

**ORDINANCE NO. 1111**

**AN ORDINANCE AMENDING TITLE 16 OF THE CANBY MUNICIPAL CODE.**

**WHEREAS**, periodic revisions of the City's Land Development and Planning Ordinance are needed to ensure consistency; and

**WHEREAS**, the Canby Planning Commission, after providing appropriate public notice, conducted a public hearing on a set of 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 of the Land Development and Planning Ordinance, concerning Text Amendments, were met, and unanimously recommended approval to the City Council after making certain modifications; and

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

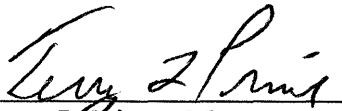
**NOW, THEREFORE, THE CANBY CITY COUNCIL ORDAINS AS FOLLOWS:**

TA 02-02 is hereby approved and Title 16, the Land Development and Planning Ordinance of the City of Canby, is modified as detailed in Exhibit 1.

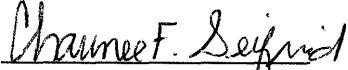
**SUBMITTED** to the Council and read the first time at a regular meeting thereof on December 18, 2002, ordered posted in three (3) public and conspicuous places in the City for a period of five (5) days, as authorized by the Canby City Charter; and to come up for final reading and action by the Canby City Council at a regular meeting thereof on January 8, 2003, 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 January 8, 2003 by the following vote:

YEAS 6                      NAYS 0

  
Terry L. Prince, Mayor

ATTEST:

  
Chauncey F. Seifried, City Recorder Pro Tem

**ORDINANCE 1111**  
**EXHIBIT 1 - PROPOSED AMENDMENTS**

**Bold** text is new code language, while text to be deleted is shown in ~~strikethrough~~.

1. *ADDITION OF MODIFICATION PROCESS*

*Delete all of Section 16.49.055, Modification to site and design review approvals.*  
*Add:*

**16.89.090          Modifications**

**Any proposed modification to previously approved land use applications, including site plans, elevations, or conditions of approval, shall be reviewed by the Planning Director to determine if they are minor, intermediate, or major. Factors to be considered in this determination include the impact on neighboring properties and public service provision. Modifications shall be processed as indicated in A through C below. Modification applications shall be made on forms provided for the purpose by the Planning Director.**

**A. Minor Modification**

**Minor modifications have a negligible impact on an approved site plan, land use decision, or condition of approval. The Planning Director will review all minor modifications under the Type I process.**

**B. Intermediate Modification**

**Intermediate modifications are those that do not fit the definitions in 16.89.090(A) or (C). The Planning Commission will review intermediate modifications as new business items. If the Commission approves a modification, notice of the decision will be distributed to individuals with standing and the owners and residents of the properties noticed during the original application review process. These individuals may obtain a public hearing on the issue by filing a request in writing within ten days of the notice mailing date.**

**C. Major Modification**

**Any modification that would result in a substantial impact to an approved site plan, land use decision, or condition of approval is a major modification and shall require a new land use application. The application shall meet all of the requirements under Section 16.89.**

2. *HISTORIC ORDINANCE*

~~**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.**~~

16.110.035 Inventory of Historic Resources

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 **local** public incentives and zoning designation herein.

16.110.045 Designation Procedure for Historic Landmarks and Historic Districts

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. **If the owner or owners refuse to consent to designation at any point during the designation process, the property shall be removed from any form of consideration for local designation.**

16.110.045 Designation Procedure for Historic Landmarks and Historic Districts

1. The City's Historic Landmark designation procedure may be initiated by....
2. The City's Historic District designation procedure may be initiated by...
5. ...the Historic Review Board shall make a decision on the City's Historic Landmark or Historic District designation....
7. ...The Planning Commission and City Council may....

3. *DELETION OF SUBDIVISION DEVELOPMENT FEES*

Delete 16.68.040(G) and Fee Schedule 16.68.040(G).

4. *DEFINITION OF ZERO-LOT LINE DEVELOPMENT*

*Add:*

**Section 16.04.715, Zero lot line development.**

**Zero-lot line development means detached dwellings required to have a side yard setback on only one side.**

5. *NEIGHBORHOOD ASSOCIATION DETAILS*

16.89.050(D)(1)(b) **The appointed chair of** Any neighborhood association whose boundaries include the subject property.

16.89.070(C)(1) The appointed chair and all **active** members of any neighborhood association...

6. *FLAG LOT SETBACKS*

*Add:*

**16.64.040(I)(7) For the purposes of defining setbacks, flag lots shall have three side yards and one rear yard. The rear yard may be placed on any side of the main dwelling.**

6. MISCELLANEOUS MINOR CLARIFICATIONS & TYPOGRAPHIC CORRECTIONS

16.16.020(O) Conditional Uses: The ~~setback~~ **building height** standards in Section 16.16.030(E) shall apply.

