

AN ORDINANCE AMENDING ORDINANCE NO. 4441, WHICH ADOPTED THE CITY OF ALBANY DEVELOPMENT CODE, BY AMENDING THE DEVELOPMENT CODE TEXT IN ARTICLE 14, CENTRAL ALBANY, ADOPTING FINDINGS, AND DECLARING AN EMERGENCY.

WHEREAS, the Planning Commission has held the public hearing required by local and state law; and

WHEREAS, the Planning Commission recommended approval of the proposed changes, based on evidence presented in the staff report and at the public hearing for Planning Division File No. DC-04-96; and

WHEREAS, the Albany City Council has caused notice to be given as required by law and has had a public hearing concerning the Development Code text amendment;

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

Section 1: The Albany Development Code text is hereby amended as shown on the attached Exhibits A-D, and summarized as follows:

Subsection 1(a): Correct the list of allowed uses (Use 12.210) to show duplexes not allowed in the Hackleman Monteith, HM, zoning district, as shown in Exhibit A.

Subsection 1(b): Correct Table 1 by deleting minimum lot sizes for duplexes and multi-family development in the HM district, as shown in Exhibit B.

Subsection 1(c): List in Table 1 a front setback of 20 feet, and a side setback the same as for the primary structure, for garages in all Central Albany zoning districts, as shown in Exhibit B.

Subsection 1(d): Include in the list of allowed uses (Use 12.620) a note that defines standards for bed and breakfast homes in the HM district, as shown in Exhibit C.

Subsection 1(e): Revise the text of ADC 14.080 regarding existing "Special Status" duplex and multi-family development in the HM district to more correctly describe which existing developments have been granted special status, as shown in Exhibit D.

Section 2: The Findings of Fact contained in the staff report and attached as Exhibit E are hereby adopted in support of this decision.

Section 3: A copy of this ordinance will be forwarded to the Department of Land Conservation and Development.

IT IS HEREBY adjudged and declared that this Ordinance is necessary for the immediate preservation of the public peace, health, and safety of the City of Albany, and an emergency is hereby declared to exist, and this Ordinance shall take effect and be in full force and effect when signed by the Mayor.

Passed by City Council: November 20, 1996

Council President

Approved by the ~~Mayor~~: November 20, 1996

Effective Date: November 20, 1996

Wayne M. Lusk
-Mayor
Council President

ATTEST:

[Signature]
City Recorder

CENTRAL ALBANY ZONING DISTRICTS

USE DESCRIPTIONS	Spec	Cond										
		HD	CB	MUR	MUI	MS	LE	TD	PB	HM	ES	
10.260 Public Parks and recreational facilities located therein	9	C	C	C	C	C	C	C	C	C	C	C
11.000 RECYCLING, SALVAGE, JUNKYARDS												
11.100 Recycling Centers:												
11.110 Processing & sorting operations conducted entirely within enclosed structures & containing a total building area of less than 5,000 sq. ft.		*	*	*	S	*	*	*	C	*	*	
11.120 All other material recycling operations excluding metal salvage yards & junkyards		*	*	*	C	*	*	*	*	*	*	
11.130 Refuse transfer stations		*	*	*	C	*	*	*	*	*	*	
12.000 RESIDENTIAL												
12.100 Single Family Residences:												
12.110 Single family detached, one dwelling per lot		*	*	A	C	*	*	*	*	A	S	
12.120 Single family detached, more than one dwelling per lot		*	*	S	C	*	*	*	*	S	C	
12.130 Two units attached at common wall property line		C	C	S	C	*	*	*	*	S *	C	
12.140 Multiple single family attached units		S	S	S	S	*	*	*	*	*	C	
12.150 Conversion of multiple family to single family attached (condominiums)		S	S	C	S	S	S	*	S	C	S	
12.160 Manufactured homes (See Article 10)		*	*	A	C	*	*	*	*	*	*	
12.170 Manufactured home parks and subdivisions (See Article 10)		*	*	S	C	*	*	*	*	*	*	
12.180 Single family attached to business use		S	S	S	S	S	S	S	S	*	S	
12.190 Home occupations (See Article 3)		A	A	A	A	A	A	A	A	A	A	
12.200 Two-Family Residences:												
12.210 Duplexes	10	C	*	A	C	*	*	*	*	E *	C	
12.220 Primary residence with accessory apartment	10	A	A	A	C	A	A	A	A	A	A	

