

ORDINANCE NO. 5911

Vetoed on August 6, 2018

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

WHEREAS, on June 4, 2018, the Albany Planning Commission held a public hearing and deliberated on proposed text amendments to the Albany Development Code relating to the siting and design of accessory dwelling units (City of Albany Planning File DC-02-18); and

WHEREAS, on June 4, 2018, the Planning Commission recommended that the City Council approve the proposed text amendments with modifications as identified in the June 19, 2018, staff memorandum to City Council. This recommendation was based on evidence presented in the staff report and consideration of public testimony during the public hearing; and

WHEREAS, the Albany City Council held a public hearing on the proposal on June 27, 2018, and reviewed the findings of fact and conclusions included in the staff report and testimony presented at the public hearing and then deliberated; and

WHEREAS, the text amendments to the Albany Development Code considered by the Planning Commission and City Council are presented as an attachment to this Ordinance as Exhibit A.

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

Section 1: The text of the Albany Development Code is hereby amended as shown in Exhibit A of this Ordinance.

Section 2: A copy of this Ordinance shall be filed in the Office of the City Clerk of the City of Albany and these changes shall be made in the official City of Albany Development Code.

Section 3: As applicable, a copy of this Ordinance shall be filed with the Linn and Benton County Assessors' Office within 90 days of the effective date of this Ordinance.

Passed by the Council: 7/11/18

Approved by the Mayor: _____

Effective Date: _____

Mayor

ATTEST:

Mary A. Dibble
City Clerk

**ARTICLE 3
RESIDENTIAL ZONING DISTRICTS**

3.010 Overview. The residential zones are intended to preserve land for housing. This Code preserves the character of neighborhoods by providing seven zones with different density standards. The site development standards allow for flexibility of development while maintaining compatibility within the City's various neighborhoods. These regulations provide certainty to property owners, developers and neighbors by stating the allowed uses and development standards for the base zones. Sites within overlay districts are also subject to the regulations in Articles 6 and 7. [Ord. 5673, 6/27/07]

The list below is a summary of the topics covered in this article.

- Zoning Districts
- Schedule of Permitted Uses
- Development Standards

ZONING DISTRICTS

3.020 Establishment of Residential Zoning Districts. In order to regulate and segregate the uses of lands and buildings and to regulate the density of development, the following residential zoning districts are established:

- (1) RR—RESIDENTIAL RESERVE DISTRICT. The RR District is intended to recognize areas which, because of topography, level of services, or other natural or development factors are best served by a large lot designation. This district may be applied on an interim basis until urban services become available. The minimum lot size is five acres.
- (2) RS-10—RESIDENTIAL SINGLE FAMILY DISTRICT. The RS-10 District is intended primarily for a lower density single-family residential environment. The average minimum lot size is 10,000 square feet.
- (3) RS-6.5—RESIDENTIAL SINGLE FAMILY DISTRICT. The RS-6.5 District is intended primarily for low-density urban single-family residential development. The average minimum lot size is 6,500 square feet.
- (4) RS-5—RESIDENTIAL SINGLE FAMILY DISTRICT. The RS-5 District is intended primarily for low- to moderate-density single-family development. The average minimum detached single-family lot size is 5,000 square feet. [Ord. 5673, 6/27/07]
- (5) RM—RESIDENTIAL MEDIUM DENSITY DISTRICT. The RM District is primarily intended for medium-density residential urban development. New RM districts should be located on a collector or arterial street or in Village Centers. Development may not exceed 25 units per gross acre. [Ord. 5673, 6/27/07]
- (6) RMA—RESIDENTIAL MEDIUM DENSITY ATTACHED DISTRICT. The RMA District is intended primarily for medium- to high-density urban residential development. All units, whether single- or multiple-family, shall be attached. New RMA districts should be located on a collector or arterial street or in Village Centers. Development may not exceed 35 units per gross acre. [Ord. 5673, 6/27/07]
- (7) HM—HACKLEMAN-MONTEITH DISTRICT. The HM district is intended primarily to preserve the existing single-family residential character of the Hackleman and Monteith National Register Historic Districts. Conversion of single-family residential structures to other uses, including multi-family residential, is not allowed. [Ord. 5555, 2/7/03; Ord. 5673, 6/27/07]

3.030 Establishment of Special Purpose Districts. Special purpose districts are overlay districts that may be combined with a major zoning district. The regulations of a special purpose district are supplementary to the regulations of the underlying major zoning district. The regulations of a special purpose district and the major zoning district shall all apply to any site that has both designations. Where the regulations and permitted uses of a major zoning district conflict with those of a special purpose district, the more

