

ORDINANCE 1237

AN ORDINANCE AMENDING TITLE 16 OF THE CANBY MUNICIPAL CODE.

WHEREAS, periodic revisions of Canby's Land Development and Planning Ordinance are needed to ensure consistency, functionality, and legality; and

WHEREAS, the 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 present testimony on these proposed changes; and

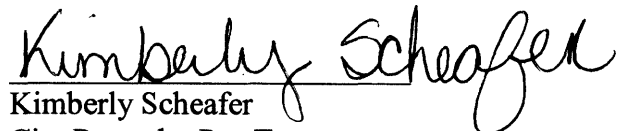
WHEREAS, the Planning Commission found that the standards and criteria of section 16.88.160 of the Land Development and Planning Ordinance, concerning Text Amendments, were met, and unanimously recommended approval to the City Council after making certain modifications; and

WHEREAS, the City Council, after reviewing the Planning Commission's findings of fact regarding the subject amendments, concluded that the Planning Commission's findings of fact and the amendments were appropriate; now therefore

THE CITY OF CANBY ORDAINS AS FOLLOWS:

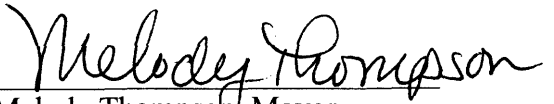
- 1) The City Council hereby adopts the Planning Commission's findings of fact, as detailed in Exhibit 1, and approves Text Amendment 07-01; and
- 2) Title 16, the Land Development and Planning Ordinance of the City of Canby, is modified as detailed in Exhibit 2.

SUBMITTED to the Canby City Council and read the first time at a regular meeting thereof on Wednesday, March 21, 2007 and ordered posted in three (3) public and conspicuous places in the City of Canby as specified in the Canby City Charter and to come before the City Council for final reading and action at a regular meeting thereof on Wednesday, April 4, 2007, commencing at the hour of 7:30 P.M. in the Council Meeting Chambers at Canby City Hall in Canby, Oregon.

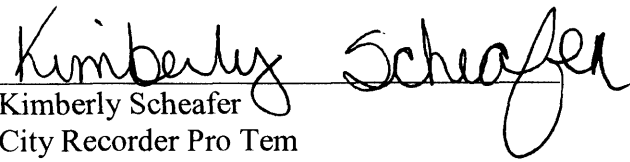

Kimberly Scheafer
City Recorder Pro-Tem

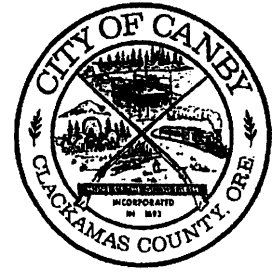
PASSED on the second and final reading by the Canby City Council at a regular meeting thereof on April 4, 2007 by the following vote:

YEAS 5 NAYS 0


Melody Thompson, Mayor

ATTEST:


Kimberly Scheafer
City Recorder Pro Tem



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

**A REQUEST FOR APPROVAL OF) FINDINGS, CONCLUSION & ORDER
MINOR MODIFICATIONS TO) TA 07-01
CANBY'S LAND DEVELOPMENT) (City of Canby)
AND PLANNING ORDINANCE.)**

NATURE OF APPLICATION

This application contains many fairly minor modifications to Canby's Land Development and Planning Ordinance (Canby Municipal Code Title 16). Some of the modifications fix typographical errors or inconsistencies, others are more substantive changes recommended by staff.

HEARINGS

The Planning Commission held a public hearing to consider this application at its meeting of February 26, 2007.

CRITERIA AND STANDARDS

Section 16.88.160 – 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.

FINDINGS AND REASONS

The Planning Commission, after holding a public hearing on February 26, 2007 and considering the February 16, 2007 staff report deliberated and reached a decision approving the text amendment application of TA 07-01. The Commission adopted the findings and conclusions contained in the February 16, 2007 staff report, written in the Order below:

CONCLUSION

The Planning Commission of the City of Canby concludes that:

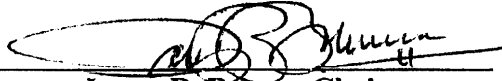
1. The proposed amendments comply with the Comprehensive Plan of the City, and the plans and policies of the County, State, and local districts, and will preserve functions and local aspects of land conservation and development;
2. There is a public need for the change. Changes are required in order to keep Canby's Land Development and Planning Ordinance up-to-date and functional.
3. The proposed amendments will serve the public need better than any other change which might be expected to be made.
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 07-01**.

I CERTIFY THAT THIS ORDER recommending approval of **TA 07-01** to the Canby City Council was presented to and **APPROVED** by the Planning Commission of the City of Canby.

DATED this 12th day of March, 2007.


James R. Brown, Chair
Canby Planning Commission


John Williams
Community Development and
Planning Director

ATTEST:

ORAL DECISION **February 26, 2007**

AYES: Brown, Ewert, Molamphy, Holte, Taylor
NOES: None
ABSTAIN: None
ABSENT: Milne

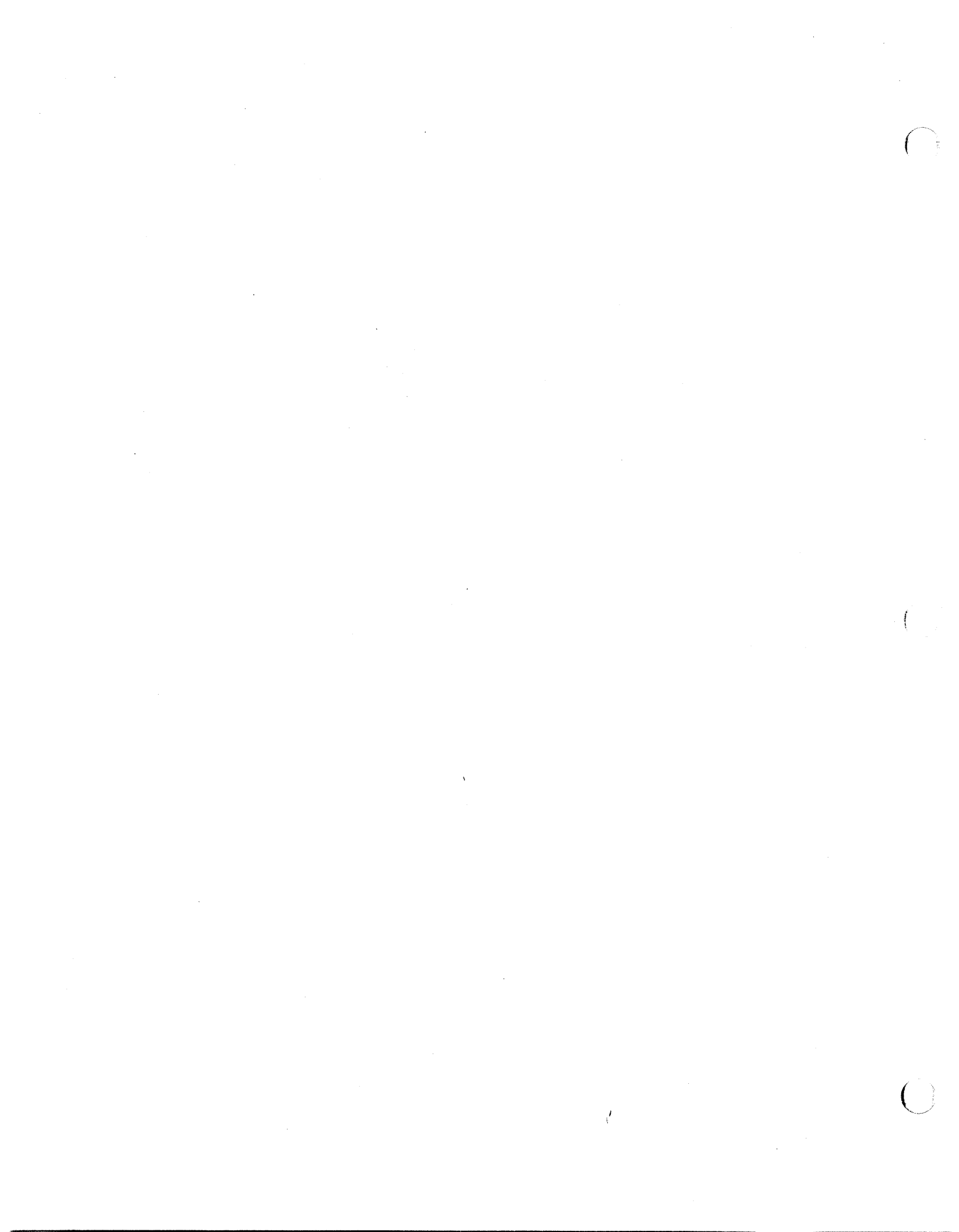
WRITTEN FINDINGS **March 12, 2007**

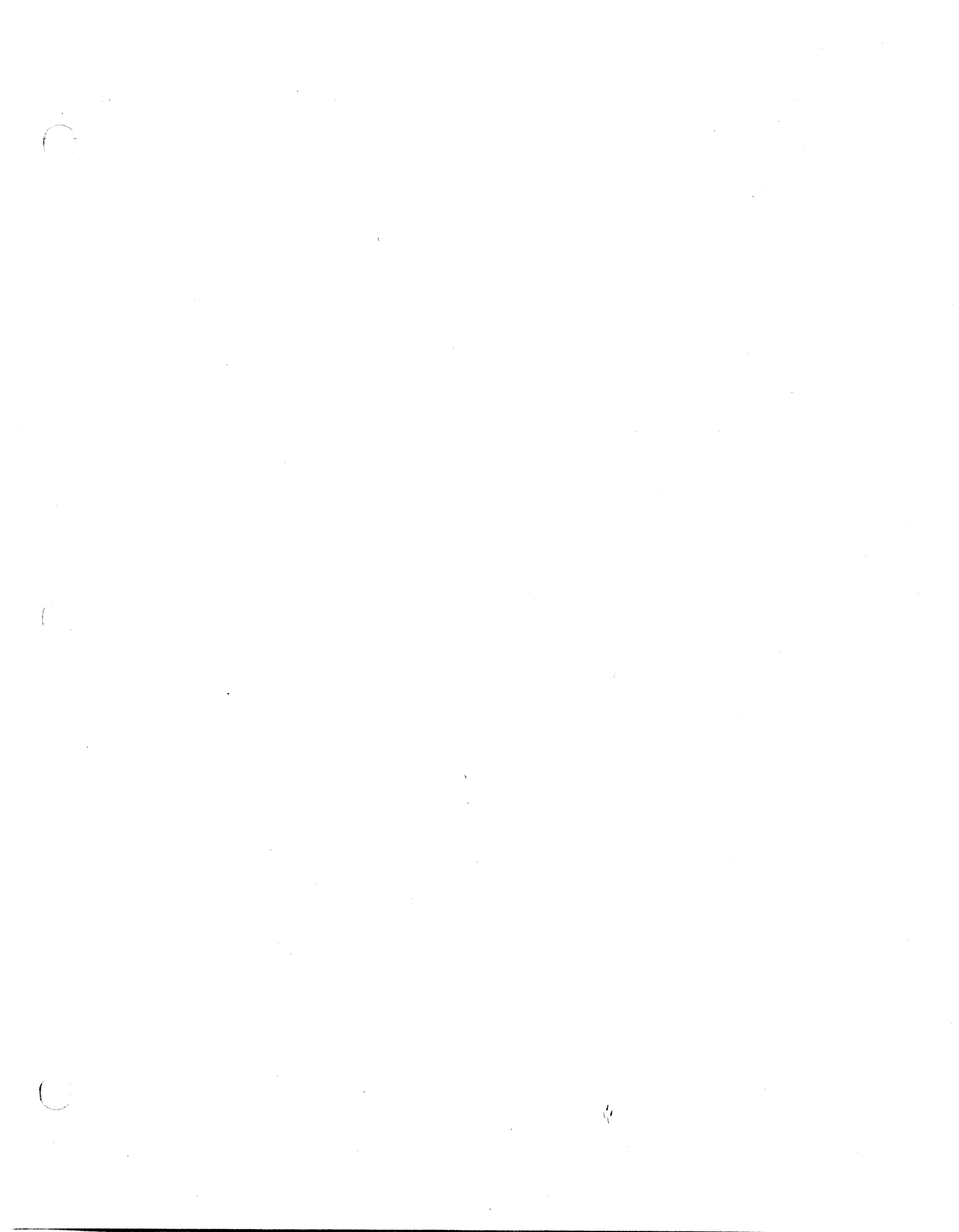
AYES: Brown, Ewert, Molamphy, Holte, Taylor
NOES: None
ABSTAIN: Milne
ABSENT: None

City of Canby
Land Development
and
Ordinance Update

TA 07-01

City Council
March 21, 2007





EXPLANATION OF PROPOSED CODE CHANGES

16.04 - Definitions

Changes on this page simply add titles for definitions added below.

- 16.04.420 Modular home.
- 16.04.425 Monopole.
- 16.04.430 Motel.
- 16.04.435 Neighborhood activity center.
- 16.04.438 Nonconforming access features.
- 16.04.440 Nonconforming structure, lot or use.
- 16.04.450 Parent parcel.
- 16.04.460 Parking space.
- 16.04.470 Partition.
- 16.04.480 Pedestrian way.
- 16.04.490 Person.
- 16.04.500 Planning Commission.
- 16.04.510 Plat.
- 16.04.512 Porches, covered.

16.04.514 Preapplication conference

- 16.04.515 Preferred site.
- 16.04.516 Public facility, major
- 16.04.517 Public facility, minor
- 16.04.519 Reasonably direct.
- 16.04.520 Recommendation.
- 16.04.530 Right-of-way.
- 16.04.540 Roadway.
- 16.04.545 Safe and convenient bicycle and pedestrian routes.
- 16.04.550 Setbacks.
- 16.04.560 Sidewalk.
- 16.04.561 Sign, freestanding.

16.04.562 Sign, monument.

- 16.04.563 Sign, pole.
- 16.04.565 Stealth design.
- 16.04.570 Street.
- 16.04.580 Structural alteration.
- 16.04.590 Structure.
- 16.04.595 Stub-out (or stub street)
- 16.04.600 Subdivide land.
- 16.04.610 Subdivision.
- 16.04.615 Traffic impact analysis.
- 16.04.620 Trailer coach.
- 16.04.630 Trailer park.
- 16.04.635 Trip generation study.
- 16.04.640 Urban Growth Boundary (UGB).
- 16.04.650 Urbanizable.
- 16.04.660 Use.
- 16.04.666 Vicinity.
- 16.04.670 Vision clearance area.
- 16.04.671 Walkway.
- 16.04.672 Wireless telecommunications facility.
- 16.04.676 Wireless telecommunications systems (WTS).
- 16.04.680 Yard.
- 16.04.690 Yard, interior.
- 16.04.700 Yard, rear.
- 16.04.710 Yard, street.
- 16.04.715 Zero-lot line development.

Deleted: 7

16.04.010 Grammatical interpretation.

As used in this title, the masculine includes the feminine and the neuter, and the singular includes the plural with no preference or prejudice intended or implied. (Ord. 740 section 10.1.20 (A), 1984)

16.04.020 Generally.

Unless the context requires otherwise, the words and phrases set out in this chapter shall mean as follows. (Ord. 740 section 10.1 .20(B)[part], 1984)

16.04.030 Abutting-adjoining-adjacent.

Abutting, adjoining or adjacent means physically touching, having at least one common point or lots separated only by a public street, public right-of-way, or railroad right-of-way. (Ord. 890 section 3, 1993; Ord. 740 section 10.1.20(B)[part], 1984)

16.04.035 Acceptable site.

For purposes of siting wireless telecommunications systems facilities, any land planned and zoned Highway commercial or Commercial-Manufacturing. (Ord. 981 section 17, 1997)

EXPLANATION OF PROPOSED CODE CHANGES

16.04.255 – Infill homes. This change fixes a gap in our code. Currently infill triplexes do not have to follow the same rules regarding height and setbacks that single family homes and duplexes do.

The Federal Communications Commission; the federal agency that regulates interstate and international communications by radio, television, wire, satellite and cable. (Ord. 981 section 17, 1997)

16.04.230 Height of building.

Height of building means the vertical distance from the grade to the highest point of the coping of a flat roof or to the deck line of a mansard roof or to the average height of the highest gable of a pitch or hip roof. (Ord. 740 section 10.1.20(B) [part], 1984)

16.04.240 Home occupation.

Home occupation means a lawful activity commonly carried on within a dwelling by members of the family occupying the dwelling with not more than one non-resident employee being engaged, provided that:

- A. The residential character of the building is maintained;
- B. The activity occupies less than one-quarter of the ground floor area of the building;
- C. The activity is conducted in such a manner as not to give an outward appearance nor manifest any characteristic of a business in the ordinary meaning of the term nor infringe upon the rights of neighboring residents to enjoy the peaceful occupancy of their homes. Business visitors to the premises shall not exceed eight (8) per day and delivery trucks shall not exceed one (1) per day;
- D. The occupation shall not be carried on in an accessory building of the residence where the building is larger than six hundred (600) square feet;
- E. No signs are permitted, except for a single unilluminated nameplate not to exceed two (2) square feet in area;
- F. All home occupations require a city business license. (Ord. 890 section 7, 1993; Ord. 830 section 1, 1989; Ord. 740 section 10.1.20(B) [part], 1984)

16.04.250 Hotel.

Hotel means a building in which lodging is provided for more than ten guests for compensation and in which no provision is made for cooking in the rooms. (Ord. 740 section 10.1.20(B) [part], 1984)

16.04.255 Infill homes.

Infill homes mean existing and new single family dwellings, manufactured homes, two-family dwellings, duplexes ~~and triplexes~~ on lots that have existing homes on two adjacent sides. Each adjacent home must be within 25 feet of the common lot line with the infill homes and have pre-existed for at least 5 years (dated from the existing homes final building permit approval). (Ord. 1107, 2002)

Deleted: and

16.04.260 Intersection.

EXPLANATION OF PROPOSED CODE CHANGES

16.04.514 – This definition is needed due to text added in the procedural section of the code.

16.04.450 Parent parcel.

Parent parcel means a lot or parcel of land from which other parcels or lots are divided. (Ord. 740 section 10.1.20(B) [part], 1984)

16.04.460 Parking space.

Parking space means a rectangle in the dimensions as set forth in Division III of this title together with maneuvering and access space required for a conventional automobile to park within the rectangle. (Ord. 740 section 10.1.20(B) [part], 1984)

16.04.470 Partition.

Partition means to divide an area or tract of land into two or three parcels within the calendar year when such area or tract of land exists as a unit or contiguous units of land under single ownership at the beginning of such year. Partitioned land does not include any adjustment of a lot line by the relocation of a common boundary where an additional parcel is not created and where the existing parcel reduced in size by the adjustment is not reduced below the minimum lot size.

A. Major partition means a partition which includes the creation of a road or street.

B. Minor partition means a partition that does not include the creation of a road or street. (Ord. 740 section 10.1.20(B) [part], 1984)

16.04.480 Pedestrian way.

Pedestrian way means a right-of-way for pedestrian traffic. (Ord. 740 section 10.1.20(B) [part], 1984)

16.04.490 Person.

Person means an individual, firm, partnership, corporation, company, association, syndicate, or any legal entity, and including any trustee, receiver, assignee, or other similar representative thereof. (Ord. 740 section 10.1.20 (B) [part], 1984)

16.04.500 Planning Commission.

Planning Commission means the Planning Commission of the City of Canby, Oregon. (Ord. 740 section 10.1.20(B) [part], 1984)

16.04.510 Plat.

Plat means the map or drawing on which the subdivider's plan of subdivision is presented and which he submits for approval and intends in final form to record. Plat includes preliminary, tentative and final plats. (Ord. 740 section 10.1.20(B)[part], 1984)

16.04.512 Porches, covered.

Covered porches must not be enclosed by walls that are more than 42 inches in height, for 50 percent or more of their perimeter. (Ord. 1107, 2002)

16.04.514 Preapplication conference.

Preapplication conference means a meeting of the representatives of the city departments and other affected agencies, as determined by the City, to review and provide initial input on land use applications or other proposals.

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EXPLANATION OF PROPOSED CODE CHANGES

Chapter 16.04 p. 13

These definitions of public facilities are proposed in order to clarify which public projects are permitted outright and which will require conditional use permits. Staff is proposing that the minor public facilities be permitted outright in most zones, while the major public facilities be permitted conditionally in most zones. This is basically a clarification of current code although some zones include only some facilities and some are entirely silent.

16.04.515 Preferred site.

For purposes of siting wireless telecommunications systems facilities, any land planned and zoned Light Industrial or Heavy Industrial. (Ord. 981 section 17, 1997)

16.04.516 Public facility, major.

A major public facility is any public service improvement or structure, other than transportation projects, developed by or for a public agency that is not defined as a minor public facility. Transportation projects are covered by Section 16.08.130.

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16.04.517 Public facility, minor.

A minor public facility includes the following public service improvements or structures developed by or for a public agency:

a. Minor utility structures, except substations, but including poles, lines, pipes, telecommunications facilities or other such facilities.

b. Sewer, storm drainage, or water system structures except treatment plants or reservoirs, but including pump stations, manholes, valves, hydrants or other portions of the collection, treatment and distribution systems located within public property or public easements.

c. Street improvements within existing developments including sidewalks, curbs, gutters, catch basins, paving, signs and traffic control devices and street lights.

d. Transit improvements, such as shelters or pedestrian and bicycle safety improvements, located within public right of way or public easements or on public property.

e. School improvements which will not increase the capacity of the school nor create significant additional traffic or other impacts on the surrounding neighborhood.

f. Park improvements which will not create significant additional motor or foot traffic impact on the surrounding neighborhood.

