NOTICE OF PUBLIC MEETING
CITY OF ALBANY
CITY COUNCIL
Council Chambers
333 Broadalbin Street SW
Wednesday, July 8, 2009
7:15 p.m.

AGENDA

OUR MISSION IS

"Providing quality public services for a better Albany community."

OUR VISION IS

"A vital and diversified community that promotes a high quality of life, great neighborhoods, balanced economic growth, and quality public services."

Rules of Conduct for Public Hearing

1. No person shall be disorderly, abusive, or disruptive of the orderly conduct of the hearing.
2. Persons shall not testify without first receiving recognition from the presiding officer and stating their full name and residence address.
3. No person shall present irrelevant, immaterial, or repetitious testimony or evidence.
4. There shall be no audience demonstrations such as applause, cheering, display of signs, or other conduct disruptive of the hearing.

1. CALL TO ORDER

2. PLEDGE OF ALLEGIANCE TO THE FLAG

3. ROLL CALL

4. PROCLAMATION
   a. Oregon National Guard Month Proclamation [Page 1]

5. SCHEDULED BUSINESS

   a. Legislative Public Hearing
      1) DC-02-09, considering proposed amendments to the Albany Development Code regarding Articles 1, 2, 9, and 11. [Pages 2-72]
      Action:_____ ORD. NO._____

   b. Public Hearing
      1) Reaffirming the water, sewer, and transportation SDC; the water, sewer, storm, and street connection charges; and four special assessment fees for the North Albany Sanitary Sewer, the Lochner Road utilities, the Columbus Street Lift Station, and the North Albany Street Improvement Assurance Fee. [Pages 73-75]
      Action:_____ RES. NO._____

   c. Business from the Public

   d. Second Reading of Ordinance
      1) Amending AMC 6.04 and requiring the licensing of dogs, regulating the circumstances under which more than two mature dogs can be kept on a single property, and establishing an animal control assessment to be imposed upon violators. [Pages 76-81]
      Action:_____ ORD. NO._____

   e. Adoption of Resolutions
      1) Establishing rates for the collection of refuse inside the Albany city limits. [Pages 82-89]
      Action:_____ RES. NO._____
      2) Adopting a new fines and fees schedule for the Albany Public Library. [Pages 90-94]
      Action:_____ RES. NO._____

f. Adoption of Consent Calendar
   1) Approval of Minutes
      a) May 11, 2009, Work Session. [Pages 95-99]
      b) May 27, 2009, City Council. [Pages 100-103]
      c) June 10, 2009, City Council. [Pages 104-106]
   2) Entering into a contract with the state of Oregon to accept an Oregon Community Development Block Grant for the Regional Housing Rehabilitation Program and entering into a related Intergovernmental Agreement with Community Services Consortium. [Pages 107-109] RES. NO._____
   3) Approving the following liquor licenses:
      a) Ledgends, LLC, D/B/A Henry's at Hickory, 640 Hickory NW. [Page 110]
      b) Vault 244, Inc., D/B/A Vault 244 Bistro/Lounge, 244 First Avenue SW. [Page 111]

   Action: _____

g. Report
   1) Authorizing appraisal, title report, and negotiation of price with property owner located at 2535 Front Street NE [Pages 112-114]

   Action: _____

6. BUSINESS FROM THE COUNCIL

7. NEXT MEETING DATE: Work Session July 20, 2009
   Regular Session July 22, 2009

8. ADJOURNMENT

The location of the meeting/hearing is accessible to the disabled. If you need special accommodations to attend or participate, please notify the Human Resources Department in advance by calling (541) 917-7500.

PROCLAMATION

OREGON NATIONAL GUARD MONTH

JULY 2009

WHEREAS, the members of the Oregon National Guard play an essential role in safeguarding the rights and freedoms of Americans and unceasingly provide a vital public service to Oregon citizens; and

WHEREAS, the Oregon National Guard has consistently demonstrated its value to our state and our nation; and

WHEREAS, our military personnel face urgent and perilous duties associated with their National Guard responsibilities; and

WHEREAS, the families and loved ones of our military personnel face unique and challenging obstacles throughout each deployment cycle; and

WHEREAS, 2,700 members of the 41st Infantry Brigade Combat Team of the Oregon National Guard and will be deployed overseas for eleven months; and

WHEREAS, Oregon Air and Army National Guard troops have fulfilled over 10,000 individual mobilizations in support of ongoing military operations in Afghanistan and Iraq and throughout the world.

NOW, THEREFORE, I, Sharon Konopa, Mayor of the City of Albany, Oregon, do hereby proclaim July 2009 as

OREGON NATIONAL GUARD MONTH

in Albany and encourage our citizens to join in this observance.

IN WITNESS WHEREOF, I have hereunto set my hand and caused the seal of the City of Albany to be affixed this 8th day of July 2009.

_____

Sharon Konopa, Mayor

TO: Albany City Council

VIA: Wes Hare, City Manager
Don Donovan, Planning Manager DDH

FROM: Anne Catlin, Planner II ajc

DATE: June 29, 2009, for the July 8, 2009, City Council Meeting

SUBJECT: Development Code Amendments (Planning File DC-02-09)

RELATES TO STRATEGIC PLAN THEME: • Great Neighborhoods

RELATES TO: • Safe City

Action Requested:

Consider the proposed amendments to the Albany Development Code.

Discussion:

Community Development is implementing a process to periodically evaluate and recommend changes to the City's Development Code. We want to give the community, including Planning Commissioners and the Council a way to suggest improvements to the Code. Reviewing the Code on a regular basis will keep it responsive to community needs and goals for Albany.

Staff will take requests to evaluate changes to the Code throughout the year, and will prepare amendments to the Code semi-annually. Amendments will be grouped into manageable packages. This is the first "round" of these semi-annual amendments.

This particular package of amendments includes relatively minor revisions identified by the Public Works and Community Development departments that are necessary for adequate and timely development review, to meet disability requirements, or to address compliance issues. In addition, staff received direction from the Planning Commission retreat on November 7, 2008, to restore the "unusual circumstance" language to the Variance review criteria (Article 2). The same changes are proposed for Adjustments (minor variances).

As we evaluate policy issues for direction (shown in **red text** in the Exhibits), we will also incorporate changes to improve the readability and format of the existing Code (shown in black **bold** and ~~strikethrough~~). Many of these improvements have been on our to-do list for a long time. We expect that this semi-annual review and update process will balance larger issues and changes to the regulations with minor, but important improvements to the Code to make it easier to use.

Larger amendments that affect aesthetics or specific sectors or zones, such as businesses or residents, will include more citizen involvement and input in drafting proposed changes.

We look forward to your input on the current and future proposed Code amendments.

Budget Impact:

None

Attachments

Summary Table of the Proposed Development Code Amendments
Ordinance
Exhibits A through E: Articles 1, 2, 9, 11 and 12.
Exhibit F: DC-02-09 Staff Report and Findings and Conclusions
June 9, 2009 and June 15, 2009 Letters from Multi-Tech Engineering Services, Inc.

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DC-02-09: PROPOSED DEVELOPMENT CODE AMENDMENTS			
ADC LOCATION	**CHANGE**	**REASON**	**RESULT**
Article 1, Expiration of Land use Approvals Was 1.060(5), now 1.080	Return to one-year approval or building permit expiration for historic review approvals only.	The 3-year time limit for land use approvals is problematic for enforcing conditions of approval.	Easier to get compliance with Historic Review conditions of approval.
Article 1, Code Enforcement 1.140	Add reference to Albany Municipal Code Title 18 where enforcement procedures are located.	The Code needs to reference Title 18 for compliance and enforcement.	Improves compliance and enforcement process.
Article 2, Adjustments 2.060-2.080	• Restore the "unusual circumstance" language to the criteria. • Director will determine whether an application is processed as an adjustment or a variance.	Adjustments have become "automatic reductions," rather than limited flexibility for unusual situations. The current standards are hard to apply equitably.	Improves the integrity of the adjustment process and ability to administer the standards equitably.
Article 2, Site Plan Review Application Content 2.490, (k)-(n) (See pages 2-2 and 3)	Require applications to include information on natural and proposed storm drainage when applicable.	Public Works needs enough information to adequately evaluate the project for natural and storm drainage patterns.	Applications can be deemed complete in a shorter time period resulting in faster processing time. Applicant can save money.
Article 2, Site Plan Review Application Content 2.490, (t)-(aa)	Require applicable information related to pedestrian amenities, airport zones, natural features, and historic sites.	Community Development needs enough information to adequately evaluate the project against the existing review criteria.	Applications can be deemed complete in a shorter time period resulting in faster processing time.
Article 2, Variances 2.660-2.690	Restore the criterion that a "unique or unusual circumstance" or hardship must exist.	This review criterion is essential to the legal framework for variances.	Protects integrity of the variance process.
Article 9, Off-Site Improvements 9.120-9.150	Minor revisions to ensure parking stalls, landscaping, and public walkways are ADA compliant.	Several parking lots are out of compliance with the ADA standards in the Oregon Structural Specialty Code	Minor revisions to the ADC will help with ADA compliance.
Article 9, Noise Standards 9.440	Adopt by reference the Department of Environmental Quality noise standards for industry and commerce.	The City attorney recommends adoption to allow better enforcement.	Easier and quicker compliance case processing.
Article 11, Tentative Plat Submittal 11.210	Require sanitary and storm sewer locations be shown on the tentative plat.	Public Works needs enough information to adequately evaluate the project for natural and storm drainage patterns.	Applications can be deemed complete in a shorter time period resulting in faster processing time.
Article 12, Street Signs 12.280	Add language that says the developer will provide and install street signs.	Code currently says that the City will install street signs, when this has not been the process for many years.	Updates the Code to reflect the current process.

DC-02-09: PROPOSED DEVELOPMENT CODE AMENDMENTS			
ADC LOCATION	**CHANGE**	**REASON**	**RESULT**
Article 12, Water, Sewer, and Storm Drainage 12.440, 12.500, 12.530	Require preliminary plans and systems to be submitted to the City Engineer as part of the tentative plat or site plan review.	Public Works needs more information to conduct an adequate and timely review.	Applications can be deemed complete in a shorter time period resulting in faster processing time.

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ORDINANCE NO. _____

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 THE EXPIRATION OF HISTORIC REVIEW APPROVALS, LAND USE APPLICATION CONTENTS, VARIANCE AND ADJUSTMENT REVIEW CRITERIA, ON-SITE DEVELOPMENT AND ENVIRONMENTAL STANDARDS TO BE IN COMPLIANCE WITH OTHER CODES AND LAWS, ADOPTING FINDINGS, AND DECLARING AN EMERGENCY (FILE DC-02-09).

WHEREAS, from time to time it is appropriate to amend the Albany Development Code based on changing conditions, and to be in compliance with other state and federal laws; and

WHEREAS, the City has been collecting suggestions to the Code for several years and is developing an on-going, semi-annual process to evaluate changes to the Code; and

WHEREAS, these amendments are proposed as a part of the on-going process of evaluating and updating the Code; and

WHEREAS, on June 15, 2009, the Planning Commission held a public hearing on the proposed amendments and continued their hearing to June 29, 2009; and

WHEREAS, on June 29, 2009, the Planning Commission recommended these changes to the City Council, based on public testimony, their deliberation, and the staff report; and

WHEREAS, on July 8, 2009, the Albany City Council held a public hearing on the proposed amendments, reviewed the amendments recommended by the Planning Commission and any testimony presented at the public hearing and then deliberated; and

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 through E for the articles listed below:

Exhibit A: Article 1, Administration and Procedures

Exhibit B: Article 2, Review Criteria (entire article)

Exhibit C: Article 9, On-site Development and Environmental Standards

Exhibit D: Article 11, Land Divisions

Exhibit E: Article 12, Public Improvements

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

Section 3: Inasmuch as this Ordinance is necessary for the immediate preservation of the peace, health and safety of the citizens of the City of Albany, an emergency is hereby declared to exist. This ordinance will be in full force and effective immediately upon its passage by the Council and approval by the Mayor.

Passed by the Council: _____

Approved by the Mayor: _____

Effective Date: _____

_____
Mayor

ATTEST:

_____
City Clerk

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ARTICLE 1
ADMINISTRATION AND PROCEDURES

*Staff Comment: The amendments and comments in **red** are proposed policy amendments. Other edits to clarify the existing regulations are proposed in black* **bold** *and* ~~strikethrough~~*. Staff comments in italics are not amendments and will be removed.*

1.000 Overview. This Article establishes the framework for the review of land use applications. It explains the processes the City follows for different types of reviews and how hearings and appeals are conducted. The list below is a summary of the topics covered in this chapter.

- General Administration
- Clarification of Land Use Decisions
- Administrative Process
- Limited Land Use Process
- Quasi-Judicial Process
- Legislative Process

These headings precede subtopics that can assist the user in locating information. The table of contents contains a complete listing of the material covered in this Article.

GENERAL ADMINISTRATION

No changes are proposed to 1.010 through 1.050, so they are not shown.

1.060 When Land Use Applications Are Required.

No changes are proposed to 1.060 (1) through (4) and 1.070, so these sections are not shown.

Staff Comments: The following changes are proposed:

- *Expiration of land use approvals is buried under the heading: "When Land Use Applications are Required" currently as 1.060 (5). We propose this content become its own section, 1.080.*
- *In 2001, the one-year expiration time period was extended to three years. This time period has been problematic for enforcing conditions of approval for Historic Review approvals. We propose restoring the one-year expiration to Historic Review approvals as outlined in 1.065 (2).*
- *Example: Plans for a new house received historic approval with conditions. The house was constructed but it didn't satisfy all of the conditions of approval or what was proposed and approved. They currently have three years to satisfy the approval. The "substantial construction" language in (1) below applies here, so the unfinished items can go on indefinitely.*

1.080 Expiration of Land Use Approvals.

(~~5~~1) **Except as provided in (2) below, A**~~a~~ll land use approvals shall expire three years from the date of the approval, unless "substantial construction" of the project has been accomplished within that time. Substantial construction is defined in the "Definitions" section of this Code as "Any physical improvement of a property, the cost of which equals or exceeds fifty percent of the fair market value of the property before the improvement was started."

If substantial construction has been accomplished, development may continue to completion without a limit on the time allowed. The Development Code standards for development within these time periods are those in effect at the time the original approval was granted. [Ord. 5475, 4/11/01]

(2) 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.

1.0850 Approval Runs with the Land. Approval of a land use decision runs with the land. The approval transfers to a new owner if the property is sold. [Ord. 5475, 4/11/01]

No changes are proposed to 1.090 through 1.130, so they are not shown.

Staff Comments: The following reference to Title 18 of the Municipal Code is necessary as it outlines the enforcement procedures.

1.140 Code Enforcement. The Director or designee may enforce the provisions of this ordinance **using the remedies provided in Sections 1.110 through 1.190 herein and in Title 18 of the Albany Municipal Code**. The enactment of this ordinance shall not invalidate any prior, existing, or future prosecutions for violation of the Development Code regulations committed under a previous ordinance.

No other changes are proposed to this Article.

ARTICLE 7
HISTORIC OVERLAY DISTRICT

The only change proposed in this Article is to add a reference to Article 1, Section 1.080, Expiration of Land Use Approvals.

7.015 Expiration of Historic Review Approval. See Article 1, Section 1.080 (2).

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ARTICLE 2
REVIEW CRITERIA

Staff Comment: The amendments and comments in red are proposed policy amendments. Other edits to clarify the existing regulations are proposed in black **bold** *and* ~~strikethrough~~. *Staff comments in italics are not amendments and will be removed.*

2.010 Overview. The Development Code provides ~~a combination of~~ nondiscretionary and discretionary standards for the City to use in evaluating **how** land use proposals **comply** ~~for compliance~~ with the use and development requirements of the Code. The nondiscretionary criteria provide ~~the certainty needed in most situations by providing straightforward,~~ clear and objective standards **for certainty in most situations**. Discretionary criteria provide ~~needed~~ flexibility by allowing more subjective standards and objectives, and ~~providing for the~~**allow** modification of regulations in response to specific site conditions. This chapter contains the criteria for evaluation of the following land use applications:

- Adjustments
- Annexations
- Comprehensive Plan **and Map** Amendments
- Conditional Uses
- Development Code Amendments
- Nonconforming Situations
- Site Plan Review
- Vacations
- Variances
- Zoning Map Amendments

[Ord. 5445, 4/12/2000]

Staff Comments: Research found that 2.020 came from Portland's Code. The current language is confusing because not all of the language from the Portland Code was included. The proposed additional text clarifies this section that explains the functions of review criteria.

2.020 Function of Review Criteria.

(1) Review criteria ~~set the bounds for~~**describe** the issues ~~that must be addressed by~~ the applicant **must address** and that ~~may be raised by~~ the City or affected parties **may raise. A proposal that complies with all of the criteria will be approved. A proposal that can comply with the criteria with mitigation measures or limitations will be approved with conditions. A proposal that cannot comply with the criteria outright or with mitigation measures will be denied.**

(2) The review criteria are derived from the Comprehensive Plan. Reviews against the goals and policies of the Comprehensive Plan are not required unless specifically stated. ~~Fulfillment of all requirements and review criteria means t~~**T**he proposal ~~is in~~ conforms~~ance~~ with the Comprehensive Plan **if it fulfills the review criteria**.

(3) When review criteria ~~refer to the~~**require an application** ~~request~~ to meet a specific ~~threshold~~**standard**, such as adequate services or no ~~significant detrimental environmental~~**negative offsite** impacts, ~~the threshold includes any proposed improvements, mitigation measures, and limitations. A~~**a**ll proposed improvements **and**~~,~~ mitigation measures ~~, and limitations~~ must be identified ~~prior to a final decision by a~~**before the** review body **will make a final decision**.

2.030 Burden of Proof. The ~~burden of proof is on the~~ applicant ~~to~~ **must** show that the review criteria are met. The burden **of proof** is not on the City or other parties to show that the criteria have **or have** not been met.

2.040 Conditions of Approval. The City may attach conditions to the approval of a land use decision in order to ensure that the proposal will conform to the applicable review criteria.

2.050 Relationship to Other Regulations. ~~Approval of~~**When** a land use application **is approved** based on review criteria in this Code**, the applicant must still** ~~does not relieve the applicant of responsibility for~~ comply~~iance~~ with other applicable codes, ordinances, statutes**, and** ~~or~~ regulations.

ADJUSTMENTS

Staff Comments: (Note - Adjustments used to be Type I variances in Albany, so this discussion is also about variances.) Nationally and historically, variances were included in zoning ordinances to alleviate unnecessary hardship of denying the property owner all reasonable use of his or her property. Typically an "unusual" physical features or configuration of the lot must exist to approve a variance.

In 1991, the City changed Type I variances to adjustments, and created new criteria for adjustments. The City removed the requirement that there be some kind of unique circumstance or condition of the property for adjustments and variances. The staff comment was, "the proposed changes result in more realistic criteria."

Consequently, over the years adjustments have moved away from being used for unusual situations to an automatic approval of a 10% reduction from a standard. This is in part due to the fact that the criteria do not require the applicant to address their unusual circumstance for needing the adjustment.

Without the unique or unusual circumstance criterion, the variance and adjustment criteria can be relatively easy to meet and may be too easy to meet if we intend for them to apply only to unusual situations as the purpose statement states. It is also hard to apply these standards equitably.

Staff feels the intent of the variance/adjustment sections have strayed from their original purpose and recommend the following revisions:

- *Rather than use the 10% threshold to determine whether an application is processed as an adjustment or a variance, this will be determined at the sole discretion of the Director. (Note: 10% of a large number can be a lot, and the goal is to allow for the minimum necessary adjustment.)*
- *Add review criteria to address the intent of providing limited flexibility in unusual situations.*

Public Comment: We received comments from Multi-Tech Engineering Services on June 10 and June 15, 2009, on the proposed changes to the variance and adjustment review criteria. The letter states, "'Unusual situation' is subjective criteria and make it difficult for an applicant to prove that one exists on the site. What is determined to be an unusual situation or hardship for the applicant may not be interpreted as a hardship by the City."

2.060 Purpose. The adjustment review ~~process provides a mechanism by which~~**allows** the Director **to** ~~may~~ make limited modifications to the application of ~~regulations in the~~ Development Code **regulations**. Adjustment reviews provide **very** limited flexibility **from numeric standards** for unusual situations, while still providing certainty and rapid processing for land use applications. ~~Requests for changes from a numerical development standard of 10 percent or less of the standard are processed as adjustments. Requests for changes to standards that are not numeric or which are for more than 10 percent of the standard are processed as variances.~~ **Adjustments will not be considered to avoid a review process or standard in this Code.**

Staff Comments: This next sentence is currently in the preface to the review criteria and is being relocated.

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

2.070 Procedures. Adjustment ~~requests~~ **applications** are processed through a Type I procedure. **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. ~~Alternative setbacks in developed areas are addressed in Sections 3.240, 4.130, and 5.130. All other adjustment requests will be approved if the Director finds that t~~**T**he applicant ~~has~~ **must** show~~n~~ that the following criteria have been met:

(1) ~~The requested adjustment is for 10 percent or less of the numerical development.~~**The adjustment is not requested to avoid a land use review process or increase density.**

(2) The need for the adjustment is created by the **unusual** configuration of **the property, to protect natural features, or due to the location of** an existing or proposed structure on the site. [Ord. 5338, 1/28/1998]

(3) **The adjustment is the minimum necessary to address the unusual circumstance and still be consistent with the purpose of the zoning district.**

ANNEXATIONS

2.090 Purpose. Annexation is the first step in converting ~~urbanizable~~ lands **in the Albany Urban Growth Boundary** to urban land ~~within the Albany Urban Growth Boundary~~. Annexation and subsequent development may provide economic and social benefits to the City of Albany through the creation of housing; business and commercial enterprise; creation of construction and permanent jobs; and expansion of the City's tax base. When annexations are properly timed, they allow for orderly expansion of eCity boundaries and contribute to logical extensions of public infrastructure. An ill-conceived annexation may impose burdens on the community that could outweigh the benefits. An annexation application must meet the quasi-judicial and legislative requirements of this Code and state law.

2.095 Procedure. Annexation applications are reviewed as a Type IV procedure. If ~~it is~~ the Albany City Council's ~~legislative~~ determine~~sation~~ **the application meets the review criteria, the annexation will be** ~~to~~ set ~~the matter~~ for a citywide vote.~~,~~ ~~a~~Annexation shall only be approved by a ~~prior~~ majority vote among the electorate.

(1) Exception. These procedures do not apply to an annexation mandated by state law, which is a Type I procedure and not subject to voter approval.

2.100 Voting in Island Annexations. When considering the annexation of "island" territory as authorized by ORS 222.750, the City Council shall authorize the electors within the annexation territory to vote on the question of annexation. In such event, the votes of the electors in the annexation territory shall be counted with the votes of the electors within the city. This section shall not authorize the votes of the electors within the annexation territory to be considered separately from those of the citizens within the city, except that an annexation will not be approved unless the majority of votes cast by the city electors approve the annexation.

2.105 Annexation Agreement. The annexation applicant and the City of Albany may enter into an Annexation Agreement for the purpose of addressing the annexation-related quasi-judicial or legislative concerns of the City of Albany. The agreement may contain proffers made by the applicant to address quasi-judicial or legislative criteria or concerns. The annexation agreement may provide the basis for the City Council to determine that the proposed annexation is in the public interest. The terms of the annexation agreement may help the applicant meet applicable review criteria for annexation or enhance the public benefits that will result from the annexation. The terms of an annexation agreement may include, but are not limited to, timing of the submittal of an application for zoning, dedication of land for future public facilities, construction of public improvements, waiver of compensation claims, waiver of nexus or rough proportionality objections to future exactions, or other commitments deemed valuable to the City of Albany. The annexation agreement shall be recorded as a covenant running with the land, binding on the landowner's successors in interest.

2.110 Review Criteria. The review body shall make a quasi-judicial land use decision as to whether the proposed annexation complies with all of the following criteria:

(1) Eligibility Criteria. The City shall determine that property is eligible for annexation based on the following criteria:

(a) The property is contiguous to the existing city limits; and
(b) The property is located within the Albany Urban Growth Boundary as established by the Albany Comprehensive Plan.

(2) Infrastructure Criteria. The City shall determine that it is timely to annex property based on the following criterion:

(a) An adequate level of urban services and infrastructure is available, or will be made available in a timely manner.

(b) As used in this section:
   i. "Adequate level" means conforms to adopted plans and ordinances.
   ii. "Urban services" means police, fire, and other City-provided services.
   iii. "Infrastructure" means sanitary sewer, water, storm drainage, and streets.
   iv. "Be made available in a timely manner" means that improvements needed for an adequate level of urban services and infrastructure will be provided at the time and place needed to serve the anticipated development. Improvements may be secured by a development agreement, annexation agreement, or other funding mechanism that will place the primary economic burden on the territory proposed for annexation and not on the City of Albany generally.

(3) Planning Criteria. The City shall determine that adequate planning has occurred based on the following criterion:

Sufficient planning and engineering data have been provided, and necessary studies and reviews have been completed ~~such~~ so that there are no significant unresolved issues regarding appropriate Comprehensive Plan and implementing ordinances. Examples of needed studies may include public infrastructure plans, buildable lands inventories, area refinement plans, or any task in an approved work program for Periodic Review.

(4) Reasonableness Criteria. The City shall determine that it is reasonable to annex the property.

2.115 Legislative Review. The City has been entrusted by the people of Albany to make decisions affecting the livability of the community. The people rely on the City to consider ~~whatever~~ factors it deems appropriate in making quality of life determinations on their behalf, including whether to place annexation requests before the voters of the City of Albany.

(1) The City is not obligated to reach a legislative decision to either place an annexation on the ballot or to refrain from doing so. The City is not obligated to approve the annexation even if it determines that the quasi-judicial review criteria have been met. Following the quasi-judicial land use determination, the City may decline to take legislative action, or make a legislative determination to approve or deny the proposed annexation if it deems such action to be in the public interest.

(a) The legislative decision to place the matter on the ballot for election, or to decline to take such action, shall be at the discretion of the City and shall be made by resolution. If authorized, the matter shall be placed before the voters of the City in the manner prescribed by the City.
(b) An annexation application denied by the City shall not be placed on the ballot for election.

2.120 Proclamation of Annexation. If the annexation is approved by the electorate, the City Council, by ordinance, shall set the final boundaries of the area to be annexed by a legal description of the annexation boundary and proclaim the annexation in accordance with state law.

ZONING OF ANNEXATION TERRITORY

2.125 Interim Zoning. Any area annexed to the City shall retain the zoning classification of the county until changed by the City. During the period between the proclamation of annexation and application of City zoning, the City shall enforce the current zoning regulations of the county along with any conditions, limitations or restrictions applied by the county as though they were part of the Code, except that the provisions of this Code shall supersede comparable provisions of the county zoning regulations.

2.130 Procedure. Applying initial City zoning to annexation territory is subject to the provisions of ADC 2.700 through 2.760.

2.135 Application of Initial City Zoning. The City may exercise full discretion in determining the initial City zoning of annexation territory.

(1) The City may initiate a zoning map amendment as provided by ADC 2.710 to apply the initial City zoning to the annexation territory.

(2) The City may approve the zoning requested by the applicant.

(3) The City may select a zoning district other than that requested by the applicant in order to best satisfy the criteria for a zoning map amendment set forth in ADC 2.740. In this event, the applicant may withdraw the annexation application by written notice to the City within ten (10) days of the City's action, or forty-eight (48) hours prior to the filing date and time required by the County Clerk for inclusion in the election, whichever shall first occur.

2.140 Concurrent Applications. The City does not have authority to zone land or to regulate development under this Code until land is annexed. However, the applicant for annexation may request zone change and development-related applications filed for concurrent review with an annexation request. As used in this section, "development-related application" includes, but is not limited to, site plan review, conditional use, land division, or variance.

(1) If the applicant for annexation desires concurrent, pre-annexation determinations for related land use applications, those applications shall be processed concurrently through a Type IV procedure.

(2) In order to be eligible for filing zone change and development-related applications for concurrent review with an annexation request, the applicant shall waive the provisions of state law and this Code that require a final decision within 120 days.

(3) The determination on all land use applications filed for concurrent review with an annexation application shall not be final for the purposes of administrative or judicial review until the date that the annexation is proclaimed.

(4) All land use applications filed for concurrent review shall result in a single decision for purposes of appeal, such that all applications, excluding annexation, are subject to review on appeal if any one application is challenged.

(5) If any land use decision concurrent with annexation is reversed on appeal, all concurrent applications, excluding annexation, are void.

(6) Concurrent, development-related applications, once approved, may be modified pursuant to the procedures in ADC 1.226, or the development-related application may be withdrawn and a new application submitted for review.

(7) In the event land is not developed in substantial conformance with a concurrent, development-related approval and the decision is no longer valid, the City may initiate a zone change pursuant to ADC 2.710 to revert all or a portion of the annexation territory to the previous county zoning classification. Such a reversionary stipulation may be included in the annexation agreement.

[Ord. 5635, 1/11/2006]

COMPREHENSIVE PLAN AMENDMENTS

2.190 Purpose. The Comprehensive Plan is the City's official and controlling land use document ~~of the City~~, ~~providing~~ guid**inganc**~~e to both~~ public and private activities that affect ~~the~~ **Albany's** growth, development, and livability ~~of the community~~. The Plan is intended to be a flexible document, reflecting changing circumstances and community attitudes through occasional amendments. This section provides a process ~~whereby~~ **for amending** the Comprehensive Plan ~~may be amended~~ without violating ~~the~~ **its** integrity ~~of the Plan~~ or frustrating its ~~basic~~ purposes. This process applies to proposed changes to the Comprehensive Plan Map designations, text and the Urban Growth Boundary.

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 Advisory Commission,** or Director may also initiate Plan amendments. These initiations are made without prejudice towards the outcome.

2.210 Procedure. ~~Requests for Plan amendments~~**If the Director** determine~~s~~**d** ~~by the Director~~ **a request for a Plan amendment** ~~to be~~**is** legislative, ~~in nature are~~ **the request will be** reviewed through the legislative procedures in Sections 1.580-1.660. Quasi-judicial requests are reviewed through the Type IV procedures of Section 1.370. Area specific amendments, including Map amendments outside of the City limits, are processed in accordance with the City-County Urban Growth Management Agreement.

2.220 Review Criteria. Amendments to the Comprehensive Plan will be approved if the Council finds that the applicat**ion meets** ~~nt has shown that~~ the following applicable criteria ~~are met~~:

(1) A legislative amendment is consistent with the goals and policies of the Comprehensive Plan, the statewide planning goals, and any relevant area plans adopted by the City Council.

(2) A legislative amendment is needed to meet changing conditions or new laws.

(3) The requested designation for a quasi-judicial map amendment meets all of the following tests:

(a) The requested designation for the site has been evaluated against relevant Comprehensive Plan policies and on balance is more supportive of the Comprehensive Plan as a whole than the old designation.
(b) The requested designation is consistent with any relevant area plans adopted by the City Council.
(c) The requested designation is consistent with the Comprehensive Plan Map pattern.
(d) The requested designation is consistent with the statewide planning goals.

