

ORDINANCE NO. 1061

**AN ORDINANCE RELATING TO HISTORIC PRESERVATION, AMENDING
CANBY'S COMPREHENSIVE PLAN AND TITLE 16 OF THE CANBY MUNICIPAL
CODE.**

WHEREAS, under the state-mandated process of Periodic Review, the City of Canby is required to update sections of its Land Development and Planning Ordinance and Comprehensive Plan relating to Historic Preservation; and

WHEREAS, the Historic Review Board recommended that the Planning Commission approve certain amendments to the Land Development and Planning Ordinance and Comprehensive Plan that comply with state requirements and further the goals of the citizens of Canby; and

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

WHEREAS, the Planning Commission found that the standards and criteria of Section 16.88.160 and 16.88.180 of the Land Development and Planning Ordinance, concerning Text Amendments and Comprehensive Plan Amendments, were met, and recommended approval to the City Council on a unanimous vote after making certain modifications; and

WHEREAS, the City Council, after reviewing the record of the Canby Planning Commission regarding the subject amendments, concluded that the Planning Commission's findings of fact and the amendment itself are appropriate.

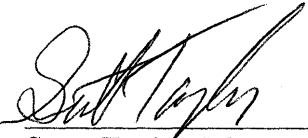
NOW, THEREFORE, THE CANBY CITY COUNCIL ORDAINS AS FOLLOWS:

- (1) CPA 00-02/TA 00-02 is hereby approved and the Land Development and Planning Ordinance and Comprehensive Plan are hereby amended as detailed in Exhibit A.

SUBMITTED to the Council and read the first time at a regular meeting thereof on December 6, 2000, ordered posted in three (3) public and conspicuous places in the City for a period of five (5) days, as authorized by the Canby City Charter; and to come up for final reading and action by the Canby City Council at a regular meeting thereof on December 20, 2000, commencing after the hour of 7:30 p.m., at the Council's regular meeting chambers at the Canby City Hall in Canby, Oregon.

ENACTED on the second and final reading by the Canby City Council at a regular meeting thereof on December 20, 2000 by the following vote:

YEAS 6 NAYS 0



Scott Taylor, Mayor

ATTEST:


Chauncey F. Seifried, City Recorder Pro Tem

HISTORIC PRESERVATION SECTION OF CANBY'S COMPREHENSIVE PLAN

FINDING NO. 6-R

Historic Sites and Buildings:

Canby was once the seasonal meeting place for tribes of local Indians and was well known for its annual crop of wild strawberries. James Baker arrived in the region in 1838 with a cattle drive from California. Baker took an Indian wife and "squatted" on land that lies just north of today's Canby. Other settlers arrived, including Philander and Anna Lee in 1848, who bought squatter's rights on what is now SE 1st Avenue. The Lees began growing apples on 80 acres of land, shipping the apples to gold miners in California. In 1850, the Lees gained title to their 647 acres through the Donation Land Claim Act, which brought many more settlers over the Oregon Trail.

Joseph Knight and four sons moved to Baker Prairie in 1868 and were instrumental in Canby's early development as they opened one of the first general stores, built many local buildings, served as postmaster, school clerk, sheriff, druggist, blacksmith, and carpenter. William Knight's 1874 home still stands at 525 SW Fourth Avenue as does the 1890 Knight Building on NW 1st Avenue. The Knight Building was the original meeting place of the Canby City Council and the first home of Carlton and Rosenkrans, "Clackamas County's largest department store."

The Willamette River served as the main source of transportation with steamboats taking produce to markets in Oregon City and Portland. While pushing the Oregon and California Railroad from east Portland to San Francisco, promoters approached Philander Lee for land in 1870. Lee sold 111 acres for \$2,960 to make up a 24-block city, and the Knight Family sold 300 additional acres to the railroad. Canby's city plat was filed in Oregon City on August 9, 1870.

Two weeks prior to that, Major General Edward R.S. Canby, hero of the Civil and Indian wars, arrived in Oregon City to assume command of the U.S. Army's Department of the Columbia. The new town was named in honor of the General.