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16.04.519 Reasonably direct.

A reasonably direct route does not deviate unnecessarily from a straight line or is a route that does not involve a significant amount of out-of-direction travel for likely users. (Ord. 1043 section 3, 2000)

16.04.520 Recommendation.

Recommendation includes any staff report or report from the Planning Commission to the City Council. (Ord. 740 section 10.1.20(B) [part], 1984)

16.04.530 Right-of-way.

Right-of-way means the area between the boundary lines of a street or other easement. (Ord. 740 section 10.1.20(B) [part], 1984)

16.04.540 Roadway.

Roadway means the portion or portions of a street right-of-way developed for vehicular traffic. (Ord. 740 section 10.1.20(B) [part], 1984)

16.04.545 Safe and convenient bicycle and pedestrian routes.

Safe and convenient bicycle and pedestrian routes:

EXPLANATION OF PROPOSED CODE CHANGES

16.04 p.14

These sign definitions are needed due to changes proposed elsewhere in the code. The definitions are based on a previous Planning Commission interpretation, which found that the highway signs at the Fred Meyer center are monument signs, not pole signs.

A. Are reasonably free from hazards; and

B. Provide a reasonably direct route of travel between destinations, considering that the optimum travel distance is one-half mile for pedestrians and three miles for bicyclists. (Ord. 1043 section 3, 2000)

16.04.550 Setback.

Setback means a distance which a structure is required to be set back from a lot line. Where specified in this title, some setbacks are measured from curbs or projected curb lines rather than lot lines. Railing for decks less than 30 inches above grade are exempt from setback standards. (Ord. 830 section 2, 1939; Ord. 740 section 10.1.20(B) [part], 1984; Ord. 955 section 1, 1996)

16.04.560 Sidewalk.

Sidewalk means a pedestrian walkway with permanent surfacing to city standards. (Ord. 740 section 10.1.20(B)[part], 1984)

16.04.561 Sign, Freestanding.

Freestanding sign means a sign wholly supported by a sign structure in the ground. Freestanding signs include monument signs and pole signs.

16.04.562 Sign, Monument.

Monument sign means any sign affixed to a base which has a width that is equal to or greater than 1/3 of the width of the sign face.

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16.04.563 Sign, Pole.

Pole sign means any sign affixed to a base which has a width that is less than 1/3 of the width of the sign face.

16.04.565 Stealth design.

A variety of techniques used to disguise or mitigate the visual presence of WTS support structures, including, but not limited to screening by mature trees (75 percent or more of the pole beneath the tree canopy), mimicking common features of the urban landscape (light poles, church steeples, trees, etc.), painting antennas to match the color of supporting building walls, or roof mounting behind parapets. (Ord. 981 section 17, 1997)

16.04.570 Street.

Street means the entire width between the right-of-way line of every way which provides for public use for the purpose of vehicular and pedestrian traffic, and the placement of utilities and including the terms road, highway, lane, place, avenue, alley, or other similar designations.

A. Alley means a narrow street through a block primarily for vehicular service access to the back or side of properties otherwise abutting on another street.

B. Arterial means a street of considerable continuity which is primarily a traffic artery for intercommunication between large areas.

EXPLANATION OF PROPOSED CODE CHANGES

16.05 p.1

Staff proposes to simplify the interpretation process by removing advance notice of staff interpretations. In the new system, interpretations will be sent to neighboring property owners. They will have the ability to obtain a no-cost appeal by filing a request in writing within 10 days of the staff decision.

Chapter 16.05

INTERPRETATIONS

Sections:

16.05.010 Purpose.

16.05.020 Procedure.

16.05.010 Purpose.

Some terms and phrases within this Title may have two or more reasonable meanings. This section provides a process for resolving differences in the interpretation of the text. (Ord. 1080, 2001)

16.05.020 Procedure.

A. Requests. A request for a code interpretation shall be made in writing to the Planning Director on forms created for the purpose.

B. Decision to Issue Interpretation. The Planning Director is authorized to issue or decline to issue a requested interpretation and shall advise the applicant in writing within 14 days after the request is made whether or not the City will issue an interpretation. Basis for declining may include, but is not limited to, a finding that the subject code section affords only one reasonable interpretation. The Planning Director's decision to issue or not issue an interpretation is final when the decision is mailed to the party requesting the interpretation.

C. Written Interpretation. If the Planning Director decides to issue an interpretation, it shall be issued in writing and shall be mailed or delivered to the person requesting the interpretation, any other person who requested a copy, and those receiving public notice of the decision. The written interpretation or notice thereof shall be issued within 14 days after the City advises the applicant that an interpretation shall be issued. The decision shall become effective 10 days after mailing, unless an appeal is filed. Any such appeal shall be processed as described in Section 16.89.040(H).

D. Public Notice. Notice of the Planning Director's decision shall be sent to all property owners and residents within 200 feet of the subject property.

E. Interpretations On File. The Planning Director shall keep all code interpretations on file. (Ord. 1080, 2001)

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Deleted: Public notice for code interpretations shall follow the Type II procedure described in Chapter 16.89, with notice to all property owners and residents within 200 feet of the subject property

EXPLANATION OF PROPOSED CODE CHANGES

16.06 – Planning Commission

Changes to this section eliminate the sense that these regulations were recently adopted.

16.06.010 – Change is an update to reflect the passage of 22 years since the code was written – and, as the Planning Commission requested, we found the exact date – 1954.

16.06.020 – Minor wording change.

DIVISION II. - PLANNING COMMISSION

Chapter 16.06

PLANNING COMMISSION

Sections:

- 16.06.010 Purpose.**
- 16.06.020 Membership.**
- 16.06.030 Appointment and removal.**
- 16.06.040 Nonvoting participants.**
- 16.06.050 Term of office.**
- 16.06.060 Limitation on business engagements.**
- 16.06.070 Election of chairman – appointment of secretary.**
- 16.06.080 Compensation.**
- 16.06.090 Employment of assistants.**
- 16.06.100 Meeting place.**
- 16.06.110 Meeting and quorum.**
- 16.06.120 Duties.**
- 16.06.130 Recommendations to City Council - Appeals.**
- 16.06.140 Investigations and recommendations concerning buildings.**
- 16.06.150 Powers.**
- 16.06.160 Conflict of interest.**
- 16.06.170 Hearings officer.**
- 16.06.180 Expenditures.**

16.06.010 Purpose.

The city has had an active Planning Commission ~~since 1954~~. The Planning Commission sits as both a hearing body for land development applications and as a recommending body, giving advice to the City Council on a variety of subjects relating to the growth and development of the Canby area. (Ord. 740 section 10.2.05, 1984)

Deleted: for more than twenty-five years

16.06.020 Membership.

The Planning Commission shall consist of seven members. (Ord. 740 section 10.2.10, 1984)

Deleted: continue to

16.06.030 Appointment and removal.

Members of the Planning Commission shall be appointed by the City Council and may be removed by the City Council, after hearing, for misconduct or nonperformance of duty. Any vacancy shall be filled by the council for the unexpired term of the predecessor in the office. (Ord. 740 section 10.2.15, 1984)

EXPLANATION OF PROPOSED CODE CHANGES

16.06 – Planning Commission

16.06.050 – Deleted wording is outdated and no longer needed.

16.06.040 Nonvoting participants.

The City Attorney shall be entitled to sit with the commission and take part in its discussions, but shall not have the right to vote. City staff persons shall also attend to assist the commission in the conduct of its business. (Ord. 740 section 10.2.20, 1984)

16.06.050 Term of office.

All members of the Planning Commission shall be appointed to three-year terms, unless appointed to fill the remainder of an unexpired term. (Ord. 740 section 10.2.25, 1984)

Deleted: Upon the adoption of these regulations, the Planning Commission members shall complete their existing terms of office. Thereafter, a

16.06.060 Limitation on business engagements.

Not more than two members shall be engaged principally in the buying, selling or developing of real estate for profit as individuals, or be members of any partnership or officers or employees of any corporation engaged principally in the buying, selling or developing of real estate for profit. Not more than two members shall be engaged in the same kind of business, trade or profession. (Ord. 740 section 10.2.30, 1984)

16.06.070 Election of chairman – appointment of secretary.

The Planning Commission shall elect a chairman and vice chairman who shall be voting members, and the commission shall appoint a secretary who need not be a member of the commission. (Ord. 740 section 10.2.35, 1984)

16.06.080 Compensation.

Commission members shall receive no compensation but shall be reimbursed for duly authorized expenses. (Ord. 740 section 10.2.40, 1984)

16.06.090 Employment of assistants.

The Planning Commission shall have power and authority to employ consulting advice on municipal problems, and such clerks as may be necessary, and to pay for their services and for such other expenses as may lawfully be incurred, but all compensation and expenses authorized by this chapter shall be paid out of such funds which are first budgeted by the City Council and placed at the disposal of the Planning Commission for such purposes. (Ord. 740 section 10.2.45, 1984)

16.06.100 Meeting place.

The City Council shall assign to the commission an office or locations in which to hold its meetings, transact its business and keep its records. (Ord. 740 section 10.2.50, 1984)

16.06.110 Meeting and quorum.

The commission shall meet at least once a month when applications are pending and may make and alter rules and regulations for its government and procedure consistent with the laws of this state and with the city charter and ordinances. A majority of the members of the commission constitutes a quorum. (Ord. 740 section 10.2.55, 1984)

16.06.120 Duties.

Except as otherwise provided by law, it shall be the duty of the commission and it shall have power to:

EXPLANATION OF PROPOSED CODE CHANGES

16.08 p.2

This change simply breaks up a very long paragraph into 4 smaller paragraphs for clarity.
No text changes are proposed.

Unless otherwise specified, zone boundaries are lot lines or the centerline of streets, railroad rights-of-way, or such lines extended. Where a zone boundary divides a lot into two or more zones, the entire lot shall be considered to be in the zone containing the greater lot area, provided the boundary adjustment is a distance of less than twenty feet. (Ord. 740 section 10.3.05(C), (1984)

16.08.040 Zoning of annexed areas.

An area annexed to the city shall be automatically classified in the zone which best conforms to the land use map of the Comprehensive Plan. Such zoning shall be considered by the Planning Commission in its review and by the council in conducting its public hearing for the annexation. (Ord. 740 section 10.3.05(D), 1984)

16.08.050 Prohibited parking.

In addition to the provisions of the motor vehicle laws of Oregon regulating parking, no person shall park any vehicle, except an automobile, motorcycle, van or pickup truck rated no larger than one ton, on any public street or alley within any residential zone, except for an emergency or for the purpose of loading or unloading. (Ord. 740 section 10.3.05(E), 1984)

16.08.060

(Ord. 740 section 10.3.05(F), 1984; renumbered as 16.64.040(I)(6) by Ord. 1043 section 3, 2000)

16.08.070 Illegally created lots.

In no case shall a lot which has been created in violation of state statute or city ordinance be considered as a lot of record for development purposes, until such violation has been legally remedied. (Ord. 740 section 10.3.05(G), 1984)

16.08.080 Area and yard reductions.

A. When there are existing dwellings on the lots situated immediately to each side of a given lot and each of those neighboring lots has less than the required street yard depth, the street yard of the subject property may be reduced to the average street yard of those two abutting lots.

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B. When there is an existing dwelling situated on a lot immediately to either side of a given lot which fronts on the same street, and such existing dwelling has a street yard which is less than half of that required in the zone, the street yard of the subject property may be reduced to a depth which is halfway between that normally required in the zone and that of the existing dwelling on the neighboring lot.

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C. If, on the effective date of the ordinance codified in this title, a lot or the aggregate of contiguous lots held in a single ownership has less than the required area or width, the lot or lots may be occupied by a permitted use subject to the other requirements of the zone; provided that if the deficiency is one of area, residential uses shall be limited to single-family dwellings; and further provided that if the deficiency is one of width, each required interior yard may be reduced by one foot for each four feet of deficient width. In no case, however, shall such reduction result in an interior yard of less than five feet.

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D. Where two or more contiguous substandard recorded lots are in common ownership and are of such size to constitute at least one conforming zoning lot, such lots or portions

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EXPLANATION OF PROPOSED CODE CHANGES

16.10 p.1

This is another formatting change to break up a long paragraph.

OFF-STREET PARKING AND LOADING

Sections

- 16.10.010 Off-street parking required – exceptions.
- 16.10.020 Definitions.
- 16.10.030 General requirements.
- 16.10.040 Prohibited near intersections.
- 16.10.050 Parking standards designated.
- 16.10.060 Off-street loading facilities.
- 16.10.070 Parking lots and access.
- 16.10.080 Streets.
- 16.10.090 Drive-up uses.
- 16.10.100.1 Bicycle parking.

16.10.010 Off-street parking required – exceptions.

A. At the time of establishment of a new structure or use, change in use, or change in use of an existing structure, within any planning district of the city, off-street parking spaces and off-street loading berths shall be as provided in this and following sections, unless greater requirements are otherwise established by the conditional use permit or the site and design review process, based upon clear and objective findings that a greater number of spaces are necessary at that location for protection of public health, safety and welfare. A lesser number of spaces may be permitted by the Planning Commission based on clear and objective findings that a lesser number of parking spaces will be sufficient to carry out the objective of this section.

B. No off-street parking shall be required for any use permitted outright within the C-1 zone in the rectangular area bounded by N. Ivy Street on the east, NW First Avenue on the south, N. Fir Street on the west, and NW Third Avenue on the north.

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C. At the time of enlargement of an existing structure or use, the provisions of this section shall apply to the enlarged structure or use only. (Ord. 890 section 9, 1993; Ord. 872, 1992; Ord. 854 section 2, 1991; Ord. 848, Part V, section 1, 16.10.010(A)(B), 1990)

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16.10.020 Definitions.

A. Floor Area. Except where otherwise specified, the floor area measured shall be the gross floor area of the building primary to the function of the particular use of the property other than space devoted to off-street parking or loading.

B. Employees. Where employees are specified, the term shall apply to all persons, including proprietors, working on the premises during the peak shift. (Ord. 854 section 2, 1991; Ord. 848, Part V, section 1, 16.10.020(A)(B), 1990)

EXPLANATION OF PROPOSED CODE CHANGES

16.10 p. 6

The Planning Commission has allowed several industrial recent industrial buildings to be built without the loading docks required as standard by our code. This proposed text makes it clear that the Commission has the ability to do so. The text is worded to allow the PC to either exempt the building or delay the requirement until later.

16.10.060 Off-street loading facilities

A. The minimum number of off-street loading berths for commercial and industrial uses is as follows:

SQUARE FEET OF FLOOR AREA	NUMBER OF BERTHS
Less than 5,000	0
5000 – 25,000	1
25,000 – 60,000	2
60,000 and over	3

B. Loading berths shall conform to the following minimum size specifications:

1. Commercial uses – 13' x 35'
2. Industrial uses – 12' x 60'
3. Berths shall have an unobstructed minimum height of 14'.

C. Required loading areas shall be screened from public view, from public streets, and adjacent properties by means of sight-site obscuring landscaping, walls or other means, as approved through the site and design review process.

D. Required loading facilities shall be installed prior to final building inspection and shall be permanently maintained as a condition of use.

E. A driveway designed for continuous forward flow of passenger vehicles for the purpose of loading and unloading children shall be located on the site of a school or day care center having a capacity greater than twenty-five (25) students.

F. The off-street loading facilities shall, in all cases, be on the same lot or parcel as the structure they are intended to serve. In no case shall the required off-street loading spaces be part of the area used to satisfy the off-street parking requirement.

G. ~~The Planning Commission may exempt a building from the loading berth requirement, or delay the requirement, based on findings that loading berths are not needed for a particular building or business.~~ (Ord. 854 section 2(part), 1991; Ord. 848, Part V, section 1, 16.10.060, 1990)

16.10.070 Parking lots and access.

A. Parking Lots. A parking lot, whether as accessory or principal use, intended for the parking of automobiles or trucks, shall comply with the following:

EXPLANATION OF PROPOSED CODE CHANGES

16.10 p. 7

Staff proposes to allow a little more flexibility in the design of driveways for single family driveways. Currently our code requires all driveways to single family homes and their accessory structures to be fully paved with either concrete or asphalt. Homeowners often ask for more flexibility, particularly for detached garages or shops that don't get a lot of traffic.

After talking with public works and the Canby Fire District, we found there are two reasons to require paving: to keep mud and gravel out of streets and to facilitate emergency service response. To address these issues, staff proposes the language in section 4 on the opposite page. It will ensure that driveways are paved for the first 20 feet to keep debris out of the public street, and to within 150 feet of all portions of any structure served by the driveway. The latter language was recommended by the Canby Fire District. Also, we propose to allow paved "tire track" strips.

These changes will help homeowners with their projects. Also, storm water disposal practices have changed in the last 20 years and these changes will help the City achieve its goals here.

The language in section 3a related to engineered gravel is not new; it's simply renumbered for clarity. One change was made by the Planning Commission on 2/12; this is the addition of "storage and/or non-required" in the section specifying where gravel can be used. This is intended to prevent general parking lots and driveways from being graveled.

1. Parking lot design shall comply with the dimensional standards set forth in Figure 1 of this section.

2. Parking stalls of eight (8) feet in width and sixteen (16) feet in length for compact vehicles may comprise up to a maximum of thirty (30) percent of the total number of parking stalls. Such parking stalls shall be marked "Compact Parking only" either on the parking surface or on a sign in front of the parking stalls.

3. Areas used for standing or maneuvering of vehicles shall have paved asphalt, concrete, ~~solid concrete paver surfaces, or paved "tire track" strips~~ maintained adequately for all weather use and so drained as to avoid the flow of water across sidewalks or into public streets, with the following exception:

a. The Planning Commission may approve the use of an engineered aggregate system for outdoor ~~storage and/or non-required~~ parking areas as part of a Conditional Use Permit provided that the applicant can demonstrate that City Standards related to:

i. minimizing dust generation,

ii. minimizing transportation of aggregate to city streets, and

iii. minimizing infiltration of environmental contaminants including, but not limited to, motor oils, fuels, volatile organic compounds (e.g. benzene, toluene, ethylbenzene, xylene), and ethylene glycol are met. The Planning Commission may impose conditions as necessary to meet City Standards.

4. The full width of driveways to single family homes or their accessory structures must be paved:

a. For a minimum of 20 feet from the right-of-way line back into the private property to prevent debris from entering public streets, and

b. To within 150 feet of all portions of the exterior wall of the first story of any structure(s) served by the driveway to ensure fire and emergency service provision.

5. Except for parking to serve residential uses, parking areas adjacent to or within residential planning districts or adjacent to residential uses shall be designed to minimize disturbance of residents. Artificial lighting, which may be provided, shall be so deflected as not to shine or create glare in any residential planning district or on any adjacent dwelling, or any street right-of-way in such a manner as to impair the use of such way.

6. Groups of more than four (4) parking spaces shall be so located and served by driveways that their use will require no backing movements or other maneuvering within a street right-of-way other than an alley.

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EXPLANATION OF PROPOSED CODE CHANGES

16.10 p.8

Section 7 - The code in this section arose from several recent applications in which accesses to major roads were problematic. The proposed text gives staff and the Commission greater latitude to require engineering analysis of driveway accesses. The Planning Commission on 2/12 added language regarding truck turning movements.

Section 9 – This replaces outdated language regarding fully accessible parking spaces.

7. ~~Off-street parking areas, and the accesses to them, shall be designed and constructed to facilitate the flow of traffic, provide maximum safety of traffic access and egress and the maximum safety of pedestrian and vehicular traffic on the site and in adjacent roadways. The Planning Director or Planning Commission may require engineering analysis and/or truck turning diagrams to ensure safe and efficient traffic flow based on the number and type of vehicles using the site, the classification of the public roadway, and the design of the parking lot and access drives.~~

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8. Parking bumpers or wheel stops shall be provided to prevent cars from encroaching on the street right-of-way, adjacent landscaped areas, or adjacent pedestrian walkways.

9. ~~Accessible parking shall be provided, constructed, striped, signed and maintained as required by ORS 447.233 and all Oregon Structural Specialty Code requirements.~~ (Ord. 890 section 12, 1993)

Deleted: Handicap parking is required per ORS 455.101 and shall be at least nine (9) feet wide and shall have an adjacent aisle that is at least six (6) feet wide. The aisle shall be located on the passenger side of the parking space.

B. Access.

1. The provision and maintenance of vehicular and pedestrian ingress and egress from private property to the public streets as stipulated in this ordinance are continuing requirements for the use of any structure or parcel of real property in the City of Canby. No building permit or other permits shall be issued until scale plans are presented that show how the ingress and egress requirement is to be fulfilled. Should the owner or occupant of a lot or building change the use to which the lot or building is put, thereby increasing ingress and egress requirements, it shall be unlawful and a violation of this ordinance to begin or maintain such altered use until the required increase in ingress and egress is provided.

2. The City of Canby encourages joint/shared access. Owners of two (2) or more uses, structures, or parcels of land may agree to, or may be required by the City to, utilized jointly the same ingress and egress when the combined ingress and egress of both uses, structures, or parcels of land satisfies their combined requirements as designed in this ordinance, provided that satisfactory legal evidence is presented to the City Attorney in the form of deeds, easements, leases or contracts shall be placed on permanent files with the city recorder.

3. All ingress and egress shall connect directly with public streets.

4. Vehicular access for residential uses shall be brought to within fifty (50) feet of the ground floor entrances or the ground floor landing of a stairway, ramp or elevator leading to dwelling units.

5. Required sidewalks shall extend from the ground floor entrances or the ground floor landing of a stairs, ramps or elevators to the sidewalk or curb of the public street or streets that provide the required access and egress.

