI (Heavy Industrial), and IP (Industrial Park) zoning districts.**

#### *Staff Comments:*

- Remove the aggregate total and amend so sign allowances are by type of sign.*
- Wall sign area allowance is allocated for each building frontage based on the length of the building frontage with minimum and maximum area restrictions. Remove restriction on the number of wall signs and the limit of 12% of wall area because it is unnecessary if sign area is based on the length of building frontage.*
- After receiving a public concern about the formula for wall signs, staff reviewed the calculations and believes that the formula for determining the area of wall signs should be 1.5 square feet (rather than 1 square feet) for each lineal foot of building frontage in all zones except the downtown pedestrian and historic area zones - CB, HD, LE, and MUR. This change is shown in yellow highlight.*

13.422 ~~Wall Signs Aggregate Sign Restrictions. The total number and area of wall signs in commercial and industrial areas shall conform to the following:~~

- ~~(1) The aggregate number of signs allowed for each property shall be two signs for each frontage.~~
- (12) **Wall Sign Area**. The aggregate area of all wall signs for each ~~street~~ **building** frontage shall not exceed an area equal to **1-1/2** square feet for each lineal foot of ~~street~~ **building** frontage to which the sign pertains, **except in the CB, HD, LE, and MUR zones the area shall be one square foot for each lineal foot of building frontage.** ~~However,~~ In addition, aggregate wall sign area shall be subject to the following minimum and maximum ranges **for each building frontage:**

#### *Staff Comments: the size allowances are increased and amended to be divisible by 4.*

- (a) For CC, RC, PB, LI, HI, and IP zones, the minimum is **48** ~~45~~ square feet, maximum is 200 square feet. [Ord. 5555, 2/7/03]
- (b) For NC, MS, MUCR and WF zones, the minimum is **32** ~~35~~ square feet, maximum is **160** ~~150~~ square feet.
- (c) **For CB and HD zones the minimum is 32 square feet, maximum is 120 square feet.**
- (de) For **LE, MUR, OP, ES and TD** zones the minimum is **32** ~~24~~ square feet, maximum is **80** ~~50~~ square feet. [Ord. 5446, 5/10/00]
- (2) Aggregate area provisions do not include nameplates, directional signs, awning and marquee signs as prescribed in Sections 13.320 (3, 5, 6, 8, 11, 12, and 14).

New language is in **bold**; deleted text is shown ~~struck through~~; and *staff comments are in blue italics*.

~~13.423 **Wall Signs.** Wall signs in commercial and industrial areas shall comply with the following provisions:~~

~~(1) No wall sign shall exceed 100 square feet except as noted below.~~

~~(2) If wall signs are used exclusively, the area allowed shall be calculated at 2 square feet for each lineal foot of street frontage up to a maximum individual size of 125 square feet and a maximum aggregate area of 250 square feet in the CC, RC, LI, HI, PB, and IP zones; 180 square feet in the NC, MUR, WF and MS zones; and 75 square feet in the OP, ES and TD zones. [Ord. 5446, 5/10/00, Ord. 5555, 2/7/03]~~

13.424 **Freestanding Signs.** Freestanding signs in commercial and industrial areas shall comply with the following provisions:

(1) **Height.** Signs shall be no higher than 30 feet in the PB, CC, RC, LI and HI zones, ~~In the 25 feet in the MUC zone, and 15 feet in the CB, HD, LE, MUR, WF, MS, ES, TD, NC, OP, and IP zones. signs shall be no higher than 15 feet.~~ Signs located within the freeway interchange area may be higher per Section 13.440. [Ord. 5555, 2/7/03]

(2) **Number of Signs.**

(a) **In the CB, HD, LE and MUR zones, one freestanding sign shall be permitted for each lot with a street frontage in excess of 50 lineal feet. Two or more parcels of less than 50 feet may be combined for purposes of meeting this standard, with the approval of all affected property owners.** *Staff Comment: This standard is brought over from ADC 13.414(2).*

(b) **In all other zones listed in Section 13.421, One freestanding sign shall be permitted for each lot with a street frontage in excess of 75 lineal feet. Two or more parcels less than 75 feet may be combined for purposes of meeting this standard with the approval of all affected property owners.**

(3) **Sign Area.** Signs shall not exceed a total face area of 3/4 square feet for each lineal foot of street frontage with a maximum area of 160 square feet per face in the PB, CC, RC, LI, HI, and IP zones, 120 square feet in the MUCR, WF, MS and NC zones and **50 40** square feet in the **CB, HD, LE, MUR, ES, TD and OP zones.** In all cases a minimum allowance of 20 square feet is guaranteed. [Ord. 5555, 2/7/03]

(4) **Location.** Signs ~~for interior businesses~~ shall be placed on the central  ~~fifty~~ **50** percent of the street frontage of the business(es) or **50 60** feet from any adjacent freestanding sign. Signs on corner properties may be placed near the corner if vision clearance provisions are met. [Ord. 5446, 5/10/00]

13.425 **Projecting Signs.** Projecting signs in commercial and industrial areas shall comply with the following provisions:

(1) **Number of Signs.** One **projecting** sign shall be permitted for each business or group of businesses occupying a single common space or suite in lieu of a freestanding sign.

(2) **Area.** Signs shall not exceed an area of 3/4 square feet for each lineal foot of business frontage to which the sign pertains.

(a) In the CB, HD, LE and MUR zones, the maximum area of any projecting sign shall be 50 square feet per face with a minimum allowance of 12 square feet. *Staff Comment: This standard is brought over from ADC 13.415(2).*

New language is in **bold**; deleted text is shown ~~struck through~~; and *staff comments are in blue italics*.

- (b) **In all other non-residential zones**, ~~the~~ maximum area of any projecting sign shall be 80 square feet per face with a minimum allowance of 20 square feet.

*Staff Comment: Major and Minor Integrated Centers sections were combined to reduce redundancy and to provide clarity.*

#### **INTEGRATED BUSINESS CENTERS ~~OR AND INDUSTRIAL PARK AREAS~~**

- 13.430 **Application:** The following standards apply to integrated business centers, which are a group of two or more businesses or industries that are planned or designed as a center, or share a common off-street parking area or access, whether or not the businesses, buildings, or land are under common ownership. ~~General Provisions. The allowed number and square footage of integrated center signs is determined by the size and characteristics of the center. Centers having at least two anchor stores or major tenants, each containing a minimum of 40,000 square feet in gross floor area, are regulated under Major Integrated Centers. Those centers not meeting the minimum standards above are covered under Minor Integrated Centers.~~

#### MINOR INTEGRATED CENTERS

- 13.431 ~~Overall Identity Sign~~ **Joint Use Sign.** When two or more businesses combine their freestanding signs into one sign the following standards apply:

- (1) **One freestanding, joint use sign per street frontage that has a customer entrance is allowed.** *Staff Comment: This standard is brought up from ADC 13.434.*
- (2) The ~~overall identity or~~ joint use sign must comply with Section 13.424, except that a bonus to the maximum size provisions is allowed **in the PB, CC, RC, LI, HI, and IP zones** so that the maximum area is 200 square feet per face and the minimum allowance is 60 square feet.
- (32) In lieu of (24) above, integrated businesses **centers** that utilize overall business center identity signs that are less than **8 6** feet tall, may locate one such sign per entrance. Such signs are limited in aggregate area to 200 square feet.
- (43) Properties having two or more frontages, one of which is in excess of 400', are permitted two freestanding **joint use** signs on the long frontage provided that the total combined area does not exceed 200 square feet (on one face); however, no freestanding sign is allowed on the other frontage.
- (4) ~~In determining size restrictions based on frontage, an individual sign size can be any percentage of that allowed so long as the total allowance for all signs is not exceeded.~~ *Staff Comment: Total aggregate area for wall and freestanding signs is being eliminated so this provision is unnecessary and thus deleted.*

- 13.432 Individual Businesses.

- (1) **Wall Signs.** ~~The Wall signs area is shall be limited to the provisions of Section 13.422, except a major tenant occupying a minimum of 40,000 square feet in gross floor area is allowed a bonus to the maximum size provisions in the PB, CC, RC, LI, HI, and IP zones so that the maximum wall sign area is 240 square feet. 13.520, 13.412 and 13.413 for pedestrian areas, and 13.422 and 13.423 for commercial and industrial areas.~~ *Staff Comment: Limitation on the number of signs allowed is deleted.*
- (2) ~~One wall sign per building frontage or parking lot frontage provided that the~~ **Illuminated** wall

New language is in **bold**; deleted text is shown ~~struck through~~; and *staff comments are in blue italics*.

signs adjacent to a ~~the~~ parking lot is **must be** at least 75 feet from a **property line** facing a residential ~~zone~~area.

(32) **Freestanding Signs**. If the business is not represented on the joint use sign, one freestanding monument sign is permitted for use by each freestanding pad building. The sign structure is limited to 8 feet tall measured from ground level and 10 feet in horizontal length. The sign face(s) is/are limited to a maximum area of 32 square feet. ~~If the name of the business is not placed on the overall identity or joint use sign, two wall signs are allowed per frontage. Wall sign area is determined by 13.413(2) for pedestrian areas and 13.423(2) for commercial and industrial areas.~~ *Staff Comment: This section brought over from 13.435 and sign face area is simplified from 4' x 8' to 32 square feet. The original language was deleted because there is no limitation on the number of wall signs, just a square footage allowance, so it is unnecessary.*

(4) **Interior Businesses**. When an individual business does not have frontage on a street or parking lot, the business is allowed a maximum aggregate wall sign area of 16 square feet. *Staff Comment: ADC 13.433 (below) is replaced with the standard listed above. A square footage allowance is provided for interior businesses rather than making their sign allowance dependent upon the remaining signage area; and the requirement that these signs be placed only to near the entrance is eliminated.*

~~13.433 **Special Signs for Interior Businesses**. When an individual business does not have frontage on a street or parking lot, such business or businesses may utilize any remaining signage area, subject to the following restrictions:~~

- ~~(1) — There shall be only one interior business sign per entrance, but multiple business advertising or identification can appear on such sign.~~
- ~~(2) — Such sign shall be located within 30 feet of an entrance open to the public providing access to the business.~~
- ~~(3) — Any interior business shall not use this provision more than twice.~~

13.434 **Business Center Identity Wall Signs**. Business center identity wall signs may be placed over all main entries to the business center and are limited to 130 square feet in size. *Staff Comment: This standard relocated from ADC 13.437(2).*

13.435 **Sign Spacing**. A minimum of 100 feet of spacing is required between freestanding signs. *Staff Comment: This standard relocated from ADC 13.438 and spacing reduced from 200' to 100' because combining major and minor centers.*

#### **MAJOR INTEGRATED CENTERS**

~~13.434 **Overall Identity Sign**. One freestanding, joint use sign per street frontage that has a customer entrance is allowed. This sign is limited to 200 square feet per face and 30 feet tall.~~

~~13.435 **Individual Businesses**.~~

- ~~(1) — If the business is not represented on the integrated center sign, one freestanding monument sign is permitted for use by each freestanding pad building. The sign structure is limited to 6 feet tall measured from ground level and 10 feet in horizontal length. The sign face(s) is/are limited to 4~~

New language is in **bold**; deleted text is shown ~~struck through~~; and *staff comments are in blue italics*.