SCHEDULE OF PERMITTED USES

Uses Allowed in Residential Zoning Districts								
Use Categories (See Article 22 for use descriptions.)	Spec. Cond.	RR	RS-10	RS-6.5	HM	RS-5	RM	RMA
RESIDENTIAL SINGLE FAMILY: One Unit per Property								
Single-Family, detached	19	Y	Y	Y	Y	Y	Y	N
Single-Family, attached (zero lot line)		N	PD/CD	PD/CD	N	Y	Y	Y
RESIDENTIAL TWO FAMILY: Two Units per Property								
2 attached units (Duplex)	3	N	Y-1, PD/CD-20	Y-1, PD/CD-20	N	Y-1, PDCD-20	Y	Y
2 detached units	2	N	PD/CD	PD/CD	S	PD/CD	Y	Y
Primary Residence with one accessory dwelling unit	4	Y	Y	Y	Y	Y	Y	Y
RESIDENTIAL MULTI-FAMILY: Three or More Units per Property								
3 or More Single-Family Attached Units	3	N	PD/CD	PD/CD	N	S	S	S
3 or More Multi-Family Units	3	N	N	N	N	N	S	S
Manufactured Home Parks (see Article 10)	10	N	N	S	N	S	S	S
RESIDENTIAL: Care or Treatment								
Assisted Living		CU	CU	CU	CU	CU	CU	CU
Child or Adult Care Home	6	Y	Y	Y	Y	Y	Y	Y
Daycare Facility		CU	CU	CU	CU	CU	CU	S
Residential Care or Treatment Facility (6 or more residents)		CU	CU	CU	CU	CU	CU	S
Residential or Group Care Home (5 or fewer residents)		Y	Y	Y	Y	Y	Y	Y
RESIDENTIAL: Miscellaneous								
Accessory Buildings, Garages or Carports	9	Y/S	Y/S	Y/S	Y/S	Y/S	Y/S	Y/S
Bed & Breakfast	7	CUII	CUII	CUII	CUII	CUII	CUII	S
Home Businesses (See 3.090-3.160 to determine if CU)		Y/CU	Y/CU	Y/CU	Y/CU	Y/CU	Y/CU	Y/CU
Recreational Vehicle Parks (See Article 10)	5, 10	N	N	N	N	N	CU	CU
Rooming or Boarding Houses		N	N	N	CU	N	S	S
Subdivision Sales Office	19	N	Y	Y	N	Y	Y	Y
Unit(s) Above or Attached to a Business	17	N	N	N	N	N	N	N
Temporary Residence	8	S	S	S	S	S	S	S
INSTITUTIONAL								
Basic Utilities		CU	CU	CU	CU	CU	CU	CU
Community Services		CU	CU	CU	CU	CU	CU	CU
Educational Institutions	13	CU	CU	CU	CU	CU	CU	CU
Hospitals		N	N	N	N	N	CU	CU
Jails & Detention Facilities		N	N	N	N	N	N	N
Parks, Open Areas and Cemeteries	14	S/CU	S/CU	S/CU	CU	S/CU	S/CU	S/CU
Religious Institutions	13	CU	CU	CU	CU	CU	CU	CU
COMMERCIAL – Limited Use Types								
Entertainment and Recreation: Indoor	18	CU	CU	CU	CU	CU	CU	CU
Outdoor		CU	CU	CU	N	CU	CU	CU
Offices	17	PD/CD	PD/CD	PD/CD	PD/CD	PD/CD	PD/CD	PD/CD
Restaurants, no drive-thru	17	PD/CD	PD/CD	PD/CD	PD/CD	PD/CD	PD/CD	PD/CD
Retail Sales and Service	17	PD/CD	PD/CD	PD/CD	PD/CD	PD/CD	PD/CD	PD/CD
Self-Serve Storage	15	N	N	N	N	N	S	N
OTHER CATEGORIES								
Agriculture: Crop Production		Y	Y	Y	N	Y	Y	Y
On-site Sales of Site-Produced Seasonal Goods		Y	S	CU	N	CU	CU	CU
Plant Nurseries and Greenhouses		S	S	S	N	S	S	S

Use Categories	Spec. Cond.	RR	RS-10	RS-6.5	HM	RS-5	RM	RMA
OTHER CATEGORIES								
Antennas, owned and operated by FCC licensed member of Amateur Radio Service		Y	Y	Y	Y	Y	Y	Y
Communication Facilities	16	N	N	N	N	N	N	N
Kennels	11	S	CU	CU	N	CU	CU	N
Satellite Dish and Other Antennas	12	Y	Y	Y	Y	Y	Y	Y

Y = Yes, allowed, no Site Plan review required
 CD = Cluster Development, see Art. 11
 CU = Conditional Use approval required, Type III procedure
 CUII = Conditional Use approval required, Type II procedure

N = No, not allowed
 PD = Planned Unit Development, see Art. 11
 S = Site Plan Review required

[Ord. 5281, 3/26/97; Ord. 5555, 2/7/03; Ord. 5673, 6/27/07; Ord. 5742, 7/14/10; Ord. 5801, 2/13/13; Ord. 5832, 4/9/14; Ord. 5886, 1/6/17]

3.060 – 3.070, *Open Space district moved to Article 6; Ord. 5764, 12/1/11.*

SPECIAL CONDITIONS

3.080: General. Where numbers appear in the column labeled “special conditions” or in a cell in the Schedule of Permitted Uses, the corresponding numbered conditions below shall apply to the particular use category as additional clarification or restriction:

(1) In the RS-6.5, RS-5, and RS-10 Districts, one duplex is permitted outright on a corner lot that meets the minimum lot size for a duplex in the zone. Exception for non-corner lots created between May 1, 2000 and January 11, 2006: A duplex is allowed on a non-corner lot created in this time period provided that the lot is at least 1.5 times the single-family minimum lot size in the zone. The lot size threshold may be reduced by use of the 10 percent transportation bonus provided the lot is not a flag lot and it meets the standards in Section 3.220.

[Ord. 5445, 4/12/2000; Ord. 5635, 1/11/06; Ord. 5673, 6/27/07]

(2) When more than one single-family detached residence is located on a property of record in a residential zoning district and the buildings were legally constructed, the property may be divided in conformance with Article 11, even if the resulting lots do not meet the required minimum lot area and dimensional standards for the zoning district, if required setbacks and lot coverage can be met.

[Ord. 5338, 1/28/98; Ord. 5673, 6/27/07]

(3) Duplexes and multi-family development may be divided so that each can be individually owned by doing a land division in conformance with Article 11. The total land area provided for the development as a whole must conform with the requirements of Article 3, Table 1, however, the amount of land on which each unit is located does not need to be split equally between the individual units - one may be larger and one smaller.