2.225 Corrections to the Comprehensive Plan Map. The Director may initiate a review through the Type I procedure for these types of corrections to the Comprehensive Plan Map ~~listed below~~:

(1) A map line that was intended to follow a topographical feature does not do so. Topographical features include the tops and bottoms of hillsides, the banks of water bodies, and center lines of creeks or drainage ditches;

(2) The line on the map does not match the legal description or the map shown or referenced in the ordinance that applied the designation; or

(3) There is a discrepancy between maps, and there is clear legislative intent for where the line should be.

(4) The map line is based on the location of a reference item that has since been moved. Reference items are rights-of-way, tentative rights-of-way, utility easements and similar items. Map line changes in these cases must not be more than a minor change to the map pattern and must not

~~result in any~~ significant**ly affect** ~~impacts to~~ abutting lots.

CONDITIONAL USES

2.230 Purpose. ~~Certain uses are conditional uses instead of being a~~ **The City does not allowed some uses** outright, although they may have beneficial effects and serve important public interests. The~~y~~**se uses** are subject to the conditional use regulations because they may~~, but not necessarily do,~~ have ~~significant~~ adverse effects on the environment, overburden public services, change the desired character of an area, or create major nuisances. A review of these proposed uses is necessary due to the potential individual or cumulative impacts they may have on the surrounding area or neighborhood. The conditional use review process provides an opportunity to allow the use when ~~there are~~**it will have** minimal impacts, to allow the use but impose conditions to address identified concerns, or to deny the use if the concerns cannot be resolved.

Uses identified as requiring conditional use approval may be permitted, enlarged or altered ~~in~~ accord**ingance with** **to** the provisions of this section. In addition, when a use is not authorized in any district or when **it is unclear how to classify** ~~re ambiguity exists concerning the appropriate classification of~~ a particular use or ~~type of~~ development within the intent of this Code, the use or type of development may be established by a conditional use approval in accordance with this section.

2.240 Procedure. A Conditional Use application is reviewed as either a Type II or a Type III procedure, according to the Schedule of Permitted Uses. [Ord. 5446, 5/10/00, Ord. 5673, 6/27/2007]

2.250 Review Criteria. Requests for conditional uses will be approved if the review body finds that the applicat**ion**~~nt has shown that~~ **meets** all of the following criteria~~ have been met~~, either outright or with conditions that bring the proposal into compliance:

(1) The proposed use is consistent with the intended character of the base zone and the operating characteristics of the neighborhood.

(2) The proposed use will be compatible with existing or anticipated uses in terms of size, building scale and style, intensity, setbacks, and landscaping or the proposal ~~calls for~~ mitigat**es** ~~ion of~~ difference in appearance or scale through such means as setbacks, screening, landscaping or other design features.

(3) The transportation system ~~is capable of~~ **can** support~~ing~~ the proposed use in addition to the existing uses in the area. Evaluation factors include street capacity and level of service, on-street parking impacts, access requirements, neighborhood impacts and pedestrian safety.

(4) Public services for water, sanitary and storm sewer, water management, and for fire and police protection, ~~are capable of~~ **can** serve~~icing~~ the proposed use.

(5) The proposal will not have significant adverse impacts on the livability of nearby residentially zoned lands due to:
   (a) Noise, glare, odor, litter, or hours of operation.
   (b) Privacy and safety issues.

(6) Special features of the site (such as topography, floodplains, wetlands, vegetation, historic sites) have been adequately considered and utilized. [Ord. 5265, 12/18/1996]

2.260 Conditions of Approval. The review body may attach conditions ~~to a conditional use~~ **of** approval to ensure that the proposal will conform to the applicable review criteria.

Some of the most frequently imposed conditions relate to the following: uses,~~:~~ special yards, and spaces; fences and walls; street dedications and improvement petitions (or bonds); ~~ingress~~ **site entry** and **exit**~~egress~~; signs; building textures, colors, architectural features and height; landscaping, screening

and buffering; noise, vibration, odors or other similar nuisances; hours for certain activities; time period within which the proposed use shall be developed; duration of use; and preservation of natural vegetati**onve ~~growth~~** and open space.

DEVELOPMENT CODE AMENDMENTS

2.270 Purpose. The Development Code ~~is designed to~~ implements the goals and policies of the Comprehensive Plan, which ~~is a~~ reflect~~ions~~ ~~of~~ community values and needs. Because these values may change with time and because new techniques for implementing the Plan may be**come more** appropriate, the Code must have some mechanism for response to those changes. Amendments to the Code should occur as needed ~~in order~~ to maintain a close relationship between ~~the Development Code~~**it** and the Comprehensive Plan.

2.280 Procedures. Code amendments shall be processed as a Type IV procedure in accordance with the legislative procedures of Sections 1.580-1.660. Exception: The Director may initiate and approve amendments for the following types of corrections through a Type I procedure: typographical, grammatical, and cross-referencing errors. [Ord. 5635, 1/11/2006]

2.290 Review Criteria. The request may be approved if the Council finds that the applica**tion meets** ~~nt has shown that all of~~ the following criteria ~~are met~~:

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

(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.

EXHIBIT B

NONCONFORMING SITUATIONS

2.300 Purpose. ~~Within the City there are~~**Some** lots, developments, and uses **in the City of Albany** ~~that~~ were lawful before this Code was adopted or amended, but would no longer be allowed under the current terms of this Code. ~~It is the intent of t~~**These** provisions **are intended** to permit such nonconform**ing situations**~~ities~~ to continue, but not to encourage their perpetuation. ~~All nonconformities are referred to as "nonconforming situations."~~

2.310 Status and Documentation of a Nonconforming Situation. Nonconforming situation regulations apply only to situations that were allowed when established or that were approved through a land use review. Nonconforming situations that were not allowed when established have no grandfather rights and must be removed. The ~~burden of proof is on the~~ property owner or applicant ~~to~~ **must** document that a nonconforming situation was allowed when established and was maintained over time. ~~Satisfactory evidence of the nonconforming situation must be provided by the applicant.~~ Evidence might consist of building permits, utility hookups, tax records, business licenses, 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.
[Ord. 5338, 1/28/1998]

2.325 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, 2/7/2003]

2.330 Regulations That Apply to All Nonconforming Situations.

(1) The**ir** status ~~of a nonconforming situation~~ is not affected by changes in ownership.

(2) ~~A nonconforming situation~~**They** may be changed to conforming situations by right. Once a conforming situation occupies a site, the nonconforming rights are lost and a nonconforming situation may not be re-established.

(3) ~~A nonconforming use~~**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.

(4) Normal maintenance and repair ~~of nonconforming situations~~ is allowed.

2.340 Loss of Nonconforming Status.

(1) A nonconforming use of a building, structure, or land shall be deemed to have terminated if the building, structure, or land ~~ceases to be~~**is not** occupied by a permitted or legally nonconforming use for ~~any reason for a continuous period of~~ one **continuous** year. Extensions of up to two additional years may be granted under the Type II procedure if the Director finds that:

(a) Conver**ting**~~sion~~ to ~~any~~ conforming use will result in a substantial economic loss, and the proposed use will result in greater conformance with the development standards of the zone;

OR

(b) Immediately surrounding land 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 ~~shall be~~ deemed terminated if the building, structure, or land ceases for any reason to be occupied by a permitted or legally nonconforming use for ~~a~~ **one** continuous ~~period of one~~ year.

(3) Any nonconforming use or development dependent upon a building or structure that ~~is substantially damaged or becomes deteriorated to the extent that it~~ has been declared a "dangerous building" and ordered demolished pursuant to the Albany Dangerous Building Code (AMC Title 18) ~~shall be deemed~~**will be considered** terminated upon ~~such destruction or~~**that** declaration and order.

(4) Any nonconforming use or development dependent upon a building or structure that has been substantially damaged ~~or destroyed by any cause~~ to the extent that ~~the cost of~~ repair or restoration of the building or structure would ~~exceed~~ **cost more than** 70 percent of its fair market value ~~shall be deemed~~**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 ~~professional~~ appraisal ~~in a form satisfactory~~**acceptable** to the City. **The owner or applicant may appeal these**~~Such~~ determinations of value and cost ~~are appealable~~ to the Building Board of Appeals**, or may apply for an**~~. E~~ exception~~s to this standard may be applied for~~ under the Type II procedure.

(b) The Director may allow additional reconstruction upon finding that:

(i) Conversion to ~~any~~ conforming use will result in ~~a~~ 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.

(5) Rebuilding structures ~~that have been intentionally destroyed and~~ that contained nonconforming uses **and which have been intentionally destroyed** is prohibited.

2.345 Nonconforming Lots of Record. 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 with the development standards **(such as setbacks, lot coverage, etc.)** for that zoning district ~~in which the lot is located (such as setbacks, lot coverage, etc.)~~. [Ord. 5338, 1/28/1998]

2.350 Nonconforming Uses.

(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.

(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.

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

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

(4) Nonconforming uses and buildings may expand one time only.

(5) Expansion of a nonconforming use onto another site is prohibited, except ~~in the following situations~~**when**:

(a) The **expansion** site ~~is~~ abut~~sting~~ the site of the nonconforming use; and
(b) The **expansion** site was in the same ownership as the nonconforming site when it became nonconforming; and
(c) ~~The p~~**P**rior zoning regulations on the expansion site would have allowed the use; and
(d) The expansion is approved through a nonconforming use review.

(6) ~~The a~~**A**ddition of new residential units to a nonconforming residential use is prohibited.

2.360 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.

2.370 Nonconforming Development. This section ~~is primarily aimed at~~**promotes** upgrade~~sing~~ **to features of** nonconforming development ~~elements~~ that affect **a site's**~~the~~ appearance and impacts ~~of a site~~. Nonconforming developments may continue unless specifically limited by Subsection (2) below or by other regulations in this Title.

(1) Changes ~~may be made to the site~~ that ~~are in~~ conform~~ance with~~ **to** the base zone development standards **of the site may be made**.

Staff Comment: Building design standards is being added to this list since the building is considered "development" as used in this section of the Code. Design standards were added to the Code after this section was last evaluated.

(2) Development **that does** not comply~~ing~~ with the following standards must be brought into compliance with the base zone standards to an extent commensurate with the proposed changes.

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

2.380 Sites That Are 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 ~~need to~~**must** be provided.

2.390 Procedure. A nonconforming situation is reviewed through a Type II procedure.

2.400 Review Criteria. ~~The~~ **A** request will be approved if the review body finds that the applicat**ion**~~nt has shown that~~ **meets** all of the following criteria ~~are met~~:

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

(2) With mitigation measures, there will be a net decrease in overall detrimental impacts (over the impacts of the previous use or development) on the surrounding area taking into account factors such as:
   (a) The hours of operation;
   (b) Vehicle trips to the site and impact on surrounding on-street parking;
   (c) Noise, vibration, dust, odor, fumes, glare, and smoke;
   (d) Potential for increased litter; and
   (e) The amount, location, and nature of any outside displays, storage, or activities; and either (3) or (4) below.

(3) If the nonconforming use is in a residential zone, 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.

(4) If the nonconforming use is in a commercial or industrial zone, and if any changes are proposed to the site, the appearance of the new use or development will not detract from the desired function and character of the zone.

SITE PLAN REVIEW

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. ~~Site Plan Review~~**It** mitigates potential land use conflicts ~~resulting from proposed development~~ through specific conditions attached by the review body. Site Plan Review is not intended to evaluate the proposed use or ~~the~~ structural design ~~of the proposal~~. Rather, the review focuses on the layout of a proposed development, including building placement, setbacks, parking areas, external storage areas, open areas, and landscaping. [Ord. 5445, 4/12/2000]

2.410 Levels of Review. ~~These sections establish three levels of Site Plan Review,~~ **A site plan is reviewed at one of three levels,** with the degree of detail required ~~for submittal and review criteria~~ based on ~~the~~ **its** projected land use impacts. Option A review is primarily for new development and is subject to the greatest scrutiny. Option B **review** is primarily for ~~review of those projects which are~~ expansions of existing development and **for projects that**~~which~~ will generally result in fewer impacts on the surrounding area than a new development. Option C review is used ~~when the proposal is~~ for a change in use or another modification to a developed site that will not result in a greater impact on the neighborhood or on public facilities. [Ord. 5445, 4/12/2000]

2.420 Relationship to Other Regulations. ~~Approval of~~**When** a land use application **is approved** based on review criteria in this Code**,** ~~does not relieve~~ the applicant **must still** ~~of responsibility for~~ comply**iance** with other applicable codes, ordinances, statutes**, and** ~~or~~ regulations. [Ord. 5445, 4/12/2000]

2.430 When Site Plan Review is Required. In general, a Site Plan Review covers all proposed exterior alterations included in the development proposal, but does not cover portions of the existing development that are not being modified. An exception to this is parking areas, where any proposed change to a parking lot will result in the entire parking area being reviewed. Site Plan Review is required in all of the following instances:

(1) New development.

(2) Building expansions of 500 square feet or more, or any expansion that results in a reduction of parking spaces.

(3) Parking area expansions of 1,000 square feet or more.

(4) Any development listed in Articles 3, 4, or 5 that specifically requires Site Plan Review. [Ord. 5445, 4/12/2000]

2.440 When Site Plan Review is not Required. Activities and developments listed below ~~are excluded from the requirement for a~~**do not require** Site Plan Review, ~~land use application~~ but are nevertheless **still** subject to the **applicable** provisions of the Code ~~whenre applicable~~:

(1) Agricultural uses permitted outright in any zone.

(2) **A** ~~D~~**d**etached single-family dwellings or **one duplex**~~two unit dwellings~~.

(3) Accessory buildings and building additions of less than 500 square feet that conform to the provisions of this Code and the adopted building code.

(4) Accessory buildings in residential districts that meet the following standards. (~~Information must be submitted that shows the standards are met.~~ **The applicant must submit**~~The~~ information ~~shall be submitted at the time the applicant~~**when he or she** applies for building permits **showing that the standards are met**. The Community Development Director or his/her designee will determine

whether the standards are met.)

(a) The proposed building ~~does not exceed the height of~~**is not taller than** the tallest building on adjacent property. Height here means the height of the building at its highest point.
(b) The ~~square footage of the~~ area enclosed by the foundation of the proposed building ~~does not exceed the square footage of~~**is not larger than** the area enclosed by the foundation of the largest building on adjacent property **(in square feet)**.
(c) The amount of land that will be covered by buildings if the proposed building is constructed ~~does not exceed~~**is not more than** the applicable lot coverage allowances of the Development Code.
(d) The proposed building meets or exceeds the applicable setback requirements **in the Code** for the primary residential structure ~~listed in the Development Code~~.
(e) The materials ~~that will be used on~~**of** the proposed building (e.g. siding and roofing), and the color of those materials, are the same as those ~~used on~~**of** the primary residential structure on the subject property.
(f) If the proposed building is located in a~~ny of the~~ special purpose districts listed in Articles 6 a~~nd~~**or** 7 of the Development Code, ~~the building~~**it** must also ~~be reviewed for~~ conforma~~nce~~ with the requirements of th**at~~e applicable~~** district.

Staff Comment: The standard below is covered in (f) above.

~~Accessory buildings in floodplain districts are subject to the floodplain regulations of Article 6.~~

(5) Landscaping and routine property maintenance.

(6) Improvement of parking areas containing less than 1,000 square feet and otherwise meeting the provisions of this Code.

(7) ~~A change i~~**I**nternal **changes** to a building, ~~or other~~ structure, or use~~age~~ of land that ~~do~~**is** not ~~constitute~~ a change of use.

(8) A change in use inside an existing structure when the following criteria are satisfied:

a) No structural expansion ~~in excess of~~**larger than** 500 feet or no additional exterior storage is proposed.
b) The use will not create additional adverse affects for abutting properties or the neighborhood (e.g. visual, noise, or air pollution, increased parking requirements, or improvements to public facilities.)
c) Any non-conformance with ~~the provisions of~~ this Code has been addressed, including compliance with sign, landscaping, and parking requirements except where restricted by building location or limiting site characteristics.

(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 and public health and safety requirements, some of which may ~~further~~ limit ~~such uses in terms of~~**the** location, scope, ~~and~~ **or** duration **of the use**.

(11) ~~The e~~**E**stablishment, construction, alteration, or maintenance of a public facility authorized by the Public Works Director 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, or towers.

(12) Excavation and fill for foundations and all other excavation or fill involving 50 cubic yards or less ~~which~~ **that** does not adversely affect drainage patterns and is not located within a floodplain**,** or slope area. [Ord. 5381, 3/26/1997; Ord. 5445, 4/12/2000]

2.450 Review Criteria. A site plan 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) Any special features of the site (such as floodplains, hillsides, wetlands, riparian corridors, topography, hazards, vegetation, wildlife habitat, archaeological sites, historic sites, etc.) have been adequately considered and utilized.

[Ord. 5445, 4/12/2000; Ord. 5635, 1/11/2006]

2.460 Conditions of Approval. The City may attach conditions to the approval of a Site Plan Review application in order to ensure that the proposal will conform to the applicable review criteria. [Ord. 5445, 4/12/2000]

Staff Comments: We have had some projects built differently than what was on the approved plans. The proposed language references existing regulations for modifications to approved plans.

2.465 Approved Plans are Final. Projects shall be completed according to the approved site plan and landscape plan. Modifications to approved plans are subject to the standards in Section 1.226.

OPTION A REVIEW

2.470 Applicability. This level of review is intended for new development within the City. Any proposal that is not appropriately reviewed under Options B or C will be reviewed under Option A. [Ord. 5445, 4/12/2000]

2.480 Procedure. A Type I-L limited land use procedure is followed for an Option A Site Plan Review with the Director acting as the review body. [Ord. 5445, 4/12/2000]

2.490 Application Contents. An application for Option A Site Plan Review ~~consists of the following~~**must include**:

(1) A completed application form.

(2) A mailing list of property owners within 100 feet ~~contiguous to~~**of** the entire site, except that a mailing list of property owners within 300 feet must be provided when a subdivision, manufactured home park, or multi-family development is proposed. The list ~~will~~**must** be compiled

from the most recent property tax assessment roll. Notice shall also be provided to any neighborhood or community organization recognized by the governing body and whose boundaries include the site.

(3) One set of conceptual drawings, including floor plans**, lighting details,** and building elevations **and materials**.

(4) A conceptual landscape plan showing the type and location of proposed landscaping and screening.

Staff Comments: The following changes to application contents are being requested by Public Works so that they get enough information to adequately evaluate the project for natural and storm drainage patterns.

Example: Smart Centers is a good example of a recent project that required all of this information. Although each item wasn't specifically listed in the Development Code, the information was required in order for Public Work's to identify potential conflicts. Because of the size and location of the project, Smart Centers dealt with a wide range of issues such as fill in the floodplain, capacity concerns with the existing drainage system, drainage concerns between properties, private detention systems, public detention systems, sub-surface drainage concerns, filled in an existing pond, and it covered two drainage basins.

Reason for proposed language: Stormwater management is a critical element of most development proposals. The Public Works Department is tasked with reviewing the stormwater component of these development applications. As such, Public Works requires that enough information is provided to make an educated decision on the proposal. The requested changes reflect the type of information Public Works typically requires when engineering plans for a subdivision are submitted to the City. The updated list will better prepare applicants for what is actually required during review and should help reduce delays as a result of incompleteness.

Unlike a subdivision, when a project goes through Site Plan review, Engineering staff may not get another opportunity to review the stormwater system. Therefore, it is imperative that a comprehensive review be completed during the land use process.

It was noted that the Planning Commission would like to add the word "applicable" when defining what is required to be shown on the Site Plan. This addition is appropriate and provides some flexibility for the applicants and staff.

(5) A site plan showing the following **applicable information**:

(a) Assessor's map and tax lot number and lot and block description or other legal description.
(b) Lot dimensions and total lot area.
(c) North arrow.
(d) Location of all existing and proposed structures, including minimum distances from all structures to ~~lot~~ **property** lines.
(e) Percentage of the lot covered by ~~any and~~ all **existing and proposed** structures **and paved areas**.
(f) Adjacent zoning designations and land uses including approximate location of buildings, accesses, streets, sidewalks, curbs, easements, and utilities.
(g) Locations and dimensions of rights-of-way of all abutting streets (whether public or private) and existing and proposed driveways.
(h) Size and location of all utilities.
(i) Locations, dimensions, and nature of any **existing and proposed** easements.
(j) Location of any non-access strips.
(k) Natural drainage patterns**, flow arrows showing existing and proposed drainage patterns, and existing and proposed finished grade contours at 1-foot intervals, or at a larger interval if approved by the City Engineer.** ~~(existing contour lines at two-foot intervals if~~

~~required by Director.)~~

(l) **Clearly identify any existing and proposed swales, ditches, or other drainage ways.**

(m) Location, size, and capacity of the existing and proposed drainage system including pipe size**,** ~~and~~ slope**, detention facilities, and water quality facilities**. Show existing and proposed finished grade elevations at collection points and property lines. Include the location, size, and capacity of ~~facilities identified in the Drainage Master Plan~~ **the downstream drainage system** that would serve the proposed development. **Also provide any supporting calculations.**

(n) ~~Proposed cuts and fills of more than two feet and any changes in elevations proposed at property lines.~~**Typical cross sections at adjacent property boundaries showing pre-and post-development conditions and clearly identify any changes in elevation at the property line not captured in the typical section.**

(o) Location and species of trees ~~greater~~ **larger** than 25 inches in circumference ~~when~~ measured at 4-1/2 feet above mean ground level from the base of the trunk.

(p) Location and dimensions of delivery and loading areas.

(q) Location and dimensions of parking and circulation areas.

(r) Location and dimensions of trash disposal areas.

(s) Location of proposed signs. [Ord. 5338, 1/28/1998; Ord. 5445, 4/12/2000]

Staff Comments: The following additional application contents are necessary for Planning staff to evaluate the application against the review criteria. This list comes from application content required for land divisions.

(t) **Location and type of proposed pedestrian amenities and common areas (when applicable).**

(u) **Location of airport height restrictions.**

(v) **Location of floodplains.**

(w) **Location of hillsides with slopes greater than 12 percent.**

(x) **Location of wetlands.**

(y) **Location of riparian corridors.**

(z) **Location of Willamette Greenway.**

(aa) **Location of historic districts, structures and sites on the City's adopted Local Historic Inventory, including individually designated National Register Historic Landmarks and archaeological sites.**

2.500 Appeals. An Option A Site Plan Review decision is a limited land use decision and may be appealed in accordance with Section 1.330. [Ord. 5445, 4/12/2000]

OPTION B REVIEW

2.510 Applicability. This level of review is intended for expansion of existing structures or development that will have a minimal impact on the surrounding area. An Option B Site Plan Review must be filed when the following developmental activities are proposed:

(1) An addition ~~(exceeding~~**larger than** 500 square feet~~-)~~ to an existing structure.

(2) Parking lot additions of over 1000 square feet.

(3) A change in occupancy to a more intensive use in an existing building.

(4) Reduction in the number of parking spaces.

Any development consistent in scope and impact with those listed here may also be reviewed under an Option B review, at the Director's discretion. [Ord. 5265, 12/18/1996; Ord. 5445, 4/12/2000]

2.520 Procedure. A Type I-L limited land use procedure is followed for the Option B Site Plan Review with the Director acting as the review body. [Ord. 5445, 4/12/2000]

2.530 Application Contents. The Director may require any of the information listed for Option A Site Plan Review in Section 2.490. In many cases, not all of this information will be ~~required due to lack of~~ applicable~~ility~~. [Ord. 5445, 4/12/2000]

2.540 Appeals. An Option B Site Plan Review decision is a limited land use decision and may be appealed in accordance with Section 1.330. [Ord. 5445, 4/12/2000]

OPTION C REVIEW

2.550 Applicability. An Option C Site Plan Review is intended for review of development in existing buildings. It is appropriate for the following types of development proposals:

(1) A change in occupancy to a use which is not more intense in off-site impacts.

(2) Resurfacing of nonconforming parking lots.

(3) Other development with similar impacts. [Ord. 5445, 4/12/2000]

2.560 Procedure. A Type I procedure is followed for the Option C Site Plan Review. [Ord. 5445, 4/12/2000]

2.570 Application Contents. An Option C Site Plan Review requires submittal of only the completed application form. [Ord. 5445, 4/12/2000]

2.580 Review Criteria. The following criteria must be met in order for the Director to approve the proposed development.

(1) Off-street parking is adequate to serve the proposed use.

(2) The proposed use will not generate more traffic than the previous use.

(3) The site is in, or can be brought into, compliance with the spirit of the Code regarding landscaping, screening and buffering.

(4) Any applicable criteria from Section 2.450.

[Ord. 5445, 4/12/2000]

VACATIONS

2.600 Purpose. This section states the procedures and review criteria for vacation of an easement, right-of-way, or plat.

2.610 Initiation. A vacation proposal may be initiated by the City Council or by petition of adjoining and area owners in accordance with Oregon Revised Statutes (ORS) 271.080.

2.620 Procedure. Type IV procedures as outlined in Section 1.370 shall be used as supplemented by the provisions of ORS Chapter 271. State law defines the affected area and mandates notice requirements that are more stringent than the City's Type IV procedure.

2.630 Review Criteria. A vacation request may be approved if the review body finds that the applicant has shown that all of the following review criteria are met:

(1) The requested vacation is consistent with relevant Comprehensive Plan policies and with any street plan, city transportation or public facility plan.

(2) The requested vacation will not have a negative effect on access between public rights-of-way or to existing properties, potential lots, public facilities or utilities.

(3) The requested vacation will not have a negative effect on traffic circulation or emergency service protection.

(4) The portion of the right-of-way that is to be vacated will be brought into compliance with Code requirements, such as landscaping, driveway access, and reconstruction of access for fire safety.

(5) The public interest, present and future, will be best served by approval of the proposed vacation.

2.640 Zoning of Vacated Rights-of-Way. Except as otherwise provided in the vacation ordinance or when the official City Zoning Map is not clear as to the zoning of vacated right-of-way, the zoning of ~~each parcel of~~ **the** vacated territory shall be the same as the adjoining property to which the ownership of the parcel automatically reverts.

2.650 Conditions of Approval. The City may attach conditions to the approval of a vacation request to ensure that the proposal will conform to the review criteria.

VARIANCES

Staff Comments: Note: Nationally and historically, variances were included in zoning ordinances to address unusual circumstances or alleviate unnecessary hardship due to unusual sites or circumstances. In 1991, the City removed the requirement that there be some kind of unique circumstance or condition of the property. The staff comment was, "the proposed changes result in more realistic criteria."

Without the unique or unusual circumstance criterion, the variance criteria can be relatively easy to meet and may be too easy to meet if we intend for them to apply only to unusual situations as the purpose statement in 2.470 states. It is also hard to apply these standards equitably.

The original "unusual circumstance" variance criterion is proposed to be reinstated in the Code as well as former purpose statement language.

Public Comment: We received comments from Multi-Tech Engineering Services on June 10 and June 15, 2009 on the proposed changes to the variance and adjustment review criteria. The letter states, "'Unusual situation' is subjective criteria and make it difficult for an applicant to prove that one exists on the site. What is determined to be an unusual situation or hardship for the applicant may not be interpreted as a hardship by the City."

2.660 Purpose. **When a practical difficulty, unusual hardship, or the literal interpretation of a provision of this Code results in rendering a property incapable of reasonable economic use or causes specific hardships unintended by the Comprehensive Plan or this Code, a variance may be granted as provided in this article.** ~~Variances provide flexibility for unusual situations, while continuing to provid~~**inge** ~~certainty and rapid processing for land use applications. Variances are necessary when the applicant requests a~~**for** ~~deviation from numerical standards of more than 10 percent, or a~~ **for** ~~variation from non-numerical development standards. Requests for changes of 10 percent~~ **or less** ~~of a numeric standardare processed as adjustments.~~

2.670 Procedure. A variance request shall be reviewed as a Type II procedure. **The Director will determine whether applications for minor changes from a numeric standard may be processed as adjustments through the Type I procedure.**

2.680 Regulations That May and May Not Be Varied.

(1) Unless listed in Subsection (2) below, all regulations in this ~~Title~~ **Code** may be modified using the variance process.

(2) Variances are prohibited for the following items:

(a) To allow a primary or accessory use that is not allowed by the regulations.
(b) As an exception to any restrictions on uses or development that contain the word "prohibited."
(c) As an exception to **going through a review process or meeting standards required by a review process in this Code, such as minimum lot size**~~a threshold for a review, such as the size of accessory structures~~.
(d) As an exception to a definition or classification.
(e) As an exception to the ~~procedural~~ steps of a procedure or to change assigned procedures.

2.690 Review Criteria. The review criteria for sign variances are stated in Sections 13.710 and 13.711 of the Sign Code. All other variance requests will be approved if the review body finds that the applicant has shown that all of the following criteria have been met:

(1) The property has unique or peculiar physical circumstances or conditions such as, irregular shape, width or depth; or exceptional natural or physical conditions such as topography,

trees, wetlands, or drainage ways.

~~(3)~~**(2)** The proposal will be consistent with the ~~desired character of the area~~**purpose, overview, and description for the zone in which the property is located**; and

~~(4)~~**(3)** If more than one variance is requested, the cumulative effect of the variances results in a project that is still consistent with the ~~overall~~ purpose**, overview and description** of the zone; and

~~(5)~~**(4)** The requested variance is the minimum necessary to ~~allow the proposed use~~**address the peculiar or unusual conditions** of the site; and

~~(6)~~**(5)** Any impacts resulting from the variance are mitigated to the extent practical; or

~~(7)~~**(6)** Application of the regulation in question would preclude all reasonable economic use of the site.

ZONING MAP AMENDMENTS

No changes are proposed to this last section, so 2.700 through 2.760 are not shown.

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ARTICLE 9
ON-SITE DEVELOPMENT AND ENVIRONMENTAL STANDARDS

Staff Comment: The amendments and comments in red are proposed policy amendments. Other edits to clarify the existing regulations are proposed in black **bold** *and* ~~strikethrough~~. *Staff comments in italics are not amendments and will be removed.*

9.010 Overview. The City of Albany has established standards for on-site improvements and environmental protection. These standards are intended to foster high quality development throughout the City and to minimize adverse effects on surrounding property owners or the general public. This article contains the following standards:

- Off-Street Parking
- Landscaping
- Street Trees
- Tree Felling
- Buffering and Screening
- Environmental

[Ord. 5445, 4/12/2000]

OFF-STREET PARKING

No changes are proposed to Sections 9.020 through 9.110, so they are not shown.

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:

(1) General. ~~Required~~ **All** parking spaces must be improved in accordance with these standards and available for use at the time of project completion.

(2) Other Requirements. All parking areas shall conform to the setback, clear vision, landscaping, and buffering/screening provisions of this Code.

(3) Surfacing. All **areas of a** parking ~~areas~~**lot, including travel aisles and access,** shall have a durable, dust-free surface~~ing~~ 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~~re~~ it abuts a concrete public sidewalk, or has been otherwise approved by the Director of Public Works.

