



ORDINANCE NO. 1735 continued

by a two-thirds vote of the Council. The Council or the City planning commission may initiate the proposed changes in zones, which changes may be made only after notice to the owners of the properties affected and after a public hearing. All changes, except those initiated by the Council or the City planning commission shall be made only upon petition wherein the signatures of the owners of 50 per cent or more of the area of each block in which the changes are to be made, including at least 50 per cent of the area to be changed, are signed, and said petitions shall show addresses and descriptions of property owned sufficient for the identification thereof.

Whenever the owners of 50 per cent of the land in any of the area shall present a petition duly signed to the Council, requesting an amendment of the regulations prescribed for such area, it shall be the duty of the council to vote upon such amendment within ninety days of the filing of the same by the petitioners with the City Recorder.

A petition for change of zone shall be referred to the City planning commission by the City Recorder and the City planning commission shall check such petition for sufficiency and shall make a report embodying its recommendation. No petition shall be approved by the Council until the City planning commission has submitted a report relative to the same, and the City planning commission must submit such report within sixty days of the filing of the petition with the City Recorder.

The City planning commission shall afford persons particularly interested, and the general public, an opportunity to be heard at a time and place specified in a notice of hearing published in the manner required by Section 95-2404, O. C. L. C., 1940, and the final report of the City planning commission shall be directed to the Council. If a protest against such amendment be presented duly signed by the owners of 20 per cent of the land within such area proposed to be altered, such amendment shall not be passed except by a two-thirds vote of the council.

Section 10. APPEALS FROM RULINGS OF PERMITS. Any interested citizen or administrative officer of the City may appeal to the council from any ruling pertaining to the granting or denial of any permit applied for under when such ruling is adverse to his interests, by filing with the City Recorder within ten (10) days from such ruling a written notice of appeal. Such written notice shall state with reasonable accuracy the particular ruling from which appeal is made, and state the grounds therefore. Thereupon the City Recorder shall forthwith obtain all papers constituting the record upon which the action appealed from is based, and refer the same to the City planning commission, which shall, within 30 days, submit its written recommendation thereon together with the record to the Council. Said commission or the council may receive such additional evidence as either deems relevant to the issues involved. Upon receiving such recommendation and record, and within 30 days and after a public hearing thereon, the Council shall have power to affirm, overrule, or alter any such ruling.

Section 11. PENALTY FOR VIOLATION. The owner or owners of any building or premises, or part thereof, where anything in violation of this ordinance shall be placed, or shall exist, or be maintained, and any architect, builder or contractor who shall assist in the commission of any such violation, and all persons or corporations who shall violate or maintain any violation of any of the provisions of this ordinance or who shall fail to comply therewith, or with any requirements and approved thereunder, shall for each and every violation or non-compliance be deemed guilty of a misdemeanor and, upon conviction thereof, shall be fined not more than one hundred (\$100.00) dollars, or by imprisonment in the City jail not to exceed fifty (50) days, or by both such fine and imprisonment. Each day that a violation of this ordinance continues shall be considered a separate offense.

Section 12. CONFLICTING PROVISIONS. All ordinances or parts of Ordinances in conflict herewith are hereby repealed.

Section 13. VALIDITY. Should any section, clause or provision of this ordinance be declared by a court of competent jurisdiction to be invalid, the same shall not affect the validity of the ordinance as a whole or any part thereof other than the part declared invalid.

PART II

Section 14. DEFINITIONS. The following words and phrases when used in this Ordinance shall have the meanings respectively ascribed to them in this section, excepting in those instances where the context clearly indicates a different meaning.

Amended  
Ord. No. 2643  
Section 15  
Amended  
Ord. No. 2655  
Section 15  
Amended  
Ord. No. 2667  
Section 15  
Amended  
Ord. No. 2731  
Section 15  
Amended  
Ord. No. 2750

Section 10  
Amended  
Ord. No. 2773

Section 15  
Amended  
Ord. No. 2784

- 2501
- 2509
- 2517
- 2520
- 2527
- 2593
- 2595
- 2599
- 2604

Sec  
1511  
1558

Amended by Ord. 2538

Words used in the present tense include the future, the singular number includes the plural; and the plural the singular, the word lot includes the word plot and the word building includes the word structure.

**DWELLINGS, SINGLE FAMILY.** A single family dwelling is a building used or arranged for use as the home or abode of but one family and in which not more than 4 boarders or lodgers are accommodated.

**DWELLINGS, TWO FAMILY.** A two family dwelling is a building used or arranged for use as the home or abode of but two families, living independently of each other, and in which not more than 8 boarders or lodgers shall be accommodated by each family.

**DWELLINGS, MULTIPLE FAMILY.** A multiple family dwelling is a building used or arranged for use as the home or abode of three or more families, living independently of each other and doing their own cooking in said building and shall include flats and apartments.

**GARAGE, PRIVATE.** A private garage is a garage for not more than three automobiles, for storage only, and intended for private use, but in which space may be rented for storage only of not more than two non-commercial automobiles, by other than the occupants of the building to which said garage is accessory.