16.16.030(D)(3) Interior yards may be reduced to three feet for detached accessory structures, ~~except accessory dwellings~~, erected sixty feet or more from any street other than an alley. **Detached accessory dwellings are not eligible for the three foot reduction.**

16.10.050 Renumber section 16.110.050(4)(5) to 16.110.050(4)(c)

16.42.028(B)(2) Internally illuminated (~~box-style~~) **signs with slide-out fronts** are prohibited in the C-1 zone.

16.42.023(H) ...can be found in Code Section 16.~~5388.150~~.

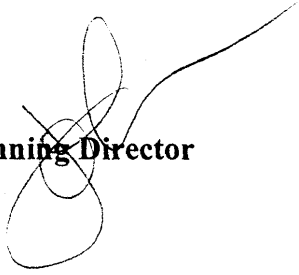
16.42.030(A) Signs are required to meet the setback requirements of the applicable zone district; except, however, that the street yard setback for signs **may be reduced to shall be at least** fifty (50) percent of that required for other structures in the zone.

16.89.050(J) The decision of the City Council regarding an appeal of a **Type IV or** Type III decision or Type II appeal is the final decision of the City.

16.89.060(G)(3) The City Council may choose to conduct public hearings on Comprehensive Plan amendments, amendments to the text of this title, **zone map amendments**, and annexations...

# STAFF REPORT

**TITLE:** Land Development & Planning Ordinance update  
**APPLICANT:** City of Canby  
**FILE #:** TA 02-02  
**STAFF:** John Williams, Community Development & Planning Director  
**REPORT DATE:** November 15, 2002  
**HEARING DATE:** November 25, 2002



## I. APPLICATION SUMMARY

This application contains a variety of fairly minor modifications to Canby's Land Development & Planning Ordinance (Canby Municipal Code Title 16). Some of the modifications fix typographical errors or inconsistencies created through recent code changes, others are more substantive changes recommended by staff. No "new regulations" are proposed.

## II. APPLICABLE CRITERIA

*Section 16.88.10 Amendments to text of title*

This is a legislative land use amendment. In judging whether or not this title should be amended, the Planning Commission and City Council shall consider:

1. The Comprehensive Plan of the city, and the plans and policies of the county, state, and local districts, in order to preserve functions and local aspects of land conservation and development;
2. A public need for the change;
3. Whether the proposed change will serve the public need better than any other change which might be expected to be made;
4. Whether the change will preserve and protect the health, safety and general welfare of the residents in the community;
5. Statewide planning goals.

The Planning Commission will hold a public hearing and make a recommendation to the City Council on this proposal. The City Council will make their decision based on the record of the Planning Commission's hearing and deliberations but will not hold its own hearing.

### III. PROPOSED AMENDMENTS

**Bold** text is new code language, while text to be deleted is shown in ~~striketrough~~. The few substantive changes will be discussed first, followed by the typographic-type amendments. Comments and explanations are *italicized*.

#### 1. *ADDITION OF MODIFICATION PROCESS*

*Currently, the City has no ability to modify land use approvals – although the need arises frequently. Several years ago we created a process whereby approved Site and Design Review applications could be modified. This has worked very well, and now staff recommends expanding the process to include any land use application type. It allows staff to make very minor changes administratively but routes any significant change to the Planning Commission. Very substantial changes would require a whole new application and public hearing.*

*If the proposal is approved, Section 16.49.055, Modification to site and design review approvals, will be entirely deleted.*

#### **16.89.090      Modifications**

**Any proposed modification to previously approved land use applications, including site plans, elevations, or conditions of approval, shall be reviewed by the Planning Director to determine if they are minor, intermediate, or major. Factors to be considered in this determination include the impact on neighboring properties and public service provision. Modifications shall be processed as indicated in A through C below. Modification applications shall be made on forms provided for the purpose by the Planning Director.**

##### **A. Minor Modification**

**Minor modifications have a negligible impact on an approved site plan, land use decision, or condition of approval. The Planning Director will review all minor modifications under the Type I process.**

##### **B. Intermediate Modification**

**Intermediate modifications are those that do not fit the definitions in 16.89.090(A) or (C). The Planning Commission will review intermediate modifications as new business items. If the Commission approves a modification, notice of the decision will be distributed to individuals with standing and the owners and residents of the properties noticed during the original application review process. These individuals may obtain a public hearing on the issue by filing a request in writing within ten days of the notice mailing date.**