~~feet tall and 8 feet in horizontal length.~~

~~(2) One wall sign per business per parking lot or street frontage. Allowed sign area is calculated at 1 square foot per lineal foot of building frontage on which the sign will face, with a minimum size of 30 square feet and a maximum area of 60 square feet.~~

~~13.436 Major Store Signs. Each major store with an entrance from a parking area or street is allowed 2 wall signs on each frontage, provided that the building wall is at least 75 feet from a residential district. The aggregate sign area is limited to 3 percent of the gross wall area of the face on which the sign is to be located, or 200 square feet, whichever is less.~~

~~13.437 Mall Entrance and Identity Signs.~~

~~(1) At each mall entrance, each interior business is allowed at least 2 square feet in signage. The maximum entrance sign area allowed is twelve (12) feet. Remote signs for major tenants are allowed if they do not exceed 12 square feet in area, and are in addition to the interior business sign.~~

~~(2) Mall identity wall signs may be placed over all main entries to the mall and are limited to 130 square feet in size. *Staff Comment: Relocated to ADC 13.434.*~~

~~13.438 Sign Spacing. A minimum of 200 feet of spacing is required between freestanding signs. *Staff Comment: Relocated to ADC 13.435.*~~

## **FREEWAY AREA SIGNS**

13.440 General Provisions.

- (1) When an individual business catering to the motoring public traveling on the Interstate 5 Freeway is within the Freeway Interchange Area, as defined and as shown in Figure 1, such business may have one freestanding sign up to 50 feet tall.
- (2) Maximum sign area is limited to 250 square feet for one face, 500 square feet for two or more faces.
- (3) If such sign is erected, it shall be in lieu of and not in addition to the signs permitted by Section 13.422 for such business along the street frontage on which it is located.
- (4) A freeway-oriented sign shall comply with requirements of Section 13.424(2).
- (5) For purposes of this Section, “business catering to motoring public” shall be limited to regional recreational facilities, convention centers, service stations, restaurants, motels, hotels, and recreational vehicle parks. (Ord. 5281, 3/26/97)

New language is in **bold**; deleted text is shown ~~struck through~~; and *staff comments are in blue italics*.

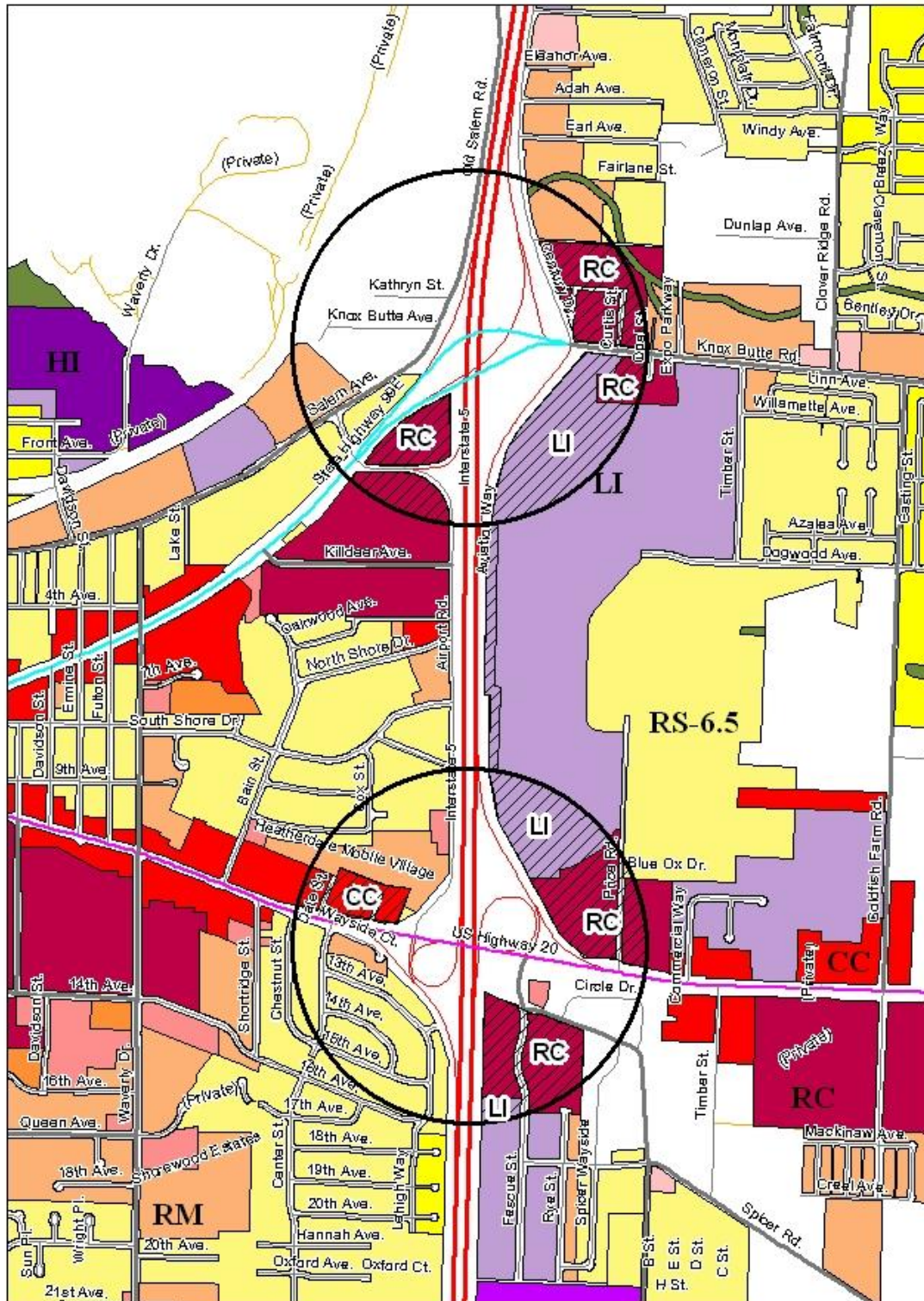


Figure 1: Freeway Interchange Area (Ord. 5281, 3/26/97)



## STANDARDS BY SIGN TYPE

13.510 Freestanding Signs. The following standards apply to all freestanding signs:

- (1) **Supports**. A freestanding sign shall be directly supported by poles or foundation supports in or upon the ground. No external cross-braces, guywires, "T-frames," "A-frames," "trusses," or similar bracing systems shall be used in constructing freestanding signs.
- (2) **Clearance**.
  - (2a) No freestanding sign shall ~~project over public property more than 8 feet or~~ be closer than 2-1/2 feet of the curb line nor over any state highway right-of-way as specified in state law. In the event the street shall be widened or changed in any manner so that the change would result in the projection of a sign to a distance over public property, then the owner of said sign shall remove it and replace it at the expense of the owner. *Staff Comment: Removed the ability to allow freestanding signs to project over public property.*
  - (3b) Freestanding signs shall have a minimum clearance of 15 feet over a driveway or parking area.
  - (4c) Freestanding signs shall have a minimum clearance of 8 feet over a pedestrian walkway or sidewalk.
- (35) **Signs Near Intersections**. When a freestanding sign is located at the corner of two intersecting rights-of-way and placed a distance from the right-of-way corner of less than 50 feet in pedestrian areas and less than 75 feet in other commercial/industrial areas, the sign shall be counted as one sign for each frontage. When a face can be seen from a street, then that face shall count as part of the aggregate area for that street frontage (not to exceed counting one face per frontage). The maximum size allowed for such sign shall be based on the street frontage with the highest average daily traffic count or the average of the two frontages.
- (46) **Signs on Fences**. Fence signs shall be subject to the same size and placement requirements as a wall sign and shall not exceed the height of the fence.

13.520 Wall Signs. The following standards apply to all wall signs:

- (1) **Projection**. No wall sign shall project more than 12 inches beyond the wall to which it is attached.
- (2) **Placement**. No wall sign shall extend above the roof or eave line of the building.
- (3) ~~Wall signs shall not exceed an area of 12 percent of the wall area of the business to which the signs pertain or the total aggregate area for the sign district in which the business is located, whichever is less.~~ *Staff Comment: This standard is deleted because wall sign area is regulated by ADC 13.422 in "Standards by Zoning District."*

13.530 Projecting Signs. The following standards apply to all projecting signs:

- (1) **Placement**. The inner edge of a projecting sign shall not be more than 6 inches from the face of the building.

New language is in **bold**; deleted text is shown ~~struck through~~; and *staff comments are in blue italics*.

- (2) **Clearance.** Projecting signs shall have a minimum clearance of 8 feet over sidewalks, **public right-of-way** or grade and 15 feet over driveways **and alleys**.
- (3) **Projection.** No projecting sign (or other signs) shall project more than 8 feet over public property nor closer than within 2-1/2 feet of the curb line.
- (4) **Signs near intersections.** When a projecting sign is located at the corner of two intersecting rights-of-way and positioned so that each sign face is designed to be read from each adjacent right-of-way, the sign will be counted as one sign for each frontage and the area of each face shall count as part of the aggregate area for each frontage, except that the maximum size of such sign may be based on the street frontage with the highest average daily traffic count.