**HALF STORY.** A half story is a story of a building which is situated within a sloping roof, the usable floor area of which does not exceed two-thirds of the floor area of the story immediately below it.

**LOT.** A lot is a parcel of land in a single or a joint ownership, occupied by not more than one building and the accessory buildings or uses customarily incident to it, including open spaces required herein.

**NON-CONFORMING BUILDING OR USE.** A non-conforming building or use is one that does not conform with the regulations provided herein for a given use district.

**STREET LINE.** The street line is the dividing line between the street and the lot.

**YARD FRONT.** A front yard is an open, unoccupied space on the same lot with a building, between the front line of the building and the street line of the lot, unobstructed upward.

**YARD, REAR.** A rear yard is an open, unoccupied space on the same lot with a building, between the rear line of the building and the rear line of the lot, unobstructed upward.

**YARD, SIDE.** A side-yard is an open unoccupied space on the same lot with a building, situated between the building and the side line of the lot and extending through from the street to the rear yard, or where no rear yard is required, to the rear line of the lot.

### PART III

**Section 15. USE DISTRICTS.** For the purpose of this ordinance the City of Albany is hereby divided into three types of districts designated as follows:

1. Residence District
2. Business District
3. Industrial District

The boundaries of these districts are hereby established as shown on the official zoning map of the City which accompanies this ordinance and is on file in the office of the City Recorder.

Unless otherwise shown on the zoning map of the City the boundaries of the districts are lot lines, center lines of streets or alleys, railroad right-of-way lines, or corporate limit lines as they existed at the time of the enactment of this ordinance.

**Section 16. RESTRICTIONS WITHIN ZONES.**

#### A. Residential Zone.

In the residential zone no building or premises shall be used, and no building shall hereafter be erected or structurally altered, unless other-

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wise provided in this ordinance except for one or more of the following uses:

1. One and two family dwellings  
Multiple dwellings
2. Libraries and art galleries
3. Parks and playgrounds (including park buildings)
4. Accessory buildings and uses, such as are ordinarily appurtenant to single family dwellings, shall be permitted, including one private garage, when located not less than sixty (60) feet from the front lot line nor less than twenty (20) feet from any flanking street line or when attached to or within the dwelling.
5. The office of a physician, dentist or other professional person when located in his or her dwelling, also home occupations engaged in by individuals within their dwellings are permitted provided that no window display is made or any sign shown other than one not exceeding two square feet in area and bearing only the name and occupation of the occupant. The renting of rooms for lodging purposes only, for the accommodation of not to exceed eight (8) persons, in a single family dwelling may likewise be permitted with the approval of the commission subject to review of the Council.
6. Signs not exceeding (8) square feet in area pertaining to the leasing, rental or sale of buildings or premises are permitted; signs shall be erected flat against the building or painted upon the side thereof. All other signs, signboards and billboards are prohibited. Provided however that signboards, billboards and other forms of outdoor advertising may be allowed by special permit for a period of five years or less, issued by the commission after examination of the location and upon due proof to the satisfaction of the commission that such signboard, billboard or other advertising will not be unduly detrimental to adjacent and surrounding property, but the same front and side yard provisions as required for buildings must be observed.
7. Nothing herein contained shall be deemed to prohibit the use of vacant property for gardening or fruit raising.
8. Special uses: Special permits are required from the commission for the following uses:
  - (a) Circuses, fairs and carnivals
  - (b) Nursery or greenhouse
  - (c) Telephone exchange
  - (d) Electric Substation
  - (e) Churches
  - (f) Schools (public and private)
  - (g) Hospitals

Such permits are to be issued after the commission has been satisfied as to the propriety of such use. The commission may limit the duration of such permits as it may deem advisable.

## 9. Yard requirements.

Front Yard; There shall be a front yard having a minimum depth of twenty (20) feet.

Rear Yard; There shall be a rear yard having a minimum depth of twenty-five (25) feet.

Side Yard; There shall be a side yard of not less than five (5) feet in width on each side of the building.

## 10. Site area requirements:

Buildings hereafter built in the residential zone shall be limited by the following site area requirements:

Single family:	5000 sq. ft.	unit
Two family:	2500 sq. ft.	unit
Multiple dwellings: (Three and four units)	2000 sq. ft.	unit
Multiple dwellings: (Five or more)	1500 sq. ft.	unit

## 11. Height restrictions:

The height of dwellings in the residential zone shall be limited to two and one-half stories. The height of accessory buildings shall be limited to one story. The height of all other buildings shall not exceed three (3) stories or thirty-five (35) feet in height unless each side yard is increased over the minimum by an additional five feet for every five feet, or fraction thereof, additional height over thirty-five feet.

## B. COMMERCIAL ZONE.

1. In the commercial zone no building or premises shall be used and no building shall be hereafter erected or structurally altered unless otherwise provided in this ordinance except for one or more of the following uses:

Any use permitted in the residential zone.  
 Boarding houses and lodging houses.  
 Churches  
 Educational and charitable institutions  
 Hospitals and sanitariums, except those for the insane and similar special use.  
 Hotels, motor courts  
 Nurseries, and greenhouses  
 Private clubs, lodges and fraternities  
 Public garages, service stations  
 Recreational enterprises  
 Retail stores and shops including service establishments  
 Schools  
 Wholesale establishments and warehouses.

## C. INDUSTRIAL ZONE.

In the industrial zone all buildings and premises except as otherwise provided in this Ordinance may be used for any purpose permitted in the commercial zone and any other purpose except those uses which have been declared nuisances by statutes or ordinances, or any court of competent jurisdiction, or which may be obnoxious or offensive by reason of the emission of odor, dust, smoke, gas or noise, provided that the commission shall have the power to grant conditional and revocable permits for any such use within the industrial zone after public hearings and examination of the location, upon due proof to the satisfaction of the commission that the maintenance of such use will not be unduly detrimental to adjacent and surrounding property.

## PART IV

Section 17. REDUCTION IN AREA OF LOTS. No lot shall be reduced in area so that yards less than the minimum required under this Ordinance shall result.

Section 18. ONLY ONE PRINCIPAL BUILDING ON ANY LOT. No dwelling shall be erected on a lot which does not abut at least one street. No building in the rear of a principal building on the same lot may be used for residential purposes, except for employees of the occupants of the principal building and their immediate families.

Section 19. YARD SPACES SHALL NOT OVERLAP. No part of a yard or other open space required about any building for the purpose of complying with the provisions of this ordinance shall be included as a part of a yard or other open space required under this Ordinance for another building.

Section 20. LOT OF RECORD EXEMPTION. Where the owner of a lot or lots or official record at the time of the enactment of this ordinance does not sufficient space in said lot or lots to enable him to conform to the yard and other requirements of this ordinance, such lot or lots may be used as a building site, as possible in the opinion of the planning commission to the requirements for the district in which the property is located.

Section 21. FRONT YARDS. The front yard requirements of this ordinance shall not apply within any district where the average depth of the existing front yard on developed lots located within one hundred (100) feet on each side of the lot and within the same block and

zoning district and fronting on the same street as such lot, is greater or less than the minimum required front yard depth. In such cases the depth of the front yard on such lot shall not be less than the average existing front yard depths on the developed lots.

Section 22. EXCEPTIONS TO HEIGHT LIMITS. The height limitations of this ordinance shall not apply to church spires, belfries, cupolas and domes not for human occupancy, monuments, water towers, observation towers, transmission towers, windmills, chimneys, smokestacks, derricks, conveyors, flagpoles, radio towers, masts and aeriels.

Section 23. EXISTING BUILDINGS AND NON-CONFORMING USES. When a property or an existing building at the time of the passage of this ordinance has a use which was legal prior to the passage of this ordinance, such use may continue, even though it be not in conformity with the zoning regulations. If, however, the use of the building or premises is changed, it shall be changed to a use conforming to the zoning regulations, and after such change, it will not be permissible to change back again to the original non-conforming use. A non-conforming use shall not be extended, but the extension of a use to any portion of a building which was arranged or designed for such non-conforming use at the time of the passage of this ordinance, shall not be deemed the extension of a non-conforming use. If a non-conforming use be discontinued for the period of one year, the same cannot be again continued.

A building arranged, designed or devoted to a non-conforming use at the time of the passage of this ordinance may not be reconstructed or structurally altered to an extent exceeding in aggregate cost during the lifetime of the building 50 per cent of the value of the building, unless the use of such building be changed to a conforming use. A non-conforming advertising sign, if removed from the premises, may not be replaced. No exterior sign aggregation more than six square feet in area shall hereafter be created to advertise a non-conforming use.

A non-conforming use, if changed to a more restricted non-conforming use, shall not thereafter be changed to a less restricted use.

When a building having a non-conforming use is damaged by fire or other cause so that the total deterioration exceeds 60 per cent of the cost of replacing the building using new materials, then such building shall not be rebuilt, unless such building in its construction and uses conforms fully to the requirements of this ordinance and other ordinances of the City as applied to new buildings and uses in the district in which it is to be located. When a building having a non-conforming use is damaged by fire or other cause to an extent which will permit rebuilding, such construction must commence within six months of date of damage and be completed within one year of such date if the use is to continue as a non-conforming use.

Section 24. COMPLETION OF BUILDINGS. Nothing in this ordinance shall require any change in the plans, construction, alteration or designated use of a building upon which construction has actually begun thirty (30) days previous to the passage of this ordinance and the ground story framework of which, including the second tier of beams, shall have been completed. However, such entire building must be completed in accordance with the original plans within one (1) year from the date of commencing construction, to avoid compliance with this ordinance.

Passed by the Council September 11, 1946

Approved by the Mayor September 11, 1946

J. C. MCNEILL  
Mayor

Attest: C. R. Ashton

I, C. R. Ashton, Recorder of the City of Albany, Linn County, Oregon do hereby certify that the above copy of the Ordinance Bill No. 1735, has been by me carefully compared with the Ordinance Bill No. 1644, as passed by the Council September 11, 1946, and approved by the Mayor on the 11th day of September, 1946.

Witness my hand and official signature and seal of the City of Albany, Oregon on the 12th day of September, 1946.

*C. R. Ashton*  
Recorder of the City of Albany, Oregon