(4) Drainage. **All parking lots must provide a drainage system** ~~Adequate drainage shall be provided~~ to dispose of the runoff generated by the impervious surface ~~area of the parking area~~. Provisions shall be made for the on-site collection of drainage waters to eliminate sheet flow of such waters onto sidewalks, public rights-of-way, and abutting private property. All drainage systems must be 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 shall provide a curb at least 6 inches high along the perimeter of all parking areas.

Staff Comments: The proposed changes are recommended by the disability access coordinator to make the Code more compliant with ADA standards. There is concern that if the wheel bumper is setback too far from the front of the stall, that there will not be enough room for parking the car.

(6) Wheel Bumper. All parking stalls fronting a sidewalk, alleyway, street or property line, except for

those required in conjunction with a single- or two--family dwelling, shall provide a secured wheel bumper at least 6 inches high and at least 6 feet long, set back from the front of the stall ~~a minimum of~~ **at least** 2-1/2 feet**, but no more than 3 feet**. If the sidewalk is widened to 7 feet 6 inches to allow for vehicle encroachment, no wheel bumpers are required.

(7) Turnaround. Except for ~~single~~ **single**-family and duplex dwellings, groups of more than two ~~(2)~~ parking spaces must be located and served by an aisle or turnaround so that their use will require no backing movements or other maneuvering in a street right-of-way other than an alley.

(8) Striping. Lots containing more than two ~~(2)~~ parking spaces must have all required spaces permanently and clearly **striped**~~marked~~. **Stripes must be at least four inches wide.** ~~If parking spaces are provided for~~ **When** motorcycle parking, **compact, or handicapped parking spaces are provided,** they shall be ~~so~~ designated **within the stall**.

(9) Connecting to Adjacent Parking Areas. Where a proposed parking area is adjacent to a developed or undeveloped site within the same zoning district, the proposed parking area 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.

(10) Parking Lot Landscaping. Parking lots shall be landscaped ~~in accord~~**ingance with to** the standards ~~listed~~ in Section 9.150.

Staff Comments: The dimensions are in Section 9.130 so the sentence is being deleted here.

(11) Compact Car Parking. No~~t~~ more than 40% of ~~the total~~ parking spaces ~~in a parking lot~~**provided** may be designated for compact cars. ~~The minimum dimensions for a compact space are 8 feet by 16 feet. Such~~ **Compact** spaces must be signed and/or the space painted with the words "Compact Car Only."

(12) Handicapped Parking. All parking areas must provide handicapped parking spaces in conformance with the Oregon State Structural Specialty Code.

(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**,** ~~and~~ **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.
(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.

Bicycle parking spaces shall meet the following standards:

(e) Required spaces should be visible and not hidden, and must be located as near as possible to building entrances used by automobile occupants.
(f) Each required bicycle parking space must have a parking rack securely fastened to the ground. Parking racks must support each bicycle at a minimum of two points, including at least one point on the frame, and must allow the frame and at least one wheel to be locked with a U-type lock.
(g) Bicycle parking areas must provide at least 3 feet of clearance around all 3 sides of a fully-loaded bicycle rack and have an overhead clearance of at least 7 feet.
(h) At least one-half of required bicycle parking spaces must be sheltered. Spaces must be protected from precipitation by a roof overhang or a separate roof at least 7 feet tall. Bicycle

parking spaces within roofed buildings and bike lockers are considered sheltered spaces. [Ord. 5673, 6/27/2007]

(14) Lighting. Any lights provided to illuminate any public or private parking area or vehicle sales area must be arranged to reflect the light away from any abutting or adjacent ~~residential district~~ **properties**.

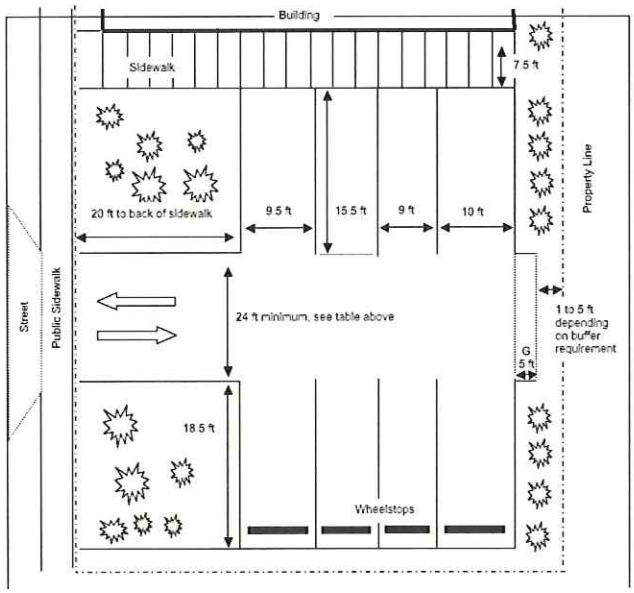
(15) Pedestrian Access. Walkways and accessways shall be provided in all new off-street parking lots and additions to connect sidewalks adjacent to new development to the entrances of new buildings. **All new public walkways and handicapped accessible parking spaces must meet the minimum requirements of the Oregon Structural Specialty Code.**

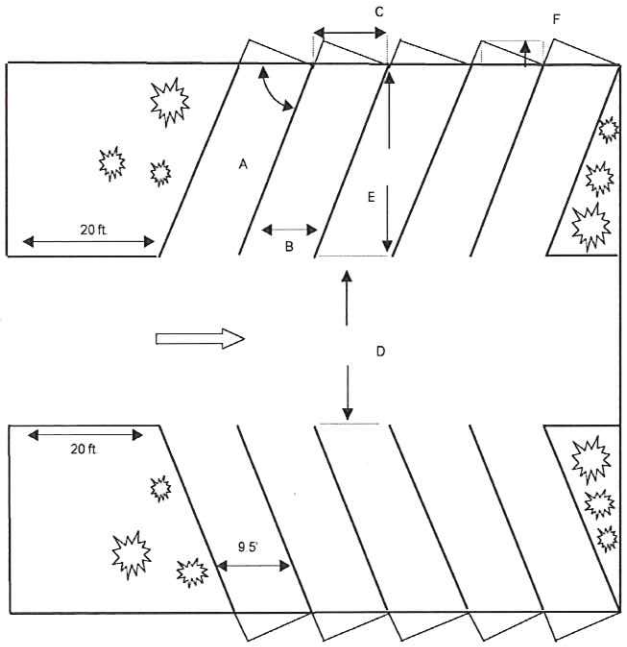
(16) When~~re~~ employee parking is designated in new developments, parking for carpools and vanpools shall be provided and located near~~est~~ the employee entrances to buildings.

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 1: Parking Lot Design and supplemental drawings. **Stall dimensions are measured from inside the stripes.**

Table 1: PARKING LOT DESIGN (in feet)

A Parking Angle	B Stall Width	C Curb Width	D Aisle Width	E Stall Depth	F Bumper Overhang	G Dead-end Back-up
(Parallel)	8.0 feet	8.0 feet	N/A	25.0 feet	N/A	N/A
45°	8.5	12.0	13.0	17.5	2.0	5.0
	9.0	12.7	12.0	17.5	2.0	5.0
	9.5	13.4	11.0	17.5	2.0	5.0
	10.0	14.1	11.0	17.5	2.0	5.0
60°	8.5	9.8	18.0	19.0	2.5	5.0
	9.0	10.4	16.0	19.0	2.5	5.0
	9.5	11.0	15.0	19.0	2.5	5.0
	10.0	11.6	14.0	19.0	2.5	5.0
Compact	8.0 C	8.0 C	26.0 C	16.0 C	3.0	5.0
90°	8.5	8.5	26.0	18.5	3.0	5.0
	9.0	9.0	26.0	18.5	3.0	5.0
	9.5	9.5	26.0	18.5	3.0	5.0
	10.0	10.0	24.0	18.5	3.0	5.0





NOTES:

(1) For one row of stalls, use "D" plus "E" as the minimum width.

~~(2) The dimensions for compact car spaces shall be 8 feet by 16 feet.~~

~~(3) For estimating available parking area, use 350 square feet per vehicle for stall, aisle, and access areas.~~

~~(4) The stall width for self-parking of long duration is 8.5 feet; for higher turnover, self-parking is 9.0 feet; and for supermarkets and similar facilities (shoppers with packages), it is 9.5-10 feet.~~

~~(5) The minimum aisle width for two-way traffic and for emergency vehicle operations area is 24 feet. The minimum aisle width for one-way emergency vehicle access is 20 feet.~~

(62) When~~re~~ appropriate bumper overhang area is provided (extruded curbs), "F" can be subtracted from "E" to determine stall depth.

(~~7~~3) ~~All handicapped spaces shall be 15 feet wide.~~ **Back-up areas identified as "G" must be at least 5 feet from the property line and are excluded from required setback areas or buffer yards.**

Staff Comments: Some of the parking standards get lost in the notes under Table 1. Several are proposed to become their own subsections. (2) is being updated to reflect the current standards for handicapped spaces.

(1) Compact spaces shall be at least 8 feet wide by 16 feet long.

(2) Handicapped spaces shall be a minimum of 9 feet wide and 17 feet long and designed in accordance with the Oregon Structural Specialty Code (OSSC). An adjacent access aisle must be provided that is at least 8 feet wide and 17 feet long for a van-accessible space, and 6 feet wide for a standard accessible space.

(3) Stall Width. Long-term parking spaces must be at least 8.5 feet wide. Parking stalls for grocery stores or adjacent to planter islands must be at least 9.5 feet wide.

~~(1)~~**(4) Minimum Aisle Widths. Aisles for two-way traffic and emergency vehicle operations must be at least 24 feet wide. One-way aisles and one-way emergency vehicle access must be at least 20 feet wide.**

Staff Comments: The illustrations above show 20 feet of "stacking" room, but are not written as a standard.

(5) The design of driveways and on-site maneuvering and loading areas for commercial and industrial developments shall include 20 feet of storage length for entering and exiting vehicles, in order to prevent vehicles from backing into the flow of traffic on the public street or causing unsafe conflicts with on-site circulation.

LANDSCAPING

9.140 General Requirements. Landscaping requirements by type of use are listed below:

(1) Landscaping Required – Residential. All front **setback** yards (exclusive of access-ways and other permitted intrusions) are required to be landscaped ~~prior to issuance of~~ **before** an occupancy permit **will be issued** or final building permit approve~~d~~**da**l. In all residential districts except Rural Residential (RR), **the** minimum landscaping acceptable ~~per~~ **for every** 50 lineal feet **of street frontage** (or portion thereof, deducting the width of the driveway) ~~of street frontage~~ is:

(a) One tree at least 6 feet tall.
(b) Four ~~(4)~~ 1-gallon shrubs or accent plants.
(c) The remaining area treated with attractive ground cover (e.g., lawn, bark, rock, ivy, and evergreen shrubs).

(2) Landscaping Required ~~– Commercial and Industrial~~**Non-Residential**. All required front and interior setback yards, exclusive of access–ways and other permitted intrusions, must be landscaped ~~prior to issuance of~~**before** an occupancy permit **will be issued**. Minimum landscaping acceptable ~~per~~ **for every** 1,000 square feet of required setback yards ~~areas~~ in all commercial

industrial districts is as follows:

(a) One tree at least 6 feet tall ~~is required~~ for every 30 feet of street frontage.
(b) Five 5-gallon or eight 1-gallon shrubs, trees or accent plants.
(c) The remaining area treated with suitable living ground cover, lawn, or decorative treatment of bark, rock, or other attractive ground cover.
(d) When~~re~~ the yard adjacent to a street of an industrially zoned property is across a right-of-way from other industrially or commercially zoned property, only 30 percent of such yard area must be landscaped.

9.150 Parking Lot Landscaping. **The purpose of landscaping in parking lots is to provide shade, reduce storm water runoff, and direct traffic.** Parking lots must be landscaped in accordance with the following minimum standards:

Staff Comments: The last sentence is proposed to ensure handicapped walkways are clear of vegetation.

(1) Planter Bays. Parking areas shall be divided into bays of not more than 12 parking spaces. ~~Between or a~~**A**t ~~the~~ **both** ends of each parking bay there shall be curbed planters at least 5 feet wide**, excluding the curb**. Each planter shall contain one **canopy** tree at least 10 feet high and decorative ground cover containing at least two shrubs for every 100 square feet of landscape area. Neither **planter bays nor their contents may impede access on required public sidewalks or paths, or handicapped-accessible parking spaces.**

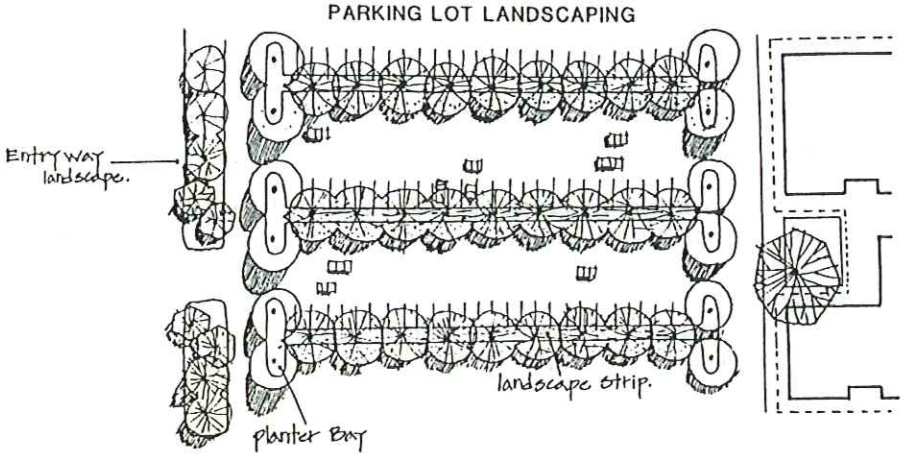
(2) Entryway Landscaping. **Both sides of a parking lot entrance** ~~Entryways into parking lots~~ shall be bordered by a minimum 5-~~foot~~ **foot**-wide landscape planter strip meeting the same landscaping provisions as ~~for~~ planter bays, except that no ~~sight~~ **sight**-obscuring trees or shrubs are permitted.

(3) Parking Space Buffers. Parking areas shall be separated from the exterior wall of a structure by pedestrian ~~entrance~~ **walk**ways or loading areas or by a 5-foot strip of landscaping materials.

(4) Alternate Plan. An alternate plan may be submitted that provides landscaping of at least five percent of the total parking area exclusive of required landscaped yard areas and that separates parking areas of more than 100 spaces into clusters divided by landscape strips. Each planter area shall contain 1 tree at least 10 feet tall and decorative ground cover containing at least 2 shrubs for every 100 square feet of landscape area. **Landscaping may not impede access on required public sidewalks or paths, or handicapped-accessible parking spaces.**

(5) Landscape Protection. Required landscaped areas adjacent to graveled areas must be protected, either by railroad ties secured by rebar driven 18 inches into the ground, by large boulders, or by another acceptable means of ~~providing~~ protection.

PARKING LOT LANDSCAPING



No changes are proposed to Sections 9.130 through 9.330, so they are not shown.

ENVIRONMENTAL

9.400 Purpose. These regulations are designed to protect all uses in all zones from certain objectionable off-site impacts associated with nonresidential uses. These impacts include noise, vibration, odors, and glare. The standards ensure that uses provide adequate control measures or locate in areas where the community is protected from health hazards or nuisances. ~~The u~~**U**se of objective standards provides a measurable means of determining specified off-site impacts. This method protects specific industries or firms from exclusion in a zone based solely on the general characteristics of similar industries in the past. [Ord. 5555, 2/7/2003]

9.405 Exemptions. The off-site impact standards do not apply to machinery, equipment, and facilities that were at the site and in compliance with existing regulations at the effective date of these regulations. Any new or additional machinery, equipment, and facilities must comply with the standards of this chapter. Documentation is the responsibility of the proprietor of the use if there is any question about when the equipment was brought to the site. [Ord. 5555, 2/7/2003]

9.410 Relationship to Other Regulations. The environmental standards are in addition to all other regulations of the Albany Municipal Code. These standards do not replace or supersede regulations of the Department of Environmental Quality (DEQ), relevant county regulations, or standards such as the Uniform Building Code or Uniform Fire Code. [Ord. 5555, 2/7/2003]

9.420 Evidence of Compliance. ~~Prior to~~**Before** approving a development application, the Director may require submission of evidence demonstrating compliance with state, federal and local environmental regulations and receipt of necessary permits.

9.425 Responsibility. Compliance with state, federal and local environmental regulations is the continuing obligation of the property owner and operator.

9.430 Measurements. Measurements for compliance with these standards are made from the property line or within the property of the affected site. Measurements may be made at ground level or at habitable levels of buildings.

If the City does not have the equipment or expertise to measure and evaluate a specific complaint, it may request assistance from another agency or may contract with an independent expert to perform such measurements. The City may accept measurements made by an independent expert hired by the owner or operator of the off-site impact source. If the City contracts to have measurements made and no violation is found, the City will bear the expense, if any, of the measurements. If a violation is found, City expenses will be charged to the violator. Nonpayment of the costs is a violation of the Code. [Ord. 5555, 2/7/2003]

9.435 Neighborhood Compatibility. If a site is located within 300 feet of residentially-zoned property and environmental impacts regulated by this article have not been adequately determined, the Community Development Director may require that a proposed use be considered under the Conditional Use process to provide an opportunity for public review and comment and to establish conditions to mitigate potential impacts. [Ord. 5555, 2/7/2003]

Staff Comments: The City attorney recommends adopting the state's noise standards for industry and commerce in our Code for enforcement purposes. These standards are adopted by reference.

9.440 Noise. The City noise standards are stated in Albany Municipal Code Title 7, Public Peace, Morals and Safety. **Oregon Administrative Rules (OAR) 340-035-0035, Noise Control Regulations for Industry and Commerce, is adopted here in its entirety, and as may be subsequently amended by**

the State of Oregon. Tables 7, 8, and 9 referenced in OAR are included here for reference only. In addition, the Department of Environmental Quality (DEQ) has regulations that apply to firms adjacent to or near noise-sensitive uses such as dwellings, religious institutions, schools, and hospitals.

TABLES 7 & 8 (OAR 340-035-0035) New and Existing Industrial and Commercial Noise Source Standards Allowable Statistical Noise Levels in Any One Hour	
7 am – 10 pm	**10 pm – 7 am**
L_{50} – 55 dBA	L_{50} – 50 dBA
L_{10} – 60 dBA	L_{10} – 55 dBA
L_{01} – 75 dBA	L_{01} – 60 dBA

TABLE 9 (OAR 340-035-0035) Industrial and Commercial Noise Source Standards for Quiet Areas Allowable Statistical Noise Levels in Any One Hour	
7 am – 10 pm	**10 pm – 7 am**
L_{50} – 50 dBA	L_{50} – 45 dBA
L_{10} – 55 dBA	L_{10} – 50 dBA
L_{01} – 60 dBA	L_{01} – 55 dBA

(6) Additional City Standards. The following restrictions are in addition to the State DEQ standards for purposes of City noise regulation:

(a) For purposes of measuring permitted sound levels from ~~noise~~ **noise**-generating sources under the provisions of DEQ rules, any point where a ~~noise~~ **noise**-sensitive building could be constructed under the provisions of this Code shall apply as if such point contained a noise sensitive building.

(b) Within the Industrial Park (IP) and Waterfront (WF) zoning districts, each property or building under separate ownership shall be considered a ~~noise~~ **noise**-sensitive property under the provision of DEQ rules, with the exception that the allowable noise levels shall be increased by 5 db.

(7) Expert Evaluation. A noise analysis may be required in the development review process to show that a proposed activity can meet the noise standards or that residential uses are adequately buffered from noise sources.

(8) Mitigation Measures. The following noise mitigation measures may be required through development review:

(a) increased building setbacks;
(b) special berms and heavy vegetation areas;
(c) site layout to establish buffer areas or locate low-noise buildings to serve as buffer between the noise-sensitive areas and the sound source;
(d) special sound insulation construction techniques;
(e) improvements as recommended by the DEQ or a qualified noise consultant;
(f) posting a bond or other financial agreement to ensure that the required noise reduction features are installed.

[Ord. 5555, 2/7/2003]

No other changes are proposed to the rest of this article, so the rest is not included.

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ARTICLE 11
LAND DIVISIONS AND PLANNED DEVELOPMENTS

*Staff Comment: The amendments and comments in **red** are proposed policy amendments. Staff comments in italics are not amendments and will be removed.*

11.000 Overview. The most permanent feature of a community is the way land is divided into parcels. This article describes the process of converting raw land into building sites. The primary goals of this design review are to better ensure that natural features have been taken into account; that roads and utilities are properly designed and installed, and that adequate open space has been provided. This article establishes the standards and procedures for property line adjustments, partitions, subdivisions, planned developments, and condominiums.

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

- General Provisions
- Lot and Block Arrangement
- Property Line Adjustments
- Subdivisions and Partitions
- Planned Developments
- Condominiums
- Cluster Development

[Ord. 5668, 4/11/07]

Staff Comments: Public Works has requested additional language be added to the Tentative Plat Submittal Section, (9) to clarify what needs to be shown on the plat. No other changes are proposed, so the rest of the Article is not shown.

11.210 Tentative Plat Submittal. All applications for tentative partition or subdivision approval must include a complete application form and copies of a plat showing the following details. The tentative plat need not be a finished drawing but it should show all pertinent information to scale.

(9) The location on the site and in the adjoining streets or property of existing and proposed **sanitary** sewers**, storm sewers,** and water mains and services, culverts, ditches and drain pipes, **all other utilities such as** electric, gas and telephone conduits with invert elevations of **sanitary and storm** sewers at points of proposed connections.

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ARTICLE 12
PUBLIC IMPROVEMENTS

Staff Comment: The amendments and comments in red are proposed policy amendments. Other edits to clarify the existing regulations are proposed in black **bold** *and* ~~strikethrough~~. *Staff comments in italics are not amendments and will be removed.*

12.000 Overview. This article contains the City's standards for public improvements that relate to the development process.

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

- General Provisions
- Streets
- Sidewalks
- Street Trees
- Bikeways
- Utilities—General
- Water
- Sanitary Sewer
- Storm Drainage
- Improvement Assurances
- Addresses and Street Names [Ord. 5673, 6/27/2007]

GENERAL PROVISIONS

12.010 Purpose. The provisions ~~in this article~~ for new public improvements **in this article** are intended to address the City's concerns relative to public health, safety, and welfare.

12.020 Relationship to Other Local Regulations. This article supplements other municipal ordinances. ~~In the event of a conflict between~~**If** a provision of this article ~~and~~ **conflicts with** another City ordinance, ~~that~~ **the** ordinance that most specifically deals with the issue in question shall control. Whenever possible, the two provisions shall be interpreted in a manner that renders the provisions of both ordinances consistent. Only when such interpretation is impossible will one provision be deemed to supersede the other.

12.030 Relationship to Specialty Codes or State Law. This article ~~is intended to~~ supplements other existing state and local codes. Examples of these codes include, but are not limited to, the adopted building, fire, and plumbing codes. ~~In the event of a conflict between~~**If** any provision of this article ~~and~~ **conflicts with** a specialty code, the specialty code shall control.

12.040 Conditions of Approval. Development approval may be conditioned upon the provision and/or guarantee of public improvements called for in an adopted ~~P~~**p**ublic ~~F~~**f**acilities ~~M~~**m**aster ~~P~~**p**lan**,** or any other public improvements necessitated by the development. Development approval may likewise be conditioned when~~re~~ private facilities are proposed to be shared by two or more parcels. Construction of off-site improvements may be required ~~when necessary~~ to mitigate impacts resulting from development that relates to capacity deficiencies and public safety; and/or ~~when necessary~~ to upgrade or construct public facilities to City standards.

All development decisions shall be consistent with constitutional limitations concerning the taking of private property for public use.

To provide an adequate transportation system, development approvals may include conditions that

require facilities ~~that accommodate~~**for** safe and convenient pedestrian and bicycle access within and from new subdivisions, multi-family developments, planned developments, shopping centers and commercial districts to adjacent residential areas and transit stops, and to neighborhood activity centers within one-half mile of the development.

(1) "Neighborhood activity centers" includes, but is not limited to, existing or planned schools, parks, shopping areas, transit stops or employment centers;

(2) "Safe, convenient and adequate" means bicycle and pedestrian routes, facilities and improvements that:

(a) Are reasonably free from hazards, particularly types or levels of automobile traffic which would interfere with or discourage pedestrian or cycle travel for short trips;
(b) Provide a reasonably direct route of travel between destinations, such as between a transit stop and a store; and
(c) Meet ~~travel~~ needs of cyclists and pedestrians, considering destination and length of trip, and considering that the optimum trip length of pedestrians is generally 1/4 to 1/2 mile. [Ord. 5281, 3/26/1997; Ord. 5339, 1/28/1998]

12.045 Relationship to Other Development Code Articles. This article provides the public improvements standards to be used ~~in conjunction~~ with the procedural and design requirements contained in the articles on land divisions, site plan review, and manufactured home parks.

12.050 Relationship to Construction Standards. Public improvements shall be designed to comply with adopted facility master plans ~~to the greatest extent~~**as much as** possible. Unless otherwise approved by the City Engineer, public improvements shall be constructed according to the standard construction specifications. The standard specifications for construction, reconstruction or repair of streets, sidewalks, curbs, gutters and other public improvements within the City are ~~as~~ contained in the City's "Standard Construction Specifications." The City Engineer may make changes to the standard specifications consistent with the application of engineering principles to the conditions ~~in Albany~~. [Ord. 5339, 1/28/1998]

STREETS

12.060 General Provisions. No development may occur unless ~~the development~~**it** has frontage on or approved access to a public street currently open to traffic. A currently non-opene~~d~~ public right-of-way may be opened by improving it to City standards.

Streets shall be ~~inter~~connected to reduce travel distance, provide multiple travel routes, and promote the use of alternative modes. Street patterns have a **greater** long-range effect on land use patterns, ~~greater than~~ **than do** parcel~~ization~~ patterns or building location.

Streets (including alleys) within and adjacent to a development shall be improved in accordance with the standards in this Article. In addition, any new street or additional street width planned as a portion of an approved street plan shall be dedicated and improved in accordance with this Article.

When~~re~~ the City Engineer determines that a required street improvement would not be timely, the City Engineer may accept a Petition for Improvement/Waiver of Remonstrance for a future assessment district. [Ord. 5445, 4/12/2000]

12.070 Creation of Streets. Streets are usually created ~~through the~~**by** approval of a subdivision or partition plat. However, the City Council may also approve ~~the~~ creation of a street by acceptance of a deed. If ~~the~~ creati**ng**~~on of~~ a street unintentionally results in a land partition, the owner is not required to apply for

partition approval as long as the resulting parcels comply with Code standards.

12.080 Classification of Streets. Arterial and collector streets are designated in the Transportation System Plan. [Ord. 5445, 4/12/2000]

12.090 Creation of Access Easements. In general, ~~the~~ creati**ng**~~on of~~ access easements between property owners is discouraged. However, ~~there are some instances when~~**sometimes** an access easement is the only viable ~~method of~~**way to** provide~~ing~~ access to a developable lot. The review body will approve an access easement when the applicant has demonstrated that all of the following criteria have been met:

(1) No more than two parcels or uses ~~are to~~**will** be served by the proposed access easement;

(2) There is ~~insufficient~~ **not enough** room for a public right-of-way due to topography, lot configuration, or placement of existing buildings**;** and~~,~~

(3) The City Engineer has determined that there is no~~t a~~ need for a public street in this location.

12.100 Access to Public Streets. With the exceptions noted in Section 1.070, the location and improvement of an access point onto a public street shall be included in the review of a development proposal. In addition, the following specific requirements shall apply to all access points, curb cuts, and driveways:

Staff Comments: The proposed language most often relates to "flag" lots, although shared driveways are sometimes required to limit access to arterial and collector streets. Access and maintenance easements are required to be recorded at the land division stage.

(1) Approaches and driveways to City streets and alleys must be paved and constructed in accordance with the Standard Construction Specifications. **Driveways serving more than one property shall be paved the full length of the shared portion.**

(2) Driveways for single- and two-family dwellings must have a minimum width of 10 feet~~,~~ **and a** maximum width of 24 feet (not to exceed the width of the driveway curb cut) and minimum separation of 5 feet.

Up to four multiple-family units that front on a public street may have separate driveways. The driveways shall meet the same standards as **for** single- and two-family dwellings.

Driveways for all other uses must have widths of 12-16 feet for one-lane (one-way) driveways, 24-32 feet for two-lane driveways, and 36 feet for three-lane driveways. Three-lane driveways must have designated lanes and turning movements. Industrial driveways shall have a width of 24-48 feet. There must be a minimum separation of 22 feet between all driveways except for single- and two-family dwellings. The width of a driveway will be determined by measuring at the curb line and will exclude the transitions which must conform to standards fixed by the City Engineer.

(3) All driveways must be located ~~the maximum distance~~**as far as** practical from a street intersection**,** and in no instance shall the distance from an intersection be ~~closer~~ **less** than the following**,** as measured from the nearest curb return radius:

Arterial Street	40 feet
Collector Street	20 feet
Local Street	10 feet

When ~~streets of different functional classification~~**different classes of streets** intersect, the distance required is ~~that of the classification that requires the greatest distance~~ between ~~the~~ **an** access point and the intersection **is that of the street type that requires the greater distance**.

(4) The location, width, and number of accesses to a public street may be limited for developments that are subject to site plan review ~~provisions of this Code~~. All development that proposes access to an arterial street is subject to site plan review ~~procedures~~ and the design requirements of 12.230.

Staff Comments: The last two sentences are confusing at best. The first sentence contains the intent of this regulation, so the last two sentences are proposed to be removed.

(5) Access points to a public street shall be the minimum necessary to provide reasonable access while not inhibiting the safe circulation and carrying capacity of the street. ~~Except as further restricted by this Article, local street access to properties of less than 100 feet of frontage is limited to two access lanes per frontage, which may be together or separate and properties exceeding 100 feet of frontage are limited to two access lanes per each 100 feet of frontage.~~

(6) Properties with frontage on more than one street may be restricted to access on the street(s) of a lower classification through site plan, land division, or other review procedures.

(7) A common access point at a property line is encouraged and~~, in some instances,~~ may be required in order to reduce the number of access points to streets. Construction of common access points must be preceded by recording of joint access and maintenance easements.

(8) With the exception of single-family residential development, approach grades must not exceed 10 percent slope within 20 feet of a public street. Driveways for single-family residential development shall comply with applicable fire and building codes.

(9) Access to designated state highways is subject to the provisions of this Article in addition to requirements of the State Highway Division~~,~~ **and** State Department of Transportation. When regulations of the City and State ~~may~~ conflict, the more restrictive requirements apply.

(10) For developments on ~~parcels~~ **property larger than five acres in~~of~~** contiguous ownership ~~exceeding five acres in size which~~ front**ing** on an arterial street or limited access highway, a frontage road may be required in order to provide a single access determined by the review body to be the most appropriate location for safety and convenience.

