

ORDINANCE NO. 905

AN ORDINANCE FOR THE CITY OF CANBY, COUNTY OF CLACKAMAS, OREGON, AMENDING TITLE 16 OF THE PLANNING AND DEVELOPMENT CODE, BY ADDING A NEW HISTORIC PRESERVATION DIVISION, DIVISION X AND AMENDING SECTION 16.38.

WHEREAS, it has been determined that changes are needed to amend or clarify the wording and standards of Title 16 (Land Development and Planning Ordinance) of the Canby Municipal Code; and

WHEREAS, the Canby Historic Preservation Task Force, after almost two years of extensive study, recommended adoption of a Historic Preservation Ordinance; and

WHEREAS, the Canby Planning Commission, after providing appropriate public notice, conducted a public hearing, during which the citizens of Canby were given the opportunity to come forward to present testimony on these proposed changes; and

WHEREAS, after concluding the public hearing, the Planning Commission made any appropriate changes to the wording of the proposal to assure that the public interest would be best served by this Ordinance, recommended adoption of the amendment to the Land Development and Planning Ordinance, by adding a new Division X, Historic Preservation; and amending Section 16.38.

WHEREAS, City Council, after review of the record of the Canby Planning Commission regarding the subject amendment, concluded that the amendment is appropriate.

NOW, THEREFORE, THE CITY OF CANBY ORDAINS AS FOLLOWS:

Section 1. Add Division X, Historic Preservation, to Title 16 of the Planning and Development Code, to read as follows:

DIVISION X. HISTORIC PRESERVATION

	Page	
16.110.005	Title	3
16.110.010	Purpose	3
16.110.015	Statement of Power and Authority	4
16.110.020	Definitions	5
16.110.025	Historic Review Board	7
16.110.030	Historic Review Board - Duties and Responsibilities	8
16.110.035	Area of Application	9
16.110.040	Criteria for Historic Landmark Designation	9
16.110.045	Criteria for Historic District Designation	11
16.110.050	Criteria for Historic Corridor Designation	12
16.110.055	Criteria for Contributing Resource Designation	12
16.110.060	Historic Landmark, District, Corridor or Contributing Resource Designation Procedure	13
16.110.065	Review, Notice and Public Hearing Procedures	13
16.110.070	Building Code Requirements and Handicap Access	14
16.110.075	Moving or Demolition of a Landmark or Contributing Resource	15
16.110.080	Alteration of a Landmark, New Construction, or Contributing-Resource-Within-a-District	20
16.110.085	Alteration of a Contributing Resource Which is Not in a District	23
16.110.090	Partitions and Subdivisions	23
16.110.095	Casualty Destruction	24
16.110.100	Fees	24
16.110.105	Enforcement	24
16.110.110	Penalties	24
16.110.115	Official Action	25
16.110.120	Abatement of Violation	25
16.110.125	Injunctive Relief	25
16.110.130	Evidence of Violation	25
16.110.135	Cumulative Remedies	25
16.110.140	Interpretation, Regulations, and Procedures	26
16.110.145	Appeals	26
16.110.150	Uses Permitted	26
16.110.155	Incentives	27
16.110.160	Landmark Designation List	28
16.110.165	Contributing Resource Designation List	28
16.110.170	Historic District Designation List	28
16.110.175	Historic Corridor Designation List	28
16.110.180	Undesignated Contributing Resource List	28
16.110.185	Carryover Provisions	29
16.110.190	Severability	29

Addendum [not part of Ordinance]:

- A. Application Form for Landmark Designation
- B. Design Guidelines [to be written]
- C. City-Provided Sign Specifications
- D. Standard Identifying Sign Specifications

16.110.005 Title.

This division shall be known as the Historic Preservation Division of the City of Canby, City Code.

16.110.010 Purpose.

The purpose of this division is to:

1. Promote the historic, educational, cultural, architectural, economic and general welfare of the public, and to safeguard the City's historic and cultural heritage through the identification, preservation, restoration and protection of structures, sites, objects and districts of cultural interest within the City.
2. Foster community pride and a sense of cultural identity.
3. Strengthen the City's economy by enhancing property values and enhancing the historic and cultural resources for tourists, visitors and residents and to serve as a support and stimulus for business and industry.
4. To encourage public knowledge, understanding and appreciation of the City's history and culture.
5. To facilitate and encourage restoration and maintenance of historic buildings, structures or other physical objects and geographical areas.
6. To preserve diverse architectural styles reflecting periods of the City's historical and architectural development, and to encourage complementary design and construction impacting historic development.
7. To identify and resolve conflicts between the preservation of historic and cultural resources and alternative land uses.
8. To integrate the management of historic and cultural resources into public and private land management and development processes.
9. To provide an additional means to implement the mandates of Statewide Planning Goal 5 and the Comprehensive Plan policies relating to historic resources.
10. To recognize the importance of historic transportation corridors (railroad venue and 99-E, Road of a Thousand Wonders, Territorial and Market roads) and waterways (Willamette and Molalla Rivers) to the origin and development of the Canby community.

16.110.015 Statement of Power and Authority

The primary power and authority for this ordinance is the State's Home Rule Charter laws and the State's laws providing for planning and zoning. The national Supreme Court has upheld zoning laws and, specifically, has upheld historic ordinances. Oregon's Statewide Planning Goals also specifically require, under Goal #5, regarding Open Spaces, Scenic, and Historic Areas, and Natural Resources, that the State Goal is "To conserve open space and protect natural and scenic resources" and that programs shall be provided that will . . . "(2) protect scenic and historic areas and natural resources for future generations, and . . . (3) promote healthy and visually attractive environments in harmony with the natural landscape character." The location, quality and quantity of the following resources shall be inventoried: ". . . i. Historic areas, sites, structures and objects, . . . j. Cultural Areas, . . . Where no conflicting uses for such resources have been identified, such resources shall be managed so as to preserve their original character. Where conflicting uses have been identified, Economic, Social, Environmental and Energy (E.S.E.E.) consequences of the conflicting uses shall be determined and programs developed to achieve the goal."