##### **C. Major Modification**

**Any modification that would result in a substantial impact to an approved site plan, land use decision, or condition of approval is a major modification and shall require a new land use application. The application shall meet all of the requirements under**

**Section 16.89.**

2. **HISTORIC ORDINANCE**

*In 2000 the City revised the Historic Preservation Ordinance as part of our Periodic Review work order. Following that we applied for the state's Certified Local Government designation, which will provide access to a pool of grant funds for historic preservation projects. At that point, the state stated there were a few more items that needed to be taken care of in our code. The following revisions have been reviewed and approved by the Historic Review Board.*

**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.~~**

*Explanation: This section was added by the City Council in 2000 in order to encourage property owners to apply for historic designation. However, the state said this standard was not stringent enough to receive a CLG designation. Therefore, staff and the Historic Review Board recommend deleting it.*

16.110.035 Inventory of Historic Resources

3. Properties listed on the National Register of Historic Places, including all properties within National Register Historic District boundaries, are automatically eligible for designated 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 local public incentives and zoning designation herein.

*Explanation: The state has indicated that for CLG designation we need to automatically list National Register sites on our local landmarks list. This should not be a problem as any property significant enough to warrant national designation would also merit local designation.*

16.110.045 Designation Procedure for Historic Landmarks and Historic Districts

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. **If the owner or owners refuse to consent to designation at any point during the designation process, the property shall be removed from any form of consideration for local designation.**

*Explanation: This section complies with state guidelines adopted after a recent court decision regarding property owners that refuse to consent to designation procedures.*

16.110.045 Designation Procedure for Historic Landmarks and Historic Districts

1. The City's Historic Landmark designation procedure may be initiated by....
2. The City's Historic District designation procedure may be initiated by...
5. ...the Historic Review Board shall make a decision on the City's Historic Landmark or Historic District designation....

7. ...The Planning Commission and City Council may....

*Explanation: In three places we had not enough references to the City, and in one place we had too many!*

3. *DELETION OF SUBDIVISION DEVELOPMENT FEES*

The City Council has approved a new fee structure for subdivisions that bills applicants directly for time spent on inspections, etc. of public improvements. As part of this change, the Subdivision Development Fee has been discontinued. Therefore, this section of the code needs to be deleted.

Delete 16.68.040(G) and Fee Schedule 16.68.040(G).

4. *DEFINITION OF ZERO-LOT LINE DEVELOPMENT*

*We need a definition of zero-lot line housing, a concept added in the recent residential zoning changes. The main confusion has been with common wall dwellings. Therefore staff proposes adding this definition:*

**Section 16.04.715, Zero lot line development.**

**Zero-lot line development means detached dwellings required to have a side yard setback on only one side.**

5. *NEIGHBORHOOD ASSOCIATION DETAILS*

*Now that the City Council has adopted an ordinance regarding neighborhood associations staff proposes minor changes as follows to the public notice section of our existing ordinance. The first clarifies that the City needs to only send notice of public hearings to the chair of a neighborhood association rather than the whole membership (this does not change the requirement that notice be sent to those within a certain distance of an application). The second implements the recently adopted requirement that neighborhood associations maintain lists of active members.*

16.89.050(D)(1)(b) **The appointed chair of** Any neighborhood association whose boundaries include the subject property.

16.89.070(C)(1) The appointed chair and all **active** members of any neighborhood association...

6. *FLAG LOT SETBACKS*

*The code does not specify what setback standards should be applied to flag lots. This proposal implements a long-standing City interpretation that these lots have three side yards and one rear yard.*

**16.64.040(I)(7) For the purposes of defining setbacks, flag lots shall have three side yards and one rear yard. The rear yard may be placed on any side of the main dwelling.**

6. *MISCELLANEOUS MINOR CLARIFICATIONS & TYPOGRAPHIC CORRECTIONS*

16.16.020(O) Conditional Uses: The ~~setback~~ **building height** standards in Section 16.16.030(E) shall apply.



16.16.030(D)(3) Interior yards may be reduced to three feet for detached accessory structures, ~~except accessory dwellings~~, erected sixty feet or more from any street other than an alley. **Detached accessory dwellings are not eligible for the three foot reduction.**

16.10.050 Renumber section 16.110.050(4)(5) to 16.110.050(4)(c)

16.42.028(B)(2) Internally illuminated (box-style) **signs with slide-out fronts** are prohibited in the C-1 zone.

16.42.023(H) ...can be found in Code Section 16.5388-150.

16.42.030(A) Signs are required to meet the setback requirements of the applicable zone district; except, however, that the street yard setback for signs **may be reduced to** ~~shall be at least~~ fifty (50) percent of that required for other structures in the zone.