(11) When access is allowed on an arterial street, efforts shall be made to locate ~~the access~~**it** adjacent to the interior property line where ~~such access~~**it** could be shared by the adjacent property. [Ord. 5338, 1/28/1998; Ord. 5445, 4/12/2000]

12.110 Street Location, Width and Grade. The location, width, and grade of all streets must conform to any approved transportation master plan or recorded subdivision plat. When location of a street is not shown in an approved street plan, the arrangement of streets in a development shall either provide for the continuation or appropriate projection of existing principal streets in the surrounding areas or conform to a plan for the neighborhood approved or adopted by the City to meet a particular situation where topographical or other conditions made continuance **of** or conformance to existing streets impractical or where no plan has been previously adopted.

In addition, new streets may be required to be located where the City Engineer determines that additional access is needed to relieve or avoid access deficiencies on adjacent or nearby properties. In determining the location of new streets in a development or street plan, consideration shall be given to maximizing available solar access for adjoining development sites.

Street grades must be approved by the City Engineer, who will consider drainage and traffic safety.

12.120 Rights-of-Way and Roadway Widths. Unless otherwise indicated on an approved street plan or in

Section 12.130, the street right-of-way and roadway widths shall not be less than the minimum ~~width in feet~~ shown in the following table. Where a range is indicated, the width shall be determined by the City Engineer.

Staff Comments: The sentence below the table was accidentally removed in 2000 and is being restored. In addition, we propose adding "unless waived" by the City Engineer," to the end incase the City Engineer determines the easements are not needed.

Type of Street	Minimum Rights-of-Way Width	Minimum Roadway Width
Arterial	~~(~~70-120~~)~~ feet	~~(~~40-70~~)~~ feet
Collector	~~(~~60-80~~)~~ feet	~~(~~36-48~~)~~ feet
Local*	~~(~~42-56~~)~~ feet	~~(~~22-32~~)~~ feet
Radius for turnaround at end of cul-de-sac	~~(~~43~~)~~ feet	~~(~~36~~)~~ feet
Alley	~~(~~14-20~~)~~ feet	~~(~~12-20~~)~~ feet

*** When street rights-of-way are less than 60 feet wide, a parallel public utility easement 7-feet-wide shall be dedicated on both sides of the right-of-way unless waived by the City Engineer.**

[Ord. 5445, 4/12/2000]

12.122 Local Residential Streets. There are two class~~esifications~~ of local streets, based on project~~edions of~~ traffic volumes. The applicant is responsible for demonstrating that each proposed street is designed for the appropriate traffic volume.

(1) Minor Local Streets. The minor local street design is intended to be the predominant street type in residential neighborhoods. A minor local street will have fewer than 1,000 average trips per day (ADT) when all future street connections are made. The standard design is a 30-foot wide paved surface with curb and gutter, a 6-foot landscape strip, and a 5-foot sidewalk on each side within a 54-foot right-of-way. ~~There is a~~**A** parallel 7-foot public utility easement **is** dedicated on each side of the street **unless waived by the City Engineer**. Parking is allowed on both sides of the street. See Figure 1.

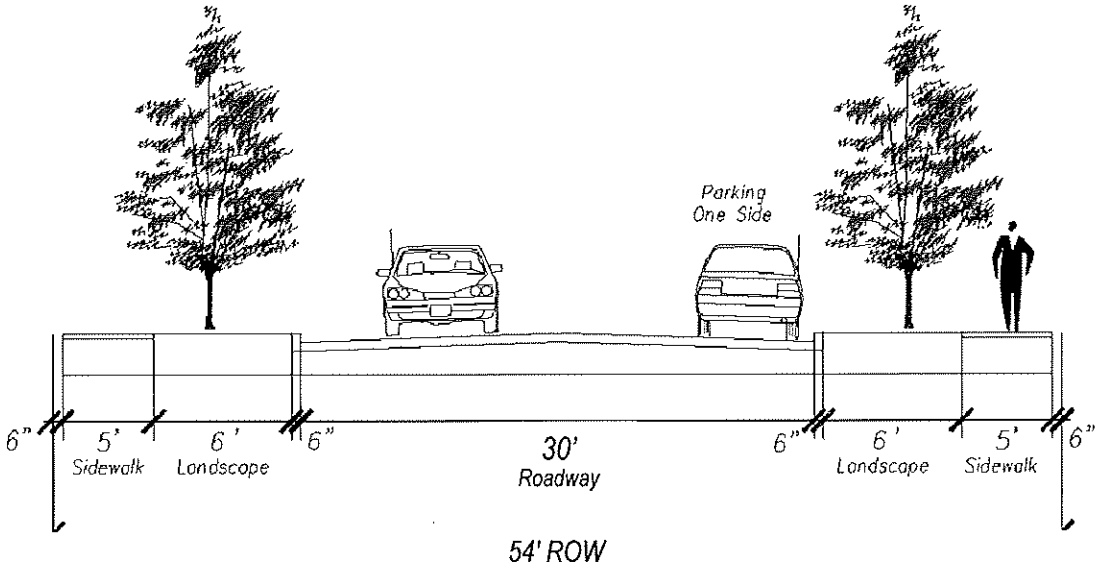


Figure 1: Minor Local Street

(2) Optional Design for Minor Local Streets. In lieu of the standard design in subsection (1), **a minor**

local street may have a 28-foot-wide paved surface within a 52-foot right-of-way, with parking on both sides, ~~for minor local streets is allowed~~ when the following performance standards are met:

(a) Provisions are made to ensure **that** emergency response vehicles have adequate access to all ~~parcels~~ **properties** on the street. A 40-foot--long clear area must be provided ~~at a rate of one per~~**for every** two ~~lots~~ **properties** along each side of the street. The clear area may be created with parking restrictions created by adjoining driveways or other method approved by the City Engineer.

(b) The street will have fewer than 1,000 average **daily** trips per day (ADT) when all future street connections are made.

(3) Network Local Streets. A network local street will have ~~greater~~ **more** than 1,000 ADT. The standard design is a 28-foot--wide paved surface with curb and gutter, a 6-foot landscape strip, and a 5-foot sidewalk on each side within a 52-foot right-of-way. ~~There is a~~**A** parallel 7-foot public utility easement **is** dedicated on each side of the street **unless waived by the City Engineer**. Parking is restricted to one side of the street. See Figure 2.

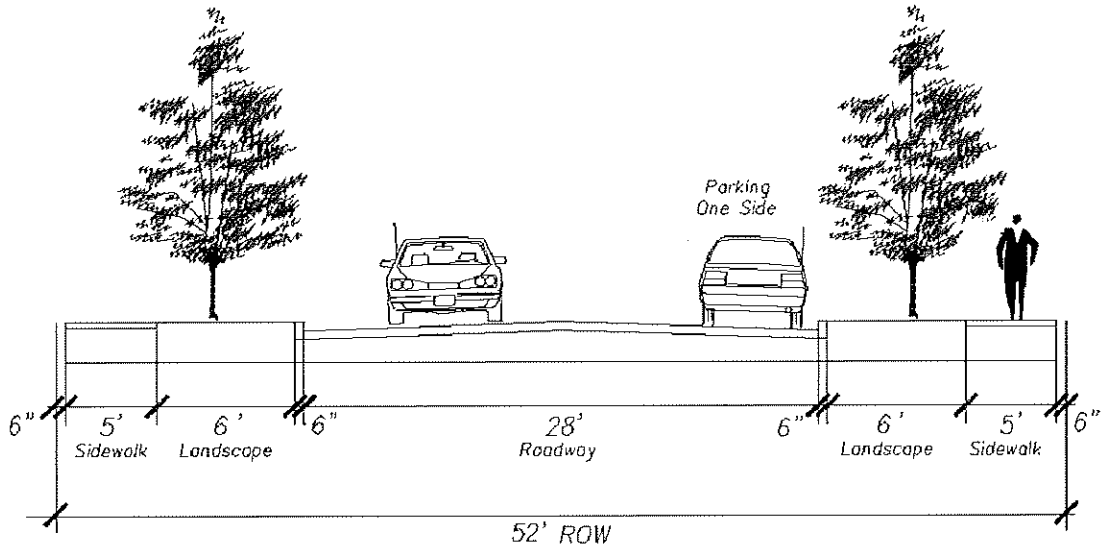


Figure 2: Network Local Street

(4) Alley Option. ~~Use of a~~**A**lleys ~~is~~ **are** encouraged in residential neighborhood design. A narrower minor local street (22-foot paved surface) will be allowed with alley access because the alley will reduce some of the parking and access functions usually found on the frontage street. All private utilities must be located in the alley, and no curb cuts will be permitted along the ~~frontage~~ street. The standard ~~six~~**6**-foot planter strip and ~~five~~**5**-foot setback sidewalks are required along the frontage street. See Figure 3. As an incentive, lots with alley access may be up to 10 percent smaller than the minimum lot size of the zone. See Table 1, Article 3.

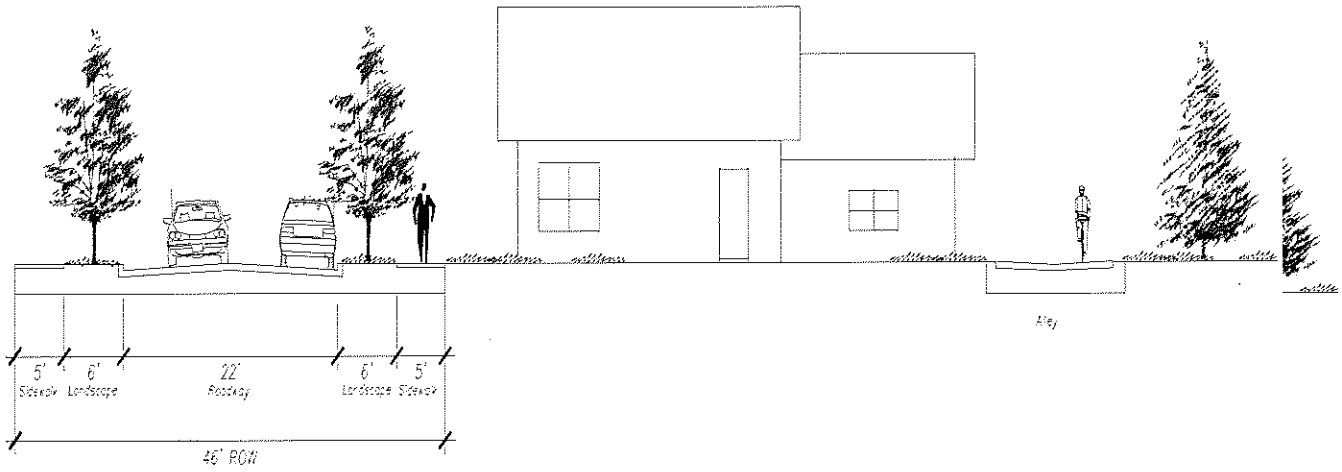
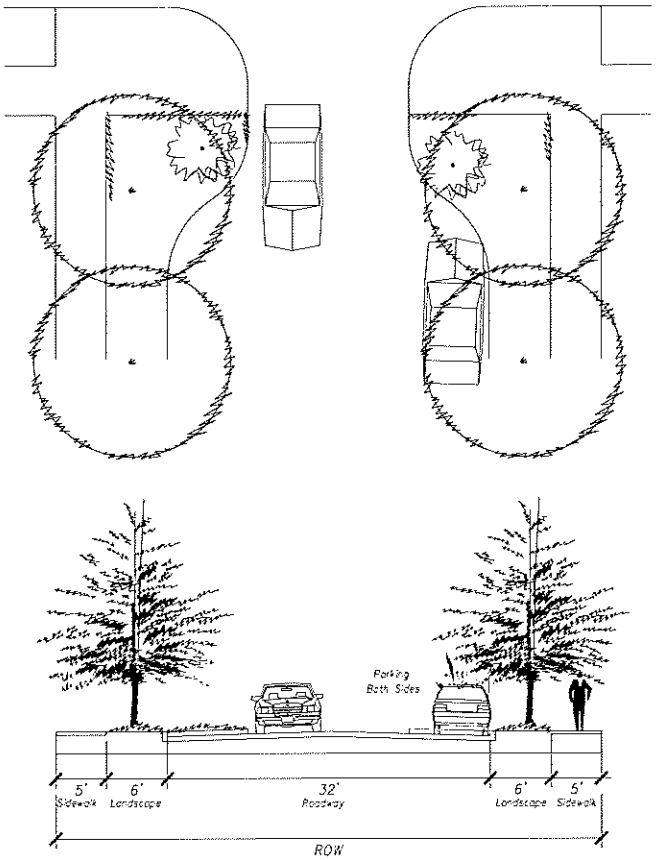


Figure 3: Alley Option

(5) Wide Local Street Option. A wider local street (32-foot paved surface) may be proposed to accommodate ~~on-street~~ parking on both sides of the street. Additional pedestrian amenities, such as ~~bulb~~ **bulb**-outs at intersections and larger street trees, will be required as a condition of the subdivision or planned development approval to offset the wider street section. See Figure 4.

Figure 4: Wide Local Street Option



(6) Residential Street Design for Constrained Sites. ~~There are instances where a development is proposed on land that has n~~Natural features ~~that~~ may constrain the standard local street design. Examples of such natural features include floodplains, steep slopes, drainageways, wetlands, riparian corridors, and tree groves. Through the subdivision or planned development review

process, the City will consider a narrower street section that does not compromise the goals for street design in a great neighborhood. For example, the sidewalks may be placed curbside and parking may be removed from the street in order to narrow the street paving and preserve natural areas. See Figure 5.

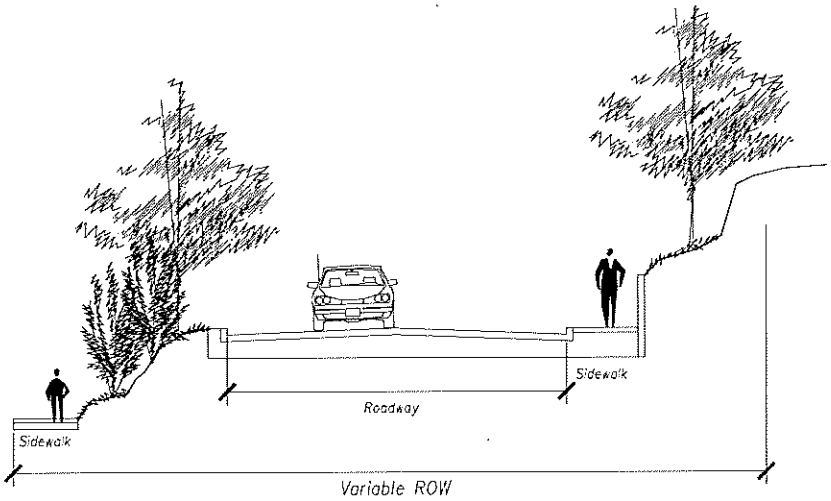


Figure 5: Residential Street Design (Constrained)

(7) Alternate Street Standard for Cluster Development. (Reserved)

SUMMARY OF STREET DESIGN STANDARDS	SINGLE-FAMILY DEVELOPMENT				MULTI-FAMILY DEVELOPMENT
	MINOR LOCAL STREETS		NETWORK LOCAL STREETS	WIDE OPTION	
Design Elements	Standard Design	Street with Alley Option	Standard Design	Wide Option	Standard Design
Right-of-way	54' [3]	46'	52'	56'	56'
Pavement width	30' [3]	22'	28'	32'	32'
On-street parking	Both sides	One side	One side	Both sides	Both sides
Bike lanes	No	No	No	No	No
Curb & gutter	Yes	Yes	Yes	Yes	Yes
Sidewalks[1]	5' setback	5' setback	5' setback	5' setback	5' setback
Planter strip	6' planter	6' planter	6' planter	6' planter	6' planter
Examples of "add backs"[2]	None	14-20' rear alley with all private utilities	None	Traffic calming, taller street trees	Traffic calming, taller street trees

[1] Curbside sidewalks are allowed on cul-de-sac bulbs. See Section 12.300(2).
[2] In exchange for building a street that does not meet the standard design, additional design features are required to more than compensate for the loss of one or more design objectives.
[3] A 28-foot street in a 52-foot right-of-way is allowed subject to the provisions of Section 12.122(2).

[Ord. 5445, 4/12/2000; Ord. 5562, 10/10/2003]

12.130 Mini-Subdivision Street and Rights-of-Way Standards. The standards ~~listed~~ in this section are intended for use in developing residential infill parcels. The review body will approve variations to the standards listed in Section 12.120 above, when the following criteria are met:

(1) The property to be divided is less than two acres ~~in size~~ and no more than eight lots will be created or served by the street; and

(2) The proposed land division, as a whole, meets the standards for lot size and configuration for the zoning district; and

(3) Surrounding parcels are developed or are ~~so~~ physically incapable of being developed **so** that combining the proposed land division with adjoining properties in a conventional land division is not feasible.

(4) The property is not needed for ~~a continuation of~~**continuing** the adjacent public street pattern. However, pedestrian connections may be required for ~~the continuation of~~**continuing** the pedestrian circulation system.

The review body may also modify other standards in this Code as indicated below:

Dedication & Maintenance	Paved Width (b) Street/Cul-de-sac	On-Street Curbs	On-Street Parking	Rights-of-Way (c) Sidewalk	Rights-of-Way (c) Street/Cul-de-sac
Public (a)	22' / 25' (radius)	Yes	no	4' (1 side)	30' / 35' (radius)
Public (a)	28' / NA	Yes	one side	4' (1 side)	36' / NA

(a) A 7-foot public utility easement may be required on each side of the right-of-way.
(b) Maximum street length is 400 feet.
(c) A "hammerhead" turnaround may be allowed only if no more than four residential lots are created, and the City Engineer determines that no other options exist and no traffic hazards will be created. [Ord. 5445, 4/12/2000]

12.140 Additional Rights-of-Way. A development project requiring land use approval is required to dedicate additional right-of-way if an existing street abutting or within the development does not meet the widths designated in Section 12.120. This provision does not apply to property line adjustments or historic review. While not required to dedicate additional right-of-way, single- and two-family dwellings (and related accessory buildings) are subject to ~~being~~ setbacks from future street rights-of-way as provided in Section 3.190.

Staff Comment: We have the ability to restrict access to public right-of-way through the use of barricades, so reserve strips do not provide any additional deterrent. Public Works has not been requiring the strips for over 10 years and they have had no problems. Therefore, the "reserve strip" sentence is proposed to be deleted because the requirement is not necessary.

12.150 Future Extensions of Streets ~~and Reserve Strips~~. When it is necessary to give access to or permit a future division of adjoining land, streets shall be extended to the adjoining tract. ~~A reserve strip across the end of a dedicated street shall be deeded to the City. In addition, a~~**A** barricade at the end of the street shall be installed and paid for by the property owners. It shall not be removed until authorized by the City Engineer.

12.160 Street Alignment. As far as practical, streets shall be dedicated and constructed in alignment with existing streets ~~by continuing the centerlines thereof~~. Arterial and collector streets shall have continuous alignments without offset or staggered intersections. In no case shall ~~the staggering of~~ streets be designed ~~where~~ **so that** jogs of less than 300 feet are created as measured from the centerline of any intersection involving an arterial or collector street. [Ord. 5338, 1/28/1998]

12.170 Intersections. Streets must ~~be laid out so as~~ intersect as nearly as possible at right angles. Proposed intersection of two streets at an acute angle of less than 75 degrees is not allowed. An oblique street should be curved approaching an intersection to provide at least 100 feet of street at right angles with the intersection. Not more than two streets shall intersect at any one point.

12.180 Clear Vision Area. A clear vision area must be maintained at each access to a public street and on each corner of property at the intersection of two streets or a street and a railroad. No fence, wall, hedge, sign, or other planting or structure that would impede visibility between the heights of 2 **and** 8 feet

shall be established in the clear vision area. Measurements shall be made from the top of the curb or, where no curb exists, from the established street center line grade.

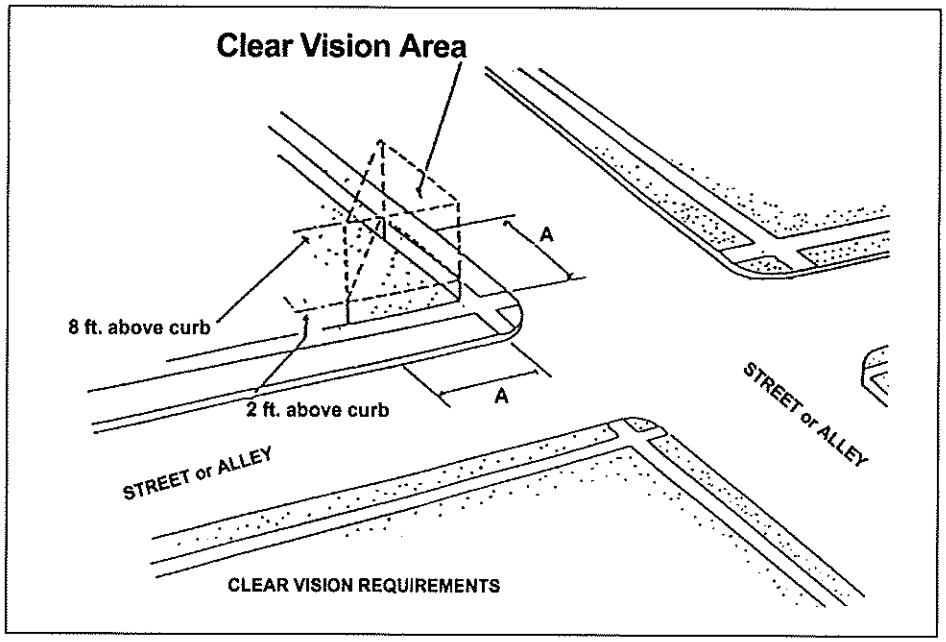
(1) The preceding provisions do not apply to the following:

(a) a public utility pole,
(b) a tree trimmed (to the trunk) to a line at least eight feet above the level of the intersection,
(c) another plant species of open growth habit that is not planted in the form of a hedge and that is planted and trimmed to leave at all seasons a clear and unobstructed cross-view,
(d) a supporting member or appurtenance to a permanent building lawfully existing on the date this standard becomes effective,
(e) an official warning sign or signal,
(f) the post section of a pole sign when there are no more than two posts and any post is less than eight inches in diameter, and
(g) existing or new buildings within the Central Business District (CBD).

(2) A clear vision area consists of a triangular area, two sides of which are lot lines or a driveway and a lot line for a distance specified in this section, or, where the lot lines have rounded corners, the lot lines extended in a straight line to a point of intersection and so measured, and the third side of which is a line across the corner of the lot joining the non-intersecting ends of the other two sides (See illustration below). The following measurements shall establish the clear vision areas:

Type of Intersection	Measurement Along Each Lot Line or Drive Edge*
Controlled Intersection (stop sign or signal)	20 feet
~~Uncontrolled Intersection (60' right-of-way)~~	~~30 feet~~
Uncontrolled Intersection ~~(less than 60' right-of-way)~~	30 feet
Commercial and Industrial District driveways	20 feet
Residential District driveways	15 feet
Alley (less than 25 feet)	20 feet

* *When ~~there is an intersection~~ of two or more streets of different right-of-way width* ***intersect****, the distance to be measured along the lot lines shall be the distance specified for each type street.*



12.190 Cul-de-sacs. The street pattern may include cul-de-sacs and bulbs only if connectivity and block length standards have been met. A cul-de-sac must ~~be as short as possible and is~~ not ~~to~~ exceed 400 feet. A cul-de-sac must ~~terminate with~~**end in** a circular turnaround, except as provided in 12.130 (4)(c). Dead-end streets longer than 400 feet may be approved by the City Engineer if no other means is available for development of the property.

A 10-~~foot~~ **foot**-wide lighted concrete bikeway/pedestrian accessway shall be dedicated and constructed from the end of each cul-de-sac to the nearest street or property line of adjacent property, except where the cul-de-sac abuts developed property and/or the City Engineer determines there is no need for a connection. [Ord. 5338, 1/28/1998; Ord. 5445, 4/12/2000]

12.200 Street Abutting New Development. Sections of existing streets ~~not meeting~~**that directly abut a new development and do not meet** City standards ~~that directly abut new development~~ shall be constructed to City standards. The City Engineer may approve construction of a ~~partial~~ **partial**-width ~~street~~ **street,** provided the design is determined to be adequate to accommodate needed public facilities, storm drainage runoff, traffic volumes, and traffic loadings. The design of the improvement shall consider the ultimate design of the fully widened street. For purposes of this section, "development" means a land division, new commercial or industrial development, construction of multi-family residential units, or a manufactured home or recreational vehicle park.

A future improvement assurance, as described in Section 12.600, may be accepted by the City when the City Engineer determines that the street improvement would not be timely. [Ord. 5338, 1/28/1998]

12.210 Slope and Curves. Slope shall not exceed 6 percent on arterials, 10 percent on collector streets, or 12 percent on other streets. Center line radii or curves shall ~~not~~ be **not** less than 600 feet on arterials, 400 feet on collectors, or 200 feet on other streets. When~~re~~ existing conditions, particularly the topography, make it otherwise impractical to provide buildable sites, steeper grades and sharper curves may be approved by the review body. In flat areas, allowance shall be made for finished street grades having a minimum slope of at least 0.5 percent, when possible.

12.220 Street Adjacent to Railroad. Whenever a proposed development contains or is adjacent to a railroad right-of-way, provision may be required for a street approximately parallel to and on each side of the railroad right-of-way at a distance suitable for ~~the~~ appropriate use of the land between each street and the railroad. The distance shall be determined with ~~due~~ consideration at each cross street of the minimum distance required for approach grades to a future grade separation and to provide sufficient depth to allow screen planting along the railroad right-of-way in non-industrial areas.

12.230 Access to Arterials. When a development abuts or contains an existing or proposed arterial street, the development design shall provide adequate protection for residential properties and shall separate residential access and through traffic~~;~~, or if separation is not feasible, the design shall minimize the traffic conflicts. The design requirements may include any of the following:

(1) A parallel access street along the arterial;

(2) Lots **abutting the arterial** of suitable depth ~~abutting the arterial~~ to provide adequate buffering and having frontage along another street;

(3) Screen planting at the rear or side property line to be contained in a non-access reservation along the arterial; or

(4) Other treatment, as determined by the ~~City Engineer~~**Director**, suitable to meet the objectives of this subsection.

12.240 Property Monuments. Upon completion of a street improvement and ~~prior to~~**before** acceptance by the City, all property corners and other monuments disturbed or removed by the project shall be reestablished and protected by an ~~Oregon~~ **Oregon-**licensed surveyor retained by the developer.

12.250 Private Streets. Unless the review body determines that public streets are needed to provide for circulation and/or access to neighboring properties, private streets are permitted within ~~P~~**p**lanned ~~U~~**u**nit ~~D~~**d**evelopments, ~~M~~**m**anufactured ~~H~~**h**ome ~~P~~**p**arks, and sing**ly-**~~ularly~~-owned developments of sufficient size to warrant interior circulation on private streets. Streets classified as arterials or collectors that run through these developments must be public streets. Local streets needed for connectivity purposes shall be public streets. Gated residential streets are prohibited. Private streets shall be designed and constructed with a 20-year design life. Plats for developments containing private streets must show that streets are private and **that** upkeep and maintenance **are** the responsibility of the abutting property owners. The review body may require legal assurances for the construction and continued maintenance of private streets. [Ord. 5338, 1/28/98; Ord. 5445, 4/12/00]

12.260 Traffic Signals. Where a single development or concurrent group of developments will create a need for a traffic signal at an intersection, such installation may be a condition of development approval.

12.270 Railroad Crossings. Whe**n**~~re~~ an adjacent development results in a need to install or improve a railroad crossing, such improvement may be a condition of development approval.

Staff Comments: The developer installs and pays for street signs. The proposed language clarifies the current process.

12.280 Street Signs. The City shall **approve the** install**ation of** all street signs, relative to traffic control and street names, as specified by the City Engineer for any development. **The applicant shall provide and install all required street and traffic control signs.**~~The cost of signs and installation shall be included in the developer's project costs.~~

SIDEWALKS

12.290 Requirement. All development for which land use applications are required by Section 1.060 must include sidewalks adjacent to public streets. This requirement also applies to new single-family houses and duplexes if they are located on arterial or collector streets or on curbed local streets**,** if there is an existing sidewalk within 500 feet on the same side of the street.

Sidewalks shall be built ~~during~~ **when arterial and collector streets are** ~~their~~ construct**ed**~~ion~~ and ~~considered~~ **at the discretion of the City Engineer** during their reconstruction. This provision shall also apply to local streets that serve commercial and multi-family development. Sidewalks are required on both sides of all streets. If an interim street standard is being constructed which does not include bike lanes or sidewalks, interim bikeways or walkways for pedestrians shall be provided ~~through construction of~~**by** paved roadway shoulders at least 8 feet ~~in width~~**wide** on arterials and 6 feet on other streets. ~~The p~~**P**rovision of sidewalks may be waived when the street serves a use or combination of uses that generate fewer than 50 trips a day (based on ITE standards) and cannot be continued or extended to other properties. [Ord. 5445, 4/12/2000]

12.300 Design, Width, and Location. All sidewalks must be constructed, replaced or repaired in accordance with the Standard Construction Specifications. The required width and location of sidewalks is as follows:

(1) The required width for a sidewalk on an arterial or collector street is 7 feet. This ~~width~~ may be reduced to 6 feet if the sidewalk is separated from the curb by a landscaped planter strip at least 5 feet wide. ~~In those instances where~~**When** there is inadequate right-of-way for additional width and

no additional right-of-way can be obtained as a condition of development approval, the sidewalk width may be reduced to 5 feet. In all cases, any right-of-way remaining outside the sidewalk is to be landscaped and maintained by the adjoining property owner.

(2) Sidewalks along residential and other local streets must be ~~a minimum of~~**at least** 5 feet ~~in width~~**wide**. A planter strip at least 6 feet wide shall separate the sidewalk from the street. Street trees shall be selected from the list of approved street trees established by the City. The planter strip shall be of permeable materials.

(3) In the Historic Downtown and Central Business districts, as defined on the zoning map, sidewalks must be at least 10 feet ~~in width~~**wide** and be installed adjacent to the curb.

(4) Regardless of other provisions contained in this article, any sidewalk project that is less than 200 feet in length and connects on either end to an existing sidewalk may be designed to match the existing pattern with the approval of the City Engineer.

(5) When obstructions exist or are proposed (including, but not limited to, mail-boxes, utility poles, trees, planters, fire hydrants, signs, benches, bus stops, etc.), provisions must be made to maintain a minimum of 4 feet of unobstructed sidewalk width on local streets, 5 feet on collector and arterial streets, and 6 feet in the Historic Downtown (HD) and Central Business (CB) districts.

(6) Maintenance of sidewalks and planter strips shall be the continuing obligation of the adjacent property owner except when the lot backs onto an arterial. Planter strips shall be landscaped and maintained in like manner to the front yard setback requirements of Article 9.

