

ORDINANCE NO. 5794

AN ORDINANCE AMENDING ORDINANCE NO. 4441, WHICH ADOPTED THE CITY OF ALBANY DEVELOPMENT CODE AND ZONING MAP BY AMENDING THE DEVELOPMENT CODE TEXT RELATED TO CHANGING ELECTRONIC MESSAGE SIGNS, ADOPTING FINDINGS, AND DECLARING AN EMERGENCY (FILE DC-03-12).

WHEREAS, the state of Oregon has delegated the responsibility to local government units to adopt regulations designed to promote public health, safety, and the general welfare of its citizenry; and

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

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

WHEREAS, on September 14, 2012, notice of the Planning Commission and City Council public hearings was published in the *Albany Democrat-Herald*; and

WHEREAS, on September 24, 2012, the Planning Commission held a public hearing on the proposed amendment; and

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

WHEREAS, on October 10, 2012, the Albany City Council opened a public hearing on the proposed amendment, reviewed the amendment recommended by the Planning Commission and any testimony presented at the public hearing and then deliberated.

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

Section 1: The Albany Development Code text is hereby amended as shown in the attached Exhibit A for the article listed below:

Exhibit A: Sections 13.120 and 13.620 of Article 13, Signs

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

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

Passed by the Council: November 7, 2012

Approved by the Mayor: November 7, 2012

Effective Date: November 7, 2012


Mayor

ATTEST:



City Clerk

Changing Electronic Message Signs Proposed ADC Amendments Recommended by Planning Commission

Staff Comments: The following definitions are proposed:

13.120 Definitions.

~~**Message Sign:** A sign that is electronically controlled and designed to display various messages or advertisements.~~

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

Static Display: A sign capable of displaying words, symbols, figures or images that can be electronically or mechanically changed by remote or automatic means where messages change with no transition.

Transition: A visual effect used on an electronic message display to change from one message to another.

~~13.620 Residential Conditional Use. When a conditional use is allowed in a residential zone, the size and placement of a sign may be further restricted as part of conditional use review but shall not exceed 2 indirectly lit signs per frontage containing not more than 32 square feet per face. For signs not attached to a building, the maximum height shall be 6 feet. [This paragraph does not apply to home occupations, which must comply with Section 13.320(4)].~~

Staff Comments: The following regulations addressing changing electronic message signs are proposed:

13.620 Residential Conditional Use. The following standards apply to signage for all institutional uses allowed conditionally in residential zones and the MUR (Mixed Use Residential) district except the HM (Hackleman Monteith) District:

- (1) When an institutional use is allowed conditionally in a residential zone, the size and placement of a sign may be further restricted as part of conditional use review but shall not exceed 32 square feet per face.
- (2) One freestanding changing electronic message sign is allowed per use, with a minimum of 100 feet of public street frontage.
- (3) Sign face shall be perpendicular to adjacent residential uses.
- (4) Maximum sign height shall not exceed 12 feet, unless minimum clearance standards in Sections 13.510(3) and (4) apply. Under no circumstances shall the sign height exceed 19 feet.

- (5) The portion of the sign with the changing electronic message shall be turned off between the hours of 9:00 p.m. and 6:00 a.m.**
- (6) The color of the changing electronic message display shall be monochromatic.**
- (7) The duration of the message display shall be not less than 20 seconds and static only.**
- (8) Changing electronic message signs shall not be allowed in residentially-zoned historic districts.**



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STAFF REPORT

Development Code Amendment - DC-03-12

HEARING BODY

CITY COUNCIL

HEARING DATE

Wednesday, October 10, 2012

HEARING TIME

7:15 p.m.

HEARING LOCATION

Council Chambers, Albany City Hall, 333 Broadalbin Street SW

EXECUTIVE SUMMARY

The Albany Development Code (ADC) allows for the Community Development Director to initiate legislative amendments. The City has implemented a process to periodically evaluate and adopt changes to the ADC – to include both clarifying and policy edits. The proposed amendment to ADC Article 13 adds new definitions for “changing electronic message sign,” “static display,” and “transition,” together with revisions to ADC 13.620, which would allow one changing electronic message sign for institutional uses allowed conditionally in residential zoning districts.

A member of a local school’s booster club Ben Mundie approached the City regarding the installation of a changing electronic message sign at West Albany High School that would replace their existing manual message changing sign. A review of the Development code revealed that such signs are allowed in commercial districts, however not in residential districts. Besides residential dwellings there are other uses allowed in residential zoning districts through a Conditional Use process. These include schools, religious institutions, and community services (such as the Boys & Girls Club). These uses often hold activities or other events open to the public and changing electronic message signs are frequently used to provide notice of these events.

After researching standards in other communities, staff has concluded that such signs could be placed in residential areas with specific restrictions to address compatibility with the neighborhoods, except in historic districts. These include sign size and height limits, placement location, message transition and shut off times. A news release concerning the proposal was published in the Albany Democrat Herald on August 25, 2012. An Open House to gather public input was held on September 6, 2012. Both events resulted in several comments being received. They will be summarized below.

STAFF RECOMMENDATION

APPROVAL of the proposed Development Code amendments.

PLANNING COMMISSION RECOMMENDATION

APPROVAL WITH MODIFICATIONS of the proposed Development Code amendments.

