

ORDINANCE NO. 5627

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 PERIODIC REVIEW GOAL 10 HOUSING, ADOPTING FINDINGS, AND DECLARING AN EMERGENCY. (FILE DC-01-05)

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

WHEREAS, the City is in Periodic Review, a process through which the City is updating its Comprehensive Plan, Plan Map, Development Code, and Zoning Map in accordance with a work program approved by the State Department of Land Conservation and Development in 1997; and

WHEREAS, the Balanced Development Patterns Periodic Review Project in the winter of 2000 and spring of 2001 looked at land use relationships and identified Village Centers and other areas for future employment, commercial and housing growth; and

WHEREAS, developers have expressed interest in building single-family detached housing in the RM-5 Village Center zoning district, while continuing to meet the density range of 10 to 20 units per acre; and

WHEREAS, developers have expressed interest in building non-commercial/non-office uses in Village Centers that would exceed the maximum building and footprint sizes currently allowed in the Development Code; and

WHEREAS, the Central Albany Revitalization Area Agency initiated a review of the waterfront area and held three public workshops as part of the (Willamette) Riverfront Refinement Initiative in 2003; and

WHEREAS, about 40 people participated in the Riverfront Refinement Initiative, including consultants Crandall/Arambula and Pacific Habitat Services; and

WHEREAS, after reviewing several Willamette River setback alternatives, including the existing Greenway standard and the "safe harbor" approach, participants supported a "compromise" setback, which is proposed in this Ordinance; and

WHEREAS, clarity is needed on how the setback should be measured on the existing restaurant on Water Avenue formerly known as the Buzzsaw; and

WHEREAS, on June 27, 2005, 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 attached Findings of Fact; and

WHEREAS, on July 13, 2005, the Albany City Council held a public hearing on the proposed amendments, reviewed the amendments recommended by the Planning Commission and the testimony presented at the public hearing and then deliberated; and

WHEREAS, on July 27, 2005, the Albany City Council concluded their deliberations.

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 Exhibit A for the sections listed below:

ADC 5.090: Amend Table 1 (Mixed-Use Village Center Development Standards) to reduce the minimum lot size for detached single-family units from 5,000 sq. ft. to 3,500 sq. ft. in the RM-5 zone in Village Centers only; and

ADC 5.090: Amend Table 1 (Mixed Use Village Center Development Standards) to allow the maximum building and footprint sizes to be exceeded for non-commercial and non-office uses in Village Centers only; and

ADC 5.200: Change the way the building setback from the Willamette River in the Waterfront zone is measured (new 5.205), and

ADC 5.200: Add the Buzzsaw property to the exception list from the geometric plane for how setbacks are measured (new 5.207).

This Exhibit, 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 attached as Exhibit B 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: July 27, 2005

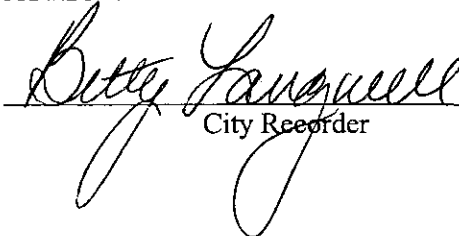
Approved by the Mayor: July 27, 2005

Effective Date: July 27, 2005



Mayor

ATTEST:



City Recorder

PROPOSED CHANGES TO THE ALBANY DEVELOPMENT CODE
ARTICLE 5: Planning File: DC-01-05

1. **Residential Development Standards in RM-5 in Village Centers**

Section 5.090: Table 1, Mixed Use Village Center Development Standards, is on page 2 of this Exhibit.

2. **Maximum Building and Business Footprint Sizes**

Section 5.090: Table 1, Mixed Use Village Center Development Standards, Note 19, is on pages 2 and 3 of this Exhibit.

3. **Willamette River Setback and Height Restrictions**

Sections 5.200, 5.205, and 5.207 are on pages 2 through 4 of this Exhibit.

Except for headings, additions are shown in **bold** and deletions in ~~strike through~~. N/A means not applicable

TABLE 1
MIXED-USE VILLAGE CENTER DEVELOPMENT STANDARDS

STANDARD	MUC	CC	WF	HD	CB	LE	PB	MS	ES	MUR	RM-5
Minimum Lot Size (sq.ft.) (3)											
• Single-family	None	N/A	None	N/A	N/A	N/A	N/A	N/A	5,000	None	5,000
• Attached single-family, per lot	None	N/A	1,600 (16)	None	N/A	N/A	N/A	None	None	None	3,500
• Two-family	None	N/A	3,600	None	N/A	N/A	N/A	7,000	7,000	3,600	7,000
• 3 or more 1-bedroom	None	None	1,600/u	None	None	None	1,600/u	3,300/u	3,300/u	1,600/u	2,400/u
• 3 or more 2+bedroom	None	None	1,800/u (16)	None	None	None	1,600/u	3,300/u	3,300/u	1,800/u	3,300/u
• All other uses	6,000	None	10,000	2,000	2,000	2,000	15,000	6,000	5,000	10,000	None
Maximum Building Size (sq. ft.) (19)											
Non-grocery (19)	20,000	100,000	None	None	None	None	None	None	None	None	None
Grocery-anchored	80,000 (18)	100,000	None	None	None	None	None	None	None	None	N/A
Maximum Business Footprint (sq. ft.) (17) (19)											
Non-grocery (19)	20,000	100,000	None	None	None	None	25,000 (13)	10,000 (13)	10,000 (13)	10,000	None
Grocery-anchored	80,000 (18)	100,000	None	None	None	None	None	None	None	None	N/A
Lot Width, minimum	None	None	None	20'	20'	20'	None	None	None	None	25'
Lot Depth, minimum	None	None	None	50'	50'	50'	None	None	None	None	65'
Landscaped Area (2)	100%	100%	100%	100%	100%	100%	100%	100%	100%	100%	100%
Minimum Open Space	(12)	(12)	(12)	None	None	None	(12)	(12)	(12)	N/A	(12)
Maximum Front Setbacks: (10)	10' (15)	None	20' (11)	0'	0'	None	20'	10'	10'	20'	20'
Minimum Setbacks:											
Front (5) (14)	5'	10'	5'	0'	0'	0'	5'	5'	5'	15'	15'
Interior (5) (14)	(1) (4)	(4)	5' (1)(4)	(4)	(4)	(4)	(4)	(1) (4)	5'	10'(1)	10'(1)
Garage Entrance (9)	20' (8)	20' (8)	20' (8)	20'	20'	20'	20'	20'(8)	20'	20'	20'
Height, maximum	50'	50'	50'	85'	60'	60'	50'	50'	50'	45'	30'
Lot Coverage, maximum (6)	80%	90%	80%	100 %	(7)	100 %	80%	90%	80%	70%	60%

N/A means not applicable.

- (1) Single-family homes or duplexes must have a 5' interior yard for single-story buildings, and an 8' interior yard for two-story buildings. See 5.150 and 5.160 for zero lot line options.
- (2) All yards adjacent to streets.
- (3) Lots with alley access may be up to 10% smaller than the minimum lot size for the zone. [Ord. 5338, 1/28/98; Ord. 5445, 4/12/00.
- (4) Commercial or office buildings abutting residential districts and/or uses require 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) Lot coverage includes building and parking area coverage.
- (7) See ADC 5.120.
- (8) Garage setback for non-vehicle entrance must conform with the requirements for interior setbacks.
- (9) For garages with alley access, see Table 2.
- (10) The maximum setback may be increased with the condition that 100% of the increased setback is used for pedestrian amenities associated with the building use, such as patio dining for a restaurant, sidewalk café, plaza, or courtyard. See ADC 8.320(4).
- (11) For multi-family and commercial developments, no parking or circulation will be allowed within the front yard between the building with the primary entrance and the adjacent street.
- (12) Ten or more residential units require open space. See ADC 8.210.
- (13) Excluding grocery stores, which may be up to 60,000 square feet.
- (14) Properties adjacent to the Willamette River, see also the Willamette Greenway standards in 5.200 and ADC 6.310.
- (15) Except for residential development, which has a maximum setback of 25 feet. See Section 8.240 for residential design standards.
- (16) No minimum lot size for structures on the Local Historic Inventory. (17) In shopping centers with multiple tenants, "business" refers to each individually leasable space. "Footprint" refers to the amount of area covered by the first floor. Businesses may build on additional floors.
- (18) The building and business footprint maximum is 80,000 square feet if a grocery store occupies at least fifty percent (50%) of the total square footage. This footprint may include one or more businesses or attached buildings. For purposes of this section, a grocery store is defined as a business that sells primarily food and household supplies. Ancillary grocery uses include uses such as pharmacy, bakery, and florist.
- (19) **The maximum building size and business footprint size may be exceeded for non-commercial and non-office uses when the building is multi-story.**

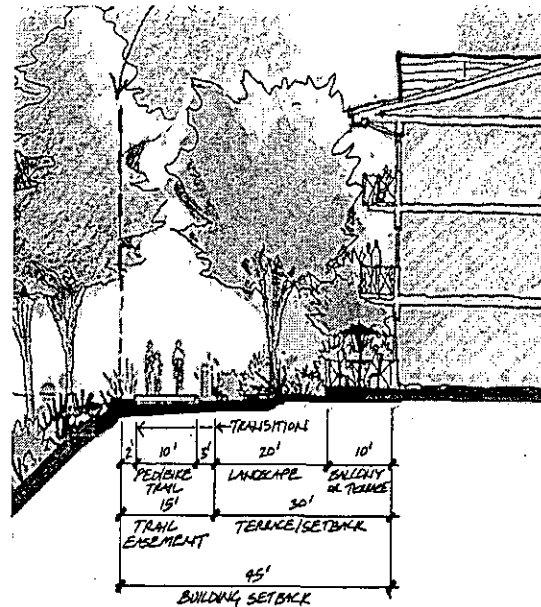
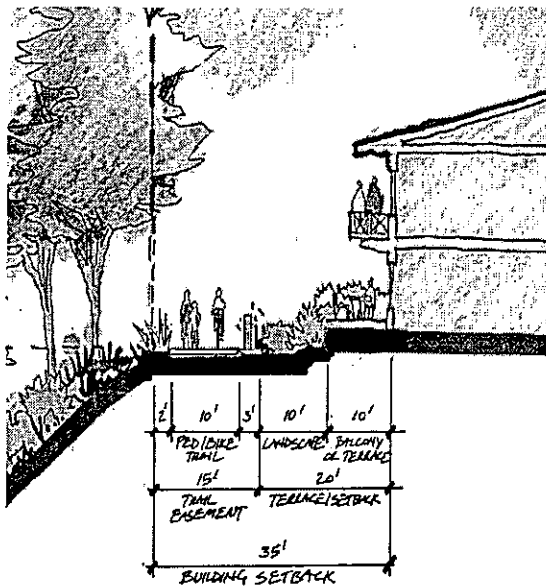
[Table and footnotes amended by Ord. 5555, 2/7/03, Ord. 5556, 2/21/03]

5.200 **Special Willamette River Setback and Height Restrictions Outside the Waterfront Zone.** Except for water-related and water-dependent uses (see definitions, Article 22), all construction must be located outside the floodway line as defined for a 100-year storm. Development structure heights and setbacks south of the Willamette River shall not extend above a plane that begins at the floodway line and extends directly south. The angle of this plane shall be as follows:

- (1) For water-oriented uses, the angle shall be 30 degrees.
- (2) For non-water-oriented uses, the angle shall be 15 degrees.

5.205 **Special Willamette River Setbacks Inside the Waterfront Zone.** Setbacks for buildings south of the Willamette River shall meet the following minimum setbacks from the top of the river bank:

- (1) **35 feet for a building two stories or less, and**
- (2) **45 feet for a building three or more stories.**



5.207 Exceptions to the Willamette River Setback Standards. For the following properties, the above language in this—Sections 5.200 and 5.205 shall not apply. Greenway Willamette River setback provisions for these properties shall be as are set forth below.

<u>Common Name</u>	<u>Assessor's Property Identification Number</u>
Willamette Seed Site	11S-03W-6DC #100
Permawood Site	11S-03W-5BD #200, #300 and 11S-03W-5CA #1001, #1100, #6805
"Buzzsaw" Site	11S-03W-6CD-#11500

[Ord. 5555, 2/7/03]

For these properties, the minimum setback for buildings and parking on the river side of property along the river is:

<u>Area</u>	<u>Minimum Setback</u>
West of Lafayette	5 feet
East of Lafayette	15 feet

For the purpose of establishing setbacks on property along the Willamette River, the river will be treated as a front lot line. The minimum setbacks **outlined above** for buildings and parking on the river side of property along the river will be measured from the most inland of the:

- (1) Property line along the river, or
- (2) City multi-use path easement, or
- (3) Top of the river embankment.

Fences on the river side of property along the river will be located south of the most inland of the:

- (4) Property line along the river, or
- (5) City multi-use path easement, or
- (6) Top of the river embankment.

[Ord 5559, 3/26/03]

FINDINGS AND CONCLUSIONS

File DC-01-05

Recommended by the Planning Commission on June 27, 2005

Adopted by the Albany City Council on July 13, 2005

The Planning Commission recommended these findings in support of their recommendations for implementation of the Village Center goals and policies outlined in the Albany Comprehensive Plan. The Albany City Council adopted these findings in support of the Ordinance.

DEVELOPMENT CODE AMENDMENTS

Criteria: The proposed amendments better achieve the goals and policies of the Comprehensive Plan than the existing regulatory language.

A. Reduce the single-family lot size in the RM-5 zone in Village Centers from 5,000 square feet to 3,500 square feet.

FINDINGS

COMPREHENSIVE PLAN GOALS AND POLICIES:

- *Create Village Centers that offer housing and employment choices (Goal 9, Economic Development).*
- *Promote infill development and redevelopment throughout the City (Goal 9, Economic Development).*
- *Ensure that there is an adequate supply of residentially zoned land in areas accessible to employment and public services to provide a variety of choices regarding type, location, density, and cost of housing units commensurate to the need of City residents (Goal 10, Housing).*
- *Encourage land use patterns and development plans that take advantage of density and location to reduce the need for travel and dependency on the private automobile, facilitate energy-efficient public transit systems, and permit building configurations that increase efficiency (Goal 9, Economic Development).*

1. Village Centers were created to provide mixed-use centers to serve nearby neighborhoods. Density is appropriate and encouraged in Village Centers to support commercial uses, reduce the number of vehicle miles traveled, and to provide needed housing types. Within the MUC, Mixed Use Commercial, zone, there is a minimum required density of 10 units per acre. The RM-5 zone, which allows density up to 20 units an acre, was purposely located in Village Centers to provide medium-density housing choices. The density would be about 10 units per acre for single-family detached housing, after factoring for streets, compared to 6.5 units an acre currently. The Comprehensive Plan encourages providing a variety of housing densities.
2. Originally, RM-5 zoning districts were envisioned as multi-family (apartment) districts with a density range of 10-20 units per acre. Recently, developers have expressed interest in doing detached single-family on smaller lots instead of attached and multi-family units. For example, the North Albany Village Subdivision Plat recently approved by the Planning Commission has lot sizes of 3,500 square feet. The current RM-5 Development Code standard allows attached single-family on lots of this size, but requires 5,000-square-foot lots for detached single-family. If the proposed change were made, single-family detached houses would be built at a density desired for this zone, rather than attached housing.
3. The North Albany and Central Albany Village Centers are in areas with existing development and City services (water, sewer, and streets). The Comprehensive Plan encourages infill development. The proposed Code changes will help promote infill development in Village Centers.

CONCLUSION: Reducing the minimum lot size in the RM-5 Village Center zone would meet the intent of providing medium-density housing in Village Centers without resulting in more density than currently allowed in the zone.

B. Allow exceptions to the maximum building and footprint sizes in Village Center zones for non-commercial and non-office uses.

FINDINGS

COMPREHENSIVE PLAN GOALS AND POLICIES:

- *Create Village Centers that offer housing and employment choices (Goal 9, Economic Development).*
 - *Encourage land use patterns and development plans that take advantage of density and location to reduce the need for travel and dependency on the private automobile, facilitate energy-efficient public transit systems, and permit building configurations that increase efficiency (Goal 9, Economic Development).*
4. A maximum building size and maximum business footprint were adopted in many of the Village Center zones for commercial and office uses to ensure that they primarily serve the surrounding neighborhood rather than generating a significant volume of trips from the region. However, certain uses (e.g., assisted living) might be appropriate because they would not generate a significant amount of trips. These building and business footprint maximums were not intended to apply to non-commercial or non-office type uses.
 5. The current maximum business footprint and building size is unintentionally prohibitive for some non-commercial uses, like assisted-living facilities. We feel these uses are appropriate within Village Centers and the proposed change would result in an efficient land-use pattern that would provide density adjacent to services.

CONCLUSION: Allowing certain uses to exceed the maximum business footprint and building sizes would result in an efficient land-use pattern that would provide density adjacent to services.

C. Change how the setback from the Willamette River is measured in the Waterfront zoning district and add the “Buzzsaw” property to the setback exception list.