(7) Sidewalks shall be designed to parallel streets in line and grade and shall avoid unnecessary meandering from the curb line and elevation changes except as necessary to avoid significant trees or traverse topographic barriers.

(8) **Public** ~~Pedestrian accessways~~ **paths** not adjacent to a public street shall be a minimum of 10 feet wide. [Ord. 5445, 4/12/2000]

12.310 Conformance to Street Grades. All sidewalks constructed adjacent to a street must be placed upon the street grade as established at the time of sidewalk construction. If a space is left between the property line and the sidewalk and/or between the sidewalk and the curb, the space shall be filled and surfaced with earth or other approved material level with the sidewalk.

12.320 Timing of Sidewalk Construction. Sidewalk construction may be deferred until the proposed improvement on the property is completed. No occupancy permit shall be issued by the Building Official for a development until the provisions of this Article are satisfied.

The City Engineer may authorize a future improvement assurance (as described in Section 12.600) when, in his opinion, the construction of the sidewalk is impractical for one or more of the following reasons:

(1) Sidewalk grades have not **been** and cannot be established for the property in question within a reasonable length of time;

(2) Forthcoming installation of public utilities or street paving would be likely to cause severe damage to the new sidewalk;

(3) Street right-of-way is insufficient to accommodate a sidewalk on one or both sides of the street; or

(4) Topography or elevation of the sidewalk base area makes construction of a sidewalk impractical or economically infeasible.

STREET TREES

12.321 General Requirements. When a new public street is created in conjunction with development, street trees are required in accordance with the standards provided in the Standard Construction Specifications and the Urban Forestry Management Plan.

12.324 Street Tree Planting Options. The following options are available to meet this requirement:

(1) Submit a street tree plan to the City for planting and establishing trees within the public rights-of-way that meets the ~~City~~ **tree planting** standards **in the Urban Forestry Management Plan**. The City Forester shall either approve or deny the plan based on the plan's compliance with these requirements.

(2) Pay a fee to the City based upon a requirement for one tree per thirty linear feet ~~(30')~~ of street frontage. This fee shall be deposited into the City's Urban Forestry Program Fees Fund. The City shall thereafter assume responsibility for the purchase, ~~installation~~**planting**, and establishment of street trees ~~with~~ **within** the public right-of-way or **on** public lands maintained by the City within or abutting the specified development.

[Ord. 5673, 6/27/2007]

BIKEWAYS

12.330 Master Bikeways Plan. The City's adopted Master Bikeways Plan is in the Comprehensive Plan.

12.340 Provisions for Bikeways. Developments adjoining or containing proposed bikeways identified on the adopted Master Bikeways Plan shall include provisions for the future extension of such bikeways. Land use approvals issued for ~~P~~**p**lanned ~~D~~**d**evelopments, ~~G~~**g**reenway ~~C~~**c**onditional ~~U~~**u**se ~~P~~**p**ermits, subdivisions and other developments that will principally benefit from such bikeways may be conditioned to include bikeway improvements.

In the case of arterial or collector streets, bike lanes shall be built during their construction, and considered during their reconstruction. This provision shall also apply to local streets in other than ~~single~~ **single**-family residential developments.

12.350 Bikeway Design. Where possible, bikeways should be separated from other modes of travel, including pedestrian. Minimum width for bikeways shall be 6 feet per travel lane when adjacent to a curb (one-way) and 10 feet when not on a roadway (two-way). A reduction in standards may be allowed when the City Engineer finds that no safety hazard will be created and other special circumstances (such as physical constraints) exist.

UTILITIES—GENERAL

12.360 Utility Easements. The developer shall make arrangements with the City of Albany and each utility franchise for the provision and dedication of utility easements necessary to provide full services to the development. All utility easements must be public easements.

12.370 Utility Easement Width. The standard width for public utility easements adjacent to street rights-of-way is 7 feet. The minimum width for all other public utility easements shall be 15 feet for water, 20 feet for sewer, and 15 feet for piped storm drainage unless otherwise specified by the utility company or City Engineer. When~~re~~ feasible, utility easements shall be centered on a lot line.

12.380 Information on Development Plans. The developer must show easements for all utilities. Plans showing the location of all utilities shall be submitted to the City as part of the site plan review or land division process.

12.390 Requirement for Underground Utilities. Except as exempted in Section 12.400, all utility lines, cables, or wires (including but not limited to those used for electricity, communication, street lighting, and cable television) constructed upon, adjacent to, or within land subdivided or prepared for development after the effective date of this Code, must be placed underground. The intent of the City is that no poles, towers, or other structures associated with utility facilities shall be permitted on any street or lot within such a subdivision or development.

12.400 Exceptions. Overhead facilities are only permitted in the following instances:

(1) Emergency installations, electric transmission lines, or through feeders operating at distribution voltages which act as a main source of supply to primary laterals and to direct connected distribution transformers and primary loads.

Should it be necessary to increase the capacity of major power transmission facilities for service to the area, ~~such~~ new or revised installations shall be made only on rights-of-way or easements on which overhead facilities exist at the time of ~~such~~ **the** capacity increase.

(2) Appurtenances and associated equipment such as surface-mounted transformers, pedestal-mounted terminal boxes, meter cabinets, telephone cable closures, connection boxes, and the like.

(3) Structures without overhead wires, used exclusively for fire alarm boxes, street lights, or municipal equipment installed under the supervision and with the approval of the City Engineer.

(4) Power substations, pumping plants, and similar facilities necessary for transmission or distribution of utility services.

(5) Television antennas and satellite dishes [See Section 3.080 (12)].

(6) Industrial developments, except for ~~those~~ utility lines, cables, and/or wires providing service to an individual lot. Such lines must be placed underground from the nearest power pole to the facility ultimately being operated on the individual lot. Certain industries requiring exceptionally large power supplies may request direct overhead power as a condition of site plan approval. Underground utilities may be required in Industrial Park developments and planned developments in the Industrial Districts.

(7) New development on existing individual lots of record in areas where service is currently by overhead utilities.

12.405 Property Monuments. Upon completion of a utility project and ~~prior to~~**before** acceptance by the City, all property corners and other monuments disturbed or removed by the project shall be reestablished and protected by an ~~Oregon~~ **Oregon**-licensed surveyor retained by the developer.

WATER

12.410 When Public Water is Available. All new development, including a ~~single~~ **single**-family residence, must extend and connect to the public water system when service is available within 150 feet of the property. Fire hydrants, mains, and related appurtenances shall be installed as required by the City Fire Marshal.

12.420 When Public Water is Not Available. No new development is allowed on private well systems, except for construction of one ~~single~~ **single-**family dwelling on an existing lot of record. Residential lots created by a land partition may be served by private wells if approved by the City**,** and provided the new lots are subject to a Petition for Improvement/Waiver of Remonstrance for a future assessment district for public water. If a second partition plat is filed on the same parcel, the application will be subject to the subdivision requirement that the development be served by public water.

12.430 Extension Along Property Frontage and Within Interior. Water distribution mains must be extended along the full length of the property's frontage along the right-of-way or to a point identified by the City Engineer as necessary to accommodate likely system expansion. Main extensions may be required through the interior ~~or~~ **of** properties when necessary to provide ~~for~~ service to other properties or to provide looping for fire flows.

Staff Comments: The proposed changes to 12.440, 12.500, and 12.530 relate to providing only enough information with applications and plans for Public Works to conduct an adequate and timely review.

Reason for language: Based on the LUBA remand for Fabian Estates, the existing language requires more of an applicant than what was intended, or than has been required in past practice. The revisions will clarify the requirements and not result in any process changes when compared to typical past practices.

The intent of the Code is to have applicants demonstrate to the City's satisfaction that their proposed development is feasible. Engineered construction drawings are not necessary at this stage and are required through the Site Improvement (SI) process, after land use approval. If the existing language were to remain, developers would be required to submit fully engineered drawings for the land use application before they knew if they had land use approval. This would be an unnecessary, and costly, requirement for the developer.

12.440 Water Plan Approval. **Preliminary water plans and systems must be submitted to the City Engineer as part of the tentative plat or site plan review application. These plans must provide enough information to enable the City Engineer to determine that the proposed development is feasible, but are not required to be detailed construction level documents. The City's Engineering Standards, while not land use criteria, may be used, in whole or in part, by the City Engineer to determine the feasibility of a proposed plan.** ~~All proposed water plans and systems must be approved by the City Engineer as part of the tentative plat or site plan review process.~~

12.450 Design Requirements for New Development. All new development within the City must, when appropriate, make provisions for the continuation or appropriate projection of existing principal water lines serving surrounding areas.

12.460 Restriction of Development. The review body may restrict development approvals when a deficiency exists in the water system or portion thereof which cannot be corrected as a part of the development improvements.

SANITARY SEWERS

12.470 When Public Sewer is Available. All new development must extend and connect to the public sewer system when service is available within 300 feet of the property.

12.480 When Public Sewer is Not Available. Where sewer is not available within 300 feet of the property, no development is allowed on private septic systems, except for construction of one ~~single~~ **single-**family

dwelling on an existing lot of record or on a parcel no smaller than five acres created through the land division process. Any private on-site system allowed by this section must be approved by the county.

12.490 Extension Along Property Frontage and Within Interior. Sewer collection mains must be extended along the full length of the property's frontage along the right-of-way or to a point identified by the City Engineer as necessary to accommodate likely system expansion. When private sanitary sewer services will exceed 100 feet ~~in length~~**long**, as measured from the public main to the structure, the City Engineer may require extension of public sewers into the interior of the property.

Staff Comments: The proposed change relates to providing enough information with applications and plans for Public Works to conduct an adequate and timely review. See comments before 12.440.

12.500 Sewer Plan Approval. **Preliminary sewer plans and systems must be submitted to the City Engineer as part of the tentative plat or site plan review application. These plans must provide enough information to enable the City Engineer to determine that the proposed development is feasible, but are not required to be detailed construction level documents. The City's Engineering Standards, while not land use criteria, may be used, in whole or in part, by the City Engineer to determine the feasibility of a proposed plan.** ~~All proposed sewer plans and systems must be approved by the City Engineer as part of the tentative plat or site plan review process.~~

12.510 Design Requirements for New Developments. All new development within the City must, where appropriate, make provisions for the continuation or appropriate projection of existing sewer lines serving surrounding areas. Line extensions may be required through the interior of a property to the developed when the City Engineer determines that the extension is needed to provide service to upstream properties.

12.520 Restriction of Development. The review body may restrict development approvals where a deficiency exists in the sewer system or portion thereof that cannot be corrected as a part of the development improvements.

STORM DRAINAGE

Staff Comments: The proposed change relates to providing enough information with applications and plans for Public Works to conduct an adequate and timely review. See comments before 12.440.

12.530 General Provisions. The review body will approve a development request only when adequate provisions for storm and flood water run-off have been made as determined by the City Engineer. The storm water drainage system must be separate **from** and independent of any sanitary sewer system. When possible, inlets should be provided so surface water is not carried across any intersection or allowed to flood any street. Surface water drainage patterns and proposed storm drainage must be shown on every development proposal plan. All proposed storm sewer plans and systems must be approved by the City Engineer as part of the tentative plat or site plan review process.

Preliminary storm sewer plans and systems must be submitted to the City Engineer as part of the tentative plat or site plan review application. These plans must provide enough information to enable the City Engineer to determine that the proposed development is feasible, but are not required to be detailed construction level documents. The City's Engineering Standards, while not land use criteria, may be used, in whole or in part, by the City Engineer to determine the feasibility of a proposed plan.

~~Ditches are not allowed without specific approval of the City Engineer. Open natural drainageways of sufficient width and capacity to provide for flow and maintenance may be permitted. For the purposes of this article, an open natural drainageway is defined as a natural path that has the specific function of~~

~~transmitting natural stream water or storm water run-off from a point of higher elevation to a point of lower elevation.~~

12.540 Easements. When a subdivision is traversed by a water-course, drainageway, channel or stream, a public storm water easement or drainage right-of-way conforming substantially ~~with~~**to** the lines of ~~such~~ **the** water-course and ~~such~~ further width as the City Engineer determines will be adequate for conveyance and maintenance shall be provided. Improvements to the drainageway, streets, or parkways parallel to water-courses may be required.

12.550 Accommodation of Upstream Drainage. A culvert or other drainage facility shall be large enough to accommodate potential run-off from its entire upstream drainage area, whether inside or outside of the development. The City Engineer must review and approve the necessary size of the facility, based on the provisions of the Storm Drainage Master Plans, and sound engineering principles**,** and assuming conditions of maximum potential watershed development permitted by the Comprehensive Plan.

12.560 Effect on Downstream Drainage. When ~~it is anticipated by~~ the City Engineer **anticipates** that the additional run-off resulting from the development will overload an existing drainage facility, the review body will withhold approval of the development until provisions have been made for improvement of said potential condition.

12.570 Drainage Management Practices. Development must employ drainage management practices approved by the City Engineer that minimize the amount and rate of surface water run-off into receiving streams or drainage facilities or onto adjoining properties. Drainage management practices must include, but are not limited to**,** one or more of the following practices:

(1) Temporary ponding or detention of water;

(2) Permanent storage basins;

(3) Minimization of impervious surfaces;

(4) Emphasis on natural drainageways;

(5) Prevention of **uncontrolled** water flow~~ing~~ from the development ~~in an uncontrolled fashion~~;

(6) Stabilization of natural drainageways as necessary below drainage and culvert discharge points for a distance sufficient to convey the discharge without channel erosion;

(7) **Collection of** ~~R~~runoff from impervious surfaces ~~must be collected~~ and transport**ationed** to a natural drainage facility with sufficient capacity to accept the discharge; and

(8) Other practices and facilities designed to transport storm water and improve water quality.

12.580 Design Requirements for New Development. All new development within the City must, when appropriate, ~~make~~ provi**desions** for the continuation or appropriate projection of existing storm sewer lines or drainageways serving surrounding areas. Extensions may be required through the interior of a property to be developed when the City Engineer determines that the extension is needed to provide service to upstream properties.

Staff Comment: This requirement was reduced to one acre. The proposed change is needed to be consistent with the Department of Environmental Quality's standards.

12.585 NPDES Permit Required. A National Pollutant Discharge Elimination System (NPDES) permit must be obtained from the Department of Environmental Quality (DEQ) for construction activities (including

clearing, grading, and excavation) that disturb ~~five (5)~~**one** or more acres of land**, or whatever the current standard is at the time the application is submitted.**

IMPROVEMENT ASSURANCES

12.590 Purpose. The purpose of improvement assurances is to provide the City with a guarantee that the improvements called for in this article**, whether public or private,** will be made. The type of guarantee will be determined by the City. Before issuing or renewing a development approval when the applicant has an obligation to design and construct improvements shown on the development plan, the review body may require that the applicant acknowledge the obligation.

12.600 Form and Contents. The assurance shall contain the time within which the obligation is to be met. It may take the form of a surety or performance bond, cash, a negotiable security deposit, a mutual improvement agreement, a monetary contribution to a fund for future improvements if established by a separate city ordinance, or other guarantees approved by the City Attorney sufficient to cover the cost of the work as estimated by the City. The bond shall be conditioned upon the developer's carrying out the obligation and fulfilling the other requirements of this Title that bear on the approval of the development. The deposit or bond shall be forfeited to the City if the developer does not fulfill the requirements. The bond or deposit shall remain in the custody of the City until the obligation is completed or the bond or deposit is forfeited, or shall be placed in an escrow account subject to City control.

12.610 Noncompliance with Provisions Under Obligation. If the Director finds that a developer is not fulfilling an obligation, the Director shall, in written notice to the developer and the developer's surety, specify the details of noncompliance. Unless the Director allows more time for compliance because of circumstances beyond the developer's control, within 30 days after receiving the notice, the developer or the developer's surety shall ~~commence the~~**begin** compliance and proceed diligently to complete fulfillment of the obligation.

(1) If the developer or the developer's surety does not ~~commence the~~**begin** compliance within the 30 days or the additional time allowed by the Director, or has ~~commenced~~ **begun** but fails **to** diligently ~~to~~ complete the compliance, or the compliance is otherwise not completed within the time specified in granting the development approval, the City may take the following action:

(a) Enter upon the site of the development and carry out the obligation in accordance with the provisions agreed upon under the acknowledgement;
(b) Notify the developer and the developer's surety of the developer's failure to perform as required by this Code;
(c) Demand payment from the developer~~'s~~ for the unfulfilled obligation;
(d) If the security for the obligation is a bond, notify the surety that has furnished the bond that reimbursement for the expense for fulfillment of the obligation is due and payable to the City or, if the security is a deposit of cash or other assets, appropriate as much of the deposit as is necessary to recoup the expense; or
(e) Void all approvals granted in reliance on the improvement assurance.

(2) If a bond or other required security is not sufficient to compensate the City for expenses necessary to fulfill the obligation, the amount due to the City for the obligation is a lien in favor of the City and upon the entire contiguous real property of the owner of the land subject to the obligation.

(3) The lien attaches upon the filing with the City Recorder of notice of the claim for the amount due for the fulfillment of the obligation. The notice shall demand the amount due, allege the insufficiency of the bond or other security to compensate the City fully for the expense of the fulfillment of the obligation, and allege the developer's failure to do the required obligation.

(4) The lien may be foreclosed in the manner prescribed by law for foreclosing other liens on real property.

(5) The remedies set forth for non-compliance are cumulative. In addition to the remedies set forth above, non-compliance by the developer or his surety with any term of a performance guarantee shall entitle the city to pursue any civil remedy permitted by law.

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Community Development Department

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STAFF REPORT
Development Code Amendments

HEARING BODY	CITY COUNCIL
HEARING DATE	Wednesday, July 8, 2009
HEARING TIME	7:15 p.m.
HEARING LOCATION	Council Chambers, Albany City Hall, 333 Broadalbin Street SW

GENERAL INFORMATION

DATE OF REPORT: June 29, 2009

FILE: DC-02-09

TYPE OF APPLICATION: Legislative amendments to the following Development Code Articles:

Article 1, Administration and Procedures (Exhibit A):
- Return to one-year approvals or building permit expiration for historic review approvals.
- Add a reference to Albany Municipal Code Title 18 where compliance and enforcement processes are located.

Article 2, Review Criteria (Exhibit B)
- Require more information on storm drainage and natural and unique features with Site Plan applications.
- Reincorporate the "unusual circumstance" language into the Adjustment and Variance review criteria.

Article 9, On-site Development and Environmental Standards (Exhibit C)
- Minor changes to parking lot and landscaping language to comply with handicapped accessibility requirements in the Oregon Structural Specialty Code.
- Adopt by reference the Department of Environmental Quality's noise standards for industry and commerce.

Article 11, Land Divisions (Exhibit D)
- Require preliminary water, sewer, and storm drainage plans be submitted with land division applications.

Article 12, Public Improvements (Exhibit E)
- Require preliminary water, sewer, and storm drainage plans be submitted with applications.

REVIEW BODY: City Council

APPLICANT: City of Albany Community Development Department

INTRODUCTION

The Albany Development Code (ADC) allows for the Community Development Director to initiate legislative amendments.

Periodically, the ADC needs updating to meet current standards and changing needs, to clarify the intent, or to correct unintended consequences. We are implementing a process to periodically evaluate and adopt changes to the ADC. Staff will take requests to evaluate changes to the Code throughout the year from the public and internally, and will prepare amendments to the Code semi-annually.

This first "round" of semi-annual amendments includes relatively minor revisions identified by the Public Works and Community Development departments that are necessary for adequate and timely development review, to meet disability requirements, or to address compliance issues. In addition, staff received direction from the Planning Commission at a November 7, 2008, retreat to consider restoring the "unusual circumstance" language to the Variance review criteria (Article 2).

This package of amendments also includes non-policy revisions to all of Articles 2 and 12, and to a small portion of Article 9 near proposed revisions.

ATTACHMENTS TO THE ORDINANCE

All amendments to the Code are shown as Exhibits A through E to the ordinance.

Article 1, Administration and Procedures (Exhibit A):

Article 2, Review Criteria (Exhibit B)

Article 9, On-site Development and Environmental Standards (Exhibit C)

Article 11, Land Divisions (Exhibit D)

Article 12, Public Improvements (Exhibit E)

Policy amendments are shown in red in the attached exhibits. Other amendments are shown in black **bold** and ~~strikethrough~~.

NOTICE INFORMATION

A table summarizing the proposed ADC amendments was mailed to persons believed to have a particular interest in the proposed amendments and details of the amendments were posted to the City website on May 29, 2009. The persons believed to have a particular interest included engineering and design firms, developers, land use attorneys, architects, land use planners, and the business community. The Landmarks Advisory Commission received notice of the proposed amendments to Article 1 on June 5, 2009. A Notice of Public Hearing was published in the *Albany Democrat-Herald* on June 5, 2009.

The City received one letter from Multi-Tech Engineering dated June 9, 2009, and a letter that was emailed on June 15, 2009. They provided comments on the proposed amendments to the Adjustment review criteria and also on information required in applications.

There was no testimony or public present at the Planning Commission public hearing on June 15, 2009, or June 29, 2009.

PLANNING COMMISSION RECOMMENDATION

APPROVAL WITH MODIFICATIONS of the proposed Development Code amendments.

The Planning Commission held a public hearing on the proposed amendments on June 15, 2009. No public attended the public hearing. The letters received from Multi-Tech Engineering were distributed and reviewed at the hearing.

The Planning Commission discussed the amendments and recommended that staff clarify some of the proposed language. Those clarifications have been made in the attached exhibits.

SUGGESTED CITY COUNCIL MOTION

Adoption of the attached Ordinance that would amend several articles of the Albany Development Code.

CITY COUNCIL ACTION

[NOTE TO CITY COUNCIL: CHOOSE ONE FROM THE MOTIONS LISTED BELOW.]

MOTION TO APPROVE

> *If the City Council wishes to approve the proposed amendments as written, the Council may approve the amendments based on the findings and conclusions of the staff report.*

I MOVE that the City Council adopt the ordinance that would amend Articles 1, 2, 9, 11, and 12 of the Development Code, (File DC-02-09). This motion is based on the findings and conclusions of the staff report and testimony presented at the public hearing.

OR

MOTION TO APPROVE AS MODIFIED

> *The City Council may propose modifications to the proposed amendments, and approve the amendments with the modifications.*

I MOVE that the City Council adopt the ordinance that would amend Articles 1, 2, 9, 11, and 12 of the Development Code, with modifications. The modifications are: [*explain modifications*]. This motion is based on the findings and conclusions of the staff report and testimony presented at the public hearing.

APPEALS

A decision of the City Council may be appealed to the Land Use Board of Appeals by filing a Notice of Intent to Appeal not later than 21 days after the decision becomes final.

NOTICE OF DECISION

Within five days of final action on a land use application, the Director shall provide written notice of the decision to the applicant and any other parties entitled to notice.

FINDINGS AND CONCLUSIONS

File DC-02-09
Recommended by the Planning Commission on June 29, 2009
Adopted by the Albany City Council on July 8, 2009

The proposed Development Code amendments are found in Exhibits A through E to the attached Ordinance. The findings and conclusions supporting the changes are Exhibit F to the Ordinance.

STAFF ANALYSIS
Development Code Amendment File DC-02-09

The review criteria for Development Code amendments require that the proposed amendments better achieve the goals and policies of the Comprehensive Plan and that they be consistent with the policies and purposes of the Code. The long-range interests of the general public are considered by reviewing the proposed amendments in the context of Comprehensive Plan goals and policies. The proposed policy amendments are evaluated against the review criteria.

REVIEW CRITERIA

The following review criteria that must be met for these Development Code amendments to be approved. Code criteria are written in ***bold italics*** and are followed by Findings and Conclusions.

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

The Comprehensive Plan goals and policies that are relevant to review of the proposed Development Code amendments are written in *italic* type and considered as a separate review criterion.

FINDINGS

1.1 Proposed amendment related to expiration of Historic Review approvals: Return to one-year approval or building permit expiration for historic review approvals only. These amendments are in former Section 1.060(5), now 1.080(b), Expiration of Land Use Approvals (Exhibit A).

Reason: The 3-year time limit and "substantial construction" language for land use approvals is problematic for enforcing conditions of approval for historic review projects.

Result of Amendments: Easier to get compliance with historic review conditions of approval.

1.2 The proposed amendments better achieve the following Comprehensive Plan goal and policy:

Historic Resources Goal: Protect Albany's historic resources and utilize and enhance those resources for Albany residents and visitors.

Historic Resources Policies: Periodically review and update the city historic ordinance concerning demolition, historic alteration, and new construction within historic districts.

1.3 Proposed amendment to review criteria for Adjustments and Variances: Restore the "unusual circumstance" language to the criteria. In addition, we propose that the Director determine whether an application is processed as an adjustment or a variance (rather than the current 10% threshold). These amendments are in the following sections of the Development Code:

- 2.060-2.080, Adjustments (Exhibit B), and
- 2.660-2.680, Variances (Exhibit B).

Reasons: Adjustments have become "automatic reductions," rather than limited flexibility for unusual situations. The current standards are hard to apply equitably. The "unusual circumstance" review criterion is essential to the legal framework for variances.

Result of Amendments: Improves the integrity of the Adjustment process and ability to administer the standards equitably. Restoring the "unusual circumstance" language also restores the integrity of the purpose of the Variance and its process.

1.4 The proposed amendments better achieve the following Comprehensive Plan policy:

Consider variance, conditional use and special request procedures when strict interpretation of regulations would impede fulfillment of these criteria.

1.5 Proposed amendments related to information submitted for Water, Sewer, and Storm Drainage Plans: Public Works staff is asking that more information be submitted with land use applications about existing and proposed natural and storm drainage patterns, and proposed water, sewer, and storm drainage plans. These amendments are in the following sections of the Development Code:

- 2.490 (k) – (n). Site Plan Review Application Contents (Exhibit B),
- 11.210 Tentative Plat Submittal (Exhibit D), and
- 12.440 Water Plans; 12.500 Sewer Plans; 12.530 Storm Drainage Plans (Exhibit E).

Reasons, 2.490 (k) – (n): Stormwater management is a critical element of most development proposals. The Public Works Department is tasked with reviewing the stormwater component of these development applications. As such, Public Works requires that enough information is provided to make an educated decision on the proposal. The requested changes reflect the type of information Public Works typically requires when engineering plans for a subdivision are submitted to the City. The updated list will better prepare applicants for what is actually required during review and should help reduce delays as a result of incompleteness.

Reasons, 12.440, 12.500, 12.530: Based on the LUBA remand for Fabian Estates, the existing language requires more of an applicant than what was intended, or than has been required in past practice. The intent of the Code is to have applicants demonstrate to the City's satisfaction that their proposed development is feasible. Engineered construction drawings are not necessary at this stage and are required through the Site Improvement (SI) process, after land use approval. If the existing language were to remain, developers would be required to submit fully engineered drawings for the land use application before they knew if they had land use approval. This would be an unnecessary, and costly, requirement for the developer.

Result of Amendments: Applications can include only the information necessary and be considered complete in a shorter time period, resulting in faster review and processing, and unnecessary costly requirements for the applicant.

1.6 The proposed amendments requiring more information on utilities to be submitted with applications will better achieve the following Comprehensive Plan policies:

Ensure that all new developments are reviewed expeditiously and thoroughly and result in compliance with Comprehensive Plan goals and policies and ordinance standards.

Water and Wastewater Policy: Review and regulate development proposals, in accordance with the Development Code, to ensure that adequate water and wastewater service improvements are provided for the proposed development as well as to serve future land uses as identified in the Comprehensive Plan.

Storm Drainage Policy: Storm drain facilities in developing areas should be designed with the capacity to accommodate the projected storm drainage flows to at least the end of the planning period based on the land use designations.

1.7 Proposed amendment for additional application content for Site Plan Review on pedestrian amenities, natural features, historic sites, and airport zones with Site Plan Review applications. These amendments are in Section 2.490 (t)-(aa), Site Plan Review Application Content (Exhibit B).

Reason: Community Development needs enough information to adequately evaluate the project against the existing review criteria.

Result of Amendments: Applications will be deemed complete in a shorter time period resulting in faster processing time.

1.8 The proposed amendments requiring more applicable information to be submitted with Site Plan applications will better achieve the following Comprehensive Plan policy:

Land Use Planning: Ensure that all new developments are reviewed expeditiously and thoroughly and result in compliance with Comprehensive Plan goals and policies and ordinance standards.

1.9 Proposed amendments for accessible parking spaces and walkways: Minor revisions to ensure parking stalls, landscaping, and public walkways are in compliance with the Americans with Disabilities Act (ADA) and the state building Codes. These amendments are in Section 9.120-9.150, Off-Site Improvements (Exhibit C).

Reason: Several parking lots are out of compliance with the ADA standards in the Oregon Structural Specialty Code.

Result of Amendments: Minor revisions will help ensure compliance and better accessibility for persons with disabilities.

1.10 The proposed amendments related to off-site improvements will better achieve the following Comprehensive Plan policy:

Transportation: Develop safe and convenient bicycle and pedestrian routes, facilities, and improvement, which are reasonably free from hazards, provide a direct route of travel between destinations such as a transit stop and a store, and meet travel needs of cyclists and pedestrians.

1.11 Proposed amendment to adopt by reference the Department of Environmental Quality (DEQ) noise standards for industry and commerce. These amendments are in Section 9.440, Noise Standards (Exhibit C).

Reason: The City attorney recommends adoption to allow better enforcement and compliance with state land local standards.

Result of Amendments: Easier compliance case processing and consistency with state standards.

1.12 The proposed amendment to adopt by reference DEQ's noise standards will help Albany businesses are in compliance with state standards, including Goal 6: Air, Water and Land Resources Quality. This amendment will better achieve the following Comprehensive Plan policies:

Sound Quality Goal: Reduce the adverse effects of noise in the Albany Area.

Sound Quality Policy: Require each new or expanding industry with noise-generating operations or equipment to meet state and local noise regulations.

1.14 Proposed amendment regarding Street Signs: Add language that says the developer will provide and install street signs. These amendments are in Section 12.280, Street Signs (Exhibit E).

Reason: Updates the Code to reflect the current process.

Result of Amendments: Easier and quicker compliance case processing.

1.15 In general, Goal 1-Citizen Participation has the following goal: Ensure that local citizens and other affected groups, neighborhoods, agencies, and jurisdictions are involved in every phase of the planning process. The following Comprehensive Plan policies are applicable to Development Code amendments in general:

Citizen Involvement: 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.

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.

A table summarizing the proposed Development Code amendments was mailed to persons believed to have a particular interest in the proposed amendments on May 29, 2009. Persons believed to have a particular interest included engineering and design firms, developers, land use attorneys, architects, land use planners, and the business community. The table and details of the amendments were posted to the City website on May 29, 2009. The Landmarks Advisory Commission received notice of the proposed amendments to Article 1 on June 5, 2009. Notice was also published in the Democrat Herald on June 5, 2009.

Two letters were received from Muli-Tech Engineering Services regarding the proposed amendments. These letters were distributed to the Planning Commission and the City Council. Their content was considered in deliberations.