13.540 **Marquee and Awning Signs.** The following standards apply to all marquee or awning signs:

- (1) Signs suspended from a marquee shall not extend beyond the perimeter of the marquee. Signs attached to the vertical face of the marquee shall not extend above or below the face to which it is attached.
- (2) Signs ~~hanging~~ **suspended** from marquees must be a minimum of 7 feet 6 inches above grade.
- (3) Signs **suspended from marquees that are** 4 square feet or smaller are exempt from sign number and area restrictions; larger signs are treated as projecting signs and subject to all applicable provisions.
- (43) Awning or marquee signs as specified in Section 13.320(14) are exempt from permits and shall not be included in the aggregate area computation nor shall be counted in the total number of signs allowed per frontage.
- (54) **Awning or marquee** Signs not meeting the above criteria shall be considered to be wall signs and shall be regulated by the provisions of ~~Sections 13.413 or Sections 13.4223, depending on the zone.~~

13.550 **Changing Electronic Message Signs.** Signs with a changing electronic message are subject to the provisions of this Article. [Ord. 5446, 5/10/00]

13.560 **Signs for Theaters.** The following standards apply to all theater signs:

- (1) Where a building is built within two feet of a right-of-way line, the theater may elect to use in lieu of all other signs along the same street frontage either signs listed in Paragraphs (2)(a) or (2)(b) below but not both.
- (2) Sizes shall be limited to those regulations of the district in which they are located. For the purpose of limiting the size and number of signs for theaters, advertisements contained within a glass case or frame on the face of the building advertising present or coming attractions shall be considered as signs located within a building and shall not be limited. The theater may elect to use:
  - (a) One projecting sign and one reader board type sign limited to a projection of eight feet over public property but not closer than within 2-1/2 feet of the curb line; or
  - (b) One projecting sign and one sign on each face of a theater marquee.

## STANDARDS BY SPECIAL SIGN FUNCTION

- 13.610 Neighborhood Signs. For subdivisions, multiple-family units (including planned developments), or identified neighborhood areas, 1 single- or double-faced, indirectly lit sign not to exceed 24 square feet for one face or 48 square feet in surface area for 2 or more faces. If the sign is not attached to a building, the sign may be no more than 4 feet tall. The information allowed on the sign shall be limited to the name and address of the development. If the sign pertains to any development request, then the location and design shall be subject to the appropriate review.
- 13.620 Residential Conditional Uses. The following standards apply to signage for all institutional uses allowed conditionally in residential zones and the MUR (Mixed Use Residential) district except the HM (Hackleman Monteith) District:
- (1) When an institutional use is allowed conditionally in a residential zone, the size and placement of a sign may be further restricted as part of conditional use review but shall not exceed 32 square feet per face.
  - (2) One freestanding changing electronic message sign is allowed per use, with a minimum of 100 feet of public street frontage.
  - (3) Sign face shall be perpendicular to adjacent residential uses.
  - (4) Maximum sign height shall not exceed 12 feet, unless minimum clearance standards in Sections 13.510(2)(b) and (c) apply. ~~(3) and (4) apply~~. Under no circumstances shall the sign height exceed 19 feet.
  - (5) The portion of the sign with the changing electronic message shall be turned off between the hours of 9:00 p.m. and 6:00 a.m.
  - (6) The color of the changing electronic message display shall be monochromatic.
  - (7) The duration of the message display shall be not less than 20 seconds and static only.
  - (8) Changing electronic message signs shall not be allowed in residentially-zoned historic districts.  
[Ord. 5794, 11/7/12]
- 13.640 Off-Premises Directional Business Signs.
- (1) Off-premises directional signs shall be allowed only in the CC, CB, RC, and industrial zones.
  - (2) A Type II procedure shall be utilized for the review of Off-Premises Directional Signs. Such Off-Premises Directional Sign shall be approved only when the property owner or business owner can demonstrate that the existing signs allowed under the ordinance fail to relieve an unreasonable hardship and that the hardship can only be relieved by the erection of an off-premises directional sign, and compliance with criteria set forth in Section 13.710.
  - (3) Any permit issued under this Section is non-transferable and the sign may only be used for the purpose for which the permit is granted.
  - (4) Only one off-premises directional business sign shall be allowed per business.
  - (5) The face size of an off-premises directional sign shall not exceed three 3 feet tall or 6 feet in horizontal length.

New language is in **bold**; deleted text is shown ~~struck through~~; and *staff comments are in blue italics*.

- (6) The maximum height of any portion of any off-premises sign structure shall not exceed eleven 11 feet tall from ground level to the top of the structure nor 8 feet in horizontal length.
- (7) Except as provided in Section 13.310(1), all off-premises directional signs must be placed outside of any public rights-of-way and any vision clearance area.
- (8) Where applicable, off-premises signs are subject to state highway permits.

*Staff Comment: Mural section is reformatted only.*

13.650 Murals. Murals that contain advertising material are subject to conditional use permit approval (Article 2) except that the criteria for approval shall be replaced by the criteria below in Section ~~13.650(3)~~**6**. Seasonal murals (such as Christmas window displays), and murals not containing advertising material shall be exempted from this Section.

~~13.652~~—(1) Information Requirement. The applicant requesting ~~the a mural~~ permit shall submit a finished drawing, prepared to scale, of the outside wall, facade, or surface that the applicant proposes to use for said mural, and of the mural that the applicant proposes to place on said outside wall, facade, or surface. The mural shall be colored on the drawing the colors that the applicant proposes to use for the mural, and shall be of sufficient detail to allow for a visualization of the actual appearance of the mural. The drawing shall be available for viewing by the public during the regular business hours at the Planning Department. The permit application shall include a statement as to the type of lighting, if any, that will be used to illuminate the mural during hours of darkness.

~~13.654~~ (2) Specific Standards. The following standards must be met before the application can be reviewed:

- (~~a1~~) All signs relating to the building or structure upon which the mural is to be placed shall be in compliance with the requirements of the Development Code in effect on the date of application. No mural may be placed on any building or structure that includes a nonconforming sign.
- (~~b2~~) Only one wall, facade, or surface of a building or structure may be used for a mural.
- (~~c3~~) A wall, facade, or surface that is used for a mural pertaining to the business on which it is located shall be counted as one sign. A mural, regardless of size, will count as one-half of the total aggregate sign area allowed for the business.
- (~~d4~~) The owner of record of the building or structure on which the proposed mural is to be placed shall, in writing, and in a form satisfactory to the City Attorney, consent to the placing of said mural on the property, and shall agree to restore the wall, facade, or surface upon which the mural is placed to its prior existing condition if and at such time the mural is not maintained by the applicant. The permit application shall include a statement detailing the applicant's plans for the maintenance of the mural.

~~13.654~~ (3) Review Criteria. The mural shall be approved if the following criteria are met:

- (~~a1~~) The placing of the proposed mural at the location selected by the applicant would not constitute a significant traffic safety hazard.
- (~~b2~~) Neither the mural, nor the placement of the mural, would endanger the public health, safety, or general welfare.
- (~~c3~~) Neither the mural, nor the placement of the mural, would be injurious to the use and enjoyment of other property in the immediate vicinity of the proposed location.
- (~~d4~~) Any lettering area which advertises the business or products pertaining to the use or uses within the building shall be limited to one-half that permitted under other signage

New language is in **bold**; deleted text is shown ~~struck through~~; and *staff comments are in blue italics*.

requirements for the building.

~~13.660 Alley Signs. An alley sign shall be limited to a wall sign with total area limited to 6 square feet and should identify the business and shall not be used to advertise products or services. *Staff Comment: Deleted in order to allow signs on alleys.*~~

13.66085 Interior Lot Line Signs. A principal wall sign may be located on the side of a building facing an interior lot line if written consent of the abutting property owner is obtained for the erection of the sign or the sign is 50 feet or more from the abutting property. Sign and area for both the interior lot line sign and street frontage signs shall not exceed that allowed for the street frontage and shall not be in addition thereto.

## TEMPORARY PROMOTIONAL SIGNS OR DISPLAYS

### ISSUE I: Temporary Signs – allowances are not enough – especially for new business starts.

*Staff Comments: The proposed amendments to the temporary sign standards include:*

- *Increase and length of time temporary signs can be displayed from 60 days to 120 days;*
- *Allow one A-frame sign per business per frontage year-round city wide. They are currently limited to 60 days except downtown.*
- *Create a separate category for "event" signs (crab feast, etc.) and allow unlimited number of signs under one event permit; currently each sign requires a permit.*

13.670 Street Banners. No street banner sign shall be erected over public property unless first approved by the Public Works ~~Department Director~~. The action giving approval for such signs may contain any condition(s) which the Public Works ~~Department Director~~ deems necessary to insure safety, proper maintenance, and appearance and removal of such sign when required. No person who places a sign under the provision of this section shall permit the sign to remain in place after the period specified for display has expired.

13.680 Temporary Signs or Displays. **Temporary signs include portable signs, banner signs, A-frame signs, inflatable signs, feather signs and other temporary types of signs or promotional displays. Temporary signs must comply with the following standards, unless permitted in accordance with ADC 13.685, Temporary Event Signs. ~~Temporary Promotional Business Displays~~. Temporary banner signs, A frame signs, and inflatable signs may be used, but are limited to one sign on each street frontage for each separate business. The maximum total number of days for promotional display shall not exceed 60 days in any one calendar year. Each temporary sign requires a separate permit per calendar year that specifies the display dates for the year.**

- (1) **Each business may have a total of two temporary signs at any one time.**
- (2) Each temporary sign ~~requires a separate permit per~~ **must be registered with the Community Development Department each** calendar year that specifies the display dates for the year, **unless otherwise exempt from a sign permit under ADC 13.310 or 13.320.** *Staff comment: Temporary signs only require "registration" vs. requiring a "permit."*
- (3) All temporary signs must **meet the following standards:**
  - (a) **Shall be adequately secured and supported with a base capable of keeping the sign upright in a moderate wind.** ~~be secured;~~
  - (b) May not be located in any public right-of-way, **unless permitted in accordance with Subsection (6), Downtown Parking Assessment District or ADC 13.670, Street Banners.** ~~except as provided below.~~

New language is in **bold**; deleted text is shown ~~struck through~~; and *staff comments are in blue italics*.