[Ord. 5673, 6/27/07]

(4) Where detached single-family residences are permitted outright, one accessory dwelling unit (ADU) may be allowed per legally established detached single-family residence, called the “primary residence”. The ADU shall comply with the following standards:

(a) All ADUs:

(i) Floor Area – An ADU shall not exceed 900 square feet of living space floor area or 75 percent of the primary residence living space floor area, whichever is less. Living space floor area does not include garages or carports. However, an ADU that results from the conversion of a level or floor (e.g. basement, attic or second story) of the primary residence may occupy the entire level or floor, even if the floor area of the ADU would exceed 900 sq. ft.

(ii) Parking – At least three off-street parking spaces shall be provided on the property to serve each set of residences (Primary and ADU). If available, one on-street parking space may count toward one required ADU parking space. To count toward a required parking space, the on-street space must abut the ADU property, shall be at

least 25 feet long, and shall not obstruct any driveway or right-of-way.

- (iii) Other Development Standards -- All other applicable development standards including setbacks, lot coverage, and compliance with any overlay district requirements such as those in Article -- 6 Natural Resource Districts and Article 7 -- Historic Overlay District shall be met. The conversion of an existing, legal, non-conforming structure to an ADU is allowed provided the conversion does not increase any non-conformity.

(b). ADUs Interior or Attached to the Primary Residence:

- (i) Front Door -- The front door of the ADU shall not be located on the same facade as the front door of the primary residence unless the door already exists or the wall that contains the ADU front door is set back at least five feet from the front facade of the primary residence.
- (ii) Setback and Height Standards -- Setback and height standards are the same as for the primary residence as provided in Table 1 -- Residential District Development Standards.

(c) Detached ADUs

- (i) Front Setback: The front setback shall be no less than the minimum front setback for the underlying zone in Table 1 -- Residential District Development Standards. It shall also be greater than or equal to the setback of the front wall of the primary residence, or one of the front walls of the primary residence if on a corner lot.
- (ii) Interior Setback: The interior setback shall be at least five feet for one-story buildings and eight feet for two-story buildings (See Table 2 -- Accessory Structure Standards).
- (iii) Maximum Height: 24 feet to the ridge of the roof.

~~One accessory apartment is permitted per primary single family residence, called the "primary residence." The accessory apartment may be:~~

- ~~(a) An addition to or within the primary residence, OR~~
- ~~(b) In a detached building built before February 1, 1998, OR~~
- ~~(c) On a lot in a subdivision of at least ten lots, when the tentative plat was approved after July 1, 2007.~~

~~Accessory apartments shall be incidental in size and appearance to the primary residence and meet the following standards:~~

- ~~(a) One of the residences is owner occupied.~~
- ~~(b) The size of an accessory apartment does not exceed 50 percent of the gross floor area of the primary residence (excluding garages or carports) or 750 square feet, whichever is less. (Note: Accessory apartments greater than 750 square feet that were legally constructed before July 1, 2007, may remain.)~~
- ~~(c) At least three off street parking spaces are provided on the property to serve the two residences. [Ord. 5338, 1/28/98]~~
- ~~(d) All required building permits have been obtained. If the primary residence is on the Local Historic Inventory, historic review may be required.~~

~~(e) The size of the property meets the minimum single-family lot area requirements for the zoning district in which the lot is located. [Ord. 5338, 1/28/08; Ord. 5673, 6/27/07]~~

~~Detached accessory apartment units must also meet the following development standards:~~

~~Front Setback: Greater than or equal to the location of the front wall of the primary residence; and~~

~~Interior Setback: 5 feet for one-story; 8 feet for two-story; and~~

~~Maximum Height: 24 feet to the ridge of the roof. [Ord. 5673, 6/27/07]~~

- (5) In the RM District, the following criteria must be met in addition to the Conditional Use criteria for permitting RV overnight parks:
 - (a) The entire site must be located within 750 feet of the Interstate 5 right-of-way.
 - (b) The RV park access is limited to the Interstate 5 frontage road or streets servicing primarily industrial or commercial development.
- (6) “Child Care Homes” that includes the day or night time care of no more than sixteen children, including the children of the provider or the care and treatment of adults for less than 24-hours are considered a residential use of the property and are allowed outright in zones that allow single-family homes per the Oregon Revised Statutes (ORS). See ADC Section 22.200.
[Ord. 5673, 6/27/07]
- (7) Bed and Breakfast facilities shall:
 - (a) Be owner occupied.
 - (b) Be limited to a maximum of four guest bedrooms.
 - (c) Except for driveway spaces, not contain guest parking facilities in the front setback area or within 10 feet of any interior residential lot line. [Ord. 5742, 7/14/10]
 - (d) Provide at least one off-street parking space for each rental room, except in the HM zone, where on-street parking along the frontage of the property line(s) may count toward the parking requirements. To count towards this standard, each on-street space must be at least 25 feet long. [Ord. 5673, 6/27/07, Ord. 5768, 12/7/11]
- (8) Temporary residences in conjunction with construction, emergency repair, or a night watchman are permitted but are limited to one year in duration. [Ord. 5673, 6/27/07]
- (9) The definitions of “Accessory Building” and “Accessory Use” in Article 22 shall apply. The Director shall have authority to initially interpret application of these terms to any proposed activity. See also Table 2, Section 3.190 for Accessory Structure Standards.

Accessory buildings in residential districts that are 750 square feet or larger and/or with walls taller than 11 feet that meet the following standards are not subject to Site Plan Review. They will be processed as Type I staff decisions. Information must be submitted that shows the standards are met. The information shall be submitted at the time the applicant applies for building permits. The determination of whether the standards are met will be made by the Community Development Director or his/her designee. [Ord. 5767, 12/7/11]

- (a) The proposed building does not exceed the height of the tallest building on adjacent property. For this section, height means the height of the building at its highest point, usually the ridge of the roof.
- (b) The square footage of the footprint of the proposed building does not exceed the square footage of the footprint of the foundation of the largest building on adjacent property.
- (c) The amount of land that will be covered by buildings if the proposed building is constructed does not exceed the applicable lot coverage restrictions of the Development Code.
- (d) The proposed building meets or exceeds the applicable setback requirements for the primary residence as listed in Table 2.
- (e) The materials used on the proposed building (e.g. siding and roofing), and the color of those

Affordable means that the annual mortgage payments, with no more than a 10% down payment required, or the annual rent for a unit equals no more than 28 percent of the income level for which the density bonus points are being applied. Projects must have a guaranteed sale price, interest, or rental price, and include contractual obligations for continued availability to low- and moderate-income persons.

Alley Access

(7) Lots with alley access may be up to 10 percent smaller than the minimum lot size for the zone.

[Ord. 5338, 1/28/98; Ord. 5445, 4/12/00]

SETBACKS

3.230 Setback Measurements. All setbacks must meet the minimum standards as set forth in Tables 1 and 2 in this Article, as appropriate. Setback distances shall be measured perpendicular to all portions of a property line. In addition to the setbacks in this article, all development must comply with Section 12.180, Clear Vision Area. See also Table 2, Accessory Structure Standards. [Ord. 5673, 6/27/07]

TABLE 2

ACCESSORY STRUCTURE STANDARDS	
STRUCTURE	STANDARD
All Accessory Structures	Front setback, see Table 1, by zone if not noted below
Detached Structure walls less than or equal to 8 feet tall (2)	Interior setback = 3 feet (1)
Attached Structure	Interior setback = 5 feet (1)
Detached Structure walls greater than 8 feet tall (2)	Interior setback = 5 feet
<u>Detached Accessory Apartment Building Dwelling Unit</u>	<p><u>Front Setback: The front setback shall be no less than the minimum front setback for the underlying zone in Table 1 -- Residential District Development Standards. It shall also be greater than or equal to the setback of the front wall of the primary residence, or one of the front walls of the primary residence if on a corner lot.</u></p> <p>Front setback is equal or greater than primary residence</p> <p>Interior setback, one-story = 5 feet (1)</p> <p>Interior setback, two-story = 8 feet (1)</p>
Garage or carport with access to an alley	Alley setback = 20 feet, less the width of the alley right-of-way, but at least 3 feet. Other interior setbacks=see Table 1
Structures, including fences, intended for housing animals	Interior setback = 10 feet
Fences greater than 6 feet tall	See Table 1, by zone; building permit required.
Outdoor swimming pools with depths greater than or equal to 24 inches	Interior setback = 10 feet
Decks less than or equal to 30 inches from grade, with no rails or covers	No setback from property lines

**ARTICLE 5
MIXED USE ZONING DISTRICTS**

5.000 Purpose. This article is intended to define the character of Albany’s mixed-use zoning districts. The mixed-use zones implement the concepts identified in the Balanced Development Patterns Project (2001) and the Town Center Plan (Central Albany Land Use and Transportation Study, CALUTS, 1996). These zoning districts are compatible with the Village Center Comprehensive Plan designation applied in the Central Albany area, North Albany, east of Interstate 5 on Knox Butte Road, and south of Oak Creek near Highway 99E (Pacific Boulevard). The mixed-use zones may be applied outside of the Village Center plan designation. [Ord. 5555, 2/7/03]

5.020 Overview. The mixed-use zoning districts are the center of neighborhood and commercial activity, providing a horizontal or vertical mix of retail and residential uses to serve nearby neighborhoods. Other uses may include offices, and community and personal services. Centers are easily accessible to nearby residences, are pedestrian-friendly, and relate to adjacent land uses. Commercial uses must fit the scale of adjacent neighborhoods and the desired character envisioned for each Village Center or mixed-use area. The mixed-use zones differ in permitted uses, development standards, and design based on the unique objectives of each area. Design standards may be adopted to define the unique architectural and streetscape features of each area. [Ord. 5894, 10/14/17]

Development may also be subject to the provisions in Article 8, Design Standards; Article 9, On-Site Development and Environmental Standards; and Article 12, Public Improvements. Sites within overlay districts are also subject to the provisions of Article 6, Special Purpose Districts, and Article 7, Historic Overlay Districts.

The list below is a summary of the topics covered in this article.

- Zoning Districts
- Schedule of Permitted Uses
- Development Standards

[Ord. 5673, 6/27/07]

ZONING DISTRICTS

5.030 Establishment of Mixed Use Zoning Districts. In order to implement the mixed-use and livability concepts in the Town Center and Albany Comprehensive Plans, the following zoning districts are created:

- (1) HD – HISTORIC DOWNTOWN DISTRICT. The HD district is intended for a dense mixture of uses with an emphasis on entertainment, theaters, restaurants, nightlife and specialty shops. High-density residential infill on upper floors is encouraged, as is the continued presence of the government center and supporting uses. [Ord. 5894, 10/14/17]
- (2) DMU – DOWNTOWN MIXED USE DISTRICT. The DMU district is intended for a mix of retail, services, institutions, offices, and housing that supports businesses in and around the Historic Downtown District. Mixed uses are encouraged both horizontally and vertically. High-density residential infill and office employment are both encouraged. [Ord. 5894, 10/14/17]
- (3) CB – DOWNTOWN CENTRAL BUSINESS DISTRICT. The CB district is intended for a broad mix of residential and non-residential uses. Mixed uses are encouraged both horizontally and vertically. High-density residential infill is encouraged to support nearby businesses. [Ord. 5894, 10/14/17]
- (4) MUR – MIXED USE RESIDENTIAL DISTRICT. The MUR district is intended primarily to create a residential district that allows a mixture of neighborhood commercial uses that meet the daily needs of area residents. [Ord. 5673, 6/27/07]

EXHIBIT A.8

An educational institution having a capacity greater than 25 students shall have a driveway designed for the continuous forward flow of passenger vehicles for the purpose of loading and unloading children. [Ord. 5673, 6/27/07]

- (13) Public park development activity subject to conditional use review includes major development; expansions of activities and development within parks which currently generate substantial traffic; or construction of major structures such as swimming pools, lighted ball fields, and community centers. Conditional use review is not required, however, for construction of play equipment, tennis courts, bike paths, picnic shelters, restrooms, landscaping, and similar activities within existing improved parks.
- (14) Residential Care or Treatment Facility. A residential care facility (six or more residents) requires a Site Plan Review. A “residential home” (as defined in ORS Chapter 443) or group home that includes five or fewer residents is permitted outright in any zone that allows single-family residences. [Ord. 5673, 6/27/07; Ord. 5742, 7/14/10]
- (15) Existing Single- and Two-Family. Single-family and two-family units built before December 11, 2002, may remain as a permitted use in any zone without being nonconforming. See Section 5.080. [Ord. 5673, 6/27/07]

Where detached single-family residences are permitted outright, one accessory dwelling unit (ADU) may be allowed per legally established detached single-family residence, called the “primary residence”. The ADU shall comply with the following standards:

(a) All ADUs:

- (i) Floor Area – An ADU shall not exceed 900 square feet of living space floor area or 75 percent of the primary residence living space floor area, whichever is less. Living space floor area does not include garages or carports. However, an ADU that results from the conversion of a level or floor (e.g. basement, attic or second story) of the primary residence may occupy the entire level or floor, even if the floor area of the ADU would exceed 900 square feet.
- (ii) Front Door – The front door of the ADU shall not be located on the same façade as the front door of the primary residence unless the door already exists or the wall that contains the ADU front door is set back at least five feet from the front facade of the primary residence.
- (iii) Parking - At least three off-street parking spaces shall be provided on the property to serve each set of residences (Primary and ADU). If available, one on-street parking space may count toward one required ADU off-street parking space. To count toward a required parking space, the on-street space must abut the ADU property, shall be at least 25 -feet long, and shall not obstruct any driveway or right-of-way.
- (iv) Other Development Standards – All other applicable development standards including setbacks, lot coverage, and compliance with any overlay district requirements such as those in Article – 6 Natural Resource Districts and Article 7 – Historic Overlay District shall be met. The conversion of an existing legal non-conforming structure to an ADU is allowed provided the conversion does not increase any non-conformity.

(b) ADUs Interior or Attached to the Primary Residence:

- i. Front Door – The front door of the ADU shall not be located on the same façade as the front door of the primary residence unless the door already exists or the wall that contains the ADU front door is set back at least five feet from the front façade of the

primary residence.

- ii. Exterior additions must substantially match the existing materials, colors, and finish of the primary structure.

- iii. Setback and Height Standards – Setback and height standards are the same as for the primary residence as provided in Table 5-2: Mixed Use Village Center Development Standards.

(c) Detached ADUs:

- i. Front Setback: The front setback shall be no less than the minimum front setback for the underlying zone in Table 5-2: Mixed Use Village Center Development Standards. It shall also be greater than or equal to the setback of the front wall of the primary residence, or one of the front walls of the primary residence if on a corner lot.

- ii. Interior Setback: The interior setback shall be as provided in Table 5-3: Accessory Structure Standards.

~~Accessory Apartments. One accessory apartment is permitted per single family residence on a property. The single family residence is referred to as the “primary residence” below.~~

~~The accessory apartment may be:~~

- ~~• An addition to or within the primary residence; OR~~
- ~~• In a detached building built before February 1, 1998; OR~~
- ~~• On a lot in a subdivision of at least 10 lots, when the tentative plat was approved after July 1, 2007.~~

~~Accessory apartments shall be incidental in size and appearance to the primary residence and meet the following standards:~~

- ~~(a) One of the residences is owner occupied.~~
- ~~(b) The size of an accessory apartment may not exceed 50 percent of the gross floor area of the primary residence (excluding garages or carports) or 750 square feet, whichever is less.~~
- ~~(c) The size of the property meets the minimum single family lot area requirements for the zoning district in which the lot is located.~~
- ~~(d) The front door of an accessory apartment may not be located on the same façade as the front door of the primary residence unless the door already exists or the wall that contains the apartment front door is set back at least five feet from the front facade of the primary residence.~~
- ~~(e) At least three off street parking spaces are provided on the property to serve the two residences.~~
- ~~(f) Exterior additions must substantially match the existing materials, colors, and finish of the primary structure.~~
- ~~(g) All required building permits must be obtained. If the primary residence is on the Local Historic Inventory, historic review may be required.~~
- ~~(h) The front setback shall be greater than or equal to the location of the front wall of the primary residence. [Ord. 5673, 6/27/07]~~

SETBACKS

5.100 Minimum Standards. Primary structures must meet the minimum setback standards in Table 5-2, Development Standards. In addition to the setbacks in this Article, all development must comply with Section 12.180, Clear Vision Area.

The Accessory Structure Standards (Table 5-3) apply to residential accessory structures in the MUR, WF, MS, ES, and MUC districts. [Ord. 5555, 2/7/03; Ord. 5556, 2/21/03]

**TABLE 5-3
ACCESSORY STRUCTURE STANDARDS**

STRUCTURE	SETBACK STANDARD
All Accessory Structures	See Table 5-2 for minimum front setbacks.
Detached, walls less than or equal to 8 ft. tall	Interior setback = 3 feet
Detached, walls greater than 8 ft. tall	Interior setback = 5 feet
Attached structure	Interior setback = 5 feet
<u>Detached Accessory Dwelling Unit</u>	<u>Front Setback: The front setback shall be no less than the minimum front setback for the underlying zone in Table 5-2: Mixed Use Village Center Development Standards. It shall also be greater than or equal to the setback of the front wall of the primary residence, or one of the front walls of the primary residence if on a corner lot.</u> <u>Interior Setback, walls less than or equal to 8 feet tall = 3 feet</u> <u>Interior setback, walls greater than 8 feet tall = 5 feet</u>
Garage with access to an alley	Alley setback = 20 feet, less the width of the alley right-of-way, but at least 3 feet. Other interior setbacks, see Table 5-2
Structures, including fences, intended for housing animals	Interior setback = 10 feet
Fences more than 6 ft. high	District setback standard; building permit required.
Outdoor swimming pools with depths greater than or equal to 24 inches	Interior setback = 10 feet
Decks less than 30 in. off grade, no rails, covers	No setback from property line
Decks greater than or equal to 30 in. off grade	Interior setback = 5 feet

