NOTICE OF PUBLIC HEARING

CITY OF ALBANY
PLANNING COMMISSION
City Council Chambers, 333 Broadalbin Street SW
Monday, February 17, 2014
5:15 p.m.

AGENDA

1. CALL TO ORDER

2. PLEDGE OF ALLEGIANCE TO THE FLAG

3. ROLL CALL

4. COMMENTS FROM THE PUBLIC

5. CONTINUED - LEGISLATIVE PUBLIC HEARING – COMMISSION DELIBERATION

   DC-03-13 Legislative Development Code Amendments (Type IV) to remove challenges and obstacles to development and redevelopment while maintaining neighborhood compatibility; streamline sign code and increase wall sign allowances; set clear and objective standards for home businesses

6. ACTIVITY UPDATE

7. NEXT PLANNING COMMISSION MEETING DATES:
   Monday, March 17, 2014

8. ADJOURN

***The location of the meeting/hearing is accessible to the disabled. If you need special accommodations to attend or participate please notify Human Resources Department in advance by calling 541-917-7500. City of Albany Web site www.cityofalbany.net*

TO: The Planning Commission

VIA: Mark W. Shepard, P.E., Public Works Director and Community Development Director MWS

FROM: Anne Catlin, Lead Long Range Planner ac

DATE: February 12, 2014

SUBJECT: February 17, 2014 Planning Commission Meeting

The Planning Commission held a Public Hearing and initiated deliberations on the proposed Albany Development Code (ADC) changes recommended by the City's Business Ready Task Force (BRTF) on February 3, 2014. The Planning Commission chose to delay a decision on the proposed changes until the February 17, 2014, meeting in order to have more time to consider the changes to the home-based business regulations. In addition, the Planning Commission requested staff make two changes to the proposed language and requested additional information regarding the tree felling language change.

In an effort to focus and simplify the Planning Commission's discussions, the changes and additional information requested by the Planning Commission are included in this memo. Several attachments are also included to aid in your discussions:

- Attachment A – Summary of all of the proposed BRTF amendments. You saw this summary document at your Work Session on January 6, 2014.
- Attachment B – The ADC language for tree felling (ADC 9.208).
- Attachment C – Summary matrix of the current and proposed home business standards.
- Attachment D – Albany Municipal Code language on noise regulations.

Please review the memo and attachments for the February 17, 2014 meeting so that you are ready to discuss and finalize a recommendation to the City Council.

The proposed ADC changes involve many pages of code language that was included in the Planning Commission packet for February 3, 2014. The entire code changes are not reprinted for this agenda packet. Planning Commissioners should bring the agenda packet from February 3rd to the meeting for reference and use. Page numbers referred to in this memo reference the packet page numbers from February 3rd.

Amendments Requested

The two amendments Planning Commission directed staff to make are discussed below.

1. Remove the proposed requirement for commercial users in LI-zoned property to sign and record a deed regarding the existing uses (in 4.060 (11)(b)"v." below, pages 6 and 70 of the packet).

4.060 (11)**(b) <u>Retail Sales and Service Uses in Existing Buildings in the LI zone</u>. To encourage the reuse of buildings constructed prior to (<u>insert adoption date</u>) in the LI zone, Repair-Oriented Retail Sales and Service uses as described in Section 22.140 will be permitted through Site Plan Review. Personal Service-Oriented uses and Sales and Service-Oriented Retail Sales uses as described in Section 22.140 may be permitted through a Conditional Use review. Retail Sales and Service uses permitted in accordance with this subsection are subject to the**

following additional review criteria:

i. The street system has adequate capacity to accommodate the use through the horizon year of the current Transportation Systems Plan;

ii. The site has adequate on-site parking to accommodate the development, or adequate parking will be provided;

iii. The development will not alter the existing building or site in a way that would discourage or preclude its later conversion back to an industrial use;

iv. A neighborhood meeting is required prior to application submittal; and

v. The commercial user shall ~~sign and record a deed declaration~~ acknowledge~~ing~~ that existing industrial uses have a right to operate free from complaint by commercial uses about externalities typical of industrial use (i.e. noise, smell, toxic material use/storage, truck traffic).