In the State Goal statement historic areas are defined as follows: ". . . lands with sites, structures, and objects that have local, regional, statewide or national historical significance." Cultural areas are defined as follows: "An area characterized by evidence of an ethnic, religious or social group with distinctive traits, beliefs and social forms." Planning Guidelines from the State Goals statement give further description of how this is to be carried out. Guideline #4 states that plans providing for ". . . historic areas. . . should consider as a major determinant the carrying capacity of the air, land and water resources of the planning area" and should not exceed the carrying capacity of such resources. Guideline #5 states "The National Register of Historic Places and the recommendations of the State Advisory Committee on Historic Preservation should be utilized in designating historic sites." The Oregon Administrative Rules - Chapter 660, Division 16 - Land Conservation and Development Commission, provides further "Requirements and Application Procedures for Complying with Statewide Goal 5." These rules deal with various aspects including Inventory, Conflicting Uses, program to Achieve the Goal and Post Acknowledgement Period and Landowner Involvement.

The City of Canby has an adopted Comprehensive Plan which was acknowledged in 1984. Thus, the City is in the post acknowledgement phase. The Comprehensive Plan, in Finding 6-R "Historic Sites and Buildings" describes the inventory process and identifies ten (10) sites and buildings as including "those sites and buildings where City action is feasible and necessary to assure preservation." It also notes that other sites or buildings may warrant inclusion in the list at some other date. In 1984, Clackamas County prepared a Cultural Resource Inventory of Historic Structures in the City of Canby. In 1992, an update of this inventory was accomplished by Clackamas County. Of the original 80 structures, 69 remained within the City of Canby, which were inventoried and evaluated. About fifty structures were found to be historically significant, scoring at least 40 points out of a possible 106 points. This updated inventory has been submitted to the State Historic Preservation Office.

16.110.020 Definitions.

For purposes of Division X, the following terms mean:

- ALTERATION:** Changes to the exterior of a Landmark or Contributing Resource; "minor" being that which does not change the existing appearance or material, or which duplicates or restores the affected exterior features and materials, as determined from historic photographs or other evidence of original features or materials; "major" being that which does change the existing material or appearance. (See Section 16.110.080)
- BOARD:** Canby's Historic Review Board (See Section 16.110.025, 16.110.030)
- BUILDING CODE:** State of Oregon Structural Specialty Code (Commercial Code); or State of Oregon One and Two Family Dwelling Code (Residential Code).
- CERTIFICATE OF APPROPRIATENESS:** An official permit which indicates approval of all proposed alterations, construction, and development affecting designated landmarks, districts or corridors. This is additional to the normal Building Permit (see Section 16.10.080).
- COMMISSION:** Canby's Planning Commission. (See Chapter 16.06)
- CONFLICTING USE** Development or redevelopment planned for a property which may result in demolition, alteration or moving of a Landmark or Contributing Resource.
- CONTRIBUTING RESOURCE:** A structure, site or object, and the property surrounding it, which is about 50 years or older and 1) has historic, architectural or environmental significance and has been researched and evaluated, yet does not, at this time, merit Landmark designation; or 2) is contained in a Historic District or Corridor, or 3) has been preliminarily identified by the Historic Review Board as an historic resource, but has not yet been researched or evaluated to determine Landmark eligibility. Contributing Resources may have incompatible alterations removed and be reviewed for Landmark designation. (See Section 16.110.055)
- CORRIDOR:** See Historic Corridor.
- COUNCIL:** Canby's City Council.
- CULTURAL RESOURCE:** Evidence of ethnic, religious or social traits, beliefs, or practices.

DEMOLISH:	Raze, destroy, dismantle, deface, or in any other manner, cause partial or total destruction of a Contributing Resource or Landmark. (See Section 16.110.075)
DESIGN GUIDELINES:	See Addendum A. Specific criteria for architectural elements which give historic buildings their character, appropriate landscaping, setbacks, etc., and guidelines for new construction within a District or Corridor.
E.S.E.E. ANALYSIS:	An evaluation required by Statewide goals and Administrative Rule 660, Division 16, performed by the staff or the Historic Review Board, in which the Economic, Social, Environmental and Energy consequences to the community, of designating or preserving a historic or cultural resource are considered and balanced with the community benefit of allowing change or loss of the historic or cultural resource to a conflicting use. (See Section 16.110.015 and 16.110.040)
HISTORIC CORRIDOR:	A linear shaped grouping of properties, sites, trail, roadway, rail corridor, landscape corridor, or waterway, associated with events that have made a significant contribution to the broad patterns of our history. May be referred to as a Corridor within the Ordinance. (See Section 16.110.050)
HISTORIC DISTRICT:	Either a "contiguous" or "non-contiguous" district. A "contiguous" district is a geographically defined area composed of structures, sites and objects classified as Landmarks, Contributing Resources and noncontributing resources. A "non-contiguous" district is a non-geographically related collection of landmark quality structures, sites and objects which have a common builder, style, theme, or other relationship. May be referred to as a "District" within the Ordinance. (See Section 16.110.045)
HISTORIC LANDMARK:	Any site, object, or structure and the property surrounding it, if so designated by this division, to be historically, architecturally, and environmentally significant. May be referred to as "Landmark" within Ordinance. (See Section 16.110.040)
HISTORIC OVER-LAY ZONE:	Specific zoning that is additional to base zone, as per Section 16.36.
HISTORIC RESOURCE:	A general term for sites, structures and objects which are Landmarks, Contributing Resources or have potential to be.
HISTORIC REVIEW BOARD:	An appointed committee of volunteers who are each experts in some aspect of historic preservation and who review all designations, alterations, demolitions and other activities involving historic resources. (See Section 16.110.025)

HISTORIC THEMES: Archeology and prehistory, exploration, western migration, settlement, agriculture, commerce and industry, transportation, government politics and military activities or culture.

MOVING: Relocating a historic or cultural resource from its existing parcel or tax lot, to another site.

NON-CONTRIBUTING RESOURCE: A structure, site or object within a Historic District, which is neither a Contributing Resource, nor a Landmark.

NON-COMPATIBLE: An addition or new construction which is not architecturally or stylistically consistent with a historic resource or surrounding resources in a District.

NON-CONTIGUOUS DISTRICT: see Historic District

PLANNING DIRECTOR: Person holding the position of Planning Director for the City of Canby.

16.110.025 Historic Review Board

1. For the purpose of this Ordinance, the decisions regarding alterations to Contributing Resources, alterations to Historic Landmarks, and alterations within Historic Districts, and recommendations for designation of Historic Landmarks or Districts shall be accomplished by a City of Canby Historic Review Board.
2. **Appointment and Composition.** The City Council shall appoint seven (7) individuals who have demonstrated an interest in historic preservation or have special expertise or knowledge in the field of historic preservation. Not more than two (2) members shall be engaged in the same type of business, trade, or profession.
3. **Terms of Service.** The members of the Historic Review Board shall be appointed for three (3) years, and may be reappointed or removed at the discretion of the City Council. In the first appointment four (4) members shall be appointed for three (3) years, and three (3) members shall be appointed for two (2) years.

16.110.030 Duties and Responsibilities.

It is the responsibility of the Historic Review Board to ensure that the purposes of this section are implemented, and to perform the following duties:

1. Adopt rules to govern its deliberations and decisions, including a method to record its proceedings.
2. Carry out the duties described for it in this Ordinance and assist the Planning Director, Planning Commissioners and Canby City Council on historic Preservation matters.
3. Review and render decisions on proposals to alter the exterior of a historic resource subject to the procedures and criteria set forth in Sections 16.110.080 and 16.110.085.
4. Review and render decisions on all proposed new construction on property where a historical landmark is located, or within a historic district or corridor, subject to the procedures and criteria set forth in Section 16.110.080.
5. Review and make recommendations on all applications for designation of a historic landmark, contributing resource, historic district or corridor, as provided under Sections 16.110.040, 045, 050, 055, 060.
6. Review all requests for demolition of a historic landmark or contributing resource, provided under Section 16.110.075.
7. Review and make recommendations to the Planning Commission on all Conditional Use applications under Section 16.50 and Section 16.110.155.
8. Review and make recommendations on all partitions and subdivisions of designated properties, under Section 16.110.090.
9. Disseminate information to educate the public as to local, State and federal laws protecting antiquities and historic places.
10. Act as coordinator for local preservation groups, educational workshops, signage and monumentation projects, and other similar projects.
11. Advise interest groups, agencies, boards, commissions, and citizens on matters relating to historic preservation within the City.
12. Insure that information on inventories of historic properties is updated and maintained, and new properties added, when appropriate.
13. Provide design guidance for historic-property owners.

16.110.035 Areas of Application.

The provisions of this division shall apply to all designated Historic Landmarks, Contributing Resources, Historic Districts and Historic Corridors within the City, to be found in Sections 16.110.160-180.

16.110.040 Criteria for Historic Landmark Designation.

1. In order to designate a site, object or structure as a Landmark, it shall be found that:
 - a. The resource is about 50 years or older, or the resource is less than 50 years old but of exceptional importance with regard to its historical, architectural, or environmental significance; and
 - b. There is historical, architectural, or environmental significance; or
 - c. Through an Economic, Social, Environmental and Energy analysis (E.S.E.E.), the benefits of designating the proposed landmark outweigh the benefits of continuing any expected conflicting use or uses without the designation. (See OAR 660-16-005). The desire of the owner shall be given due consideration, but shall not be the sole basis for the decision whether to approve a proposed landmark.
2. The following factors shall be considered in determining whether the criteria found in subsection 1.b) of this section are satisfied:
 - A. Historical Significance
 1. Association with the life or activities of a person, group, organization, or institution that has made a significant contribution to the City, County, State or nation.
 2. Association with an event that has made a significant contribution to the City, County, State or nation.
 3. Association with broad patterns of cultural, political, social, economic, industrial, or agricultural history.
 4. Potential for providing information of a prehistoric or historic nature in the City, County, State, or nation.
 5. Listed on the National Register of Historic Places.

B. Architectural Significance

1. Example of a particular architectural style, building type and/or convention.
2. Example of quality of composition, detailing and/or craftsmanship.
3. An example of a particular material and/or method of construction.
4. It retains original design features, materials and/or character.
5. The only remaining, or one of few remaining resources of a particular style, building type, design, material, or method of construction.
6. The work of a master architect.

C. Environmental Significance

1. A visual landmark in the neighborhood or community.
2. Existing land-use surrounding the resource contributes to the integrity of the pertinent historic period.
3. It consists of a grouping of inter-related elements including historic structures, plant materials and landscapes, view sheds and natural features.
4. It contributes to the continuity or historic character of the street, neighborhood and/or community.

16.110.045 Criteria for Historic District Designation.

In order to designate a contiguous or non-contiguous district, the Historic Review Board shall find that:

1. The area is listed as a National Register Historic District; or
2. The area includes a significant concentration or linkage of sites, buildings, structures, objects or landscapes which are unified visually by style, plan, or physical development, and distinguished by association with historic periods, events, people or cultural trends;
or

3. The area is of sufficient size and scope, and the component parts are cohesive enough to adequately represent, demonstrate, or commemorate the significant historic period, event, people or trend; or
4. A substantial number of component parts within the area are exceptionally well preserved; and
5. Through an Economic, Social, Environmental and Energy analysis (E.S.E.E.), the benefits of designating the proposed District outweigh the benefits of continuing any expected conflicting use or uses without the designation. (See OAR 660-16-005) The desire of the owner shall be given due consideration, but shall not be the sole basis for the decision whether to approve a proposed Historic District.

A non-contiguous Historic District designation may be given to a group of structures, sites or objects which have a common builder, style, or theme, but are not necessarily geographically linked.

16.110.050 Criteria for Historic Corridor Designation.

In order to designate a Historic Corridor, the Historic Review Board shall find that:

1. The linear shaped grouping of properties, sites, trail, roadway, rail corridor, landscape corridor, or waterway is associated with events that have made a significant contribution to the broad patterns of our history, or are likely to yield additional information in the future.
2. Through an Economic, Social, Environmental and Energy analysis (E.S.E.E.), the benefits of designating the proposed corridor outweigh the benefits of continuing any expected conflicting use or uses without the designation. (See OAR 660-16-005) The desire of the owner shall be given due consideration, but shall not be the sole basis for the decision whether to designate a Historic Corridor.

16.110.055 Criteria for Contributing Resource Designation.

In order to designate a site, object or structure as a Contributing Resource, the Historic Review Board shall find that:

1. The resource is about 50 years or older, which may have received alterations, but retains its overall physical integrity, or is of special architectural or environmental or historic significance; and

2. The resource does not merit individual landmark designation; and
3. The resource is compatible with adjacent landmarks if within a district or corridor, considering overall proportions, scale, architectural detail and materials; and
4. Through an Economic, Social, Environmental and Energy analysis (E.S.E.E.), that the benefits of designating the proposed contributing resource outweigh the benefits of continuing any expected conflicting use or uses without the designation. (See OAR 660-16-005) The desire of the owner shall be given due consideration, but shall not be the sole basis for the decision whether to designate a Contributing Resource.

16.110.060 Historic Landmark, District, Corridor, or Contributing Resource Designation Procedure.

1. The Historic Landmark or Contributing Resource designation procedure may be initiated by the City Council, or owner of the proposed landmark, hereby referred to as 'applicant.' Contributing resources may be periodically reviewed for landmark designation, especially when incompatible alterations are reversed to original appearance.
2. In the case of Historic District or Corridor designation, procedure may be initiated by the City Council, or by owners of at least fifty-one (51%) percent of the privately owned property in the area to be designated. In the case of multiple ownership of a land parcel, each consenting owner shall be counted as a fraction equal to the interest the owner holds in that property. Contributing resources shall be identified upon the creation of a Historic District or Historic Corridor. A list shall be created containing the same information for each resource as is required for landmarks.
3. Application requirements for private owners or petitioners:
 - a. Preapplication conference between the applicant and Planning Director.
 - b. Submission of a completed application for designation.
 - c. Planning Director shall transmit each completed application to Historic Review Board.
 - d. At the time of application, the Planning Director or Historic Review Board shall make available information regarding the benefits and restrictions of a designation to the property owner of a proposed landmark and to all property owners within proposed District boundaries.

4. After review, notice and public hearing, as specified in Section 16.110.065, the Historic Review Board shall recommend action regarding proposed properties to Canby City Council for final designation and assignment of Historic Overlay Zone after public hearing by City Council, as specified in Section 16.88.130. A Planning Commission recommendation for Historic Overlay Zone designation is not needed for City Council action.

16.110.065 Review, Notice, Public Hearing Procedures.

1. Review of any application pursuant to this chapter shall follow procedures set forth in Canby Ordinance Chapter 16.88.
2. The Historic Review Board shall follow the public hearing procedures found in Ordinance Section 16.88.130(C) and the notice requirements of Ordinance Section 16.88.130(D) when reviewing the following applications:
 - a. Designation of a Historic Landmark, Contributing Resource, Historic Corridor or Historic District;
 - b. Modification of a Historic District or Corridor boundary;
 - c. Demolition or moving of a Historic Landmark or Contributing Resource;
 - d. Alterations subject to the Historic Board review.
 - e. New construction subject to the Historic Board review.
3. The Planning Commission shall apply the criteria of this Ordinance to major alterations to be reviewed within its jurisdiction for reasons other than Historic Preservation purposes, but which occurs on or to Historic Landmark, Historic District or Corridor, or Contributing Resources. The Historic Review Board will make recommendations regarding these matters to the Planning Commission and the Commission shall recognize such recommendations in its action (see Section 16.110.020, definition of "Alteration.")
4. The Planning Director shall apply the criteria of this Ordinance when reviewing:
 - a. Minor alterations subject to the Planning Director's jurisdiction (see Section 16.110.020, definition of "Alterations.")
 - b. Lot line adjustments or minor land partitions which occur on or to a Landmark or within a Historic District or Corridor.

5. All other historically related administrative actions for which the Planning Director has decision-making authority shall be subject to administrative review procedures under Section 16.88.120 (Enforcement Procedures) and Section 16.88.140(E) (Appeal of Staff Determination).

16.110.070 Building Code Requirements, Handicapped Access.

1. **Permits Required.** Any alteration or relocation of a Historic Landmark shall be subject to the applicable regulations under the Building Code.
2. **Waivers.** Except for 1-2 family structures, as provided in Section 104(f) of the Uniform Building Code, repairs, alterations, and additions necessary for the preservation, restoration, rehabilitation or continued use of a Historic Landmark, or building within a Historic District or Historic Corridor, may be made without conformance to all the requirements of the Uniform Building Code when authorized by the Building Official, provided:
 - a. Any unsafe conditions as described in the Uniform Building Code are corrected;
 - b. The restored building or structure will be no more hazardous, based on life safety, fire safety, and sanitation, than the existing building; and
 - c. The Building Official seeks the advice of the Historic Review Board and/or the Oregon State Historic Preservation Officer.
3. **Alterations of Landmarks and Contributing Resources** to provide handicap access, as approved by the Building Official with advice from the Planning Director and Historic Review Board, shall be allowed. To the extent practical, the design of the alteration shall be discreet and preserve the historic features upon which the designation is based.
4. **Modifications to certain regulations.** As pertains to designated properties, the Historic Review Board may modify the Land Development and Planning Code regulations pertaining to signs, fence and wall provisions, general provisions regarding height, yards, area, lot width, frontage, depth, coverage, number of off-street parking spaces required, and regulations prescribing setbacks, if the modifications:
 - a. are necessary to preserve the historic character, appearance or integrity of the proposed Historic Landmark, and
 - b. are in accordance with the purposes of the zoning and sign regulations.

5. Appeals. In the case of appeals related to the application of the Uniform Building Code to a Historic Landmark, or building within a Historic District or Historic Corridor, the City Council or the appropriate Local or State appeals board shall seek the advice of the State Historic Preservation Officer.

16.110.075 Moving or Demolition of a Landmark or Contributing Resource.

1. Purpose. The intent of this subsection is to protect Historic Landmarks and Historic Districts and Corridors from destructive acts and to provide the citizens of the City time to review the significance of a Historic Landmark or building within a Historic District or Corridor, and to pursue options to preserve such building(s) if historic preservation is deemed in the best interest of the community.
2. Prior to Submittal of a Request for Moving or Demolition, a Preservation Plan is Required.
 - a. The applicant shall prepare and submit a plan for preservation of the Landmark or Contributing Resource. A pre-application conference shall be scheduled to allow the applicant and staff to discuss the proposal, the preservation plan requirements and the applicable criteria. The plan shall be reviewed by the Historic Review Board.
 - b. The Preservation Plan shall include a narrative describing how the applicant will accomplish all of the following:
 1. The resource shall be advertised in the local, regional and historic preservation newspapers of general circulation in the area, once per week during the pre-application period.
 2. A City-provided sign shall be placed on the property informing the public of intended action which will remove or demolish the structure. The sign shall remain on the property until a permit is issued (see Addendum C).
 3. Information will be prepared and made available, related to the history and sale of the property, to all who inquire.
 4. The proposed plan for the new use of the Historic Landmark site shall be provided.
 5. A record of the parties who have expressed an interest in the structure shall be provided and, to ensure that an adequate effort has been made to secure a relocation site, a list of locations and owners who have been contacted regarding purchase of a relocation site shall be provided.

- c. Following receipt of the preservation plan, the Planning Director shall review and approve said plan and shall issue a media release to local newspapers of general circulation. The media release shall include, but not be limited to, a description of the significance of the Historic Landmark, the reasons for the proposed demolition or removal, and the possible options for preserving the Historic Landmark.
3. **Moving or Demolition Permit:** No building designated as a Historic Landmark or Contributing Resource, or building identified as a primary (Landmark) or secondary structure (Contributing Resource) within a Historic District or Corridor, shall be intentionally moved or demolished unless such action is approved by the Historic Review Board. Application for permit to move or demolish such a building shall be made to the Planning Director.
4. **Public Hearing Review:** The Historic Review Board shall hold a public hearing under provisions and procedures in Subsection 16.110.065, to review the request to move, demolish or destroy a Historic Landmark, Contributing Resource, or building within a Historic District or Corridor, and shall make written findings supporting its decision to approve or suspend the request.
5. **Moving a Historic Landmark or Contributing Resource.** In order to allow the moving of a Historic Landmark or Contributing Resource, the Historic Review Board shall consider the following:
 - a. Relocation is the only alternative for preservation of the Historic Landmark or Contributing Resource;
 - b. The proposed relocation site will not greatly reduce the historical and/or architectural significance of the Historic Landmark or Contributing Resource; the site is a contextually appropriate setting; it is within the City and preferably within the neighborhood within which it is currently located;
 - c. The designated resource cannot reasonably be used in conjunction with the proposed use;
 - d. The continued location of the Landmark or Contributing Resource on the proposed development site precludes development on the site which would provide a greater community benefit;
 - e. The designated Landmark or Contributing Resource is structurally capable of relocation;

- f. If the Landmark or Contributing Resource is relocated within the City, the owner of the relocation site agrees, as a condition of the purchase agreement, to apply within ninety (90) days of relocation to the City for designation as a Historic Landmark, to be protected under the provisions of this Ordinance;
 - g. The loss of the Landmark or Contributing Resource will not affect the integrity of a Historic District or Historic Corridor; and adequate effort has been made to seek a relocation site within the Historic District or Corridor.
6. Demolition of a Historic Landmark or Contributing Resource: In order to allow the demolition of a Landmark or Contributing Resource, the Historic Review Board shall consider the following:
- a. All plans, drawings, and photographs submitted by the applicant; and,
 - b. Information presented at the public hearing concerning the proposed work, proposal; and,
 - c. The Canby Comprehensive Plan; and
 - d. The purposes of this Ordinance as set forth in Section 16.110.010; and
 - e. The criteria used in the original designation of the Historic Landmark or Historic District or Corridor in which the property under consideration is situated; and,
 - f. The historical and architectural style, the general design, arrangement, materials of the structure in question, or its appurtenant fixtures; the relationship of such features to the other buildings within the district or corridor; and the position of the building in relation to public rights-of-way and to other buildings and structures in the area; and,
 - g. The effects of the proposed work upon the protection, enhancement, perpetuation and use of the district or corridor which cause it to possess a special character or special historical or aesthetic interest or value; and,
 - h. Whether suspension of the permit will involve substantial hardship to the applicant, and whether approval of the request would act to the substantial detriment of the public welfare and would be contrary to the intent and purposes of this Ordinance; and,
 - i. When applicable, the findings of the Building Official in determining the status of the subject building as a "dangerous building" under Section 15.16 of the Municipal Code, and the feasibility of correcting the deficiencies to meet the requirements of the City Council rather than demolishing the building.

7. **Approval of Moving or Demolition Request/Appeals:** The Historic Review Board may approve the moving or demolition request in consideration of the provisions under 3 and 4, above. The action of the Historic Review Board shall be transmitted to the applicant in writing within ten (10) days of the decision on the request, and shall be final after a period of fifteen (15) days from the date of the letter and findings approving the request, unless a notice of appeal is filed by any aggrieved party, pursuant to Section 16.88.140.
8. **Suspension of Moving or Demolition Permit Request:** The Historic Review Board may suspend the request for moving or demolition of an Historic Landmark or Contributing Resource if it determines that in the interest of preserving historic values for public benefit, the building should not be moved or demolished. Written findings supporting the suspension of the request shall be transmitted to the applicant within ten (10) days of the final public hearing on the request.
9. **Stay of Moving or Demolition:** If the moving or demolition request is suspended by the Historic Review Board, the written finding supporting the action to suspend the request shall be transmitted to the Planning Director along with a request that the enforcement of any applicable Notice and Order of the Building Official be stayed during the pendency of an appeal, or for a period of not more than sixty (60) days from the date of the letter and findings supporting the suspension. During this stay of demolition period, the following actions may be taken:
 - a. The Fire Marshal, Chief of Police, or the City Council designee, may require the owner or other party responsible for the subject building to take appropriate actions, other than demolition, to protect the public from hazardous conditions associated with the building.
 - b. The applicant may be required by the Historic Review Board to continue to carry out the Preservation Plan (Section 16.110.075(a)(b)(1.5) activities through the entire stay of moving or demolition.
 - c. The Historic Review Board may research programs or projects underway which could result in public or private acquisition of the subject building and site, and assess the potential for the success of these programs or projects.
 1. If the Board determines that there is reasonable grounds to believe that such program or project may be successful, it may extend the suspension period up to thirty (30) additional days per extension, not to exceed more than a total of 120 days from the date of the letter and finding suspending the request.

2. If the Board determines that all such programs or projects are unlikely to be successful, and the applicant has not withdrawn his application for a demolition permit or taken appropriate alternative action to correct the hazards associated with the subject building as provided in a Notice and Order of the City Council, then at the end of the stay of demolition period, the Building Official may, with advice of the Planning Director, issue such permit, subject to all other applicable Codes and ordinances.
10. **Appeal of Stay of Demolition:** Action of the Historic Review Board in suspending issuance of the permit for demolition may be appealed by the applicant, to the City Council, within fifteen (15) days of the date of the written findings suspending the demolition permit, by filing a notice of appeal, as provided in Section 16.88.140.
11. **Documentation Required:** When moving or demolition is imminent, whether by direct approval or if efforts during the Preservation Plan and Stay of Demolition are unsuccessful, the following complete documentation of the structure(s) is required to be submitted to the Planning Director by the applicant, or access allowed to a designee of the Historic Review Board:
 - a. floor plans, to scale, of the structure(s) and related structures.
 - b. site plan, to scale, showing surrounding roadways, landscaping, natural features, structure(s) and related structure(s).
 - c. photographs of all exterior elevations.
 - d. photographs of architectural detail not shown in elevation photographs.
 - e. the Historic Preservation League of Oregon, Canby Heritage League, Old Home Forum, and any other local preservation group shall be given written notice of the opportunity to salvage and record the resource. A copy of such notice shall also be given to the Planning Director.
12. **Moving or Demolition Permit Issuance:** A moving or demolition permit for a Landmark found to comply with all provisions set forth in Division 10 of this Ordinance shall not be issued until all development permit applications for the new use or development have been approved by the City.

16.110.080 Alteration of a Landmark, New Construction, or Contributing-Resource-Within-a-District.

1. Purpose. It is the intent of this subsection to provide for the appropriate level of review for proposed new construction, alterations and development affecting properties within Historic Districts or Historic Corridors, or those affecting Historic Landmarks, and to provide criteria for review.
2. Application Requirements. In addition to any normally required building permits, a Certificate of Appropriateness is required. Prior to formal application, a pre-application conference between the applicant and Planning Director shall occur. All applications for alterations and development made pursuant to this Section shall include:
 - a. the applicant's name and address.
 - b. the owner's name(s) and address.
 - c. a detailed explanation of proposed alterations.
 - d. a written description of the location of the site and, if applicable, boundaries of the Historic District or Corridor.
 - e. a map illustrating the location of the site and, if applicable, boundaries of the District.
 - f. a list of exterior materials pertinent to the application request.
 - g. Drawings:
 1. side elevation for each side of any affected structure,
 2. shall indicate dimensions and be to scale,
 3. photographs may be used in lieu of drawings for small projects.
 - h. site plan showing relationship of structure(s) to roadways, parking areas, access drives, landscape features, plant materials, fences and other pertinent elements drawn to scale.
3. Maintenance. The normal responsibilities of the property owner to care, repair and replace with like materials, can be done without formal review. Normal maintenance may include, but not be limited to:
 - a. painting and related preparation of the structure.

- b. repair and/or replacement of roofing materials with the same kind existing.
 - c. ground care and maintenance required for the permitted use on the property.
 - d. replacement of fences, shrubs or other yard fixtures or landscaping with like type or style.
 - e. existing materials may be replaced in kind of either building or grounds because of damage or decay of materials.
 - f. installation and maintenance of irrigation systems.
4. **Minor Alterations.** The Planning Director shall determine the status of a proposed alteration. While the following improvements may not always require a regular building permit, minor alterations shall always be reviewed and approved by the Planning Director, who may consult with the Historic Review Board, or any member thereof, in applying the provisions of this Section. A Certificate of Appropriateness is required for "Minor Alterations." An alteration shall be considered "minor" when the result of the proposed action is to restore portions of the exterior to the original historic appearance while performing repairs, such as:
- a. addition of gutters and downspouts (suggest repair of built-in, wooden, or half-round gutters and round downspouts).
 - b. repairing or providing a compatible new foundation that does not result in raising or lowering the building elevation.
 - c. change in material to match original type of material on the structure or grounds.
 - d. change in type of roof material in character with the original roofing material.
 - e. replacement of storm windows or doors with wooden, dark anodized, clad or painted in compatible color.
5. **New Construction or Major Alterations Criteria:** The Historic Review Board shall review all proposed new construction and alterations which exceed a "minor" status. A request for a new construction or alteration permit under this provision shall be made on the appropriate application form provided by the Planning Department. Review and approval of an application shall consider the following Secretary of the Interior's Standards for Rehabilitation:
- a. A property shall be used as it was historically or be given a new use that requires minimal change to its distinctive materials, features, spaces, and special relationships.