- (c) May not be attached to or placed inside a parked vehicle.
  - (d) May not be placed within any vision clearance area as defined in Section 12.180.
  - (e) May not block public entrances.
  - (f) ~~s~~Shall be maintained in a safe, neat, clean and attractive condition.
- (41) Banners and Inflatable Signs. The area of temporary banners shall not exceed 50 square feet in the CB, NC, HD, MUR, WF, MS, LE, ES, TD and OP zones and 75 square feet in all other non-residential zones, or in the case of inflatable signs, 500 cubic feet. Inflatable signs can be no ~~higher~~ **taller** than freestanding signs allowed in the particular zone. **Banners, inflatable signs and displays are allowed up to 120 days per calendar year.**
- (52) A-Frame Signs. **A-frame or similar style of portable signs are subject to the following standards, except for portable signs within the Downtown Parking Assessment District:**
- (a) Any temporary A-frame, sandwich board or similar sign may be no larger than 16 square feet for one face or 32 square feet for two or more faces.
  - (b) ~~If the sign is not attached to a building,~~ The maximum height of the sign may not exceed 4 feet.
  - (c) **A-frame signs shall be spaced at least 10 feet apart.**
  - (d) **There is no limit on the number of display days per calendar year for A-frame signs.**
- (64) Portable Signs within the Downtown Parking Assessment District. **The following standards apply to portable signs within the Downtown Parking Assessment District (a map is located at the end of this Article):** ~~Temporary Displays within the Downtown Parking Assessment District.~~
- (a) One A-frame sign per business is permitted in the right-of-way ~~with an approved sign permit~~ **if the following standards are met:**
    - i. ~~†~~**The sign may not exceed 3 feet in width or 4 feet in height;**
    - ii. ~~For all temporary displays in the Downtown Parking Assessment District,~~ **At least five feet of unobstructed sidewalk shall remain available for pedestrian use;**
    - iii. Displays may not be located within 10 feet of a street or alley intersection.
  - (b) “Open” banner-flags up to **54** feet tall and 2 feet wide are permitted in the right of way with an approved permit. ~~if the design is approved by the Albany Downtown Association.~~
  - (c) There is no limit on the number of display days per calendar year for portable or “open” banner-flags. [Ord. 5446, 5/10/00, Ord. 5768, 12/7/11]
- (73) Pennants, Flags, and Streamers may be used as part of an opening or promotional event up to **120** ~~60~~ **days per calendar year.** ~~Pennants and flags that have no writing and have permanent mounting devices, may be displayed for a longer period of time only upon approval of a conditional use permit.~~ (The American and Oregon flags are exempted from Sign Code regulations.)

New language is in **bold**; deleted text is shown ~~struck through~~; and *staff comments are in blue italics*.

*Staff Comment: This new section 13.685 allows an unlimited number of temporary events signs per event and only "registration" would be required vs. a "permit." Currently each sign requires a permit. Registration would help keep the signs out of the right-of-way and out of vision clearance areas.*

**13.685 Temporary Event Signs. For the purposes of this section, a temporary event is defined as an event held at the Linn County Fair and Expo Center or an event within the City limits that excludes sales or sales promotions unless related to fund-raising for a non-profit organization or institution. Temporary events signs shall meet the following standards:**

- (1) Signs can be displayed no more than 21 days.**
- (2) Signs located off-premises may not exceed 4 square feet in residential zones and 32 square feet in non-residential zones.**
- (3) Unless otherwise authorized under ADC 13.670 or 13.680(6), signs may not be located in the public right-of-way.**
- (4) Signs may not be located within the Clear Vision Area as defined in Section 12.180.**
- (5) Temporary event signs must be registered with the Community Development Department that specifies the display dates for the year. One registration per event is required, regardless of the number of signs that are to be displayed for the event.**

#### VARIANCES

13.710 Variances. Variances to this Article will be processed according to Article 2 (Review Criteria) except that the review criteria of Section 2.500 shall be replaced by the following criteria:

- (1) Granting the variance would not decrease traffic safety nor detrimentally impact any other identified items of public welfare.
- (2) There are unique circumstances or conditions of the lot, building, or traffic pattern such that:
  - (a) The requested variance better implements the purpose of the Article as stated in Section 13.110.
  - (b) Granting the variance compensates for those circumstances in a manner equitable with other property owners and is thus not a special privilege to any one business. The variance requested shall be the minimum necessary to compensate for those conditions and achieve the purpose of this Article.
- (3) The variance would not result in a special advertising advantage in relation to neighboring businesses or businesses of a similar nature. The desire to match standard sign sizes (for example, chain store signs) shall not be listed or considered as a reason for a variance.
- (4) Granting the variance would not obstruct views of other buildings or signs or cover unique architectural features of a building or detract from landscape areas.
- (5) The size, placement, color, and graphics of the proposed sign results in more attractive signage than that allowed under strict interpretation of the Code.

13.711 Variances for Historic Buildings. For buildings listed as primary or secondary on the City's adopted Historic Inventory, a variance can be granted for a sign resembling an original historic sign when a recommendation is made by the Landmarks Advisory Commission or its successor on the entire signage of the structure, and the following criteria are met:

New language is in **bold**; deleted text is shown ~~struck through~~; and *staff comments are in blue italics*.

- (1) The variance criteria of Section 13.710(1), (4) and (5) have been met.
- (2) The sign takes the place of one of the permitted signs. (A variance for more than the permitted number will require full compliance with Section 13.710.)
- (3) All signs on the structure are reviewed as part of the variance, and conditions can be attached regarding all signs on the structure to achieve greater consistency with the overall purpose of this Article.

### **NONCONFORMING SIGNS**

13.810 General Provisions. Nonconforming signs are subject to the following provisions:

- (1) When sign copy is not part of a Site Plan Review application:
  - (a) Only the signs being changed are affected and do not affect the status of other signs that may be nonconforming due to sign area, aggregate area, or number of signs.
  - (b) The aggregate area restrictions shall not be used to decrease the new sign beyond its previous existing size.
- (2) When Site Plan Review is required, total business signage compliance beyond sign copy changes shall be commensurate with the amount of change occurring on the site.
- (3) When sign copy change occurs on a joint use, nonconforming sign structure, then the total signage on the sign structure does not have to comply with sign regulations if:
  - (a) The sign is removed from the sign structure;
  - (b) The sign copy is changed but the individual business meets Code requirements for aggregate sign area and for total number of signs; OR
  - (c) The sign copy is changed but the business receives site plan review approval. Under Site Plan Review, the business may be required to meet Code compliance for aggregate sign area and number of signs as well as other site improvements commensurate with the amount of change occurring on site.
- (4) When a nonconforming sign face is damaged or destroyed by fire, flood, wind, or other calamity or act of God, such sign face may be restored to its original condition provided such work is completed within 60 days of such calamity. However, a sign structure or support mechanisms so damaged shall not be replaced except in conformance with the provisions of this Code.
- (5) The Community Development Director or her/his designee shall authorize an exemption from the conformance requirements when it can be shown that the sign is within 20% of the required size and height limitations of this ordinance.

13.812 Signs for Nonconforming Business in a Residential Zone. Nonconforming business shall be permitted one permanent attached wall sign not exceeding 24 square feet in sign area. No other signs shall be permitted except for pre-existing nonconforming signs for which required permits have been obtained.

13.813 Nonconforming Sign Area. Conforming and/or nonconforming signs in existence at the time of the enactment of this ordinance shall be counted in establishing the permitted area or size of all new signs to be allowed on the property.

13.814 Abatement of Nonconforming Signs. Except as provided within Section 13.816, permanent signs in



existence on the effective date of this ordinance that are not in conformance with the provisions of this ordinance shall be regarded as nonconforming signs and must be removed, altered, or replaced so as to conform within seven years of the effective date of this ordinance. Temporary signs that are not in conformance with the provisions of this ordinance shall be regarded as nonconforming and shall be removed within thirty (30) days of the effective date of this ordinance; provided, however, a change of use or occupation of a site shall require full compliance with the provisions of this ordinance. The Building Official shall notify each owner by certified mail of a nonconforming sign of the conformance deadline at least 2 years prior to such deadline as a public service. Failure to be notified of the deadline shall not relieve the owner of responsibility to conform with this ordinance within the time period herein. Properties annexed to the City after the effective date of this ordinance shall follow the same conformance schedule as defined above. The time for conformance shall be measured from the effective date of annexation rather than the effective date of the ordinance.

13.815 Extension for Conformance.

- (1) The Building Official may authorize an extension of no more than one year when it can be shown that special and unusual circumstances related to a specific piece of property make application of the conformance schedule an undue hardship. This hardship shall not result from the actions of the applicant and shall not merely constitute financial hardship or inconvenience.
- (2) The Building Official shall authorize an exemption from the conformance schedule where it can be shown that the sign is within 20 percent of the required size and height limitations of this ordinance.

13.816 Exemption from Nonconforming Status. An owner of a nonconforming sign in existence on the date of enactment of this ordinance may apply for a determination that the sign qualifies as an historic or significant sign. An owner must make such application within six months of being notified of a nonconforming status. Such exemption of nonconforming status may be made by the Hearings Board through a Type II procedure upon finding that any of the following applicable criteria have been met:

- (1) The sign does not constitute a significant safety hazard due to structural inadequacies or the impact on traffic.
- (2) Due to age, relation to an historic event, or general recognition, the sign has become a recognized Albany landmark.
- (3) For an historic sign exemption, the sign is:
  - (a) Attached to a primary or secondary structure as recognized on the City Historic Survey;
  - (b) The sign adds to the architectural and historic significance of the premises, taking into account the size, location, construction, and lighting of the sign; and
  - (c) A recommendation is received from the Landmarks Advisory Commission giving its recommendation on criteria (a) and (b) above.
- (4) For significant signs, the sign is:
  - (a) Maintained essentially as originally constructed, with sufficient remaining original workmanship and material to serve as instruction in period fabrication; and
  - (b) The sign is associated with significant past trends in structure, materials, and design and is in conformance with generally accepted principles of good design, architecture, and maintenance.



