

ORDINANCE NO. 5689

AN ORDINANCE AMENDING ORDINANCE NO. 4441, WHICH ADOPTED THE CITY OF ALBANY DEVELOPMENT CODE AND ZONING MAP BY AMENDING THE DEVELOPMENT CODE TEXT RELATING TO FENCES IN FRONT YARDS, ADOPTING FINDINGS, AND DECLARING AN EMERGENCY (FILE DC-01-08).

WHEREAS, from time to time it is appropriate to amend the Albany Development Code based on changing conditions; and

WHEREAS, the City has received complaints from residents about the setback required for 6-foot fences along the side of corner properties; and

WHEREAS, on June 25, 2007, the City Council discussed the pros and cons of requiring a 3-foot setback for 6-foot fences along the side yards of corner properties; and

WHEREAS, the City Council concluded that when the right-of-way contains a planter strip between the street and the sidewalk, that the 3-foot setback for 6-foot fences is not necessary for the health, safety and welfare of Albany's residents; and

WHEREAS, residents have expressed interest in constructing historically appropriate fences in the front yards of their properties; and

WHEREAS, the Development Code currently makes it challenging to construct a fence similar to those used historically in front yards at property lines in clear vision areas; and

WHEREAS, the Friends of Historic Albany discussed the issue, and historic district residents and the Landmarks Advisory Commission came up with a proposal to balance aesthetics and safety in clear vision areas; and

WHEREAS, the City Council asked staff to evaluate these issues; and

WHEREAS, on February 11, 2008, the Planning Commission held a public hearing on the proposed amendments and then recommended these changes to the City Council, based on public testimony, their deliberation, and the staff report; and

WHEREAS, on March 12, 2008, the Albany City Council held a public hearing on the proposed amendments, reviewed the amendments recommended by the Planning Commission and any testimony presented at the public hearing and then deliberated; and

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

Section 1: The Albany Development Code text is hereby amended as shown in the attached Exhibits A and B for the sections listed below:

Exhibit A

ADC 3.410 (1) and 5.390(1): Allow fences in the front yard to exceed 4 feet for properties listed on the National Register of Historic Places if the fence is appropriate to the house style and scale, and is approved by the Landmarks Advisory Commission; and

ADC 3.410(2) and ADC 5.390(2): For corner properties, eliminate the 3-foot setback from the property line for fences up to 6 feet tall in the front yard adjacent to the street that does not contain the dwelling's main door entrance if the adjoining street is improved with sidewalks and a planter strip.

Exhibit B

ADC 12.180: Remove the 2-foot height restriction in clear vision areas (citywide), add language that fences shall meet the clear vision area standards, and define "impede visibility" in ADC 12.180.

These Exhibits, upon the effective date of this Ordinance, shall supercede the corresponding sections of the Development Code. Language shown in the Exhibits as having been struck is removed from the Development Code, and language shown in bold is added to the existing text.

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

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

Passed by the Council: March 12, 2008

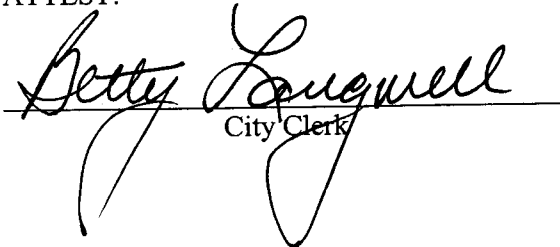
Approved by the Mayor: March 12, 2008

Effective Date: March 12, 2008



Mayor

ATTEST:



City Clerk

ARTICLE 3 RESIDENTIAL ZONING DISTRICTS

Staff Comments: Only changes to fence standards are proposed. No other changes are proposed in this Article.

FENCES

3.400 **Materials.** Fences and walls shall not be constructed of or contain any material which will do bodily harm, such as barbed wire, broken glass, spikes, or any other hazardous or dangerous materials. Electric and barbed wire fences are not permitted except those intended to contain or restrict cattle, sheep, horses or other livestock, and existing prior to annexation to the City may remain. [Ord. 5446, 5/10/2000]

3.410 **Standards.** Every fence shall be maintained in a condition of reasonable repair and shall not be allowed to become and remain in a condition of disrepair including noticeable leaning toward an adjoining property or sidewalk, missing sections or slats, broken supports, non-uniform height, and overgrowth of weeds or vines.

