

ORDINANCE NO. 4945

TITLE: AN ORDINANCE AMENDING THE ALBANY MUNICIPAL CODE, TITLE 20, KNOWN AS THE "CITY OF ALBANY DEVELOPMENT CODE" RELATIVE TO PUBLIC HEARING PROCEDURES AND FAIR HOUSING OPPORTUNITIES ATTACHED AS EXHIBIT "A"; AND DECLARING AN EMERGENCY.

WHEREAS, the Albany City Council has directed staff to perform an update of the Albany Development Code; and

WHEREAS, the Planning Commission held a public meeting on November 5, 1990, recommended approval of proposed amendments to the Development Code relative to bringing the Code into compliance with state mandated changes on public notice requirements and federally mandated changes regarding housing opportunities for handicapped persons; and

WHEREAS, a notice of the City Council public hearing has been published; and

WHEREAS, the Albany City Council held a public Hearing on January 9, 1991 and parties were given an opportunity to be heard.

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

Section 1: The Findings below are hereby adopted in support of this decision:

- A. The proposed amendments reflect the City's commitment to citizen involvement.
- B. The proposed amendments will clarify the hearing and notice processes, providing more opportunity for participation to all citizens.
- C. The proposed amendments reflect the City's commitment to provision of equal housing opportunities for handicapped citizens.
- D. The proposed amendments will satisfy requirements of state and federal law.

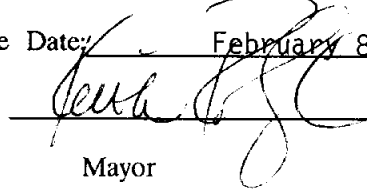
Section 2: The Albany Municipal Code, Title 20, known as the "City of Albany Development Code," Articles 2, 4, 5, 13, and 22 is hereby amended as shown on Exhibit "A."

Section 3: The above enumerated Exhibit is to be forwarded to the Department of Land Conservation and Development.

Passed by the Council: January 9, 1991

Approved by the Mayor: January 10, 1991

Effective Date: February 8, 1991



Mayor

ATTEST:



City Recorder

2.014 Submission of Development Permit Land Use Applications.

- (1) Application materials shall be submitted to the Director who shall have the date of submission indicated on each copy of the materials submitted.
- (2) Within seven (7) calendar days the Director shall determine whether the application is complete. The Director shall notify the applicant when the application is found to be incomplete and identify what additional information is needed. ~~If the Director determines that the application is incomplete or the necessary attachments have not been submitted, the Director shall notify the applicant by mail or otherwise convey an explanation to the applicant at least 21 days prior to the hearing date.~~ An application which has been determined to be incomplete may be supplemented, or amended or resubmitted, at the Director's discretion. Resubmitted applications shall be subject to another seven (7) calendar day completeness check.

COMMENT

These additions put applicants on notice that the City has the option to reject incomplete applications or request additional information. Staff will continue the current policy of working with the applicant in ensuring a quality and complete application is being reviewed.

- (3) ~~Land use applications for Development Permits requiring a public hearing shall be submitted at least 35 days in advance of the next regularly scheduled public meeting of the hearings body unless waived by the Director, at the Director's discretion, when adequate notice can otherwise be achieved. However, in cases where a public hearing is required all such submissions shall be made at least 14 days prior to the public hearing unless the Director determines that materials submitted later will have no bearing on the public hearing.~~

Any additional documents or evidence relied upon by the applicant shall be submitted to the Planning Division and made available to the public when mailed notice is sent, which shall be at least 20 days prior to the public hearing (10 days before the first evidentiary hearing if two or more evidentiary hearings are required). Continuances are available to any party if new information is provided by the applicant after mailed notice is sent, including at the hearing. Such a continuance shall not be subject to the limitations of ORS 227.178. Upon request, the application file containing these materials shall be made available to the public for inspection at no cost and copies will be provided at reasonable cost.

COMMENT

Changes required by House Bill 2288, passed in 1989 legislative session. Intended to provide proponents and opponents with sufficient time for review of materials submitted in relation to the application.