CONCLUSIONS

1.1 This proposed Development Code amendments better achieve the goals and policies of the Comprehensive Plan.

1.2 The criterion is satisfied.

(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 *italic* type and considered as a separate review criterion.

FINDINGS

(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.

2.1 The proposed policy amendments better achieve the goals and policies of the Comprehensive Plan as identified in findings under criterion 1.

(2) Satisfy relevant requirements of federal law, state law, statewide goals, and administrative rules.

2.2 The proposed amendments will better address state and federal requirements for disabled persons, noise regulations, and protection of our historic districts and resources.

(3) Facilitate prompt review of development proposals and the application of clear and specific standards.

2.3 Clarifying the type of information that is needed with land use applications will ensure prompt review of land use proposals and reduce unnecessary costs for the applicant.

(4) Provide for public information, review, and comment on development proposals that may have a significant impact on the community.

2.4 In general, the proposed amendments were selected for this ordinance because they will not have a significant impact on the community. Interested parties were notified of the proposed amendments and public testimony was considered in decision-making.

(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.

2.5 Clarifying what information is needed for existing and proposed water, sewer, and storm drainage with applications will ensure that adequate public utilities are provided with development.

2.6 The proposed Code amendments are not specific to any site or zoning district. Reducing the time period for Historic Review approvals will support the purposes of the Historic Overlay Ordinance and of preserving the historic character of the National Register Historic Districts.

2.7 The amendments will improve the clarity intent of the Code and make it a more accurate and consistent document.

CONCLUSIONS

2.1 The proposed Development Code amendments are consistent with the purposes of the Code.

2.2 The proposed amendments are not specific to a particular site or zone.

2.3 This criterion is satisfied.

MULTI/TECH
ENGINEERING SERVICES, INC.

CONSULTANTS
1155 13th Street, S.E.
Salem, Oregon 97302
(503) 363-9227

June 9, 2009

Anne Catlin
City of Albany
Community Development Department
333 Broadalbin Street SW
Albany, OR 97321

RE: City of Albany Code Amendments

To Anne Catlin:

We have reviewed the proposed City of Albany Code Amendments as posted on the City website. We appreciate the hard work of staff on writing the Code Amendments and providing the opportunity to comment. However, there are some comments that we would like to make regarding these Amendments. Please take into consideration our comments prior to adopting the new Code Amendments.

Proposed Amendments:

Article 2, Adjustments 2.060-2-080: Restore the "unusual circumstance" language to the criteria. Director will determine whether an application is processed as an adjustment or a variance.

Article 2, Variances 2.660-2.690: Restore the criterion that a "unique or unusual circumstance" or hardship must exist.

Our Comments: A variance and an adjustment are part of the Code to allow applicant's to deviate from requirements. The variance and adjustment procedures are intended to provide flexibility and allow an applicant to develop a property to its maximum potential. By requiring an applicant to provide evidence that unusual circumstances exist on the site defeat the purpose of the adjustment and variance. The terms unique and unusual circumstances are criteria that is up for interpretation. The applicant may feel that an unusual circumstance exists to warrant granting a variance or an adjustment in order to best utilize their property. However, the interpretation is left up to the City and if the City feels there is no unusual circumstance, than the request is denied and the applicant is forced to appeal.

Therefore, we believe that these two Code Amendments are more of an obstacle for applicant's instead of a tool to help fully utilize the potential of their property.

MULTI/TECH
ENGINEERING SERVICES, INC.

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1155 13th Street, S.E.
Salem, Oregon 97302
(503) 363-9227

RECEIVED
JUN 15 2009

Don,

Thank you for your e-mail regarding our comments to the proposed Code Amendments. We appreciate you forwarding our letter dated June 9, 2009 and this e-mail onto the Planning Commission and City Council.

We understand that the purpose statement for a variance and adjustment does not mention "develop the property to it maximum potential," and that the purpose is to "provide limited flexibility for unusual situations." A variance and adjustment is a land-use action that allows an applicant to seek flexibility in the Code, therefore, aiding in developing a site to its maximum potential. We also understand that the Code Amendments specifically mention "unusual situations." "Unusual situation" is subjective criteria and make it difficult for an applicant to prove that one exists on the site. What is determined to be an unusual situation or hardship for the applicant may not be interpreted as a hardship by the City. That is where some of our concern is directed. As stated in our letter dated June 9, 2009, the terms unique and unusual circumstances are criteria that is open for interpretation. So if the City feels there is no unusual situation, than the request is denied and the applicant is forced to appeal.

A lot of other jurisdictions do require that there be an unusual circumstance or hardship to grant a variance. However, State Law does not require that all jurisdictions have these criteria in their code. It is our understanding that this criteria was removed from the Albany Code in 1991. We would like information on why this criteria was removed from the Albany Code in 1991, and justification on why Albany feel's it is necessary to put this criteria back into the Code. Why create more obstacles for developers instead of tools. We believe that with the current code wording that staff has all of the control. If the goal is to make sure that any variance, if appealed to LUBA would be overturned, than adding that language will assure that occurrence. The ability to provide the existence of "unusual situations" is virtually impossible.

In regards to our comments on ADC 12.440, 12.500, and 12.530, we believe that some clarification is needed on what is meant by Preliminary Plans. Does this mean conceptual plans, design plans, profile plans, etc.? As stated in our letter dated June 9, 2009, in order to avoid confusion on an application, it is recommended that staff be clear and provide detailed information on what is meant by preliminary plans. This will help in providing an outline of requirements for an applicant to determine what is actually needed with submittal. Clarifying the Code will help avoid incomplete applications being submitted to the City.

We would recommend that you add clarification to ADC 12.440 to state "Preliminary Plan view water plans ...."

We would recommend that you add clarification to ADC 12.500 to state "Preliminary Plan view sewer plans with some references to proposed depths of pipes and systems ....."

We would recommend that you add clarification to ADC 12530 to state " Preliminary Plan view storm sewer plans and systems with pipe sizes and slopes must ....."

TO: Albany City Council

VIA: Wes Hare, City Manager
Diane Taniguchi-Dennis, P.E., Public Works Director

FROM: Mark A. Yeager, P.E., Utility Services Manager
Jeni Richardson, P.E., Civil Engineer III

DATE: June 23, 2009, for the July 8, 2009, City Council Meeting

SUBJECT: Annual Adjustments to System Development Charges, Connection Charges, and Special Assessment Fees

Action Requested:

Staff is seeking Council direction regarding the annual adjustment to System Development Charges, Connection Charges and Special Assessment Fees. Council is requested to hold a public hearing to solicit public input on adjustment of the fees and charges.

Discussion:

System development charges (SDC), connection charges (CC), and special assessment fees (SA) are closely tied to construction costs. For these fees, the City uses a construction cost indicator as the basis for annual cost adjustments. Because revenues from these charges are primarily used to help pay for construction of public transportation and utility facilities, it is important to update these fees regularly to reflect the changing cost of building public improvements. It has been the policy and the practice of the Albany City Council to adjust these charges annually effective the first day of July.

The *Engineering News-Record* (ENR), an engineering and construction industry trade publication, publishes a regional Construction Cost Index (CCI), and Albany has chosen to use this index as the basis for making SDC adjustments. This index is routinely used by local agencies to represent the annualized inflationary impact for construction projects. There was no change in the CCI over the 12-month period April 2007 to April 2008, so fees were not adjusted in July 2008. The change in the CCI over the 24-month period April 2007 to April 2009 was 0.88%. A history of SDC charges for the water, sewer and transportation utilities is attached.

Should Council choose to apply no adjustment this year, then the SDC, CC, and SA charges adopted on July 1, 2007, would remain in effect, and adopting the attached resolution would reaffirm the current fees and charges. If Council chooses to adjust the fees, new resolutions will be prepared reflecting the proposed adjustment for a subsequent meeting.

Budget Impact:

The budget impact of an increase in the fees and charges is difficult to predict at this time because of the uncertainty of future development activity.

JEN:MAY

HISTORY OF SDC CHARGES

Utility	Date	Percent Change	SDC fee
Water	July 1, 1995	meet ORS	$1,000
	July 1, 1996	none	$1,000
	July 1, 1997	none	$1,000
	July 1, 1998	13.97%	$1,140
	July 1, 1999	4.14%	$1,187
	July 1, 2000	3.11%	$1,224
	July 1, 2001	2.46%	$1,254
	July 1, 2002	2.91%	$1,291
	July 1, 2003	1.35%	$1,308
	July 1, 2004	4.04%	$1,361
	November 1, 2004	revised method	$1,903
	July 1, 2005	1.01%	$1,921
	July 1, 2006	3.11%	$1,981
	July 1, 2007	2.13%	$2,023
	July 1, 2008	0.00%	$2,023
	July 1, 2009	0.88%	$2,041
Sewer	July 1, 1995	meet ORS	$1,120
	July 1, 1996	none	$1,120
	July 1, 1997	none	$1,120
	July 1, 1998	13.97%	$1,276
	July 1, 1999	4.14%	$1,329
	July 1, 2000	revised method	$1,972
	July 1, 2001	4.37%	$2,075
	July 1, 2002	2.91%	$2,147
	July 1, 2003	1.35%	$2,181
	July 1, 2004	4.04%	$2,284
	July 1, 2005	3.06%	$2,231
	July 1, 2006	3.11%	$2,316
	July 1, 2007	2.13%	$2,376
	July 1, 2008	0.00%	$2,376
	July 1, 2009	0.88%	$2,397
Transportation	July 1, 1997	adopted	$1,260
	July 1, 1998	5.08%	$1,326
	July 1, 1999	4.14%	$1,382
	July 1, 2000	3.11%	$1,424
	July 1, 2001	2.46%	$1,459
	July 1, 2002	2.91%	$1,502
	July 1, 2003	1.35%	$1,522
	July 1, 2004	4.04%	$1,584
	July 1, 2005	3.06%	$1,632
	July 1, 2006	3.11%	$1,683
	July 1, 2007	2.13%	$1,719
	July 1, 2008	0.00%	$1,719
	July 1, 2009	0.88%	$1,734

RESOLUTION NO. _____

A RESOLUTION REAFFIRMING THE WATER, SEWER, AND TRANSPORTATION SDC; THE WATER, SEWER, STORM, AND STREET CONNECTION CHARGES; AND FOUR SPECIAL ASSESSMENT FEES FOR THE NORTH ALBANY SANITARY SEWER, THE LOCHNER ROAD UTILITIES, THE COLUMBUS STREET LIFT STATION, AND THE NORTH ALBANY STREET IMPROVEMENT ASSURANCE FEE.

WHEREAS, the Albany City Council adopted resolutions establishing fees and charges for the water, sewer, and transportation SDC; the water, sewer, storm, and street Connection Charges; and four special assessment fees for the North Albany Sanitary Sewer, the Lochner Road utilities, the Columbus Street Lift Station, and the North Albany Street Improvement Assurance Fee (Resolution No. 5429, 5430, 5431, 5432, 5433, 5434, 5435, 5436, 5437, 5438, and 5439) and that the effective date of these charges was July 1, 2007; and

WHEREAS, each of these charges are closely tied to construction costs, a construction cost indicator is used as the basis for annual adjustments effective the first day of July; and

WHEREAS, there was only a 0.88% change in the *Engineering News-Record* (ENR) Construction Cost Index (Seattle) for the period between April, 2007, and April, 2009, to be applied for purposes of adjusting these Resolutions on July 1, 2009, and

WHEREAS, the Albany City Council has determined that is appropriate to forego any index adjustment to the SDCs, Connection Charges, and special assessments at this time.

NOW, THEREFORE, BE IT RESOLVED by the Albany City Council that the aforementioned fees and charges contained within Resolution No. 5429, 5430, 5431, 5432, 5433, 5434, 5435, 5436, 5437, 5438, and 5439 are hereby reaffirmed; and

BE IT FURTHER RESOLVED that when the aforementioned fees and charges are adjusted in the future, the base ENR index from April, 2007, (8449) will be used for calculating the percent change; and

BE IT FURTHER RESOLVED that this resolution shall take effect immediately upon passage by the Council and approval by the Mayor.

DATED AND EFFECTIVE THIS 8TH DAY OF JULY 2009.

_____
Mayor

ATTEST:

_____
City Clerk

TO: Albany City Council

FROM: Wes Hare, City Manager

DATE: June 29, 2009, for the July 8, 2009, City Council Meeting

SUBJECT: Animal Control Regulations

RELATES TO STRATEGIC PLAN THEME:
- Great Neighborhoods
- A Safe City
- Effective Government

Action Requested:

Adopt amendments to AMC 6.04 to require dog licensing within the Albany city limits; reestablish a limit on the number of adult dogs allowed per property; create a process for allowing exceptions to the limit; establish an animal control assessment for violations of the animal code, creating a source of revenue to offset the cost of animal control enforcement by Albany Police; and repeal Ordinance No. 5685, which established an earlier limit exception procedure.

Discussion:

This memo accompanies an ordinance drafted to address concerns presented to the Council earlier this year about Ordinance No. 5685, which created an exceptions process allowing citizens to keep more than the two (2) dogs currently allowed under the Albany Municipal Code. The proposed ordinance follows two meetings of a City task force created for this purpose and chaired by Mayor Konopa.

The task force included:
- Chris Storm, Executive Director, SafeHaven Humane Society;
- Christina Gunderson, Development Director, SafeHaven Humane Society;
- Will Tucker, Linn County Commissioner;
- John Adair, Linn County Animal Control Director;
- Jon Bell, Linn County Kennel Club;
- Curtis Hyde, Albany Police Sergeant;
- Jim Dohr, Albany Police Community Service Officer;
- Marilyn Smith, Management Assistant/Public Information Officer; and
- Myself

The task force focused on the questions of whether the City should continue to limit the number of dogs allowed and whether an exceptions process could objectively address special circumstances with a minimum of administrative expense. The task force also discussed the need for enhanced animal regulation and funding to pay for it. The attached ordinance represents the consensus of the task force in addressing these concerns.

This ordinance was first presented to the Council at the June 8, 2009, Work Session. Those present requested one modification and asked that the ordinance be brought back for discussion and possible adoption when the full Council was present and the public could be given ample notice and opportunity to comment. The modified ordinance is attached.

1. The ordinance **requires Albany citizens to license their dogs.** Presently, licensing requirements are imposed by Linn and Benton Counties, but there is no corresponding municipal code requirement. Albany Animal Control Officers and Police Officers do not enforce county licensing regulations. Albany has a relatively low rate of compliance with the county licensing requirements. Section (1) of the proposed ordinance addresses this by requiring that Albany dogs be licensed. It is important to note that this ordinance does not create any parallel or duplicate licensing. Albany will not issue licenses but instead will simply require our citizens to comply with the applicable County codes.

2. While the task force had lively debates about a limit on the number of dogs, we concluded that it is appropriate to establish a limit if a mechanism could be found to allow exemptions in appropriate circumstances. The proposed ordinance maintains the current two dog limit but allows for an exemption of up to four dogs if specific requirements are met. Please note these numbers are my recommendation. The task force members hand many different perspectives on limits. If the Council wants to change the numbers, you, of course, have that flexibility.

As requested at the June 8 Work Session, the revised ordinance contains language that addresses situations where a dog owner may have more than the allowed number of dogs at the residence temporarily. Such might occur if visitors were staying there or the dog owner was "pet-sitting" for another person for a short time. The following language should cover those situations:

> **... a dog shall be deemed to be "kept" by any adult person who resides at the property on which the dog(s) is housed or maintained. A dog shall not be deemed "kept" if it is being temporarily cared for and is licensed to a third-part who is not a resident of the household.**

Under the proposed exemptions procedure, a dog owner is entitled to an exemption if the owner has not been convicted of any prior animal violations and pays a $50 processing fee. Again, this fee has been arbitrarily recommended by me but seemed to be generally acceptable to the task force, likely reflecting the minimum administrative cost that the City would incur in processing the application. The exemption also proposes that a threshold qualifier is that no adult living with the applicant has been convicted of an animal violation for some prior period of time. Again, I have recommended a five-year period for this review, and this period of time was generally accepted by the task force.

The exemption may be automatically revoked if anyone living at the exemption holder's household is convicted of an animal violation. This is the principal assurance that exemption holders will be model pet owners. The task force believes that this consequence will make these pet owners self-monitor without the need for animal control involvement.

Finally, the task force was comfortable with the recommendation that the exemption have a limited duration. I have recommended three years, followed by City review of the applicant's qualifications. Again, this number is subject to Council change.

3. To address revenue for animal control activities, the ordinance proposes a special assessment of $100, which would routinely be added to any animal violation conviction. Animal control is currently paid from the Police Department's General Fund allocation. This assessment proposal is an attempt to shift some of the burden of animal control funding from the general tax base of law-abiding citizens to those persons who violate animal regulations.

This ordinance has the general acceptance of the task force, but the group did not reach consensus on the general number of dogs allowed without an exemption and the maximum number of dogs permitted with an exemption. The numbers in the proposed ordinance are my own recommendation and generally reflect the middle view.

JVBD:mms:de
Attachment
c: Curtis Hyde, Police Sergeant

U:\Administrative Services\City Manager's Office\Dog Regulations mmo.docx

ORDINANCE NO. _____

AN ORDINANCE AMENDING ALBANY MUNICIPAL CODE CHAPTER 6.04 AND REQUIRING THE LICENSING OF DOGS, REGULATING THE CIRCUMSTANCES UNDER WHICH MORE THAN TWO MATURE DOGS CAN BE KEPT ON A SINGLE PROPERTY, AND ESTABLISHING AN ANIMAL CONTROL ASSESSMENT TO BE IMPOSED UPON VIOLATORS.

WHEREAS, ordinances of Linn and Benton counties currently require dogs to be licensed; and

WHEREAS, the Albany Municipal Code does not currently have a requirement that dogs within the City be licensed; and

WHEREAS, enforcement of county dog licensing requirements will be enhanced by the adoption of a corollary licensing requirement in the Albany Municipal Code; and

WHEREAS, violators of animal regulations should be assessed a fee to help defray the cost of animal control and enforcement; and

WHEREAS, the current two-dog limit imposed by the Albany Municipal Code is inflexible and does not provide a non-discretionary exception for pet owners who scrupulously abide by all animal control regulations.

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

Section 1: Dog Licenses Required. AMC Chapter 6.04 is amended by the inclusion of Section 6.04.010 to read as follows:

> **"6.04.010 Dog License Required.**
> **(1) Any person, family, or business owning or keeping a dog which has a set of permanent canine teeth or is six months old, whichever comes first, shall license said dog(s) pursuant to the ordinances and/or regulations of the county wherein the dog is kept.**
> **(2) The license tag supplied by the county shall be attached securely to a collar or harness on the dog whenever the dog is outdoors and not contained within a fenced yard, enclosed pen, or by a chain on the property of the owner."**

Section 2: Exception to Two Dog Limit. AMC 6.04.015 is amended to read as follows:

> "Number of Dogs Permitted.
> (1) Except as provided in subsection (2) of this section, no person, family, or business shall keep more than two dogs past the age of six months on any property within the City except within a kennel which has been approved in accordance with the City of Albany Development Code regulations. **For purposes of this section, a dog shall be deemed to be "kept" by any adult person who resides at the property on which the dog(s) is housed or maintained. A dog shall not be deemed "kept" if it is being temporarily cared for and is licensed to a third-party who is not a resident of the household.**
> (2) **Any person, family, or business wishing to keep more than two (2) dogs past the age of six (6) months as an exception to section (1) above may apply for a permit to do so and shall be issued a permit allowing the keeping of not more than four (4) if all of the following criteria are met:** ~~The City Manager may grant an exemption to the limits set forth in subsection (1) of this section pursuant to procedure, criteria, and terms set forth in this subsection:~~

(a) **The applicant has fully completed an application in a form provided by the City Manager and/or his/her designee for that purpose; and** ~~Procedure. The procedure to be used for an exemption shall be as follows:~~

~~(i) An applicant for an exemption shall file an application with the City Manager accompanied by an application fee of $50.00. The application shall specify the number of dogs sought to be kept and any proposed conditions or restrictions which the applicant is willing to observe as a condition of the exemption. The City Manager may promulgate an application form for this purpose.~~

~~(ii) Upon receipt of an application, the City Manager shall mail a copy thereof to all property owners shown, on City records, to own property within 300 feet of the proposed exemption location. Accompanying the mailing will be a notice from the City Manager inviting written comments concerning the application to be submitted within 10 days.~~

(b) **The applicant has provided proof that all of the applicant's adult dogs are fully licensed by the county of the applicant's residence; and** ~~Criteria. The City Manager may grant an exemption permitting the keeping of more than two dogs past the age of six months, upon a determination that the dogs are unlikely to become a nuisance as defined in AMC 6.04.170.~~

(c) **Neither the applicant, nor any person residing with the applicant have been convicted of the violation of any ordinance, code, or regulation, concerning the care, possession, maintenance, or control an animal within five (5) years prior to the application; and** ~~Terms. Any exemption granted by the City Manager may be limited in duration, or subject to special terms or conditions as determined to be appropriate by the City Manager. The exemption may be revoked by the City Manager following written notice to the exempt property owner setting forth the grounds for the proposed exemption revocation and allowing written comment, within 10 days, by the exemption holder.~~

~~(i) The issuance of an exemption or its revocation shall not be void as a result of the failure of any person to receive any of the notices required herein.~~

~~(ii) The City Manager may delegate the authority granted by this section to other City staff members as he/she deems appropriate.~~

(d) The applicant has paid a fee of $50.

(3) The exception provided for in Section (2) shall be revoked without the need for any administrative or judicial action in the event that the exemption holder or any person residing with the exception holder is or has been convicted of any violation of any animal control regulation of the City of Albany or Linn or Benton counties,or any other unit of government.

(4) The exception to the two-dog limit set forth in subsection (2) above shall be valid for a period of three (3) years, after which a new application shall be required in the event that applicant wishes to continue the exemption.

(5) The exemption provided for herein may be revoked at any time by the City Manager or his/her designee upon a finding that the exemption holder is no longer eligible for the exemption under the criteria set forth herein. The City Manager shall provide the permit exemption holder with a written notification of the grounds for revocation of the exemption and give the exemption holder an opportunity to be heard orally or in writing upon such reasonable terms as the City Manager may proscribe. The decision of the City Manager shall be final.

Section 3: Animal Control Assessment. AMC 6.04.190 Violation – Penalties is amended to read as follows:

"**(1)** Any person violating any of the provisions of this chapter is subject to those penalties set forth in Section 1.04.010 of this code. In addition to the penalties therein provided, the court may direct the destruction of any dog that is a biter of persons or killer of domesticated animals.

(2) In addition to those penalties provided for in section (1) above, any person violating any of the provisions of this Chapter shall be assessed an Animal Control Assessment of $100, in addition to such other fines and assessments as may be set by the Court.
(3) Violations of any provision of this Chapter shall be prosecuted as strict liability offenses, subject only to the violation penalties and procedures of AMC Chapter 1.04.010."

Passed by the Council: _____

Approved by the Mayor: _____

Effective Date: _____

_____
Mayor

ATTEST:

_____
City Clerk

TO: Albany City Council

VIA: Wes Hare, City Manager

FROM: Stewart Taylor, Finance Director

DATE: June 29, 2009, for the July 8, 2009, City Council Meeting

SUBJECT: Fee Increase for Allied Waste of Albany-Lebanon

RELATES TO STRATEGIC PLAN THEME: • Great Neighborhoods

Action Requested:

Adopt the resolution approving a rate increase for Allied Waste (AW) of Albany-Lebanon.

Discussion:

AW has a franchise agreement with the City of Albany for the collection and disposal of solid waste and recyclable materials. The franchise agreement requires that rate changes be approved by a resolution of the City Council. This rate increase request is largely due to two areas: proposed leaf collection and cost increases.

The proposed leaf collection for customers within the city limits of Albany would take place three times annually for a cost of $.21 per month, per customer.

The cost increases are due to decreased garbage disposal following the implementation of the automated co-mingled cart recycle system in 2008, and the low recycling commodity pricing which has caused AW to incur a net cost to deliver these commodities to market. Additionally, there is a landfill disposal increase of four percent.

Residential rates would increase an average of $1.90 per month per customer; and industrial and commercial customer rates would increase an average of 10 percent each. The rates would go into effect July 1, 2009.

Budget Impact:

AW pays a franchise fee equal to 6 percent of gross revenues. The proposed rate increase would result in a higher franchise fee payment to the City.

ST:md
Attachments

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Allied Waste of Albany-Lebanon*

Options Available to reduce the Residential rate adjustment request

Allied Waste's - May 26, 2009 rate adjustment request	**$1.69**	**per unit, per month**

Available options to minimize the rate increase proposal

		Reduce rate adjustment request by	
	Option 1- Glass Collection		
	A) Eliminate or temporarily discontinue curbside glass collection entirely,	($0.58)	per unit, per month
	or		or
	B) Reduce glass collection from every other week to once per month	($0.33)	per unit, per month
and/or	**Option 2- Curbside commingle collection**		
	Reduce curbside commingle collection from weekly to every other week An addt'l cart can be provided at $7/unit/month if requested	($0.73)	per unit, per month

Allied is offering two addt'l items to help offset the rate adjustment to customers

1. Create a new residential collection category

Every other week refuse service on a 32gallon refuse cart size only	$14.40	per unit, per month
A customer that elects this service level, from their current 32 gallon weekly service, will not experience a rate increase		

2. Freeze the rate for the 20 gallon refuse cart

The rate for the 20 gallon customers would not increase	$12.90	per unit, per month

Leaf collection program as requested by the City of Albany	**$0.21**	**per unit, per month**

* - Commercial and Industrial rates will remain the same as our May 26th rate adjustment request

RESOLUTION NO. _____

A RESOLUTION ESTABLISHING RATES FOR THE COLLECTION OF REFUSE INSIDE THE ALBANY CITY LIMITS AND REPEALING RESOLUTION NO. 5543.

WHEREAS, Allied Waste of Albany-Lebanon (AW) has a franchise to provide solid waste and recyclable materials collection services in the City of Albany; and

WHEREAS, AW implemented an automated co-mingled cart recycle collection system in 2008 which resulted in residential customers recycling more and decreasing their garbage disposal; and

WHEREAS, due to low recycling commodity pricing, AW is incurring a net cost to deliver these commodities to market; and

WHEREAS, AW is proposing to include leaf removal within the city limits of Albany as an additional service at an increase of .21 per month per customer; and

WHEREAS, there is a landfill disposal increase of four percent; and

WHEREAS, the new rates represent an average increase per residential customer of $1.90 per month and average increase for both industrial and commercial customers of ten percent each; and

WHEREAS, the franchise agreement requires that rate changes be approved by resolution of the City Council as specified in Albany Municipal Code Chapter 3.28.

NOW, THEREFORE, BE IT RESOLVED that the Albany City Council has approved the rate schedule attached as Exhibit A; and

BE IT FURTHER RESOLVED that Resolution No. 5543 is hereby repealed; and

BE IT FURTHER RESOLVED that the rate increases herein approved will become effective July 1, 2009.

DATED AND EFFECTIVE THIS 8TH DAY OF JULY 2009.

_____
Mayor

ATTEST:

_____
City Clerk

Allied Waste of Albany-Lebanon

Proposed Monthly Residential Service Rates for Albany

	Current	Proposed
1 Can	$ 17.25	$ 19.15
Each add can	$ 12.85	$ 13.75
20 gal cart	$ 12.90	$ 14.80
32 gal cart	$ 14.40	$ 16.30
90 gal cart	$ 22.80	$ 24.70
2 can special	$ 10.10	$ 12.00
Up-drive fee	$ 15.00	$ 15.00
Enclosure fee	$ 20.00	$ 20.00

Additional 32 gallon carts are $16.30 per month
Additional 90 gallon carts are $24.70 per month

Yard Carts/Composters

One 90 gallon cart with every other week collection or a home composter available at no extra charge when on weekly garbage service
Current Cost- $7.00 per month for additional carts or composters; or if not on weekly service
Proposed Cost- No change per month for additional carts or composters; or if not on weekly service

Curbside Recycling

Carts with weekly collection available upon request at no extra charge
Carts provided at residents even if no garbage collection service

Temporary Containers

3 cubic yards
Current Cost - $66.00 per dump (includes delivery, pickup, and seven days use)
Proposed Cost- $73.00
Current Rent = $3.00/day beyond original seven days or $25.00 maximum per month
Proposed Rent- $3.00/day beyond original seven days or $29.80 maximum per month
Excessive Weight = Containers loaded with heavy debris (dirt, concrete, asphalt, shingles) weighing more than 500lbs/yard may be subject to an additional $15.00/500lbs fee per dump.