6. To afford safe pedestrian access and egress for properties within the city, a sidewalk shall be constructed along all street frontages, prior to use or occupancy of

EXPLANATION OF PROPOSED CODE CHANGES

16.10 p.10

The City's Code regarding access requirements for residential projects has always been confusing. The proposed changes should clarify what our access requirements are and make projects more functionally designed. The new language also requires a pedestrian connection to the residence rather than along the driveway.

Minimum Access Requirements

16.10.070(B)(8): Minimum access requirements for residential uses - ingress and egress for residential uses shall not be less than the following (except that in the case of flag lots, section 16.64.0400 shall apply):

Dwelling units	Minimum number of accesses required	Minimum access width	Sidewalks & Curbs (in addition to driveways)
1 or 2	1	12 feet	none required
3-19	1	20 feet	Minimum of one sidewalk connection to residences and parking areas; curb required if sidewalk adjacent to driveway.
20-49	Option A: 1 access OR Option B: 2 accesses	20 feet 12 feet	Minimum of one sidewalk connection to residences and parking areas; curb required if sidewalk adjacent to driveway.
50-499	Option A: 1 access OR Option B: 2 accesses	30 feet 20 feet	Curbs required; Minimum of one sidewalk connection to residences and parking areas.
Over 500	As required by Site and Design Review Board		As required by Public Works Director

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16.10.070(B)(9): Minimum access requirements for commercial or institutional uses - ingress and egress for commercial uses shall not be less than the following:

Parking spaces required	Minimum number of accesses required	Minimum access width	Sidewalks & curbs (in addition to driveways)
1-4	1	12 feet	None required
5-99	1	20 feet	Curbs required; sidewalk on one side minimum
100-249	2	20 feet	Curbs required; sidewalk on one side minimum
Over 250	As required by Site and Design Review Board	As required by Public Works Director	

16.10.070(B)(10): Minimum access requirements for industrial uses - ingress and egress for industrial uses shall not be less than the following:

Parking spaces required	Minimum number of accesses required	Minimum access width	Sidewalks & curbs (in addition to driveways)
1-250	1	24 feet	Curbs required; sidewalks on one side minimum
Over 250	As required by Public Works Director		

EXPLANATION OF PROPOSED CODE CHANGES

Section 16.12

This simply adds titles in this chart for code sections that were added several years ago.

Chapter 16.12

CLASSIFICATION OF ZONES

Sections:

16.12.010 Zones designated.

16.12.020 Uses permitted.

16.12.010 Zones designated.

In order to carry out the purposes and provisions of this title, the city is divided into zones designated as follows:

Base Zones	Abbreviation
Agricultural	AG
Low Density Residential	R-1
Medium Density Residential	R-1.5
High Density Residential	R-2
Downtown Commercial	C-1
Residential/Commercial	C-R
Convenience Commercial	C-C
Highway Commercial	C-2
Commercial/Manufacturing	C-M
Light Industrial	M-1
Heavy Industrial	M-2
Overlay Zones	
Planned Unit Development	PUD
Historical Protection	A
Hazard	H
Canby Industrial Area	I-O
Wetland	WO
Riparian	RO

(Ord .890 section 14, 1003; Ord. 740 section 10.3.15 [part], 1984; Ord. 1008 section 1, 1998)

16.12.020 Uses Permitted

In each zone, the uses permitted outright or permitted subject to the issuance of a conditional use permit are outlined in the following chapters. (Ord. 740 section 10.3.15 [part], 1984)

EXPLANATION OF PROPOSED CODE CHANGES

Chapter 16.16 p.1

This change attempts to clarify what the development standards are for accessory dwellings; the old language confused many folks.

R-1 LOW DENSITY RESIDENTIAL ZONE**Sections:**

- 16.16.010 Uses permitted outright.
 16.16.020 Conditional uses.
 16.16.030 Development standards.

16.16.010 Uses permitted outright.

Uses permitted outright in the R-1 zone shall be as follows:

- A. Single-family dwelling; one single-family dwelling per lot;
- B. Agriculture, including all accessory structures necessary to the conduct of agricultural activity but excluding commercial processing, sales, manufacturing, or packaging plants except when used primarily for items grown on the premises;
- C. Accessory uses and/or accessory structures;
- D. Accessory dwellings attached to a primary dwelling (sharing a common wall) are permitted only when approved through administrative review, in conformance with Chapter 16.48. The administrative approval shall be based on findings that all of the following standards are met:
1. Compliance with the Oregon Structural Specialty Code;
 2. ~~Attached accessory dwellings are considered to be part of the primary dwelling for the purpose of meeting the development standards in Section 16.16.030;~~
 3. The accessory dwelling does not exceed 800 square feet of floor area;
 4. Not more than one accessory dwelling unit per lot;
 5. One off-street parking space provided (i.e., in addition to any off-street parking required for other uses on the same lot);
 6. Exterior siding and roofing must be similar in color, material and appearance to that used on the primary dwelling. Different siding or roofing may be approved by the planning commission if it finds that the proposed design is more compatible with surrounding residences;

Deleted: Yard area, building height, lot coverage and other development standards are the same as for the primary dwelling

EXPLANATION OF PROPOSED CODE CHANGES

Chapter 16.16 p.2

This is the first sighting of a change proposed in several zones: allowing minor public facilities outright while requiring major public facilities to obtain a conditional use permit. Currently the residential zones allow public facilities such as fire stations and libraries outright; staff believes these should more properly be permitted conditionally. Due to the nesting of our permitted uses, this change would also apply to the other residential zones.

The City does not require garages or carports for new single family homes but we do for manufactured homes. Staff proposes eliminating this disparity by not requiring a garage for new manufactured homes (an alternative approach would be to require a garage on all new single family homes).

7. The property owner resides on the subject property and uses it as his/her primary residence. It is the property owner's on-going responsibility to provide evidence showing that this standard is met;

8. Utility connections and metering comply with applicable city standards and those of utility providers;

E. Day care facility in a residential home, with twelve (12) or fewer children;

F. Manufactured and mobile home subdivisions, where developed as planned unit developments, subject to the requirements of Divisions IV and V;

G. ~~Minor public facilities;~~

Deleted: Public building or land use such as fire station, city hall, park and playgrounds, library or museum

H. Manufactured home - with the following additional approval criteria:

1. Must be double-wide or wider and must enclose at least 1,000 square feet.
2. Must be located not more than twelve (12) inches above grade on an excavated and back-filled masonry foundation which is enclosed at the perimeter.
3. Must have a pitched roof with a minimum slope of at least a nominal three (3) feet in height for each twelve (12) feet in width.
4. Exterior siding and roofing must be similar in color, material and appearance to that used on surrounding dwellings within three hundred (300) feet of the lot.
5. The exterior thermal envelope must meet performance standards equivalent to those required for single family dwellings under the State Building Code.

~~6. Must not have bare metal siding or roofing.~~

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I. Home occupations which meet the strict definition of section 16.04.240. (Ord. 890 section 15, 1993; Ord. 859 section 1, 1991; Ord. 740 section 10.3.18(A), 1984; Ord. 1080, 2001)

16.16.020 Conditional uses.

Conditional uses in the R-1 zone shall be as follows:

- A. Cemetery;
- B. Church;
- C. Day care facility, other than a residence or caring for more than twelve (12) children;
- D. Hospital;

EXPLANATION OF PROPOSED CODE CHANGES

Chapter 16.16 p.3

As described above, staff proposes making “major public facilities” conditional uses in the residential zones. This would replace the more narrow existing language. Due to the nesting of our conditional uses, this change would also apply to the other residential zones.

E. Nursing home, convalescent home, home for the aged, board and care home, foster care home, etc.;

F. School;

G. ~~Major public facilities;~~

Deleted: Utility, pumping station or substation with facilities and structures that are associated with the use

H. Golf courses, public or private, with facilities and structures that are associated with the use;

I. Home occupations which otherwise meet the strict definition of section 16.04.240, but which involve the manufacture of products, nonresidential storage of goods, or any activity which is likely to increase traffic;

J. Accessory use or structure (not a dwelling) located on a lot or lots abutting the lot which houses the principal use of the property;

K. Manufactured and mobile home park or trailer park, subject to the criteria of Chapter 16.44;

L. One two-family dwelling where the lot contains a minimum of twelve thousand square feet. Through the conditional use process, the Planning Commission may require the two dwellings in a duplex to share a common driveway to minimize curb cuts and paving;

M. One duplex on a corner lot that contains a minimum of ten thousand square feet, provided that the building is designed such that vehicle access to the different units is taken from different streets;

N. Bed and Breakfast;

O. Accessory Dwelling that is not attached to the primary dwelling. The accessory dwelling shall be separated from the primary dwelling by a minimum of 10 feet and conform to the standards in Section 16.16.010(D)(2). The building height standards in Section 16.16.030(E) shall apply.

P. Zero-lot line development for uses otherwise allowed, provided that the minimum side yard setback shall be 7 feet when adjacent to housing with standard setbacks. Prior to building permit approval, the applicant shall submit a copy of a recorded easement for every zero-lot line housing that guarantees rights for the purpose of construction and maintenance of structures and yards. The easement shall stipulate that no fence or other obstruction shall be placed in a manner that would prevent maintenance of structures on the subject lot; and the building placement, landscaping, and/or design of windows shall provide a buffer for the occupants of abutting lots.

Q. Other developments customarily found within a residential zone, as determined by the Planning Commission.

EXPLANATION OF PROPOSED CODE CHANGES

Chapter 16.16 p. 4

R.- In response to numerous complaints about oversized accessory structures close to property lines, staff is proposing code that will require greater setbacks. The changes are explained fully on the next page.

A. - For consistency the numeric version of these figures has been added.

~~R. Detached accessory structure (not dwelling) up to twenty-two feet high which is located outside the allowed building footprint area for the principal structure and which does not meet the step-up height standard described in 16.16.030(EY2)(b).~~ (Ord. 890 section 16, 1993; Ord. 740 section 10.3.18(B), 1984; Ord. 1080, 2001; Ord. 1111 section 7, 2003)

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16.16.030 Development standards.

The following subsections indicate the required development standards of the R-I zone:

A. Minimum and maximum lot area: seven thousand ~~(7,000)~~ square feet minimum, and ten thousand ~~(10,000)~~ square feet maximum, per single-family dwelling. The maximum lot area standard does not apply to single family dwellings existing at the time of subdivision or partition plan approval; and the Planning Commission may approve smaller or larger lots in conformance with subsection B, below. Preexisting, legally created lots of record shall be considered to be legally buildable and separately saleable, provided they contain at least five thousand ~~(5,000)~~ square feet; and further provided, that any structures on such lots meet the required setbacks from the lot lines which will result when these lots of record are separated. Lot width requirements may be reduced to a minimum of fifty feet, and side yard setbacks reduced to a minimum of five feet for such lots.

B. Lot area exceptions:

1. The Planning Commission may approve an exception to the minimum and maximum lot area standards in subsection 16.16.030.A as part of a subdivision or partition application when all of the following standards are met:

a. The average area of all lots created through the subject land division, excluding required public park land dedications, surface water management facilities and similar public use areas, shall be no less than seven thousand square feet and no greater than ten thousand square feet. Non-required significant natural resource areas shall be included in the average lot size calculation to enable a transfer of density onto buildable portions of the site. Required areas include identified parks, wetland areas, riparian corridors, and other areas in which building is not permitted under local, state, or federal laws or regulations;

b. No lot shall be created that contains less than six thousand square feet;

c. The lot area standards for two-family dwellings, as provided in Sections 16.16.010 and 16.16.020, shall be met; and

d. As a condition of granting the exception, the city will require the owner to record a deed restriction with the final plat that prevents the re-division of over-sized lots (e.g., ten thousand square feet and larger), when such re-division would violate the average lot area provision in subsection 16.16.030.B.1.a. All lots approved for use by more than one dwelling shall be so designated on the final plat.

2. A public benefit must be demonstrated in order to allow more than ten percent of the lots to be outside of the minimum and maximum lot areas in subsection 16.16.030.A.

EXPLANATION OF PROPOSED CODE CHANGES

Chapter 16.16 p.5

D(2) – This section of code requires 20 foot back yard setbacks for two story structures and 15 foot setbacks for one-story structures. We're often asked how to apply this to structures that are a mix of one and two stories. For example, is a one-story family room addition in the rear of a house subject to the 15 or 20 foot setback limit?

In 2003 the Planning Commission made a decision to allow one such structure to use the 15 foot setback, and directed staff to bring a code change back at some time in the future to allow this in general. The proposed code section reflects this decision. The same code is proposed for the R1.5 and R2 zones.

D(4) – We have a lot of problems with folks building over utility easements and propose adding language to put people on notice about this.

D(5) – This addition is proposed for informational purposes.

The proposed changes in **16.16.020(R)** on the previous page and **D.3, E.2., and E.3** on this page would create new height limitations on accessory structures. The City has received many complaints over the years about big detached structures like shops and garages in residential areas. Currently the code allows structures up to 22 feet high to be built as close as 3 feet to a side or back property line.

Staff proposed to allow detached structures outside of the regular allowed footprint for a house only if they ten feet tall or less. The Planning Commission on 2/12 replaced this with the step-up height standard contained here. This would set a height of eight feet at three feet from the property line, and increase that height limit by one foot vertically for every one foot horizontally. Structures in violation of this standard would be allowed outside this area only with a conditional use permit, which provides notice to neighbors. Detached accessory structures over 22 feet would continue to be prohibited, as they are now.

The same code changes are proposed for the R1.5 and R2 zones.

3. The Planning Commission may modify the maximum lot area requirements in 16.16.030.A if these cannot be met due to existing lot dimensions, road patterns, or other site characteristics.

C. Minimum width and frontage: sixty feet, except that the Planning Commission may approve lots having less frontage subject to special conditions to assure adequate access.

D. Minimum yard requirements:

1. Street yard: twenty feet on side with driveway; fifteen feet for all other street sides; except that street yards may be reduced to ten feet for covered porches only;

2. Rear yard: all corner lots, ten feet single story or fifteen feet two-story; all other lots, fifteen feet single story or twenty feet two-story. One story building components must meet the single story setback requirements; two story building components must meet the two-story setback requirements;

3. Interior yard: Seven feet, except as otherwise provided for zero-lot line housing.

4. Interior ~~and rear yards may be reduced to three feet, or the width of any existing utility easement, whichever is greater,~~ for detached accessory structures erected sixty feet or more from any street other than an alley. The height limitations noted in subsection E.2 below apply to such structures. Detached accessory dwellings are not eligible for the three foot reduction. Utility easements may only be reduced with the approval of all utility providers.

4. Infill standards may also apply. See CMC 16.21.050.

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E. Maximum building height:

1. Principal building: thirty-five feet.

2. Detached accessory structure:

a. If located inside the allowed building footprint for the principal building, a detached accessory structure may be up to twenty-two feet tall, as measured to the highest point of the roof.

b. If located outside the allowed building footprint for the principal building, a detached accessory structure is subject to a step-up height standard, and is allowed outright only if it meets this standard. The structure shall not exceed eight feet tall, as measured to the highest point of the roof, at a distance of three feet from the property line. The structure may increase in height by one foot vertically for every one foot horizontally away from the three foot line, up to the maximum height of twenty-two feet.

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EXPLANATION OF PROPOSED CODE CHANGES

Chapter 16.16 p.6

Changes continued from previous page to accessory height standards.

~~c. A conditional use permit is required to locate the structure outside of the allowed building footprint for the principal building in violation of the step-up height standard.~~

~~d. Detached accessory structures over twenty-two feet tall are not permitted.~~

3. For detached accessory dwellings, the Planning Commission may approve building heights over twenty-two feet through the Conditional Use process, but in no case shall the accessory dwelling be higher than the principal building. The Planning Commission may only approve the use of buildings over twenty-two feet in the case of existing structures where no substantial changes to existing roof lines are proposed.

F. Maximum lot coverage:

1. Principal building: no limit;
2. Accessory building: no more than the area covered by the main building, unless lot area exceeds twelve thousand square feet in which case no limit is specified.

G. Other regulations:

1. Vision clearance distance shall be ten feet from a street to an alley or a street to a driveway, and thirty feet from a street to any other street.
2. All setbacks to be measured from the foundation line of the building; overhangs shall not exceed two feet; mechanical units, used for the heating/cooling of residential units are exempt from interior and/or rear yard setback requirements.
3. Required yards on southern and western exposures may be reduced by not more than five feet for eaves or canopies to provide shade. (Ord. 890 section 17, 1993; Ord. 740 section 10.3.18(C), 1984; Ord. 955 section 5, 1996; Ord. 981 section 45, 1997; Ord. 1080, 2001; Ord. 1111 section 7, 2003)

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EXPLANATION OF PROPOSED CODE CHANGES

Chapter 16.18 p. 1

The lot size allowances in the R1.5 (Medium density) zone are a little confusing in the current code. There's no clearly defined area limit for multi-family properties. Staff proposes to list the requirement for each type separately for clarity. The relocation of the text in subsection 5 on the next page is also part of this change.

Chapter 16.18

R-1.5 MEDIUM DENSITY RESIDENTIAL ZONE

Sections:

- 16.18.010 Uses permitted outright.
- 16.18.020 Conditional uses.
- 16.18.030 Development standards.

16.18.010 Uses permitted outright.

Uses permitted outright in the R-1.5 zone shall be as follows:

- A. Uses permitted outright in the R-1 zone;
- B. Two-family or three-family dwellings. One duplex or triplex on each lot. (Ord. 740 sect. 10.3.20 (A), 1984)

16.18.020 Conditional uses.

Conditional uses in the R-1.5 zone shall be as follows:

- A. Uses listed as conditional in the R-1 zone; except as modified by Section 16.18.010, above;
- B. Four-family dwellings;
- C. Single-family dwellings having common wall construction. (Ord. 740 sect. 10.3.20(B), 1984; Ord. 1080, 2001)

16.18.030 Development standards.

The following subsections indicate the required development standards of the R-1.5 zone:

- A. Minimum and maximum lot area:

~~1. For single family dwellings: five thousand (5,000) square feet minimum and six thousand five hundred (6,500) square feet maximum.~~

~~2. For two, three, or four-family dwellings: minimum of six units per acre. Density is calculated by dividing the number of dwelling units by the property area in acres (minus area required for street right-of-way and public park/open space areas). Decimals are rounded to the nearest whole number.~~

~~3. The Planning Commission may approve smaller or larger lots in accordance with subsection B, below.~~

- B. Lot area exceptions:

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EXPLANATION OF PROPOSED CODE CHANGES

Chapter 16.18 p.2

B.5 – see previous page.

D.2,3,4 – same changes as proposed for the R-1 zone.

1. The Planning Commission may approve an exception to the minimum and maximum lot area standards in subsection 16.18.030.A as part of a subdivision or partition application when all of the following standards are met:

a. The average area of all lots and open space tracts created through the subject land division, excluding required public park land dedications, surface water management facilities and similar public use areas, shall be no less than five thousand square feet and no greater than six thousand five hundred square feet. Non-required significant natural resource areas shall be included in the average lot size calculation to enable a transfer of density onto buildable portions of the site. Required areas include identified parks, wetland areas, riparian corridors, and other areas in which building is not permitted under local, state, or federal laws or regulations;

b. No lot shall be created that contains less than four thousand square feet; and

c. As a condition of granting the exception, the city will require the owner to record a deed restriction with the final plat that prevents the re-division of over-sized lots (six thousand five hundred square feet and larger), when such re-division would violate the average lot size provision in subsection 16.18.030.B.1.a. All lots approved for use by more than one dwelling shall be so designated on the final plat.

2. A public benefit must be demonstrated in order to allow more than ten percent of the lots to be outside of the minimum and maximum lot areas in subsection 16.18.030.B.1.a.

3. The Planning Commission may modify the maximum lot area requirements in subsection 16.18.030.B if these cannot be met due to existing lot dimensions, road patterns, or other site characteristics.

4. Lots of three thousand square feet each may be permitted by the Planning Commission for single family dwellings having common wall construction.

5. The maximum lot area standard does not apply to dwellings existing prior to subdivision or partition plan approval or to lots designated for open space.

C. Minimum width and frontage: forty feet, except that the Planning Commission may approve lots having less frontage subject to special conditions to assure adequate access. Twenty feet is permitted for single family attached (common wall) housing on interior lots.

D. Minimum yard requirements:

1. Street yard: twenty feet on side with driveway; fifteen feet for all other street sides; except that street yards may be reduced to ten feet for covered porches only.

2. Rear yard: all corner lots, ten feet single story or fifteen feet two-story; all other lots: fifteen feet single story or twenty feet two-story. **One story building components must**

EXPLANATION OF PROPOSED CODE CHANGES

Chapter 16.18 p.3

All – Same changes as proposed for the R-1 zone.

meet the single story setback requirements; two story building components must meet the two-story setback requirements;

3. Interior yard: seven feet, except as otherwise provided for zero-lot line housing.

4. Interior and rear yards may be reduced to three feet, or the width of any existing utility easement, whichever is greater, for detached accessory structures, except accessory dwellings, erected sixty feet or more from any street other than an alley. The height limitations noted in subsection E.2 below apply. Utility easements may only be reduced with the approval of all utility providers.

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5. Infill standards may also apply. See CMC 16.21.050.

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E. Maximum building height:

1. Principal building: thirty-five feet.

2. Detached accessory structure:

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a. If located inside the allowed building footprint for the principal building, a detached accessory structure may be up to twenty-two feet tall, as measured to the highest point of the roof.

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b. If located outside the allowed building footprint for the principal building, a detached accessory structure is subject to a step-up height standard, and is allowed outright only if it meets this standard. The structure shall not exceed eight feet tall, as measured to the highest point of the roof, at a distance of three feet from the property line. The structure may increase in height by one foot vertically for every one foot horizontally away from the three foot line, up to the maximum height of twenty-two feet.