- (1) Fences may be no taller than 6 feet ~~in height~~ in interior yards, and 4 feet ~~in height~~ in front yards ~~2 feet in~~ if it **meets the clear vision clearance area standards see in Section 12.180**).

Exceptions to Height:

- (a) A single-family use or zone that shares an interior property line with a multiple-family use or zone may have a fence up to 8 feet **tall** ~~in height~~ along the property line.
 - (b) **Properties listed on the National Register of Historic Places may have front yard fences taller than 4 feet if the fence is appropriate to the building style and scale, and is approved by the Landmarks Advisory Commission.**
- (2) ~~Corner lots~~**properties**, which by definition have two front yards, may have a fence of up to 6 feet tall in the front yard adjacent to the street that does not contain the dwelling's main door entrance when the **6-foot-tall** fence does not extend in front of the house and one of the following conditions is met:
 - (a) **If the adjoining street is improved with sidewalks and a planter strip, the fence may be on or behind the property line.**
 - (ab) If the adjoining street is improved with sidewalks but no planter strip, the fence is located a minimum of ~~three~~ **3** feet from the sidewalk.
 - (bc) If the adjoining street is improved with curbs and gutters but no sidewalks, the fence is located 10 feet from the face of the curb.
 - (ed) If the adjoining street is unimproved, the fence is no closer than 3 feet from the property line.

[Ord. 5673, 6/27/2007]

- (3) Fences more than 6 feet tall require a building permit prior to construction. Except ~~when~~ a taller fence is permitted at the lot line ~~{see subsection (1) above}~~, fences more than 6 feet tall shall meet building setback requirements.

Additions are shown in **bold** and deletions in ~~strikethrough~~.

- (4) In no instance shall a fence extend beyond the property line.
- (5) All fencing shall comply with the requirements of the clear vision area (Section 12.180) for streets and driveways.
- (6) Fence height shall be measured from the average height of the grade adjacent to where the fence is to be located. If a fence is to be constructed on top of a berm, the height shall be measured from the bottom of the berm. [Ord. 5446, 5/10/00]

Fence height includes the height of the fence wall or picket and does not include the posts, decorative finials or similar elements, and arbors and trellises at entrance gates.

ARTICLE 5 MIXED USE VILLAGE CENTER ZONING DISTRICTS

Staff Comments: Only changes to fence standards are proposed. No other changes are proposed in this Article.

FENCES

MUC AND MUR DISTRICTS [Ord. 5556, 2/21/2003]

- 5.380 Materials. Fences and walls must not be constructed of or contain any material that will do bodily harm, such as barbed wire, broken glass, spikes, or any other hazardous or dangerous materials. Electric and barbed wire fences are not permitted except those intended to contain or restrict cattle, sheep, horses or other livestock, and existing prior to annexation to the City may remain. [Ord. 5446, 5/10/2000]
- 5.390 Standards. Every fence must be maintained in a condition of reasonable repair and shall not be allowed to become and remain in a condition of disrepair including noticeable leaning toward an adjoining property or sidewalk, missing sections or slats, broken supports, non-uniform height, and overgrowth of weeds or vines.
- (1) Fences may be no taller than 6 feet ~~in height~~ in interior yards, 4 feet ~~in height~~ in front yards and ~~2 feet in shall meet the clear vision clearance area standards (see in~~ Section 12.180).
- Exceptions to Height:**
- (a) A single-family use that shares an interior property line with a multiple-family use or zone may have a fence up to 8 feet **tall** ~~in height~~ along that property line.
 - (b) **Properties listed on the National Register of Historic Places may have front yard fences taller than 4 feet if the fence is appropriate to the building style and scale, and is approved by the Landmarks Advisory Commission.**
- (2) Corner ~~lots~~**properties**, which by definition have two front yards, may have a fence of up to 6 feet tall in the front yard adjacent to the street that does not contain the dwelling's main door entrance when the 6-foot-tall fence does not extend in the front of the house and one of the following conditions is met:

Additions are shown in **bold** and deletions in ~~strike~~through.