Allied Waste of Albany-Lebanon

Proposed Commercial Manual Container Rates for Albany

Size	Current 1/week	Proposed 1/Week	Current 2/week	Proposed 2/Week	Current 3/Week	Proposed 3/Week	Current 4/week	Proposed 4/Week	Current 5/week	Proposed 5/Week
1.5 yd	[illegible]	$ 121.90	[illegible]	$ 231.40	[illegible]	$ 340.90	[illegible]	$ 450.30	[illegible]	$ 559.65
2 yd	[illegible]	$ 149.30	[illegible]	$ 284.35	[illegible]	$ 419.40	[illegible]	$ 554.45	[illegible]	$ 689.40
3 yd	[illegible]	$ 190.60	[illegible]	$ 363.00	[illegible]	$ 542.30	[illegible]	$ 709.30	[illegible]	$ 885.40
4 yd	[illegible]	$ 227.65	[illegible]	$ 434.35	[illegible]	$ 639.55	[illegible]	$ 845.70	[illegible]	$ 1,050.90
5 yd	[illegible]	$ 272.00	[illegible]	$ 520.95	[illegible]	$ 767.60	[illegible]	$ 1,014.90	[illegible]	$ 1,261.45
6 yd	[illegible]	$ 316.35	[illegible]	$ 607.55	[illegible]	$ 895.70	[illegible]	$ 1,184.05	[illegible]	$ 1,472.05
8 yd	[illegible]	$ 383.50	[illegible]	$ 732.55	[illegible]	$ 1,075.10	[illegible]	$ 1,417.55	[illegible]	$ 1,753.45

Locking Containers
Current- One time setup fee of $60 applies to all locking containers (Proposed $) No change

Excessive Weight
Current- Material weighing more than 500lbs/yard may be subject to an additional $15.00/500lbs fee per dump Proposed $ No change

Off route service fee
Current - $25.00 service fee will be applied to all requests not on scheduled routes Proposed $ No change

Size	Current 1/week	Proposed 1/Week	Current 2/week	Proposed 2/Week	Current 3/Week	Proposed 3/Week	Current 4/week	Proposed 4/Week	Current 5/week	Proposed 5/Week
1.5 yd	[illegible]	$ 102.85	[illegible]	$ 191.55	[illegible]	$ 280.15	[illegible]	$ 369.00	[illegible]	$ 457.70
2 yd	[illegible]	$ 125.00	[illegible]	$ 234.25	[illegible]	$ 333.25	[illegible]	$ 452.85	[illegible]	$ 562.10
3 yd	[illegible]	$ 155.75	[illegible]	$ 292.90	[illegible]	$ 430.05	[illegible]	$ 567.20	[illegible]	$ 704.25
4 yd	[illegible]	$ 185.60	[illegible]	$ 350.50	[illegible]	$ 515.45	[illegible]	$ 680.35	[illegible]	$ 845.25
6 yd	[illegible]	$ 255.70	[illegible]	$ 487.45	[illegible]	$ 719.30	[illegible]	$ 951.00	[illegible]	$ 1,182.70
8 yd	[illegible]	$ 312.25	[illegible]	$ 594.75	[illegible]	$ 877.35	[illegible]	$ 1,159.95	[illegible]	$ 1,470.20

On Call Containers:

Size	Current Dump fee	Proposed Dump Fee	Current Rent	Proposed Rent
1.5 yd	[illegible]	$ 34.40	[illegible]	$ 25.40
2 yd	[illegible]	$ 41.30	[illegible]	$ 27.60
3 yd	[illegible]	$ 51.60	[illegible]	$ 29.80
4 yd	[illegible]	$ 64.80	[illegible]	$ 32.00
6 yd	[illegible]	$ 93.30	[illegible]	$ 34.30
8 yd	[illegible]	$ 120.20	[illegible]	$ 36.50

Commercial Compactor Rates

Size	Current 1/week	Proposed 1/Week	Current 2/week	Proposed 2/Week	Current 3/Week	Proposed 3/Week	Current 4/week	Proposed 4/Week	Current 5/week	Proposed 5/Week
2 yd	[illegible]	$ 298.60	[illegible]	$ 568.70	[illegible]	$ 838.80	[illegible]	$ 1,108.90	[illegible]	$ 1,378.80
3 yd	[illegible]	$ 381.20	[illegible]	$ 726.00	[illegible]	$ 1,084.60	[illegible]	$ 1,418.60	[illegible]	$ 1,770.80
4 yd	[illegible]	$ 455.30	[illegible]	$ 868.70	[illegible]	$ 1,279.10	[illegible]	$ 1,691.40	[illegible]	$ 2,101.80
5 yd	[illegible]	$ 544.00	[illegible]	$ 1,041.90	[illegible]	$ 1,535.20	[illegible]	$ 2,029.80	[illegible]	$ 2,522.90
6 yd	[illegible]	$ 632.70	[illegible]	$ 1,215.10	[illegible]	$ 1,791.40	[illegible]	$ 2,368.10	[illegible]	$ 2,944.10
8 yd	[illegible]	$ 767.00	[illegible]	$ 1,465.10	[illegible]	$ 2,150.20	[illegible]	$ 2,835.10	[illegible]	$ 3,506.90

Allied Waste of Albany-Lebanon

Proposed Industrial Drop Box Rates for Albany

Size	Current Haul Fee	Proposed Haul Fee	Current Delivery Fee	Proposed Delivery Fee
10	$ 159.00	$ 176.00	$ 35.00	$ 38.00
20	$ 169.00	$ 176.00	$ 35.00	$ 38.00
30	$ 169.00	$ 187.00	$ 35.00	$ 38.00
40	$ 179.00	$ 198.00	$ 35.00	$ 38.00

Size Compactor	Current Haul Fee	Proposed Haul Fee
15	$ 206.00	$ 228.00
20	$ 206.00	$ 228.00
30	$ 222.00	$ 245.00
40	$ 224.00	$ 245.00

Compactor pullout rate is the same as an open top haul fee

Roll Lidded Boxes	Current Rent	Proposed Rent
10	$ 92.00	$ 136.00
20	$ 102.00	$ 136.00
30	$ 102.00	$ 136.00
40	$ 137.00	$ 141.00

Current and proposed temporary rent rates

Current Daily Rent	Proposed Daily Rent	Current Monthly Rent	Proposed Monthly Rent
$ 8.00	$ 15.00	$ 117.00	$ 120.00
$ 8.00	$ 15.00	$ 117.00	$ 120.00
$ 8.00	$ 15.00	$ 117.00	$ 120.00
$ 8.00	$ 15.00	$ 117.00	$ 120.00

Current and proposed permanent rent rates

Current Daily Rental	Proposed Daily Rental	Current Monthly Rental	Proposed Monthly Rental
$ 3.00	$ 15.00	$ 94.00	$ 97.00
$ 3.00	$ 15.00	$ 94.00	$ 97.00
$ 3.00	$ 15.00	$ 94.00	$ 97.00
$ 3.00	$ 15.00	$ 94.00	$ 97.00

Crank Lidded Boxes	Current Monthly Rental	Proposed Monthly Rental
10	$ 109.50	$ 113.00
20	$ 109.50	$ 113.00
30	$ 109.50	$ 113.00
40	$ 114.50	$ 118.00

Notes

All drop box rates pay current disposal fees at Coffin Butte Landfill.
All industrial rate are maximum allowable rates charged
All drop box rates pay current Environment Fee per load at Coffin Butte

	Current Hourly	Proposed Hourly
Loader Charges	$ 100.00	$ 100.00
Labor Charges	$ 75.00	$ 75.00

Asbestos Haul
$100.00 additional haul charge per box plus current disposal rate

Miscellaneous Charges	Current	Proposed
T-special/not on regular route day	$ 21.00	$ 24.00
Extra 32 gal can/garbage	$ 7.00	$ 8.00
Extra can larger than 32 gal can	$ 9.00	$ 10.00
55 gal drum dump & leave $30	$20.00 dump & take	$20.00 dump & take
Heavy can/dirt/rock/cement	$ 7.00	$ 8.00
Extra box/garbage (no larger than a 32 gal can)	$ 7.00	$ 8.00
Extra loose garbage per yard	$ 18.00	$ 20.00
Time per minute to pick up loose	$ 1.25/per minute	$ 1.25/per minute
Wash Cart	$ 18.00	$ 20.00
Wash Container	$ 33.50	$ 37.00
Cart exchange (service change one time per year free)	$ 16.00	$ 18.00
Lock & Key Deposit for container	$ 19.00	$ 21.00
Late Fee will be 1.5% or a minimum charge of $5.00, whichever is greater		
Service interrupt Fee(fee assessed for non-payment)	$ 30.00	$ 30.00
Account Origination Fee	$ 10.00	$ 10.00
Single Items		
Bathtub	$ 29.00	$ 31.00
Chair – recliner or large chair	$ 19.00	$ 21.00
Couch	$ 25.00	$ 28.00
Couch (Hide-a-bed)	$ 28.00	$ 31.00
Dishwasher	$ 19.00	$ 21.00
Dryer	$ 19.00	$ 21.00
Freezer	$ 31.00	$ 34.00
Mattress or boxspring – queen or king	$ 22.00	$ 24.00
Mattress or boxspring – twin or double	$ 19.00	$ 22.00
Refrigerator	$ 30.00	$ 34.00
Stove or Range (electric or gas)	$ 26.00	$ 28.00
Car Tires	$ 10.00	$ 12.00
with rim	$ 15.00	$ 18.00
Truck Tires	$ 22.00	$ 26.00
with rim	$ 32.00	$ 37.00
TV – console	$ 23.00	$ 26.00
Washing Machine	$ 25.00	$ 28.00
Water Heater	$ 19.00	$ 21.00

LEAF REMOVAL

Allied Waste of Albany-Lebanon will advertise the leaf pick-up schedule in the Albany Democrat-Herald two weeks prior to beginning the program.

Leaves will be removed a minimum of three times per year (one time per month) during the leaf fall season (October 1-December 31). Allied Waste will remove all leaves within the City limits of Albany covering half of the City one week and the other half of the City the other week. If it is necessary to pick up leaves more than three times per year, Allied Waste will do so at an additional cost agreed upon by the City of Albany and Allied Waste.

Allied Waste of Albany-Lebanon may, during periods of heavy leaf fall, establish a temporary staging site within the working area. The location must be submitted in writing, for approval of the City's Representative, prior to any dumping at these temporary sites. As a prerequisite for use of these sites, the Contractor shall agree to clean and remove all debris from these sites before the end of each working day as determined by the City's Representative.

The rate included in this packet of $.21 per customer does not include any disposal fees. At this time, Allied Waste is able to partner with several facilities that will take leaves at no disposal charge. If Allied Waste is unable to continue to find free disposal sites for leaves, the rate would increase to $.37 per customer.

TO: Albany City Council

VIA: Wes Hare, City Manager

FROM: Ed Gallagher, Library Director

DATE: June 29, 2009, for the July 8, 2009, City Council Meeting

SUBJECT: Revising Fees for Nonresident Library Cards

RELATES TO:

- An Effective Government

Action Requested:

Adopt the attached Resolution to change the Fines and Fees Policy and repeal Resolution No. 4439.

Discussion:

The Library also provides services to those who do not reside within the city limits by allowing users to purchase nonresident cards. Since August 2000, nonresident family cards have been $60 per year, individual card $30 per year, and a youth card $10 per year. The Library Board would like to modify the fee schedule so that nonresidents are paying a fee that more closely matches what taxpaying households currently pay ($100).

Budget Impact:

Increased revenue to the General Fund.

kg
Attachments 2

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RESOLUTION NO. _____

A RESOLUTION TO ADOPT A NEW FINES AND FEES SCHEDULE FOR THE ALBANY PUBLIC LIBRARY AND REPEAL RESOLUTION NO. 4439.

WHEREAS, the cost of providing library service has constantly risen; and

WHEREAS, the intent of the City is to charge nonresidents the same amount for library service as residents; and

WHEREAS, the Albany Public Library Advisory Board approved changes to the Fines and Fees Policy and recommends said changes be approved by the Albany City Council.

NOW, THEREFORE, BE IT RESOLVED the Albany City Council does hereby adopt by resolution the attached fines and fees schedule for the Albany Public Library and repeal Resolution No. 4439.

DATED AND EFFECTIVE THIS 8th DAY OF JULY 2009.

ATTEST:

_____
Mayor

_____
City Clerk

Overdue Materials

1. It shall be the policy of the Albany Public Library to charge a fine (nonrefundable) for overdue materials.

2. Fines are charged for overdue materials based upon the current fee schedule. Patrons may continue to check out library materials until they have accumulated $5.00 in charges. At that point, patrons will not be permitted library privileges until the fines are brought below $5.00. If overdue items are returned before the fifth day overdue, the patron will not be fined for the first four days. (This is a four-day grace period.)

3. A library card renewal will not be processed until all overdue materials are returned and/or fines paid.

4. Fines for overdue library materials are:

   a. All materials (except those listed below): $.20 per item per day; to a maximum cost of material or $5.00, whichever is lower, including patrons sent to collections.

      1) Paperbacks (uncatalogued) – no fines charged.
      2) Fines may be forgiven at the discretion of the staff person or the Librarian-in-Charge in the event of illness, death in the family, or other extraordinary circumstances.

Lost Material

1. Generally, the replacement charge for a lost item is the retail price of the item plus a nonrefundable processing fee of $5.00 per item. If replacement charges are paid for a lost or damaged item within six months of the due date, no fines will be charged. If a lost item is returned within six months of the due date, only applicable fines and fees will be charged and ***only if the patron has their copy of the original receipt***. If items are more than six months overdue, the borrower will be charged both replacement charges and any applicable fines.

2. To determine the retail price of items online sources will be consulted.

3. Materials lost or damaged may be replaced by the patron with another identical item in new condition, if approved by the Librarian in-Charge.

4. Receipts are to be given on all lost or damaged material transactions.

5. Lost book charges may be forgiven at the discretion of the Library Director in the event of extraordinary circumstances.

Damaged Materials

1. Materials that have been damaged beyond repair or use to the Library are charged at replacement cost, as listed below. The material may then be kept by the patron after the barcode is removed and material stamped "withdrawn from collection" by the Technical Services Librarian.

2. Damaged materials that may still be circulated will be subject to the following charges:

Cigarette burns	50¢/page or price of book if more than 10 pages
Page torn	25¢/page if it can be mended
Ink marks	50¢/page or price of book if significant
Pages missing	Price of book
Water marks/water damage	25¢/page or price of book if significant
Lost or cut periodicals	50¢/page up to $7.50 if significant

Fees - Suspension of Library Privileges

The library privileges of any patron having $5.00 or more in fines, any unreturned material, and any returned checks will be suspended until the charges are cleared.

Fees - Nonresident

Nonresident: Those living outside the Albany city limits who wish to borrow materials from the Albany Public Library may purchase a borrower's card in lieu of the property tax assessed to the residents of Albany for the support and operation of the Library.

Fee: **$75.00/year. All members of the household living at that address receive a borrower's card valid for one year and enjoy the full privileges of a resident borrower.**

~~1. Family Card~~ ~~$60.00 $75.00/year. All members of the household living at that address receive a borrower's card valid for one year and enjoy the full privileges of a resident borrower.~~

~~2. Individual Card~~ ~~$30.00/year. This card is for the sole use by the individual cardholder and is valid for one year. The cardholder has full privileges of a resident borrower. It is not the intent of the Library to have other individuals eligible to use this card.~~

~~3. Youth Card~~ ~~$10.00/year. This card may be issued to anyone and is valid for one year. This card allows items to be borrowed from the Albany Public Library's Children's collections only.~~

Fees - Interlibrary Loans

Basic Request: A nonrefundable $3.00 fee is assessed in advance for each item requested. Occasionally, the loaning library will charge extra costs, in which case the patron will be so notified.

Microfilm: A microfilm loan is the same as the basic interlibrary loan except for microfilm borrowed from the American Genealogical Lending Library. The loan fee is $3.25 plus $3.00 postage in a check or money order made payable to American Genealogical Lending Library and any additional charges after microfilm has been received. All fees for basic requests are to be paid when ILL request is submitted.

Fees – Computer Printing

The Library uses print management software to control printing from public use computers. The purpose of print management software is twofold: cost recovery and avoidance of printing mistakes, e.g. too many copies or printing more than one may have realized or wanted. Print management software will clearly indicate to computer users the cost of their printing and require them to authorize the printing. It will also debit their print management account.

Print Rates: Black and white laser printers set at $.15/page – subject to change. Color laser printers set at $.50/page – subject to change.

APPROVED:

CITY OF ALBANY
CITY COUNCIL (WORK SESSION)
Municipal Court Room
Monday, May 11, 2009
4:00 p.m.

MINUTES

CALL TO ORDER

Mayor Sharon Konopa called the meeting to order at 4:04 p.m.

ROLL CALL

Councilors present: Councilors Ralph Reid Jr., Jeff Christman, Bill Coburn, Bessie Johnson, Dick Olsen, and Floyd Collins.

Councilors absent: None.

BUSINESS FROM THE PUBLIC

There was no business from the public.

GOAL 5 UPDATE

Planner III Heather Hansen gave an update on Goal 5. In 1997 Periodic Review started and inventories of wetlands and riparian corridors were completed in 2000. Wildlife habitat was a component of those inventories, but it was not assessed comprehensively. A seven member Natural Resource Advisory Committee was formed and met during 25 meetings over 18 months to develop recommendations. The co-authors presented their report at a joint meeting of the Planning Commission and City Council, at which staff was directed to proceed with drafting Comprehensive Plan and Development Code language.

Hansen said that in December 2003 the whole project was tabled in response to a property rights ballot, a takings case, and a senate bill for periodic review which interpreted that Goal 5 is not required. Staff has recently verified that Goal 5 is still required, and applied for a Department of Land Conservation & Development (DLCD) grant for the technical work since the previous product is now outdated. Albany received the DLCD grant and hired Pacific Habitat Services. They are nearly done with their report and will be presenting a summary on June 10, 2009. The grant expires June 30, 2009. This marks the end of the data collection phase.

The next step is to look at alternatives for implementing Goal 5. Part of the grant requirement is that the Council passes a resolution to have staff move forward with the implementation phase. Staff plans to discuss what the options are with the Council in July.

Konopa said there was discussion about reconnecting with the original task force. Hansen said staff has contacted most of them; many were still frustrated with how it ended the first time so chose not be get involved again, although they did ask staff to keep them apprised of the progress. They will be notified of the meeting dates.

Community Development Director Greg Byrne explained that the resolution is to accept the grant only; it does not involve giving further direction at this time. In retrospect, staff realized that part of the problem with Goal 5 the last time was that the Council did not give direction at the front end of the project. This time, Byrne said, we would like to involve the Council at the beginning. Staff would like guidance from the Council before we start drafting ordinances.

The next date Goal 5 will be discussed is June 10, 2009, and then again in July at a date to be determined.

Councilor Floyd Collins said, the buildable lands inventory is less than it was when we originally established the Urban Growth Boundary. He asked, if we move types of land around, when will we have to move the boundaries to include buildable lands? Collins said, wetlands used to be buildable, but not anymore. The rules have changed substantially and in some cases, require replacement properties.

Councilor Dick Olsen stressed the importance of having the task force members included in this new discussion. Hansen suggested sending them a formal invitation and the Council was agreeable.

CONVEYING LINN COUNTY CANAL PROPERTIES NEAR LEBANON TO THE CITY OF ALBANY

Public Works Director Diane Taniguchi Dennis introduced Special Projects Coordinator Claudia Zahorcak. Zahorcak's current role is to programmatically bring all the canal pieces together including operation, maintenance, permitting, capital projects, and right-of-way (ROW) needs.

Zahorcak said she has become aware of three properties owned by Linn County next to the canal which have become available. The three unimproved, open bank, properties are less than one acre total. Also there is a house under construction along the canal where berms are being cut down. An adjacent property owner wants to start cutting down berms as well.

Collins asked, are there bridges in place? Zahorcak said there is just one private bridge in this area. The City is using the bridge for repair work with the permission of the owner.

CONSENSUS: The Council consensus was to agree with the future conveyance to the City of Albany of Linn County canal properties near Lebanon.

Councilor Bill Coburn arrived at 4:23 p.m.

Councilor Bessie Johnson asked, are there other small parcels along the canal that the county owns? Zahorcak said she can search for other county properties available for purchase. These three are technically outside the city boundaries.

City Manager Wes Hare noted that staff has spent a lot of time researching ownership along the canal.

City Councilor Ralph Reid publicly acknowledged Zahorcak's work, which has been fruitful yet stressful. Johnson agreed.

KINDER PARK POWER SERVICE EASEMENT

Parks & Recreation Director Ed Hodney said staff is prepared to ask Pacific Power to establish power service to Kinder Park. The City will need an easement to do that. Typically this request would come to the regular City Council meeting scheduled for Wednesday rather than a Work Session but Hodney believes that with the Council's approval today, the extra two days would allow for power to be connected much quicker. Pacific Power didn't give the City a contract until just last Tuesday. Hodney said, this is not an emergency; staff just wants to move as quickly as possible in order to gain two extra days.

Konopa said that the design of Oak Street has not been finalized. She asked, if we decide to preserve residential parking and have to give up ROW to do so, will this easement work? Hodney said the easement itself would be fine, although the power poles might need to be moved since the new service will be underground.

MOTION: Collins moved to adopt the resolution as presented and Reid seconded it. The motion passed 6-0 and was designated Res. No. 5769.

STORMWATER PRACTICES, PLANNING, AND FUTURE REGULATIONS

Assistant Public Works Director/City Engineer Mark Shepard said today's presentation is a team effort and will include updates from Assistant City Engineer Jeff Blaine, Water Quality Control Supervisor Chris Bailey, and Planning Manager Don Donovan.

Shepard said stormwater crosses multiple departments and impacts three of the four themes in the Strategic Plan: Healthy Economy, Great Neighborhoods, and Safe City. Stormwater regulations impact the Albany Municipal Code (AMC) and the Albany Development Code (ADC) among other City documents. Staff will set the stage and give an overview of what to expect in future discussions about Albany's stormwater.

Shepard used an overhead which gave a clear visual of the various inputs and outputs of Albany's stormwater (see agenda file).

There are multiple drivers bringing stormwater to the forefront: the NPDES MS4 permit, Willamette River Total Maximum Daily Load (TMDL), Development, and Stewardship. The filters for these drivers are: the ADC, the AMC, Design Standards, Fill Permits, Sewer/Water Master Plans, Erosion Prevention Sediment Control Program (EPSCP), and Standard Maintenance Practices. Finally, the two departments impacted will be Public Works (Engineering, Environmental Services, and Operations) and Community Development (Planning and Building). The goal is twofold: water quality and flood management. Shepard said all of the pieces are important in order to make this work.

Collins asked, are the NPDES and MS4 both state permits? Shepard said yes. Albany is a Phase 2 community; we have delayed a stormwater program for 15 years already. The drivers are state and federal regulations. Our population and location on the Willamette River are driving this as well.

Collins said it is important to explain to the community that a stormwater program is not the City's idea; it is required and we have already delayed as long as possible. It will have an economic impact but we don't have a choice.

Hare said, another issue is that there is an evolving standard for stormwater treatment with new emphasis on doing away with curbs and gutters, and using swales and non-pervious surfaces instead. We are dealing with a moving target in this complex picture of stormwater management.

Shepard referred to the table on page 2 of the staff report, which outlines the timeline and funding impact related to each issue. Staff is also seeking Council consensus about changes in the fill permit.

Donovan discussed Proposed Development Code Changes as outlined in the staff report.

Donovan said he represents the area of development related to stormwater. He said, one reason we need to work on the ADC is to establish engineering detail in stormwater drainage plans. A recent example of why we need to set standards is the recent Fabian Estates development which resulted in the Land Use Board of Appeals (LUBA) decision that the storm drain had to be approved by the City Engineer. Donovan assumes the Council would prefer not to look at the engineering details on a case by case basis but would rather have staff evaluate pipe sizes, slopes, etc. and establish a set of standards. Changes to the ADC require Planning Commission and City Council approval. Another ADC change would be to facilitate adequate review of the stormwater impact to neighboring properties.

Reid asked, would the changes include System Development Charges (SDCs)? Donovan said that would be the responsibility of Public Works. Public Works Director Diane Taniguchi Dennis described what each department would be responsible for.

Reid is concerned about covering the cost of the stormwater system maintenance. Taniguchi-Dennis said, typically a user fee is established. Reid asked, can existing facilities be attached to stormwater and be charged a service fee? Taniguchi-Dennis said that if there is additional capacity for growth it can be built in as part of the SDC-R, but the operation to maintain it would have to be a rate rather than a fee, similar to rates structures for water and sewer service. Operational costs would not be a SDC component. Reid is concerned about homes along creeks and assumes the cost will come back to those in the basin. Taniguchi-Dennis said that establishing user fees based on a particular basin would be highly complicated and is a divergence from what the Council set for water and sewer rates in the past. Discussion followed about rate structures and how the cities of Corvallis, Eugene, and Salem charge for stormwater.

Collins said it should be stressed to the community that many other cities have been charging for stormwater maintenance for 35 years already, and that it is being driven by state and federal regulations. It is not necessarily associated so much with our population size as it is with the fact that Albany discharges to the Willamette River.

Konopa likes the idea of identifying stormwater as a separate cost on utility bills in order to get customers acquainted with the new service, and then eventually increasing the rate. It would be an effective way to communicate with citizens.

Coburn said, it seems the City would be the biggest contributor based on our streets. Shepard clarified that stormwater includes runoff from roof tops, yards, sump pumps, etc. that are plumbed to the storm drain. We could do regional detention and treatments and may find it unnecessary to increase capacity. But, we will need to make water quality improvements. Our Stormwater Master Plan will help us to evaluate costs, plans, and strategies.

Coburn asked, is there something the users can do to reduce rates? Taniguchi-Dennis said that some communities make allowances for rain gardens, which are small detention basins. We have found that they do dramatically reduce discharge; but Albany's soil is hydric soil rich. We have lots of clay so it would make it more difficult. There are ways to offset it, but it will require some research. Another "green" solution being used by communities are impervious sidewalks, but Albany's soil may not be conducive to that.

Blaine discussed proposed fill permit changes as outlined in the staff report.

Changes to fill permit requirements would come back to the Council as revisions to the AMC. The changes are not a result of regulations, but rather from the concerns raised by citizens during different types of development activities such as subdivisions, and fill or excavation activities related to development of a single large lot. These changes would allow citizens more opportunity to comment on fill activities and would give the City more authority to act on violations. Fill cannot be a criteria in land use decisions. Blaine said a concern the development community might have would be the extra time it would take for the public comment period when it gets to the construction plan review phase. Blaine thinks that the fill permitting process could be initiated at the same time as the land use review, so that all public comment could happen at the same time and would not cause a delay to the project.

Collins noted that much of Albany's drainage issues occur outside the Urban Growth Boundary, so it would be useful if they had similar fill regulations as the City.

Konopa asked, will staff make site visits to verify topography during site plan review? Blaine said yes, staff does that already during the land use review and again during the engineering plan review process. Staff also follows the activities through construction to make certain they are consistent with the approved plans. Staff's goal is to indentify issues early and deal with them proactively. We have been doing it this way for a few years and it seems to have worked successfully.

The fill permit process provides opportunity for neighbors to comment on activities that may impact their property. Neighbors within 360 feet are notified of the project by mail.

Staff will bring revised fill permit information in the future.

Blaine discussed the Stormwater Master Planning and SDCs as outlined in the staff report.

Blaine said the City's existing plan was done in 1988 and didn't include an analysis of North Albany. A master plan specific to North Albany was started in 1992 but not completed. Master plans are generally completed in 10-year cycles. Since the current plan is outdated it is difficult for staff to respond to development questions. Staff needs a

master plan level of analysis to understand all the inter-related parts of the basins and how they respond to rain events. Staff began data collection last summer. A hydraulic model has been started. Data collection is continuing this summer and analysis of the existing system should begin soon. Future policy and planning discussions with the public and the Council will be required.

Blaine said currently there are no stormwater SDCs. Before a stormwater SDC can be established, a viable project list must be adopted. Staff can produce a viable project list following the completion of the Stormwater Master Plan.

Blaine discussed Stormwater Quality Requirements as outlined in the staff report.

Blaine said that the City hasn't yet adopted water quality standards for new developments. However, water quality facilities were sometimes voluntarily constructed by developers to satisfy neighbors. Now, the City is faced with regulatory requirements to consider water quality and incorporate these facilities in our private and public development projects. Public Works and Community Development staff will work together to define what they think are acceptable water quality options for Albany and to identify ADC implications such as additional ROW necessary for bioswales.

Bailey discussed Regulatory Requirements as outlined in the staff report.

The Federal Clean Water Act is the source of the regulations. We are already dealing with two 1200 Z permits, one for the Airport and one for the Wastewater Treatment Plant. The TDML permits dictate what Albany must do for every pollutant in every river that exceeds the federal maximum. For Albany it is related to bacteria, temperature, and mercury, and is reported annually. Recently Albany and some other cities were specifically called out because we are on the cusp of being permitted under the MS4 Phase II program. Bailey said Albany is now required to do the six water control measures as outlined in the staff report.

Bailey said the MS 4 Phase 2 permits did not give specific numerical limits initially; rather, Albany will set up our own benchmarks which we are then required to meet. An annual report includes education, outreach, and enforcement. It is time consuming and full compliance will be required for Albany by 2012.

Coburn asked, what is the source of the mercury? Bailey said most is attached to sediment that is in runoff. Mercury is toxic to fish and travels up the food chain. There are mercury mines in the southern part of the valley.

Taniguchi-Dennis added that the Department of Environmental Quality (DEQ) regulates point source discharges into the Willamette River. They will soon require Albany to also include monitoring and controlling non point-source pollution within our community. If we can have much of this in place by 2012, we will be ahead of the game. We are being proactive now to build a good system and keep cost down, although it will still be an expensive program.

Blaine noted that erosion prevention and sediment control is an important piece to mitigate the runoff. There are Best Management Practices (BMP) that address control measures to prevent erosion from wind and rain, and then runoff from rain leaving the site. Albany has done some of this but an area we need to expand further is regulation for single family resident (SFR) construction. Our lack of developed standards and enforcement ability has caused us to fall behind the standards, although we have tried working individually with builders when we can. The goal is to work collaboratively with building permit activity. Conceptually, the process for permitting has been identified and work has begun on documentation. Review of the internal process will be next, followed by public outreach this summer. The program should be complete in October 2009.

Coburn noted that the traffic in and out of the construction site for a new credit union on Pacific Boulevard is tracking mud onto Burkhart Street. He asked if the City has any enforcement options. Blaine said there are federal regulations, and this program will help to build those into the structure. Coburn asked for staff to visit the construction site.

Collins said, insisting on compliance would be adding to the cost of building in a competitive market, but builders need to be held to these standards anyway. Blaine said they are already aware of the standards because staff often hears the comment that they didn't think those rules were enforced in Albany. The goal is for builders to know they must follow the standards in Albany as well.

Environmental Services Manager Herb Hoffer said that a 1200c permit is required for construction greater than one acre. This is required by the state and we also have prohibitions in the AMC. We do have tools already; the enforcement piece can be addressed with some rewording in the AMC.

Taniguchi-Dennis summarized that the goal for the stormwater program is to move from reactive to proactive.

COUNCILOR COMMENTS

Councilor Jeff Christman said he has a scheduling conflict on June 8, 2009, the same work session that the Hearing Officer position is scheduled for. He asked if that item can be moved to another date. The Council agreed.

Regarding the street sweeping program, Coburn wants information about the schedule, number of sweepers, and number of employees performing the service. Staff said that information is on the City's website.

Olsen asked why there are jackhammers taking out the corners at 6th Avenue and Broadalbin Street. Staff replied that the sidewalks are being redone to be in compliance with American Disability Act (ADA) standards. Also 6th Avenue was scheduled to be overlaid and as part of that project, the curbs will be brought up to ADA compliance. Collins said, there is a new electronic measuring device that measures for exact ADA requirements. Staff said that the City's sidewalk design specifications have been changed to 1.5 percent to be in compliance. Collins noted that the Building Department is willing to come out and measure sidewalks at construction sites before the concrete is poured.

Konopa said that Linn County Commissioner Will Tucker provided her with a copy of the agreement between the City and Linn County for the Expo Center. Konopa said Tucker referred to a section that said Linn County agrees to provide short-term marketing, and that is the reason Tucker feels marketing is now the City's responsibility. Konopa asked for the Council's permission to respond on their behalf that the Council disagrees with Tucker's interpretation. Hare said he has had several contacts on this issue from the Linn County Board members and others in the community. Hare said Tucker has already turned in a grant application and is expected to attend the next meeting of the Budget Committee. The Council recalled that the Albany Visitor Association (AVA) asked for excess transient room tax revenue two years ago to fund a position which would specifically market the Expo Center; so the City has already made a substantial contribution. Discussion followed.

Reid said that a few years ago he asked Linn County to evaluate having a transient room tax on the county level, and they chose not to. They were running $400,000 out of the General Fund to support the Expo Center. At that time, they had large timber tax receipts. Reid said he also suggested they submit a request to market the Expo instead of AVA marketing for them. His point is, that Linn County has had opportunities to make their presentations but they failed to step up. Now that the County is financially challenged, they are seeking relief from the City. Reid said, it is too late; they had their chance and didn't take it. He was on the Fair Board at one time and it was eventually changed to the Expo Board.