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c. A conditional use permit is required to locate the structure outside of the allowed building footprint for the principal building in violation of the step-up height standard.

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d. Detached accessory structures over twenty-two feet tall are not permitted.

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3. For detached accessory dwellings, the Planning Commission may approve building heights over twenty-two feet through the Conditional Use process, but in no case shall the accessory dwelling be higher than the principal building. The Planning Commission may only approve the use of buildings over twenty-two feet in the case of existing structures where no substantial changes to existing roof lines are proposed.

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F. Maximum lot coverage: sixty percent.

G. Other regulations:

EXPLANATION OF PROPOSED CODE CHANGES

Chapter 16.20 (R-2 zone) p.2

C.2, C.4 – Same changes as proposed for the R-1 and R-1.5 zones.

the subject lot; and the building placement, landscaping, and/or design of windows shall provide a buffer for the occupants of abutting lots. (Ord. 890 section 22(A)(B), 1993; Ord. 740 section 10.3.21 (B), 1984; Ord. 1080, 2001)

16.20.030 Development standards.

The following subsections indicate the required development standards of the R-2 zone:

A. Minimum residential density: New development shall achieve a minimum density of 14 units per acre. Density is calculated by dividing the number of dwelling units by the property area in acres (minus area required for street right-of-way and public park/open space areas). Decimals are rounded to the nearest whole number. The Planning Commission may modify the density standard if it cannot be met due to existing lot dimensions, road patterns, or other site characteristics.

B. Minimum width and frontage: Twenty feet except that the Planning Commission may require additional width to ensure that all applicable access standards are met.

C. Minimum yard requirements:

1. Street yard: twenty feet on side with driveway; fifteen feet for all other street sides; except that street yards may be reduced to ten feet for covered porches only. Street yards for multifamily development (3 or more units located on the same property) located adjacent and on the same side of the street to an R-1 (Low Density Residential) or R-1.5 (Medium Density Residential) zone shall establish a front yard setback that is within 5 feet of the front yard setback of the adjacent home in the R-1 or R-1.5 zone but shall not be less than 10 feet from the property line. This standard does not apply if the closest adjacent home has a front yard setback greater than 30 feet.

2. Rear yard: all corner lots, ten feet single story or fifteen feet two-story; all other lots: fifteen feet single story or twenty feet two-story. One story building components must meet the single story setback requirements; two story building components must meet the two story setback requirements;

3. Interior yard: seven feet, except as otherwise provided for zero-lot line housing.

~~4. Interior and rear yards may be reduced to three feet, or the width of any existing utility easement, whichever is greater, for detached accessory structures erected sixty feet or more from any street other than an alley. The height limitations noted in subsection D.2 below apply to such structures. Utility easements may only be reduced with the approval of all utility providers.~~

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~~5. Multifamily development (3 or more units on the same property) that is adjacent to an R-1 (Low Density Residential) or R-1.5 (Medium Density Residential) zone must provide a minimum 15-foot buffer area between the multifamily development and the R-1 or R-1.5 zoned property. Within this buffer the following applies (see figure 16.20-1):~~

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a. Site obscuring landscaping shall be required. The Planning Commission may require retention of existing vegetation; installation of a 6-foot minimum height site-

EXPLANATION OF PROPOSED CODE CHANGES

Chapter 16.20 p.3

C.6, D.2 - Same changes as proposed for R-1 and R-1.5 zones.

D.3 - Typo correction.

obscuring fence with shade trees planted a maximum of 30 feet on center; and/or other landscaping to provide visual buffering.

b. No active recreation areas (tot lots, swimming pools, etc.) shall be allowed within the 15-foot buffer (garden spaces shall not be considered active recreation areas);

6. Infill standards may also apply. See CMC 16.20.030(D)(3) and CMC 16.21.050.

D. Maximum building height and length:

1. Principal building: thirty-five feet.

2. Detached accessory structure:

~~a. If located inside the allowed building footprint for the principal building, a detached accessory structure may be up to twenty-two feet tall, as measured to the highest point of the roof.~~

~~b. If located outside the allowed building footprint for the principal building, a detached accessory structure is subject to a step-up height standard, and is allowed outright only if it meets this standard. The structure shall not exceed eight feet tall, as measured to the highest point of the roof, at a distance of three feet from the property line. The structure may increase in height by one foot vertically for every one foot horizontally away from the three foot line, up to the maximum height of twenty-two feet.~~

~~c. A conditional use permit is required to locate the structure outside of the allowed building footprint for the principal building in violation of the step-up height standard.~~

~~d. Detached accessory structures over twenty-two feet tall are not permitted.~~

3. Maximum building height for multifamily developments abutting an R-1 (Low Density Residential) or R-1.5 (Medium Density Residential) ~~zone~~ shall not exceed a building height greater than one foot for each foot of distance from the R-1 and/or R-1.5 property line.

4. Maximum building length shall be 120 feet.

E. Maximum lot coverage: forty percent of the lot for multiple-family developments; sixty percent of the lot for duplex and triplex developments; seventy percent of the lot for single-family residences.

F. Other regulations:

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EXPLANATION OF PROPOSED CODE CHANGES

Chapter 16.21 (Residential Design Standards) p. 2

A – Typo corrections noted by the Planning Commission on 2/12.

B – We recently discovered a hole in this section. The garage design standards don't apply to additions that only add a garage! The language proposed should ensure that new garages have to comply with the design standards that all new houses and additions must meet.

16.21.030 Single family and two-family dwelling design menu.

A. Purpose: These standards are intended to ensure design of housing that will reinforce and enhance Canby's overall livability, and provide options to promote design variety and ease of administration of the standards.

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B. All new single family dwellings, manufactured homes, and two-family dwellings (duplexes) shall comply with the design features in this section along street facing facades. Additions and alterations that add less than 50% to the existing floor area of the house (not including garage floor area) are exempt from this subsection, **unless a new garage is being added**. Additions or alterations that are not visible from the street side of the home are exempt. There are two options for complying with these standards. Option 1 is to meet the Garage standards in 16.21.030(C) and four of the design standards in 16.21.030 (D). For homes that do not comply with the Garage standards in 16.21.030(C), Option 2 is to meet six of the design standards in 16.21.030 (D). Homes on corner lots and through lots shall comply with either option 1 or 2 above for the front of the lot (as defined by 16.04.320). The non-front side of the lot shall comply with 3 of the design menu standards in 16.21.030 (D).

C. Garage Standards: These standards are intended to: provide a visual connection between the living area of the residence and the street; prevent garages from obscuring or dominating the main entrance of the house; and, provide for a pleasant pedestrian environment in residential areas. The standards are:

1. The garage may be up to 50% of the length of the street-facing facade (see figure 16.21-1), or,
2. The garage may be up to 60% of the length of the facade, if the garage is recessed a minimum of 2 feet from the longest street facing facade, and,
3. On corner lots, only one street-facing wall must meet the standards in (1) or (2) above (see figure 16.21-2), and,
4. A garage wall that faces the street may be no closer to the street than the longest street-facing wall of the house, except as provided in subsections (5) and (6) below.
5. A garage may extend up to 6 feet in front of the longest front facade if:
 - a. There is a covered front porch and the garage does not extend beyond the front line of the porch (see figure 16.21-3); or,
 - b. The garage is part of a two level facade that has a window (minimum 6 square feet, with 4" trim or shutters) on the second level that faces the street (see figure 16.21-4).
6. Garages may be side-oriented to the front lot line if windows occupy a minimum of 15% of the street-facing wall of the garage (see figure 16.21-5).

D. Design Menu Standards

EXPLANATION OF PROPOSED CODE CHANGES

Chapter 16.22 (Downtown Commercial zone) p. 4

MM. – This change would allow minor public facilities outright in the downtown zone (and, through the nesting in our code, in several other commercial zones). Certain public uses, such as city hall, libraries, and parks, will still be allowed outright under Section LL.

A. – Added text needed to implement the proposal above in MM.

D. – Staff is proposing a reduction in allowed height for freestanding signs. Currently a 45-foot freestanding sign could be built in all of our commercial and industrial zones because there is no separate height standard for signs. Staff is proposing a separate 30-foot height limit on freestanding signs (for reference, this is the height of the highway signs at the Fred Meyer center).

Staff proposes adding the 30' height limitation to this section as well as to the following sections:

- 16.24.030(D) – Commercial/Residential zone
- 16.26.030(D) – Convenience/Commercial zone
- 16.28.030(D) – Highway Commercial zone
- 16.30.030(D) – Heavy Commercial/Manufacturing zone
- 16.32.030(D) – Light Industrial zone
- 16.34.030(D) – Heavy Industrial zone

The language was rephrased by the Planning Commission on 2/12.

MM. Minor public facility. (Ord. 890 section 24, 1993; Ord. 805 section 2, 1987; Ord. 802 section 6, 1987; Ord. 740 section 10.3.24(A), 1984; Ord. 955 section 8, 1996; Ord. 981 section 21, 1997; Ord. 1076, 2001)

16.22.020 Conditional uses.

Conditional uses in the C-1 zone shall be as follows:

A. A use listed as conditional in the R-1 zone, ~~except as modified in Section 16.22.010, above;~~

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B. Parking lot or parking structures;

C. Attached WTS facilities (see 16.08.120). (Ord. 890 section 25, 1993; Ord. 740 section 10.3.24(B), 1984; Ord. 981 section 22, 1997; Ord. 1076, 2001)

16.22.030 Development standards.

The following subsections indicate the required development standards of the C-1 zone:

A. Minimum lot area: none;

B. Minimum width and frontage: none;

C. Minimum yard requirements:

1. Street yard: none, except ten feet where adjoining a residential zone.
2. Interior yard: none.

D. Maximum building height:

- ~~1. Freestanding signs: thirty feet;~~
- ~~2. All other structures: forty-five feet;~~

E. Maximum lot coverage: no limit;

F. Other regulations:

1. Vision clearance distances shall be ten feet from an alley and fifteen feet from any other street.
2. Sidewalks a minimum of eleven (11) feet in width shall be required in commercial locations unless existing building locations or street width necessitate a more narrow design.
3. All setbacks to be measured from the foundation line of the building. Overhangs shall not exceed two feet (not including awnings); mechanical units, used for the heating/cooling of residential units, are exempt from interior and/or rear yard setback requirements.

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EXPLANATION OF PROPOSED CODE CHANGES

Chapter 16.24 p. 2

S. – Addition of minor public facility to list of outright uses as described above.

B. – Text clarification only.

D. – Sign height change as described above.

O. Business or professional offices;

P. Rooming or boarding houses;

Q. Shoe repair;

R. Dwelling units attached to any use allowed in the C-R zone. (Ord. 890 section 26, 1993; Ord. 740 section 10.3.25(A), 1984)

16.24.020 Conditional uses.

Conditional uses in the C-R zone shall be as follows:

A. Uses listed as conditional in R-1 or R-1.5 zones, and not listed as permitted in section 16.24.010; residential development shall conform to the development standards of the R-2 zone.

B. Uses listed as permitted outright in R-2 zones, and not listed as permitted in section 16.24.010. ~~Such uses shall conform to the development standards of the R-2 zone.~~

C. Motels or hotels.

D. Attached WTS facilities (see 16.08.120).

E. Food services, excluding auto-oriented uses. (Ord. 890 section 27, 1993; Ord. 740 section 10.3.25(B), 1984; Ord. 981 section 23, 1997; Ord. 1080, 2001)

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16.24.030 Development standards.

The following subsections indicate the required development standards of the C-R zone:

A. Minimum lot area: seven thousand square feet, except for residential development. The minimum lot area for residential development shall be according to 16.18.030(A) for residential uses permitted outright, and shall be according to 16.20.030(A) for residential uses permitted conditionally;

B. Minimum width and frontage: sixty feet except that the Planning Commission may approve lots having less frontage, subject to special conditions to assure adequate access;

C. Minimum yard requirements:

1. Street yard: twenty feet;

2. Interior yard: none, except ten feet where adjoining a residential zone. May be reduced to three feet for detached accessory structure not exceeding one story and erected sixty feet or more from all streets other than an alley;

D. Maximum building height:

~~1. Freestanding signs: thirty feet;~~

~~2. All other structures: forty-five feet.~~

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EXPLANATION OF PROPOSED CODE CHANGES

Chapter 16.26 p.1

The changes on this page implement the public facility clarifications described above.

Sections:

- 16.26.010 Uses permitted outright.**
- 16.26.020 Conditional uses.**
- 16.26.030 Development standards.**

16.26.010 Uses permitted outright.

Uses permitted outright in the C-C zone shall be as follows:

A. Convenience commercial enterprises having no more than four thousand square feet of floor area including:

1. Retail stores;
2. Barber or beauty shop;
3. Service station not operating after ten p.m. or before six a.m.;
4. Similar appropriate commercial uses as determined by the Planning Commission.

B. Minor public facilities. (Ord 740 section 10.3.26(A), 1984)

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16.26.020 Conditional uses.

Conditional uses in the C-C zone shall be as follows:

- A. Other commercial uses;**
- B. Dwelling units;**
- C. Attached WTS facilities (see 16.08.120).**

D. Major public facilities. (Ord. 740 section 10.3.26(B), 1984; Ord. 981 section 24, 1997)

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16.26.030 Development standards.

The following subsections indicate the required development standards of the C-C zone:

- A. Minimum lot area: none;**
- B. Minimum width and frontage: none;**
- C. Minimum yard requirements:**
 1. Street yard: twenty feet.
 2. Interior yard: none, except ten feet where adjoining a residential zone;

EXPLANATION OF PROPOSED CODE CHANGES

Chapter 16.26 p.2

D. – Change to sign heights as described above.

D. Maximum building height:

1. Freestanding signs: thirty feet;

2. All other structures: forty-five feet.

E. Maximum lot coverage: sixty percent;

F. Other regulations:

1. Vision clearance distances shall be fifteen feet from any alley and thirty feet from any other street or railroad.

2. Except in cases where existing building locations or street width necessitate a more narrow design, sidewalks eight feet in width shall be required:

a. In those locations where angle parking is permitted abutting the curb, and

b. For property frontage along Highway 99-E.

3. All setbacks to be measured from the foundation line of the building. Overhangs shall not exceed two feet. (Ord. 830 section 5, 1989; Ord. 802 section 7 [part], 1987, Ord. 740 section 10.3.26 (C), (1984))

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EXPLANATION OF PROPOSED CODE CHANGES

Chapter 16.28 p.1

Current case law states that rules forbidding off-premise signs are unconstitutional limits on freedom of speech because such rules prohibit signs based on content, not size or location. Canby needs to follow the example of many cities by removing this section of code and related language in Chapter 16.42.

The Planning Commission removed several outdated uses from this list on 2/12.

CITY OF CANBY
C-2 HIGHWAY COMMERCIAL ZONE

Sections:

- 16.28.010 Uses permitted outright.
- 16.28.020 Conditional uses.
- 16.28.030 Development standards.

16.28.010 Uses permitted outright.

Uses permitted outright in the C-2 zone are as follows:

- A. A use permitted outright in a C-1 zone;
- B. Miniature golf courses;
- C. Automobile, motorcycle, boat or truck sales, service, repair, rental, storage or parking;
- ~~D.~~ Theaters;
- ~~E.~~ Restaurant, including drive-in;
- ~~F.~~ Kennel;
- ~~G.~~ Lumber yard;
- ~~H.~~ Machinery, farm equipment or implement sales, service or rental;
- ~~I.~~ Hotel or motel;
- ~~J.~~ Service station;
- ~~K.~~ Tire shop, including incidental tire recapping;
- ~~L.~~ Veterinarian's office or animal hospital;
- ~~M.~~ Fuel oil distribution, retail, provided all fuel oil storage is underground;
- ~~N.~~ Nursery and greenhouse;
- ~~O.~~ Feed and seed store;
- ~~P.~~ Department store;

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- ~~Deleted: Billboard having a surface not greater than fifty square feet per side;~~
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EXPLANATION OF PROPOSED CODE CHANGES

Chapter 16.28 (Highway Commercial zone) p. 2

Sign height change as described above.

Q. Similar commercial uses as determined by the Planning Commission.

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R. Attached WTS facilities (see 16.08.120).

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S. Detached WTS facilities (monopole), less than 100 feet in height (see 16.08.120). (Ord. 890 section 28, 1993; Ord. 830 section 6, 1989; Ord. 740 section 10.3.28(A), 1984; Ord. 981 section 25, 1997)

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16.28.020 Conditional uses.

Conditional uses in the C-2 zone shall be as follows:

- A. A use permitted outright in an M-1 zone;
- B. A use listed as conditional in a C-1 zone and not listed in section 16.28.010.
- C. Detached WTS facilities (monopole), equal to or over 100 feet in height (see 16.08.120). (Ord. 890 section 29, 1993; Ord. 740 section 10.3.28(B), 1984; Ord. 981 section 26, 1997)

16.28.030 Development standards.

The following subsections indicate the required development standards of the C-2 zone:

- A. Minimum lot area: none;
- B. Minimum width and frontage: none;
- C. Minimum yard requirements:
 - 1. Street yard: twenty feet where abutting Highway 99-E and S. Ivy Street. Gas station canopies shall be exempted from the twenty foot setback requirements. Remaining property none, except ten feet where abutting a residential zone. Sign setbacks along Highway 99-E and S. Ivy Street are to be measured from the face of the curb rather than the lot line. Where no curb exists, the setback shall be measured from the property line. Other than signs which are nonconforming structures and street banners which have been approved per the requirements of the Uniform Sign Code, no signs will be allowed to be located within or to project over a street right-of-way;
 - 2. Interior yard: none, except ten feet where abutting a residential zone;
- D. Maximum building height:
 - 1. Freestanding signs: thirty feet;**
 - 2. All other structures: forty-five feet.**
- E. Maximum lot coverage: sixty percent;
- F. Other regulations:

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EXPLANATION OF PROPOSED CODE CHANGES

Chapter 16.30 p.1

Canby's code is heavily "nested" – referencing other zones rather than containing an exhaustive list of permitted and conditional uses in each zone. The C-M zone has always been an exception for some reason. Staff proposes to structure this zone similar to all the others by removing all of the duplicated uses. No "substantive" changes are proposed.

(Incidentally, staff is planning at some point to replace Canby's list of uses in each zone with a table listing uses in rows and the zones in columns – this will make it much easier for citizens and staff to make use determinations and will eliminate the unintentional nesting problems that arise from time to time.)

C-M HEAVY COMMERCIAL MANUFACTURING ZONE

Sections:

- 16.30.010 Uses permitted outright.
- 16.30.020 Conditional uses.
- 16.30.030 Development standards.

16.30.010 Uses permitted outright.

Uses permitted outright in the C-M zone shall be as follows:

- A. A use permitted outright in a C-2 zone, other than dwelling units;
- ~~B.~~ Contractor's equipment yard;
- ~~C.~~ Dwelling for watchman or caretaker working on premises;
- ~~D.~~ Fuel distribution, wholesale;
- ~~E.~~ Laundry or Laundromat, with or without dry cleaning operation;
- ~~F.~~ Motor or rail freight terminal;
- ~~G.~~ Railroad trackage and related facilities;
- ~~H.~~ Stone cutting and sales;
- ~~I.~~ Tire retreading, recapping and sales;
- ~~J.~~ Transfer or storage;
- ~~K.~~ Utility storage or service yard;
- ~~L.~~ Similar heavy commercial, storage, or light manufacturing uses as determined by the Planning Commission.
- ~~M.~~ Attached WTS facilities (see 16.08.120).
- ~~N.~~ Detached WTS facilities (monopole), less than 100 feet in height (see 16.08.120). (Ord. 890 section 30, 1993; Ord. 740 section 10.3.29(A), 1984; Ord. 981 section 27, 1997)

Deleted: B. Automobile body shop or heavy repair shop;¶ ¶ C
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Deleted: L. Restaurant;¶ ¶
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Deleted: N. Service station;¶ ¶
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Deleted: R. Veterinarian's office or animal hospital;¶ ¶ S. Business or professional office;¶ ¶ T. Public buildings or uses;¶ ¶
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16.30.020 Conditional uses.

Conditional uses in the C-M zone shall be as follows:

EXPLANATION OF PROPOSED CODE CHANGES

Chapter 16.30 p.2

B. - This continues the work to “nest” the uses in this zone.

D. - Sign height change as described above.

A. A use permitted outright in an M-1 zone and not listed in section 16.30.010 or below;

~~B. A use permitted conditionally in a C-1 or C-2 zone, other than dwelling units, and not listed in section 16.30.010 or below;~~

C. Other light industrial uses as determined by the Planning Commission;

D. Detached WTS facilities (monopole), equal to or over 100 feet in height (see 16.08.120); (Ord. 740 section 10.3.29(B), 1984; Ord. 981 section 28 & 29, 1997)

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16.30.030 Development standards.

The following subsections indicate the required development standards of the C-M zone:

A. Minimum lot area: none.

B. Minimum width and frontage: none.

C. Minimum yard requirements:

1. Street yard: twenty feet where abutting Highway 99-E and S. Ivy Street. Gas station canopies shall be exempted from the twenty foot setback requirements. Remaining property none, except ten feet where abutting a residential zone. Sign setbacks along Highway 99-E and S. Ivy Street are to be measured from the face of the curb rather than the lot line. Where no curb exists, the setback shall be measured from the property line. Other than signs which are nonconforming structures and street banners which have been approved per the requirements of the Uniform Sign Code, no signs will be allowed to be located within, or to project over, a street right-of-way.

2. Interior yard: none, except ten feet where abutting a residential zone.

D. Maximum building height:

~~1. Freestanding signs: thirty feet;~~

~~2. All other structures: forty-five feet.~~

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E. Maximum lot coverage: sixty percent.