- (a) **If the adjoining street is improved with sidewalks and a planter strip, the fence may be on or behind the property line.**
 - (ab) If the adjoining street is improved with sidewalks **but no planter strip**, the fence is located a minimum of ~~three~~ **3** feet from the sidewalk.
 - (bc) If the adjoining street is improved with curbs and gutters but no sidewalks, the fence is located 10 feet from the face of the curb.
 - (ed) If the adjoining street is unimproved, the fence is no closer than 3 feet from the property line.
- (3) Fences more than 6 feet ~~tall in height~~ require a building permit prior to construction. Except where a taller fence is permitted at the lot line ([see subsection (1) above]), fences more than 6 feet ~~tall in height~~ must meet building setback requirements.
 - (4) In no instance shall a fence extend beyond the property line.
 - (5) All fencing must comply with the requirements of the clear vision area (Section 12.180) for streets and driveways.
 - (6) Fence height shall be measured from the average height of the grade adjacent to where the fence is to be located. If a fence is to be constructed on top of a berm, the height shall be measured from the bottom of the berm. [Ord. 5446, 5/10/2000]

Fence height includes the height of the fence wall or pickets and does not include the posts, decorative finials or similar elements, and arbors and trellises at entrance gates.

HD, CB, MS, LE, TD, PB, ES, WF DISTRICTS [Ord. 5555, 2/7/2003]

Fences for residential uses or National Register properties in these zones, see Sections 5.380 and 5.390.

Staff Comment: Minor administrative edits are proposed to the remaining sections for consistency with the rest of the Code.

5.400 Materials. Fences and walls must not be constructed of or contain any material that will do bodily harm, such as electric or barbed wire, broken glass, spikes, or any other hazardous or dangerous materials, except as follows:

- (1) Barbed wire is permitted atop a ~~six~~ **6-foot** (~~6~~) chain-link fence. The total height of the fence and barbed wire is limited to ~~eight~~ (**8**) feet. Barbed-wire-only fences and concertina wire are prohibited except as allowed in subsection (2).
- (2) Concertina wire may be used atop a ~~six~~ **6-foot** (~~6~~) chain-link fence around correctional institutions and high security areas provided that the fences are posted at least at 15-foot intervals with clearly visible warnings of the hazard.
 - (a) Except as specified in the provisions of subsections (1) and (2) above, concertina wire, barbed wire, or upturned barbed salvage existing at the time of the passage of this ordinance that is between ~~six~~ **6** and ~~seven~~ **7** feet above grade is considered a legal

Additions are shown in **bold** and deletions in ~~strike~~through.

non-conforming use, provided that the barbed wire or upturned barbed salvage does not extend over a street or alley and where it does slant toward the public right-of-way, it is located not less than one foot from said right-of-way.

5.410 Standards.

(31) Fences are limited to the height and location standards listed below:

- (a) Fences may be up to ~~eight (8)~~ feet **tall in height** provided that the fence is located behind the required front yard planting area and outside of any vision clearance area. In no instance may a fence exceed ~~eight (8)~~ feet in height.
- (b) Fences more than ~~six (6)~~ feet **tall in height** require building permits.

(42) ~~Whenever~~ a sight-obscuring fence, wall or hedge is required under the provisions of this Code, it must meet the following provisions:

- (a) Opacity. In order to be "sight-obscuring," fences and walls will be at least 75 percent opaque when viewed from any angle at a point 25 feet away from the fence or wall. Hedges will be of an evergreen species that will meet and maintain year-round the same standard within three (3) years of planting.
- (b) Height. Fences and walls will be ~~a minimum of six~~ **at least 6 feet tall in height**. Hedges will be of a species capable of attaining a height of at least ~~six (6)~~ feet within three (3) years of planting, given their age, height and health when planted.
- (c) Maintenance. Fences and walls will be maintained in safe condition and opacity is maintained as required in subsection (a) of this section. Wooden materials will be protected from rot, decay, and insect infestation. Plants forming hedges will be replaced within six (6) months after dying or becoming diseased to the point that the opacity required in subsection (a) of this section is not met.

(3)-Every fence, whether or not approved as a result of Site Plan Review, will be maintained. No fence is allowed to become or remain in a condition of disrepair including, but not limited to noticeable leaning, missing slats, broken supports, and overgrowth of weeds or vines.

[Ord. 5673, 6/27/2007]

**ARTICLE 12
PUBLIC IMPROVEMENTS**

Staff Comments: No other changes are proposed in this Article, so only Section 12.180 is shown.