16.89.050(J) The decision of the City Council regarding an appeal of a **Type IV** or Type III decision or Type II appeal is the final decision of the City.

16.89.060(G)(3) The City Council may choose to conduct public hearings on Comprehensive Plan amendments, amendments to the text of this title, **zone map amendments**, and annexations...

#### IV. FINDINGS AND CONCLUSIONS

1. Staff concludes that the proposed amendments comply with the Comprehensive Plan of the City, and the plans and policies of the County, State, and local districts, and will preserve functions and local aspects of land conservation and development;
2. Staff concludes that there is a public need for the change. Changes are required in order to keep Canby's Land Development and Planning Ordinance up-to-date and to enable state certification of the City's Historic Preservation Ordinance.
3. Staff concludes that the proposed amendments will serve the public need better than any other change which might be expected to be made.
4. Staff concludes that the proposed amendments will preserve and protect the health, safety, and general welfare of the residents of the community; and
5. Staff concludes that the proposed amendments comply with the Statewide Planning Goals.

#### V. RECOMMENDATION

Based upon previous public meetings and the findings and conclusions stated in this report, and without benefit of a public hearing on the matter, staff recommends that the Planning Commission recommend approval of **TA 02-02** to the City Council.

**BEFORE THE PLANNING COMMISSION  
OF THE  
CITY OF CANBY**

**A REQUEST TO CHANGE THE TEXT ) FINDINGS, CONCLUSION & FINAL ORDER  
OF THE LAND DEVELOPMENT AND ) TA 02-02  
PLANNING ORDINANCE ) (City of Canby)**

**NATURE OF APPLICATION**

This application contains a number of relatively minor modifications to Canby's Land Development & Planning Ordinance (Canby Municipal Code Title 16). Some of the modifications fix typographical errors or inconsistencies created through recent code changes, others are more substantive changes recommended by staff. No "new regulations" are proposed.

**HEARINGS**

The Planning Commission held a public hearing and considered this application at its November 25, 2002 meeting.

**CRITERIA AND STANDARDS**

In judging whether or not this title should be amended, the Planning Commission and City Council shall consider:

1. The Comprehensive Plan of the city, and the plans and policies of the county, state, and local districts, in order to preserve functions and local aspects of land conservation and development;
2. A public need for the change;
3. Whether the proposed change will serve the public need better than any other change which might be expected to be made;
4. Whether the change will preserve and protect the health, safety and general welfare of the residents in the community;

**FINDINGS AND REASONS**

The Planning Commission, after holding a public hearing on November 25, 2002 and considering the November 15, 2002 staff report, deliberated and reached a decision on November 25, 2002 recommending approval of the application to the City Council. The Commission adopted the findings and conclusions contained in the November 15, 2002 staff report.

## **CONCLUSION**

The Planning Commission concludes that:

1. The proposed amendments comply with the Comprehensive Plan of the City, and the plans and policies of the County, State, and local districts, and will preserve functions and local aspects of land conservation and development;
2. There is a public need for the change to keep Canby's Land Development and Planning Ordinance pertinent to modern needs and challenges. Good planning is needed in order to assure quality development in the future.
3. The proposed amendments will serve the public need better than any other change which might be expected to be made. The proposed amendments have been reviewed by the Historic Review Board and Planning Commission in open meetings.
4. The proposed amendments will preserve and protect the health, safety, and general welfare of the residents of the community; and
5. The proposed amendments comply with the Statewide Planning Goals.

## **ORDER**

**IT IS RECOMMENDED BY THE PLANNING COMMISSION** of the City of Canby that the Canby City Council approve TA 02-02 as amended.

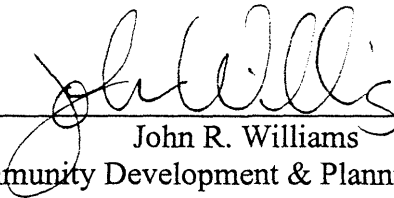
**I CERTIFY THAT THIS ORDER** recommending approval of **TA 02-02** was presented to and **APPROVED** by the Planning Commission of the City of Canby.

DATED this 9<sup>th</sup> day of December, 2002.



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Jim Brown, Chair  
Canby Planning Commission



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John R. Williams  
Community Development & Planning Director

**ATTEST:**

**ORAL DECISION - November 25, 2002**

AYES: Brown, Manley, Tessman, Thalhofer, Erikson

NOES: none

ABSTAIN: none

ABSENT: none

**WRITTEN FINDINGS - December 9, 2002**

AYES:

NOES:

ABSTAIN:

ABSENT: