



ORDINANCE NO. 5945

AN ORDINANCE AMENDING ORDINANCE NO. 4836, WHICH ADOPTED THE CITY OF ALBANY COMPREHENSIVE PLAN AND AMENDING ORDINANCE NO. 4441, WHICH ADOPTED THE CITY OF ALBANY DEVELOPMENT CODE, BY AMENDING THE ALBANY COMPREHENSIVE PLAN AND THE ALBANY DEVELOPMENT CODE TEXT AND ADOPTING FINDINGS

WHEREAS, on July 13, 2020, the Albany Planning Commission held a public hearing and deliberated on proposed text amendments to the Albany Comprehensive Plan and Development Code relating to protection of National Register resources, and removing the word “advisory” from all title references to the Albany Landmarks Commission (planning file no. CP-01-20 and DC-01-20); and

WHEREAS, on July 13, 2020, the planning commission recommended that the Albany City Council approve the proposed text amendments. This recommendation was based on evidence presented in the staff report and consideration of public testimony during the public hearing; and

WHEREAS, the city council held a public hearing on the proposal on August 26, 2020, and reviewed the findings of fact and conclusions included in the July 6, 2020 staff report and testimony presented at the public hearing and then deliberated; and

WHEREAS, the text amendments to the comprehensive plan and development code considered by the planning commission and city council are presented as an attachment to this ordinance as Exhibits A and B.

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

Section 1: The text of the Albany Comprehensive Plan and Development Code is hereby amended as shown in Exhibits A and B of this ordinance.

Section 2: A copy of this ordinance shall be filed in the office of the city clerk of the City of Albany and these changes shall be made in the Albany Comprehensive Plan and Development Code.

Passed by the Council: August 26, 2020


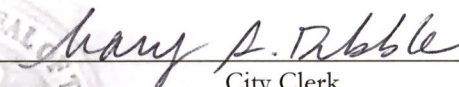
Approved by the Mayor: August 26, 2020

Effective Date: September 25, 2020



Mayor

ATTEST:

City Clerk

GOAL 5: OPEN SPACES, SCENIC & HISTORIC AREAS, & NATURAL RESOURCES

HISTORIC AND ARCHAEOLOGICAL RESOURCES BACKGROUND SUMMARY

No less intangible but far less renewable than most natural resources, Albany's historic resources are an important asset to the citizens of Albany and Oregon. The historic cityscape, which Albany's citizens encounter everyday, is valuable because it gives people a sense of permanence and continuity - a sense of place.

A community's image of itself is important in sustaining both its economic health and the well-being of its citizens. A poor image will not attract new industries or commercial businesses nor stimulate civic pride. By emphasizing its historic landscape, Albany can enhance its image and offer an attractive tourist setting.

Albany's historic landscape represents a vital, irreplaceable heritage of traditions. It is a unique collection of structures representing every stage of Albany's growth and mirroring Oregon's distinctive cultural history. Some 379 primary historic buildings built prior to 1900, plus 360 secondary buildings built after 1900 but before 1915, exist within one commercial and two residential historic districts in a 190-block core area along the waterfront. An additional 100 historic structures of equal quality are scattered throughout the city.

The Monteith, Hackleman, and Downtown Historic Districts have achieved national recognition by being placed on the National Register of Historic Places, the nation's official list of cultural resources worthy of preservation. A number of individual buildings within the city are also on the Historic Register. Together, these historic districts provide a visual span of Albany's history from 1848 to 1915; from the time of its first settlement through its years of growth as a river port and commercial trade center. More significant than the number of buildings, however, is the architectural quality of the structures in Albany representing virtually every style and type of house ever built in the Northwest. The commercial district contains every major commercial style of the Victorian era and claims one of the finest cast-iron facades (Blain Building).

Albany's citizens have shown an interest and commitment to historic preservation. The City recognizes that a preservation program can recycle older structures to preserve their quality craftsmanship, make residential and commercial property more valuable, create an attractive tourist setting, and reduce energy needs. Because of their lack of insulation, historic structures offer the greatest potential for reducing energy use within the city. It has been estimated that by weatherizing these homes to the 1980 Building Code standards, 70 percent of their annual heating costs can be saved.

The City funded and completed an historic building survey and compiled material for nomination of the three districts to the National Historic Register. Altogether, the combined data of architectural and historic descriptions, mapping, and photography, create the only complete street-by-street house inventory in Oregon.

Citizen groups have been energetically involved in the process of establishing the historic districts, and they have developed a number of support projects including historic home tours, fund raising for restoration of the Monteith House (the original home of Albany's founders), and the establishment of a Preservation Resource Center. In addition, a Landmarks Commission (previously known as the Historic Advisory and Museum Commission and Landmarks Advisory Commission) was created, whose functions include the development of educational and funding programs to protect the city's historic resources.

There has been no intensive archaeological site survey within the Albany Urban Growth Boundary, although the potential exists for an abundant concentration of prehistoric sites. Archaeologists believe the Albany area was a central camp site for a band of Kalapuyan Indians because of its easy access to major waterways for transportation and fishing and to the prairie land for small game and camas roots.

IMPLEMENTATION METHODS

1. Encourage the Albany Regional Museum to:
 - a. House and display artifacts related to the Albany area's history.
 - b. Sponsor city, county, and Mid-Willamette Valley history tours.
 - c. Conduct historical seminars and workshops.
 - d. Serve as a local archives depository and conduct research.
 - e. Provide information and assistance to individuals and community groups interested in the enhancement and preservation of Albany's historic resources.
2. Develop an education program (including public workshops, printed matter, tours, and exhibits) for Albany residents which would:
 - a. Demonstrate the economic and energy assets of preserving Albany's older structures.
 - b. Advise property owners on proper restoration techniques.
 - c. Emphasize the relationship of the Willamette River to Albany's historic character.
 - d. Work with the Greater Albany Public School District and other learning institutions in developing education programs which utilize Albany's historic areas as learning resources.
3. Include in the Capital Improvement Program specific projects for the improvement of historic areas. Possible projects include:
 - a. Beautification of the Santiam Canal and its branches.
 - b. Historic-theme street lighting in the downtown.
4. Within historic districts, encourage the development of landscapes and the planting and retention of trees associated with the applicable historic periods.
5. Maintain information and directional signage for Albany's Historic Districts.
6. Support the efforts of the Albany Historic Tours Committee and other community groups to maintain the Historic Information Gazebo and Victorian Garden as a focus of visitor information about Albany's Historic Districts.
7. Stabilize and improve property values in existing and proposed historic districts. Methods might include:
 - a. Emphasizing the importance of owner-occupied housing through methods such as encouraging loan programs for the acquisition and renovation of historic structures.
 - b. Discouraging heavy truck route traffic on streets which run through or adjacent to residential neighborhood districts.
 - c. Ensuring that Development Code regulations enhance the preservation and renovation of historic structures.
8. Develop review criteria which would discourage those zone changes resulting in increased pressure to replace historic structures with more intense land uses.
9. Encourage property owners within the three National Register Districts or with recognized historic property to discuss proposed exterior changes to their property with the City staff and/or Landmarks Commission (LC) prior to applying for a historic review permit.

APPENDIX 1

AGENCY INVOLVEMENT PROGRAM

The City of Albany recognizes its responsibility to implement an agency involvement and coordination program to assure an effective working relationship with those local, state, and federal agencies which may have an interest in Albany and its surrounding area. The City's implementation program provides:

1. Agencies with status reports of current planning efforts, work schedules, and regular meeting dates of the City Planning Commission and the City Council.
2. On request, copies of studies, plans, and ordinances related to the City's planning program.
3. Notice of other public hearings and/or meetings when applicable.

The City coordinates all land-use activities with governmental agencies and private utilities, often utilizing plans or studies prepared by other agencies or direct assistance in the development of a plan or study. The following agencies received and had the opportunity to review background material, and/or goals and policies of the Comprehensive Plan.

LOCAL AGENCIES

Albany Area Chamber of Commerce
Albany Downtown Association
Albany-Lebanon Sanitation Company
Albany-Millersburg Economic Development Corporation
Albany Parks and Recreation Commission
Albany Planning Commission
Benton County Board of Commissioners
Benton County Planning Commission
City of Corvallis
City of Millersburg
Community Services Consortium
Friends of Historic Albany
Greater Albany Public School District 8J
Landmarks Commission
Linn-Benton Community College
Linn-Benton Housing Authority
Linn County Board of Commissioners
Linn County Planning Commission
Northwest Natural Gas
Oregon District 4 Council of Governments
Pacific Power and Light
Senior and Disabled Services
Southern Willamette Research Corridor
U.S. West Communications

APPENDIX IIA
CITIZEN COMMITTEES

The following citizen advisory committees were responsible for reviewing background reports, for providing input into development of Comprehensive Plan goals and policies, and for assisting the Comprehensive Plan Review Committee with developing the Comprehensive Plan:

Albany City Council
Albany Chamber of Commerce
Albany Citizen Involvement Sub-Committee
Albany Comprehensive Plan Review Committee
Albany Downtown Association
Albany Hearings Board
Albany Landmarks Commission
Albany Parks and Recreation Commission
Albany Planning Commission
Albany Public Works Committee
Benton County Board of Commissioners
Benton County Planning Commission
Linn County Board of Commissioners
Linn County Planning Commission

APPENDIX IV

ACRONYMS

- AC of E:** Army Corps of Engineers
- ACDP:** Air Contaminant Discharge Permit
- ACVC:** Albany Convention and Visitors Commission
- ADA:** Albany Downtown Association
- AMEDC:** Albany-Millersburg Economic Development Corporation. Serves as Albany's and Millersburg's central point of contact for businesses interested in locating/expanding in the area and/or needing business development assistance.
- ARA:** Albany Redevelopment Agency. This agency was formed by the City of Albany to provide public works improvements (water, sewer, sidewalk, traffic control, lighting, drainage) in the Albany Economic Development District.
- ATS:** Albany Transportation System
- BTU:** British Thermal Unit. A unit of heat, the quantity needed to raise the temperature of 1 pound of water 1 degree Fahrenheit.
- C-1:** Neighborhood Commercial Zoning District
- C-2:** Community Commercial Zoning District
- C-3:** Central Business Zoning District
- CBD:** Central Business District
- CH:** Heavy Commercial Zoning District
- CIC:** Citizen Involvement Committee. During the Comprehensive Plan update process this was a three-member subcommittee of the CPRC which developed and reviewed the citizen involvement portions of the Plan. After the periodic review process, the CIC will become a five-member committee composed of City Council appointees chosen as follows: one member from each of the Albany's three wards, one member at-large, and one from the North Albany portion of the UGB.
- CIP:** Capital Improvement Program
- CPRC:** Comprehensive Plan Review Committee. This committee was created to review and provide input regarding the Comprehensive Plan update. It is composed of 27 members, including the Albany Planning Commission, eight citizens appointed by the Planning Commission, seven citizens appointed by the City Council, two members from the North Albany Citizen's Advisory Committee and one City Council liaison member.
- DEQ:** Department of Environmental Quality, State of Oregon

**ACRONYMS
(CONTINUED)**

- DOE:** Department of Energy, State of Oregon
- DLCD:** Department of Land Conservation and Development, State of Oregon
- DSL:** Division of State Lands, State of Oregon
- EDD:** Economic Development Department, State of Oregon
- EPA:** Environmental Protection Agency
- FEMA:** Federal Emergency Management Agency
- GAPS:** Greater Albany Public Schools, District 8J
- HAMC:** Historic Advisory and Museum Commission. Now known as the Landmarks Commission (LC).

HUD: U.S. Department of Housing and Urban Development

I-5: Interstate Highway 5

I/I: Infiltration/inflow

ISCP: Indirect Source Construction Permit

LC: Landmarks Commission. This commission was appointed by the Albany City Council for the purpose of protecting, enhancing, and perpetuating Albany's historic resources.

LBCC: Linn-Benton Community College

LCDC: Land Conservation and Development Commission

MGD: Million Gallons Per Day

MH: Heavy Industrial Zoning District

ML: Light Industrial Zoning District

MP: Industrial Park Zoning District

NC: Notice of Construction

OAR: Oregon Administrative Rule

ODOT: Department of Transportation, State of Oregon

OD4COG: Oregon District 4 Council of Governments



COMMUNITY DEVELOPMENT

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

Amendments to the Albany Development Code

Files: CP-01-20 & DC-01-20

August 26, 2020

AMENDING THE SECTIONS OF ALBANY DEVELOPMENT CODE THAT RELATED TO NATIONAL REGISTER RESOURCE PROTECTION AND TITLE OF THE LANDMARKS COMMISSION.

Section 1: Albany Development Code (ADC) Article 1, Section 1.060 – When Land Use Applications are Required, Section 1.350 - Type II Procedure, Section 1.360 – Type III Procedure, Section 1.370 – Type IV Procedure, Section 1.520 – Appeal Procedures, Section 1.580 – Initiation, Section 1.630 – City Council Action amended as follows:

1.060 When Land Use Applications Are Required

- (1) Except as excluded by 1.070, no person shall engage in or cause to occur a development for which a required land use application has not been approved.
- (2) Whenever this Code requires a land use application, no other permit issued by the City shall be approved until the land use application has first been approved by the Director or reviewing body.
- (3) Before another land use application can be filed for a site with a completed development, the site must be brought into compliance with all applicable outstanding conditions of approval from previous land use approvals. [Ord. 5728, 1/27/10]
- (4) Land use applications shall be approved by the Community Development Director, the Hearings Board, the Planning Commission, the Landmarks Commission, or the City Council pursuant to the provisions of this Code. The Director shall not approve a land use application for the division, improvement, or use of land that has been previously divided in violation of state or local codes or otherwise developed in violation of this Code unless the violation is corrected prior to or concurrent with issuance of required permits. [Ord. 5728, 1/27/10]
- (5) No action may be taken in reliance upon a decision approving a land use application until all applicable appeal periods have expired or while an appeal to a City review body is pending. However, the action allowed by the decision may be initiated if:
 - (a) Issues raised in opposing testimony were resolved at a hearing or in writing prior to the hearing; and
 - (b) The applicant has executed a release and indemnity agreement in a form satisfactory to the City Attorney that protects the City from all claims of the

applicant resulting from the approval of the land use application or issuance of a building permit.

1.350 Type II Procedure.

- (1) The purpose of the Type II procedure is for the Director to review certain applications based on standards specified in this Code that may require limited discretion. A notice of filing is mailed to the applicant and property owners within 300 feet of the property being reviewed to allow the applicant or property owners an opportunity to comment on the proposal prior to the Director's Decision. Persons that provided written comment are mailed the notice of tentative decision and given a chance to appeal the decision at the local level.

[Ord. 5768, 12/7/11; Ord. 5886, 1/6/17]

- (2) Once the application is deemed complete, a notice of filing shall be mailed to the applicant and persons who own property within 300 feet of the proposed development site. Notice shall also be provided to any neighborhood association recognized by the City Council and whose boundaries include the site and to other neighborhood association recognized by the City Council within 300 feet of the site. The Director shall have discretion to increase the notice area up to 1,000 feet due to land use or transportation patterns or an expected level of public interest. The notice and procedures used by the City will:

[Ord. 5886, 1/6/17]

- (a) Provide a 14-day period for submission of written comments before the decision;
 - (b) State that issues shall be raised with sufficient specificity to enable the decision maker to respond to the issue;
 - (c) State the applicable review criteria for the decision;
 - (d) Set forth the street address or other easily understood geographical reference to the subject property;
 - (e) State the place, date and time that comments are due;
 - (f) State that copies of all evidence relied upon by the applicant are available for review, and that copies can be obtained at cost;
 - (g) Include the name and phone number of a local government contact person;
 - (h) Provide notice of the decision to the applicant and persons entitled to notice. The notice of decision must include an explanation of appeal rights;
 - (i) Briefly summarize the local decision making process for the limited land use decision being made, and
 - (j) Include other information the Director deems appropriate. [Ord. 5728, 1/27/10, Ord. 5768, 12/7/11]
- (3) The Director shall mail notice of the tentative decision to the applicant and any party who provided written comments on the proposal.

The Director's notice shall list the relevant criteria used to make the decision and any conditions of approval or findings of denial. The notice shall invite persons to contact the Planning staff in writing within ten days of notification to request a public hearing.

A public hearing may be requested in writing ten days from notification, if a person believes that the conditions of approval do not adequately address the established approval criteria or alleviate adverse impacts on the neighborhood.

If no one requests a public hearing, the tentative decision becomes final ten days after the notice of decision is mailed to affected parties. [Ord. 5768, 12/7/11]

- (4) If the applicant, the Director, any party entitled to notice initiates a public hearing on a Type II proposal, the Director shall, within 30 days of receiving a written request for a public hearing, set a date for a public hearing before the Planning Commission, Landmarks Commission, or the Hearings Board. The notice shall be mailed at least 20 days in advance of the hearing to those same persons specified in (2) above. The public hearing notice shall contain the information outlined in Section 1.400 (4). The subject property shall be posted in accordance with Section 1.410. [Ord. 5728, 1/27/10, Ord. 5768, 12/7/11]
- (5) If a hearing is conducted, the Hearings Board, the Planning Commission, or the Landmarks Commission shall review the request and any written comments and testimony; adopt findings based on the established criteria, and make a decision by approving, conditionally approving, or denying the application. Conditions and/or restrictions may be applied to the approval of any land use application granted under a Type II procedure in accordance with the relevant provisions of this Code. [Ord. 5728, 1/27/10, Ord. 5768, 12/7/11]

1.360 Type III Procedure.

- (1) The purpose of the Type III procedure is to provide for the review of certain applications within the City by the Planning Commission, Hearings Board, or the Landmarks Commission at a public hearing. Such actions may be complex in nature, requiring the interpretation of Plan policies and the requirements of this Code.
- (2) Under the Type III procedure, an application is scheduled for public hearing at the Director's discretion before the Hearings Board, the Planning Commission, or the Landmarks Commission. The Director shall notify all persons who own property within 300 feet of the subject property and any neighborhood association recognized by the City and whose boundaries include the site and other neighborhood association recognized by the City within 300 feet of the site. The Director shall have discretion to increase the notice area up to 1,000 feet due to land use or transportation patterns or an expected level of public interest. The Director may require the applicant to post notices as set forth in Section 1.410. [Ord. 5728, 1/27/10; Ord. 5768, 12/7/11]
- (3) The review body shall review the request and any written comments and testimony, adopt findings based on the established criteria, and make a decision by approving, conditionally approving, or denying the application. Conditions and/or restrictions may be applied to the approval of any land use application granted under a Type III procedure in accordance with the relevant provisions of this Code.

1.370 Type IV Procedure.

- (1) The purpose of the Type IV procedure is to provide for the review of certain land use applications by the Planning Commission, Hearings Board or Landmarks Commission and the City Council at public hearings. These decisions are usually complex in nature, and require the interpretation of Comprehensive Plan policies and the criteria of this Code.

- (2) Under the Type IV Procedure, an application is scheduled for public hearing before the Hearings Board, Landmarks Commission, or the Planning Commission at the Director's discretion. If the application is quasi-judicial, the Director shall notify all persons who own property within 300 feet of the subject property and any neighborhood or community organization recognized by the City and whose boundaries include the site and to other organization recognized by the City within 400 feet of the site. The Director shall have discretion to increase the notice area up to 1,000 feet due to land use patterns or an expected level of public interest. The Director may require the applicant to post notices as set forth in Section 1.410. [Ord. 5763, 12/1/11; Ord. 5768, 12/7/11]
- (3) For a quasi-judicial proposal on which the Hearings Board, Landmarks Commission, or Planning Commission has made a favorable recommendation, the City Council shall hold a public hearing and make a final decision prior to expiration of the 120-day land use processing rule, if applicable. An applicant may request a review delay of up to 6 months and extend the 120-day time frame. Final action on qualifying residential developments subject to ORS 197.311 shall be taken within 100_days from the date the application is deemed complete. [Ord. 5912, 7/11/18]
- (4) If the Planning Commission, Landmarks Commission, or Hearings Board recommend against a proposal, the City Council will only consider the proposal on appeal by the applicant(s).
- (5) The review body shall:
- (a) Review the request and any written comments and testimony;
 - (b) Adopt findings based on the established policies and criteria; and,
 - (c) Make a decision by approving, conditionally approving, or denying the application.

Conditions and/or restrictions may be applied to land use approval granted under a Type IV procedure in accordance with the relevant provisions of this Code. [Ord. 5728, 1/27/10]

1.520 Appeal Procedures.

- (1) See ADC 1.330(5) for appeals of Type I-L limited land use decisions.
- (2) Appeals of a Type II land use decision made by the Director is to the Planning Commission (PC), Hearings Board, (HB), or the Landmarks Commission (LC). See Section 1.350 (2) through (5). A Type II decision made by the PC, HB, or LC may be appealed to the Land Use Board of Appeals (LUBA) when a person who participated in the land use process in writing or testimony files a Notice of Intent to Appeal with LUBA no later than 21 days after the hearing body's notice of decision is mailed. [Ord. 5728, 1/27/10; Ord. 5768, 12/7/11]
- (3) Any person who submitted written comments during a comment period or testified at the public hearing has standing to appeal a Type III decision of the Planning Commission, Hearings Board, or Landmarks Commission to the City Council by filing a Notice of Appeal within ten days from the date the City mails the notice of decision. [Ord. 5475, 4/11/01; Ord.5728, 1/27/10]
- (4) Within the appeal period, the City Council, acting upon the recommended action of the City Manager or upon its own motion, may order a de novo review of any lower level decision. This review shall be conducted in accordance with appeal procedures specified herein.

- (5) For any appeal proceeding, the Director shall cause notice to be provided in the same manner as for the original decision, to those testifying and to any other parties to the proceedings who request notice in writing.
- (6) A decision of the City Council may be appealed by persons with standing to the Land Use Board of Appeals (LUBA) by filing a notice of intent to appeal to LUBA not later than 21 days after the decision becomes final.

[Ord. 5446, 5/10/00; Ord. 5475, 4/11/01; Ord. 5728, 1/27/10]

1.580 Initiation.

- (1) The City Council may make changes in the Comprehensive Plan or Development Code provisions and designations by legislative act where such changes affect a large number of persons, properties, or situations and are applied over a large area.
- (2) The City Council, Planning Commission, Landmarks Commission, or Community Development Director may initiate a review on any legislative matter.
- (3) Any property owner or resident of the City may request that the Planning Commission initiate a review of any legislative matter (such as an amendment to the Development Code text). The planning Commission shall review the proposal and determine whether the proposal warrants processing as a legislative amendment.

1.630 City Council Action.

- (1) In reaching a decision on a legislative matter, the Council shall adopt findings applicable to the relevant policies and criteria in support of the decision.
- (2) The City Council may:
 - (a) Enact, amend or defeat all or part of the proposal under consideration, or
 - (b) Refer some or all of the proposal back to the Planning Commission, Hearings Board, or Landmarks Commission for further consideration. [Ord. 5728, 1/27/10]

Section 2: ADC Article 2, Section 2.200 – Frequency of Plan Amendments is amended as follows:

2.200 Frequency of Plan Amendments. Applications for Comprehensive Plan amendments submitted by property owners shall be reviewed semi-annually in April and October by the Planning Commission. The City Council, Planning Commission, Landmarks Commission, or Director may also initiate Plan amendments. These initiations are made without prejudice towards the outcome.

Section 3: ADC Article 7, Section 7.010 – Applicability, Section 7.015 – Expiration of Historic Review Approval Section 7.020, Section 7.030 – Purpose, Section 7.035 – Initiation, Section 7.040 – Procedure, Section 7.060 – Submission of Application, Section 7.120 – Procedure, Section 7.165 – Decision/Appeals, Section 7.180 – Procedure, Section 7.220 – Conditions of Approval, Section 7.225 – Decision/Appeals, Section 7.240 – Procedure, Section 7.270 New Construction Review Criteria, Section 7.280 – Decisions/Appeals, Sections 7.310 – Procedure, Section 7.330 – Review Criteria, Section 7.350, Section 7.360 – Decisions/Appeals, Section 7.370 – Issuance of demolition permit after demolition review are amended as follows:

7.010 Applicability. This article is applied in the following manner:

- (1) To properties in the Downtown, Hackleman, Monteith or Albany Municipal Airport National Register Historic Districts as identified in Figure 7-1 and 7-2.
- (2) To all other structures and sites listed on the City's adopted Local Historic Inventory, including National Register Historic Resources listed prior to February 23, 2018.
- (3) All National Register Resources are subject to Sections 7.300 – 7.370.

7.015 Expiration of Historic Review Approval. See Article 1, Section 1.080 (1).

[Ord. 5720, 08/12/2009]

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

Demolition: Any act that destroys, removes, or relocates, in whole or part, a significant historic resource such that its historic, cultural, or architectural character and significance is lost.

Landmarks Commission: The Landmarks Commission conducts quasi-judicial public hearings on

Type III planning applications affecting historic resources, and acts as an advisory board to the City Council on decisions that could affect historic resources, per Albany Municipal Code section 2.76.050.

[Ord. 5488, 7/11/01]

Local Historic Inventory: A list of historic properties that have been determined significant by the Landmarks Commission and City Council for either their architecture or history based on the criteria of the National Register. It includes properties located within the listed National Register historic districts and buildings, sites, structures, objects and districts located outside of the listed National Register Districts.

National Register Resource: building, structures, objects, sites, or districts listed in the National Register of Historic Places pursuant to the National Historic Preservation Act of 1966 (PL 89-665: 16 U.S.C 470).

7.030 Purpose. The designation of historic landmarks allows the City to formally recognize, rate and protect its historic and architectural resources. The Local Historic Inventory identifies buildings, sites, structures, objects and districts of historical importance or architectural significance that are considered exemplary of their time and style. The regulation of designated and rated historic landmarks provides a means to review proposed changes and encourage the preservation of historical or architectural values. Periodically it may be necessary to re-rate or remove the designation of a historic landmark to reflect changing conditions, community values or needs. [Ord.5463, 9/13/00]

7.035 Initiation. The process for designating or removing a landmark or historic district may be initiated by the City Council, the Landmarks Commission, or by any other interested person. Initiations by the Landmarks Commission are made without prejudice towards the outcome. At the time of initiation, the Community Development Director shall provide the property owner and applicant with information regarding the benefits and obligations of designation. No historic resource shall be designated as a landmark without the written consent of the owner, or in the case of multiple ownership, a majority of the owners. Removal of properties from the National Register of Historic Places requires review and approval by the State Historic Preservation Office and State

Advisory Committee. [Ord. 5463, 9/13/00]

7.040 Procedure.

- (1) **Designation.** Requests for designations of historic landmarks and districts are reviewed through the Type IV legislative or quasi-judicial procedure. The process is legislative when it affects a large number of persons or properties. The Landmarks Commission replaces the Planning Commission as the initial review body. The City Council makes the final determination of historic designation.
- (2) **Amendment to Existing Historic Districts.** Changes or additions to the period of significance statement, property rating structure, or boundaries of an existing historic district shall be reviewed under the Type IV legislative process. The Landmarks Commission replaces the Planning Commission as the initial review body. The City Council reviews and adopts any amendments to the historic districts.
- (3) **Local Historic Inventory Removal.** Only landmarks outside the National Register Historic Districts that are not listed on the National Register of Historic Places individually are eligible for removal from the Local Historic Inventory. The Director may delete any demolished or removed historic structure outside the historic districts from the Local Historic Inventory through the Type I procedure. In the event a National Register building or structure is demolished or moved, an application shall be made to the State Historic Preservation Office to remove and/or redesignate the property from the National Register.
- (4) **Individual Property Re-Rating.** The Landmarks Commission shall review requests for re-rating of individual properties. [Ord. 5463, 9/13/00]

7.060 Submission of Application. Applications must be submitted at least 35 days in advance of the next regularly scheduled public meeting of the Landmarks Commission unless waived by the Director when legal notice can otherwise be achieved. All documents or evidence relied upon by the applicant shall be submitted to the Planning Division and made available to the public at least 20 days prior to the public hearing (10 days before the first evidentiary hearing if two or more evidentiary hearings are required). If additional documents, evidence or written materials are provided in support of a quasi-judicial application less than 20 days (10 days before the first evidentiary hearing if two or more evidentiary hearings are required) prior to the public hearing, any party shall be entitled to a continuance of the hearing. Such a continuance shall not be subject to the limitations of ORS 227.178.

7.120 Procedure. A request for an exterior alteration is reviewed and processed by either the Community Development Director or the Landmarks Commission. The Landmarks Commission replaces the Hearings Board or Planning Commission as the review body.

Any exterior or interior alteration to buildings participating in Oregon's Special Assessment of Historic Property Program will also require review and approval by the State Historic Preservation Office.

- (1) The Director will approve residential alteration requests if one of the following criteria is met:
 - a) There is no change in historic character, appearance or material composition from the existing structure.
 - b) The proposed alteration materially duplicates the affected exterior building features as

determined from an early photograph, original building plans, or other evidence of original building features.

c) The proposed alteration is not visible from the street.

- (2) For all other requests, the Landmarks Commission will review and process the alteration proposal. The applicant and adjoining property owners within 100 feet will receive notification of the Landmarks Commission public hearing on the proposal. The Landmarks Commission will accept written and verbal testimony on the proposal. For buildings on the Special Assessment of Historic Property Program, the Landmarks Commission decision will be forwarded to the State Historic Preservation Office.

7.165 Decisions/Appeals. All decisions must specify the basis for the decision. Landmarks Commission decisions may be appealed to the Albany City Council. Decisions of the Community Development Director may be appealed to the Landmarks Commission.

[Ord. 5463, 9/13/00, Ord. 5488, 7/11/01]

7.180 Procedure. Review of a request for the use of substitute materials is reviewed and processed by the Landmarks Commission. The Landmarks Commission replaces the Hearings Board or Planning Commission as the review body.

The applicant and adjoining property owners within 100 feet will receive notification of the Landmarks Commission meeting on the proposal. The Landmarks Commission shall accept written and verbal testimony on the proposal.

The use of substitute materials on buildings participating in Oregon's Special Assessment of Historic Property Program will also require review and approval by the State Historic Preservation Office. The Landmarks Commission decision will be forwarded to the State Historic Preservation Office.

[Ord. 5463, 9/13/00]

7.220 Conditions of Approval. In approving an alteration request, the Landmarks Commission may attach conditions that are appropriate for the promotion and/or preservation of the historic or architectural integrity of the district, building or site. All conditions must relate to a review criterion.

[Ord. 5463, 9/13/00]

7.225 Decisions/Appeals. All decisions shall specify the basis for the decision. Landmarks Commission decisions may be appealed to the Albany City Council. Decisions of the Community Development Director may be appealed to the Landmarks Commission.