2. Clarify that restriping an existing parking lot is exempt from land use review (packet page 54).

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

(6) New parking areas or expansions to existing parking areas that **are less than 1,000 square feet in area, excluding restriping an existing lot, and do not modify site circulation or access** do not require Site Plan Review as stated in Section 2.430.

Clarification Requested

The Planning Commission asked for more information regarding the proposed language change regarding the exemption for tree felling for industrial developments (9.207, page 85 of the packet).

Site Plan Review is required for cutting 5 or more trees larger than 25-inches in circumference. The intent of the proposed language would allow flexibility for tree removal to address unique needs of some types of industries in consultation with the City Arborist regarding need for removal, species and possible mitigation options (replacing trees, etc.). This flexibility may result in tree removal of non-diseased or dangerous trees.

Staff recommends that the language (originally in 9.207) be part of the review criteria for tree felling in 9.208(1) as seen below. Attachment B includes all of the tree felling criteria in Section 9.208.

9.207 Applicability. Site Plan Review approval is required for the felling of 5 or more trees larger than 25 inches in circumference (approximately 8 inches in diameter) on a lot or property in contiguous single ownership in excess of 20,000 square feet in any zone. ~~[Ord. 5767, 12/7/11]~~

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

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

Home Occupation/Home-Based Businesses

There was public testimony and considerable discussion about home based business regulations at the February 3rd meeting. However, no clear direction was provided to staff and the Commission chose to discuss this issue further at the February 17th meeting. Staff prepared a matrix of the current proposed home business standards with options to consider (Attachment C) to aid in your evaluation of any amendments you may wish to recommend to the City Council.

The Planning Commission did provide some comments and requested additional information regarding a few specific items in the proposed changes. These comments/questions are addressed below.

1. Kennels: Clarify "adult domestic animals" in the description of Kennels (3.100(8) on packet page 35).
   Staff Recommendation: Remove (8) from the list of uses prohibited as home businesses because Kennels are addressed elsewhere in the Code and amend the Kennels Use Category description in Article 22, 22.350(1) as follows:

   (1) Kennels provide overnight boarding, training or breeding of three or more ~~adult domestic animals~~ **dogs older than six months** typically for compensation.

2. Hobby Definition: A definition is included in the packet on page 40 but is located in Article 22 Use Categories and Definitions.

3. Noise: Attachment D includes the Albany Municipal Code (AMC) regulations related to noise and the sections of the Albany Development Code that regulate noise. The AMC noise regulations prohibit construction activities between the hours of 6:00 p.m. and 7:00 a.m. but does not use a decibel limit or address noise generally.

Staff is seeking final direction from the Planning Commission regarding the proposed BRTF changes to the Development Code.

ALC:er
Attachments

Attachment A

City of Albany

SUMMARY OF PROPOSED "BUSINESS READY" CODE AMENDMENTS

A. HOME BUSINESSES (Ordinance Exhibit A)

Issues: Home businesses are now allowed outright within any dwelling, but some of the standards are subjective and can be difficult to enforce if there are negative impacts in the neighborhood (such as "excessive" traffic or "offensive" noise).

Proposed Amendments (ADC Article 3, Sections 3.090-3.180): Create two levels of home businesses:

1. Continue to allow home businesses outright that meet clear, objective and measureable standards (limited vehicle traffic, minimal sound at property line, limited employees, use not visible from outside, etc.); and
2. Consider other home businesses through a conditional use review to allow neighborhood input.

B. PLANNED DEVELOPMENTS (Ordinance Exhibit B)

Issues: Too many steps in the process, common open space is challenging to calculate and 40% is higher than most cities.

Proposed Amendments (ADC Article 11, Sections 11.260-11.330):

1. Reduce number of steps in the process by combining first and second reviews.
2. Don't count side and back yards in open space formula; reduce open space requirement from 40% to 25%; and remove indoor recreation requirement.
3. Add compatibility standards around perimeters adjacent to other developments.

C. PLAN REVIEW PROCESS TIME/COST (Ordinance Exhibit C)

Issue: Minor developments and changes of use should not have to go through the time and expense of Site Plan Review.

