



COMMUNITY DEVELOPMENT

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

Staff Report

Comprehensive Plan and Albany Development Code Text Amendments

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

July 6, 2020

HEARING BODIES:	Planning Commission	City Council
HEARING DATES:	Monday, July 13, 2020	Wednesday, August 26, 2020
HEARING TIMES:	5:15 p.m.	7:15 p.m.
HEARING LOCATION:	Due to Governor Brown's Executive Orders limiting public gatherings during the COVID-19 pandemic, this meeting is accessible to the public via phone and video connection. At 5:15 p.m., join with the GoToMeeting app on your computer, tablet, or smartphone (using your device's microphone and speakers): https://www.gotomeet.me/CommunityDevelopmentCityofAlbany/pc If you wish to dial in using your phone: Call 1-571-317-3122 and when prompted enter access code 498-239-709	

Application Information

Proposal:	Comprehensive Plan Amendment regarding the title of the Landmarks Commission; Albany Development Code Amendment (IV-Legislative) regarding historic review of demolitions and title of the Landmarks Commission.
Review Bodies:	Planning Commission and City Council (Type IV - Legislative review process)
Applicant:	City of Albany, Community Development Department, 333 Broadalbin Street SW, Albany, OR 97321.
Address/Location:	Not applicable; the code amendment is not site specific
Staff Report Prepared by:	Laura LaRoque, Project Planner

Overview

Sections 2.210 and 2.280 of the Albany Development Code (ADC) allows for the Community Development director to initiate legislative amendments to the Albany Comprehensive Plan (Plan) and ADC. The City has implemented a process to periodically evaluate and adopt changes to the Plan and ADC to include both clarifying and policy edits. The proposed amendment package (planning files CP-01-20 & DC-01-20) would:

- Amend sections of Chapter 2 and Appendices I, IIA, and IV of the Plan to remove the word “advisory” from all title references to the Landmarks Commission (LC) in accordance with recent amendments to Albany Municipal Code (AMC) Title 2, Chapter 2.76.
- Amend sections of ADC Article 7 related to the protection of National Register resources to comply with Oregon Administrative Rule (OAR) 660-023-0200(8).
- Amend sections of ADC Articles 1, 2, 7, 9, 13, and 22 to remove the word “advisory” from all title references to the LC in accordance with recent amendments to Albany Municipal Code (AMC) title 2, chapter 2.76.
- Add section 7.370 to the ADC to rectify a discrepancy in the timing of the issuance of a demolition permit after demolition review. Proposed amendments align the timing of the issuance of a permit for demolition with the land use demolition review appeal period.

Landmarks Commission Title Amendments

On February 11, and May 22, 2019, City Council discussed amendments to Title 2, Administration and Personnel of the AMC that relate to the City’s boards and commissions. These amendments included the reassignment of appointment duties of several advisory bodies including the LC. On June 21, 2019, Ordinance No. 5928 amending section 2.76.020 of the AMC from Mayor to Council appointment of Landmarks Commissioners became effective (see Attachment E).

On March 11, March 25, and June 24, 2019, City Council also discussed options to resolve conflicting language in the AMC and ADC regarding the decision-making authority of the LC. On August 23, 2019 Ordinance No. 5931, became effective (see Attachment F). Amendments included the removal of the word “advisory” from the title references to the LC in all sections of AMC 2.76, modification of AMC 2.76.040 to reflect current election and recording practices, and modification of AMC 2.76.050 regarding the decision-making authority of the LC under AMC 2.76.050

The amendments to the AMC resolved the conflicting language between the AMC and ADC regarding the decision-making authority of the LC but created conflicting language in terms of the LC title. Proposed amendments to the ADC will resolve these conflicts by removing the word “advisory” from all title references to the LC and amending the definition of the LC under Section 7.020 to reflect the reassignment of appointment duties and decision-making authority under AMC 2.76. Proposed amendments to the Plan will also remove the word “advisory” from all title references to the LC.

National Register Resource Protection Amendments

In 2017, the Department of Land Conservation and Development (DLCD), with guidance from the State Historic Preservation Office (SHPO), amended Goal 5 rule for historic resources (OAR 660-023-0200) to: 1) achieve a base level protection for historic resources listed in the National Register of Historic Places; 2) clarify circumstances under which owner-consent provisions in ORS 197.772(1) apply to historic resources listed in the National Register; 3) clarify procedural steps (i.e. inventory, designating historic resources, and application of historic resource protection ordinances); 4) clarify standing under the owner consent provisions of ORS 197.772(2) and describe the circumstances in which a local government may remove a resource from a resource list.

On February 23, 2018, amendments to OAR 660-023-0200, became effective and include new and amended definitions, clearer distinction between procedural steps (i.e. inventory, designating historic resources, and application of historic resource protection ordinances), and set standards for implementing the “shall protect” directive for National Register resources (see Attachment G).

Included in the 2017 amendments to OAR 660-023-0200 was a requirement (OAR 660-023-0200(8)(c)) that local governments **must** amend local land use regulations to comply with OAR 660-023-0200(8)(a) which requires National Register resources to be protected by review of demolition or relocation that includes, at minimum, a public hearing

process that results in approval, approval with conditions, or denial upon consideration of the following factors: condition, historic integrity, age, historic significance, value to the community, economic consequences, design or construction rarity, and consistency with and consideration of other policy objectives in the acknowledged comprehensive plan.

Two other amendments apply directly to local government decisions until the local governments amend their land use regulations to conform with the rule. These amendments include OAR 660-023-0200(9), which set standards for the removal of a locally designated significant historic resource from a resource list and OAR 660-023-0200(10) that requires a 120-day demolition permit delay for demolition or modification of a locally significant historic resource.

This staff report addresses proposed amendments to comply with OAR 660-023-0200(8) – the protection of National Register resources. Subsequent amendments must be conducted to become fully compliant with OAR 660-023-0200.

Proposed Amendments

Proposed amendments as they would appear in the Plan and ADC are included as attachments (Attachments A and B). In this report and attached section amendments, proposed new text is in red font and proposed deleted text is in red strike-out font. A “clean” copy of proposed section amendments, without red strike-out font, is provided in Attachments C and D. Both the strike-out and clean versions of the amended sections of the Plan and ADC contain text boxes that explain proposed changes. Should the proposed amendments be approved, the text boxes with the explanations will be removed and the approved amendments made part of the Plan and ADC.

Notice Information

Public notice was issued in accordance with legislative amendment requirements. A notice was issued to the Oregon Department of Land Conservation and Development (DLCDD) on June 8, 2020, at least 35 days before the first evidentiary hearing, in accordance with OAR 660-018-0020 and ADC 1.640. A Notice of Public Hearing was mailed on June 29, 2020, to Linn and Benton County Planning Divisions, City of Millersburg, and Oregon State Historic Preservation Office. A Notice of Public Hearing was provided for publication to the *Albany Democrat-Herald* on July 3, 2020. The staff report for the proposed development code and comprehensive plan amendments was posted on the City’s website on July 6, 2020, at least seven days before the first evidentiary public hearing. As of the date of this report, no comments have been received by the Community Development Department.

Review Process and Appeals

Amendments to the Plan and ADC are made through a Type IV legislative land use review process. Following this process, the Planning Commission will hold a public hearing to consider proposed amendments and will make a recommendation to the City Council. The Planning Commission’s recommendation cannot be appealed. The City Council will hold a subsequent public hearing to consider the proposed amendments. After closing the public hearing, the City Council will deliberate and make a final decision. Within five days of the City Council’s final action on the proposed amendments, the Community Development director will provide written notice of the decisions to any parties entitled to notice. A City Council decision can be appealed to the Oregon Land Use Board of Appeals (LUBA) if a person with standing files a Notice of Intent to Appeal within 21 days of the date the decision is reduced to writing and bears the necessary signatures of the decision makers.

Analysis of Development Code Criteria

Comprehensive Plan Text Amendment (file no. CP-01-20)

Section 2.220(1)(2) of the ADC includes the following review criteria that must be met for this legislative text amendment to be approved. Code criteria are written in ***bold italics*** and are followed by findings and conclusions.