[Ord. 5445, 4/12/00; Ord. 5673, 6/27/07; Ord. 5894, 10/14/17]

5.110 Measurements. Setback distances must be measured perpendicular to all portions of a lot line.

5.115 Special interior setbacks. In order to provide compatible transitions to residential zones and uses and to historic buildings, additional interior setbacks are required as follows. [Ord. 5894, 10/14/17]

- (1) Special interior setbacks in all Mixed Use Zones except HD, DMU, CB, and WF. Commercial or office buildings abutting residential districts and/or uses require one foot of setback for each foot of wall height with a minimum setback of ten feet. For developments abutting commercial or industrial districts, no interior setback is required. [Ord. 5894, 10/14/17]
- (2) Special interior setbacks in the HD, DMU, CB and WF zoning districts. New buildings and expansions to existing buildings must provide interior setbacks as follows. [Ord. 5894, 10/14/17]
 - (a) Setbacks abutting Residential Districts. [Ord. 5894, 10/14/17]

**ARTICLE 8
DESIGN STANDARDS**

8.000 Overview. The purpose of this Article is to establish additional standards for certain uses. These standards are intended to reduce adverse effects on surrounding property owners and the general public, to create a business environment that is safe and comfortable, to further energy conservation efforts within the City, to enhance the environment for walking, cycling, and mass transit use, and to ensure that high-quality development is maintained throughout Albany.

The following list is a summary of the topics covered in this article.

- Single-Family Homes
- Multiple Family Development
- Commercial and Institutional Site Design
- Supplemental Standards in Village Centers
- Telecommunications Facilities
- Supplemental Design Standards for the Oak Creek Transition Area
[Ord. 5445, 4/12/00, Ord. 5801, 2/13/13; Ord. 5832, 4/9/14]

SINGLE-FAMILY HOMES

8.100 Purpose. The design standards for single-family homes are intended to create pedestrian-friendly, sociable, safe and attractive neighborhoods through human-scale design. These standards emphasize the functional relationship between the home and the street. Compatibility standards protect the architectural character of existing neighborhoods. These design standards are adaptable to many different architectural styles. [Ord. 5445, 4/12/00]

8.110 Applicability.

- (1) The standards of ADC Sections 8.110 through 8.160 apply to all new single-family detached units, manufactured homes, two-family units (duplexes), and single family attached units on individual lots in all zones that allow single-family housing, except as otherwise noted. [Ord. 5894, 10/14/17]
- (2) In addition, except as otherwise noted, the standards of ADC Sections 8.110 through 8.160 apply to multifamily units with individual driveways permitted pursuant to ADC 12.100(2) that are located in the WF, CB, or DMU zone, or in the HD zone in a building where ground-floor residential use is permitted pursuant to ADC 5.070(17). [Ord. 5894, 10/14/17]
- (3) These standards do not apply to detached accessory dwelling units, existing structures, ~~to~~ new additions to existing structures, or to manufactured home parks. [Ord. 5894, 10/14/17]
- (4) Development on flag lots or on lots that slope up or down from the street with an average slope of 20 percent or more is exempt from these standards. [Ord. 5445, 4/12/00; Ord. 5894, 10/14/17]

8.120 Relationship to Historic Overlay Districts. For property inside the Historic Overlay Districts and properties designated as Historic Landmarks, the provisions in Article 7 also apply. For development subject to historic review under Article 7, the review body may grant flexibility in meeting any of the design standards where necessary to achieve historic compatibility. [Ord. 5445, 4/12/00; Ord. 5894, 10/14/17]

**ARTICLE 22
USE CATEGORIES AND DEFINITIONS**

The following is a list of content in this article.

- Use Categories 22.030 – 22.370
- Definitions 22.400
- Natural Resource Definitions 22.500

USE CATEGORIES

[Use Categories in Sections 22.010 – 22.370 added by Ord. 5555, 2/7/03]

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.

The Schedules of Permitted Uses (by zoning district), special conditions and the development standards are located in Article 3, Residential Zoning Districts; Article 4, Commercial and Industrial Zoning Districts; and Article 5, Mixed-Use Village Center Zoning Districts. The environmental performance standards in Article 9, On-site Development and Environmental Standards, may limit the placement of certain uses in some zoning districts.

INDUSTRIAL USE CATEGORIES

- 22.030 Contractors and Industrial Services
- 22.040 Manufacturing and Production
- 22.045 Small-scale Manufacturing
- 22.050 Railroad Yards
- 22.060 Warehousing and Distribution
- 22.070 Waste and Recycling Related
- 22.080 Wholesale Sales

COMMERCIAL USE CATEGORIES

- 22.090 Adult Entertainment
- 22.100 Entertainment and Recreation, Indoor and Outdoor
- 22.110 Offices
- 22.120 Parking Facility
- 22.125 Recreational Vehicle Park
- 22.130 Restaurants
- 22.140 Retail Sales and Service
- 22.150 Self-Serve Storage
- 22.155 Taverns, Bars, Breweries and Night Clubs
- 22.160 Vehicle Repair
- 22.170 Vehicle Service, Quick