2.020 ~~Summary of Procedure Types. For purposes of administering the provisions of this Code, there are four types of procedures for processing all development permits. The four procedures include but are not limited to the following activities:~~

~~Type I Procedure - Code interpretations, excavation and fill permits, lot line adjustments, Type I variances, minor partitionings, site plan reviews, Type I modifications to non-conforming situations, preliminary and final planned unit development plans, final subdivision plats, mobile home parks, and all other development permits not included in a Type II, III, or IV review.~~

~~Type II Procedure - Major partitionings, Type II variances, conditional use permits, Type II modifications to non-conforming situations, Greenway district use permits, and Type II Planned Industrial Developments.~~

~~Type III Procedure - Interim planned unit development plans, preliminary subdivision plats, future street plans, Type III Planned Industrial Developments, and Type III Variances.~~

~~Type IV Procedure - Zone changes, comprehensive plan amendments, vacations, annexations (with some exceptions, see Article 3).~~

COMMENT

These listed uses, with some changes, have been incorporated into Sections 2.030 through 2.060.

2.030 Type I Procedure.

- (1) **The purpose of the Type I procedure is to provide for land use review based on standards specified in this Code which do not require interpretation or the exercise of factual, policy or legal judgement.**

COMMENT

"Purpose" statements added to each procedure type in order to clarify distinction between non-discretionary and discretionary actions.

- (2) **Under the Type I procedure, an application shall be processed by the Director without need for public hearing or notification of other property owners. ~~When both the applicant and Director agree, a Type I review may be referred directly to the Hearings Board or Planning Commission for review.~~**
- (3) **Conditions and/or restrictions may be applied to the approval of any ~~development permit land use application~~ granted under a Type I procedure in accordance with the relevant provisions of this Code.**
- (4) **Examples of applications processed through a Type I procedure include, but are not limited to -- Lot line adjustments, Type I variances, partitions, Type I modifications to non-conforming situations, Type I historic review, preliminary planned unit development plans, final subdivision plats, mobile home park plans, site plan review involving a change in use or minor addition to existing use in a conforming building, 100% consent annexations, and all other land use applications not included in a Type II, III, or IV review.**

COMMENT

Examples added to each section on procedure type from former section 2.020.

2.040 Type II Procedure.

- (1) **The purpose of the Type II procedure is to provide notice of a tentative land use decision to the applicant and property owners within 100 feet of the property being reviewed. The decision of the Director shall be based on standards specified in this Code which are reasonably objective and may require limited discretion.**
- (2) **Except as provided by subsection (3) below, under the Type II procedure, an application shall be processed by the Director without a public hearing **within 30 days of acceptance of a complete application.** If the Director determines that the development proposal appears to meet the required standards, the Director shall mail notice of the ~~proposal tentative decision to all abutting property owners within 100 feet of the subject site. and those separated from the development site by a public utility, street, or railroad right-of-way except for Conditional Use Permits which shall require notices to be sent to all property owners within 300 feet.~~ The applicant shall supply a list of the names and addresses of the owners of property to receive the notice. The mailing list must be certified by the applicant as accurate and complete as found from current County Assessor records.**

~~The Director's notice shall summarize the standards and facts related to the decision list the relevant criteria and any conditions of approval and invite persons to submit information relevant to the standards that are pertinent to the proposal contact the Planning staff within~~

~~7 10 days of notification giving reasons why the application should or should not be approved or proposing modifications to the conditions of approval the person believes are necessary for approval according to the standards or requesting a public hearing. The notice also shall advise the person of the right to a hearing. The applicant may be required by the Director to post notices as set forth in Section 4.035.~~

COMMENT

These modifications are intended to reflect the changes in actual procedures that have occurred since the last major rewrite of the Code.