Proposed Amendments: Do not require a land use review (Site Plan Review) for many minor additions and changes of use. (See Article 1, Section 1.070 and 2.340 for Site Plan Review.)

D. EXPIRATION OF LAND USE APPROVALS (Ordinance Exhibit C)

Issue: Most land use approvals expire within 3 years. Economic or other conditions may warrant an extension.

Proposed Amendments (ADC Article 1, Sections 1.080-1.083): Allow one 2-year extension with written request for all developments if no changes to applicable laws, except that phased developments may request a second 2-year extension.

E. SMALL INFILL SITE DEVELOPMENT (Ordinance Exhibit C)

Issue: It can be hard to meet development standards on infill sites, most of which are less than one acre in size.

Proposed Amendments:

1. Make development sites less than one acre eligible for an Adjustment to standards. (ADC Article 2, Section 2.080)
2. Add flexibility in meeting site design standards for small infill sites. (ADC Article 8, Sections 8.330 and 8.350)

F. NONCONFORMING USES AND SITES (Ordinance Exhibit C)

Issue: Redevelopment of sites that have lost their nonconforming status may trigger costly site improvements.

Proposed Amendments:

1. Allow for reinstatement of nonconforming status through a review. (ADC Article 2, Section 2.340)
2. Clarify process for nonconforming use changes and expansions. (ADC Article 2, Section 2.350)
3. Improvements to Nonconforming Sites: Modified to require site improvements only when new development requires building permits valued at $25,000 or more, then additional 10% of project costs must go toward bringing site into compliance. (ADC Article 2, Section 2.370)
4. If less than two new parking spaces are required, they do not need to be provided. (ADC Article 9, Section 9.030)

G. REUSE OF VACANT BUILDINGS IN THE LIGHT INDUSTRIAL ZONE (Ordinance Exhibit C)

Issue: The city has received requests for commercial uses in vacant buildings in the LI zone, many of which were built for commercial uses originally permitted in the zone.

Proposed Amendments: Encourage reuse of existing buildings in LI by allowing some commercial and office uses through a conditional use review. (ADC Article 4, Section 4.060 Special Conditions 7 and 11)

H. SMALL-SCALE MANUFACTURING & INDUSTRIAL OFFICE USES IN NON-INDUSTRIAL ZONES (Ordinance Exhibit C)

Issue: Most manufacturing uses are limited to the industrial zones even though some are small-scale and have on-site sales and/or limited off-site impacts.

Proposed Amendments (ADC Articles 4, 5, and 22):

1. Create Small-scale Manufacturing use category for artisan goods up to 10,000 square feet (ADC 22.045) and allow in the OP, CC, and RC zones (ADC 4.050); and in the MUC, WF, HD, CB, LE, PB, and MS zones (ADC 5.060).
2. Add Industrial Office use category for industrial uses that are conducted in an office-like setting with no off-site impacts (ADC 22.110) and allow in the IP, LI, CB, LE, PB, and MS zones (ADC 4.050, and ADC 5.060).

I. DOWNTOWN RESIDENTIAL DEVELOPMENT –OPEN SPACE STANDARDS (Ordinance Exhibit C)

Issue: Common and private open space standards for multi-family are hard to meet in urban setting and historic district.

Proposed Amendments: Exempts new multi-family in the CB, HD, LE, WF, and MUR zones from common and private open space formulas, but requires one "amenity" that can be indoors or outdoors. (ADC Article 8, Sections 8.220 and 8.230)

J. PARKING SPACE REQUIREMENTS (Ordinance Exhibit C)

Issue: Parking is costly to construct and maintain; some land uses do not need the amount of parking currently required.

Proposed Amendments (ADC Article 9, Sections 9.020 - 9.125):

1. Reduce amount of parking required for many uses and alternative standards may be approved by the Director.
2. On-street parking for non-residential uses and areas may count towards meeting a portion of required parking.
3. Incentives provided to reduce number of parking spaces required.
4. Occasional overflow parking - Add standards for unpaved overflow parking up to 15,000 square feet that is used occasionally.