- (5) The environmental performance standards of Section 14.900-14.980 below may further limit the placement of certain uses in some districts by application of additional criteria not specified in this schedule.
- (6) Conditional use approval for schools and churches includes the following secondary uses: educational activities; sports and other recreational activities; religious activities; political activities; meals programs; before and after school childcare activities; fund raising activities; and cultural programs. Such uses will not be required to go through the land use process if all of the activities which constitute the use (excluding parking and travel to and from the site) take place on the site and there is no external noise audible or light visible between 10:30 p.m. and 8:00 a.m.

Expansion of a school or church includes addition of building area, increase in parking lot coverage, or expansion of athletic facilities. Any expansion must be reviewed through the conditional use process.

- (7) Site Plan Review is not required for parking areas containing less than 1,000 square feet and otherwise meeting the provisions of this Code.
- (8) Adult Entertainment.
 - (a) An adult entertainment use shall not be established or expanded within 300 feet of the district boundary line of any residential zoning district.
 - (b) An adult entertainment use shall not be established or expanded within 300 feet of any other adult entertainment use.
 - (c) An adult entertainment use shall not be established or expanded within 300 feet of the property line of a church, school, or public park.
 - (d) Exceptions to the above may be considered by the Variance procedures.
- (9) 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.

~~(10) Duplexes are allowed on corner lots only within the Haekleman Monteith zoning district, as conditional uses.~~

- (10) (11) Accessory apartments are permitted as additions to or within single family residences when:
 - (a) One residence on the site 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.
 - (d) All required building permits have been obtained.
- (11) (12) "Child Care Home" 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.

TABLE 1

CENTRAL ALBANY DEVELOPMENT STANDARDS										
STANDARD	HD	CB	MUR	MUI	MS	LE	TD	PB	HM	ES
Minimum:										
Lot Size (sq. ft.)	N/A	N/A	None	N/A	N/A	N/A	N/A	N/A	5,000	5,000
• single family:	None	N/A	3,600	N/A	N/A	N/A	N/A	N/A	7,000	7,000
• duplex:	None	None	1,600/u	1,600/u	1,600/u	None	None	1,600/u	2,400/u	2,400/u
• 3 or more 1 bedroom units:	None	None	1,800/u	1,800/u	1,800/u	None	None	1,600/u	3,300/u	3,300/u
• 3 or more 2 bedroom (or larger) units:	2,000	2,000	5,000	10,000	6,000	2,000	15,000	15,000	5,000	5,000
• All other uses:	20'	20'	None	80'	60'	20'	100'	80'	35'	40'
Lot Width	50'	50'	None	80'	80'	50'	150'	95'	65'	80'
Lot Depth	100%	100%	100%	100%	100%	100%	100%	100%	100%	100%
Landscaped Area (2)										
Minimum Setbacks:										
Front	0'	0'	15'	15'	15'	0'	10'	5'	15'	15'
Interior	(4)	(4)	10'(1)	(4)	(4)	(4)	(4)(5)	(4)	10'(1)	5'(3)
Garage Vehicle Entrance	20'	20'	20'(8)	20'(8)	20'(8)	20'	20'	20'	20'(8)	20'
Maximum:										
Height	85'	60'	45'	30'	30'	60'	None	50'	30'	30'
Lot Coverage (6)	100%	(7)	70%	70%	70%	100%	None	90%	60%	70%

(1) Except for single family homes or duplexes which must have a 5' interior yard for single-story buildings, and an 8' interior yard for two-story buildings.

(2) All yards adjacent to streets.

(3) Single story 2 or more stories = 8'.

(4) Yards abutting residential districts and/or uses requires 1 foot of setback for each foot of wall height with a minimum setback of 10 feet. For yards abutting commercial or industrial districts, no interior setback is required.

(5) No setbacks are required for buildings abutting railroad rights-of-way.

(6) Except for single family homes and duplexes, lot coverage includes building and parking area coverage.