F. Other regulations:

1. Vision clearance distances shall be fifteen feet from any alley or driveway and thirty feet from any other street or railroad.

2. Except in cases where existing building locations or street width necessitate a more narrow design, sidewalks eight feet in width shall be required:

a. In those locations where angle parking is permitted abutting the curb, and

b. For property frontage along Highway 99-E.

EXPLANATION OF PROPOSED CODE CHANGES

Chapter 16.32 p.2

W. - This change brings this section into conformance with every other chapter of Canby's code; no other chapter requires an "official interpretation hearing" for this use determination.

DD. - Continuing the addition of minor public facilities into each zone.

- M. Restaurant, when related and incidental to primary industrial uses of the area;
- N. Service station, when related and incidental to primary industrial uses of the area;
- O. Stone, marble, or granite cutting;
- P. Tire retreading or recapping;
- Q. Transfer and storage company;
- R. Utility storage or service yard;
- S. Veterinarian's office or animal hospital;
- T. Warehouse;
- U. Wholesale distribution, including warehousing and storage;
- V. Wireless or cellular communications facility/tower;
- W. Other light industrial uses as ~~determined~~ by the Planning Commission;
- X. Business or professional office, when related and incidental to primary industrial uses of the area;
- Y. Public building or uses such as fire station, or park or playground.
- Z. Attached WTS facilities (see 16.08.120).
- AA. Detached WTS facilities (monopole or lattice tower), under 150 feet in height and at least 660 feet from the nearest land zoned or planned for residential use or Highway 99E (see 16.08.120).
- BB. Detached WTS facilities (monopole), under 100 feet in height and less than 660 feet from the nearest land zoned or planned for residential use or Highway 99E (see 16.08.120).
- CC. Detached WTS facilities (monopole), equal to or over 150 feet in height and at least 660 feet from the nearest land zoned or planned for residential use or Highway 99E (see 16.08.120).
- ~~DD. Minor public facility.~~ (Ord. 890 section 31, 1993; Ord. 749 section 1(A), 1984, Ord. 740 section 10.3.31(A), 1984; Ord. 955 section 10 & 11, 1996; Ord. 981 section 30 & 31, 1997; Ord. 1019 section 10, 1999)

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16.32.020 Conditional uses.

EXPLANATION OF PROPOSED CODE CHANGES

Chapter 16.32 p. 3

G. – This section allows all other public facilities as a conditional use in this zone, except as already allowed outright in the existing Canby code.

D. – Sign height change as described above.

16.32.020 Conditional uses.

Conditional uses in the M-1 zone shall be as follows:

- A. Commercial recreation uses;
- B. Motels, hotels and similar accommodations;
- C. Other heavy commercial or light industrial uses as determined by the Planning Commission;
- D. Waste and/or recycling transfer operations.
- E. Detached WTS facilities (monopole), equal to or over 100 feet in height and less than 660 feet from the nearest land zoned or planned for residential use or Highway 99E (see 16.08.120).
- F. Detached WTS facilities (lattice tower), equal to or over 150 feet in height and at least 660 feet from the nearest land zoned or planned for residential use or Highway 99E (see 16.08.120).

G. Major public facility, except as modified by Section 16.32.010. (Ord. 960, section 2, 12/18/96; Ord. 890, section 32, 1993; Ord. 740 section 10.3.31(B), 1984; Ord. 981 section 32, 1997)

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16.32.030 Development standards.

The following subsections indicate the required development standards of the M-1 zone:

- A. Minimum lot area: five thousand square feet;
- B. Minimum width and frontage: fifty feet;
- C. Minimum yard requirements:
 - 1. Street yard: twenty feet where abutting Highway 99-E and S. Ivy Street. Gas station canopies shall be exempted from the twenty foot setback requirements. Remaining property none, except ten feet where abutting a residential zone. Sign setbacks along Highway 99-E and S. Ivy Street are to be measured from the face of the curb rather than the lot line. Where no curb exists, the setback shall be measured from the property line. Other than signs which are nonconforming structures and street banners which have been approved per the requirements of the Uniform Sign Code, no signs will be allowed to be located within or to project over a street right-of-way.
 - 2. Interior yard: none, except ten feet where abutting a residential zone;
- D. Maximum building height:
 - 1. Freestanding signs: thirty feet;**
 - 2. All other structures: forty-five feet.**

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EXPLANATION OF PROPOSED CODE CHANGES

Chapter 16.34 p.1

D. – Sign height change as described above.

HEAVY INDUSTRIAL ZONE

Sections:

- 16.34.010 Uses permitted outright.
- 16.34.020 Conditional uses.
- 16.34.030 Development standards.

16.34.010 Uses permitted outright.

Uses permitted outright in the M-2 zone shall be as follows:

- A. A use permitted outright in an M-1 zone. (Ord. 740 section 10.3.33(A), 1984)

16.34.020 Conditional uses.

Conditional uses in the M-2 zone shall be as follows:

- A. Aggregate removal operations;
- B. All other uses when evaluated on the standards and criteria specified in Chapter 16.50 and the point system set out in Table 16.34.020 for evaluating heavy industrial development proposals.
- C. Detached WTS facilities (monopole), equal to or over 100 feet in height and less than 660 feet from the nearest land zoned or planned for residential use or Highway 99E (see 16.08.120).
- D. Detached WTS facilities (lattice tower), equal to or over 150 feet in height and at least 660 feet from the nearest land zoned or planned for residential use or Highway 99E (see 16.08.120). (Ord. 740 section 10.3.33(B), 1984; Ord. 981 section 33, 1997)

16.34.030 Development standards.

The following subsections indicate the required development standards of the M-2 zone:

- A. Minimum lot area: five thousand square feet;
- B. Minimum width and frontage: fifty feet.
- C. Minimum yard requirements:
 - 1. Street yard: none, except twenty feet where abutting a residential zone;
 - 2. Interior yard: none, except twenty feet where abutting a residential zone.
- D. Maximum building height:
 - 1. Freestanding signs: thirty feet:

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EXPLANATION OF PROPOSED CODE CHANGES

Chapter 16.34 p.2

D. – Sign height change continued.

2. All other structures: forty-five feet.

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E. Maximum lot coverage: no limit.

F. Other regulations:

1. Vision clearance distances shall be fifteen feet from any alley or driveway and thirty feet from any other street or railroad;
2. Outside storage abutting or facing a lot in a residential zone shall be enclosed by a site-blocking fence or berm. The fence or berm shall be so designed as to screen the storage from view from the residential zone and shall be of such material and design as will not detract from adjacent residences. (Ord. 890 section 34, 1993; Ord. 740 section 10.3.33(C), 1984)

Table 16.34.020

Explanation: Each of the following characteristics will be evaluated by the Planning Commission and assigned a certain number of points (positive and negative). A net point total of "0" will be considered to be the prerequisite for approval of an industrial conditional use. In entering its findings of fact for its decision, the commission shall indicate its findings regarding the following:

CRITERIA	POINTS
Traffic impacts, particularly heavy truck traffic and its impact on non-industrial areas and streets	-10 - 0
Noise impacts, especially loud and high-pitched noise and noise expected to occur at night	-10 - 0
Air pollution, including odors as well as measurable pollutants	-10 - 0
Water pollution, including impacts on groundwater and surface water as well as any unusual or hazardous discharges to the city sewage treatment facility	-10 - 0
Water consumption, especially where city water is utilized rather than a private source	-10 - 0
Electrical consumption	-10 - 0
Other adverse impacts, which may include factors not listed above or may be used to add more negative point to any of the items already listed, where extreme adverse impacts are expected	-40 - 0
Tax benefits to the community, particularly for property taxes beyond the costs of providing public services	0 - +20
Total number of persons to be employed	0 - +10
Number of local persons who can expect to be employed, based upon percentages of skilled, semi-skilled and unskilled positions	0 - +10
Reliance on industry on locally produced resources and locally processed materials	0 - +10
Export characteristics and residual benefits to other local industries	0 - +10
Other community benefits, including particularly advantageous design characteristics, etc. May also be used to add more positive points to each of the factors listed above where extremely beneficial impacts are expected	0 - +40

EXPLANATION OF PROPOSED CODE CHANGES

Chapter 16.35 (Industrial Area Overlay Zone) p. 2

B. – Update to reflect current code title.

C. Replaces selected development standards contained in the C-M, M-1, and M-2 zones, for continuity and quality of site design within the Master Plan area.

D. Utilizes the City's processes for development review, including land divisions, conditional uses, and design reviews. Provides a design review matrix (i.e., replacing the table in Chapter 16.49) which is tailored to the Master Plan area.

E. Provides additional conditional use standards to ensure development compatibility.

F. Lists uses that are prohibited outright due to incompatibility with the goals for the area. (Ord. 1008 section 1 [part], 1998; Ord. 1057 section 2 [part], 2000)

16.35.25 Pre-application review and conditions of approval

A. A pre-application meeting with utility and service providers is required prior to any land use application, building permit application, or business license application in the I-O zone, unless this requirement is waived by the City Planner. The City Planner shall provide application forms for this purpose indicating all required information. The pre-application meeting shall allow utility and service providers to make a detailed assessment of the proposed use prior to forming a recommendation on approval. In addition, this meeting will allow the City to evaluate whether a Conditional Use Permit will be required.

B. At the pre-application meeting, the City shall determine the need for a Hazardous Materials Management Plan. If required by the City, the applicant shall prepare a plan meeting the relevant sections of the Oregon Fire Code as determined by the City. The Plan shall allow utility and service providers to review the health and safety impacts of any proposed use and ensure an adequate plan will be in place to address those impacts prior to forming a recommendation on approval.

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C. The Planning Commission or City Council may impose conditions to protect public health and safety on any discretionary land use application. (Ord. 1057 section 2 [part], 2000)

16.35.030 Uses permitted outright.

Unless limited by sections 16.35.040 or 16.35.045, uses permitted outright in the C-M zone, M-1 zone, and M-2 zone are permitted outright in the I-O zone, subject to the respective zone district boundaries. (Ord. 1008 section 1 [part], 1998; Ord. 1057 section 2 [part], 2000)

16.35.040 Conditional uses.

Unless limited by subsection A below or section 16.35.045, conditional uses permitted in the C-M zone, M-1 zone, and M-2 zone are permitted as conditional uses in the I-O zone, subject to the respective zone district boundaries.

A. Any proposed site development, change in use, land division, or other action that results in any of the following requires conditional use approval in the I-O zone:

1. Less than 12 employees per developed acre. For the purposes of this section only, "developed" means all areas used for buildings, landscaping, vehicle maneuvering and parking areas, outdoor storage, and other areas occupied by the use. For the purposes of

EXPLANATION OF PROPOSED CODE CHANGES

Chapter 16.35 p.3

4. – Another change to reflect current code titles.

this section only, employees means full-time equivalents unless the City specifically allows other interpretations;

2. More than 60 acres total in I-O zoning that is occupied by a single use or business. For the purposes of this section, businesses classified in the same NAICS industry group (four-digit code) are considered to be in the same use. This section is intended to apply cumulatively to all properties in the zone;

3. Utilization of any public service or utility to such an extent that the utility would not be able to supply all other uses projected in its current long-range plans;

4. Uses requiring an H₁ occupancy ~~classification~~ under the ~~Oregon Structural Specialty Code~~;

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5. In any C-M zoning overlain by I-O zoning, any retail or commercial use with a building footprint exceeding 50,000 square feet;

6. In any M-1 or M-2 zoning overlain by I-O zoning, any retail or commercial use not related to or supportive of the primary industrial use of the park; or

7. In any M-1 or M-2 zoning overlain by I-O zoning, retail areas occupying more than 15% of the building footprint or more than 3,000 square feet.

B. To approve a conditional use in the I-O zone, the Planning Commission shall find that each of the following additional criteria are either met, or can be met by observance of conditions, unless it is not applicable:

1. The proposed use is compatible with the industrial nature of the park and will have minimal negative impact on the development and use of surrounding properties;

2. The proposed use does not pose a threat to public health or safety; and

3. The proposed use is beneficial to the overall economic diversity and vitality of the City.

These criteria are in addition to those provided in Section 16.50.010. In all other aspects, the conditional use process shall be as specified in Chapter 16.50. (Ord 1008 section 1 [part], 1998, Ord. 1057 section 2 [part], 2000).

16.35.045 Prohibited uses.

The following uses are prohibited in the I-O zone:

A. Slaughter house;

B. Rendering, reduction, or distillation of, or manufacturing from, animals, fish and their by-products;

C. Auto, truck or motorcycle race track;

EXPLANATION OF PROPOSED CODE CHANGES

Chapter 16.35 p.6

K. – The concept behind this change was approved by the Planning Commission on 2/12, but the Commission has not reviewed this specific language. The change is in response to a request by a prospective industrial business to enhance their office area with the use of architectural metal elements. The Commission liked the proposed design concept but wanted to ensure that all-metal buildings and/or metal pole buildings continue to be prohibited.

J. Right-of-way plantings: Street trees and ground cover plantings shall be installed with development, as approved by the City. Shrubs are prohibited within the public right-of-way.

K. Metal building exteriors are prohibited, except that the Planning Commission may approve architectural metal elements that accent and enhance the aesthetics of building entrances and office areas.

L. Lighting shall be required for all streets, sidewalks, and pedestrian ways. Applications for land division approval and site plan review shall include photometric plans.

M. Shared access: The City may require the provision of shared access drives through the land division review process. Shared access drives are intended to maintain adequate driveway spacing and circulation along the designated Parkway and Collector streets.

N. All landscaped areas shall be irrigated.

O. Other regulations: The C-M zone, M-1 zone, and M-2 zone provide other applicable regulations related to vision clearance, Highway 99E sidewalk width, setback measurement, outside storage, and wireless/cellular tower certification. (Ord. 1008 section 1[part], 1998)

16.35.060 Design guidelines.

The Industrial Area Master Plan provides design guidelines for reviewing development applications. The guidelines, which are incorporated into Table 16.35.000, encourage:

- A. Flexibility to align local streets based on parcelization and development requirements;
- B. Tree retention, planting of large (3-inch) caliper trees, and use of lawn/ground cover planting in front yard setbacks;
- C. Placement of buildings at or near the setback line;
- D. Placement of parking areas to the side or rear of buildings;
- E. Placement of smaller commercial buildings at or near the street;
- F. Building entries visible from the street with direct pedestrian connections;
- G. Use of quality building materials;
- H. Architectural detail to break up and articulate large surfaces and volumes, and to accentuate building entries; and
- I. Open space retention and trail connections, as designated by the Master Plan. (Ord. 1008, section 1[part], 1998)

16.35.070 I-O Design review matrix.

EXPLANATION OF PROPOSED CODE CHANGES

Chapter 16.42 (Signs) p.4

C. – Text update.

16.42.023 Administration and enforcement.

A. Permit Required. All signs erected after the effective date of this chapter, other than exempt signs as described in section 16.42.028, shall require a sign permit. All applications for sign permits shall be submitted to, and in such form as may be required by, the City Planner or duly authorized representative.

B. Permit fee. A fee as established by resolution of the City Council shall be paid to the City of Canby upon the filing of an application. Such fees shall not be refundable.

C. Interpretation. This Chapter regarding signs is part of the City's Land Development and Planning Ordinance, which includes subdivision and zoning regulations. The City Planner will give advice as to which additional chapters may apply to a specific project.

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D. Enforcement Authority. The City Planner or duly authorized representative shall have the power and duty to interpret and enforce the provisions of this chapter. An appeal from a ruling by the City Planner or duly authorized representative regarding a requirement of this chapter may be made only to the Planning Commission, who shall hold a public hearing per the provisions of Code 16.89, the Land Development and Planning Ordinance. Upon request of the owner, the City Planner will issue a certificate of inspection listing the signs of the business, and noting those signs which need repair or modification and those signs which do not conform to the provisions of this chapter.

E. Appeal. Any action or ruling of the Planning Commission pursuant to this chapter may be appealed to the City Council per the procedures in section 16.89 of the Land Development and Planning Ordinance. An appeal must be made in writing to the City Planner within fifteen (15) days after the Commission has rendered its decision.

F. Permit Expiration. Every permit issued by the Building Official under the provisions of this chapter shall expire by limitation and become null and void if the building or work authorized by such permit is not commenced within 180 days from the date of such permit, or if the building or work authorized by such permit is suspended or abandoned at any time after the work is commenced for a period of 180 days. Before such work can be recommenced, a new permit shall be first obtained to do so, and the fee therefor shall be one-half of the amount required for a new permit for such work, provided no changes have been made or will be made in the original plans and specifications for such work; and provided further, that such suspension or abandonment has not exceeded one year.

G. Permit, Suspension or Revocation. The City Planner or duly authorized representative may, in writing, suspend or revoke a permit issued under provisions of this chapter whenever the permit is issued on the basis of incorrect information supplied, or in violation of applicable ordinance or regulation or any of the provisions of this chapter.

H. Variances. The procedures which allow variations from the strict application of the regulations of this Title, by reason of exceptional circumstances and other specified conditions, can be found in Code section 16.53.



I. Conditional Use Signs or Signs under Site and Design Review. Signs for uses requiring conditional use or site and design review shall be reviewed by the Planning Commission regarding size, height, and location at the time of conditional use review or site and design review. If sign review was not part of the original conditional use review or original site and design review, the applicant may apply for a sign permit under the normal sign review procedures and policies, provided the application is made at least six (6) months after the original review. In conditional use signs or signs reviewed under design review, provisions of this chapter shall apply. (Ord. 913 section 1[part], 1994; Ord. 955 section 19, 1996)

16.42.025 Nonconforming signs.

A. Signs existing on the effective date of Ordinance 830 section 13 (Part) 1989, codified in this chapter which are permanently or can be permanently affixed to a foundation or a building, and which do not meet the requirements of the zoning district in which they are located, shall be deemed to be nonconforming structures or nonconforming uses, as defined in section 16.04.440 of this Title. Except, however, that signs shall not be considered to be nonconforming where the sign, by reason of its size, location, construction, or lack of maintenance creates a public hazard or nuisance. In the case of such public hazard or nuisance, the city may begin immediate abatement procedures, as provided in this chapter and other city ordinances.

B. Signs which are nonconforming structures or nonconforming uses are subject to the same limitations, regulations and requirements as other nonconforming structures or nonconforming uses as delineated in Chapter 16.52 of this Title. Except, however, that signs which are nonconforming structures may be replaced by other signs which are nonconforming structures, subject to the same procedures and requirements for the expansion of nonconforming structures as listed in section 16.52.040 of this Title. Except however, that with a change of ownership, nonconforming signs must be brought into conformance within sixty (60) days after the date of the change of ownership.

C. Signs for nonconforming structures or uses shall be permitted without the necessity of receiving a permit to expand a nonconforming structure, provided that such signs meet all other requirements of local ordinances and provided that such signs are not less in conformance than the existing structure or use. The burden of establishing a vested interest in a nonconforming structure or use shall be upon the property owner. (Ord. 913 section 1[part], 1994; Ord. 830 section 13[part], 1989)

16.42.028 Exempted Signs.

~~Signs in this section are exempted from certain requirements of this sign ordinance, as detailed below.~~

~~A. **No sign permit required.** The following signs **do not** require a sign permit **and shall be permitted in all zones, except as otherwise noted.** Such signs shall conform to all other applicable provisions of this chapter including area of sign limits from section 16.42.100 (unless specifically exempted)~~

~~1. **Temporary Signs;**~~

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EXPLANATION OF PROPOSED CODE CHANGES

Chapter 16.42 p.6

Sign code clarifications continued.

a. Political campaign signs, real estate or land development signs and temporary signs advertising such things as social events, garage sales, rental vacancies, or farm products are all permitted, provided that they do not exceed the total square footage of allowed sign area per lot by more than fifty (50) percent and provided that they meet all other ordinance requirements, including vision clearance. Such temporary signs in residentially zoned areas shall not exceed eight (8) square feet per dwelling unit. This section is not intended to authorize the use of temporary signs for commercial retail business advertising, except as allowed by section 16.42.028.

b. Real estate or land development signs ~~are not permitted~~ off of the site which they are intended to advertise, except for the placement of temporary open house directional signs, which may be used between the hours of 8:00 a.m. and 8:00 p.m. daily. Such open house signs may be placed within city rights-of-way, but off of the street, on Saturdays and Sundays. However, such open house signs may not be placed, even temporarily, within county or state rights-of-way. **Land development signs are limited to sixty (60) square feet per development.**

c. All temporary signs shall be removed within forty-eight (48) hours after the culmination of the event they were intended to advertise.

2. Nameplates - Residential Areas. Nameplates or address signs of less than two (2) square feet ~~are permitted~~; provided that such small signs are unlighted and provided that not more than one such nameplate or address sign shall be used for each dwelling unit or occupant.

3. Painted wall decorations or embellishments, or decorated banners, which are not accompanied by a written message. These are exempt from the area limits of section 16.42.100.

4. Flags. These are exempt from area limits of section 16.42.100.

5. Pennants without written message or logo, not to exceed the lineal feet of the building exterior per site. These are exempt from area limits of section 16.42.100.

6. Public or Legal Notices. These are exempt from area limits of section 16.42.100.

7. Window Signs in Commercial and Manufacturing Zones which occupy a total display area of no more than fifty (50) percent of the window area **are exempted from area limits of section 16.42.100.** Window signs may not use materials subject to provisions of Prohibited Signs from the next section of this chapter.

8. Painted or printed displays in windows of a temporary nature.

9. Clocks, barber poles, public information signs, without advertising message.

10. Signs not designed to be viewed from any public right-of-way.

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Deleted: 3. For Commercial or Industrial Zoned Areas: On-premise signs not exceeding four (4) square feet in area, non-illuminated, and not exceeding three (3) feet in height if ground mounted. Such signs may include property address or building numbers, names of occupants or premises, professional or home occupation nameplates, on-site directional, and similar signs. (A sign permit is required.)