K. SIGN STANDARDS (Ordinance Exhibit D)

Issues: Sections of the Sign Code are inconsistent and it is difficult to determine how many and what size of sign is allowed for businesses; sign allowances for permanent and temporary signs are also limiting.

Proposed Amendments (ADC Article 13): Reorganize for clarity and to reduce redundancy, and the following changes:

1. Total Sign Allowance - Remove aggregate maximums so that sign allowances are by sign type.
2. Wall Signs - Remove limit on number of signs, allowance is based on building length; provide allowance for interior businesses. (Sections 13.422 and 13.432)
3. Temporary Signs - Increase display days from 60 to 120; allow one A-frame sign year round; create separate event sign category to allow unlimited event signs with one registration. (Sections 13.670 and 13.680)

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

(1) The Community Development Director or his/her designee shall approve a Site Plan Review for tree felling when the applicant demonstrates that the felling of the tree(s) is warranted because of the condition of the tree(s) with respect to disease, hazardous or unsafe conditions, danger of falling, proximity to existing structures or proposed construction, or interference with utility services or pedestrian or vehicular safety. The Director may require the applicant to provide a Certified Arborist's report. [Ord. 5767, 12/7/11]

(2) For property where a site plan review, conditional use or land division application has been approved or is currently under review, the Community Development Director, City Forester, or his/her designee shall approve site plan review when the applicant demonstrates that all of the following review criteria are met:

(a) It is necessary to fell tree(s) in order to construct proposed improvements in accordance with an approved site plan review or conditional use review, or to otherwise utilize the applicant's property in a manner consistent with its zoning, this code, applicable plans adopted by the City Council, or a logging permit issued by the Oregon Department of Forestry.

The proposed felling is consistent with State standards, City ordinances, and the proposed felling does not negatively impact the environmental quality of the area, including but not limited to: the protection of nearby trees and windbreaks; wildlife; erosion; soil retention and stability; volume of surface runoff and water quality of streams; scenic quality, and geological sites.

The uniqueness, size, maturity, structure, and historic value of the trees have been considered and all other options for tree preservation have been exhausted. The Director may require that trees determined to be unique in species, size, maturity, structure, or historic values are preserved.

Tree felling in Significant Natural Resource Overlay Districts meets the applicable requirements in Article 6.

[Ord. 5764, 12/1/11, Ord. 5767, 12/7/11]

(3) For property where tree felling has not been approved as part of a site plan review, conditional use, or land division application, the Community Development Director or his/her designee shall approve a tree felling permit, if the review criteria above are met, and the following criteria are met:

a) Trees shall be retained in significantly large areas and dense stands so as to ensure against wind throw.
b) Wooded areas that will likely provide an attractive on-site amenity to occupants of future developments shall be retained.
c) Wooded areas associated with natural drainage ways and water areas will be maintained to preserve riparian habitat and minimize erosion. The wooded area to be retained shall be at least 10 feet in width or as required elsewhere in this Code.
d) Wooded areas along ridges and hilltops will be retained for their scenic and wildlife value.
e) Tree felling on developable areas will be avoided to retain the wooded character of future building sites and so preserve housing and design options for future City

residents.

f) Wooded areas along property lines shall be retained at a minimum width of 10 feet to provide buffers from adjacent properties.

g) The plan for tree felling shall be consistent with the preservation of the site's future development potential and zoning.

[Ord. 5767, 12/7/11]

(4) The Director may attach conditions to the approval of the tree felling permit to ensure the replacement of trees and landscape or otherwise reduce the effects of the felling, and may require an improvement assurance to ensure all conditions are met. [Ord. 5767, 12/7/11]

(5) Precautions shall be made to protect residual trees and tree roots from damaging agents during and after the removal process. The following tree protection specifications should be followed to the maximum extent feasible for all projects with protected existing trees.

(a) Within the drip line of any protected existing tree, there shall be no cut or fill over a four-inch depth unless a qualified arborist or forester has evaluated and approved the disturbance.