[Ord. 5463, 9/13/00, Ord. 5488, 7/11/01]

7.240 Procedure. The Community Development Director will review and decide on applications for new construction. At the Director's discretion, an application may be referred to the Landmarks Commission for a decision.

7.270 New Construction Review Criteria. The Community Development Director or the Landmarks Commission must find that the request meets the following applicable criteria in order to approve the new construction request:

7.280 Decisions/Appeals. All decisions shall specify the basis for the decision. Landmarks Commission decisions may be appealed to the Albany City Council. Decisions of the Community

7.310 Procedure. Demolition/Moving permits will be processed in accordance with the following:

- (1) The Building Official shall issue a permit for relocation or demolition if any of the following conditions exist:
 - (a) The building or structure is designated non-contributing within a National Register nomination.
 - (b) The building or structure is not a designated contributing National Register Resource and it has been damaged in excess of 70 percent of its previous value in a fire, flood, wind, or other Act of God, or vandalism.
- (2) Those requests not meeting Building Official approval conditions shall be reviewed by the Landmarks Commission. The application shall be submitted at least 35 days in advance of the next regularly scheduled public hearing/meeting of the Landmarks Commission, unless waived by the Director when adequate notice can otherwise be achieved. [Ord. 5463, 9/13/00]

7.330 Review Criteria. The Landmarks Commission must find that the demolition or relocation request meets the following applicable criteria:

- (1) No prudent or feasible alternative exists, or
- (2) The building or structure is deteriorated beyond repair and cannot be economically rehabilitated on the site to provide a reasonable income or residential environment compared to other structures in the general area, or
- (3) There is a demonstrated public need for the new use that outweighs any public benefit that might be gained by preserving the subject buildings on the site.
- (4) The proposed development, if any, is compatible with the surrounding area considering such factors as location, use, bulk, landscaping, and exterior design.
- (5) If the building or structure is proposed to be moved, moving to a site within the same historic district is preferred to moving it outside the district.
- (6) The request is consistent with Oregon Administrative Rules 660-023-0200(8)(a) and considers the following factors: condition, historic integrity, age, historic significance, value to the community, economic consequences, design or construction rarity, and consistency with and consideration of other policy objectives in the Comprehensive Plan. [Ord. 5463, 9/13/00]

7.350 No provision in this ordinance shall be construed to prevent the alteration, demolition, or relocation of all or part of a locally significant historic resource if the Building Official certifies that such action is required for public safety.

[Ord. 5463, 9/13/00]

7.360 Decisions/Appeals. Following a public hearing, the Landmarks Commission may approve, approve with conditions, invoke a stay to the demolition, or deny the application. During the stay, the Landmarks Commission will notify the owner of potential rehabilitation programs and benefits and encourage public or private acquisition and restoration of the landmark. The length of the stay will be no more than 365 days from the date a complete application was received by the City. All decisions to approve, approve with conditions, stay to the demolition, or denial shall specify the basis for the decision. Decisions of the Landmarks Commission can be appealed to the City Council. [Ord. 5463, 9/13/00]

7.370 Issuance of demolition permit after demolition review. If the review body approves demolition of the resource, a permit for demolition shall not be issued until the demolition review decision is final and appeals in accordance with ADC 1.520 have been exhausted or waived.

Section 4: ADC Article 9, Section 9.380 - Standards is amended as follows:

9.380 Standards. Fences and walls shall meet the following standards. If a fence or wall is used to meet required screening, it shall meet the provisions of Section 9.385.

Standards in Residential, MUR and MUC zones:

- (a) Fences in front setbacks. Fences shall be no taller than 4 feet in required front setbacks unless allowed below.
- (b) Properties listed on the National Register of Historic Places may have front yard fences taller than 4 feet if the fence is appropriate to the building style and scale, and is approved by the Landmarks Commission.

Standards in HD, DMU, CB, and WF zones:

- (5) Fences in front setbacks. Fences shall be no taller than 4 feet within 10 feet of a front lot line unless allowed under (a)-(c), below. Barbed wire on top of fences is not permitted within 10 feet of a front lot line.
 - (a) Properties listed on the National Register of Historic Places may have fences taller than four feet within ten feet of a front lot line if the fence is appropriate to the building style and scale, and is approved by the Landmarks Commission.

Section 5: ADC Article 13, Section 13.711- Variance for Historic Buildings and Section 13.830 – Exemption from Nonconforming Status are amended as follows:

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 Commission or its successor on the entire signage of the structure, and the following criteria are met:

- (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.

13.830 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 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.

Section 6: ADC Article 22, Section 22.320 - Residential Accessory Buildings and Section 22.400 - Definitions are amended as follows:

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

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