4. Bench advertising signs w [1]

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EXPLANATION OF PROPOSED CODE CHANGES

Chapter 16.42 p. 7

Sign code changes continued.

11. Directory signs not exceeding a total display area of one (1) square foot per business listed on the directory sign, and attached to the building. Such signs are exempt from the area limits of Sections 16.42.100.

~~Deleted: 15. Balloons, provided they are temporary and related to a special event and exceed 10,000 cubic feet in size. These are exempt from area limits of section 16.42.100. (A sign permit is required.)~~

~~B. Sign permit required. The following signs are exempted from certain requirements of this sign ordinance, but a sign permit is required. Such signs shall conform to all other applicable provisions of this chapter including area of sign limits from section 16.42.100 (unless specifically exempted), and shall be permitted in all zones, except as otherwise noted.~~

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1. For Commercial or Industrial Zoned Areas. On-premise signs not exceeding four (4) square feet in area, non-illuminated, and not exceeding three (3) feet in height if ground mounted. Such signs may include property address or building numbers, names of occupants or premises, professional or home occupation nameplates, on-site directional, and similar signs.

2. Bench advertising signs which comply with all regulations of the Canby Municipal Code.

3. Banners or pennants with advertising message and not exceeding a total display area of forty (40) square feet per face and pennants not to exceed the lineal feet of the building exterior per site, used on premises in conjunction with temporary events and not in place longer than a period of thirty (30) days per three (3) month period. Such banners and pennants are exempt from the area limits of section 16.42.100.

4. Signs carved into a building or which are a part of materials which are an integral part of the building such as cornerstones, building names, and similar signs. These are exempt from area limits of section 16.42.100

5. Balloons, provided they are temporary and related to a special event and exceed 10,000 cubic feet in size. These are exempt from area limits of section 16.42.100.

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16.42.020 Prohibited Signs.

It shall be unlawful for any person to erect, display or maintain, and no permit shall be issued for the erection, display, or maintenance of any sign or advertising structure falling within any of the following descriptions:

1. Rotating, moving, sequentially illuminated, flashing, changing, reflecting, or blinking signs are prohibited other than those with white lights indicating the date, time and temperature.

2. No sign or other advertising structure as regulated by this chapter shall be erected at the intersection of any street in such a manner as to obstruct free and clear vision; or at any location where, by reason of the position, shape, or color, it may interfere with, obstruct the view of, or be confused with any authorized traffic sign, signal, or device; or which makes use of the words stop, look, detour, danger, or any other word, phrase,

EXPLANATION OF PROPOSED CODE CHANGES

Chapter 16.42 p.8

The one substantive change in the sign code. As noted above in Chapter 16.28, current case law states that rules forbidding off-premise signs are unconstitutional limits on freedom of speech because such rules prohibit signs based on content, not size or location. Canby needs to follow the example of many cities by removing this section of code.

Staff proposes to recycle Section 6 into a limitation on new pole signs in the downtown zone. New freestanding signs will be limited to monument type only.

symbol or character in such a manner as to interfere with, mislead or confuse motorists. Sign lighting shall be designed and constructed in such a manner as to not create or produce glare on nearby dwellings.

3. Internally illuminated "box-style" signs with slide-out fronts are prohibited in the C-1 zone.

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4. Such advertising devices as strings of lights, banners, pennants, and balloons, except as permitted under section 16.42.028, Exempted Signs.

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5. Temporary signs, except as permitted under section 16.42.028, Exempted Signs.

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6. ~~Freestanding signs in the C-1 zone shall be of the monument type only.~~

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7. No sign or portion thereof shall be erected within future street rights-of-way approved by City Council unless and until an agreement is recorded stipulating that the sign will be removed or relocated upon street widening at no expense to the city.

Deleted: Off-premises signs, except as permitted under section 16.42.105 and billboards, as permitted in C-2 and C-M Districts.

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8. Portable signs, except as permitted under sections 16.42.105 and 16.42.108.

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9. Window signs, which are not temporary and which obscure more than fifty (50) percent of the window area.

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10. Signs affixed to power, utility, or traffic control poles other than city-approved traffic control signs and pole identification placards.

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11. Searchlights or beacons, except for temporary events such as grand openings, in which case a permit is required.

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12. No street banners or other signs projecting over a public right-of-way shall be permitted without the prior consent of the City Council or their designee, except as may be permitted in the Uniform Sign Code.

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13. Except for nameplates or logos indicating the owner's name and place of business, no signs, including temporary signs, shall be displayed from trailers or vehicles parked within any public right-of-way or the required setback area adjoining the right-of-way. (Ord. 913 section 1 [part], 1994; Ord. 955 section 17, 1996; Ord. 1076, 2001; Ord. 1111 section 7, 2003)

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16.42.030 Setbacks.

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 fifty (50) percent of that required for other structures in the zone.

B. Signs shall not be allowed to obstruct a vision clearance area as defined in this Title. (Ord. 913 section 1[part], 1994; Ord. 830 section 13[part] 1989; Ord. 802 4, 1987; Ord. 740 section 10.3.40(C), 1984; Ord. 1111 section 7, 2003)

EXPLANATION OF PROPOSED CODE CHANGES

Chapter 16.42 p.14

The language proposed for deletion relates to the adoption of sign code elements 12 years ago and is no longer needed.

4. That the granting of the minor modification of standard will not constitute a grant of special privilege inconsistent with the limitations on other properties classified in the same zoning district.

5. That the granting of the minor modification of standards will not be detrimental to the public health, safety, or welfare or be materially injurious to properties or improvements in the vicinity and will be consistent with the purposes of this chapter.

D. Time Limit.

1. Authorization of a minor modification of standards shall be void if the building or work approved by such modification is not commenced within six (6) months of the date of approval.

2. The City Planner may, upon receiving a written request from the applicant prior to the minor modification of standards expiration date, extend the minor modification of standards time limit for a period not to exceed one year.

Note: Major modification of sign standards must be processed under the variance standards, Chapter 16.53 (Ord. 913 section 1 [part], 1994)

16.42.140 Severability

Invalidity of a section of this ordinance shall not affect the validity of the remaining sections or parts of sections. (Ord. 913 section 1[part], 1994)

Deleted: 16.42.130. Sunset clause.
The additions and deletions provided for in this ordinance shall become effective upon adoption and shall continue for one year from such effective date. Should the City Council, after public hearing, approve a resolution continuing this ordinance, the amendments shall continue with full force and effect beyond the one (1) year termination date. Provided that no continuing resolution is approved, the provisions of Chapter 16.42, Signs, shall revert back to the language existing prior to the effective date of this Ordinance No. 913. Any daily display sign, banner, pennant, or bench sign, that receives city permit during the effective period of this ordinance may continue for a maximum of six months after the ordinance's termination date. (Ord. 913 section 1 [part], 1994)

EXPLANATION OF PROPOSED CODE CHANGES

Chapter 16.44 p.3

Staff proposes to change the process through which temporary permits for mobile homes can be obtained (the process is usually used for hardship situations or for family visits). Currently applicants have to go before the City Council, a process created years ago when Canby was much smaller. Based on many years of observing this process, staff believes it is overly cumbersome for citizens. Under the new approach, staff would be allowed to issue these permits. Citizens will have the ability to appeal staff decisions to the Planning Commission and Council, and the Council will retain the ability to revoke the permit at any time based on public health or nuisance concerns.

required for vision clearance along street frontage. The requirement for a fence may be modified by the Planning Commission based on clear findings that the modification will be sufficient to carry out the objectives of this section. (Ord. 890 section 40, 1993; Ord. 740 section 10.3.45(B), 1984; Ord. 1080, 2001)

16.44.040 Parking space for mobile home or travel trailer.

No mobile home or travel trailer will be allowed to remain in a mobile home or trailer park unless a parking space or previously approved storage area has been provided for that purpose. Mobile homes or travel trailers which are parked in storage areas shall not be occupied. (Ord. 740 section 10.3.45(C), 1984)

16.44.050 Special conditions imposed by Commission.

When reviewing a conditional use permit application for the development or expansion of a mobile home park or trailer park, the commission may impose special conditions of approval for the perimeter of the park to assure that its outward appearance does not conflict with the surrounding uses or activities. The commission shall not, however, interpret the requirements of Chapter 16.50 as allowing the denial of a mobile home park development because of the nature of surrounding residential development. (Ord. 740 section 10.3.45[part], 1984)

16.44.060 Compliance.

Mobile homes, motor homes or travel trailers, other than in approved mobile home parks or subdivisions, shall not be inhabited or used except as provided in sections 16.44.070 through 16.44.110, or as may otherwise be specified in this title. (Ord. 740 section 10.3.50[part], 1984)

16.44.070 Time limits.

No camper, trailer, motor home, or mobile home may be used or inhabited on a lot, or an adjacent lot, for more than seven consecutive days or a total of fourteen days, within a sixty day period unless such placement, use or habitation conforms with the requirements of this title. (Ord. 890 section 41, 1993; Ord. 740 section 10.3.50 (A), 1984)

16.44.080 Parking in right-of-way.

Parking or placement of such vehicles or structures within any public right-of-way is subject to the enforcement provisions of city ordinances governing nuisances and traffic violations. (Ord. 740 section 10.3.50(B), 1984)

16.44.090 Approval of permit.

A. The ~~Planning Director~~ may, after receiving a properly filed application and report from the Fire Marshal, approve a permit to allow the use of a travel trailer, mobile home, or motor home, for a period not to exceed six months.

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B. Approval of such permits shall be based upon findings that this use will have no significant adverse impacts on the value or appropriate development of nearby properties.

C. Any permit issued pursuant to the terms of this chapter may be revoked by the ~~City Council~~ on twenty-four hours' notice upon finding that the use is a menace to public health or is resulting in a public nuisance. (Ord. 740 section 10.3.50(C), 1984)

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EXPLANATION OF PROPOSED CODE CHANGES

Chapter 16.44 p.4

Hardship permits allow extended use of mobile homes or travel trailers for situations in which there is a medical necessity. Currently, the Council reviews such permits based on the standards in this section. Staff proposes to replace this process with a standard Type II process (similar to Lot Line Adjustments). This will allow for advance neighborhood notice and appeal to the Planning Commission if needed. All the changes on this page are related to this proposal.

16.44.100 Temporary permits – hardship situations.

The ~~Planning Director~~ may also issue temporary permits for the use and occupancy of travel trailers or motor homes in special hardship situations, subject to the following:

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A. Duration of the permit shall be specified by the ~~Planning Director~~ and may include a provision which requires renewal at predetermined intervals.

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B. The nature of the hardship must be a physical or mental infirmity of a resident of either the principal dwelling unit or the temporary unit, and shall be certified as such in writing by a medical doctor or court of competent jurisdiction.

C. Prior to final issuance of the permit, the applicant shall sign an affidavit agreeing to remove or cease using the travel trailer or motor home upon the death or relocation of the infirm person.

~~D. Applications for temporary hardship permits under this section shall be processed using the Type II procedure. Application procedures shall be as described in Chapter 16.89.~~

~~Deleted: Upon receipt of an application and accurate plot plan for such a temporary hardship permit, the following procedure shall be followed~~

E. A decision on an application for a temporary hardship permit shall be based upon the following standards and criteria:

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1. No significant adverse impacts on the value or appropriate development of nearby properties will result.
2. The subject property contains sufficient vacant area to allow for the placement of the temporary unit without overcrowding the lot or the vicinity overall and will result in a reasonable amount of open space in the area.
3. The temporary unit will be connected to all required utilities in a manner which meets Code requirements.
4. The placement of the unit will meet the setback requirements of the zone.
5. The hardship situation is legitimate and clearly necessitates the issuance of a temporary permit as an alternative to having all of the affected persons share a single dwelling unit on the property.

~~Deleted: ¶~~

- ~~1. Notices shall be mailed to the owners of property within one hundred feet of the subject property, giving them ten days in which to request a public hearing on the application.¶~~
- ~~¶~~
- ~~2. If no such requests for a hearing are received within the time limits, the application shall be scheduled for council action at its next regular meeting without a public hearing.¶~~
- ~~¶~~
- ~~3. If a public hearing is formally requested, it shall be scheduled on an upcoming council agenda and the hearing procedures of Division VIII followed. The applicant is responsible for any added costs due to the public hearing, as determined by the Planning Director.¶~~

F. The City may establish requirements as a condition of approving such an application which are necessary to assure compliance with the intent of this chapter and to minimize adverse impacts on the surrounding neighborhood. (Ord. 740 section 10.3.50(D), 1984)

~~Deleted: Council~~

16.44.110 Temporary permits - Caretakers or watchmen.

EXPLANATION OF PROPOSED CODE CHANGES

Chapter 16.44 p.5

Several years ago, detailed application requirements were removed from the Municipal Code and replaced with language similar to that proposed here. This change simply brings this section into compliance with the rest of the code.

The City Council may issue temporary permits for the use and occupancy of mobile homes, travel trailers, or motor homes for the purpose of housing caretakers or watchmen subject to the following:

A. Duration of the permit shall be specified by the council and may include a provision which requires renewal at predetermined intervals.

B. Such temporary permits may only be issued for industrial areas, large commercial tracts, public ownership, or for short terms at construction sites.

C. Prior to final issuance of the permit, the applicant shall sign an affidavit agreeing to remove the mobile home, travel trailer, or motor home upon the expiration of the permit.

D. A decision on a permit authorized subject to this section shall be based upon the following standards and criteria:

1. No significant adverse impacts on the value or appropriate development of nearby properties will result;

2. The subject property contains sufficient vacant area to allow for the placement of the temporary unit without overcrowding the lot or the vicinity overall and will result in a reasonable amount of open space in the area;

3. The temporary unit will be connected to all required utilities in a manner which meets code requirements;

4. The placement of the unit will meet the setback requirements of the zone.

E. The City Council may establish requirements as a condition of approving such an application which are necessary to assure compliance with the intent of this chapter and to minimize adverse impacts on the surrounding neighborhood. (Ord. 740 section 10.3.50(E), 1984)

16.44.120 Application for Special Permits (16.44.090-16.44.110)

An application for a special permit under sections 16.44.090 - 16.44.110 ~~shall be made on forms provided by the Planning Director. The application shall be accompanied by all required information and fees. A presolicitation meeting and/or neighborhood meeting may be required by the Planning Director.~~

Deleted: shall be filed with the City Planner on forms prescribed for that purpose, typed or printed. Such applications shall include:¶
¶
A. Plot plan, drawn to scale (not less than 1" = 40'), indicating:¶
¶
1. The location of the unit subject to approval;¶
¶
2. Distance of the unit to property lines and existing structures on the lot;¶
¶
3. Streets;¶
¶
4. Major topographic and landscape features; and ¶
¶
5. Proposed utility connections.¶
¶
B. Narrative describing the proposal, and length of time the permit is needed.¶
¶
C. List of property owners within 100 feet of the subject property, on mailing labels (1" x 2-5/8"). (Ord. 981 section 2, 1997)
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¶
¶

EXPLANATION OF PROPOSED CODE CHANGES

Chapter 16.46 p.1

This change reduces the number of units allowed outright with only one access. It was suggested by the Fire District and brings our code into compliance with the Fire Code.

CHAPTER 16.46
ACCESS LIMITATIONS ON PROJECT DENSITY

Sections:

- 16.46.010 Number of units in residential development.
- 16.46.020 Ingress and egress.
- 16.46.030 Joint and cross access.
- 16.46.040 Access connection.
- 16.46.050 Nonconforming access features.
- 16.46.060 Amount of access points.
- 16.46.070 Exception standard for City facilities.
- 16.46.080 State highway standards.
- 16.46.090 Shared access onto state highway.

- 16.46.010 Number of units in residential development.

A major factor in determining the appropriate density of residential development, particularly in higher density areas, is vehicular access. In order to assure that sufficient access is provided for emergency response as well as the convenience of residents, the following special limitations shall be placed on the allowable number of units in a residential development:

A. Single-family residential access, public and private roads:

1. Roads shall be a minimum of 28 feet in width with parking restricted to one side only, or a minimum of 36 feet in width with no parking restriction.

2. The number of units permitted are as follows:

- One access: 30 units
- Two accesses: 132 units
- Three accesses: 207 units

For more than three accesses, use the following formula: # of units permitted = $(60 \times (1 + (.05 \times \# \text{ of access points}))) \times (\# \text{ of access points})$

B. Single ownership developments (condominiums, townhouses, manufactured homes, multi-family developments, etc.).

1. Two lane access roads/drives shall be a minimum width of 20 feet with no parking permitted, or 28 feet with parking restricted to one side only, or 36 feet with no parking restrictions. Three lane access roads/drives shall be a minimum width of 32 feet with no parking permitted, or 40 feet with parking restricted to one side.

2. The number of units permitted are as follows:

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EXPLANATION OF PROPOSED CODE CHANGES

Chapter 16.46 p.2

The first changes continue the change described on the previous page, bringing the municipal code into compliance with the Fire Code.

This proposal allows the Planning Commission to allow more units on single accesses based on particular facts. It was also suggested by the Fire District and could serve to encourage sprinkler usage. Any developments proposed above the standard figure would need to demonstrate emergency service providers supported the request.

Two lane access road/drive

One access: 30 units
Two accesses: 165 units
Three accesses: 258 units

Three lane access road/drive

One access: 30 units
Two accesses: 220 units
Three accesses: 345 units

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For more than three accesses on a two lane access road/drive, use the following formula:

of units permitted = $(75 \times (1 + (.05 \times \# \text{ of access points}))) \times (\# \text{ of access points})$
(round down to the nearest whole number)

For more than three accesses on a three lane access road/drive, use the following formula:

of units permitted = $(100 \times (1 + (.05 \times \# \text{ of access points}))) \times (\# \text{ of access points})$

C. The Planning Commission may allow increases beyond the maximum number of units listed in subsections A and B. Such increases shall be based upon findings that no unwarranted problems for the public street system or emergency service provision will result.

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Deleted: not exceed an additional twenty percent and shall
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D. All turnaround systems shall meet or exceed the requirements of the parking provisions of Chapter 16.10.

E. All on-site private roads and drives shall be designed and constructed to provide safe intersections and travel surfaces which will not result in hazards for motorists, bicyclists or pedestrians.

F. N. Maple Street, north of NE 23rd Avenue, and S. Elm Street, south of SW 13th Avenue, shall be exempt from the residential unit restrictions for single access roads, provided that legally binding alternative emergency vehicle access is available. Road width requirements for these roads shall remain in effect.

G. Public roads accessing any development shall be a minimum of two travel lanes (twenty-four (24) feet of paved width) to the nearest improved collector or arterial street, provided that any required improvement to provide additional pavement width to access a development meets both of the following conditions:

1. An essential nexus is proven, whereby the required improvement is directly related to the proposed development; and
2. Rough proportionality is proven, whereby the cost of the required improvement is roughly proportional to the impact that the development will have on the infrastructure. Specific findings are required for each of the conditions listed above. If either of the two conditions are not met, the infrastructure is considered to be inadequate, and conditioning approval of a development on the widening of the access to the development is considered to be inappropriate. (Ord. 955 section 22, 1996; Ord. 1019 section 21, 1999)

EXPLANATION OF PROPOSED CODE CHANGES

Chapter 16.46 p.3

Three recent applications involving disputed driveway accesses (one onto 13th Avenue, one on Territorial, one on S. Ivy) are part of the reason staff proposes to clarify the access spacing section of Canby's code. The first change is designed to more clearly state when an access spacing exception is needed.

16.46.035 – this addition fills a gap that currently does not allow access spacing exceptions even for restricted accesses (i.e., right-in, right-out only).

16.46.020 Ingress and egress.

Ingress and egress to any lot or parcel, the creation of which has been approved by the Planning Commission, shall be taken along that portion fronting on a public street unless otherwise approved by the Planning Commission. (Ord. 740 section 10.3.62, 1984)

16.46.030 Access connection.

A. Spacing of accesses on City streets. The number and spacing of accesses on City streets shall be as specified in Table 16.46.030. Proposed developments or land use actions that do not comply with these standards will be required to obtain an access spacing exception and address the joint and cross access requirements of this Chapter. (Ord. 1043 section 3, 2000; Ord. 1076, 2001)

16.46.035 Restricted access.

The City may allow an access to a City street that does not meet the spacing requirements of Table 16.46.030 if the proposed access is restricted (prevents certain turning movements). The City may require an applicant to provide an engineered traffic study, access management plan, or other information as needed to demonstrate that the roadway will operate within the acceptable standards with the restricted access in place.

16.46.040 Joint and cross access.

Any developments requiring site plan review that do not meet access spacing requirements are subject to these requirements. In these cases, the following information shall be shown on the site plan.

A. Adjacent commercial or office properties classified as major traffic generators (e.g. shopping plazas, office parks), shall provide a cross access drive and pedestrian access to allow circulation between sites.

B. A system of joint use driveways and cross access easements shall be established wherever feasible and shall incorporate the following:

Deleted: conditional access approval from the City of Canby. This conditional approval applies to properties that have no reasonable access or cannot obtain reasonable alternative access to the public street system.

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TABLE 16.46.030 Access Management Guidelines for City Streets			
Functional Classification	Minimum Spacing	Residential Use	Commercial or Industrial Use
Highway 99E	As provided in Appendix G of the Transportation System Plan.		
Arterial	300 feet	No direct access for new private drives serving fewer than five dwellings.	Shared access driveways required if spacing standards not met; encouraged otherwise. Major street left turn lanes determined through review.
Collector	150 feet	Shared access driveways are encouraged where appropriate to meet spacing standards.	Shared access driveways are encouraged. Major street left turn lanes determined through review.