- b. The historic character of a property shall be retained and preserved. The removal of distinctive materials or alteration of features and spaces and spacial relationships that characterize a property shall be avoided.
- c. Each property shall be recognized as a physical record of its time, place and use. Changes that create a false sense of historical development, such as adding conjectural features or architectural elements from other historic properties, shall not be undertaken.
- d. Changes to properties that have acquired historic significance in their own right shall be retained and preserved.
- e. Distinctive materials, features, finished, and construction techniques or examples of craftsmanship that characterize a historic property shall be preserved.
- f. Deteriorated historic features shall be repaired rather than replaced. Where the severity of deterioration requires replacement of a distinctive feature, the new feature shall match the old in design, color, texture, and, where possible, materials. Replacement of missing features shall be substantiated by documentary and physical evidence.
- g. Chemical or physical treatments, if appropriate, shall be undertaken using the gentlest means possible. Treatments that cause damage to historic materials shall not be used.
- h. Archeological resources affected by a project shall be protected and preserved in place. If such resources must be disturbed, mitigation measures shall be undertaken.
- i. New additions, exterior alterations, or related new construction shall not destroy historic materials, features, and spacial relationships that characterize the property. The new work shall be differentiated from the old and shall be compatible with the historic materials, features, size, scale, and proportion and massing, to protect the historic integrity of the property and its environment.
- j. New additions and adjacent or related new construction shall be undertaken in such a manner that, if removed in the future, the essential form and integrity of the historic property, including historic plant materials, and its environment would be unimpaired.

(Additional Criteria for Consideration)

- k. The location and orientation of the new structure on the site is consistent with the typical location and orientation of similar structures on the site or within the District or Corridor, considering setbacks, distances between structures, location of entrances and similar siting considerations.
- l. Changes to yard areas including planters, fences, ponds, walkways and landscape materials, should be compatible with the overall historic setting.

16.110.085 Alteration of a Contributing Resource Which is Not in a District.

1. There shall be no review or approval required of any maintenance, minor or major alterations of a Contributing Resource, except moving or demolition, as per Section 16.110.075.
2. When the proposed alterations of a Contributing Resource requires a building permit, the applicant shall receive a copy of Design Guidelines and meet in an advisory conference with a member of the Historic Review Board, or the Planning Director. Appropriate design solutions shall be discussed and recommended, but in no way required.

16.110.090 Partitions and Subdivisions.

The Historic Review Board shall review and make recommendations, as soon as possible, to the Planning Commission on all proposed partitions or subdivisions of sites designated as a Landmark site or located within a Historic District or Historic Corridor. The Planning Director shall transmit applications to the Historic Review Board as soon as possible. Review of proposed subdivisions or partitions shall be based on the following criteria:

1. The partition or subdivision does not allow a significant feature of the original site, as identified in the designation action and inventory to be located on a separate site from the Landmark.
2. The partition or subdivision allows adequate setbacks from Landmark improvements to provide for buffering and mitigation of impacts associated with development of the new parcels. Indicate such special required setbacks on the plat or partition or in deed covenants.
3. Yard and landscaped areas including large trees and shrubs associated with the Historic Landmark structure shall be retained with the structure, whenever possible.

16.110.095 Casualty Destruction.

A historic resource damaged or destroyed by unintentional means, to the extent that the cost of rebuilding damaged portions would exceed fifty (50%) percent of the replacement value of the entire historic resource, may be removed from the Landmark status list by requesting such action of the City Council, and providing such proof as is necessary to establish that the requirements of this section are met.

16.110.100 Fees.

No fees or deposits for applications, plan reviews, interpretations or any other action pursuant to this chapter, shall be established.

16.110.105 Enforcement.

It shall be the duty of the Planning Director to enforce the provisions of this chapter and to insure compliance with conditions of approval or postponement.

16.110.110 Penalties.

Any person who fails to comply with, or who violates any provision of this chapter, except the demolition provisions of Section 16.110.075, or who violates or fails to carry out the terms and conditions of any approval granted pursuant to this chapter, shall be subject to a fine of not less than \$50.00 or more than \$500.00 per violation. Each day that the violation exists constitutes a separate violation. The demolition of a Landmark in violation of Section 16.110.075 is punishable by a fine of not less than \$500, nor more than \$25,000. Total fines shall not exceed \$25,000 per lot, per year.

16.110.115 Official Action.

All officials, departments and employees of the City vested with authority to issue permits or grant approvals shall adhere to and require conformance with this chapter, and shall issue no permit or grant approval for any development, alteration, moving or demolition which violates or fails to comply with conditions or standards imposed to carry out this chapter. Any permit or approval issued or granted in conflict with the provisions of this chapter, whether intentional or otherwise, shall be void.

16.110.120 Abatement of Violations.

Any development which occurs contrary to the provisions of this chapter or contrary to any permit or approval issued or granted hereunder is hereby declared to be unlawful and a public nuisance, and may be abated by appropriate proceedings.

16.110.125 Injunctive Relief.

Upon request of the City Administrator, the City Attorney may institute an appropriate action in any court to enjoin the demolition, alteration or moving of any historic resources, or noncontributing resource or construction on or to any Landmark or within any Historic District which is in violation of any provision of this chapter.

16.110.130 Evidence of Violation.

Proof of a violation of this chapter or permit or approval issued or granted hereunder shall be deemed prima facie evidence that such violation is that of the owner of the property upon which the unlawful activity, condition, building, structure or other development exists. Prosecution, or lack thereof, of the owner of the property, the occupant, or other person in possession or control of the property shall not be deemed to relieve any other responsible person.

16.110.135 Cumulative Remedies.

The rights, remedies and penalties provided in this chapter are cumulative, are not mutually exclusive, and are in addition to any other rights, remedies and penalties available to the City under any other provision of law. A person holding a City business license who violates the provisions of this chapter is also subject to a proceeding to consider revocation of the license pursuant to Code Section 5.04, Business Licenses.

16.110.140 Interpretation, Regulations and Procedures.

The Planning Director shall have the initial authority and responsibility to interpret all terms, provisions and requirements of this Section. A request for an interpretation of this Section shall be made in writing and may be appealed pursuant to 16.110.160. The Planning Director may develop rules, regulations and procedures to aid in the implementation and interpretation of the provisions of this section.

16.110.145 Appeals.

1. Any person may appeal a decision of the Planning Director to the Historic Review Board. The appeal must be filed within fifteen (15) days of the written decision of the Planning Director.
2. Any person may appeal a decision of the Historic Review Board within fifteen (15) days of the written decision of the Historic Review Board. The appeal will be heard by the City Council, pursuant to procedures set forth in Code Section 16.88.140, Appeals.