(7) See ADC 14.120

(8) **Garage setback for non-vehicle entrance shall conform with the requirements for interior setbacks.**

CENTRAL ALBANY ZONING DISTRICTS

USE DESCRIPTIONS Spec
Cond HD CB MUR MUI MS LE TD PB HM ES

12.230	Two-family residence located above first floor of business use		A	A	S	S	S	A	S	S	*	C
12.300	Multiple Family Residences:											
12.310	Located within Willamette River Greenway Boundary		C	C	C	C	C	C	*	C	*	C
12.320	Located above first floor of business use		S	S	S	S	S	S	S	S	*	S
12.330	Quad or quint apartment dwellings		S	S	S	C	S	S	*	C	*	S
12.340	All other multiple family dwellings		S	S	S	S	S	S	S	C	*	C
12.400	Overnight Recreational Vehicle Parks (See Article 10)		*	*	*	*	*	*	*	*	*	*
12.500	Homes & Institutions Providing Special Services, Treatment, or Supervision:											
12.510	Group care home		A	A	A	C	S	A	A	A	A	A
12.520	Hospital		C	S	C	*	*	S	S	S	*	C
12.530	Child care home	11	A	A	A	A	A	A	A	A	A	A
12.540	Child care institution		S	S	S	C	C	S	C	S	C	C
12.550	Jails & detention facilities		C	C	*	C	*	C	*	C	*	*
12.600	Miscellaneous Rooms for Rent Situations:											
12.610	Rooming houses, boarding houses		S	S	S	C	S	S	S	S	C	C
12.620	Bed & breakfast home	12	S	S	S	C	S	S	S	S	C	S
12.630	Hotels & motels		S	S	*	C	S	S	S	S	*	C
12.640	Temporary Residence in Conjunction with New Construction, Emergency Repair, or Night Watchman Use	13	S	S	S	S	S	S	S	S	S	S
13.000	SALES, RENTAL & SERVICING OF GOODS, MERCHANDISE & EQUIPMENT											
13.100	Automotive, Marine, Trucks, RV's, Agricultural Machinery:											
13.110	Sales & rentals, including servicing		S	S	*	C	S	S	*	S	*	*
13.120	Parts & accessories sales which may include installation services		S	S	*	S	S	S	*	S	*	*

(12) In the HM zoning district, 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 yard setback area or within 10 feet of any interior residential lot line.**
- (d) Provide at least one off-street parking space for each rental room.**

(13) ~~(14)~~ Temporary residences are limited to one year in duration except for night watchman.

SPECIAL STATUS

14.080 Existing Uses Granted Special Status (Allowed) in the Hackleman Monteith District

Notwithstanding the restrictions or terms of any other section of the Albany Development Code (ADC), properties listed below shall be deemed to be conforming with the base Hackleman Monteith (HM) zoning district. If any building on these properties is substantially destroyed, as defined in ADC Section 2.340(4), it can be rebuilt to the same density as existed on the property at the time ADC Article 14 was adopted, but will be subject to the regulations of any applicable overlay zone.

If any of the listed buildings are converted to single-family use, the special status granted here is rescinded, and the use of the property shall thereafter conform to the requirements of Article 14.

The special status granted here shall be lost if it is determined that the use which existed at the time of adoption of Article 14 was not then lawfully in existence.

It is the intent that each and every legally established duplex and multi-family development that exists in the proposed HM district at the time of adoption of Article 14 be listed here. Should an existing use not be listed here the property owner may have the property listed upon showing that the use was legally established at the time of adoption of Article 14. Satisfactory evidence must be provided by the property owner or applicant to document that the use existed. Such evidence, for example, may consist of building permits, utility hookups, tax records, or telephone directory listings.

- (1) 837/838/829/827 11th Avenue SW: one-story four-plex**
- (2) 1015 5th Avenue SW: two two-story buildings: east building, 12 units; west building, 6 units**
- (3) 640 7th Avenue SW/707 Vine Street SW: one-story duplex**
- (4) 628 Ferry Street SW: two-story 10-unit apartment complex**
- (5) 707/719 Washington SW: one-story duplex**
- (6) 908 Ferry Street SW: two-story 12-unit apartment building**
- (7) 928 Ferry Street SW: 7 units in house**

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If any of the listed buildings are converted to single-family use, the special status granted here is rescinded, and the use of the property shall thereafter conform to the requirements of Article 14.

The special status granted here shall be lost if it is determined that the use which existed at the time of adoption of Article 14 was not then lawfully in existence.

It is the intent that each and every legally established duplex and multi-family development, in areas previously zoned RM-3, RM-5, and OP only, that exists in the proposed HM district at the time of adoption of Article 14 be listed here. Should an existing use not be listed here the property owner may have the property listed upon showing that the use was legally established at the time of adoption of Article 14. Satisfactory evidence must be provided by the property owner or applicant to document that the use existed. Such evidence, for example, may consist of building permits, utility hookups, tax records, or telephone directory listings.

- (1) 837/838/829/827 11th Avenue SW: one-story four-plex
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- (4) 628 Ferry Street SW: two-story 10-unit apartment complex
- (5) 707/719 Washington SW: one-story duplex
- (6) 908 Ferry Street SW: two-story 12-unit apartment building
- (7) 928 Ferry Street SW: 7 units in house
- (8) 926/978 Ferry Street SW and 405/407 11th Avenue SW: 7 units
- (9) 827/829/837/838 11th Avenue SW: one-story four-plex
- (10) 1030 11th Avenue SW: duplex
- (11) 625/635 Vine Street SW: duplex
- (12) 1241/1245 Vine Street SW: duplex
- (13) 505 3rd Avenue SE: two-story four-plex
- (14) 526 3rd Avenue SE: two-story four-plex
- (15) 627 3rd Avenue SE: two-story 6 units
- (16) 527 4th Avenue SE: two-story duplex

APPROVAL STANDARDS**DC-04-96, DEVELOPMENT CODE AMENDMENTS**

Albany Development Code (ADC) Section 2.290 lists the following review criteria for Development Code Amendments. Amendments will be approved if the Planning Commission and City Council find that all of these criteria are met. Review criteria are written in *bold italic*, followed by proposed findings and conclusions.

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

Findings of Fact

1.1 The proposed amendments to the Development Code are intended to correct five minor errors or omissions that were made at the time Article 14 was adopted in May 1996. The amendments are:

- a. Duplexes are listed in the Hackleman Monteith (HM) zoning district as conditional uses. The proposal adopted by the Planning Commission and City Council listed every existing duplex in areas previously zoned multi-family and defined them as conforming uses, but does not allow new duplexes.
- b. Minimum lot sizes are listed in Table 1 for duplexes and multi-family development in the HM district when they are not allowed. The minimum lot sizes should be deleted.
- c. No setbacks for garages are listed in Table 1. The setback to garages should be 20 feet so that a car can park in front and not hang over the sidewalk or public right-of-way. The setback for the side of the garage without an entrance should be the same as that listed for the primary structure on the lot. These garage setbacks will then be the same as those for other areas in the City.
- d. Include in the list of allowed uses a note that defines standards for bed and breakfast homes (Use 12.620) in the Hackleman Monteith zoning district. These standards will be the same as for bed and breakfasts in other residential zoning districts in the City.
- e. Revise the text (ADC 14.080) regarding existing "Special Status" duplex and multi-family development in the HM zoning district to more correctly describe which existing developments have been granted special status. Only existing duplex and multi-family developments in areas that were zoned multi-family before they were changed to HM were granted the special status that classifies them as conforming uses. Existing duplexes and multi-family development in areas previously zoned single-family, prior to being designated HM, were non-conforming uses, and will remain so.

Conclusions

- 1.1 This criterion is not applicable to these proposed amendments because they address errors and omissions that were not intended at the time Article 14 was adopted. The proposed amendments are consistent with the descriptions of the Hackleman Monteith district provided in Article 14 Section 14.030(9), and with the garage setbacks found elsewhere in the Code.

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

Findings of Fact

- 2.1 The proposed amendments are listed in Finding of Fact 1.1 above.

Conclusions

- 2.1 This criterion is not applicable to the proposed correction of errors and omissions that were not intended at the time Article 14 was adopted. The proposed amendments are consistent with the descriptions of the Hackleman Monteith district provided in Article 14, Section 14.030(9), and with the garage setbacks found elsewhere in the Code.