# Community Development Department

333 Broadalbin Street SW, P.O. Box 490  
Albany, OR 97321

Phone: 541-917-7550 Facsimile: 541-917-7598  
[www.cityofalbany.net](http://www.cityofalbany.net)

## STAFF REPORT FINDINGS AND CONCLUSIONS Legislative Development Code Amendments, File: DC-03-13

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<b><u>HEARING BODY</u></b>	CITY COUNCIL
<b><u>HEARING DATE</u></b>	Wednesday, March 12, 2014
<b><u>HEARING TIME</u></b>	7:15 p.m.
<b><u>HEARING LOCATION</u></b>	Council Chambers, Albany City Hall, 333 Broadalbin Street SW

### **EXECUTIVE SUMMARY**

The Albany Development Code (ADC) allows for the Community Development Director to initiate legislative amendments to the ADC. The City has implemented a process to periodically evaluate and adopt changes to the ADC to include both clarifying and policy edits.

The proposed DC-03-13 ordinance includes a package of “business ready” amendments that will promote economic development, redevelopment of existing sites, reduce processing time and allow extensions to approvals, improve the sign standards and clarity of the code, and setting objective standards for home businesses and allowing more home businesses as a conditional use.

The amendments represent more than a year and a half’s worth of work put in by volunteers that served on the “Business Ready Task Force” that included property owners, realtors, the business community, residential neighborhoods, the Planning Commission and City Council.

Public input from the business community and many residents has been positive overall with the exception of amendments to make the home business standards clear and objective. Several home business owners or suppliers provided written comments for the Planning Commission’s consideration prior to the hearing. Two residents testified at the February 3 hearing, one in favor of stricter standards for businesses allowed outright and one in favor of keeping subjective standards. Ordinance Exhibit A includes the Planning Commission’s recommendations to set clear standards but increase the allowances for home business allowed outright.

In summary, the proposed amendments satisfy the goals and policies of the Comprehensive Plan and with the purposes of the Development Code zoning districts while addressing issues that were considered an impediment to economic development.

### **PUBLIC TESTIMONY**

#### **Testimony at the Planning Commission 2/3/14 Hearing:**

**Roy Lavender**, 537 3<sup>rd</sup> Avenue SW; concerns about allowing home businesses outright without neighbor input; if parking is required allow home owners a say; create two levels of home businesses

**Paul Gutoski, PaulyBuilt, Inc.**, 1515 Park Terrace SW; read his letter and submitted information on businesses that started in a garage. (Staff Report Attachment A)

**Patricia Farenbaough**, 2650 Collingwood Street SE; Testified regarding large transmitters being allowed on homes; the large transmitters are not in character with the neighborhood and decrease property values. *Staff Comments: The DC-03-13 package of amendments does not address antenna or ham radio operators.*

Written Testimony Received Prior to the Planning Commission 2/3/14 Hearing: Most of the written testimony received prior to Planning Commission hearing was in regards to the proposed home businesses standards (Attachments B-J). These comments were considered and addressed by the Commission through revisions to the proposed standards that are reflected in the Ordinance Exhibit A.

Staff Report Attachments B-J:

- B. Glenn Guyer, 2350 Marion Street SE; The number of customer vehicles allowed outright for home businesses should be based on the provided parking rather than one size fits all.
- C. John Rochefort, 425 Burkhart Street NE; keep the home business proposal vague.
- D. Paul Gutoski, PaulyBuilt, Inc., 1515 Park Terrace SW; provided numerous concerns regarding the home business amendments.
- E. Marvin France, 328 4<sup>th</sup> Avenue SE; do not restrict free enterprise for home businesses.
- F. Jon Pugmire, 13253 Picard Place in Turner, OR; the proposed amendments to the home business standards are too restrictive and will cause businesses to go out of business.
- G. AEK Huster, 1734 Gibson Hill Way NW; home business owners have limited resource to afford a conditional use fee; limiting activity to enclosed buildings is not feasible; home owners should not get preferential treatment.
- H. Lee Cutsforth, 831 Ridders Lane; concern that a shortened development window on the adjacent property may limit the opportunity for their property to get water and sewer. Concern about maintaining legal access easements across adjacent property when it develops. *Staff Comments: When the property adjacent to 831 Ridders Lane develops, the City will ensure access is maintained to Ridders Lane and will evaluate water and sewer needs of adjacent undeveloped property.*
- I. Scott Lepman, 100 Ferry Street NW; allow the “contractor and industrial services” use category in the Waterfront (WF) zoning district. *Staff Comments: No amendments are proposed regarding this request.*
- J. Nathan Levin, Nathan Levin Co., 2741 19<sup>th</sup> St SE, Salem, Oregon; supports the proposed amendments and increased flexibility to reduce vacancies.

**PLANNING COMMISSION RECOMMENDATION**

After reviewing the staff report and considering public testimony, the Albany Planning Commission, by a vote of 7 – 0, recommends the City Council APPROVE the following Development Code amendments:

- Exhibit A, Home Business related amendments to Articles 3 and 22;
- Exhibit B, Planned Development amendments in Article 11;
- Exhibit C, “Business Ready” amendments to Articles 1, 2, 3, 4, 5, 8, 9, and 22; and
- Exhibit D, Sign Standards in Article 13.

**CITY COUNCIL DECISION OPTIONS**

The City Council may do one of the following:

- 1) Approve the proposed legislative amendments as summarized in the staff report and ordinance exhibits;
- 2) Approve as modified the proposed legislative amendments as summarized in the staff report and ordinance exhibits; or
- 3) Deny the proposed legislative amendments as summarized in the staff report and ordinance exhibits.

The Council may also continue the public hearing to a specified date in order to receive testimony, review modified language, or continue deliberation.

**GENERAL INFORMATION**

DATE OF REPORT: March 5, 2014

FILE: DC-03-13

TYPE OF APPLICATION: Legislative Development Code Amendments (Type IV) to remove challenges and obstacles to development and redevelopment while maintaining neighborhood compatibility; streamline sign code and increase wall sign allowances; set clear and objective standards for home businesses.

REVIEW BODIES: Planning Commission and City Council

STAFF REPORT PREPARED BY: Anne Catlin, Planner III

APPLICANT: Community Development Department, City of Albany

**NOTICE INFORMATION**

The DC-03-13 Ordinance exhibits were posted on the City’s Web site by January 1, 2014. A notice of public hearings and open house (referred to as a “Measure 56” notice) was mailed to all property owners within the City limits on January 3, 2014. The Planning Commission held a work session on the proposed amendments on January 13, 2014. The City held an open house on the proposed amendments on January 14, 2014. City staff presented the proposed amendments to the Chamber of Commerce’s Governmental Affairs subcommittee on January 9, 2014. A Notice of Public Hearings was published in the *Albany Democrat Herald* on January 27, 2014. The DC-03-13 staff report was posted on the City’s Web site on January 27, 2014.

Staff received several inquiries via phone call and counter visits, and eight submissions of written testimony prior to the Planning Commission February 3, 2014 hearing (summarized above and addressed in the staff report findings). Three people testified at the Planning Commission hearing.

**APPEALS**

The City Council decision can be appealed to the Oregon Land Use Board of Appeals by filing a Notice of Intent to Appeal within 21 days of the Council decision.

**STAFF ANALYSIS**

**Development Code Amendments, Planning File DC-03-13**

The Albany Development Code (ADC) 2.290 contains the following review criteria that must be met for this Development Code amendment to be approved. Code criteria are written in *bold italics* and are followed by the Proposed Findings and Conclusions.

*Criterion (1) The proposed amendments better achieve the goals and policies of the Comprehensive Plan than the existing regulatory language.*

**FINDINGS OF FACT**

The following Comprehensive Plan goals and policies identified in *italics* are relevant in considering the proposed amendments. They are organized by Statewide Planning Goals and are considered as separate review criteria.

**Goal 1: Citizen Involvement**

1.1 The following goals and polices are relevant to this application. *Ensure that local citizens and other affected groups, neighborhoods, agencies, and jurisdictions are involved in every phase of the planning process.*

Applicable Policies:

2. *When making land use and other planning decisions:*
  - a. *Actively seek input from all points of view from citizens and agencies and assure that interested parties from all areas of the Urban Growth Boundary have the opportunity to participate.*
  - b. *Utilize all criteria relevant to the issue.*
  - c. *Ensure the long-range interests of the general public are considered.*
  - d. *Give particular attention to input provided by the public.*
  - e. *Where opposing viewpoints are expressed, attempt to reach consensus where possible.*
4. *Ensure information is made available to the public concerning development regulations, land use, and other planning matters including ways they can effectively participate in the planning process.*
7. *Utilize the public notice and hearing requirements as provided for by the Albany Development Code and Citizen Involvement Program to guide the procedural requirements for public participation in land use issues.*

- 1.2 Public involvement was an integral part of this planning and evaluation process through the appointment of a “business ready” task force. The task force was comprised of representatives from the business and industry, real estate, the sign industry, a resident, City Council, Planning Commission, Albany Chamber of Commerce, Albany Millersburg Economic Development Corporation, and the Albany Downtown Association. The task force met for a year and a half to evaluate areas of the Code that might be amended to better enable businesses to get established or expand. Issues evaluated were raised by the business community and staff. In addition complaints from residents regarding home businesses operating within the City were evaluated as part of this effort.
- 1.3 This application is reviewed according to the Type IV legislative process. Notice of the proposed amendments was mailed to all property owners within the city limits and to the Department of Land Conservation and Development. The notice included information regarding a public open house on the proposed amendments and where to review copies of the proposed amendments, and how to submit written comments and participate in the land use process.
- 1.4 The proposed Development Code amendments were made available at the two city libraries, at the Community Development department counter in city hall, and were posted on the City’s Web site on January 1, 2014.
- 1.5 A public open house was held January 14, 2014. Approximately 30 people attended to ask questions and/or submit written testimony.
- 1.6 The Planning Commission public hearing to consider the request was February 3, 2014. Two people testified about the home business standards. The City Council’s March 12, 2014 hearing will provide another opportunity for public input on the amendments. Through the notification and public hearing process all interested parties are afforded the opportunity to review the application, comment on the proposal, attend the public hearing, and participate in the decision.