12.180 Clear Vision Area. A clear vision area must be maintained at each access to a public street and on each corner of property at the intersection of two streets or a street and a railroad. No fence, wall, hedge, sign, or other planting or structure that would impede visibility between the heights of 2-8 feet shall be established in the clear vision area. **Visibility is not considered impeded by a fence when materials are 35 percent or less of the surface area of that portion of the fence above 2 feet. Fence posts spaced at 8 feet or more apart are not counted as part of the fence surface area.** Height mMeasurements shall be made from the top of the curb or, when no curb exists, from the established street center line grade.

(1) The ~~preceding~~ **clear vision area** provisions do not apply to the following:

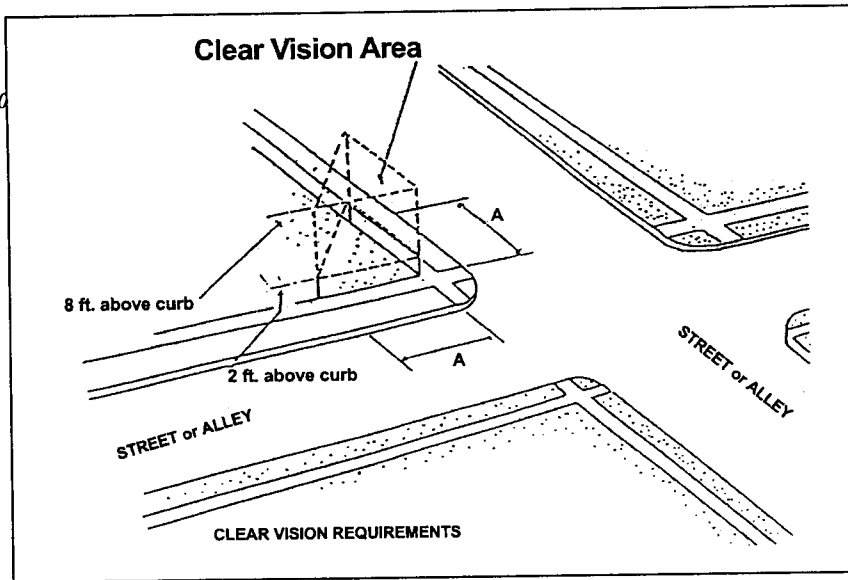
- (a) a public utility pole,
- (b) a tree trimmed (to the trunk) to a line at least eight feet above the level of the intersection,
- (c) another plant species of open growth habit that is not planted in the form of a hedge and which is so planted and trimmed as to leave at all seasons a clear and unobstructed cross-view,
- (d) a supporting member or appurtenance to a permanent building lawfully existing on the date this standard becomes effective,
- (e) an official warning sign or signal,
- (f) the post section of a pole sign when there are no more than two posts and any post is less than eight inches in diameter, and
- (g) existing or new buildings **that meet the minimum setbacks**~~within the Central Business District (CBD).~~

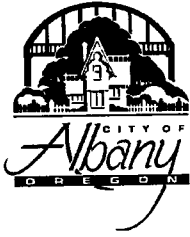
(2) A clear vision area consists of a triangular area, two sides of which are lot lines or a driveway and a lot line for a distance specified in this section, or, where the lot lines have rounded corners, the lot lines extended in a straight line to a point of intersection and so measured, and the third side of which is a line across the corner of the lot joining the non-intersecting ends of the other two sides (See illustration below). The following measurements shall establish the clear vision areas:

<u>Type of Intersection</u>	<u>Measurement Along Each Lot Line or Drive Edge*</u>
Controlled Intersection (stop sign or signal)	20 feet
Uncontrolled Intersection (60' right-of-way)	30 feet
Uncontrolled Intersection (less than 60' right-of-way)	30 feet
Commercial and Industrial District driveways	20 feet
Residential District driveways	15 feet
Alley (less than 25 feet)	20 feet

** When there is an intersection of two or more streets of different right-of-way width, the distance to be measured along the lot lines shall be the distance specified for each type street.*

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Community Development Department

333 Broadalbin Street SW, P.O. Box 490, Albany, OR 97321

Phone: (541) 917-7550 Facsimile: (541) 917-7598

STAFF REPORT Development Code Amendments

<u>HEARING BODY</u>	CITY COUNCIL
<u>HEARING DATE</u>	Wednesday, March 12, 2008
<u>HEARING TIME</u>	7:15 p.m.
<u>HEARING LOCATION</u>	Council Chambers, Albany City Hall, 333 Broadalbin Street SW