Comprehensive Plan Amendment - Review Criterion 2.220(1)

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

Findings of Fact

- 1.1 The proposed amendment package (planning files CP-01-20 & DC-01-20) would: (1) Amend sections of Chapter 2 and Appendices I, IIA, and IV of the Plan to remove the word “advisory” from all title references to the LC in accordance with recent amendments to Albany Municipal Code (AMC) Title 2, Chapter 2.76; (2) Amend sections of ADC Article 7 related to the protection of National Register resources to comply with Oregon Administrative Rule (OAR) 660-023-0200(8). (3) Amend sections of ADC Articles 1, 2, 7, 9, 13, and 22 to remove the word “advisory” from all title references to the LC in accordance with recent amendments to Albany Municipal Code (AMC) title 2, chapter 2.76; (4) Amend the term “Demolition” and “Landmarks Commission” and add the term “National Register Resource” and (5) Add section 7.370 to the ADC to rectify a discrepancy in the timing of the issuance of a demolition permit after demolition review. Proposed amendments align the timing of the issuance of a permit for demolition with the land use demolition review appeal period.
- 1.2 Legislative amendments must be consistent with goals and policies outlined in the Oregon Statewide Planning Goals, Albany’s Comprehensive Plan, and any relevant plan adopted by City Council.
- 1.3 The Comprehensive Plan defines a goal as, “a general statement indicating a desired end, or the direction the City will follow to achieve that end” (Comprehensive Plan, page ii).
- 1.4 The Comprehensive Plan describes the City’s obligation in regard to goals as follows: “The City cannot take action which opposes a goal statement unless: 1) It is taking action which clearly supports another goal; and 2) There are findings indicating the goal being supported takes precedence (in the particular case) over the goal being opposed,” (Comprehensive Plan, page ii).
- 1.5 The Comprehensive Plan (page 2) defines a policy as, “a statement identifying a course of action or City position.”
- 1.6 The Comprehensive Plan describes the City’s obligation regarding policies as follows: “The City must follow relevant policy statements in making a land use decision . . . [I]n the instance where specific Plan policies appear to be conflicting, then the City shall seek solutions which maximize each applicable policy objective within the overall content of the Comprehensive Plan and in a manner consistent with the statewide goals. In balancing and weighing those statements, the City can refer to general categories of policies and does not have to respond to each applicable policy. Also, in this weighing process, the City shall consider whether the policy contains mandatory language (e.g., shall, require) or more discretionary language (e.g., may, encourage),” (Comprehensive Plan, page iii).
- 1.7 The following Oregon’s Statewide Land Use Planning Goals and Plan goals and policies are specific to historic and cultural resources. Goals and polices are shown below in **bold** print followed by findings of fact and conclusions.

Statewide Planning Goal 1: To develop a citizen involvement program that ensures the opportunity for citizens to be involved in all phases of the planning process.

Statewide Planning Goal 2: To establish a land use planning process and policy framework as a basis for all decisions and actions related to the use of land and to assure an adequate factual bases for such decisions.

Albany Comprehensive Plan – Land Use Planning (Chapter 9)

Goal: Ensure that local citizens and other affected groups, neighborhoods, agencies, and jurisdictions are involved in every phase of the planning process.

Policy 2: When making land use and other planning decisions:

- a. **Actively seek input from all points of view from citizens and agencies and assure that interested parties from all areas of the Urban Growth Boundary have the opportunity to participate.**
- b. **Utilize all criteria relevant to the issue.**
- c. **Ensure the long-range interests of the general public are considered.**
- d. **Give particular attention to input provided by the public.**
- e. **Where opposing viewpoints are expressed, attempt to reach consensus where possible.**

Policy 4: Ensure information is made available to the public concerning development regulations, land use, and other planning matters including ways they can effectively participate in the planning process.

Goal: Undertake Periodic Review and Update of the Albany Comprehensive Plan to ensure the Plan:

1. **Remains current and responsive to community needs.**
 2. **Retains long-range reliability.**
 3. **Incorporates the most recent and reliable information**
 4. **Remains consistent with state laws and administrative rules.**
- 1.8 In 2018, the Land Conservation and Development Commission (LCDC) adopted new administrative rules governing how Oregon jurisdictions identify, designate, and protect historic resources. See findings 2.2 and 2.3, incorporated herein by reference.
 - 1.9 On June 21, 2019, Ordinance No. 5928 amending section 2.76.020 of the AMC from Mayor to Council appointment of Landmarks Commissioners became effective. On August 23, 2019 Ordinance No. 5931, became effective. Amendments included the removal of the word “advisory” from the title references to the LC in all sections of AMC 2.76, modification of AMC 2.76.040 to reflect current election and recording practices, and modification of AMC 2.76.050 regarding the decision-making authority of the LC under AMC 2.76.050 Proposed text amendments to the Plan and ADC are reflective of recent changes in the AMC in terms of the title, decision-making authority, and appointment of the Landmarks Commission.
 - 1.10 A discussion of proposed legislative amendments to the ADC related to amendments to OAR 660-018-0020 and AMC 2.76 under planning file no. DC-02-19 occurred during separate, duly advertised public meetings of the Planning Commission, landmarks commission, and City Council on October 28, November 6, and December 4, 2019, respectively. The City Council did not approve ADC text amendments (planning file no DC-02-19) proposed through that process; however, that review process is relevant to the current amendment process as it was on the same topic and informed the current proposal.
 - 1.11 A notice of the proposed text amendments (planning files CP-01-20 and DC-02-20) was issued to the Oregon Department of Land Conservation and Development (DLCD) on June 8, 2020, at least 35 days before the first evidentiary hearing, in accordance with OAR 660-018-0020 and ADC 1.640.
 - 1.12 A Notice of Public Hearing (planning files CP-01-20 and DC-02-20) was mailed on June 29, 2020, to Linn and Benton County Planning Divisions, City of Millersburg, and Oregon State Historic Preservation Office. A Notice of Public Hearing was provided for published in the Albany Democrat-Herald on July 3, 2020. These notices informed the public that the amendments would be considered during the July 13 Planning Commission and August 26, 2020 City Council public hearings, consistent with the legislative hearing notice requirements of ADC 1.600.

- 1.13 A staff report concerning the proposed text amendments (planning files CP-01-20 and DC-01-20) was posted on the City’s website on July 6, 2020, at least seven days before the first evidentiary public hearing.
- 1.14 Through the notification and public hearing process, all interested parties are afforded the opportunity for the to review proposed text amendments, comment on the proposal, attend the public hearings, and for decisionmakers to consider testimony as they recommend or decide on the final amendments.

Statewide Planning Goal 5: To protect natural resources and conserve scenic and historic areas and open spaces.

Albany Comprehensive Plan – Scenic & Historic Areas, & Natural Resources (Chapter 2)

Goal: Protect Albany’s historic resources and utilize and enhance those resources for Albany residents and visitors.

Policy 3: Within the city limits, maintain historic review ordinances for historic structures and districts which incorporate the following:

- (a) **Except where public safety jeopardized, allow the demolition of historic structures only when the existing structure cannot be economically rehabilitated or moved, or there is a demonstrated public need for the new use; and the proposed development is compatible with the adjacent properties.**

Implementation Method 11: Periodically review and update the city historic ordinance concerning demolition, historic alteration, and new construction within historic districts.

Albany Comprehensive Plan – Social Amenities (Chapter 7)

Goal: Improve Albany’s image, livability, appearance, and design quality through aesthetic enhancement.

Policy 7: Increase the aesthetic and design quality of the downtown commercial core through: (...)