(b) Prior to and during construction, an orange fence shall be erected around all protected existing trees that is a minimum of 4 feet tall, secured with metal T-posts, no closer than 6 feet from the trunk or within the drip line, whichever is greater. There shall be no storage or movement of equipment, material, debris or fill within the fenced tree protection zone. [Ord. 5764, 12/1/11]

(c) During the construction stage of development, the applicant shall prevent the cleaning of equipment or material or the storage and disposal of waste material such as paints, oils, solvents, asphalt, concrete, motor oil or any other material harmful to the life of a tree within the drip line of any protected tree or group of trees.

(d) No damaging attachment, wires, signs or permits may be fastened to any protected tree.

(e) Large property areas containing protected trees and separated from construction or land clearing areas, road rights-of-way and utility easements may be "ribboned off," rather than erecting protective fencing around each tree as required in subsection (5)(b) above. This may be accomplished by placing metal t-post stakes a maximum of 50 feet apart and tying ribbon or rope from stake-to-stake along the outside perimeters of such areas being cleared.

(f) The installation of utilities, irrigation lines or any underground fixture requiring excavation deeper than 6 inches shall be accomplished by boring under the root system of protected existing trees at a minimum depth of 24 inches. The auger distance is established from the face of the tree (outer bark) and is scaled from tree diameter at breast height as described in the chart below. [Ord. 5445, 4/12/2000]

Tree Diameter at Breast Height (inches)	**Auger Distance from Face of Tree (feet)**
8-9	5
10-14	10
15-19	12
Over 19	15