INSTITUTIONAL USE CATEGORIES

- 22.180 Basic Utilities
- 22.190 Community Services
- 22.200 Daycare Facility
- 22.210 Educational Institutions
- 22.220 Hospitals
- 22.230 Jails and Detention Facilities
- 22.240 Parks, Open Areas and Cemeteries
- 22.250 Religious Institutions

- (3) *Accessory Uses.* Accessory uses commonly found are recreational activities, raising of pets, hobbies, and parking of the occupants' vehicles. Home occupations, accessory dwelling units, and bed and breakfast facilities are accessory uses that are subject to additional regulations.
- (4) *Exceptions.*
 - (a) Lodging in a dwelling unit or Single Room Occupancy (SRO) unit where less than two-thirds of the units are rented on a monthly basis is considered a hotel or motel use and is classified in the Retail Sales and Service category.
 - (b) Single-room occupancy situations where care is provided are classified as a Group or Residential Care Home or Residential Care or Treatment Facility. [Ord. 5801, 2/13/13]
 - (c) Dwelling units located above, behind or contiguous to a business or office on the ground floor(s) are classified as Units Above or Attached to a Business. [Ord. 5894, 10/14/17]

22.310 Unit(s) Above or Attached to a Business

- (1) One or more residential dwelling units located above, behind or contiguous to a business or office on the ground floor(s), where the business has street frontage. [Ord. 5742, 7/14/10]
- (2) *Use Examples.* Apartments, condominiums, retirement center apartments, and other structures with self-contained dwelling units located above a business.
- (3) *Exceptions.*
 - (a) Lodging in a dwelling unit or Single Room Occupancy (SRO) unit where less than two-thirds of the units are rented on a monthly basis is considered a hotel or motel use and is classified in the Retail Sales and Service category.
 - (b) SROs that contain programs that include common dining are classified as a Group or Residential Care Home or Residential Care or Treatment Facility.
 - (c) Live/work dwelling units in which the dwelling unit and the business are internally connected without passing through a common area are considered to have multiple primary uses, with the residential and non-residential uses each subject to the regulations for their respective use categories. [Ord. 5894, 10/14/17]

22.320 Residential Accessory Buildings

- (1) A detached building that is subordinate to and consistent with the principal use of the property located on the same property as the principal dwelling. Residential accessory buildings are permitted in residential and mixed-use zones if they meet the following standards:
 - (a) Detached residential accessory buildings (other than Accessory Dwelling Units, which are addressed below), garages, and carports are allowed outright if they are less than 750 square feet and have walls equal to or less than eleven feet in height. Larger buildings may be permitted through site plan review, refer to the following standards:
 - In residential zoning districts in Article 3, refer to Section 3.080(9).
 - In commercial or industrial zones in Article 4, refer to Section 4.060(21).
 - In mixed-use zones in Article 5, refer to Section 5.070(18).
 - (b) Accessory Dwelling Units ~~apartments~~ have special conditions in Articles 3 and 5, Sections 3.080(4) and 5.070(15) respectfully. [Ord. 5742, 7/14/10]

DEFINITIONS

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

Abut: Contiguous to; for example, two lots with a common property line. However, “abut” does not apply to buildings, uses, or properties separated by public right-of-way.

Access: The place, means, or way by which pedestrians or vehicles shall have ingress and/or egress to a property or parking area.

Accessory ~~Apartment~~ Dwelling Unit: A self-contained living unit that is attached to or ~~a part of interior to the primary~~ a single-family dwelling, ~~a detached structure, or in a portion of~~ constructed within a detached accessory structure (e.g. above a garage or workshop) ~~built before February 1, 1998, or constructed in a subdivision platted after July 1, 2007, and~~ that is incidental and subordinate to the principal dwelling unit (primary residence). [Ord. 5338, 1/28/98; Ord. 5801, 2/13/13]

Accessory Building: A detached building or set of buildings that is subordinate in size and purpose to the principal structure on the same property or development site under the same ownership. The use of the accessory building serves an incidental purpose to the permitted principal use in the main building(s). [Ord. 5742, 7/14/10]

Accessory Use: A use on the same property or development site under the same ownership that is customarily incidental, subordinate to, and compatible with the principal use and surrounding properties. [Ord. 5742, 7/14/10]

Access Way: An unobstructed drive or roadway that provides vehicular access and connects to a public street.

Adjacent: Contiguous to a property boundary or across an adjoining right-of-way.

Adult Entertainment: Adult entertainment uses are sexually-oriented business entertainment uses and accessory uses which exclude minors by virtue of age under the laws of the State of Oregon, whether or not such minors are accompanied by a consenting parent, guardian, or spouse. Such uses include but are not limited to, adult motion picture theaters, video arcades, massage parlors, nude modeling studios, lotion studios, adult bookstores, nude photography studios, or eating and drinking establishments that have sexually-oriented entertainment such as nude dancers, strippers, or other similar entertainers.

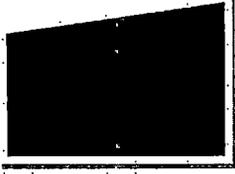
Affected Party: Any person who owns property or resides on property within the notification area for a development permit application, or any person who provides written or oral testimony in regard to a development permit application and who can demonstrate standing by virtue of an affected property interest.

Alley: A public way not over 30 feet wide that provides a secondary means of access to private property. An alley is not considered a “street” as used in this Code. [Ord. 5742, 7/14/10]

Alter, Alteration: Any human-induced physical change to the existing condition or occupancy of a building or structure, or to land including but not limited to clearing, grubbing, draining, removal of vegetation (chemical or otherwise), excavation, grading, placement of fill material, placement of structures or impervious surfaces or other construction.

Amendment: A change in the wording, context, or substance of the Code, or a change in the zone boundaries or use district boundaries upon the zoning map or a change in the Comprehensive Plan.