- f. **Utilization of the Historic Alteration and demolition Ordinance to promote design consistency within the Downtown Historic District.**
- 1.15 The term “protect” is not defined in the Comprehensive Plan but is under OAR 660-023-0200(1)(i) as a “review of application for demolition, relocation, or major exterior alteration of a history resource, or to delay approval of, or deny, permits for these actions in order to provide opportunities to continue preservation.” The ADC already affords protection of National Register Resources and locally significant historic resources through a Type III Quasi-Judicial review procedure with the following exceptions: 1) building or structures that are designated as non-contributing within a historic district; and 2) building and structures that have been damaged in excess of 70 percent of its previous value in a fire, flood, wind, or other act of God, or vandalism.
- 1.16 Proposed ADC text amendments clarify that a Type III Quasi-Judicial review of demolition and relocation is required for all National Register Resources except building and structures that are designated as non-contributing within a historic district. OAR 660-023-0200(8)(a) allows local jurisdictions to exclude accessory structures and non-contributing resources within a National Register nomination from demolition and relocation review.
- 1.17 Proposed ADC text amendments also clarify that a denial of demolition and relocation of a National Register Resource is permissible upon consideration of the following factors: condition, historic integrity, age, historic significance, value to the community, economic consequences, design or construction rarity, and consistency with and consideration of other policy objective in the acknowledge comprehensive plan.

- 1.18 Proposed ADC text amendments include the addition of section 7.370 to rectify a discrepancy in the timing of the issuance of a demolition permit after demolition review. Proposed amendments align the timing of the issuance of a permit for demolition with the land use demolition review appeal period.

Statewide Planning Goal 14: To provide for an orderly and efficient transition from rural to urban land use, to accommodate urban population and urban employment inside urban growth boundaries, to ensure efficient use of land, and to provide for livable communities.

Albany Comprehensive Plan – Urbanization (Chapter 8)

Goal (North Albany) Land Use: Create great neighborhoods that offer diversity in housing choices.

Policy 4: Protect and enhance cultural and historic resources.

Implementation Methods: Utilize historic review procedures to protect North Albany’s historic resources.

Policies – (South Albany) Natural and Cultural Resources

Policy 6: Historic properties should be preserved and enhanced, where feasible. Three potentially significant historic properties were identified in the project area: (1) 6732 Seven Mile Way, (2) 6061 Columbia Street, and (3) 3795 Lochner Road. Properties from the 1800s are becoming increasingly rare in Oregon as structures become more fragile through weathering and difficulties with maintenance. For those historic structures that can survive and even be rehabilitated, they can become anchor points in the community.

- 1.19 “Relevant area plans” as used here means land use plans. For example, the City has relevant area plans for areas such as North Albany and South Albany.
- 1.20 The proposed amendments concerning the protection of National Register Resources are consistent with North Albany and South Albany Natural Cultural Resources Policies 4 and 6, respectively, as they clarify that historic resources designated on the National Register of Historic Places are protected through review of demolition and relocation after consideration of review criteria including factors such as condition, historic integrity, age, historic significance, value to the community, economic consequences, design or construction rarity, and consistency with and consideration of other policy objective in the acknowledge comprehensive plan.

Comprehensive Plan Amendment - Review Criterion 2.220(2)

A legislative amendment is needed to meeting changing conditions or new laws.

Findings of Fact

- 2.1 In 2018, the LCDC adopted new administrative rules governing how Oregon jurisdictions identify, designate, and protect historic resources.
- 2.2 The rule (OAR 660-023-0200) states that local governments **must** amend land use regulations to protect National Register Resources. The term “protect” is defined as “review of applications for demolition, relocation, or major exterior alterations of a [National Register Resource].” This “review” must at a minimum include a public hearing process that results in approval, approval with conditions, or denial upon consideration of the following factors: condition, historic integrity, age, historic significance, value to the community, economic consequences, design or construction rarity, and consistency with and consideration of other policy objectives in the acknowledge comprehensive plan. Local jurisdictions may exclude accessory structures and non-contributing resources within a National Register nomination from protection.

- 2.3 The rule (OAR 660-023-0200) further states that local government **may** provide additional protection of National Register Resources, at its discretion, through a public hearing process. Protection measures applied by a local government to a National Register resource listed before the effective date of the rule (February 23, 2018) continue to apply until the local government amends or removes them.
- 2.4 On June 21, 2019, Ordinance No. 5928 amending section 2.76.020 of the AMC from Mayor to Council appointment of Landmarks Commissioners became effective. On August 23, 2019, Ordinance No. 5931, became effective. Amendments included the removal of the word “advisory” from the title references to the LC in all sections of AMC 2.76, modification of AMC 2.76.040 to reflect current election and recording practices, and modification of AMC 2.76.050 regarding the decision-making authority of the LC under AMC 2.76.050. Proposed text amendments to the Plan and ADC are reflective of recent changes in the AMC in terms of the title, decision-making authority, and appointment of the Landmarks Commission.

Development Code Text Amendment (file no. DC-01-20)

Section 2.290 of the ADC includes the following review criteria, which must be met for this legislative text amendment to be approved. Code criteria are written in *bold italics* and are followed by findings and conclusions.

Development Code Amendment - Review Criterion 2.290(1)

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

Findings of Fact

- 1.1 See findings 1.1 through 1.20 above, incorporated herein by reference on how proposed amendments better achieve the goals and policies of the Comprehensive Plan.

Development Code Amendment - Review Criterion 2.290(2)

The proposed amendments are consistent with Development Code policies on purpose and with the purpose statements for the base zone, special purpose districts, or development regulation where the amendment is proposed.

Findings of Fact

- 2.1 ADC 2.290(2) requires ADC amendments to be consistent with ADC policies and purpose statements for the affected base zones. Below are purpose statements from Article 1 – Administration and Procedures, Article 2 – Review Criteria, Article 7 – Historic Overlay District, Article 9 – On-site Development and Environmental Standards, Article 13 – Signs, and Article 22 – Definitions. Articles 1, 2, 9, 13, and 22 apply to the entire ADC and Article 7 is the historic overlay zone provisions that would be affected by the proposed National Register Resource protection amendments.

Article 1 – Administration and Procedures

Introduction

1.020 Purpose. The general purpose of this code is to set forth and coordinate city regulations governing the development and use of land. The code is more specifically intended to do the following:

1. Serve as the principal vehicle for implementation of the City’s Comprehensive Plan in a manner that protects the health, safety, and welfare of the citizens of Albany.
2. Satisfy relevant requirements of federal law, state law, statewide goals, and administrative rules.
3. Facilitate prompt review of development proposals and the application of clear and specific standards.

4. Provide for public information, review, and comment on development proposals that may have a significant impact on the community.
5. Guide public and private planning policies and actions to ensure provision of adequate water, sewage, transportation, drainage, parks, open space and other public facilities and services for each development.
6. Establish procedures and standards requiring that the design of site improvements and building improvements consistent with applicable standards and design guidelines.
7. Provide for review and approval of the relationship between land uses and traffic circulation in order to minimize congestion, with particular emphasis on not exceeding the planned capacity of residential streets.
8. Require that permitted uses and development designs provide reasonable protection from fire, flood, landslide, erosion, or other natural hazards, as well as prevent the spread of blight, and help prevent crime.
9. Protect and enhance the City's beauty and character.
10. Protect constitutional property rights, provide due process of law, and give consideration in all matters to affected property owner interests in making land use decisions.

1.050 Consistency with Plan and Laws. Actions initiated under this code shall be consistent with the adopted Comprehensive Plan of the City of Albany and with applicable state and federal laws and regulations as these plans, laws, and regulations may now or hereafter provide. Since the City of Albany has a Comprehensive Plan and implementing regulations that have been acknowledged by the State of Oregon as being in compliance with statewide goals, any action taken in conformance with this code shall be deemed also in compliance with statewide goals and the Comprehensive Plan. Unless stated otherwise within this code, specific findings demonstrating compliance with the Comprehensive Plan are not required for land use application approval. However, this provision shall not relieve the proponent of the burden of responding to allegations that the development action requested is inconsistent with one or more Comprehensive Plan policies.