HOME BUSINESS STANDARDS COMPARISON MATRIX - Current and Proposed

ATTACHMENT C

		"Level 1/Minor" Home Business - Allowed Outright			"Level 2" Home Business
	Current Code Standard	**2/3/14 Proposal (pp 34-40 of the packet):**	***STANDARDS in OTHER CITIES***	**2/17/14 Staff Recommendation based on testimony and PC input**	**INCREASE ALLOWANCE with Conditional Use Approval**
3.100 Prohibited Uses	(1) Auto body repair and painting. (2) Ongoing mechanical repair conducted outside of an entirely enclosed building. (3) Storage and/or distribution of toxic or flammable materials, and spray painting or spray finishing operations that involves toxic or flammable materials *which in the judgment of the Fire Marshal pose a dangerous risk to the residence, its occupants, and/or surrounding properties.* (4) Junk and salvage operations. (5) Storage and/or sale of fireworks in quantities judged by the Fire Marshal to be dangerous. (6) Storage or display of more than one motor vehicle for sale.	(1) ~~Auto body~~ Repair or painting **of automobiles owned by other people**. **(7) Headquarters for regular assembly of employees for instruction, or dispatch.** **(8) The overnight boarding, training or breeding of three or more adult domestic animals is considered a Kennel and subject to the standards for that use category.**	***Prohibited Uses:*** *Several cities do not have a list of prohibited uses. Of those that do, the list of uses is similar or the same as Albany's current list; however, some jurisdictions prohibit sales.* ***Auto Repair:*** *One city allows auto repair up to 3 vehicles per week.*	**MODIFY:** (2) ~~Ongoing~~ mechanical repair conducted outside of an entirely enclosed building. **MODIFY:** (7) Headquarters or dispatch center where employees come to the site and are dispatched to other locations. **REMOVE** (8): ~~(8) The overnight boarding, training or breeding of three or more adult domestic animals is considered a Kennel and subject to the standards for that use category.~~	***Staff Comments: The Conditional Use process would allow for businesses that do not meet the "Level 1" standards with neighbor input. Standards could be exceeded subject to the Conditional Use (CU) review. The only change staff recommends is that IF hours of operation or times visitors and employees are permitted are added as a standard for Level 1 home businesses, that you consider the same standard apply to home businesses permitted as a CU.***
3.120 (1) Employees	Residents and 1 non-resident employee or volunteer up to 20 hrs/week.	NO CHANGE: residents and 1 non resident up to 20 hrs/week	***Outside employees*** *: range is 0 to 2, with 1 being most common except when 2 levels allowed then "minor" home business does not allow outside employees '.*	**INCREASE:** Residents and 1 **full time** non-resident employee	NO CHANGE: Residents and up to 2 full time non-resident employees.
3.120 (2) Off-site Impacts	There is no ***offensive*** noise, smoke, dust, odors, vibrations, etc. at property line.	Hours of Operation/Visitors: No standards	***Hours of Operation/Visitors*** *: Range is "silent" to 7 a.m. to 9:00 p.m.; 8:00 a.m. to 6 p.m., with "silent" being most common.*	**ADD:** No customers or employees may enter the premises between the hours of 8:00 p.m. and 7:00 a.m.	**ADD:** No customers or employees may enter the premises between the hours of 8:00 p.m. and 7:00 a.m.
		No detectable noise (more than 60 dbls), smoke, dust, heat, odors, or vibrations at property line	***Noise:*** *standards range from no noise to 60 dbA.*	**REWORD:** No smoke, dust, heat, odors, ~~or~~ vibrations**, or** noise more than 60 dbls at property line	Noise: SUBJECT TO CU
3.120 (4) Traffic & Parking	There is not ***excessive*** generation of traffic created by the home occupation, including ***frequent*** deliveries or pickups by trucks or other vehicles	Frequent Deliveries: allow an average of 3 deliveries/pick-ups per day by non-resident vehicles	***Frequent Deliveries*** *: ranges from silent to 3 per week to no excessive or unusual traffic.*	**MODIFY:** Allow an average of 3 deliveries/pick-ups per day by **commercial vehicles, excluding the post office**	Deliveries: SUBJECT TO CU
		Customer Vehicles/Parking: allow 2 customer vehicles at a time	***Customer Vehicles/Parking:*** *range is "silent", no vehicles in street, up to 2 customer vehicles, to provide required parking on-site*	NO CHANGE: allow 2 customer vehicles at a time	Customers/Parking: SUBJECT TO CU
		Vehicle Trips: silent	***Vehicle Trips:*** *silent to 10 trips/ day except 20 for instructional use*	**RECOMMENDATION:** Do not regulate trips.	Vehicle Trips: SUBJECT TO CU
3.110 (2) Residential Character	No visible outside storage of materials other than plant materials.	NO CHANGE: No visible outside storage of materials other than plant materials	***Outside Storage:*** *same as Albany - none allowed exept plant materials*	NO CHANGE: No visible outside storage of materials other than plant materials	NO CHANGE: No visible outside storage of materials other than plant materials
	No display to indicate from exterior that the building is being used for any purpose other than a dwelling.	NO CHANGE: No display to indicate from exterior that the building is being used for any purpose other than a dwelling.	***Outside Display:*** *same as Albany - no indication from right-of-way or adjacent dwellings that building is being used for something other than residential use.*	NO CHANGE: No display to indicate from exterior that the building is being used for any purpose other than a dwelling.	NO CHANGE: No display to indicate from exterior that the building is being used for any purpose other than a dwelling.
		Company Vehicles: silent	***Company Vehicles:*** *ranges from silent to 1 company vehicle allowed per dwelling.*		
3.120 (3) Residential Character	Use does not *adversely affect* residential character of neighborhood. Home Occupation definition says ***"carried on within a dwelling".***	**CHANGE:** *Allow in accessory buildings but address size and scale.* **Size & Scale:** Business can occupy up to 500 square feet within the residence, OR up to 1,000 square feet if in a garage or an accessory building	***Size and Scale:*** *In dwelling: silent, to 33% of main floor area, to 25% of dwelling/500 sq ft being the most common; In accessory building: not allowed up to 3,000 sq ft, with not allowed most common for "Level 1".*	NO CHANGE. The greater of either 25% of house sq.ft. or 500 square feet in residence, OR up to 1,000 square feet if in a garage or an accessory building	Size: SUBJECT TO CU

ALBANY MUNICIPAL CODE

7.08.050 Unnecessary noise.

It is unlawful for any person to create, assist in creating, permit, continue, or permit the continuance of any loud, disturbing, or unnecessary noise in the City. The following acts are declared to be violations of this section, but such enumerations are not deemed to be exclusive:

(1) The keeping of any animal which by frequent or loud continued noise disturbs the comfort and repose of any person in the vicinity;