Christman said that he is currently on the Expo Advisory Board. For about two years the Board did not meet at all because of lack of leadership. They did meet three weeks ago for the first time in two years, and did review the bi-laws and schedule future meetings. Christman said this is a new group of people and at the meeting they discussed the need for the Expo Center to be self-sufficient. Discussion followed.

Reid commented that in recent years the rapport with the Linn County Commissioners has improved.

CITY MANAGER REPORT

Hare just attended the National Summit on Childhood Obesity and facilitated a session at their request. Albany has been recognized for its partnership with the school district and their joint effort for the Safe Routes to School project and their collaboration in the permitting and construction of the new school on Knox Butte, as well as Olsen's efforts to keep Central School open. Hare said that a key point made at the conference was that at a time when we have literally shut down a country over the swine flu epidemic which has a fairly limited scope, we have ignored the epidemic of childhood obesity which costs more lives and much more money.

ADJOURNMENT

There being no other business, the Work Session adjourned at 6:32 p.m.

Respectfully submitted,

Mary A. Dibble, MMC
Deputy City Clerk

Reviewed by,

Stewart Taylor
Finance Director

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APPROVED:

CITY OF ALBANY
CITY COUNCIL
Council Chambers
Wednesday, May 27, 2009
7:15 p.m.

MINUTES

CALL TO ORDER

Mayor Sharon Konopa called the meeting to order at 7:15 p.m.

PLEDGE OF ALLEGIANCE TO THE FLAG

ROLL CALL

Councilors present: Councilors Jeff Christman, Bill Coburn, Bessie Johnson, and Dick Olsen

Councilors absent: Councilors Ralph Reid Jr. and Floyd Collins

ARTS AWARDS

Recreation Coordinator Joy Gilliland said there were approximately 50 submissions at this fourth annual teen art show. Gilliland said this year included some of the best work yet and the seven member Art's Commission had a difficult time picking a winner.

Gilliland announced the winners of the Art Show:

- Third Place: Ryan Prouty for "Freight"; awarded $50.
- Second Place: Kasey Bowman for "Flaws of Humanity"; awarded $75.
- First Place: Jim Chewa for "Tiger In Me"; awarded $100.

Gilliland announced the People's Choice Award winner, Kasey Bowman, for "Flaws of Humanity."

Next year's show will be in May and will be located at City Hall or at the new Library.

SPECIAL PRESENTATION

Planner II Anne Catlin said the theme for the 2009 Albany Preservation Awards is "This Place Matters!" Catlin first acknowledged participants in the residential rehabilitation grant program for 2008.

Catlin gave a PowerPoint presentation (see agenda file).

Konopa handed out the awards to the winners of the 2009 Albany Preservation Awards:

- Skip Throop and Nancy Dunn
- Jeff and Christian McCaulou
- Glenna Burnap
- Jeff Cosby
- Derryl and Jennifer James
- William Martinez
- Tim Vaughan
- Brass Ring volunteers

The Brass Ring volunteers were recognized.

Catlin asked the Landmarks Advisory Commission to stand and be recognized for their hard work.

Catlin explained that a scavenger hunt was published in the *Albany-Democrat Herald*. All participants who answered the questions correctly were entered into a drawing.

Konopa drew three winners:

- Lori and Hannah Melton won a new tote bag from the Albany Visitors Association.
- Mrs. Spires won a book about Oregon architecture by Roz Keeney.
- Beverly Haven won a historic Albany necklace.

The Council thanked Catlin for her work with historic neighborhoods.

PROCLAMATION

Neurofibromatosis Month

Konopa read the proclamation recognizing May as Neurofibromatosis Month (see agenda file).

SCHEDULED BUSINESS

Business from the Public

Corey Barton, 823 Walnut Street, read a letter regarding zoning language changes to address Bailey's, a neighborhood bar (see agenda file).

Councilor Dick Olsen asked staff to outline procedures for requesting a zone change. Community Development Director Greg Byrne said the application comes to the Community Development Department for review. There is a fee involved. The Planning Commission and staff make a recommendation to the Council, and the Council makes the decision, since the changes would involve an ordinance and a change to the Albany Development Code (ADC). Olsen asked, would staff accept a petition and if so, what should the petition contain? Byrne said yes, it would be accepted. A petition should request a change in conformance with the Comprehensive Plan.

Amanda Engel, 825 Walnut Street, wished to speak. She is here as a resident in the district where Bailey's is located. She said it is a problem that is not just impacting one resident, but rather the whole neighborhood. She said she has "drunk" people walking past her bedroom window, carrying on loud conversations and laughing. The Police have to be present much more now. She has had to call the Police to have them come out several times. Once she was walking to the corner to pick up her newspaper and as she was walking, six cops pulled into the entrance of Bailey's. The Police Officer pumped his shotgun. She said it creates a very insecure feeling to have this happen so close to her home. She does not feel safe or comfortable having a bar so close to her house. She said, please take this into consideration for future zoning decisions.

Adoption of Consent Calendar

1) Approval of minutes
   a) April 6, 2009, City Council work session
   b) April 27, 2009, City Council work session
2) Approving a survey to gather resident satisfaction information about the City of Albany.
3) Approving liquor licenses for:
   a) Bamboo Diner, Inc., 210 First Avenue W
   b) Rosie Family Mexican Restaurant, 1727 Hill Street SE
   c) Annual liquor license renewals
4) Approving an application for the 2009 Bulletproof Vest Partnership Grant that reimburses jurisdictions up to 50 percent of replacement expenses for bulletproof vests. RES. NO. 5776
5) Accepting Oregon Department of Transportation Funds in the amount of $4,000 to purchase two MPH Bee III radar measurement devices. RES. NO. 5777
6) Accepting an easement from Charles H. Howarth. RES. NO. 5778
7) Accepting a right-of-way dedication from the City of Albany. RES. NO. 5779
8) Accepting State Grant Agreements 25616 and 25708, Rural and Small Urban Area (FTA Section 5311), 2009 American Recovery and Reinvestment Act (ARRA) Capital. RES. NO. 5780

MOTION: Councilor Bill Coburn moved to adopt the Consent Calendar as presented. Councilor Bessie Johnson seconded the motion and it passed 4-0.

Note: item 8), State Grant Agreements 25616, is incorrect. The correct number is 25615.

Report

Strategic Plan for FY 2010 through FY 2014

Color copies of the Strategic Plan (SP) were on the dais (see agenda file).

City Manager Wes Hare commended Management Systems Director Bob Woods for his supervision of the SP update. The SP was initially adopted in 2004 and was a great first step towards articulating the City Council's long-term goals. Hare said, it is rewarding to be able to identify items from the original plan that have actually been completed.

Hare said, the updated SP addresses the document's weaknesses and improves the goals, by incorporating ICMA measurements to enhance the quality of data and comparisons to other jurisdictions. There is also a performance measurement element in our Budget which has been incorporated into this draft SP.

Hare said, one area we are trying to address, "accountability", is a result of a seminar attended by Councilors Johnson and Christman. This is a different way of goal setting, showing long-term vision for our community.

Hare said it is important that the SP reflects reality. We have seen changes in Albany as well as on the national level in terms of financial viability. As the Council reviews the SP, they may notice that some of the goals listed under Community Development, for example, will be difficult to achieve in a time when their staff is facing reduced hours and/or layoffs. There is simply not enough revenue. The city of Salem has laid of half off their building department staff already. In fact, reductions to building staff seem to be consistent throughout the state.

Woods praised Graphics & Web Specialist Matt Harrington for improving the format of the SP document.

Woods said staff looked at specific goals and tried to be realistic about what can be done in times of economic stress. Every objective has a measure. In several areas the Council may wish we could do more, but the SP is reflective of the limited resources available. There are some areas over which we have no control, so instead we tried to focus on areas where we do have some control.

Hare added that there were some elements of previous SP's that were more akin to a "wish list", with no reference to how we could get there or if we even wanted to. This plan on the other hand, identifies what we want to, and what we think we can, achieve. When revisions are complete, the SP should be a reflection of the things that the Council feels, as elected representatives, are the most important to the community.

Christman said he really likes how this document is structured. It includes time frames and measurable numbers, which are necessary to indicate what we are accomplishing. He suggested creating a list of priorities to facilitate the Council in making decisions to redirect resources based on circumstances. Then if there are areas the Council feels are not a priority, staff can make those changes. Discussion followed.

Woods said, some measures are ICMA benchmarking measures. These benchmarks are commonly referred to among agencies now.

Hare said, key staff are in the second week of Green Belt-Six Sigma training, which teaches employees to do a better job of gathering data, understanding it, and using it appropriately. Woods said, measurements drive behavior.

Hare said, the next step is a work session to receive the Council's changes and comments. The SP will also become more integrated into the Budget document.

BUSINESS FROM THE COUNCIL

Councilor Jeff Christman asked for an explanation of why six police cars responded to the call at Bailey's. Staff will find out and get back to Christman.

Olsen asked for a staff report on the situation at Bailey's. Community Development Director Greg Byrne said that invitations went out just yesterday for a neighborhood meeting on June 1, 2009, at 6:30 p.m., in the Willamette Room at City Hall. The goal of the meeting is to come up with some short-term solutions. If staff believes the situation warrants long-term changes, they will make recommendations to the Council. Olsen said he would be unable to attend that meeting.

City Attorney Jim Delapoer said if the outcome of the meeting might be a zone change, then the Council should refrain from participating in order to avoid exparte communication. He cautioned the Council from attending small meetings where both sides of an issue are not present, where there is no staff report, etc. The Council's communication with staff is not exparte, but conversations at neighborhood meetings that pertain to specific zoning topics, could be.

Delapoer said, generally the property owner initiates a zone change, but the Council could initiate one. In this case there was a change in the operating characteristics of the establishment, not the zoning; in fact, this property has been occupied by a bar in the past.

Coburn asked staff to explain to the attendees of the neighborhood meeting the reason why the Council cannot attend. They need to understand why the Council cannot participate at this juncture.

Christman said, if we do make changes we need to be very careful; there are other establishments in town with full liquor licenses that serve food, also located in neighborhoods. Our decisions could have unintended consequences for other establishments in town.

Olsen asked, what can the Council do if this establishment becomes a nuisance? Hare said, if they are violating the law, there is recourse with OLCC and the police. But for periodic complaints of too much noise that we hear about after the fact, it is difficult for us to do anything.

Delapoer noted other types of incompatible use complaints the City receives, including noisy basketball courts, softball lights in fields shining in windows, etc. There are many different scenarios, so the Council should proceed cautiously.

Coburn asked for an update on fees the City pays for accepting payments from its customers by credit card. Taylor has contacted Linn County and will be meeting with representatives next week to see how they avoid the fees. He has also contacted other cities, and Albany's merchant service provider through Wells Fargo.

Coburn asked for an update on the SVC lawsuit. Delapoer said that the lawsuit is in the early part of discovery proceedings. Pending motions will be heard in July and the trial will likely be set in about a year. This is actually fairly aggressive progress for a case of this type.

Johnson will be gone June 7-14.

Johnson received a call about cats. Hare ended up taking the call and offered suggestions, though with the information he received there did not appear to be a violation of an ordinance.

Hare gave an update about the acquisition of a building for the future police station. Hare said Police Chief Ed Boyd toured the facility with the project manager who was involved with Lebanon's new police station. Overall, the project manager was confident the facility could be converted to a police station. The cost of remodeling varies from $125- $150 a square foot, and new construction in our area costs from $225 - $250 a square foot (not including property purchase). Hare said Boyd also looked at ingress and egress. The Oregon Department of Transportation said there is no possibility of a light on Pacific Boulevard, however there may be other options for expanding the entrance. Hare said Boyd would like direction from the Council about whether or not he should continue researching the facility or not.

Christman asked what the funding options are. Finance Director Stewart Taylor said he has investigated the market and received quotes from underwriters. The market is supporting a 5.4% rate right now. Taylor and Boyd have informally discussed funding sources, though there is not a readily identifiable funding source yet.

CONSENSUS: The consensus of the Council was to direct Boyd to continue evaluating the relocation of the Police Station.

NEXT MEETING DATE: Work Session – Monday, June 8, 2009, at 4:00 p.m., in the Municipal Court Room
Regular Session – Wednesday, June 10, 2009, at 7:15 p.m., in the Council Chambers

ADJOURNMENT

There being no other business, the meeting was adjourned at 8:39 p.m.

Respectfully submitted,

Mary A. Dibble, MMC
Deputy City Clerk

Reviewed by,

Stewart Taylor
Finance Director

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APPROVED: _____

CITY OF ALBANY
CITY COUNCIL
Council Chambers
Wednesday, June 10, 2009
7:15 p.m.

MINUTES

CALL TO ORDER

Mayor Sharon Konopa called the meeting to order at 7:20 p.m.

PLEDGE OF ALLEGIANCE TO THE FLAG

Konopa led the pledge of allegiance to the flag.

ROLL CALL

Councilors present: Jeff Christman, Ralph Reid, Jr., Floyd Collins, Dick Olsen, and Bill Coburn
Councilors absent: Bessie Johnson

SCHEDULED BUSINESS

Business from the Public

There was no business from the public.

Public Hearing

Calling for the adoption of the 2010-2014 Capital Improvement Program.

Assistant City Engineer Jeff Blaine reported that they received no public comment regarding the 2010-2014 Capital Improvement Program.

Konopa opened the public hearing at 7:22 p.m.

No one wished to comment.

Konopa closed the public hearing at 7:22 p.m.

MOTION: Councilor Coburn moved to adopt the 2010-2014 Capital Improvement Program. Councilor Reid seconded the motion and it passed 5-0, and was designated Resolution No. 5781.

Adoption of Resolutions

Adopting the "Digital Image as Original" policy.

MOTION: Councilor Collins moved to adopt the "Digital Image as Original" policy. Reid seconded the motion and it passed 5-0, and was designated Resolution No. 5782.

Revising fees for Development Code provisions.

Collins commented that to be consistent with the City's commitment to the community, when the index drops, the fees should be lowered. He understands that it is a small amount and at a time when there is increased pressure on the General Fund, but he believes it is critically important to maintain that consistency.

MOTION: Collins moved to decrease the fees by the indexing amount of 1.3 percent to be consistent with the City's commitment to the community. Councilor Olsen seconded the motion.

Planner II Janet Morris said that the Council memo covered why they were not proposing a reduction in the fees. Mainly it is because the fees have been falling behind in the past few years as Planning hasn't included increases in benefits, rent, etc. Even though it is down a little bit this year, the program's goal is to try for cost recovery of 100 percent with some small exceptions.

Collins said he appreciates the Planning Division's position, but if the fees are adequate to cover the services provided, it was agreed that increases would be based on the indexing and that would include a negative index. It would be valuable to re-evaluate the fees on a regular basis, like every 2-5 years, and consider alternative methods for evaluating increases. He suggested that staff bring that forward. But, as it is now, the commitment for the annual rate increase was to be based on the indexing.

VOTE: A vote was taken on the motion and it passed 4-1, with Coburn voting no.

A revised resolution reflecting the motion will be brought to the Council for a vote at a later date.

The Council asked staff to start an evaluation of the current fees in consideration of a 100 percent cost recovery.

Adopting an Intergovernmental Agreement for Call-a-Ride paratransit service between the City of Albany and the City of Millersburg.

MOTION: Coburn moved to adopt the Intergovernmental Agreement for Call-A-Ride paratransit service between the City of Albany and the city of Millersburg. Councilor Christman seconded the motion.

Christman asked, how will Millersburg's citizens and community know the service is available? Paratransit Program Supervisor Barry Hoffman said it will be in the city of Millersburg newsletter and they have been working with them to provide other informational pieces to the community.

VOTE: A vote was taken on the motion and it passed 5-0, and was designated Resolution No. 5783.

Accepting the transfer of jurisdiction of portions of 53rd Avenue, Clover Ridge Road, Goldfish Farm Road, and Grand Prairie Road from Linn County to the City of Albany.

Public Works Director Diane Taniguchi-Dennis explained that the City has a road transfer agreement with Linn County once the roads have been brought to City standards. These roads were successfully completed projects and Linn County has initiated transfer.

MOTION: Collins moved to adopt the resolution requesting the transfer of jurisdiction of portions of 53rd Avenue, Clover Ridge Road, Goldfish Farm Road, and Grand Prairie Road, from Linn County to the City of Albany. Coburn seconded the motion and it passed 5-0, and was designated Resolution No. 5784.

Establishing rates for the collection of refuse inside the Albany city limits.

This item was postponed to the June 24, 2009, Council meeting.

Report and Adoption of Resolution

Receiving consultant's Technical Report and discussing next steps in implementation phase of Goal 5.

Planner Heather Hansen said the consultant's report represents the completion of the technical phase of Goal 5. It includes an update of the previously completed wetland and riparian corridor inventories, a more comprehensive look at wildlife habitat, and recommendations for designating "significant" Goal 5 resources. An interdepartmental team will be working on the next stage, the implementation phase. During the implementation phase, the City will need to determine which Goal 5 resources are significant and adopt measures to protect them. She presented a schedule with activities to complete the Goal 5 requirements (in agenda file).

John van Staveren, Pacific Habitat Services, Inc, provided a Power Point (in agenda file) of their report titled "City of Albany Goal 5 Significant Natural Resources, Technical Report".

During the discussion on rivers and streams Reid asked, what do you consider a fish bearing waterway? Van Staveren said if it provides fish habitat, it is fish bearing.

Reid asked, where Cox Creek comes through the south end of the airport does there need to be trees? Staveren said no, there is no requirement for the property owners to plant trees.

Collins asked, what do you do when you have conflicting rules for the same property? Van Staveren said that safety issues would win out.

Christman asked, how is a zone through a building dealt with? Van Staveren said it is grandfathered in.

Collins said, there are a lot of challenges presented in this report. The Council will need to review it extensively.

Van Staveren said they are in the process of getting a detailed map so the Council can see the impact of these policies.

Olsen asked that the Natural Resources Advisory Commission be invited to the meetings listed in the agenda. Hansen said she would do that.

Directing staff to begin the adoption process to protect significant wetlands, riparian corridors, and wildlife habitat as required by the City's Periodic Review work program.

Community Development Director Greg Byrne said passing this resolution is important as this process was started in 1997 and the state grant to fund this work, which is matched by some local monies, imposed a

condition that the City would move forward with implementation. The local funding is available for the next fiscal year so that Pacific Habitat Services, Inc. can continue to help the City with this process.

Hansen said this resolution outlining the beginning of the process was the minimum the state was willing to agree to regarding the requirement for implementation.

Byrne said that staff does not assume that this resolution will be a rubber stamp of the work done. It is to ensure that there are no further delays to beginning the Implementation Phase before the June 30th grant expiration.

Christman said it is a great report but there are things in it that he doesn't accept. He was concerned that the resolution would convey that the Council is going along with everything given in the report.

Reid said he had concerns too, but believes the resolution only fulfills a requirement of law to have acceptance and move forward.

City Manager Wes Hare assured the Council they would not be adopting the standards tonight.

Delapoer said staff is appeasing our state partner.

MOTION: Reid moved to adopt the resolution directing staff to begin the adoption process to protect significant wetlands, riparian corridors, and wildlife habitat as required by the City's Periodic Review work program. Christman seconded the motion and it passed 5-0, and was designated Resolution No. 5786.

Adoption of Consent Calendar

1) Approval of Minutes
   a) May 7, 2009, Work Session.
2) Approving annual liquor license renewals.
3) Authorizing the City of Albany to submit an application for Oregon Safe Routes to School reimbursement funds. RES. NO. 5787

MOTION: Reid moved to adopt the Consent Calendar as presented. Collins seconded the motion and it passed 5-0.

Award of Bid

SS-07-01, Calapooia Interceptor Replacement.

Public Works Director Diane Taniguchi-Dennis said a very good bid climate has resulted in low bids for City projects.

MOTION: Christman moved to award the contract for SS-07-01, Calapooia Interceptor Replacement, in the amount of $523,673 to the low bidder, Pacific Excavation Inc. of Springfield, Oregon. Reid seconded the motion and it passed 5-0.

BUSINESS FROM THE COUNCIL

City Manager Wes Hare reported that he met with the owners of Baileys and the neighbors regarding their dispute over noise. Both parties are making a good faith effort. They have bounced around some ideas on lowering the noise and the hours of operation. Related to this concern is that staff will be bringing forward a conditional use permit for neighborhoods such as these.

NEXT MEETING DATE

The next Work Sessions of the City Council are scheduled for Monday, June 15, 2009, and Monday, June 22, 2009. A Joint Council meeting with the Benton County Commissioners is scheduled for Tuesday, June 23, 2009. The next Regular Session of the City Council is scheduled for Wednesday, June 24, 2009.

ADJOURNMENT

There being no other business, the meeting was adjourned at 8:49 p.m.

Respectfully submitted by,

Betty Langwell, MMC
City Clerk

Reviewed by,

John Stahl
Assistant Finance Director

TO: Albany City Council

VIA: Wes Hare, City Manager
Greg Byrne, Community Development Director
Don Donovan, Planning Manager DDA

FROM: Anne Catlin, Community Development Planner II ac

DATE: June 29, 2009, for July 8, 2009, Albany City Council Meeting

SUBJECT: Oregon Community Development Block Grant Award

Action Requested:

Pass the attached Resolution to accept a $400,000 grant from the Oregon Community Development Block Grant (CDBG) Program to provide funding to the Linn-Benton Regional Housing Rehabilitation Program. The program is operated by the Community Housing Services division of the Community Services Consortium. The Resolution also allows the City to enter into a grant management agreement with the Community Services Consortium, and amends the City budget to include the receipt and expenditure of the grant funds.

Discussion:

Following a public hearing on January 28, 2009, the Council authorized the submittal of an application for funding from the Oregon Community Development Block Grant (CDBG) Program for the Linn-Benton Regional Housing Rehabilitation Program. This program will offer loans for substantial improvements to homes owned and occupied by low- and moderate-income households. Repaid loans go into the Linn-Benton Regional Revolving Loan Fund to provide ongoing funding for this program.

The Council's decision to apply for these funds included your intent to contract with the Community Services Consortium (CSC) for program development and grant management. The grant award includes $80,000 for payment of these contractual services. We are able to establish this contractual relationship through an intergovernmental agreement due to CSC's status as an extension of local government.

To accept the grant, the Council must agree to enter into a contract with the state for the CDBG funds. As with prior CDBG funded activities, accepting this grant will require that the City demonstrate conformance to several federal requirements, such as providing equal employment opportunities and prohibition against discrimination. Staff believes that the City will be able to meet these grant contract requirements. Over the next few months, the City's disability access coordinator will work with disabled volunteers to complete a required self-evaluation of all of our public facilities for compliance with Section 504 of the Rehabilitation Act of 1973 related to accessibility requirements for persons with disabilities. Depending on the scope of the facilities evaluations, staff may request Housing funds to contract out some of these evaluations. Lastly, corrective measures may be needed to accommodate persons with disabilities.

The housing rehabilitation grant does not count against the City's maximum of three open CDBG grants.

Budget Impact:

Accepting this grant will require that the City Budget be amended to indicate the receipt and expenditure of the $400,000 in grant funds.

Housing funds may be needed to complete the facilities evaluations.

AC
Attachment
c: Tom Hatley, Community Services Consortium

U:\Community Development\Planning\Housing\2009 Housing Rehab\Council Memo Grant Accept.docx

RESOLUTION NO._____

A RESOLUTION ENTERING INTO A CONTRACT WITH THE STATE OF OREGON TO ACCEPT AN OREGON COMMUNITY DEVELOMENT BLOCK GRANT FOR THE REGIONAL HOUSING REHABILITATION PROGRAM, TO ENTER INTO A RELATED INTERGOVERNMENTAL AGREEMENT WITH COMMUNITY SERVICES CONSORTIUM AND AMENDING THE CITY BUDGET.

WHEREAS, the Oregon Community Development Block Grant (CDBG) Program is funded by the U.S. Department of Housing and Urban Development (HUD) and operated by the State of Oregon Housing and Community Services Department providing funds for projects assisting low- and moderate-income individuals; and

WHEREAS, on January 28, 2009, Resolution No. 5729, the Albany City Council agreed to submit a CDBG request for housing rehabilitation program money to allow continuation of the Linn-Benton Regional Housing Rehabilitation Program that would finance the rehabilitation of homes that are owned and occupied by low- to moderate-income households; and

WHEREAS, the State of Oregon Housing and Community Services (OHCS) has awarded the City a $400,000 CDBG, Agreement No. HR901, OHCS No. 2004, limited to the Project and activities described in the submitted Application; and

WHEREAS, the CDBG Project is defined as the Linn-Benton Regional Housing Rehabilitation Program with a project completion due date of December 31, 2011; and

WHEREAS, in agreeing to apply for these funds, the City acknowledged its intent to utilize grant administration and program management support of the Community Housing Services, a non-profit corporation and division of the Community Services Consortium; and

WHEREAS, the City and Community Housing Services have outlined the specific roles and activities in this project through an Intergovernmental (Subgrantee) Agreement; and

WHEREAS, Oregon Local Budget Law provides that expenditures in the year of receipt of grants, gifts, bequests or devices transferred to the local government in trust for a specific purpose may be made after enactment of a resolution or ordinance authorizing the expenditure [ORS 294.326(3)].

NOW, THEREFORE BE IT RESOLVED that the City of Albany accepts and agrees to enter into a contract for $400,000 from the Oregon Community Development Block Grant Program for the purpose of providing funds to the Linn-Benton Regional Housing Rehabilitation Program.

BE IT FURTHER RESOLVED that the City of Albany agrees to authorize the City Manager to negotiate and enter into an Intergovernmental (Subgrantee) Agreement with the Community Housing Services for administration and management of the CDBG funded project.

BE IT FURTHER RESOLVED that the CDBG in the amount of $400,000, is hereby appropriated as follows:

Grant Fund		Resources	Requirements
203-40-5076-42016	CDBG Grant	**$400,000**	
203-40-5076-60101	Contractual Services		**$ 80,000**
203-40-5076-67005	CDBG Housing Rehab. Loans		**$320,000**

DATED THIS 8TH DAY OF JULY 2009.

_____
Mayor

ATTEST:

_____
City Clerk

ALBANY POLICE DEPARTMENT

TO: Albany City Council

VIA: Wes Hare, City Manager

FROM: Edward Boyd, Chief of Police Edward Boyd

DATE: June 26, 2009, for July 8, 2009, City Council Meeting

SUBJECT: Full On-Premises Sales, Commercial Establishment, New Outlet Liquor License Application for Ledgends, LLC., D/B/A Henry's at Hickory, 640 Hickory NW.

Action Requested:

I recommend the Full On-Premises Sales, Commercial Establishment, New Outlet Liquor License Application for Ledgends, LLC., D/B/A Henry's at Hickory, be approved.

Discussion:

Mark Randall, Geraldine Martin, and Bob Ferguson on behalf of Ledgends, LLC., D/B/A Henry's at Hickory, have applied for a Full On-Premises Sales, Commercial Establishment, New Outlet liquor license. Based on a background and criminal history investigation through Albany Police Department records, the applicant has no criminal record.

Budget Impact:

None.

MR

ALBANY POLICE DEPARTMENT

TO: Albany City Council

VIA: Wes Hare, City Manager

FROM: Edward Boyd, Chief of Police Edward Boyd (WA)

DATE: June 26, 2009, for July 8, 2009, City Council Meeting

SUBJECT: Full On-Premises Sales, Commercial Establishment, New Outlet Liquor License Application for Vault 244, Inc., D/B/A Vault 244 Bistro/Lounge, 244 First Avenue SW.

Action Requested:

I recommend the Full On-Premises Sales, Commercial Establishment, New Outlet Liquor License Application for Vault 244, Inc., D/B/A Vault 244 Bistro/Lounge, be approved.

Discussion:

Katherine Brown, Michael Brown, and Lane Brown on behalf of Vault 244, Inc., D/B/A Vault 244 Bistro/Lounge, have applied for a Full On-Premises Sales, Commercial Establishment, New Outlet liquor license. Based on a background and criminal history investigation through Albany Police Department records, the applicant has no criminal record.

Budget Impact:

None.

MR

TO: Albany City Council

VIA: Wes Hare, City Manager
Diane Taniguchi-Dennis, Public Works Director

FROM: Mike Wolski, Assistant Public Works Director/Operations

DATE: June 29, 2009, for the July 8, 2009, City Council Meeting

SUBJECT: Purchase of Property Located At 2352 Front Street NE

RELATES TO STRATEGIC PLAN THEME: • Great Neighborhoods

Action Requested:

Staff requests Council authorization to procure an appraisal, title report, and to negotiate a price with the property owner located at 2535 Front Street NE

Discussion:

The Property at 2352 Front Street NE is for sale and listed at $55,000. Attached is a location map. The Linn County Assessor has the real market value set at $27,340. The site is located adjacent to the shops complex, and staff is interested in purchasing this property for several reasons:

- The property is home to a significant white oak grove that should be preserved.
- The most effective way to preserve the grove is to purchase it from the property owner, as the current owners have approved plans to develop it as storage units or apartment/storage units.
- The current zoning is light industrial.
- The listed sale price is $55,000, and according to the flyer, this price is for land and plans only.
- The white oak grove would be integrated as part of the entryway to the wetlands and could potentially be augmented along the road by plantings on existing shops property.
- This preservation would act as an offset for the impacts to the oaks by the Albany-Millersburg Water Reclamation Facility construction and the Operations unit pole building construction.

The oak trees on the property are descendants of a grove of oak trees that were present in the Burkhart 1851 land donation claim survey. The existing grove is known to be anywhere from 100 to 125 years old. As previously noted, this property would act as a gateway for visitors and researchers to the wetlands planned to be located adjacent to First Lake.

The Albany Tree Commission has moved towards recognizing the Oregon White Oak as a native tree that should be preserved and enhanced if possible. The Tree Commission is taking this action because the white oak is rapidly diminishing in numbers (only around 7% of the oak savanna remains in Oregon); the oaks have slow growth and substantial longevity (trees can live to 500 years old); they provide unique habitat for many rare and endangered species of mammals, birds and insects; and because of their historical significance in the Willamette Valley and to native people of the Willamette Valley.

Budget Impact:

Initial costs for an appraisal and title report for the property is less than $5,000.

MW:kw

Exhibit A - Vicinity Map of 2352 Front Avenue NE

March 2006 Photo

Linn County Account Detail

Account: **R 79083** Area:**1** Zoning:**Albany**

Map: 11S-3W-5DB Lot: **3900**

Name/Mailing Address

SCHNOOR, KURT
SCHNOOR, MARCIA
PO BOX 1884
CORVALLIS OR 97339-0000

Site Address

Class:**300** Deed Ref: **MF1587-817**

LAND	RMV:	**$27,340**
IMPROVEMENTS	RMV:	**$0**

Type: Year Blt: **0**

Sq Ft: **0** Rooms: **0/0**

Total RMV:	**$27,340**
2008-09 Levied Tax:	**$210.29**

Levied Tax is the original tax extended on the tax roll. Amount does not include any adjustments or discounts.

06/25/2009 Tax Balance: **$488.17**

Tax Balance includes all unpaid tax, fees and adjustments. Also includes any current discount or interest.

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