Article 1 Purposes - Findings of Fact and Conclusions

- 2.1 As described previously under findings 1.1 through 1.20, incorporated herein by reference, proposed amendments are consistent with applicable Plan goals, policies, and implementation methods. Proposed amendments related to National Register resource protection clarify that all National Register resources are protected through review of demolition and relocation, which is required by state law. Given this, the proposed amendments are consistent with Article 1 purpose statements 1, 2, and 3.
- 2.2 Proposed amendments related to the protection of National Register resources clarify that a quasi-judicial Type III review procedure is required for demolition and relocation review of all National Register resources in Article 7 – Historic Overlay District. As such, the proposed amendments are consistent with Article 1 purpose statements 3, 4, and 10. Review criteria for demolition and relocation of a National Register resources includes factors such as value to the community, design or construction rarity, and consistency with and consideration of other policies objectives in the Comprehensive Plan which help protect and enhance the City's beauty and character. Therefore, the proposed amendments are also consistent with Article 1 purpose statement 9.
- 2.3 Proposed amendments comply with state law and are consistent with the Plan. Thus, they are consistent with the provisions in ADC 1.050 – Consistency with Plan and Laws.

Article 7 – Historic Overlay District

7.000 Overview. The regulations of the Historic Overlay District supplement the regulations of the underlying zoning district. The Historic Overlay District provides a means for the City to formally recognize and protect its historic and architectural resources. Recognition of historical landmarks helps preserve a part of the heritage of the City. When the regulations and permitted uses of a zoning district conflict with those of the Historic Overlay District, the more restrictive standards apply.

Article 7 Purposes - Findings of Fact and Conclusions

- 2.4 Proposed amendments for Article 7 – Historic Overlay District are to protect National Register Resources in accordance with OAR 660-023-0200(8). The term “protect” is defined under OAR 660-023-0200(1)(i) as “review of applications for demolition, relocation, or major exterior alterations of a [National Register Resource].” This “review” must, at a minimum, include a public hearing process that results in approval, approval with conditions, or denial upon consideration of the following factors: condition, historic integrity, age, historic significance, value to the community, economic consequences, design or construction rarity, and consistency with and consideration of other policy objectives in the acknowledge comprehensive plan.
- 2.5 Proposed amendments to Article 7 are as follows:
- a. Sections 7.010 - Applicability, 7.310 - Procedure, and 7.350 of the ADC to clarify that all National Registered Resources are subject to review of demolition and relocation through a Type III quasi-judicial review procedure as opposed to a Type I permit.
 - b. Section 7.020 – Definitions to amend the word “demolition” to what is provided under OAR 660-023-0200(1)(a). The term definition under OAR 660-023-0200(1)(a) applies directly to local land use decisions regarding a National Register Resource. This definition applies directly to other local land use decisions regarding a historic resource unless the local comprehensive plan or land use regulations contain a different definition.
 - c. Section 7.020 - Definitions to add the phrase “National Register Resource” to what is provided under OAR 660-023-0200(1)(g).
 - d. Section 7.330 – Review Criteria to add factors listed in OAR 660-023-0200(8)(a) that must be taken into consideration during demolition or relocation review of a National Register Resource.
 - e. Section 7.360 – Decision/Appeals to add denial as a decision outcome in demolition and relocation reviews in accordance with OAR 660-023-0200(8)(a).
 - f. Section 7.370 – to add a new section entitled “issuance of demolition permit after demolition review” to align the issuance of a demolition permit with the conclusion of the demolition review appeal period.
- 2.6 All proposed amendments will ensure that National Register resources are protected in accordance with OAR 660-023-0200(8). Therefore, the proposed amendments are consistent with Article 7 purpose statement.

Article 2 – Review Criteria

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

Article 9 – On-site Development and Environmental Standards

9.360 **Purpose.** Fences can create a sense of privacy, protect children and pets, provide separation from busy streets, and enhance the appearance of property. The negative effects of fences can include the creation of street walls that inhibit police and community surveillance, decrease the sense of community, hinder emergency access, lessen solar access, hinder the safe movement of pedestrians and vehicles, and create an unattractive appearance. These standards are intended to promote the positive aspects of fences and to limit the negative ones.

Article 13 – Signs

13.110 Purpose

- 1.1 While signs communicate all types of helpful information, unregulated signs obstruct views, distract motorists, displace alternative uses for land, and pose other problems that legitimately call for regulation. The purpose of this article is to regulate the size, illumination, movement, materials, location, height, and condition of all signs placed on private property for exterior observation, thus ensuring the protection of property values; the character of the various neighborhoods; the creation of a convenient, attractive, and harmonious community; protection against destruction of or encroachment on historic convenience to citizens and encouraging economic development. This article allows adequate communication through signage while encouraging aesthetic quality in the design, location, size, and purpose of all signs. This article shall be interpreted in a manner consistent with the First Amendment guarantee of free speech. If any provision of this article is found by a court of competent jurisdiction to be invalid, such finding shall not affect the validity of other provisions of this article which can be given effect without the invalid provision.
- 1.2 A sign placed on land or on a building for the purpose of identification, protection, or directing persons to a use conducted therein must be deemed to be an integral, but accessory and subordinate, part of the principal use of land or building. Therefore, the intent of this article is to establish limitations on signs to ensure they are appropriate to the land, building, or use to which they are appurtenant and are adequate for their intended purpose while balancing the individual and community interests identified in subsection (1) of this section.
- 1.3 These regulations are intended to promote signs that are compatible with the use of the property to which they are appurtenant, landscape and architecture of surrounding buildings, are legible and appropriate to the activity to which they pertain, are not distracting to motorists, and are constructed and maintained in a structurally sound and attractive condition.
- 1.4 These regulations do not regulate every form and instance of visual communication that may be displayed anywhere within the jurisdictional limits of the City. Rather, they are intended to regulate those forms and instances that are most likely to meaningfully affect one or more of the purposes set forth above.
- 1.5 These regulations do not entirely eliminate all of the harms that may be created by the installation and display of signs. Rather, they strike an appropriate balance that preserves ample channels of communication by means of visual display while still reducing and mitigating the extent of the harms caused by signs.

Article 22 – Definitions

22.010 **Introduction to the Use Categories.** This section classifies land uses and activities into use categories based on common functional, product, or physical characteristics. The use categories provide a systematic basis for assigning present and future uses to zones. The decision to allow or prohibit the use categories in the various zones is based on the zoning district purpose statements.

Article 2, 9, 13, and 22 Purposes - Findings of Fact and Conclusions

2.7 The proposed amendments to sections 2.200, 9.380, 13.710, and 22.400 concerning title of the LC are reflective of recent changes to AMC Chapter 2.76 regarding the title, appointment process, and decision-making authority of the LC under Ord. 5928 and Ord 5931 (see Attachments E - F).

Overall Conclusion

Based on the analysis in this report, the proposed Comprehensive Plan text amendments concurrent with the Development Code text amendments meets all of the applicable review criteria as outlined in this report.

The Planning Commission has three options with respect to the proposed Comprehensive Plan amendments and Development Code amendments:

Option 1: Recommend that the City Council approve the amendment request; or

Option 2: Recommend the City Council approve the proposed amendments as modified by the Planning Commission; or

Option 3: Deny the amendment request. The City Council will only consider the proposal on appeal by the applicants.

Staff Recommendation

Based on the staff recommendation, the following motion is suggested:

I move that the Planning Commission recommend that the City Council approve the proposed Comprehensive Plan and Development Code text amendments under planning files CP-01-20 and DC-01-20. This motion is based on the findings and conclusions in the July 6, 2020 staff report, and the findings in support of the application made by the Planning Commission during deliberations on this matter.

Attachments

- A. Proposed Plan Amendments - red font strike-out
- B. Proposed ADC Amendments – red font strike-out
- C. Proposed Plan Amendments - clean
- D. Proposed ADC Amendments - clean
- E. Ordinance No. 5928
- F. Ordinance No. 5931
- G. Oregon Administrative Rule Chapter 660, Division 023, Section 0200

Acronyms

ACP	Albany Comprehensive Plan
ADC	Albany Development Code
AMC	Albany Municipal Code
CP	Comprehensive Plan Text Amendment File Designation
DC	Development Code Text Amendment File Designation
DLCD	Oregon Department of Land Conservation and Development
LC	Landmarks Commission
LCDC	Land Conservation and Development Commission
LUBA	Oregon Land Use Board of Appeals
OAR	Oregon Administrative Rule
ORS	Oregon Revised Statutes
SHPO	State Historic Preservation Office

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

HISTORIC AND ARCHAEOLOGICAL RESOURCES BACKGROUND SUMMARY

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

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

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

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

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

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

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

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

IMPLEMENTATION METHODS

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

APPENDIX 1

AGENCY INVOLVEMENT PROGRAM

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

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

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

LOCAL AGENCIES

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

APPENDIX IIA
CITIZEN COMMITTEES

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

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

APPENDIX IV

ACRONYMS

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

ACRONYMS (CONTINUED)

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

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

I-5: Interstate Highway 5

I/I: Infiltration/inflow

ISCP: Indirect Source Construction Permit

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

LBCC: Linn-Benton Community College

LCDC: Land Conservation and Development Commission

MGD: Million Gallons Per Day

MH: Heavy Industrial Zoning District

ML: Light Industrial Zoning District

MP: Industrial Park Zoning District

NC: Notice of Construction

OAR: Oregon Administrative Rule

ODOT: Department of Transportation, State of Oregon

OD4COG: Oregon District 4 Council of Governments



COMMUNITY DEVELOPMENT

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

Amendments to the Albany Development Code

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

April 27, 2020

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

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

1.060 When Land Use Applications Are Required.

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

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

1.350 Type II Procedure.

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

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

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

[Ord. 5886, 1/6/17]

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

- (3) The Director shall mail notice of the tentative decision to the applicant and any party who provided written comments on the proposal.

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

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

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

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

1.360 Type III Procedure.

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

1.370 Type IV Procedure.

- (1) The purpose of the Type IV procedure is to provide for the review of certain land use applications by the Planning Commission, Hearings Board or Landmarks ~~Advisory~~ Commission and the City Council at public hearings. These decisions are usually complex in

nature, and require the interpretation of Comprehensive Plan policies and the criteria of this Code.

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

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

1.520 Appeal Procedures.

- (1) See ADC 1.330(5) for appeals of Type I-L limited land use decisions.
- (2) Appeals of a Type II land use decision made by the Director is to the Planning Commission (PC), Hearings Board, (HB), or the Landmarks ~~Advisory~~ Commission (LAC). See Section 1.350 (2) through (5). A Type II decision made by the PC, HB, or LAC may be appealed to the Land Use Board of Appeals (LUBA) when a person who participated in the land use process in writing or testimony files a Notice of Intent to Appeal with LUBA no later than 21 days after the hearing body's notice of decision is mailed. [Ord. 5728, 1/27/10; Ord. 5768, 12/7/11]
- (3) Any person who submitted written comments during a comment period or testified at the public hearing has standing to appeal a Type III decision of the Planning Commission, Hearings Board, or Landmarks ~~Advisory~~ Commission to the City Council by filing a Notice of Appeal within ten days from the date the City mails the notice of decision.

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

- (4) Within the appeal period, the City Council, acting upon the recommended action of the City Manager or upon its own motion, may order a de novo review of any lower level decision. This review shall be conducted in accordance with appeal procedures specified herein.
- (5) For any appeal proceeding, the Director shall cause notice to be provided in the same manner as for the original decision, to those testifying and to any other parties to the proceedings who request notice in writing.
- (6) A decision of the City Council may be appealed by persons with standing to the Land Use Board of Appeals (LUBA) by filing a notice of intent to appeal to LUBA not later than 21 days after the decision becomes final.

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

1.580 Initiation.

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

1.630 City Council Action.

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

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

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

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

7.370 – Issuance of demolition permit after demolition review are amended as follows:

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

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

Staff Recommendation:

Staff proposes to amend ADC 7.015 to correct an outdated reference to a subsection that no longer exists.

Background Information:

ADC 1.080(2) was amended to ADC 1.080(3) by Ord. 5768, effective 12/1/11 and then repealed by Ord. 5832, effective 4/19/14. Ord 5832 included an amended of ADC 1.080, to increase the expiration of historic reviews approval from one year to three years (like other land use decisions) and added an opportunity for an extension of the approval period.

7.015 Expiration of Historic Review Approval. See Article 1, Section 1.080 ~~(12)~~.
 [Ord. 5720, 08/12/2009]

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

Staff proposes to amend the term “Demolition” to what is provided under OAR 660-023-0200(1)(a). The term definition under OAR 660-023-0200(1)(a) applies directly to local land use decision regarding a National Register Resource. This definition applies directly to other local land use decision regarding a historic resource unless the local comprehensive plan or land use regulations contain a different definition.

Demolition: ~~The intentional destruction of all or part of a building or structure. Any act that destroys, removes, or relocates, in whole or part, a significant historic resource such that its historic, cultural, or architectural character and significance is lost.~~

Staff proposes to amend the title and definition of the Landmarks Commission to reflect recent changes to Albany Municipal Code Chapter 2.76 regarding the title, appointment process, and decision-making authority of the Landmarks Commission under Ord. 5928 eff. 6/21/19 and Ord 5931 eff. 8/23/19.

Landmarks Advisory Commission: ~~The Mayor appoints the Commission to make advisory recommendations about historic districts, conservation districts, buildings and sites. The Commission has the authority to recommend rules and regulations for adoption; compile and maintain a list of all historic buildings, sites and objects; conduct an educational program on historic properties within its jurisdiction; make recommendations about the designation of particular historic buildings and sites; and recommend removal from any list of designated historic buildings and sites~~

~~any property it finds no longer worthy of such designation. The Landmarks Commission conducts quasi-judicial public hearings on Type III planning applications affecting historic resources, and acts as an advisory board to the City Council on decisions that could affect historic resources, per Albany Municipal Code section 2.76.050.~~ [Ord. 5488, 7/11/01]

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

Staff proposes to add “National Register Resource” as defined in OAR 660-023-0200(1)(g).

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

Staff Recommendation:

Staff proposes to amend ADC 7.030 to comply with state law. National Register Resources may not be “automatically” designated to a “resource list” or regulated under Article 7 without designating the National Register Resource a “locally significant historic resource” or adding additional protections.

Future evaluation of terminology under ADC 7.020 is recommended to ensure accuracy and clarity in interpretation of Article 7. For example, the term Local Historic Inventory presently describes the City’s resource list not the inventory which is the record used to identify historic resource that may be determined significant and designated to the resource list.

Background Information:

A resource list is a list of Locally Significant Historic Resources adopted by a local government as significant to the community and afforded the protection under Article 7.

Locally Significant Historic Resources are buildings, structure, object, sites, or districts deemed by a local government to be a significant resource according to the requirements of OAR 660-023 and criteria in the comprehensive plan.

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

7.035 Initiation. The process for designating or removing a landmark or historic district may be initiated by the City Council, the Landmarks ~~Advisory~~ Commission, or by any other interested person. Initiations by the Landmarks ~~Advisory~~ Commission are made without prejudice towards the outcome. At the time of initiation, the Community Development Director shall provide the property owner and applicant with information regarding the benefits and obligations of designation. No historic resource shall be designated as a landmark without the written consent of the owner, or in the case of multiple ownership, a majority of the owners. Removal of properties from the National Register of Historic Places requires review and approval by the State Historic Preservation Office and State Advisory Committee. [Ord. 5463, 9/13/00]

7.040 Procedure.

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

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

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

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

- (1) The Director will approve residential alteration requests if one of the following criteria is met:
 - a) There is no change in historic character, appearance or material composition from the existing structure.
 - b) The proposed alteration materially duplicates the affected exterior building features as determined from an early photograph, original building plans, or other evidence of original building features.
 - c) The proposed alteration is not visible from the street.
- (2) For all other requests, the Landmarks ~~Advisory~~ Commission will review and process the alteration proposal. The applicant and adjoining property owners within 100 feet will receive notification of the Landmarks ~~Advisory~~ Commission public hearing on the proposal. The ~~Landmarks~~ Commission will accept written and verbal testimony on the proposal. For buildings on the Special Assessment of Historic Property Program, the Landmarks ~~Advisory~~ Commission decision will be forwarded to the State Historic Preservation Office.

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

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

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

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

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

Landmarks ~~Advisory~~ Commission decision will be forwarded to the State Historic Preservation Office.
[Ord. 5463, 9/13/00]

7.220 Conditions of Approval. In approving an alteration request, the Landmarks ~~Advisory~~ Commission may attach conditions that are appropriate for the promotion and/or preservation of the historic or architectural integrity of the district, building or site. All conditions must relate to a review criterion.
[Ord. 5463, 9/13/00]

7.225 Decisions/Appeals. All decisions shall specify the basis for the decision. Landmarks ~~Advisory~~ Commission decisions may be appealed to the Albany City Council. Decisions of the Community Development Director may be appealed to the Landmarks ~~Advisory~~ Commission.
[Ord. 5463, 9/13/00, Ord. 5488, 7/11/01]

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

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

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

Staff Recommendation:

Staff proposes the following three amendments to comply with state law: 1) Amend ADC 7.310 to clarify that relocation and demolition review of National Register Resources may not be done through a Type I review procedure. 2) Amend ADC 7.330 to ensure that factors listed in OAR 660-023-0200(8)(a) are taken into consideration during relocation or demolition review of a National Register Resource. 3) Amend ADC 7.350 to clarify that relocation and demolition review of National Register Resources may not be done through a Type I review procedure. 4) Amend ADC 7.360 to clarify that denial is a decision outcome for relocation or demolition review.

Staff further proposed to add ADC 7.370 to align the issuance of a demolition permit with the conclusion of the demolition review appeal period.

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

- (1) The Building Official shall issue a permit for relocation or demolition if any of the following conditions exist:
 - (a) The building or structure is designated non-contributing within a National Register nomination, an historic district.
 - (b) The building or structure is not a designated contributing National Register Resource and it has been damaged in excess of 70 percent of its previous value in a fire, flood, wind, or other Act of God, or vandalism.
- (2) Those requests not meeting Building Official approval conditions shall be reviewed by the Landmarks ~~Advisory~~ Commission. The application shall be submitted at least 35 days in

advance of the next regularly scheduled public hearing/meeting of the Landmarks ~~Advisory~~ Commission, unless waived by the Director when adequate notice can otherwise be achieved.
[Ord. 5463, 9/13/00]

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

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

7.350 No provision in this ordinance shall be construed to prevent the alteration, demolition, or relocation of all or part of a locally significant historic resource ~~Landmark on the Local Historic Inventory~~ if the Building Official certifies that such action is required for public safety.
[Ord. 5463, 9/13/00]

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

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

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

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

Standards in Residential, MUR and MUC zones:

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

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

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

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

13.711 Variances for Historic Buildings

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

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

13.830 Exemption from Nonconforming Status

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

- (1) The sign does not constitute a significant safety hazard due to structural inadequacies or the impact on traffic.
- (2) Due to age, relation to an historic event, or general recognition, the sign has become a recognized Albany landmark.
- (3) For an historic sign exemption, the sign is:

- a. Attached to a primary or secondary structure as recognized on the City Historic Survey;
- b. The sign adds to the architectural and historic significance of the premises, taking into account the size, location, construction, and lighting of the sign; and
- c. A recommendation is received from the Landmarks ~~Advisory~~ Commission giving its recommendation on criteria (a) and (b) above.

(4) For significant signs, the sign is:

- a. Maintained essentially as originally constructed, with sufficient remaining original workmanship and material to serve as instruction in period fabrication; and
- b. The sign is associated with significant past trends in structure, materials, and design and is in conformance with generally accepted principles of good design, architecture, and maintenance.

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

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

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

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

HISTORIC AND ARCHAEOLOGICAL RESOURCES BACKGROUND SUMMARY

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

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

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

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

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

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

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

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

IMPLEMENTATION METHODS

1. Encourage the Albany Regional Museum to:
 - a. House and display artifacts related to the Albany area's history.
 - b. Sponsor city, county, and Mid-Willamette Valley history tours.
 - c. Conduct historical seminars and workshops.
 - d. Serve as a local archives depository and conduct research.
 - e. Provide information and assistance to individuals and community groups interested in the enhancement and preservation of Albany's historic resources.

2. Develop an education program (including public workshops, printed matter, tours, and exhibits) for Albany residents which would:
 - a. Demonstrate the economic and energy assets of preserving Albany's older structures.
 - b. Advise property owners on proper restoration techniques.
 - c. Emphasize the relationship of the Willamette River to Albany's historic character.
 - d. Work with the Greater Albany Public School District and other learning institutions in developing education programs which utilize Albany's historic areas as learning resources.

3. Include in the Capital Improvement Program specific projects for the improvement of historic areas. Possible projects include:
 - a. Beautification of the Santiam Canal and its branches.
 - b. Historic-theme street lighting in the downtown.

4. Within historic districts, encourage the development of landscapes and the planting and retention of trees associated with the applicable historic periods.

5. Maintain information and directional signage for Albany's Historic Districts.

6. Support the efforts of the Albany Historic Tours Committee and other community groups to maintain the Historic Information Gazebo and Victorian Garden as a focus of visitor information about Albany's Historic Districts.

7. Stabilize and improve property values in existing and proposed historic districts. Methods might include:
 - a. Emphasizing the importance of owner-occupied housing through methods such as encouraging loan programs for the acquisition and renovation of historic structures.
 - b. Discouraging heavy truck route traffic on streets which run through or adjacent to residential neighborhood districts.
 - c. Ensuring that Development Code regulations enhance the preservation and renovation of historic structures.

8. Develop review criteria which would discourage those zone changes resulting in increased pressure to replace historic structures with more intense land uses.

9. Encourage property owners within the three National Register Districts or with recognized historic property to discuss proposed exterior changes to their property with the City staff and/or Landmarks Commission (LC) prior to applying for a historic review permit.

APPENDIX 1

AGENCY INVOLVEMENT PROGRAM

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

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

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

LOCAL AGENCIES

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

APPENDIX IIA
CITIZEN COMMITTEES

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

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

APPENDIX IV

ACRONYMS

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

ACRONYMS (CONTINUED)

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

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

I-5: Interstate Highway 5

I/I: Infiltration/inflow

ISCP: Indirect Source Construction Permit

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

LBCC: Linn-Benton Community College

LCDC: Land Conservation and Development Commission

MGD: Million Gallons Per Day

MH: Heavy Industrial Zoning District

ML: Light Industrial Zoning District

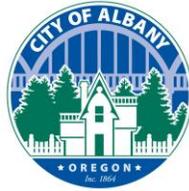
MP: Industrial Park Zoning District

NC: Notice of Construction

OAR: Oregon Administrative Rule

ODOT: Department of Transportation, State of Oregon

OD4COG: Oregon District 4 Council of Governments



COMMUNITY DEVELOPMENT

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

Amendments to the Albany Development Code

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

April 27, 2020

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

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

1.060 When Land Use Applications Are Required.

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

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

1.350 Type II Procedure.

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

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

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

[Ord. 5886, 1/6/17]

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

- (3) The Director shall mail notice of the tentative decision to the applicant and any party who provided written comments on the proposal.

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

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

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

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

1.360 Type III Procedure.

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

1.370 Type IV Procedure.

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

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

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

1.520 Appeal Procedures.

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

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

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

1.580 Initiation.

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

1.630 City Council Action.

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

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

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

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

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

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

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

[Ord. 5720, 08/12/2009]

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

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

Landmarks Commission: The Landmarks Commission conducts quasi-judicial public hearings on Type III planning applications affecting historic resources, and acts as an advisory board to the City Council on decisions that could affect historic resources, per Albany Municipal Code section 2.76.050. [Ord. 5488, 7/11/01]

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

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

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

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

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

7.040 Procedure.

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

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

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

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

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

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

- c) The proposed alteration is not visible from the street.
- (2) For all other requests, the Landmarks Commission will review and process the alteration proposal. The applicant and adjoining property owners within 100 feet will receive notification of the Landmarks Commission public hearing on the proposal. The Landmarks Commission will accept written and verbal testimony on the proposal. For buildings on the Special Assessment of Historic Property Program, the Landmarks Commission decision will be forwarded to the State Historic Preservation Office.

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

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

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

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

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

[Ord. 5463, 9/13/00]

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

[Ord. 5463, 9/13/00]

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

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

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

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

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

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

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

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

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

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

[Ord. 5463, 9/13/00]

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

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

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

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

Standards in Residential, MUR and MUC zones:

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

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

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

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

13.711 Variances for Historic Buildings

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

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

13.830 Exemption from Nonconforming Status

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

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

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

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

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

ORDINANCE NO. 5928

AN ORDINANCE AMENDING THE SECTIONS OF ALBANY MUNICIPAL CODE TITLE 2, ADMINISTRATION AND PERSONNEL, THAT RELATE TO THE CITY'S BOARDS AND COMMISSIONS; MODIFYING THE RESIDENCY REQUIREMENT FOR MEMBERS TO SERVE; INCREASING MEMBERSHIP FOR SELECT BODIES; AND REASSIGNING APPOINTMENT DUTIES

WHEREAS, ordinances and resolutions of the City of Albany provide for the appointment of citizens to various boards, commissions, and committees by the Mayor and/or Councilors, subject to ratification by the City Council; and

WHEREAS, it is in the best interest of the City of Albany to ensure that membership on the various boards, commissions, and committees is representative of people in the community; and

WHEREAS, the City Council reviewed appointment criteria and procedures for City boards, commissions, and committees at the February 11, 2019, City Council meeting and requested that staff bring back modifying resolutions and ordinances; and

WHEREAS, the City Council desires to establish a city residency requirement and update appointment procedures, including the reassignment of certain appointment duties, for all future appointments to City boards, commissions, and committees.

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

Section 1: Albany Municipal Code (AMC) Chapter 2.20, Parks and Recreation Commission, Sections 2.20.010, Appointment, and 2.20.020, Compensation and records, are amended as follows:

2.20.010 Term of office and compensation.

The Parks and Recreation Commission shall consist of seven members, each having their principal place of residence within the jurisdictional limits of the city of Albany. Each Council member shall have one counterpart, with nominations to be ratified by the Council. The members shall be appointed for a term of three years with the exception of those terms of office newly established under this section, which shall begin January 1, 2020, and be staggered to provide for the expiration of the terms of office of two of the members each year except for each third year, when the terms of office of three members shall expire. Members appointed previously under the provisions of Chapter 2.20 shall continue in office until the expiration of their terms of office. Appointments made to replace those whose terms of office have expired or been vacated shall conform to the intent of Chapter 2.20 and current Council policy. . Commission members shall serve without compensation. Persons appointed to membership on the Parks and Recreation Commission shall serve at the pleasure of the Council and may be removed therefrom without cause by a majority vote of the Council.

2.20.020 Records.

The Commission shall annually select one of its members as chairperson. All records and proceedings shall remain in the office of the City Clerk as one of the public records of that office.

Section 2: AMC Chapter 2.23, City Tree Commission, Sections 2.23.010, City Tree Commission established, and 2.23.030, Term and office and compensation, are amended as follows:

2.23.010 City Tree Commission established.

The City Tree Commission shall consist of seven members, each having their principal place of residence within the jurisdictional limits of the city of Albany. Each Council member shall have one counterpart, with nominations to be ratified by the Council. At least one member of the City Tree Commission shall be a representative from the field of arboriculture, landscape architecture, or otherwise have professional knowledge of trees and their care.

2.23.030 Term of office and compensation.

City Tree Commission members shall each serve a three-year term with the exception of newly established terms of office under Section 2.23.010, which shall begin January 1, 2020, and be staggered to provide for the expiration of the terms of office of two of the members each year except for each third year, when the terms of office of three members shall expire. Members appointed previously under the provisions of Chapter 2.23 shall continue in office until the expiration of their terms of office. Appointments made to replace those whose terms of office have expired or been vacated shall conform to the intent of Chapter 2.23 and current Council policy. Commission members shall serve without compensation. Persons appointed to membership on the City Tree Commission shall serve at the pleasure of the Council and may be removed therefrom without cause by a majority vote of the Council.

Section 3: AMC Chapter 2.26, Airport Advisory Commission, Section 2.26.060, Term of office, initial appointment, and compensation, is amended as follows:

2.26.060 Term of office and compensation.

The Airport Advisory Commission shall consist of seven members, each having their principal place of residence within the jurisdictional limits of the city of Albany. Each Council member shall have one counterpart, with nominations to be ratified by the Council. Commission members shall serve for a three-year term. Members appointed previously under the provisions of Chapter 2.26 shall continue in office until the expiration of their terms of office. Appointments made to replace those whose terms of office have expired or been vacated shall conform to the intent of Chapter 2.26 and current Council policy. Persons appointed to membership on the Airport Advisory Commission shall serve at the pleasure of the Council and may be removed therefrom without cause by a majority vote of the Council.

Members of the Commission shall serve without compensation and shall have no property interest in their appointment.

Section 4: AMC Chapter 2.32, Traffic Safety Commission, Section 2.32.010, Creation – Membership, is amended as follows:

2.32.010 Term of office and compensation.

The Traffic Safety Commission shall consist of seven members, each having their principal place of residence within the jurisdictional limits of the city of Albany. Each Council member shall have one counterpart, with nominations to be ratified by the Council. Commission members shall serve for a three-year term with the exception of those terms of office newly established under this section, which shall begin January 1, 2020, and be staggered to provide for the expiration of the terms of office of two of the members each year except for each third year, when the terms of office of three members shall expire. Members appointed previously under the provisions of Chapter 2.32 shall continue in office until the expiration of their terms of office. Appointments made to replace those whose terms of office have expired or been vacated shall conform to the intent of Chapter 2.32 and current Council policy. Commission members shall serve without compensation. Persons appointed to membership on the Traffic Safety Commission shall serve at the pleasure of the Council and may be removed therefrom without cause by a majority vote of the Council.

Section 5: AMC Chapter 2.50, Public Library Board, Section 2.50.020, Public Library Board appointments and terms, is amended as follows:

2.50.020 Term of office and compensation.

The Public Library Board shall consist of seven members, each of whom having their principal place of residence within the jurisdictional limits of the city of Albany. Each Council member shall have one counterpart, with nominations to be ratified by the Council. Members appointed previously under the provisions of Chapter 2.50 shall continue in office until the expiration of their terms of office. Appointments made to replace those whose terms of office have expired or been vacated shall conform to the intent of Chapter 2.50 and current Council policy. Appointments made under this chapter shall be for terms of four years from July 1 in the year of their appointment. Board members shall serve without compensation. Persons appointed to membership on the Public Library Board shall serve at the pleasure of the Council and may be removed therefrom without cause by a majority vote of the Council.

Section 6: AMC Chapter 2.76, Landmarks Advisory Commission, Section 2.76.020, Members – Appointment, is amended as follows:

2.76.020 Term of office and compensation.

The Landmarks Advisory Commission shall consist of seven members, each having their principal place of residence within the jurisdictional limits of the city of Albany. Each Council member shall have one counterpart, with nominations to be ratified by the Council. Members appointed previously under the provisions of Chapter 2.76 shall continue in office until the expiration of their terms of office. Appointments made to replace those whose terms of office have expired or been vacated shall conform to the intent of Chapter 2.76 and current Council policy. Each member shall have demonstrable knowledge, interest, or competence in historic preservation and additionally in one of the following fields: architecture, landscape architecture, history, art history, education, construction, real estate, development, urban planning, archaeology, law, finance, cultural geography, cultural anthropology, local history, or related disciplines. Commission members shall serve without compensation. Persons appointed to membership on the Landmarks Advisory Commission shall serve at the pleasure of the Council and may be removed therefrom without cause by a majority vote of the Council.