(2) The use of any automobile, motorcycle, streetcar, or other vehicle, any engine, stationary or moving instrument, device, or thing so out of repair, so loaded, or operated in such manner as to create loud or unnecessary grating, grinding, rattling, or other noises;

(3) The sounding of any horn or signal device on any automobile, motorcycle, streetcar, or other vehicle on any street or public place of the City, except as a necessary warning or danger to property or person;

(4) The use of any mechanical device operated by compressed air, steam, or otherwise, unless the noise created thereby is effectively muffled;

(5) The erection, including excavation, demolition, alteration, or repair of any building, other than between the hours of 7:00 a.m. and 6:00 p.m., except upon special permit granted by the Common Council;

(6) Construction and activities ancillary to construction, not regulated under subsection (5) of this section or the Albany Standard Construction Specifications, including, but not limited to, preparation of materials, staging of construction equipment and apparatus, processing, preparing, or moving construction vehicles, equipment, or material, which generate sounds audible at any residentially zoned property; and which generate sounds for 30 minutes or more in any three-hour period between the hours of 6:00 p.m. and 7:00 a.m. This subsection does not apply to construction related activities performed by the City of Albany or pursuant to a City of Albany contract or those activities otherwise permitted by the Common Council;

(7) The use of any gong or siren upon any vehicle other than police, fire, or other emergency vehicle;

(8) The operation of any gasoline engine without having the same equipped with and using thereupon a muffler;

(9) The use of “muffler cutout” on any motor vehicle upon any street;

(10) The use or operation of any automatic or electric piano, phonograph, radio, loudspeaker, or any sound amplifying device so loudly as to disturb persons in the vicinity thereof or in such manner as renders the same a public nuisance; provided, however, that upon application to the City Manager permits may be granted to responsible persons or organizations to broadcast programs of music, news, speeches, or general entertainment;

(11) The conducting, operating, or maintaining of any garage within 100 feet of any building used as a private residence, apartment house, rooming house, or hotel in such a manner as to cause loud or offensive noises to be emitted therefrom between the hours of 10:00 p.m. and 7:00 a.m. The foregoing acts are declared nuisances and any person violating any of the provisions of this section shall be deemed guilty of an offense. (Ord. 5761 § 1, 2011; Ord. 4937 § 1, 1990; Ord. 3873 § 1, 1975; Ord. 2823 § 43, 1958).

7.08.052 Sound amplifying paging systems.

(1) For purposes of this chapter, a “sound amplifying paging system” is defined as any device which amplifies any sound from which a person may obtain the information that he or she is receiving a telephone call or from which he or she may receive directions from another person. “Sound amplifying paging system” does not include any sound amplification device used by any law enforcement agency, fire department, or other unit of government that uses such device in connection with law enforcement or public safety function.

For purposes of this chapter, “plainly audible” is defined as any sound which can be heard outside of any building by the human ear 20 feet or more from the source of such sound.

(2) It shall be unlawful to operate or permit the use or operation of any sound amplifying paging system which produces a plainly audible sound except as provided herein.

(3) Operation of sound amplifying paging systems shall be permitted from the hours of 8:00 a.m. to 9:00 p.m. so long as the volume of sound shall not exceed 65 decibels at any property

line which is under the control of the operator of the system and is contiguous to the property upon which the sound amplifying paging system is located.

(4) It shall be unlawful to operate any sound amplifying paging system which is plainly audible between the hours of 9:00 p.m. and 8:00 a.m.

(5) This section applies only to amplified sound or speech. It does not apply to the unamplified human voice. (Ord. 4998 § 1, 1992).

ALBANY DEVELOPMENT CODE

NOISE STANDARDS

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. [Ord.5720, 08/12/2009]

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} – 55 dBA	L_{01} – 55 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

(1) 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-generating sources under the provisions of DEQ rules, any point where a 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-sensitive property under the provision of DEQ rules, with the exception that the allowable noise levels shall be increased by 5 db.

(c) The allowable noise levels cited in Tables 7, 8 and 9 shall apply to all non-residential uses.

(2) 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.

(3) 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.