The Planning Commission held a public hearing on the proposed amendments on September 24, 2012. After the public hearing was closed, the Planning Commission discussed the amendments and recommended expanding the allowable method of sign transition from staff’s recommendation of “static” to “static, scrolling and fading transition.” Following discussion, the Planning Commission voted 5 to 1 in favor of expanding

allowable sign transition. Staff continues to support the original recommendation due to the fact the proposed electronic message signs would be located in residential districts. Message transitions using only the static method would be less distracting and intrusive to nearby residents. This was also the view shared by the one dissenting planning commissioner.

GENERAL INFORMATION

DATE OF REPORT: September 28, 2012

FILE: DC-03-12

TYPE OF APPLICATION: Legislative amendment to the following Development Code Article (Exhibit A):

- Article 13 – add definitions for “Changing Electronic Message Sign,” “static display,” and “transition,” together with revisions to ADC 13.620, which would allow one changing electronic message sign for institutional uses allowed conditionally in residential zoning districts

REVIEW BODIES: Planning Commission and City Council

APPLICANT: City of Albany, Planning Division

APPLICANT REP: David Martineau, Planner III

ADDRESS/LOCATION: Not Applicable

NOTICE INFORMATION

A news release announcing an open house to receive public input about proposed changes to the Albany Development Code concerning changing electronic message signs was published on August 25, 2012. A Notice of Public Hearing was published in the *Albany Democrat Herald* on September 14, 2012. The Development Code amendment was posted on the City’s Web site. At the time this staff report was completed, nine (9) comments had been received. These are summarized below.

PUBLIC COMMENT

Two comments were submitted by phone or email. On August 27, 2012, a caller left a message stating that he lived close to West Albany High School. He read the news release in the Democrat-Herald and stated he did not want electronic signs because he felt they were distracting. Another comment came by way of email on August 31, 2012. The writer also remarked that “electronic signs” were distracting to drivers and that they were aesthetically displeasing. He added that he would not want to be in a house nearby saying that most people prefer dark conditions while sleeping. Staff believes the newspaper article did not clearly differentiate “electronic signs” from “changing electronic message signs” that would only be allowed for a few specific uses; however the preceding two comments could also be said of changing electronic message signs.

Staff held an open house at Albany City Hall on Thursday, September 6, 2012, from 6:30 to 8:00 p.m. Following a short presentation regarding the proposal, seven attendees participated in a “vote by dots” exercise. Questions concerning frequency of message change, shut off time, message transition method, and maximum height of changing electronic message signs were presented and participants provided their input by placing dots on their preferred options. The majority of respondents agreed that messages should change every minute or less. Signs should be turned off by 9:00 p.m. or 10:00 p.m.; messages should be static display only with no special transition effects; and

maximum height should be limited to 12 feet unless more was needed to maintain minimum clearance over driveways or parking areas.

CITY COUNCIL DECISION OPTIONS

The City Council may do one of the following:

- 1) Enact, amend or defeat all or part of the proposal under consideration, or
- 2) Refer some or the entire proposal back to the Planning Commission for further consideration.

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

APPEALS

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

STAFF ANALYSIS

Development Code Amendment File DC-03-12

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

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

Relevant Comprehensive Plan goals and policies are written in *italic* type and considered as a separate review criterion following the description of the major revisions.

FINDINGS OF FACT

Statewide Planning Goal 5-Scenic & Historic Areas, Goal: Improve Albany's image, livability, appearance, and design quality through aesthetic enhancement.

Statewide Planning Goal 5-Scenic & Historic Areas, Policy 2: Develop and maintain a sign code to:

- a.) Provide equitable and economic means of business identification;
- b.) Reduce signage conflicts;
- c.) Promote traffic and pedestrian safety;
- d.) Increase the aesthetic appearance of the city.

Statewide Planning Goal 5-Scenic & Historic Areas, Policy 3: Develop enforcement procedures to abate dangerous and nuisance-creating situations to promote compatibility and reduce conflict within neighborhoods and between different land uses.

- 1.1 The proposed amendments will allow the use of changing electronic message signs only for institutional uses that are allowed conditionally in residential zoning districts such as schools, religious institutions and community services.
- 1.2 About 15 Albany public schools are located in residential zones including both West Albany and South Albany High Schools. There are a number of churches and other religious and community service institutions in residential zones as well. These uses often hold activities or other events open to the public and changing electronic message signs are frequently used to provide notice of these events.

- 1.3 Restrictions on where and how changing electronic message signs are used will improve Albany's image and appearance so that new options would exist that could replace older message signs with lettering that must be changed manually.
- 1.4 The amendments to Article 13 of the Albany Development Code will help ensure that the use of changing electronic message signs by conditionally-allowed institutional uses in residential zoning districts are adequately managed and regulated to reduce signage conflicts and promote traffic and pedestrian safety. Where allowed in residential zoning districts under this proposal, changing electronic message signs would be required to shut off from 9:00 p.m. to 6:00 a.m. to reduce visual distraction during night time hours.

CONCLUSIONS

- 1.1 The proposed Development Code amendment is consistent with the Comprehensive Plan goals and policies.
- 1.2 This criterion is satisfied.

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

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

FINDING OF FACT

2.1 *ADC 13.110, Purpose:*

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

CONCLUSION

- 2.1 The proposed Development Code amendment is consistent with the purposes of the Code.
- 2.2 This criterion is satisfied.

EXHIBITS

- A. Article 13, Proposed Amendments—Changing Electronic Message Signs (*see Ordinance attachments*)