EXPLANATION OF PROPOSED CODE CHANGES

Chapter 16.46 p.6

D. - This addition is meant to clarify that the City does not have to approve access spacing exceptions if traffic safety problems or other issues are found to be present.

D. Reasons for denying access spacing exception applications include, but are not limited to, traffic safety concerns, expected or planned traffic increases due to development or road construction, and emergency service provision issues. (Ord. 1043 section 3, 2000)

16.46.080 State highway standards.

A. Refer to Appendix G of the Transportation System Plan. (Ord. 1043 section 3, 2000)

16.46.090 Shared access onto state highway.

A. Subdivisions with frontage on the state highway system shall be designed into shared access points to and from the highway. Normally, a maximum of two accesses shall be allowed regardless of the number of lots or businesses served. If access off of a secondary street is possible, then access should not be allowed onto the state highway. If access off of a secondary street becomes available, then conversion to that access is encouraged, along with closing the state highway access.

B. New direct accesses to individual one and two family dwellings shall be prohibited on all state highways, unless doing so would deny reasonable access to an existing legal lot of record. (Ord 1043 section 3, 2000)

EXPLANATION OF PROPOSED CODE CHANGES

Chapter 16.49 (Design Review) p. 3

1. – Many folks, staff included, have been confused over the years as to what the triggers for Site and Design Review are. The proposed text attempts to more clearly state which projects will require Site and Design Review.

4. Vacancies and Removal. Vacancies on the Planning Commission and/or removal of Planning Commission members shall be governed by section 16.06.030 of the Canby Municipal Code.

5. Chairman. The duly appointed chairman of the Planning Commission shall also serve as chairman for site and design review applications in accordance with Chapter 16.06 (Planning Commission) of the Canby Municipal Code.

6. Voting. Four (4) members shall constitute a quorum for the transaction of business. The chairman shall be counted to determine a quorum and shall have the same voting powers as other members of the Board. Each member shall have one (1) vote. A majority vote of the members shall be required for all Board actions.

7. Meetings and Records. The Board shall hold regular meetings each month as required. Site and design review applications will be reviewed as a regular agenda item.

8. Rules. The Board may adopt and amend rules to govern the conduct of its business, consistent with the provisions of this Code. (Ord. 848, Part II, section 2, 1991)

16.49.030 Site and design review plan approval required.

1. The following projects require site and design review approval, except as exempted in (2) below:

- a. All new buildings.**
- b. All new mobile home parks.**
- c. Major building remodeling above 60% of value.**
- d. Addition of more than 5,000 square feet of additional gross floor area in a one year period.**
- e. Construction activity which causes a decrease in pervious area in excess of 2,500 square feet in a one year period.**

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None of the above shall occur, and no building permit for such activity shall be issued, and no sign permit shall be issued until the site and design review plan, as required by this ordinance, has been reviewed and approved by the Board and their designees for conformity with applicable criteria.

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Deleted: Except for single family dwellings or duplexes as permitted by these standards, no new building, mobile home park or major remodeling above 60% of value, or more than 5,000 square feet of additional gross floor area, in a one year period, or construction activity which causes a decrease in pervious area in excess of 2,500 square feet,

2. The following are exempt from site and design review:

- a. Signs that are not a part of a reviewable development project. Signs that are a part of a reviewable development project, and that are proposed more than two (2) years beyond the final occupancy of the reviewed development.
- b. Alterations or remodeling that do not change the exterior of the building.

EXPLANATION OF PROPOSED CODE CHANGES

Chapter 16.49 p.4

g. – Simply a rephrasing, stating clearly that single-family homes and duplexes are not required to undergo Site & Design Review.

h. – This is the only substantive change proposed for this chapter, and it's fairly minor. Adding "minor public facilities" to the list of exempted projects would mean that items such as pump stations, transit shelters, sheds at schools, and park restrooms would not have to go through Site and Design Review. "Minor Public Facilities" is defined under 16.04.517 (above). Projects increasing traffic or impacting neighborhoods would not meet the definition and would therefore still require Design Review.

c. Temporary public structures which will be removed within two (2) years of placement.

d. Accessory structures under 500 square feet.

e. Temporary commercial tent/canopy structures, which meet the Uniform building or Fire Code, and which will be removed within thirty (30) days of placement.

f. Parking lot or paving projects. If no buildings or structures are involved, paving or parking lot development in excess of 2,500 square feet of impervious surface is exempted from site and design review, except in the C-1 zone. In the C-1 zone, all new parking lots that do not involve buildings or structures are subject to site plan review as required in Section 16.49. All new paved areas and parking lots in excess of 2,500 square feet must meet the requirements of Section 16.49.150.

~~g. Single family or two-family dwellings, and any alterations or remodeling thereof.~~

h. Minor public facilities.

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3. Construction, site development and landscaping shall be carried out in substantial accord with the approved site and design review plan. Review of the proposed site and design review plan and any changes thereto shall be conducted in accordance with site and design review procedures.

4. No fence/wall shall be constructed throughout a project that is/was subject to site and design review approval where the effect or purpose is to wall said project off from the rest of the community unless reviewed and approved by the Planning Commission. (Ord. 890 section 43, 1993; Ord. 848, Part III, section 1, 1991; Ord. 955 section 23, 1996; Ord. 981 sections 52 & 53, 1997; Ord. 1019 section 2, 1999; Ord. 1080, 2001)

16.49.035 Application for Site and Design Review

Application procedures shall be as described in Chapter 16.89. (Ord. 981 section 4, 1997; Ord. 1019 section 14, 1999; Ord. 1043 section 3, 2000; Ord. 1080, 2001)

16.49.040 Criteria and standards.

1. The Board shall, in exercising or performing its powers, duties or functions, determine whether there is compliance with the following:

A. The proposed site development, including the site plan, architecture, landscaping and graphic design, is in conformance with the standards of this and other applicable city ordinances insofar as the location, height and appearance of the proposed development are involved; and

B. The proposed design of the development is compatible with the design of other developments in the same general vicinity; and

EXPLANATION OF PROPOSED CODE CHANGES

Chapter 16.49 p.5

D. – This language clarifies that other matrices exist in the code and should be used in place of the standard matrix as appropriate.

4. – This section contained an outdated code reference.

C. The location, design, size, color and materials of the exterior of all structures and signs are compatible with the proposed development and appropriate to the design character of other structures in the same vicinity.

D. The Board shall, in making its determination of compliance with subsections B and C above, use the following matrix to determine compatibility unless this matrix is superseded by another matrix applicable to a specific zone or zones under this title. An application is considered to be compatible, in regards to subsections B, C, and D above, if a minimum of 65 percent of the total possible number of points (not including bonuses) are accumulated for the whole development.

E. It must be demonstrated that all required public facilities and services are available, or will become available through the development, to adequately meet the needs of the proposed development.

2. The Board shall, in making its determination of compliance with the above requirements, be guided by the objectives and standards set forth in this section. If the site and design review plan includes utility facilities or public utility facility, then the City Planner shall determine whether those aspects of the proposed plan comply with applicable standards.

3. The Board shall, in making its determination of compliance with the requirements set forth, consider the effect of its action on the availability and cost of needed housing. The Board shall not use the requirements of this section to exclude needed housing types. However, consideration of these factors shall not prevent the Board from imposing conditions of approval necessary to meet the requirements of this section. The costs of such conditions shall not unduly increase the cost of housing beyond the minimum necessary to achieve the purposes of this ordinance.

4. As part of the site and design review, the property owner may apply for approval to cut trees in addition to those allowed in ~~Chapter 12.32~~, the city Tree Ordinance. The granting or denial of said application will be based on the criteria in Chapter 12.32. The cutting of trees does not in and of itself constitute change in the appearance of the property which would necessitate application for site and design review. (Ord. 848, Part III, section 2, 1991; Ord. 955 section 24 & 25, 1996)

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 . D. The C-1 and I-O zones have their own design standards, as shown in the matrices for those zones.¶
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TABLE 16.49.040

CRITERIA	POSSIBLE SCORES		
Parking			
Screening of loading facilities from public ROW: not screened = 0; partially screened = 1; full screening = 2	0	1	2
Landscaping (breaking up of expanse of asphalt)	0	1	
Parking lot lighting: No = 0; Yes = 1	0	1	
Location (behind the building is best): front = 0; side = 1; behind = 2	0	1	2
Number of parking spaces (% of min.) [x.120% / 100%-120% / x=100%]	0	1	2
Traffic			
Distance of access to intersection [x<70' / 70'-100' / x>100']	0	1	2

EXPLANATION OF PROPOSED CODE CHANGES

Chapter 16.49 p.10

9. – The current code references the 1979 Sunset Western garden book as the standard for landscape installation in Canby. Staff proposes to remove the date reference.

6. When it is necessary for a preserved tree to be moved in accordance with the Tree Ordinance, the landscaped area surrounding said tree or trees shall be maintained and replanted with trees which relate to the present landscape plan, or if there is no landscaping plan, then trees which are complimentary with existing, nearby landscape materials.

7. Any required landscaped area shall be designed, constructed, installed and maintained so that within three (3) years, the ground shall be covered by living grass or other plant material. (The foliage crown of trees shall not be used to meet this requirement.) A maximum of five percent of the landscaped area may be covered with bark chips, mulch, or other similar materials. A maximum of five percent of the landscaped area may be covered with rock, stones, walkways, or other similar material acceptable to the Board. Required sidewalks shall not be used to meet the landscaping requirements. Plant size and spacing shall follow the Oregon Department of Transportation standards.

8. All trees and plant materials shall be healthy, disease-free, damage-free, well-branched stock, characteristic of the species.

9. Landscaping shall be installed in accordance with the provisions of the most recent edition of the Sunset Western Garden Book.

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Deleted: , 1979 edition, Lane Publishing Company, Menlo Park, California

10. The following guidelines are suggested to insure the longevity and continued vigor of plant materials:

A. Select and site permanent landscape materials in such a manner as to produce a hardy and drought-resistant landscaped area.

B. Consider soil type and depth, spacing, exposure to sun and wind, slope and contours of the site, building walls and overhangs, and compatibility with existing native vegetation preserved on the site or in the vicinity.

11. All plant growth in landscaped areas of developments shall be controlled by pruning, trimming or otherwise, so that:

A. It will not interfere with designated pedestrian or vehicular access; and

B. It will not constitute a traffic hazard because of reduced visibility.

C. It will not hinder solar access considerations.

12. After completion of site grading, topsoil is to be restored to exposed cut and fill areas to provide a suitable base for seeding and planting.

13. All planting areas shall be graded to provide positive drainage.

EXPLANATION OF PROPOSED CODE CHANGES

Chapter 16.50 (Conditional Uses) p.1

For some reason the code discussing how applicants could get extensions on conditional use permits and variances has been stuck in the back of the code book, where it gets forgotten. Staff recommends adding the extension subsection into the relevant chapters of the code, as proposed here and on the next two pages.

Sections:

- 16.50.010 Authorization to grant or deny conditional uses.**
- 16.50.020 Application for conditional uses.**
- 16.50.030 Public hearing required.**
- 16.50.040 Placing conditions on a permit.**
- 16.50.050 Notification of action.**
- 16.50.060 Standards governing conditional uses.**
- 16.50.070 Revocation of conditional use permits.**

Comment [JRW1]: This section is relocated from 16.88.

16.50.010 Authorization to grant or deny conditional uses.

A conditional use listed in this title shall be permitted, altered, or denied in accordance with the standards and procedures of this chapter. In the case of a use existing prior to the effective date of the ordinance codified in this title as a conditional use, a change in the use, or reduction in lot area, or an alteration of the structure, shall require the prior issuance of a conditional use permit. In judging whether or not a conditional use permit shall be approved or denied, the Planning Commission shall weigh the proposal's positive and negative features that would result from authorizing the particular development at the location proposed and to approve such use, shall find that the following criteria are either met, can be met by observance of conditions, or are not applicable.

- A.** The proposal will be consistent with the policies of the Comprehensive Plan and the requirements of this title and other applicable policies of the city;
- B.** The characteristics of the site are suitable for the proposed use considering size, shape, design, location, topography, existence of improvements and natural features;
- C.** All required public facilities and services exist to adequately meet the needs of the proposed development;
- D.** The proposed use will not alter the character of the surrounding areas in a manner which substantially limits, or precludes the use of surrounding properties for the uses listed as permitted in the zone. (Ord. 740 section 10.3.75 (A), 1984)

16.50.020 Application for conditional uses.

Application procedures shall be as described in Chapter 16.89. (Ord. 899 section 1, 1993; Ord. 740 10.3.75(B), 1984; Ord. 981 section 5, 1997; Ord. 1019 section 15, 1999; Ord. 1080, 2001)

EXPLANATION OF PROPOSED CODE CHANGES

Chapter 16.50 (Conditional Uses) p. 3

- A. – This section allows our standard height limits to be exceeded on a project-by-project basis through the conditional use process. However, it's caused confusion because it states a standard height as a baseline even though height limits vary per zone. Staff believes the proposed language gets at the intent of the original ordinance.

16.50.070 - This section is proposed to be relocated here, as described on the previous page. Also, staff proposes to change the process for obtaining extensions on conditional use permits. The current language requires a public hearing to obtain a one-year extension on conditional use permits. Staff proposes allowing the Commission to grant extensions as a new business item followed up by notice, similar to the current modification process.

16.50.050 Notification of action.

The City Planner shall notify the applicant in writing of the action of the Planning Commission within five days after the decision has been rendered. (Ord. 740 section 10.3.75(E), 1984)

16.50.060 Standards governing conditional uses.

A conditional use shall ordinarily comply with the standards of the zone for uses permitted outright, except as specifically modified by the Planning Commission in granting the conditional use permit, or as otherwise provided as follows:

A. Building Height. The height limitations of any zone may be exceeded by a conditional use to a maximum height of seventy-five feet; provided that each yard is increased over the yard requirement by the addition of five feet for every five feet or fraction thereof of additional height over ~~the maximum height allowed in the zone.~~

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B. Utility Substation or Pumping Station. The minimum lot size of the zone in which a public utility is to be located may be waived by the Planning Commission only on finding that the waiver will not result in unacceptable levels of noise or other detrimental effect on adjacent property. No equipment storage shall be permitted on the site of such small lots.

C. Signs. Signs may be permitted for a conditional use, in keeping with the nature of the use. The Planning Commission may require the applicant to submit details of proposed signs to allow for consideration with the use permit for the structure or use. (Ord. 740 section 10.3.75(F), 1984)

16.50.070 Revocation of conditional use permits.

Comment: [DNW]: This section is relocated from 16.88.

A. Automatic Revocation. All conditional use permits shall be automatically revoked if not exercised within one year from the date of approval, or such additional time as is specified by the granting body at the time of approval. Conditional use permits shall not be deemed exercised until the use of the property permitted by the conditional use permit has actually commenced or, in the event that such use involves the construction of a building, that all required permits for said building have been obtained.

B. Revocation for Noncompliance. Any conditional use permit may be revoked by the City Council for noncompliance with conditions set forth in the original approval, after first holding a public hearing and giving written notice of such hearing to the grantee.

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C. Extension of approval. A one-time extension will be allowed if applied for no later than ninety (90) days prior to the expiration of the original approval. A request for extension must:

1. Not change the original application.
2. Explain specifically why an extension is needed.
3. Be approved by the Planning Commission ~~as a new business item.~~

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~~4. If approved, those with standing on the original application shall be notified of the extension by mail. Those so notified may obtain a public hearing on the extension by filing a request in writing within ten (10) days of the notice date. The public hearing~~

EXPLANATION OF PROPOSED CODE CHANGES

Chapter 16.50 p.4

This continues the CUP extension process revision described on the previous page.

~~shall follow the notice requirements and procedure for conditional use permits.~~ The cost of notification ~~and any required public hearing~~ must be borne by the applicant.

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An extension shall not be granted for more than one (1) year. (Ord. 740 section 10.8.20(C), 1984; Ord. 955 section 31, 1996)

EXPLANATION OF PROPOSED CODE CHANGES

Chapter 16.52 p.1

The changes to section **16.52.020** are designed to implement previous Planning Commission interpretations and to clarify the current code, which is a bit confusing. The Commission would be given the ability to allow existing nonconforming structures to be rebuilt or extended following the procedures in this section.

NONCONFORMING USES AND STRUCTURES

Sections:

- 16.52.010 Continuation of nonconforming use or structure.
- 16.52.020 Nonconforming structure.
- 16.52.030 Discontinuance of a non conforming use.
- 16.52.035 Alteration or expansion of dwelling units in C-1 zone.
- 16.52.040 Expansion of nonconforming structure or change of use - application required.
- 16.52.050 Authorization to grant or deny expansion of nonconforming structure or change of nonconforming use.
- 16.52.060 Destruction of a nonconforming use or structure.
- 16.52.070 Completion of building.

16.52.010 Continuation of nonconforming use or structure.

Subject to the provisions of this section, a nonconforming structure or use may be continued but shall not be altered, changed, or extended except as provided herein. Other than those expansions specifically permitted by section 16.52.035, the expansion of nonconforming uses shall not be permitted. (Ord. 805 section 3 [part], 1987; Ord. 740 section 10.3.80 (A), 1984 Ord. 1019 section 10, 1999)

16.52.020 Nonconforming structure.

A structure conforming as to use but nonconforming as to height, setback, or coverage may be altered or extended as follows:

~~A. If the new or reconstructed area meets all development standards and code requirements, a nonconforming structure application is not required.~~

~~B. The Planning Commission may allow existing nonconforming structures to be reconstructed over existing legally approved building footprints. Approval of a nonconforming structure application under this Chapter is required.~~

~~C. The Planning Commission may allow additions to structures that are nonconforming as to height or setbacks if the new building area is no more out of conformance than the existing structure. For example, an addition to a home with a reduced side yard setback may be allowed if the addition has the same reduced side yard setback or is less out of conformance. Approval of a nonconforming structure application under this Chapter is required. This Chapter may not be used to allow additions further out of conformance as to building height or setbacks than existing structures.~~

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EXPLANATION OF PROPOSED CODE CHANGES

Chapter 16.52 p. 2

D. – This continues the revisions described on the previous page.

16.52.035 – This text would clarify that additions or remodeling of homes in the downtown commercial zone do not require a Non-Conforming Structure application. This implements previous City interpretations.

The deletion of the “use” from this section is recommended because expansion of nonconforming uses is not permitted under our code with one exception (expansion of homes in the C-1 zone). A NCS permit is not required for that action, so the word “use” in this section simply serves to confuse.

~~D. The Planning Commission may allow additions to structures that are nonconforming as to coverage requirements. Approval of a nonconforming structure application under this Chapter is required.~~ (Ord. 805 section 3 [part], 1987; Ord. 740 section 10.3.80(B), 1984)

16.52.030 Discontinuance of a nonconforming use.

A. If a nonconforming use involving a structure is discontinued from use for a period of one year, further use of the property shall be as a conforming use.

B. If a nonconforming use not involving a structure is discontinued for a period of six months, further use of the property shall be for a conforming use. (Ord. 805 section 3 [part], 1987; Ord. 740 section 10.3.80(C), 1984)

16.52.035 Alteration or expansion of dwelling units in C-1 zone.

The alteration or expansion of dwelling units in the C-1 zone shall be permitted, subject to the specific requirements of that zone. ~~A nonconforming use application is not required.~~ (Ord. 805 section 3 [part], 1987)

16.52.040 Expansion of nonconforming structure or change of use – application required.

Application procedures shall be as described in Chapter 16.89. (Ord. 805 section 3 [part], 1987; Ord. 740 section 10.3.80(D), 1984; Ord. 981 section 6, 1997; Ord. 1080, 2001)

16.52.050 Authorization to grant or deny expansion of nonconforming structure or change of nonconforming use.

An expansion of a nonconforming structure or a change from one nonconforming use to another shall be approved, conditionally approved or denied in accordance with the standards and procedures of this section. In judging whether or not such applications shall be approved or denied, staff and the Planning Commission shall weigh the proposal's positive and negative features and the public convenience or necessity to be served against any adverse condition that would result from authorizing the particular development at the location proposed and, to approve such expansion or change shall find that the following criteria are either met, can be met by observation of conditions, or are not applicable:

Deleted: use or

A. The proposal will be consistent with the policies of the Comprehensive Plan and the requirements of the Land Development and Planning Ordinance, other than those specific zoning standards to which the use or structure is nonconforming.

B. The characteristics of the site are suitable for the proposed use considering size, shape, design, location, topography, existence of improvements and natural features.

C. All required public facilities and services exist to adequately meet the needs of the proposed development.

D. The proposed use will not alter the character of the surrounding area in a manner which substantially limits, or precludes the use of surrounding properties for the uses listed as permitted in the zone.

EXPLANATION OF PROPOSED CODE CHANGES

Chapter 16.53 p.1

As with conditional uses, the code discussing how applicants could get extensions on variances has been stuck in the back of the code book, where it gets forgotten. Staff recommends adding the extension subsection into the relevant chapters of the code, as proposed here and on the next two pages.

**CHAPTER 16.53
VARIANCES**

Sections:

- 16.53.010 Minor Variances.**
- 16.53.020 Major Variances.**
- 16.53.030 Revocation of major variances.**

Comment [JKW]: Moved here from 16.88 for clarity.

16.53.010 Minor Variances.

A. The following variances shall be reviewed using a Type II procedure (see Chapter 16.89), using the approval criteria in subsection B, below. Applications shall be made on forms provided by the Planning Department.

1. **Setbacks:** up to a ten percent (10%) reduction to the setbacks required in the zone.