FINDINGS

COMPREHENSIVE PLAN GOALS AND POLICIES:

- *Protect, conserve, enhance and maintain the natural, scenic, historic, economic, and recreational qualities of the Willamette River, its banks, and adjacent lands.*
- *Protect existing vegetation which possesses significant environmental, wildlife habitat, and aesthetic qualities, particularly along the Santiam Canal and the Willamette and Calapooia Rivers, their tributaries, and associated floodplains and drainage ways.*
- *Promote infill development and redevelopment throughout the City.*
- *Support the transition of industrial uses along the Willamette River to urban residential and supporting mixed uses.*

CENTAL ALBANY REVITALIZATION AREA (CARA) PLAN GOAL:

- *Revitalize the CARA by attracting new private investment to the area.*
6. The proposed setback measurement would not change the boundary of the Willamette Greenway, nor would it change the requirement that any development proposal in the Greenway overlay district go through a review process to ensure that development occurs in a manner that preserves the existing scenic use and natural features.

7. Enhancing and protecting the community and environmental values of the Willamette River is a key objective of the Central Albany Revitalization Area (CARA) plan. Attracting new private investment to the area is another important objective of the plan.
8. The Comprehensive Plan supports the transition of industrial uses along the Willamette River to urban residential and supporting mixed uses. Allowing properties within the Waterfront zone to redevelop does not eliminate natural resource protection.
9. Within the Waterfront zone, the wetland and floodplain boundaries are at the top of the river embankment. Most of the properties in the Waterfront zone are developed and, therefore, there is little to no vegetation south of the riverbank in these zones that would be impacted by the proposed setbacks.
10. The Pacific Habitat Services report documents one riparian area on the northeast edge of the Waterfront zone (the tip of the Willamette Seed property) as a significant natural resource site. The resource includes the wetland and vegetation, both below the top of the bank. The report notes that it is possible to redevelop the mostly developed area without negative consequences to the identified natural resource.
11. The proposed amendments would limit impacts to the Willamette River by setting buildings back at least 35 or 45 feet from the top of the riverbank. New vegetation planted within the setback would be reviewed for compatibility with existing vegetation, natural resources, and wildlife habitat.
12. The proposed amendments will remove a redevelopment barrier that currently limits the location and height of development in the Greenway, easing the ability to redevelop properties within the Waterfront zone. This is especially significant for redevelopment of several properties that were most recently industrial uses along the Willamette River, but now remain idle. The current setbacks would result in buildings as far back as the railroad tracks/Water Avenue, which reduces the value of properties north of Water Avenue. A likely result with the current language is parking lots along the riverfront, which would not provide protection or enhancement of the natural features along the riverfront.

CONCLUSION: The proposed change to the setback from the Willamette River in the Waterfront zone balances protection of the Willamette River and the riparian fringe along the river with redevelopment strategies that encourage riverfront lands to transition from industrial uses to higher-density housing, mixed uses, and active public spaces.

Criteria: 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

13. The following policies and purposes are relevant to the proposed Development Code amendments:

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

The proposed amendments will help implement the Comprehensive Plan economic development and housing goals and policies, and meet Statewide Planning Goals.

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

The proposed amendments satisfy the requirements of Statewide Land Use Goal 15, Willamette River Greenway. These amendments provide protection of the vegetative riparian fringes of the Willamette River by requiring that new buildings, parking and fences be set back from the top of the embankment 35 or 45 feet.

EXHIBIT B

The proposed amendments also satisfy the requirements of Statewide Land Use Goal 10, Housing, which requires cities to provide a variety of housing choices to meet housing need.

- c. *Establish procedures and standards requiring that the design of site improvements and building improvements are consistent with applicable standards and flexible design guidelines.*

The proposed amendments to development requirements in the Willamette Greenway District will encourage redevelopment along the Willamette River while balancing environmental concerns. The new requirements provide needed clarity on what setback standards apply and on where setbacks should be measured.

Existing standards are in place to review all new development and site improvements for consistency with the Code standards and design guidelines.

- d. *Facilitate prompt review of development proposals and the application of clear and specific standards.*

The proposed amendment to reduce the minimum lot size for single-family units in the RM-5 Village Center zones is clear and objective.

The proposed amendments remove unclear and difficult-to-administer methods of establishing setbacks, and provide specific setbacks from the Willamette River in the Waterfront zone in their place.

The proposal to allow some uses to exceed maximum building size standards is clear and objective.

- e. *Protect and enhance the city's aesthetic beauty and character.*

The proposed amendments provide increased protection of the green vegetative fringe along the Willamette River by limiting development along the embankment.

CONCLUSION: The proposed Development Code text amendments are consistent with Comprehensive Plan policies and with the purpose statements of the Development Code, and with the zoning district purpose statements. This criterion is satisfied.