GENERAL INFORMATION

DATE OF REPORT:	March 5, 2008
FILE:	DC-01-08
TYPE OF REQUEST:	Amendments to Articles 3, 5 and 12 of the Albany Development Code (ADC) related to fences that would: <ul style="list-style-type: none"> (1) For corner properties, which have two front yards, eliminate the 3-foot setback from the property line for fences up to 6 feet tall in the front yard adjacent to the street that does not contain the dwelling's main door entrance if the adjoining street is improved with sidewalks and a planter strip (Articles 3 and 5). (2) Remove the 2-foot height restriction in clear vision areas in Articles 3 and 5, add language that fences shall meet the clear vision area standards, and define "impede visibility" in ADC 12.180. (2) Allow front yard fences that exceed 4 feet for properties listed on the National Register of Historic Places (which includes all properties in the historic districts) if the fence is appropriate to the building style and scale, and is approved by the Landmarks Advisory Commission (Articles 3 and 5).
REVIEW BODY:	City Council
APPLICANT:	City of Albany Planning Division
APPLICANT REP:	Anne Catlin, Planner II

INTRODUCTION

Periodically, staff finds sections of the Development Code that are not clear or that have unintended consequences when we apply them. Over the past few years, staff has heard concerns from residents and City Councilors about the 3-foot setback required for 6-foot-tall fences along rights-of-way for corner properties. Staff has also heard concerns from a few historic district residents who want to construct a historically appropriate picket fence in their front yards, but are restricted to 2 feet in the vision clearance areas at street intersections.

Staff received direction from the City Council at the June 25, 2007, work session on the corner fence setback issue. Staff met with the Friends of Historic Albany in November 2007 and held a work session with the Landmarks Advisory Commission and interested historic district residents on the issue of picket fences in the clear vision areas in December 2007.

The review criteria for Development Code amendments require that the proposed amendments better achieve the goals and policies of the Comprehensive Plan and that they be consistent with the policies and purposes of the Code. The findings in this staff report list the relevant review criteria and respond to them. The long-range interests of the general public are considered by reviewing the proposed amendments in the context of Comprehensive Plan goals and policies. The proposed amendments to the text of the Code are shown in Exhibits A and B. Findings and conclusions are shown in Exhibit C.

NOTICE INFORMATION

A Notice of Public Hearing was published in the *Albany Democrat-Herald* and mailed to persons believed to have a particular interest in the proposed amendments on February 1, 2008. The persons believed to have a particular interest are the Landmarks Advisory Commissioners and a few residents in the historic districts that have proposed fences within the last few years. The notice of public hearings and proposed Code amendments were also emailed to the Friends of Historic Albany email distribution list. The proposed Code changes would address their issues.

There was no testimony or public present at the Planning Commission public hearing on February 11, 2008.

PLANNING COMMISSION RECOMMENDATION

APPROVAL of the proposed Development Code amendments.

SUGGESTED CITY COUNCIL MOTION

Adoption of the attached Ordinance that would amend the Albany Development Code relating to front yard fences and defining impede visibility in clear vision areas.

APPEALS

A decision of the City Council may be appealed to the Land Use Board of Appeals by filing a Notice of Intent to Appeal not later than 21 days after the decision becomes final.

NOTICE OF DECISION

Within five days of final action on a land use application, the Director shall provide written notice of the decision to the applicant and any other parties entitled to notice.

FINDINGS AND CONCLUSIONS

File DC-01-08

Recommended by the Planning Commission on February 11, 2008

Adopted by the Albany City Council on March 12, 2008

The proposed Development Code amendments are found in Exhibits A and B to the attached Ordinance. The findings and conclusions supporting the changes are Exhibit C to the Ordinance.

The Albany Development Code (ADC) contains the following review criteria (in ***bold italics***) that must be met for legislative Code amendments to be approved.

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

1.1 Development Code amendments are reviewed using the legislative process. A legislative act deals with amendments that affect a large number of persons, properties, or situations, and are applied over a large area. A legislative act is typically initiated by staff, the Planning Commission, or City Council. A quasi-judicial act is typically initiated by a property owner who files a land use application.