Rails were laid in 1870 and in 1873 the train depot was built near what is now NW 1st and Grant. By 1890 Canby boasted three hotels and a bank. As the railroad tracks were quickly lined with warehouses, the agriculture industry grew. Local crops included grain, hay, potatoes, dairy products, berries, nuts, livestock, lumber, bulbs, flowers, and nursery stock. Canby became incorporated as Clackamas County's second city on February 15, 1893.

For many years, three bridges crossed the Molalla River to Canby, until local businessmen established ferry service across the Willamette River in 1914. Today the Canby ferry is one of just three ferries still operating in the state.

In 1910 the population of Canby numbered just under 600. By 1940 the community numbered nearly 1,000 and was up to nearly 1,300 by 1945. In the year 2000 Canby's population is over 12,500 and the city covers more than three square miles. Many of Canby's early homes and buildings still stand and the surrounding farmland is still speckled with original farmhouses and barns that serve as a reminder of the area's early pioneer, railroad, and agricultural heritage.

The City recognizes the importance of preserving and promoting this heritage, and towards that end has created a Historic Review Board and adopted a Historic Preservation Ordinance. Several buildings have been designated as Historic Landmarks, and an inventory has been taken of other sites eligible for designation. Original inventories provided by Mrs. Myra Weston, a local historian, and by the "Parks, Open Space, and Agriculture Subcommittee" of the Mayor's Citizen Advisory Committee in 1974 have been supplemented by more recent Clackamas County projects. Additional inventories and research will be ongoing as time and resources allow.

The City will continue to support efforts to preserve historic sites and structures, and has adopted the following policies and implementation measures to reflect that support.

POLICY NO. 6-R: CANBY SHALL PRESERVE AND, WHERE POSSIBLE, ENCOURAGE RESTORATION OF HISTORIC SITES AND BUILDINGS.

IMPLEMENTATION MEASURES:

- A) Create and maintain a list of Historic Landmarks and an inventory of historic sites and structures. Encourage the designation of eligible properties as Historic Landmarks.
- B) Support the preservation and restoration of historic properties through leadership, public education and other resources. The Historic Review Board shall lead the City's efforts in this regard.
- C) Identify any sites which should be recorded with the State of Oregon or which should be placed on record with the National Trust for Historic Preservation.
- D) Place special emphasis upon historically or architecturally significant structures in the development review process. It should be recognized that many of these structures were built prior to modern zoning and building regulations and may, therefore, require special consideration where a change in use or addition is proposed.

Chapter 16.38
HISTORICAL PROTECTION
OVERLAY ZONE (A)

Sections:

- 16.38.010 Purpose.**
- 16.38.020 Uses permitted.**
- 16.38.030 Conditional uses.**
- 16.38.040 Severability.**

16.38.010 Purpose.

The Historical Protection Overlay Zone is intended to be used in conjunction with any of the city's underlying base zones (example: R-1/A, C-2/A, etc.) to assure that the future development of the site will provide ample protection for identified historically architecturally significant structures, features or sites. The Historical Protection Overlay Zone is intended to be applied only to those specific properties which, because of generally recognized significance to the community, warrant protection, preservation, or enhancement of their historical or architectural characteristics. Additional to the regulatory aspects of this zoning, it should be noted that city staff will provide information or tax benefits and landmark requirements to interested persons. (Ord. 740 section 10.3.36(A), 1984)

16.38.020 Uses Permitted.

1. Primary Uses. A Historic Landmark or properties within a Historic District 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. 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. (Ord. 740 section 10.3.36(B), 1984; Ord. 905, 1994; Ord 1061, 2000)

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 below under subsection C, 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.

C. Public Hearing Review. The following uses may be permitted by the Planning Commission as conditional uses in all districts, after a public hearing, when the proposal satisfies the requirements under subsection B, 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.

The State Historical Preservation Office will receive notice of any public hearing scheduled for such use permits.

Note: All the above listed uses would probably also require a "Change of Occupancy" permit, approval of handicapped access, and approval of change of stairs, doors, etc., under the Uniform Building Code. (Ord. 740 section 10.3.36(C), 1984; Ord. 905 section 3, 1994; Ord. 1061, 2000)

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. (Ord. 905 sections 4, 1994)

Division X. Historic Preservation
Chapter 16.110
GENERAL PROVISIONS

Sections:

- 16.110.005 Title.
- 16.110.010 Purpose.
- 16.110.020 Definitions.
- 16.110.025 Historic Review Board.
- 16.110.030 Historic Review Board - powers and duties.
- 16.110.035 Inventory of historic resources.
- 16.110.040 Register of Historic Landmarks and Historic Districts.
- 16.110.045 Designation procedure for Historic Landmarks and Historic Districts.
- 16.110.050 Review notice and public hearing procedures.
- 16.110.055 Criteria for Historic Landmark and Historic District designation.
- 16.110.070 Building Code requirements and handicap access.
- 16.110.075 Moving or demolition of a landmark or contributing resource.
- 16.110.080 Alteration of a Historic Landmark or contributing resource, or new construction within a Historic District.
- 16.110.085 Partitions and subdivisions.
- 16.110.090 Incentives.
- 16.110.095 Casualty destruction.
- 16.110.100 Fees.

- 16.110.105 Enforcement.
- 16.110.110 Penalties.
- 16.110.115 Official action.
- 16.110.120 Abatement of violation.
- 16.110.125 Injunctive relief.
- 16.110.130 Evidence of violation.
- 16.110.135 Cumulative remedies.
- 16.110.140 Interpretation, regulations, and procedures.
- 16.110.145 Appeals.
- 16.110.150 Withdrawal from District.
- 16.110.185 Carryover provisions.
- 16.110.190 Severability.

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 and protection of structures, site, 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. (Ord. 905, 1994)

16.110.015

(Ord. 905, 1994; Deleted by Ord. 1061, 2000)

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 or districts. This is in addition 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 building, site, structure, or object within a Historic District that contributes to its character. Such resources to be identified at the time of adoption of the Historic District or added at a later date through the same process.

Corridor. See Historic Corridor.

Council. Canby's City Council.

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)

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.

Historic District. Includes contiguous or non-contiguous districts or corridors. A contiguous district is a geographically defined area composed of structures, sites and objects classified as Landmarks, Contributing Resources and non-contributing 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 building, site, object, or structure and the property surrounding it designated under this

division as historically, architecturally, or environmentally significant. May be referred to as landmark within ordinance. (See section 16.110.040)

Historical Protection Overlay Zone. Specific zoning that is additional to base zone, as per section 16.36. The Historical Protection Overlay Zone is applied to each property designated as a Historic Landmark or District, unless the City Council denies such zoning (See section 16.110.045).

Historic Resource. A general term for buildings, sites, structures and objects which are Historic Landmarks or Historic District, or have potential to be.

Historic Resource of Statewide Significance. A building, structure, object, site, or district that is listed on the National Register of Historic Places.

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-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.

Non-contributing Resource. A structure, site or object within a Historic District, which is neither a Contributing Resource, nor a Landmark.

Planning Director. Person holding the

position of Planning Director for the city of Canby, or their designated representative. (Ord. 905, 1994; Ord. 1061, 2000)

16.110.025 Historic Review Board.

1. For the purpose of this ordinance, the decisions regarding alterations to Historic Landmarks 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 with a demonstrated positive interest, knowledge, or competence in historic preservation. To the extent possible, individuals chosen to serve on the Historic Review Board shall represent the disciplines listed in *The Secretary of the Interior's Proposed Historic Preservation Qualification Standards*. A majority of Board members shall reside or work inside Canby's Urban Growth Boundary.

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. (Ord. 905, 1994; Ord. 1061, 2000)

16.110.030 Historic Review Board - Powers and Duties

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 Commission and Canby

City Council on historic preservation matters.

3. Maintain and update an inventory of historic resources within the city, as provided under section 16.110.035.

4. Review and render decisions on all historic landmark and historic district applications, as provided under section 16.110.045.

5. Review and make recommendations on application of the Historical Protection Overlay Zone, as provided under section 16.110.045.

6. Review and render decisions on proposals to alter the exterior of a Historic Landmark subject to the procedures and criteria set forth in section 16.110.080.

4. Review and render decisions on all proposed new construction on property where a Historic Landmark is located, or within a Historic District, subject to the procedures and criteria set forth in section 16.110.080.

8. Review all requests for demolition of a historic landmark or contributing resource, as provided under section 16.110.075.

9. Review and make recommendations to the Planning Commission on all Conditional Use applications under section 16.38.

10. Review and make recommendations on all partitions and subdivisions of designated properties, as provided under section 16.110.085.

11. Disseminate information to educate the public as to local, state and federal laws protecting antiquities and historic places.

12. Act as consultant 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. Provide design guidance for historic property owners. (Ord. 905, 1994; Ord. 1061, 2000)

16.110.035 Inventory of Historic Resources

1. The Commission shall develop or adopt a system for evaluating historic resources. The system shall rank surveyed historic resources as eligible, potentially eligible, or ineligible for designation as a Historic Landmark or Historic District.

2. The Commission shall periodically update the Inventory of Historic Resources and make it available to the public.

3. Properties listed on the National Register of Historic Places, including all properties within National Register Historic District boundaries, are automatically eligible for designation as Historic Landmarks or Historic Districts. As Historic Resources of Statewide Significance, all such properties are subject to the regulations in Sections 16.110.070-085, pursuant to Oregon Administrative Rule 660-023-200. However, only properties designated as Historic Landmarks or Historic Districts by the City of Canby as provided for under this Division are eligible for the public incentives and zoning designation herein. (Orig. section del., repl. by Ord. 1061, 2000)

16.110.040 Register of Historic Landmarks and Historic Districts.

1. The Historic Review Board shall maintain a register of Historic Landmarks and Historic Districts, consisting of all properties so designated by the City Council.

2. The three structures already designated under the Historic Overlay provisions in 1984, by Ordinance No. 742, are hereby added to the Register of Historic Landmarks.

3. Designated Historic Landmarks and Historic Districts shall have the Historical Protection Overlay Zone applied to them unless the City Council finds that such zoning is not appropriate to a specific piece of property. (Orig. section del., repl. by Ord. 1061, 2000)

16.110.045 Designation Procedure for Historic Landmarks and Historic Districts .

1. The Historic Landmark designation procedure may be initiated by the City Council, Planning Commission, Historic Review Board, or owner(s) of the proposed landmark, hereby referred to as applicant.

2. The Historic District designation procedure may be initiated by the Historic Review Board, the City Council, Planning Commission, any citizen, or by owners of at least fifty-one (51) percent of the privately owned property in the area to be designated.

3. No property shall be designated without the written consent of the owner, or, in the case of multiple ownership, a majority of the owners.

4. The Planning Director shall establish standards for a complete application and may require a pre-application conference. Upon acceptance of a complete application, the Planning Director shall schedule a public hearing pursuant to applicable state laws.

5. After review, notice and public hearing, as specified in section 16.110.050, the Historic Review Board shall make a decision on the Historic Landmark or Historic District designation. In addition the Board shall make a recommendation to the Canby Planning Commission and City Council for assignment of the Historical Protection Overlay Zone.

6. The Board shall develop findings to support its decisions. These findings shall

indicate those elements of a property or district that are included in the designation and subject to regulation under the provisions of this Division. A list of Contributing Resources shall be identified upon creation of a Historic District.

7. Upon receipt of the record of the Historic Review Board proceedings and the recommendation of the Board, the Planning Commission shall conduct a review of that record and shall make a recommendation to the City Council on the overlay zone designation. The City Council shall conduct a review of the records of both the Historic Review Board and Planning Commission and shall vote to approve, deny, or approve subject to modifications the recommendation that has been forwarded to them. The Planning Commission and City City Council may, but are not required to, hold new public hearings on the matter. (Ord. 905, 1994; Ord. 1061, 2000)

16.110.050 Review, Notice, Public Hearing Procedures.

1. Review of any application pursuant to this chapter shall follow procedures set forth in Canby Ordinance Chapter 16.89.