**Goal 2, Land Use Planning**

- 1.7 The following Statewide Planning Goal 2, Land Use Planning goal and policy are relevant for the proposed Plan amendments. The Albany Development Code implements the goals and policies of the Albany Comprehensive Plan.

*Goal: Undertake periodic review and update of the Albany Comprehensive Plan to ensure it: 1) Remains current and responsive to community needs; 2) Retains long-range validity; 3) Incorporates the most recent and reliable information; and 4) Remains consistent with state laws and administrative rules.*

*Policy 2: Base approval of Comprehensive Plan amendments upon consideration of the following: (a) conformance with goals and policies of the Plan; b) Citizen review and comment; (c) Applicable Statewide Planning Goals; (d) Input from affected governmental units and other agencies; (e) Short - and long-term*

*impacts of the proposed change, (f) public need for the change; and (g) the amendments will best meet the identified public need versus other available alternatives.*

The City periodically reviews the Albany Development Code (Code) to ensure that it remains responsive to community needs. Staff has been tracking complaints from businesses trying to locate in different areas throughout the City and other obstacles to development and redevelopment.

- 1.8 The Mayor appointed the “business ready” task force to evaluate revising outdated or confusing language in the code that directly affects businesses and economic development. The task force provided the initial citizen review and public need for the amendments and brought diverse perspectives to the discussion and evaluation.

**Goal 9, Economic Development**

- 1.9 The Albany Comprehensive Plan contains many relevant goals and policies relating to economic development. They recognize the need to periodically evaluate the needs of the economic development community and make amendments to support economic development.

*Albany’s Economy, Goal 2: Provide a supportive environment for the development and expansion of desired businesses.*

*Albany’s Economy Policy 1: Create and maintain a dialogue between business and civic leaders on what we can do as a community to improve our local economy.*

*Albany’s Economy Policy 10: Coordinate with business and industry to examine measures to reduce the cost of starting or expanding a business.*

*Implementation Strategy: Participate in periodic community roundtables to define issues relating to the local economy and to identify remedies.*

- 1.10 The task force membership facilitated a dialogue among residents, business and civic leaders regarding changes that could be made within the Code to support the local economy while maintaining or improving the community. The task force reviewed obstacles to development and redevelopment, challenges and complaints received about the sign standards, and issues with the planned development process and standards. They identified remedies to reduce the cost of starting or expanding a business including:
- a. Reduce process time and costs for minor developments and changes of use (Exhibit C, Sections 1.070 and 2.430);
  - b. Allow land use approvals to be extended two years if no applicable laws have changed (Exhibit C, Sections 1.080 and 1.083);
  - c. Require incremental improvements to nonconforming sites only when the business or owner is making an investment of \$25,000 or more in building permit value and allow nonconforming status to be reinstated (Exhibit C, Section 2.370);
  - d. Make small infill sites eligible for adjustments to standards and add flexibility in meeting the design standards (Exhibit C, Section 8.315);
  - e. Reduce required parking for some uses, allow on-street spaces to count in non-residential areas, offer incentives, allow unpaved overflow parking for occasional use (Exhibit C, Sections 9.020 – 8.125);

- 1.11 Sign Code Amendments (Ordinance Exhibit D). Sections of the Article 13 of the Development Code are inconsistent and it is difficult to determine how many and what size of sign is allowed for businesses. Sign allowances for permanent and temporary signs are also limiting.

A subcommittee consisting of representatives from two sign companies, residents, an architect, the Planning Commission and City Council reviewed and recommended revisions to the sign standards. Revisions include reorganizing for clarity. Proposed amendments to the sign standards in Article 13 include:

## DC-03-13 ORDINANCE EXHIBIT E

- a. Increasing the total sign allowances – De-coupled freestanding and wall sign aggregate area allowances.
- b. Wall Signs – Removing the limit on number of signs allowed and sign area is based on building length; businesses without street frontage are ensured an allowance for signs.
- c. Temporary Signs – Increased display days from 60 to 120; each business allowed one A-frame sign year round per street frontage; and temporary sign permit fees are proposed to be eliminated (via a separate resolution) and only registration is needed at no-cost.
- d. Reorganized for clarity and to reduce redundancy.

- 1.12 Expand Uses in Commercial, Industrial and Mixed-Use Zones. Amendments to expand the uses allowed in the industrial, commercial, and mixed use zones support the following economic development Plan implementation strategy to: *Periodically review the Albany Development Code to assess the uses and development standards allowed in the industrial and employment zones.*

The task force evaluated commercial businesses desire to locate in vacant buildings in the Light Industrial (LI) zoning district and small-scale industries desire to locate in commercial and mixed-use zoning districts. To address this potential and to increase opportunities for economic development to occur within the City, the following amendments are proposed:

- a. Allow some commercial uses in vacant buildings in the Light Industrial (LI) zone with conditional use approval that would address the use's compatibility within the LI zone [Exhibit C, Section 4.060(11)(b)];
- b. Create a small-scale manufacturing use category for artisan products in buildings less than 10,000 square feet (Exhibit C, Section 22.045) and allow in the OP, CC, RC, TD, IP, LI, HI in Article 4 (Exhibit C, Section 4.050), and in the MUC, WF, HD, CB, LE, PB, and MS mixed use zoning districts in Article 5 (Exhibit C, Section 5.060);
- c. Add Industrial Office use category for industrial uses that are conducted in an office-like setting with no off-site impacts and allow in the IP, LI, CB, LE, PB, and MS zones (Exhibit C, Sections 22.110 and 5.060);

- 1.13 Expand Uses allowed in the LI Zone. Based on requests received for changes of uses in vacant industrial buildings in the LI zone, it is apparent that Albany has numerous vacant buildings in the LI zone. Some of these buildings were built for commercial uses that used to be permitted in the LI zone prior to the City limiting the uses allowed in the LI zone to industrial uses per the policy below.

*Economic Development, Land Use, Industrial/Employment Policy 2: Protect industrial and employment lands by restricting retail and services uses to those that cater primarily to nearby employees.*

- 1.14 The proposal to allow some commercial uses in the LI zone is restricted to existing buildings only. Staff at the state said that the policy to protect industrial lands is primarily intended for vacant sites and for larger industrial properties. They supported allowing non-industrial uses in existing buildings in the LI zone.
- 1.15 Written testimony was received from a property owner in the LI zone, Mr. Levin (Attachment J), in support of the proposal to allow commercial uses in vacant buildings. The task force heard from a property owner that owns Community Commercial (CC) land who raised concerns that the proposal may impact owners of commercially-zoned land and businesses in commercial zones that are paying more for rent.
- 1.16 Members of the Chamber of Commerce Governmental Affairs committee made several suggestions to address concerns that may arise from industries located in the LI zone about potentially incompatible operating characteristics or customer concerns of a commercial user and an industrial user. If non-industrial uses (i.e. dance studios, gymnastics) are allowed in industrial zones, the city should provide protection for existing industrial uses from new user complaining about industrial uses. Amendments include requiring a neighborhood meeting (in Section 1.203) and adding the following Special Condition for commercial uses in the LI zone to 4.060 (11)(b) in order to address this concern:

**DC-03-13 ORDINANCE EXHIBIT E**

iv. The new commercial user shall acknowledge that existing industrial uses have a right to operate free from new user complaining about externalities typical of industrial use.

1.17 Flexibility for Infill and Redevelopment. Allowing some commercial uses in existing buildings in the Light Industrial (LI) zone and allowing small-scale manufacturing and industrial office uses in some commercial and mixed use zones will promote infill and redevelopment of existing vacant buildings and supports the Plan policy below. ([Exhibit C, Section 4.060(11)])

*Economic Development, Land Use, General Policy 7: Consider infill and redevelopment of already serviced vacant and underdeveloped land before designating additional land for industrial and commercial uses.*

*Economic Development, Land Use, Goal 4: Promote infill development and redevelopment throughout the City.*

1.18 Residential Infill and Redevelopment Downtown. In order to support residential development downtown, code amendments include eliminating private open space requirements for multi-family developments and reduce the common space requirements in the CB, HD, LE, WF, and MUR zones. (Exhibit C, Sections 8.220 and 8.230)

The proposed amendments would provide more flexibility in building design and would make it easier to be compatible with the historic buildings and character found in Albany’s downtown. The amendments support the following Plan policy: *Albany’s Economy, Policy 15: Recognize and support Albany’s unique historic character as a major cultural and tourist-oriented economic resource.*

1.19 Nonconforming Situations. The nonconforming situations standards in the Code are intended to allow uses or sites that were legally established uses to continue to operate. Over time, businesses move or close and sites become vacant. When a site loses its nonconforming status, it must be brought into compliance with the current development standards. Making these improvements can be costly for new businesses. In addition, the Code language is subjective, so there is uncertainty regarding what improvements are required. (Exhibit C, Sections 2.310 – 2.370)

The proposed amendments to the nonconforming situations would allow nonconforming status to be reinstated through a land use review. In addition, incremental improvements to nonconforming sites would only be required when the business or owner is making an investment of \$25,000 or more in building permit value. If the \$25,000 improvement threshold is crossed, then 10 percent of the project cost must go towards site improvements.

These amendments would help enable redevelopment of already developed sites.