1.2 The proposed amendments would:

- (a) For corner properties, eliminate the 3-foot setback from the property line for fences up to 6 feet tall in the front yard adjacent to the street that does not contain the dwelling's main door entrance if the adjoining street is improved with sidewalks and a planter strip.
- (b) Remove the 2-foot height restriction in clear vision areas (citywide), add language that fences shall meet the clear vision area standards, and define "impede visibility" in ADC 12.180.
- (c) Allow fences in the front yard to exceed 4 feet for properties listed on the National Register of Historic Places if the fence is appropriate to the house style and scale, and is approved by the Landmarks Advisory Commission.

1.3 The following Comprehensive Plan goals and policies are relevant to review of the proposed Development Code amendments. The Comprehensive Plan is organized by the statewide planning goals. Each goal and policy will be written in *italics* and considered as a separate review criterion.

Planning Goal 1, Citizen Participation, is, "Ensure that local citizens and other affected groups, neighborhoods, agencies, and jurisdictions are involved in every phase of the planning process."

Goal 1, Policy 2 is, "When making land use and other planning decisions:

- a. Actively seek input from all points of view from citizens and agencies and assure that interested parties from all areas of the Urban Growth Boundary have the opportunity to participate.*
- b. Utilize all criteria relevant to the issue.*
- c. Ensure the long-range interests of the general public are considered.*
- d. Give particular attention to input provided by the public.*
- e. Where opposing viewpoints are expressed, attempt to reach consensus where possible."*

Goal 1, Policy 4 is, "Ensure information is made available to the public concerning development regulations, land use, and other planning matters including ways they can effectively participate in the planning process."

Citizen Input

- 1.4 The Comprehensive Plan contains policies to ensure citizens and interested parties have an opportunity to participate in land use related proposals. Staff documented complaints and concerns from residents and Councilors regarding the 3-foot front yard setback for 6-foot-tall fences (applicable to the "side" yards of corner properties) and issues and challenges in enforcing the setback if the community and Council feel the setback may be unnecessary. Staff presented the issue to the City Council on June 25, 2007, for their input. The Council proposed amendments to make the Code less restrictive. Staff felt there was no need for additional public input on this issue before the public hearings.
- 1.5 Regarding the issues of allowing fences that do not impede visibility in clear vision areas, and the height of front yard fences in historic districts, staff discussed the issue at a Friends of Historic Albany (FOHA) meeting held in November 2007. (The FOHA is a non-profit group of residents interested in the preservation of Albany's historic resources.) A few residents agreed to talk about their concerns and work on proposed changes to the fence Code language with staff and the Landmarks Advisory Commission (LAC).

The LAC and representatives from the historic districts (Dave Sullivan, Dan Conway, Kate Porsche, and Rusty and Robyn van Rossmann) discussed proposed changes to the fence standards at the December 5, 2007, meeting of the LAC. The proposed changes to the clear vision standards and allowance for taller fences in certain instances reflect consensus reached at this meeting.

The proposed changes to the Code will allow fences citywide to be 4 feet tall in clear vision areas when the fence does not impede visibility. Additionally, owners of properties on the National Register of Historic Places may construct historically appropriate fences taller than 4 feet (such as a decorative iron fence, whose pickets are typically about 4 feet tall and often sit on a short wall) when approved by the Landmarks Advisory Commission. Because these proposed changes are less restrictive than the current Code. Staff concluded it was not necessary to mail notice to all historic property owners or to residents citywide.

Published and Mailed Notice

- 1.6 In addition to receiving community input on the proposed changes as noted above, the Development Code describes the notification process for legislative acts, such as amendments to the Development Code. Notice is published in the *Albany Democrat-Herald* at least one week prior to the Planning Commission public hearing, and notice may be given to persons believed to have a particular interest in the amendments.

For the proposed amendments, a notice advertising the Planning Commission and City Council public hearings was published in the *Albany Democrat-Herald* on February 1, 2008. A notice of the Planning Commission and City Council public hearings was emailed to the FOHA email distribution list, and mailed to the Landmarks Advisory Commission and historic district residents Dave Sullivan, Dan Conway, and Rusty and Robyn van Rossmann on February 1, 2008.

- 1.7 Notice and public hearings give the general public and persons with a particular interest in the proposed amendments an opportunity to participate in discussions about the amendments.