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 or Historic District;

b. Modification of a Historic District 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 a Historic Landmark or a Contributing Resource within a Historic District. The Historic Review Board will make recommendations regarding these matters to the Planning Commission and the commission shall recognize such recommendations in its action.

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 which occur on or to a Landmark or within a Historic District.

5. All other historically related administrative actions for which the Planning Director has decision making authority shall be subject to the review procedures provided in section 16.89.

6. The Planning Commission shall receive notice of all public hearings held by the Historic Review Board. (Ord. 905, 1994; renumb., mod. by Ord. 1061, 2000; Ord. 1080, 2001)

16.110.055 Criteria for Historic Landmark and Historic District Designation.

1. In order to designate buildings, sites, objects, or structures as Historic Landmarks or Historic Districts, 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.

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 interrelated 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. (Ord. 905, 1994; renumb., mod. by Ord. 1061, 2000)

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 Planning Commission 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.

The Historic Review Board shall make recommendations to the Planning Commission on such matters.

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, the city council or the appropriate Local or state appeals board shall seek the advice of the state Historic Preservation Officer. (Ord. 905, 1994; Ord. 1061, 2000)

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 from destructive acts and to provide the citizens of the city time to review the significance of a Historic Landmark or Contributing Resource within a Historic District, 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.

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 within a Historic District shall be intentionally moved unless such action is approved by the Historic Review Board. No building designated as a Historic Landmark or Contributing Resource within a Historic District shall be intentionally demolished unless such action is approved by the City Council. 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 16.110.050, to review the request to move, demolish or destroy a Historic Landmark or Contributing Resource within a Historic District. The Board shall make a final decision on applications to move an Landmark or Contributing Resource and shall make a recommendation to the City Council on demolitions. The Board shall make written findings supporting its decision to approve or suspend the request. The burden of proof lies with the applicant. For demolition applications, the City Council shall review the record and findings of the Historic Review Board and make a final decision. The council may, but is not required to, hold a public hearing on the

matter.

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; and adequate effort has been made to seek a relocation site within the Historic District.

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 and City Council 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 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 or City Council 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 16.89.

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 (2)) 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. (Ord. 905, 1994; Ord. 1061, 2000)

16.110.080 Alteration of a Historic Landmark or Contributing Resource, or New Construction Within a Historic 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 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, finish 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. (Ord. 905, 1994; Ord. 1061, 2000)

16.110.085 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 or located within a Historic District. 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. Such special required setbacks shall be indicated

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. (Ord. 905, 1994)

16.110.090 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. (Ord. 905, 1994; renumb.by Ord. 1061; 2000)

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. (Ord. 905, 1994)

16.110.100 Fees.

No fees or deposits for applications, plan reviews, interpretations or any other action pursuant to this chapter, shall be established. (Ord. 905, 1994)

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. (Ord. 905, 1994)

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. 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. (Ord. 905, 1994; Ord. 1061, 2000)

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. (Ord. 905, 1994)

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.(Ord. 905, 1994)

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. (Ord. 905, 1994)

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. (Ord. 905, 1994)

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. (Ord. 905, 1994)

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 section 16.110.145. The Planning Director may develop rules, regulations and procedures to aid in the implementation and interpretation of the provisions of this section. (Ord. 905, 1994; Ord. 1061, 2000)

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 16.89. (Ord. 905, 1994; Ord. 1061, 2000)

16.110.150 Withdrawal from District.

For a period of 18 months following a Historic District designation applicants may remove their property from said District upon application to the City. (Ord. 1061, 2000)

16.110.155

(Renumb. to 16.110.090 by Ord. 1061, 2000)

16.110.160, .165, .170, .175, .180

(Ord. 905, 1994; Del. by Ord. 1061, 2000)

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 3-1B-33CC; and Tax Lot 2600 of Tax Map 3-1E-33CC.) (Ord. 905, 1994)

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. (Ord. 905, 1994)