1.20 *Economic Development, Land Use, Goal 5: Improve community appearance and establish attractive gateways into Albany and visually appealing highway corridors.*

Nonconforming Sites. The task force recognized the need to improve community appearance over time by bringing older sites into compliance with current development standards that include front yard landscaping requirements. (Exhibit C, Sections 2.340-2.370)

1.21 The following economic development policy and implementation method apply to home businesses.

*Economic Development, Land Use, Industrial/Employment Policy 6: Allow home business occupations within residential districts to accommodate the needs of those engaged in small business ventures, subject to review procedures that ensure that compatibility with the surrounding residential neighborhood is maintained.*

*Economic Development, land Use, Implementation Method, General 4: Develop and maintain standards for home occupations that address the needs of those who wish to engage in small-scale enterprises from their homes and which also ensure compatibility with the surrounding residential neighborhood.*



## DC-03-13 ORDINANCE EXHIBIT E

Home Business Standards (Ordinance Exhibit A). Home businesses are now allowed outright within a dwelling if they meet the standard, many of which are subjective and can be difficult to enforce when complaints are received regarding negative impacts in the neighborhood (such as “excessive” traffic or “offensive” noise). Currently, if the complaint is discretionary it is referred to the Hearings Board for review. Complaints that are not discretionary are reviewed by the Director. In both cases, an investigation of the complaint is performed and it will either be approved as it exists, ordered to be terminated or brought into compliance with the standards.

Most of the complaints are discretionary (negative offsite impacts, adversely affect residential character, etc.) and result in a land use review.

The proposed amendments attempt to establish objective and measurable standards for home businesses that would be allowed outright. The proposal includes increasing allowances for allowing home businesses by allowing them in accessory buildings, and allowing businesses that do not meet the measurable standards by going through a conditional use process that would capture neighborhood input prior to the business being established.

- 1.22 Most of the written comments received to date have been about the proposed amendments to the home business standards. Most of the residents attending the January 14, 2014 public open house came to learn more about the home business standards. Concerns and questions raised are listed below with staff comments in *italics* regarding amendments that were made to the standards in **Ordinance Exhibit A** since comments were received. A table that compares the proposed amendments to the current standards is attached to the staff report after Exhibit A, called, ***Proposed Home Business Standards Summary***.
- a. Concern that the weight of trucks on residential streets is an issue.
  - b. Will the proposed revisions affect property values?
  - c. Will we need a business license for a home business?
  - d. Traffic and noise should be limited at night so it does not affect people’s sleep.
  - e. Will adult entertainment be allowed?
  - f. Concern that allowing more businesses may present a safety issue for neighborhoods.
  - g. Ensure regulations do not apply to hobbies. *Staff Comments: This has been clarified in the purpose statement in 3.090 and in the definition in 22.400; and in 3.095 Applicability.*
  - h. Prohibited Uses as Home Business: *Staff Comments: **Regarding prohibited uses in Section 3.125– after hearing concerns identified below, the Planning Commission recommends that ALL of the prohibited uses be permitted as a Conditional Use. However, each prohibited use was not discussed individually at the Planning Commission Meetings. Rather the discussion was general. The Planning Commission wanted to remove barriers to most home-based businesses but issues associated with safety were not discussed. Upon reviewing the details of the prohibition, staff does not recommend the uses in 3.125 (3) through (6) be allowed in residential districts due to safety concerns, potential negative offsite impacts and neighborhood compatibility (storage/use of toxic chemicals or fireworks, junk and salvage operations, and car sales).***
    - Don’t prohibit welding as a business or hobby. *Staff Comments: Section 3.125 (1) was worded to clarify that the standard applies to professional car repair only.*
    - Don’t prohibit holding a business meeting on site. *Staff Comments: 3.127 (7) was reworded to clarify the intent of the standard to prevent residences from becoming dispatch centers where either numerous vehicle trips might be generated or company or employee vehicles stored.*
  - i. Licensed in-home childcare providers need outside employees; the conditional use process would be cost prohibitive. *Staff Comments: Family child care homes and facilities are regulated by the state. Family care providers of 16 or fewer children are considered “Child Care Homes” by the state and are currently allowed outright in Albany. “Family child care homes” was added to the list of exempt activities in Section 3.095 Applicability.*

## DC-03-13 ORDINANCE EXHIBIT E

- j. Business size/area standards (e.g. 500 square feet in the house and 1,000 in accessory building) should not be limited. *Staff Comments: The current code limits home businesses to within the dwelling. After deliberating, the Planning Commission recommended no size limit to home businesses within a dwelling unit and a 1,000 square feet size limit for businesses operating out of accessory buildings. The proposed amendments would allow home businesses legally in accessory buildings.*

Written testimony regarding the proposed revisions to home businesses in Exhibit A:

- k. Glenn Guyer, (Attachment B) 2350 Marion Street SE: The number of customer vehicles allowed outright for home businesses should be based on the provided parking rather than one size fits all. *Staff Comments: The Planning Commission proposed increasing the customer vehicle allowance in 3.120(4) to three customer vehicles.*
- l. John Rochefort, (Attachment C) 425 Burkhart Street NE: Keep the home business proposal vague – do not change; use a complaint process.
- m. Paul Gutoski, (Attachments A and D) PaulyBuilt, Inc., 1515 Park Terrace SW: operates a metal and steel fabricating business from his residence and raises the concern that the modified standards give residents more rights than the home businesses when residents can produce more negative impacts in a neighborhood than a business. He asked the Planning Commission to consider keeping some of the language proposed to be removed in the purpose statement; don't restrict hobbies; don't prohibit welding; don't restrict business to operating within an enclosed building; allow outside employees outright; and do not unduly limit noise and deliveries. *Staff Comments: all of Mr. Gutoski's comments were addressed through revisions reflected in Ordinance Exhibit A.*
- n. Marvin France, (Attachment E) 328 4<sup>th</sup> Avenue SE: Do not restrict free enterprise for home businesses.
- o. Jon Pugmire, (Attachment F) 13253 Picard Place in Turner, OR: The proposed amendments to the home business standards are too restrictive and will cause businesses to go out of business. *Staff Comments: The proposed standards were relaxed by the Planning Commission.*
- p. AEK Huster, (Attachment G) 1734 Gibson Hill Way NW: home business owners have limited resource to afford a conditional use fee; limiting activity to enclosed buildings is not feasible; home owners should not get preferential treatment.

### **Goal 10, Housing**

- 1.23 The following housing policy is relevant to this application. *Housing, Policy 3: Encourage innovation in housing types, densities, lot sizes and design to promote housing alternatives such as (b): The adaptive reuse of the upper floors.*

Infill and Redevelopment Downtown. There are opportunities for infill and redevelopment of upper floors in the following zoning districts in the Central Albany area: CB, HD, LE, WF, and MUR. Amendments include removing the private open space requirement for multi-family developments in these zones to support infill and redevelopment. (Exhibit C, Sections 8.220 and 8.230)

- 1.24 Planned Developments (Ordinance Exhibit B). Planned developments offer flexibility in housing types, densities and lot sizes in exchange for open space. The proposed Code amendments would reduce the amount of open space required, but would no longer allow side and rear yards in the calculation, making it easier to calculate. The proposal also includes eliminating the indoor recreation requirement when more than 50 units are proposed. These amendments may make this type of development more attractive, thereby offering more variety in housing types.

### **CONCLUSIONS**

- 1.1 Goal 1: Citizen Involvement: The business ready task force provided the primary citizen input and evaluation of the proposed amendments. The January 14, 2014 public open house provided a forum for public input. A public notice was mailed to all property owners within the city limits announcing the public

## DC-03-13 ORDINANCE EXHIBIT E

open house and hearing dates, explaining the proposed amendments, and identifying where to review the proposed revisions. These procedures meet the requirements of this Goal for citizen involvement in the land use planning process.

- 1.2 Goal 2: Land Use Planning: The proposed Development Code amendments will implement and support many Comprehensive Plan goals and policies. Public input and comments were carefully considered in drafting the proposed amendments and in revisions proposed to the amendments.
- 1.3 Goal 9: Economic Development: Numerous Comprehensive Plan goals and policies promote maintaining a dialogue with the business community to address issues related to costs to start or maintain a business and to support economic development. The proposed Code amendments will further economic development within the City by promoting infill and redevelopment within the city, including nonconforming situations; expanding the uses allowed in the industrial, commercial, and mixed use zones; reducing the amount of parking required; clarify the sign standards and increase sign allowances overall.
- 1.4 Home Businesses (Ordinance Exhibit A): The proposed revisions include modifying the subjective standards to be clear and measurable for home businesses allowed outright to ensure compatibility within residential neighborhoods. This supports the Plan goals and policies. Concerns raised by the public regarding the proposed revisions being too strict were addressed in amendments made by the Planning Commission as reflected in Exhibit A. The proposed revisions to the standards would keep the standards in compliance with the goals and policies in the Comprehensive Plan.
- 1.5 Goal 10, Housing: The proposed Development Code amendments support Plan policies to provide a variety of housing types within the city.
- 1.6 In summary, the proposed “business ready” Development Code amendments are consistent with the Comprehensive Plan goals and policies.
- 1.7 This criterion is satisfied.

***Criterion (2) The proposed amendments are consistent with Development Code policies on purpose and with the purpose statement for the base zone, special purpose district, or development regulation where the amendment is proposed.***

The applicable Development Code policies and purposes are identified in <i>italic</i> type and are considered as a separate review criterion.
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### **FINDINGS OF FACT**

- 2.1 Per Section 1.020, the general purpose of the Albany Development Code is to, “set forth and coordinate City regulations governing the development and use of land. The Code is more specifically intended to do the following:”
  - (1) *Serve as the principal vehicle for implementation of the City’s Comprehensive Plan in a manner that protects the health, safety, and welfare of the citizens of Albany.*
  - (2) *Satisfy relevant requirements of federal law, state law, statewide goals, and administrative rules.*
  - (3) *Facilitate prompt review of development proposals and the application of clear and specific standards.*
  - (4) *Provide for public information, review, and comment on development proposals that may have a significant impact on the community.*
  - (5) *Guide public and private planning policies and actions to ensure provision of adequate water, sewage, transportation, drainage, parks, open space and other public facilities and services for each development.*