Amenity: A natural or created feature that enhances the aesthetic, functional or visual quality or makes a particular property a more attractive or appealing place or area. [Ord. 5742, 7/14/10]



ALBANY CITY COUNCIL
Meeting Summary

Wednesday, July 11, 2018

7:15 p.m.

Council Chambers, City Hall

333 Broadalbin Street SW

1. CALL TO ORDER
2. PLEDGE OF ALLEGIANCE
3. ROLL CALL
4. SCHEDULED BUSINESS
 - a. Communication
 - 1) Accepting Mike Martin's resignation from the Public Safety Commission. [Page 3]
Action: Motion to accept the resignation and send a letter of thanks passed 6-0.
 - b. Business from the Public
 - c. Second Reading of Ordinances
 - 1) Implementing proposed amendments to the Albany Development Code.
 - a) Amending Ordinance No. 4441 by amending the Albany Development Code, Accessory Dwelling Units, DC-02-18, and adopting findings. [Pages 4-18]
Action: Motion to adopt the ordinance passed 4-2, with Olsen and Coburn voting no.
ORD. NO. ~~5911~~
August 6, 2018, Council Action: Motion to overturn the Mayor's veto of Ordinance No. 5911 failed 4-2 with Olsen and Coburn voting no. The City Charter requires five votes in the affirmative for a vetoed ordinance to become law without the approval of the Mayor. The Mayor will work with staff on a revised ordinance for Council consideration.
 - b) Amending Ordinance No. 4441 by amending the Albany Development Code, Expedited Reviews, DC-03-18, and adopting findings. [Pages 19-27]
Action: Motion to adopt the ordinance passed 5-1, with Olsen voting no. ORD. NO. 5912
 - 2) Repealing Ordinance No. 5359 that provided for a process to finance Street Improvement Assurance fees. [Page 28]
Action: Motion to adopt the ordinance passed 6-0. ORD. NO. 5913

d. Adoption of Resolution

- 1) Authorizing the Chief of Police to sign ongoing police vehicle lease contracts. [Pages 29-31]

Action: Motion to adopt the resolution passed 6-0. RES. NO. 6723

e. Adoption of Consent Calendar

- 1) Approval of Minutes

- a) April 5, 2018, Joint Work Session (City Council, Planning Commission, Budget Committee).

[Pages 32-36]

Action: Motion to adopt the Consent Calendar as presented passed 6-0.

f. Award of Contract

- 1) Awarding a contract to Willamette Valley Rehabilitation Center, Inc., for custodial services beginning in July 2018. [Pages 37-39]

Action: Motion to adopt the resolution passed 6-0. RES. NO. 6724

g. Award of Bid

- 1) TS-18-01, awarding a bid to EC Company for the installation of a traffic signal at Sixth Avenue and Ellsworth Street. [Pages 40-43]

Action: Motion to award the bid to EC Company as outlined in the staff report passed 5-1, with Olsen voting no.

5. BUSINESS FROM THE COUNCIL

6. NEXT MEETING DATES

- Monday, July 23, 2018; 4:00 p.m. Work Session
- Wednesday, July 25, 2018; 7:15 p.m. Meeting

7. ADJOURNMENT

**This summary has been prepared by City staff and is not final
until the minutes have been formally approved by City Council.**

RECEIVED

July 13, 2018

JUL 13 2018

Initial: MD.

I hereby veto Ordinance No. 5911—Accessory Dwelling Units and the following is my explanation for my decision:

I support applying the minimum standards for the state required accessory dwelling units (ADUs) in single family zoning. Yet, I am not pleased that the state adopted these rules without our city having input first. I do not feel ADU's are a solution to the lack of low income housing and the state has placed a burden on local governments in dealing with the unintended consequences.

I do not support increasing the current size in our development code of 750 square feet for an ADU to 900 square feet. The size increase is basically adding an additional bedroom to an ADU. If an ADU becomes a one-bedroom dwelling, then there could be two adults, which might be two drivers with two vehicles. If a two-bedroom dwelling, then there could be four vehicles. This can impact an existing single-family neighborhood's livability.

The ordinance changes the current parking requirements of one off-street parking space for an ADU by allowing on street parking, if there is enough street frontage.

ADUs can transform the character of an existing single-family neighborhood into a multi-family. There is no requirement by the state to apply standards above the

minimum requirements. That is why I believe we should strive to lessen the impacts for existing neighborhoods.

Changing our existing code for square footage could be conceived as picking a number out of a hat. By increasing the size opens the door for increases by future councils. Once a size is increased and found too large of an impact on neighborhoods, then decreasing the size could be considered a taking and subject to challenges. I don't believe this is good policy and we as decision makers should strive to prevent neighborhood conflicts. If we find in the future the building size or parking should be changed, then a council can change the requirement. Right now, there is no rush to allow above the state standards as there are too many unknown issues with this new legislative ruling.

Also, I would have liked more discussion on July 11 on this ordinance, as this was the first opportunity for the Council to convey their concerns or suggest changes to the final draft ordinance. But a call for the question took away that opportunity.

My veto is to have a discussion over some amendments to help address all councilors concerns. If I did not veto, then any amendment would be delayed until August 22, as the ordinance is not enacted for 30 days. I prefer this ordinance to be at our next meeting to get this issue resolved sooner.



Sharon Konopa, Mayor of Albany

Section 38 Veto.

If the mayor does not approve the ordinance, the reasons for the veto must be filed in writing with the City Clerk within three (3) days after the ordinance is passed by the council. At the first meeting of the council after veto, the recorder shall read the message from the mayor. Such ordinances shall then be put upon its passage again and if five (5) members of the council vote in the affirmative, it shall become a law without approval of the mayor. If the mayor fails to sign an ordinance within three (3) days after passage, and does not file a written veto to the same, such ordinance shall become law as if the mayor had approved it. (Ord. 5741, 6-23-2010)