- 1.8 *Goal 14, Urbanization, has a policy to: Encourage flexibility in design review and interpretation of policies and regulations by ensuring that functional design and community benefit remain as the principal review criteria.*

The proposed change to the location of 6-foot-tall fences along rights-of-way for corner properties is a result of evaluating functional design and community benefits. Removing the 3-foot setback for 6-foot-tall fences when a planter strip exists will reduce incidents of unmaintained setbacks while considering the impacts to pedestrians.

The proposal to allow fences that do not impede visibility in clear vision areas to be more than 2 feet tall allows for a functional and more appropriate front yard fence. Fences with enough transparency (such as many styles of picket fences) may be up to 4 feet tall and can now go to the property edges on corner properties and in vision clearance areas adjacent to driveways.

- 1.9 *Goal 5, Open Space, Scenic & Historic Areas, & Natural Resources, has a goal to: Protect Albany's historic resources and utilize and enhance those resources for Albany residents and visitors. The relevant policy is: ensure the design of new construction within historic districts does not detract from the architectural qualities of the district.*

Goal 10, Housing, includes this policy: Preserve and enhance Albany's historic housing as a unique and valuable resource.

Historically, front yard picket fences were very common up until about 1910. More ornate houses in the Victorian style, for example, often had elaborate iron fences that sometimes exceeded 4 feet when measured from the ground. The proposed amendments to allow fences to exceed 4-feet in height for properties listed on the National Register of Historic Places will allow residents to recreate original and/or historically appropriate fence designs in the historic districts, which will enhance the historic character of Albany's districts.

CONCLUSIONS

- 1.1 The Comprehensive Plan contains policies to ensure citizens and interested parties have an opportunity to participate in land use related proposals. Regarding the 6-foot fences on corner lots, the Council proposed amendments that would make the Code less restrictive, which reduced the need for additional public input.
- 1.2 Regarding the issues of allowing fences that do not impede visibility in clear vision areas and the height of front yard fences in historic districts, residents worked with staff and the LAC that comes up with a proposal that allows for a functional and more appropriate front yard fence in historic districts.
- 1.3 The proposed amendments better achieve the goals and policies of the Comprehensive Plan than the existing regulatory language because the Code amendments will allow more flexibility for the location of corner property "side yard" fences, front yard fences in clear vision areas, and in historic districts, without compromising safety or aesthetics.

- (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

- 2.1 The following purposes are relevant to review of the proposed Development Code amendments. Each purpose will be written in *italics* and treated as a separate review criterion.
- 2.2 *ADC 1.020 says the general purpose of the Development Code is to set forth and coordinate City regulations governing the development and use of land. The Code is more specifically intended to do the following:*

- (1) *Serve as the principal vehicle for implementation of the City's Comprehensive Plan in a manner which protects the health, safety, and welfare of the citizens of Albany.*

Defining “impede visibility” in the clear vision area standards in Article 12 will ensure that fences located in these areas are safe. The proposed changes to the fencing regulations for historic properties and for 6-foot-tall fences, when allowed on corner properties, will not affect the health, safety and welfare of Albany’s residents.

- (2) *Satisfy relevant requirements of federal law, state law, statewide goals, and administrative rules.*

The statewide goals do not apply to the proposed amendments because the amendments are minor and not specifically related to state laws or planning goals.

- (3) *Facilitate prompt review of development proposals and the application of clear and specific standards.*

The proposed Code changes that define “impede visibility” in the clear vision area standards in Article 12 will make it easier for users of the Code to determine what is allowed.

- (10) *Protect constitutional property rights, provide due process of law, and give consideration in all matters to affected property owner interests in making land use decisions.*

The proposed amendments to the Code related to front yard fences make it less restrictive and offer more flexibility. Property rights of all residents – those who want to construct a fence, pedestrians walking adjacent to fences, and the safety of persons on foot and in vehicles – were carefully considered in crafting the proposed Code changes.

The notice of the proposed amendments related to fences and clear vision standards in Articles 3, 5 and 12 will allow for all interested property owners to participate in the land use process.

CONCLUSION

- 2.1. The proposed amendments are consistent with the purposes of the Development Code because they will promote the public welfare and safety of Albany’s residents and Albany’s historic districts and promote the interests of affected property owners in making land use decisions.