## DC-03-13 ORDINANCE EXHIBIT E

- (6) *Establish procedures and standards requiring that the design of site improvements and building improvements consistent with applicable standards and design guidelines.*
  - (7) *Provide for review and approval of the relationship between land uses and traffic circulation in order to minimize congestion, with particular emphasis on not exceeding the planned capacity of residential streets.*
  - (8) *Require that permitted uses and development designs provide reasonable protection from fire, flood, landslide, erosion, or other natural hazards, as well as prevent the spread of blight, and help prevent crime.*
  - (9) *Protect and enhance the city's beauty and character.*
  - (10) *Protect constitutional property rights, provide due process of law, and give consideration in all matters to affected property owner interests in making land use decisions.*
- 2.2 The proposed Code amendments support the Comprehensive Plan goals and policies related to economic development, land use planning, housing, and citizen participation. The amendments will strengthen the Development Code as an implementing tool of these Plan goals and policies.
- 2.3 Reduce Processing Time and Costs. The proposed amendments to exempt minor additions and some changes of use that would have no off-site impacts from going through a land use review will reduce the processing time and costs.
- 2.4 Extension to Land Use Approvals. The proposal to allow for a two-year extension to the land use approval by two years for all developments, except planned developments which are proposed to be allowed two 2-year extensions, would only be approved if there have been no changes to applicable federal, state and local laws.
- 2.5 Expand Uses in Zones. The proposal to allow commercial uses in vacant buildings in the LI zone through a conditional use review would allow for input from property owners within 300 feet of the proposed development site. This would allow for concerns regarding the operating characteristics of existing businesses to be addressed to ensure the commercial businesses would not interfere with the operation of existing industries. The proposal to allow small-scale manufacturing and industrial offices uses in the mixed-use and commercial zones would be processed either through a site plan review or conditional use review. Both processes allow for notice to property owners within 300 feet.
- 2.6 Nonconforming Sites. The proposed revisions would allow nonconforming sites to be improved incrementally. Improvements to these sites will enhance the city's beauty and character.
- 2.7 Home Businesses. The proposed revisions to the home business standards would provide measurable standards that would support property rights and provide for due process of law and neighborhood input.

### **Zoning District Purpose Statements**

- 2.8 The zoning district purpose statements are included for all zones in which "business ready" Development Code amendments are proposed.

*ADC 4.020(1) OP – OFFICE PROFESSIONAL DISTRICT. The OP district is intended to provide a vertical or horizontal mix of professional offices, personal services, live-work, residential and limited related commercial uses in close proximity to residential and commercial districts. The limited uses allowed in this district are selected for their compatibility with residential uses and the desired character of the neighborhood. OP is typically appropriate along arterial or collector streets as a transitional or buffer zone between residential and more intense commercial or industrial districts.*

*ADC 4.020(3) CC – COMMUNITY COMMERCIAL DISTRICT. The CC district recognizes the diversity of small to medium-scale businesses, services and sites mostly located on arterial streets and highways. Design guidelines, building location and front-yard landscaping will provide a coordinated and enhanced*

## DC-03-13 ORDINANCE EXHIBIT E

*community image along these major transportation corridors as they develop or redevelop. Sound and visual buffers should be used to mitigate impacts on nearby residential areas.*

*ADC 4.020(4) RC – REGIONAL COMMERCIAL DISTRICT. The RC district is intended primarily for developments that serve the wider Albany region. RC allows a wide range of retail sales and service uses, and is typically appropriate for developments that require large sites near Interstate 5. Design guidelines, building location and front-yard landscaping will provide an enhanced community image along major transportation corridors. These uses often have significant impacts on the transportation system. Sound and visual buffers may be required to protect nearby residential areas. RC districts may not be appropriate in all locations.*

*ADC 4.020 (6) IP – INDUSTRIAL PARK DISTRICT. The IP district is intended primarily for light manufacturing, high-tech, research and development, institutions and offices in a quality environment. Uses are characterized by attractive building architecture and landscaped yards and streetscapes, and the absence of objectionable external effects. The district is designed for industrial and business parks containing offices together with clean, non-polluting industries. IP is located along or near highly visible corridors to provide a positive image and a transition to residential or natural areas from heavier industrial uses.*

*ADC 4.020(7), LI – LIGHT INDUSTRIAL DISTRICT. The LI district is intended primarily for a wide range of manufacturing, warehousing, processing, assembling, wholesaling, specialty contractors and related establishments. Uses will have limited impacts on surrounding properties. This district is particularly suited to areas having good access to highways and perhaps to rail. LI may serve as a buffer around the HI district and may be compatible with nearby residential zones or uses.*

*ADC 5.030(1), HD – HISTORIC DOWNTOWN DISTRICT. The HD district is intended primarily for a dense mixture of uses with an emphasis on entertainment, theaters, restaurants, night life and specialty shops. High-density residential infill on upper floors is encouraged, as is the continued presence of the government center and supporting uses.*

*ADC 5.030(2) CB – DOWNTOWN CENTRAL BUSINESS DISTRICT. The CB district is intended primarily for retail and services that support Historic Downtown businesses and residents. Mixed uses are encouraged both horizontally and vertically. High-density residential infill, especially on upper floors, and office employment are both encouraged.*

*ADC 5.030 (3) MUR – MIXED USE RESIDENTIAL. The MUR district is intended primarily to create a residential district that allows a mixture of neighborhood commercial uses that meet the daily needs of area residents.*

*ADC 5.030 (4) WF – WATERFRONT DISTRICT. The WF district is intended to transition Albany's Willamette River waterfront into a vibrant center characterized by a variety of housing choices and a mixture of housing, office, and retail uses. Development and design standards will result in great neighborhoods, a pedestrian friendly environment and an enhanced community image. [Ord. 5635, 1/11/06]*

*ADC 5.030 (5) LE – LYON-ELLSWORTH DISTRICT. The LE district is intended primarily as a location for development that serves the Historic Downtown district and Downtown Central Business district. This district is the most desirable location in the Central Albany area for parking structures with ground-floor commercial uses.*

*ADC 5.030 (6) MS – MAIN STREET DISTRICT. The MS district is intended primarily as an employment center with supporting commercial and retail services for residents and employees in the area. Retail, restaurant or night uses that impact surrounding residences are discouraged.*

*ADC 5.030 (8) PB – PACIFIC BOULEVARD DISTRICT. The PB district is intended as an auto-oriented commercial area along Pacific Boulevard in the Central Albany area. Design guidelines and front-yard landscaping will provide a coordinated look and enhance the community image along this major corridor as it develops or redevelops. Sound and visual buffers should be used to protect nearby residential areas.*

## DC-03-13 ORDINANCE EXHIBIT E

*ADC 5.030 (9) MUC – MIXED USE COMMERCIAL DISTRICT. The MUC zoning district is intended primarily to provide a mix of convenience commercial, personal services, offices and medium density residential uses. The district would typically be anchored by a grocery store, and may include a mix of smaller retailers, offices, live-work units and residences. The MUC district is easily accessible to nearby residences, and commercial uses are compatible in scale and design with adjacent neighborhoods. Uses in the MUC zone will serve area residents and should not draw from the region.*

*ADC 3.010 RESIDENTIAL ZONING DISTRICT 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.*

2.9 The proposal to create the new Small-scale Manufacturing use category for artisan goods up to 10,000 square feet (Exhibit C, ADC 22.045) and allow the use in the OP, CC, and RC zones (Exhibit C, ADC 4.050); and in the MUC, WF, HD, CB, LE, PB, and MS zones (Exhibit C, ADC 5.060) is consistent with the zoning district purpose statements for these zones. Most of these zones are intended as employment and commercial centers.

2.10 Scott Lepman submitted written testimony (Attachment I) regarding a property he owns in the Waterfront (WF) zoning district. The site was zoned Light Industrial when the owner purchased it. He removed an old seed warehouse on the site several years ago and it is now vacant. He is requesting the “contractor and industrial services” use category be allowed in the WF district either as a nonconforming use or include in the proposed “small scale manufacturing” use category.

“The WF district is intended to transition Albany’s Willamette River waterfront into a vibrant center characterized by a variety of housing choices and a mixture of housing, office, and retail uses. Development and design standards will result in great neighborhoods, a pedestrian friendly environment and an enhanced community image.”

The property has lost its nonconforming status since the site was cleared and has been vacant for several years. The contractor and industrial services use category allows for a variety of contractors and equipment rental and storage. These uses would not meet the Nonconforming Use review criteria in Section 2.360 (Exhibit C). The use is not consistent with the WF zoning district purpose statement. Equipment storage is not consistent with the small scale manufacturing use category, which is intended for small artisan manufacturing uses.

2.11 The proposed new Industrial Office use category for industrial uses that are conducted in an office-like setting with no off-site impacts (Exhibit C, ADC 22.110) is proposed to be allowed in the IP, LI, CB, LE, PB, and MS zones (Exhibit C, ADC 4.050, and ADC 5.060). The proposed use is compatible with the zoning district purpose statements for these zones.

2.12 The LI zone is intended primarily for industrial users that will have limited impacts on surrounding properties. The proposal to allow some commercial uses in the LI zone is generally compatible with the LI purpose statement. The proposed commercial uses should have limited impacts on the existing industrial uses. Revisions are proposed to protect the existing industries from complaints about operating characteristics.

2.13 The proposal to remove the private open space standards for multi-family development within the Central Albany area mixed-uses zones supports the purposes of these zones: to have residential uses on upper floors in the HD zone, create a variety of housing choices and mixed uses in the WF zone, and to respect the historic building stock and character found through these zoning districts.

## **DC-03-13 ORDINANCE EXHIBIT E**

- 2.14 The revisions to the Home Businesses standards meet the intents of the residential districts - they are intended to preserve land for housing. The proposed revisions to the home business development standards will continue to allow for flexibility of development while maintaining compatibility within the City's various neighborhoods. These clearer standards will provide more certainty to property owners.

### **CONCLUSIONS**

- 2.1 The proposed Development Code amendments are consistent with the purposes of the Code.
- 2.2 The proposed Development Code amendments are consistent with zoning district purpose statements.
- 2.3 This criterion is satisfied.

### **DC-03-13 STAFF REPORT AND ORDINANCE ATTACHMENTS**

Staff Report Findings and Conclusions (Ordinance Exhibit E)

Staff Report Attachments:

A through J: Written Testimony

DC-03-13 Ordinance

Ordinance Exhibit A: Home Businesses

Proposed Home Business Standards Summary

Ordinance Exhibit B: Planned Developments

Ordinance Exhibit C: Business Ready Code Updates

Ordinance Exhibit D: Signs