16.110.150 Uses Permitted.

1. **Primary Uses:** A Historic Landmark or properties within a Historic District or Historic Corridor may be used for any use which is allowed in the underlying district, including home occupations, provided such use is not detrimental to the preservation of the historic resource, subject to the specific requirements for the use, and all other requirements of this Section.
2. **Additional Conditional Use Findings:** Uses listed below under subsections 3, which are not otherwise allowed in the underlying district, may be allowed, subject to the specified review procedure. Approval shall not be granted unless the proposal satisfies the criteria under Section 16.50 and the applicant demonstrates that the use, if allowed:
 - a. will preserve or improve a resource which would probably not be preserved or improved otherwise; and
 - b. will not significantly adversely affect surrounding uses; and
 - c. will utilize existing structures rather than new structures. Alterations and additions to existing structures shall satisfy the provisions of Section 16.110.080.
3. **Public Hearing Review:** The following uses may be permitted by the Planning Commission as conditional uses in all districts, after a public hearing conducted pursuant to Section 16.50, when the proposal satisfies the requirements under Subsection 2, above:
 - a. art and music studios
 - b. galleries
 - c. offices
 - d. craft shops

- e. bed and breakfast establishments
- f. gift shops
- g. museums
- h. catering services
- i. book stores
- j. boutiques
- k. restaurants
- l. antique shops
- m. community center for civic or cultural events.
- n. other uses determined by the Planning Commission to be similar to those above.

Note: All the above listed uses would probably also require "Change of Occupancy" permit, and approval of handicapped access, and approval of change of stairs, doors, etc., under the Uniform Building Code.

16.110.155 Incentives.

- 1. Economic:
 - a. The Planning Director or Historic Review Board shall provide all applicants and interested parties with details regarding monies available from National, State, County, and local sources.
 - b. The City shall explore and consider the feasibility and advisability of the adoption of economic incentives for the benefit of owners of historic resources (i.e. revolving fund, to offset hardship, buy endangered properties, offer low interest loans or grants, tax relief).
 - c. The City shall explore and consider property tax rebates for designated properties.
 - d. The City shall explore and consider Community Development Block Grants for rehabilitation of designated properties.

- e. The City shall encourage the establishment of a mechanism for providing opportunities for: 1) cooperative purchase of materials for improvement; 2) assistance in application for National Register application; and 3) facilitating loan and insurance availability for designated properties.

2. Educational

- a. The Planning Director shall provide owners of historic resources with the names of local, State, and National preservation organizations and pertinent publications.
- b. All owners of historic resources shall be invited to attend an annual preservation workshop sponsored either by the City, or in partnership with other jurisdictions in the County and shall be made aware of their eligibility for and advantage of membership in the Historic Preservation League of Oregon.
- c. The Historic Review Board members may provide design guidance (but not to be construed as free long-term design service).
- d. The Historic Review Board and the Planning Director shall work with Parks Development and local developers to feature historic themes at appropriate sites.

3. Recognition.

- a. The City shall provide all owners of designated Landmark properties with an appropriate certificate.
- b. Consistent with the requirements of the Sign Code Section 16.42, property owners of Historic Landmarks and Contributing Resources shall be encouraged to display a standard identifying sign, as available through local preservation organizations

16.110.160 Landmark Designation List

16.110.165 Contributing Resource Designation List

16.110.170 Historic District Designation List

16.110.175 Historic Corridor Designation List

16.110.180 Undesignated Contributing Resource List

Note: The above numbers are reserved until such time as Landmarks, Contributing Resources, Districts, and Corridors, are designated.

16.110.185 Carryover Provisions

Any alteration of the three structures already designated under the Historic Overlay provisions in 1984, by Ordinance No. 742, shall be reviewed under provisions of this Chapter. (Tax Lot 6900 of Tax Map 3-1E-33CD; Tax Lot 1100 of Tax Map 3-1E-33CC; and Tax Lot 2600 of Tax Map 3-1E-33CC.)

16.110.190 Severability

Invalidity of a section or part of a section of this Ordinance shall not affect the validity of the remaining sections or parts of sections.

Section 2. Amend Section 16.38.020, Historical Protection Overlay Zone (A), to read as follows:

16.38.020 Uses permitted outright.

Uses permitted outright in the historical protection overlay zone are the uses permitted outright in the underlying base zone, provided that a site plan review is to be conducted prior to the issuance of any permit for construction. This site plan review is to focus on those particular aspects of the site which are of historical or architectural significance. If the City Planner, in conducting the site plan review, determines that the proposed development will result in the removal, demolition, or exterior alteration of the site or building which will tend to affect the historical or architectural characteristics of the site, he shall process the application according to the provisions of Chapter 16.110, Historic Preservation.

Section 3. Amend Section 16.38.030, Historical Protection Overlay Zone(A), to read as follows:

16.38.030 Conditional uses.

Conditional uses in the historical protection overlay zone shall be as follows:

- A. The uses listed as conditional in the underlying base zone.
- B. Uses listed in Section 16.110.150(3). The State Historical Preservation Office will receive notice of any public hearing scheduled for such use permits.

Section 4. Amend Section 16.38 to add 16.38.040, to read as follows:

16.38.040 Severability.


Invalidity of a section or part of a section of this Ordinance shall not affect the validity of the remaining sections or parts of sections.


SUBMITTED to the Canby City Council and read the first time at a regular meeting therefor on Wednesday, December 15, 1993; ordered posted as required by the Canby City Charter and scheduled for second reading on Wednesday, January 5, 1994; commencing after the hour of 7:30 P.M., at the Council Chambers at the Canby City Hall, 182 N. Holly, Canby, Oregon.


Marilyn K. Perkett, City Recorder

ENACTED by the Canby City Council at a regular meeting thereof on January 5, 1994, by the following vote:

YEAS 4 NAYS 3


Marilyn K. Perkett, City Recorder


Scott Taylor, Mayor