Passed by the Council: May 22, 2019

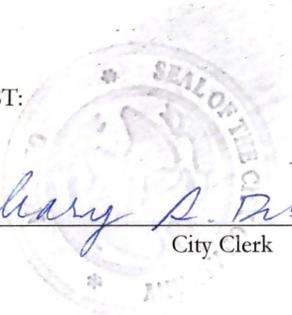
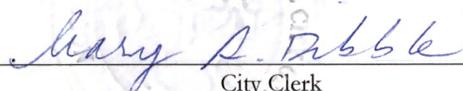
Approved by the Mayor: May 22, 2019

Effective Date: June 21, 2019



Mayor

ATTEST:

City Clerk



ORDINANCE NO. 5931

AN ORDINANCE AMENDING THE SECTIONS OF ALBANY MUNICIPAL CODE TITLE 2, ADMINISTRATION AND PERSONNEL, THAT RELATE TO THE CITY'S LANDMARKS ADVISORY COMMISSION, MODIFYING THE DECISION-MAKING AUTHORITY

WHEREAS, Section 2.76.050 of the Albany Municipal Code (AMC) states that the Landmarks Advisory Commission has the authority to do those things that are set forth in the ORS 358.315 (which refers to general authority of cities regarding public museums), and serve in an advisory capacity concerning historic districts, conservation districts, buildings, and sites to City Council and Albany Planning Commission; and

WHEREAS, Article 1 and Article 7 of the Albany Development Code (ADC) state that the Landmarks Advisory Commission is a decision-maker in quasi-judicial Type III land use applications, and an advisory body in Type IV applications requiring Historic Review permit decisions; and

WHEREAS, the City Council reviewed the conflicting language in the AMC and ADC regarding the decision-making authority of the Landmarks Advisory Commission in quasi-judicial decisions at the March 11, March 25, and June 24, 2019, City Council meetings; and

WHEREAS, the City Council desires the Landmarks Advisory Commission to act as a quasi-judicial decision-maker when reviewing quasi-judicial Type III land use applications, and as an advisory body in Type IV applications requiring Historic Review permit decisions.

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

Section 1: Albany Municipal Code (AMC) Chapter 2.76, Landmarks Advisory Commission, Sections 2.76.010, Created; 2.76.020, Members – Appointment; 2.76.030, Members – Terms; 2.76.040, Officers; and 2.76.050, Authority are amended as follows:

2.76.010 Created.

There is created the Albany Landmarks ~~Advisory~~ Commission.

(1) Purpose and Intent. It is declared a matter of public policy that the protection, enhancement, perpetuation and use of improvements of special character or special historical interest or value is a public necessity and is required in the interest of health, prosperity, safety and welfare of the people. The purpose of this section is to:

- (a) Effect and accomplish the protection, enhancement, and perpetuation of such improvements and districts which represent or reflect elements of the City's cultural, social, economic, political and architectural history;
- (b) Safeguard the City's historic and cultural heritage, as embodied and reflected in such landmarks and historic districts;
- (c) Stabilize and improve property values;
- (d) Foster civic pride in the beauty and noble accomplishments of the past;

- (e) Protect and enhance the City's attraction to residents, tourists, and visitors and serve as a support and stimulus to business and industry;
- (f) Strengthen the economy of the City;
- (g) Promote the use of historic districts and; landmarks, ~~and museums~~ for the education, pleasure and welfare of the people of the City;
- (h) Work for the continuing education of the citizens of Albany concerning the historic heritage of this City and its landmarks, sites, and objects.

2.76.020 Members – Appointment.

The Landmarks ~~Advisory~~ Commission shall consist of seven members, each having their principal place of residence within the jurisdictional limits of the city of Albany. Each Council member shall have one counterpart, with nominations to be ratified by the Council. Members appointed previously under the provisions of Chapter 2.76 shall continue in office until the expiration of their terms of office. Appointments made to replace those whose terms of office have expired or been vacated shall conform to the intent of Chapter 2.76 and current Council policy. Each member shall have demonstrable knowledge, interest, or competence in historic preservation and additionally in one of the following fields: architecture, landscape architecture, history, art history, education, construction, real estate, development, urban planning, archaeology, law, finance, cultural geography, cultural anthropology, local history, or related disciplines. Commission members shall serve without compensation. Persons appointed to membership on the Landmarks ~~Advisory~~ ^{Advisory} Commission shall serve at the pleasure of the Council and may be removed therefrom without cause by a majority vote of the Council.

2.76.030 Members – Terms.

Two of the first members of the Landmarks ~~Advisory~~ Commission shall be appointed for one year, two members shall be appointed for two years and three members shall be appointed for three years. Except for the first members and appointments to fill vacancies, the terms of members of the Landmarks ~~Advisory~~ Commission shall be three years and until their successors are appointed and qualified.

2.76.040 Officers.

~~The Commission members shall elect a chairperson and a secretary until the next succeeding first Monday in January and until their successors are elected. The secretary shall be charged with keeping a permanent and complete record of the proceedings of the Commission. The Commission shall adopt rules governing the transaction of its business and shall prepare and submit an annual budget and an annual report to the City Council.~~

The Landmarks Commission shall, at its first meeting in January of each year, elect one of its members to serve as chairperson and another to serve as vice chairperson. The Community Development Director of the City, or his/her designee shall serve as secretary to the Landmarks Commission and shall keep accurate, permanent and complete records of all proceedings held before the Landmarks

Commission. The chairperson or the presiding officer of the Landmarks Commission shall be entitled to vote on all questions that are before the Commission. The Commission may adopt rules governing the transaction of its business which are consistent with the provisions of this chapter.

2.76.050 Authority.

~~The Commission shall, acting through the City Council, have the authority to do those things that are set forth in ORS 358.315, and, further, the Landmarks Advisory Commission shall serve in an advisory capacity and make recommendations concerning historic districts, conservation districts, buildings, and sites to the City Council, and Albany Planning Commission, and through the City Council to other public or private agencies on matters relating to the preservation of such districts, buildings, and sites. Their authority shall be as follows:~~

The Landmarks Commission shall have and may exercise the following duties, powers, and responsibilities:

1. The Landmarks Commission shall be a quasi-judicial decision-maker for matters that include the following:
 - a. Decisions regarding the application or removal of Historic Overlay District in cases where a public hearing is required by the Albany Development Code, Article 7;
 - b. Type III Historic Review Permit decisions; and
 - c. Appeals of Director-level Historic Review Permit decisions.
2. The Landmarks Commission shall advise and assist the Council, Planning Commission, and the Community Development Director in matters pertaining to historic and cultural resource preservation. Such matters shall include:
 - a. Recommendations concerning amendments to sections of the Albany Development Code pertaining to historic preservation.
 - b. Recommendations concerning the nominations of sites or structures for the National Register of Historic Places.
 - c. Recommendations concerning additional inventories and/or surveys of Albany's historic sites and structures.
 - d. Recommendations concerning the application for and expenditure of grant funds pertaining to historic preservation programs and activities.
 - e. Coordination of public information or educational programs pertaining to historic and cultural resources.
 - f. Coordination of historical preservation programs of the City, county, state, and federal governments as they relate to property within the City.

~~(1) The Commission may recommend for adoption such rules and regulations as it finds necessary or appropriate to carry out the intent of this article.~~

~~(2) The Commission shall compile and maintain a current list of all historic buildings and sites and objects which have been so designated pursuant to this article with a brief description of such building or site and the special reasons for its inclusion on such list.~~

~~(3) The Commission shall receive requests by any citizen, by owners of buildings or sites, or may on its own motion make recommendations concerning the designation of particular buildings and sites as historic buildings or historic sites.~~

~~(4) The Commission shall recommend removal from any list of designated historic buildings and sites such property as it finds no longer worthy of such designation.~~

~~(5) Conduct an educational program on historic properties within its jurisdiction.~~

~~(6) The Commission shall have authority to coordinate historical preservation programs of the City, county, state, and federal governments as they relate to property within the City.~~

~~(7) The Commission may recommend to the City Council or, if authorized by the City Council, to the Legislature of the State of Oregon any changes of law which it finds appropriate or needed.~~

~~(8) The Commission shall perform such other duties relating to historic landmarks and historical buildings, and sites as the City Council or the Mayor may request.~~

Passed by the Council: July 24, 2019

Approved by the Mayor: July 24, 2019

Effective Date: August 23, 2019



Mayor

ATTEST:



City Clerk