- (3) The applicant, the Director, or any party entitled to notice or otherwise affected by the proposed action may initiate 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 either the Planning Commission or Hearings Board and mail notice of such to those same persons specified in (2) above.
- (3) ~~If no hearing is conducted, the Director shall within 30 days of receipt of the completed application, issue a decision in writing with notice to the applicant and all persons who requested notice in writing or filed written comments.~~
- (4) ~~If a hearing is conducted, The Director, the Hearings Board or Planning Commission shall review the application request and any written comments and testimony; if any, and make adopt a findings for the point in dispute based on the established criteria, and make a decision on the application by approving, conditionally approving, or denying the application. Conditions and/or restrictions may be applied to the approval of any development permit granted under a Type II procedure in accordance with the relevant provisions of this Code.~~
- (5) **Examples of applications processed through a Type II procedure include, but are not limited to -- Type II variances, conditional use permits, Type II modifications to non-conforming situations, Greenway district use permits, Type II Planned Industrial Developments, historic site review, Type II Code interpretations, final planned unit development plans, and site plan reviews.**

2.050 Type III Procedure.

- (1) **The purpose of the Type III procedure is to provide for the quasi-judicial review of certain applications within the City by the Planning Commission or Hearings Board 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 pursuant to Article 4 before either the Hearings Board or Planning Commission at the Director's discretion. The Director shall notify all property owners within 300 feet of the subject property. The applicant shall supply a list of the names and addresses of the owners of property to receive the notice. The mailing list must be certified by the applicant as accurate and complete as found from current County Assessor records. The Director may ~~require the applicant shall also~~ to post notices as set forth in Section 4.035.
- (2) ~~At the public hearing, the staff, applicant, and interested persons may present information relevant to the criteria and standards pertinent to the proposal, giving reasons why the~~

~~application should or should not be approved or proposing modifications and the reasons the person believes the modifications are necessary for approval. The reviewing body may attach certain development or use conditions in granting an approval under the Type III procedure in accordance with the relevant provisions of this Code. In approving or denying a Type III Development request, the reviewing body shall make findings addressing relevant criteria of this Code.~~

COMMENT

The deleted Section is a duplication of material covered in current Article 4.

- (3) The hearings authority 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 development permit granted under a Type III procedure in accordance with the relevant provisions of this Code.
- (4) Examples of applications processed through a Type III procedure include, but are not limited to -- Interim planned unit development plans, preliminary subdivision plans, future street plans, Type III Planned Industrial Developments, some Code interpretations, and Type III variances.

2.060 Type IV Procedure.

- (1) The purpose of the Type IV procedure is to provide for the review of certain quasi-judicial and legislative land use applications by both the Planning Commission and the City Council at public hearings. These decisions are usually complex in nature, and require the interpretation of the Comprehensive Plan policies and the criteria of this Code.
- (2) Under the Type IV Procedure, an application is scheduled for public hearing pursuant to Article 4 before either the Hearings Board or the Planning Commission at the Director's discretion. ~~Where required, On quasi-judicial land use actions, the Director shall cause notice to be published pursuant to Article 4. In addition, the Director shall notify all property owners within 300 feet of the subject property. The applicant shall supply a list of the names and addresses of the owners of property to receive notice. The mailing list must be certified by the applicant as accurate and complete as found from current county Assessor records. The applicant shall also to post notices as set forth in Section 4.035.~~
- ~~(2) At the public hearing, the staff and interested persons may present testimony relevant to the proposal. If pertinent, they may give information on whether the proposal does or does not meet appropriate criteria for approval as specified in the sections of this Code pertaining to the type of request involved; or they may give proposals for modifications they consider necessary for approval. The reviewing body shall adopt a finding for each of the criteria applicable.~~

COMMENT

Deleted material is duplication of Article 4.

- (3) For a proposal on which the Hearings Board or Planning Commission has made a favorable recommendation, the City Council shall ~~conduct their initial review hold a public hearing within 45 days. The City Council shall set a date for the review or designate the City~~

~~Manager to do so. An applicant may request a review delay of up to six months. At the Council meeting, the staff shall review the report and findings of the Hearings Board or Planning Commission and provide other pertinent information.~~

- (4) If the Planning Commission or Hearings Board ~~has~~ recommended against a proposal, the City Council will ~~not only~~ consider the proposal ~~except~~ on appeal by the applicant(s).
- ~~(4) The Council may, at its discretion, review the application solely on the record of the previous hearing, or call for a de novo public hearing. For a hearing, the form of notice and persons to receive notice are the same as for Planning Commission or Hearings Board review. Council hearing notices shall be provided by the City Recorder. Interested persons shall be given the opportunity to present testimony and information relevant to the proposal and make final arguments why the matter should or should not be approved and, if approved, the conditions desired in approving the action.~~
- ~~(5) To the extent that a finding of fact is required, the City Council shall adopt a finding for each of the criteria applicable and in doing so may sustain or reverse a finding of the Planning Commission or Hearings Board. The City Council may delete, add, reject, or modify any of the provisions pertaining to the proposal or recommendation of the Planning Commission or Hearings Board or attach certain development or use conditions in accordance with the relevant provisions of this Code.~~
- (5) The hearings authority 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 development permit granted under a Type IV procedure in accordance with the relevant provisions of this Code.
- (6) Examples of applications processed through a Type IV procedure include, but are not limited to -- Zone changes, development code amendments, comprehensive plan amendments, street vacations, some annexations.

COMMENT

The deleted materials are covered in the current Article 4 of the ADC.

4.020 Mailed Notice of Quasi-Judicial Hearings

- (1) Notice of a public hearing shall be ~~reasonably calculated to give actual notice~~ sent by mail at least twenty (20) days before the hearing (or, if more than one hearing is scheduled, 10 days before the first hearing) and ~~other than for a legislative action~~, shall contain the following information:
- (a) The reviewing body, the date, time, and place of the hearing.
 - (b) ~~A description reasonably calculated to inform a person of the location of the property for which a development permit or other action is pending including but not limited to use of a map or postal address, or a subdivision lot and block designation, or a metes and bounds description or the tax map designation of the County Assessor.~~ The street address or other easily understood geographic reference to the subject property.
 - (c) The nature of the ~~issue up for hearing~~ application and the proposed use or uses which could be authorized.
 - (d) Where information may be examined and when and how written comments addressing findings required for a decision by the hearing body may be submitted.
 - ~~(e) At the discretion of the Director, information regarding the authority of the hearings body to consider alternatives or modifications to the request.~~
 - (e) A list of the applicable criteria from the ordinance and/or the plan that apply to the application.
 - (f) A statement that failure to raise an issue in a hearing, in person or by letter, or failure to provide sufficient specificity to afford the decision maker an opportunity to respond to the issue precludes appeal to the Land Use Board of Appeals based on that issue.
 - (g) The name of a City representative to contact and the telephone number where additional information may be obtained.
 - (h) A statement that a copy of the application, all documents and evidence relied upon by the applicant and applicable criteria are available for inspection at no cost and copies will be provided at reasonable cost.
 - (i) A statement that a copy of the staff report will be available for inspection at no cost at least seven days prior to the hearing and a copy will be provided at reasonable cost.
 - (j) A statement that all interested persons may appear and provide testimony and that only those making an appearance of record, either in person or in writing, shall be entitled to appeal.
 - (k) A general explanation of the procedure for the conduct of hearings.

COMMENT

Additions required by HB 2288.

4.110 Order of Proceedings Hearing Procedures. ~~The order of proceedings for a hearing~~ Hearing procedures will depend in part on the nature of the hearing. The following may be supplemented by appropriate rules announced by the presiding officer:

- (1) The presiding officer will state the case and call the public hearing to order, informing those present that testimony and evidence is to be directed towards the applicable criteria for the case and that failure to raise an issue with sufficient specificity to afford the decision-makers and other parties an opportunity to respond will preclude appeal to the State Land Use Board of Appeals on that issue. The presiding officer may establish the time allowed for the presentation of information.
- (2) Any objections on jurisdictional grounds shall be noted in the record.
- (3) Any abstentions or disqualifications shall be determined. Members shall announce all conflicts of interest and shall disclose the time, place, and nature of any ex-parte contacts they have had. Parties to the case shall have the opportunity to rebut any information contained in the ex-parte contact.
- (4) The hearing authority may view the area ~~in dispute under consideration with or without notification to the parties,~~ for purposes of evaluating the proposal, but shall state the place, time, manner, and circumstances of such viewing in the record.
- (25) The ~~person~~ presiding officer at the hearing may take official notice of known information related to the issue, such as ~~the following:~~ provisions of the ~~Charter~~ or federal or state law, or of an ordinance, resolution, ~~rule or officially promulgated~~ policy or charter of the City.
~~(b) Other public records and facts judicially noticeable by law.~~
- (36) Matters officially noticed need not be established by evidence and may be considered by the hearing body in the determination of the matters. Parties requesting official notice shall do so on the record.
- (7) Presentation of staff report, including a list of the criteria applying to the issue(s) being heard. City staff may also present additional information whenever allowed by the presiding officer during the proceedings.
- (8) Presentation of information by the applicant or those representing the applicant.
- (9) Presentation of evidence or inquiries by those persons who support the proposed change.
- (10) Presentation of evidence or inquiries by those persons who oppose the proposed change.
- (11) Presentation of evidence or inquiries by those persons who do not necessarily support or oppose the proposed change.
- (12) If additional documents or evidence are provided in support of an application, any party shall, upon request, be entitled to a continuance of the hearing to allow for adequate preparation of rebuttal. Such a continuance shall not be subject to the limitations of ORS 227.178.

- (13) Only the applicant shall have the right to present rebuttal testimony. If the presiding officer allows rebuttal by an opponent, the proponent or applicant shall have a right to an additional and final rebuttal.
- (514) ~~Information shall be received from the staff and from proponents and opponents. The presiding officer may approve or deny a request to ask a question from a person attending the hearing. Unless the presiding officer specifies otherwise, if the request to ask a question is approved, the presiding officer will direct the question to the person who has submitted testimony.~~
- (15) At the close of presentation of information the presiding officer shall declare that the hearing is closed unless a continuance has been granted.
- (16) Unless there is a continuance, if a participant so requests before the conclusion of the first evidentiary hearing, the record shall remain open for at least seven (7) calendar days after the hearing.
- (617) When the hearing has ended, the hearing body may openly discuss the issue and may further question a person submitting information or the staff if opportunity for rebuttal is provided.
- (18) If the hearing is closed, it shall be reopened only upon a majority vote of the hearing authority.
- (19) Upon reopening a hearing, any person may raise new issues which relate to the new evidence, testimony, or criteria for decision-making which apply to the matter at issue.

COMMENT

Additions required by HB 2288 and rewording to clarify some existing requirements, stricken below.

- ~~(1) Before receiving information on the issue, the following shall be determined:~~
 - ~~(a) Any objections on jurisdictional grounds shall be noted in the record; and if there is objection, the person presiding has the discretion to proceed or terminate.~~
 - ~~(b) Any abstentions or disqualifications shall be determined.~~

13.020 Procedure. Site Plan Reviews are processed under a ~~Type I~~ **Type II Procedure** as outlined in Section ~~2.030~~ **2.040**, except for change of use or additions to existing buildings which conform to the Development Code standards, which shall be reviewed under a Type I Procedure as outlined in Section 2.030.

13.030 Site Plan Data Requirements. Prior to the issuance of a development permit where site plan review is required an applicant shall submit and have approved a Site Plan which shall consist of two copies drawn to scale and containing the following information, as applicable:

- (1) Adjacent zoning designations and adjacent land uses including approximate location of buildings, accesses, streets, sidewalks, curbs, easements, and utilities.
- (2) Location and species of trees greater than 8 inches in diameter when measured three feet above the ground.
- (3) Existing contour lines at two foot intervals.
- (4) Natural drainage patterns.
- (5) North arrow and direction of maximum passive solar gain potential (usually due south depending site features and building design).
- (6) Assessor's map and tax lot number and lot and block description or other legal description.
- (7) Lot dimensions and total lot area.
- (8) Location of all existing and proposed structures, including minimum distances from all structures to lot lines.
- (9) Percentage of the lot covered by any and all structures.
- (10) Rights-of-way of all abutting streets whether public or private and access to the site.
- (11) Parking and circulation areas.
- (12) Locations and dimensions of all easements and nature of the easements.
- (13) Location of any non-access strips.
- (14) Drainage collection system and flow patterns.
- (15) Proposed location of utilities.
- (16) Delivery and loading areas.
- (17) Screened trash disposal areas.
- (18) Exterior lighting; the type, height and areas of illumination.
- (19) Outdoor play areas, if any.
- (20) Service areas of uses such as mail delivery and trash disposal.

- (21) Location, size, materials, color and method of illumination of all signs.
- (22) Landscape Plan indicating the size, species (identifying both botanical and common names) and location of plant material and other landscaping materials and screening materials, when required (refer to Article 7).
- (23) Conceptual Drawings including floor plans and building elevations.
- (24) All application materials required by this Code in Sections 2.013 and 2.040 (1), including mailing list of property owners within 100 feet of the site.

When Site Plan Review is for a change of use or minor addition, and the addition is in compliance with Development Code standards, the Planning Director may reduce the amount and/or type of information required.

COMMENT

These changes resulted from HB 2288, requiring notice to be sent to surrounding property owners where the standards for approval involve limited interpretation of the standards by staff.

SECTION 5.060 SCHEDULE OF PERMITTED USES

OS	ZONING DISTRICTS											PARKING SPECIAL GROUP	SPECIAL CONDS.	USE DESCRIPTIONS	
	R-1	R-2	R-3	RP	C-1	C-2	C-3	CH	MP	ML	MH				
														2.200	Two-Family Residences:
*	C	A	A	C	*	*	*	*	*	*	*	*	2,3	2.210	Duplexes
*	C	A	A	C	C	*	*	*	*	*	*	*	5	2.220	Primary residence with accessory apartment
*	*	*	*	C	C	S	S	S	*	*	*	*		2.230	Two-family residence located above first floor of business use
														2.300	Multiple Family Residences:
*	D	C	C	C	*	*	C	*	*	D	D	*		2.310	Located within Willamette River Greenway Boundary
*	*	*	*	D	*	S	S	*	D	*	*	*		2.320	Located above first floor of business use
*	D	S	S	D	*	*	C	*	*	*	*	*		2.330	Quad or quint apartment dwellings
*	D	S	S	D	*	*	C	*	*	*	*	*		2.340	All other multiple family dwellings
*	*	C	C	*	*	C	*	S	*	S	*	*	6	2.400	Overnight Recreational Vehicle Parks (See Article 12)
														2.500	Homes & Institutions Providing Special Services, Treatment, or Supervision:
*	A	A	A	A	S	S	S	S	C	C	*	*	7	2.510	Group care home
*	*	C	C	C	C	C	C	C	C	C	*	*		2.520	Residential care institutions
*	*	*	C	C	C	S	S	S	C	C	*	*		2.530	Hospital
*	A	A	A	A	A	A	A	A	*	*	*	*	8	2.540	Child care home
*	C	C	S	C	C	S	S	C	C	C	C	C		2.550	Child care institution
*	*	*	*	*	*	C	C	S	*	S	S	S		2.560	Jails & detention facilities
														2.600	Miscellaneous Rooms for Rent Situations:
*	*	C	C	*	*	S	S	*	*	*	*	*		2.610	Rooming houses, boarding houses
*	C	C	S	C	*	S	S	*	*	*	*	*	9	2.620	Bed & breakfast home
*	*	*	*	*	*	S	S	S	*	C	*	*		2.630	Hotels & motels
*	S	S	S	S	S	S	S	S	S	S	S	S	10	2.700	Temporary Residence in Conjunction with New Construction, Emergency Repair, or Night Watchman Use

COMMENT

The only changes to this page are the deletion of "Residential Care Institutions" and of special condition 7 referring to "Group Care Home". These changes are in response to the Federal Fair Housing Amendments of 1988, which requires that these uses must be treated the same as single family housing. See also the revised definition of "Group Care Home" in Section 22 amendments.

5.060 Special Conditions. Where numbers appear in the column "special conditions" in the Schedule of Permitted Uses, the corresponding numbered conditions below shall apply to the particular use category as additional clarification or restriction:

- (1) Beyond the standards provided herein for establishment of accessory buildings and uses, 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.
- (2) In the R-1 and RP Districts, two-unit dwellings must be located on corner lots except in Planned Developments.
- (3) Two-unit dwellings are permitted outright in the R-1 and RP Districts on corner lots which are designated for such at the time of subdivision approval where all adjacent parcels are under the same ownership.
- (4) Two-unit dwellings may be converted to unit ownership with Site Plan Review.
- (5) Accessory apartments are permitted as additions to or within single family residences when:
 - (a) the principal residence is owner occupied;
 - (b) the apartment remains incidental to the primary residence in size and appearance;
 - (c) at least two off-street parking spaces are available on the property for use; and
 - (d) all required building permits have been obtained.
- (6) In R-2 Districts, the following criteria shall be considered in addition to the conditional use criteria for permitting RV overnight parks:
 - (a) Entire site must be located within 750 feet of a freeway right of way.
 - (b) The RV park access is limited to a freeway frontage road or streets servicing primarily industrial or commercial development.
- ~~(7) Includes care of five or fewer individuals.~~
- (8) Includes day time care of less than thirteen children including the children of the provider. These homes may require a license by the State of Oregon Children's Services Division.
- (9) Within the R-1 and R-2 residential districts Bed and Breakfast facilities shall:

COMMENT

The following changes are proposed to Article 22, Definitions. Some changes are as a result of state or federal law, some are housekeeping changes.

22.010

Development Permit: An permit approval issued by the Director for a development land use application which is in compliance with this Code and the Comprehensive Plan.

Director: Director of the City's Planning Community Development Department or his/her designee.

Evidentiary Hearing: A hearing at which evidence is received.

Family: An individual or two or more persons related by blood or marriage or a group of unrelated individuals ~~(at a density of not more than two persons per bedroom)~~ which is established in structure and appearance to resemble a traditional family unit. ~~In cases where a Group Care Home takes on the appearance of a family, it shall be considered a Group Care Home and subject to all applicable regulations of this Code.~~

Group Care Home: Any private or public institution maintained and operated for the care, boarding, housing, rehabilitation, or training of ~~five or fewer~~ physically, mentally, or socially handicapped ~~or delinquent, elderly or dependent persons. by a person who is not the parent or guardian or, and who is not related by blood, marriage, or legal adoption of such persons.~~

Hearing Authority: The Hearings Board, Planning Commission or City Council of the City of Albany.

Land Use Decision: A final decision or determination that concerns the adoption, amendment or application of the statewide planning goals, a comprehensive plan provision, a land use regulation, or a new land use regulation.

A land use decision does not include a decision of a local government:

- (1) Which is made under land use standards which do not require interpretation or the exercise of factual, policy or legal judgment;
- (2) Which approves, approves with conditions or denies a subdivision or partition, as described in ORS Chapter 92, located within an urban growth boundary where the decision is consistent with land use standards; or
- (3) Which approves or denies a building permit made under land use standards which do not require interpretation or the exercise of factual, policy or legal judgment.

Legislative Action: An action which involves the making of law, as in comprehensive plan or development code amendments, or the adoption of an ordinance.

Partition Land: ~~The process of dividing a single property into two or three parcels for sale, taxation, development, or other purpose. To divide land into two or three parcels of land within a calendar year, but does not include:~~

- (1) A division of land resulting from a lien foreclosure, foreclosure of a recorded contract for the sale of real property or the creation of cemetery lots;

- (2) An adjustment of a property line by the relocation of a common boundary where an additional unit of land is not created and where the existing unit of land reduced in size by the adjustment complies with any applicable zoning ordinance; or
- (3) A sale or grant by a person to a public agency or public body for state highway, county road, city street or other right of way purposes provided that such road or right-of-way complies with the applicable comprehensive plan and ORS 215.213 (2)(q) to (s) and 215.283 (2)(p) to (r).

Quasi-judicial Action: The application of general policies or laws to specific persons or properties, such as conditional use permits, or rezoning a parcel.

Residential Care Institution DELETE