B. A minor variance may be granted if the applicant demonstrates compliance with all of the following criteria, if applicable:

1. The variance is required due to the lot configuration or other physical conditions of the site;
2. The variance is proposed in order to preserve trees or will not result in the removal of significant natural resources, including trees;
3. The variance will not reduce allowable lot size, violate landscaping requirements, or result in a violation of other chapters or sections of this ordinance; and
4. The variance will not be materially detrimental to other property within the same vicinity.(Ord. 1080, 2000)

16.53.020 Major Variances.

These provisions are intended to prescribe procedures which allow variations from the strict application of the regulations of this title, by reason of exceptional circumstances and other specified conditions:

A. Authorization. The commission may authorize variances from the requirements of this title, other than Division VII, where it can be shown that, owing to special and unusual circumstances related to a specific piece of property, the literal interpretation of the regulations would cause an undue or unnecessary hardship, except that no variance shall be granted to allow the use of property for purposes not authorized within the district in which the proposed use would be located. In granting a variance, the commission may

EXPLANATION OF PROPOSED CODE CHANGES

Chapter 16.53 p.2

Relocation of code as described on previous page.

attach conditions which it finds necessary to protect the best interests of the surrounding property or neighborhood and to otherwise achieve the purpose of this title.

B. Standards and Criteria. A variance may be granted only upon determination that all of the following conditions are present:

1. Exceptional or extraordinary circumstances apply to the property which do not apply generally to other properties in the city and within the same zone. These exceptional or extraordinary circumstances result from tract size or shape, topography or other circumstances over which the owners of the property have no control. Actions of previous owners do not constitute other exceptional or extraordinary circumstances; and
2. The variance is necessary to assure that the applicant maintains substantially the same property rights as are possessed by the owners of other property in the city and within the same zone; and
3. Granting of this variance will not be materially detrimental to the intent or purposes of the city's Comprehensive Plan or the Land Development and Planning Ordinance; and
4. Granting of this variance will not be materially detrimental to other property within the same vicinity; and
5. The variance requested is the minimum variance which will alleviate the hardship; and
6. The exceptional or unique conditions of the property which necessitate the issuance of a variance were not caused by the applicant, or the applicant's employees or relatives.

C. Variance to Requirements of Hazard Overlay (H) Zone. Variances may be issued for non-residential buildings in very limited circumstances to allow a lesser degree of flood proofing than water-tight or dry-flood proofing, where it can be determined that such action will have a low damage potential, complies with all other variance criteria, and otherwise meets the requirements of the Hazard Overlay Zone. (Ord.805 section 4, 1987; Ord. 804 section 4(A), 1987; Ord. 740 section 10.8.50, 1984; Ord. 981 section 14, 1997; Renum. and mod. by Ord. 1080, 2001)

16.53.030 Revocation of major variances.

A. Automatic Revocation. All major variances shall be automatically revoked if not exercised within one year from the date of approval, or such additional time as is specified by the granting body at the time of approval. Major variances shall not be deemed exercised until the use of the property permitted by the variance has actually commenced or, in the event that such use involves the construction of a building, that all required permits for said building have been obtained.

Comment [JRW2]: Moved here from 16.88 for clarity.

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EXPLANATION OF PROPOSED CODE CHANGES

Chapter 16.53 p.3

This continues the code relocation described above. Also, staff proposes to streamline the extension process, as was proposed with conditional uses above.

B. Revocation for Noncompliance. Any major variance may be revoked by the City Council for noncompliance with conditions set forth in the original approval, after first holding a public hearing and giving written notice of such hearing to the grantee.

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C. Extension of approval. A one-time extension will be allowed if applied for no later than ninety (90) days prior to the expiration of the original approval. A request for extension must:

1. Not change the original application.
2. Explain specifically why an extension is needed.
3. Be approved by the Planning Commission as a new business item.

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4. If approved, those with standing on the original application shall be notified of the extension by mail. Those so notified may obtain a public hearing on the extension by filing a request in writing within ten (10) days of the notice date. The public hearing shall follow the notice requirements and procedure for major variances. The cost of notification and any required public hearing must be borne by the applicant.

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An extension shall not be granted for more than one (1) year. (Ord. 740 section 10.8.20(C), 1984; Ord. 955 section 31, 1996)

EXPLANATION OF PROPOSED CODE CHANGES

Chapter 16.62 p.1

We've been working to remove specific application requirements from the code. The proposed deletion continues this, replacing the code requirements with application forms that can be changed more easily.

SUBDIVISIONS - APPLICATIONS

Sections:

- 16.62.010 Filing procedures.**
- 16.62.020 Standards and criteria.**

16.62.010 Filing procedures.

A. Application procedures shall be as described in Chapter 16.89, (Ord. 899 section 3, 1993; Ord. 740 section 10.4.40(A), 1984; Ord. 981 section 10, 1997; Ord. 1019 section 16, 1999; Ord. 1080, 2001)

16.62.020 Standards and criteria.

Applications for a subdivision shall be evaluated based upon the following standards and criteria:

- A.** Conformance with the text and applicable maps of the Comprehensive Plan;
- B.** Conformance with other applicable requirements of the Land Development and Planning Ordinance;
- C.** The overall design and arrangement of lots shall be functional and shall adequately provide building sites, utility easements, and access facilities deemed necessary for the development of the subject property without unduly hindering the use or development of adjacent properties;
- D.** It must be demonstrated that all required public facilities and services are available, or will become available through the development, to adequately meet the needs of the proposed land division. (Ord. 890 section 53, 1993; Ord. 740 section 10.4.40(B), 1984)

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B. Pre-application Review of Tentative Plat. Copies of the tentative plat, with all required plat information, shall be submitted to the City Planner for a pre-application conference prior to a formal application submittal, together with all other information required on the forms provided by the Planning Director. Upon receipt, the City Planner shall furnish one copy of a tentative plat and supplementary material to the city engineer and such other agencies as are known to be affected. Other agencies believed to have an interest shall be provided notice of the proposal. A pre-application conference shall be scheduled within thirty (30) days of receipt of the preliminary tentative plat and information. The city engineer and interested/affected agencies shall be invited to the conference, with the applicant, in order to review the plat and to suggest revisions that appear to be in the public interest.

EXPLANATION OF PROPOSED CODE CHANGES

Chapter 16.64 p.2

H. – This minor change would allow flexible designs for cul-de-sac terminations, with City and emergency provider approval.

C. Alignment. All streets other than minor streets or cul-de-sacs, shall, as far as possible, be in alignment with the existing streets by continuations of the center lines thereof. Jogs creating "T" intersections shall have centerline offsets of not less than one hundred fifty feet, unless it is found that community benefits of such an alignment outweigh its disadvantages.

D. Future Extension of Streets. Where a subdivision adjoins unplatted acreage, streets which in the opinion of the commission should be continued in the event of the subdivision of the acreage, will be required to be provided through to the boundary lines of the tract. Reserve strips, street plugs and temporary turnaround areas may be required to preserve the objectives of street extensions. Reserve strips and street plugs shall be deeded to the city prior to final plat approval. The Planning Commission may require that the costs of title insurance and recordation fees, if any, for such areas be borne by the subdivider. If, in the opinion of the city engineer, a traffic pedestrian, or safety hazard temporarily exists by the construction of a dead-end street, he may direct that a barricade of adequate design be installed at the developer's expense as one of the required improvement items for the subdivision.

E. Intersection Angles. Streets shall intersect one another at an angle as near to a right angle as possible, and no intersections of streets at angles of less than thirty degrees will be approved unless necessitated by topographic conditions. When intersections of other than ninety degrees are unavoidable, the right-of-way lines along the acute angle shall have a minimum corner radius of twelve feet. All right-of-way lines at intersections with arterial streets shall have a corner radius of not less than twelve feet.

F. Existing Streets. Whenever existing streets, adjacent to or within a tract, are of inadequate width, dedication of additional right-of-way shall be provided at the time of subdivision.

G. Half Streets. Half streets, while generally not acceptable, may be approved where essential to the reasonable development of the subdivision, when in conformity with the other requirements of these regulations, and when the commission finds it will be practical to require the dedication of the other half when the adjoining property is subdivided. Whenever a half street is adjacent to a tract to be subdivided, the other half of the street shall be platted within such tract. Reserve strips, street plugs, special signs and barricades may be required to preserve the objectives of half streets.

H. Cul-de-sacs. A cul-de-sac shall be as short as possible and shall have a maximum length of four hundred fifty feet and serve building sites for not more than eighteen dwelling units. A cul-de-sac shall terminate with a circular turnaround **or other design approved by the City and emergency service providers.**

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I. Marginal Access Streets. Where a subdivision abuts or contains an existing or proposed arterial street, the commission may require marginal access streets, through lots with suitable depth, screen planting contained in a nonaccess reservation along the rear property line, or such other treatment as may be necessary for adequate protection of residential properties and to afford separation of through and local traffic.

EXPLANATION OF PROPOSED CODE CHANGES

Chapter 16.64 p.3

M. – The City does not have “major or secondary” arterials so we propose to delete this language. Also, we propose to allow exceptions to street radii standards with City approval.

J. Alleys. Alleys shall be provided to commercial and industrial districts, unless other permanent provisions for access to off-street parking and loading facilities are made as approved by the commission. Alley intersection corners shall have a minimum radius of ten feet.

K. Street Names. No street name shall be used which will duplicate or be confused with the name of existing streets except for extensions of existing streets. Street names and numbers shall conform to the established pattern in the city and the surrounding area and shall be subject to the approval of the commission.

L. Planting Easements. The Planning Commission may require additional easements for planting street trees or shrubs.

M. Grades and Curbs. Grades shall not exceed seven percent on arterials, ten percent on collector streets, or fifteen percent on any other street. In flat areas allowance shall be made for finished street grades having a minimum slope of .5 percent. Centerline radii of curves shall not be less than three hundred feet on major arterials, two hundred feet on secondary arterials, or one hundred feet on other streets, unless specifically approved by the City, and shall be to an even ten feet.

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N. Streets Adjacent to Highway 99-E or Railroad Right-of-Way. Wherever the proposed subdivision contains or is adjacent to a railroad right-of-way or Highway 99-E, provisions may be required for a street approximately parallel to and on each side of such right-of-way at a distance suitable for the appropriate use of the land between the streets and the railroad or Highway 99-E. The distances shall be determined with due consideration of cross streets at a minimum distance required for approach grades to a future grade separation and to provide sufficient depth to allow screen planting along the railroad right-of-way. (Ord. 740 section 10.4.40(C)(1), 1984; Ord. 1043 section 3, 2000)

16.64.015 Access

A. Any application that involves access to the State Highway System shall be reviewed by the Oregon Department of Transportation for conformance with state access management standards (See appendix G of the Transportation System Plan).

B. All proposed roads shall follow the natural topography and preserve natural features of the site as much as possible. Alignments shall be planned to minimize grading.

C. Access shall be properly placed in relation to sight distance, driveway spacing, and other related considerations, including opportunities for joint and cross access.

D. The road system shall provide adequate access to buildings for residents, visitors, deliveries, emergency vehicles, and garbage collection.

E. Streets shall have sidewalks on both sides. Pedestrian linkages should also be provided to the peripheral street system.

EXPLANATION OF PROPOSED CODE CHANGES

Chapter 16.64 p.4

A. The language here implements a change in state law, which prevents us from requiring side and rear yard utility easements unless there is a specific need for them.

C. – Staff proposes to strengthen the code requirements for pedestrian pathways in subdivisions. The proposal will require adequate lighting and other measures designed to increase safety and usage of these areas. The language is taken from other cities' codes on this topic. The Planning Commission will make the final decision as to the appropriateness of pathways under this section.

On 2/12 the Commission revised the proposal, creating a variable width standard, increasing as the length increases. In addition, a specific lighting standard of three foot-candles is proposed, based on a Commission suggestion and some checks of other cities' codes.

F. Access shall be consistent with the access management standards adopted in the Transportation System Plan. (Ord. 1043 section 3, 2000)

16.64.020 Blocks.

A. Generally. The lengths, widths and shapes of blocks shall be designed with due regard to providing adequate building sites suitable to the special needs of the type of use contemplated, needs for access, circulation, control and safety of street traffic and limitations and opportunities of topography.

B. Sizes. Block length shall be limited to 300 feet in the C-1 zone, 600 feet in all other zones, except for 800 feet on arterials. Exceptions to this prescribed block standard shall be permitted where topography, barriers such as railroads or freeways, or environmental constraints prevent street extension. The block depth shall be sufficient to provide two lot depths appropriate to the sizes required by Division III. (Ord. 740 section 10.4.40(C)(2), 1984; Ord. 1043 section 3, 2000; Ord. 1076, 2001)

16.64.030 Easements.

A. Utility Lines. Easements for electric lines or other public utilities are required, subject to the recommendations of the utility providing agency. Utility easements twelve feet in width shall be required along all street lot lines unless specifically waived. The commission may ~~also require~~ utility easements along side or rear lot lines ~~when required for utility provision.~~ The construction of buildings or other improvements on such easements shall not be permitted unless specifically allowed by the affected utility providing agency.

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B. Watercourses. Where a subdivision is traversed by a watercourse, drainage way, channel or stream, there shall be provided a storm water easement or drainage right-of-way conforming substantially with the lines of such watercourse, and such further width as will be adequate for the purpose of assuring adequate flood control. Streets parallel to watercourses may be required.

C. Pedestrian Ways. In any block over six hundred feet in length, a pedestrian way or combination pedestrian way and utility easement shall be provided through the middle of the block. If unusual conditions require blocks longer than one thousand two hundred feet, two pedestrian ways may be required. When essential for public convenience, such ways may be required to connect to cul-de-sacs, or between streets and other public or semipublic lands or through green way systems. Long blocks parallel to arterial streets may be approved without pedestrian ways if desirable in the interest of traffic safety. Sidewalks to city standards may be required in easements where insufficient right-of-way exists for the full street surface and the sidewalk. All pedestrian ways shall address the following standards to provide for the safety of users:

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1. Length should be kept to a minimum and normally not in excess of two hundred feet:

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2. Width should be maximized and shall not be below ten feet. For pathways over one hundred feet long, pathway width shall increase above the minimum by one foot for every twenty feet of length:

EXPLANATION OF PROPOSED CODE CHANGES

Chapter 16.64 p.5

Code changes on pedestrian pathways continued.

~~3. A minimum of three foot-candles illumination shall be provided. Lighting shall minimize glare on adjacent uses.~~

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~~4. Landscaping, fences, grade differences, and other obstructions should not hinder visibility into the pedestrian way from adjacent streets and properties.~~

~~5. Surrounding land uses should be designed to provide surveillance opportunities from those uses into the pedestrian way, such as with the placement of windows; and~~

~~6. Exits shall be designed to maximize safety of users and traffic on adjacent streets.~~

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D. Solar Easements. Subdividers shall be encouraged to establish solar easements and utilize appropriate solar design in their development proposals. Solar easements shall be shown on the final plat and in the deed restrictions of the subdivision. The Planning Commission may require the recordation of special easements or other documents intended to protect solar access. (Ord. 740 section 10.4.40(C)(3), 1984; Ord. 1043 section 3, 2000)

16.64.040 Lots.

A. Size and Shape. The lot size, width, shape and orientation shall be appropriate for the location of the subdivision and for the type of development and use contemplated. To provide for proper site design and prevent the creation of irregularly shaped parcels, the depth of any lot or parcel shall not exceed three times its width (or four times its width in rural areas) unless there is a topographical or environmental constraint or an existing man-made feature such as a railroad line.

B. Minimum Lot Sizes:

1. Lot sizes shall conform with requirements of Division III.

2. In areas that cannot be connected to sewer trunk lines, minimum lot sizes shall be greater than the minimum herein specified if necessary because of adverse soil structure for sewage disposal by septic systems. Such lot sizes shall conform to the requirements of Clackamas county for sewage disposal unless provisions are made for sanitary sewers.

C. Lot Frontage. All lots shall meet the requirements specified in Division III for frontage on a public street, except that the Planning Commission may allow the creation of flag lots, cul-de-sac lots and other such unique designs upon findings that access and building areas are adequate. Lots that front on more than one major street shall be required to locate motor vehicle accesses on the street with the lower functional classification.

D. Double Frontage. Double frontage or through lots should be avoided except where essential to provide separation of residential development from traffic arteries or to overcome specific disadvantages of topography and orientation.

EXPLANATION OF PROPOSED CODE CHANGES

Chapter 16.64 p. 7

3. – The code was written to require City Engineer approval of a variety of subdivision design details. Staff proposes to simplify the language in most cases to “city” only to allow Planning or Public Works to make such decisions. Additional examples are noted on following pages.

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.

J. Designation of Lots as 'Infill Home' Sites. The Planning Commission may require that homes built on one or more lots adjacent to existing development be subject to any or all of the requirements of 16.21.050 - Infill Homes. Furthermore, for subdivisions where the parent parcel(s) is less than two acres in size, the Planning Commission may require that all homes built on lots in the subdivision be subject to any or all of the requirements of 16.21.050. These requirements are to be shown on the subdivision plat or included in the deed restrictions. (Ord. 740 section 10.3.05(F) and 10.4.40(C)(4), 1984; Ord. 890 section 54, 1993; Ord. 1043 section 3, 2000; Ord. 1107, 2002; Ord. 1111 section 6, 2003)

16.64.050 Parks and recreation.

Subdivisions shall meet the requirements for park, open space and recreation as specified in Division VI.

16.64.060 Grading of building sites.

The commission may impose bonding requirements, similar to those described in section 16.64.070, for the purpose of ensuring that grading work will create no public hazard nor endanger public facilities where either steep slopes or unstable soil conditions are known to exist. (Ord. 740 section 10.4.40(C)(6), 1984)

16.64.070 Improvements.

A. Improvement Procedures. In addition to other requirements, improvements installed by a land divider either as a requirement of these regulations, or at his own option, shall conform to the requirements of these regulations and improvement standards and specifications followed by the city, and shall be installed in accordance with the following procedure:

1. Improvement work shall not be commenced until plans have been checked for adequacy and approved by the city. To the extent necessary for evaluation of the proposal, the plans may be required before approval of the tentative plat of a subdivision or partition. No work shall commence until the developer has signed the necessary certificates and paid the subdivision development fees specified elsewhere in this division.
2. Improvement work shall not commence until after the city is notified, and if work is discontinued for any reason it shall not be resumed until after the city is notified.
3. Improvements shall be constructed under the inspection and to the satisfaction of the City. The city may require changes in typical sections and details in the public interest if unusual conditions arise during construction which warrant the change.
4. Underground utilities, sanitary sewers and storm drains installed in streets shall be constructed prior to the surfacing of the streets. Stubs for service connections for

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EXPLANATION OF PROPOSED CODE CHANGES

Chapter 16.64 p.8

1. – Staff proposes to add street trees to the list of improvements developers are specifically required to install.

2. – A minor change to require complete sanitary sewer systems unless the Planning Commission specifically exempts a developer in a particular instance.

9. – Natural gas lines should be added to the list of improvements developers are required to install.

2. – Deletion of City Engineer as described above.

underground utilities and sanitary sewers shall be placed to a length obviating the necessity for disturbing the street improvements when service connections are made.

5. A map showing public improvements "as built" shall be filed with the city engineer within sixty days of the completion of the improvements.

B. The following improvements shall be installed at the expense of the subdivider unless specifically exempted by the Planning Commission:

1. Streets, including drainage and street trees;
2. Complete sanitary sewer system;
3. Water distribution lines and fire hydrants;
4. Sidewalks and any special pedestrian ways;
5. Street name and traffic-control signs;
6. Streetlights;
7. Lot, street and perimeter monumentation;
8. Underground power lines and related facilities;
9. Underground telephone lines, CATV lines, natural gas lines, and related facilities;
10. Where dedicated or undedicated open space is proposed or provided, it shall be the subdivider's responsibility to provide standard public improvements to and through that open space.

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C. Streets.

1. All streets, including alleys, within the subdivision and streets adjoining, but only partially within the subdivision shall be improved.
2. All public and private streets shall be constructed to city standards for permanent street and alley construction. Catch basins and dry wells shall be installed and interconnected to provide drainage as may be required by the City. Upon completion of the street improvement, monuments shall be reestablished and protected in monument boxes at every street intersection and all points of curvature and points of tangency of street centerlines as required by Oregon Revised Statutes Chapter 92.
3. Prior to city approval of the final subdivision plat, all perimeter and back lot line monumentation shall be installed and the installation of the front lot monumentation (along and within street rights-of-way) shall be guaranteed. Any monuments destroyed during improvement installation shall be replaced at the developer's expense.

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EXPLANATION OF PROPOSED CODE CHANGES

Chapter 16.64 p.9

5. – This code reference is no longer valid, so staff proposes deleting it for clarification.

1., 2. – Deletion of City Engineer as described above.

4. If any lot abuts a street right-of-way that does not conform to the design specifications of this ordinance, the owner may be required to dedicate up to one-half of the total right-of-way width required by this ordinance.

5. The proposed use shall not impose an undue burden on the transportation system. ~~The City may require the applicant to provide adequate information, such as a traffic impact study, to demonstrate the level of impact to the surrounding street system. The developer shall be required to mitigate impacts attributable to the project.~~

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6. The determination of impact or effect and the scope of the impact study should be coordinated with the provider of the affected transportation facility.

7. Dedication of land for streets, transit facilities, sidewalks, bikeways, paths, or accessways shall be required where the existing transportation system will be impacted by or is inadequate to handle the additional burden caused by the proposed use.

8. Improvements such as paving, curbing, installation or contribution to traffic signals, construction of sidewalks, bikeways, accessways, paths, or streets that serve the proposed use where the existing transportation system may be burdened by the proposed use.

D. Surface Drainage and Storm Sewer System.

1. Drainage facilities shall be provided within the subdivision and to connect the subdivision to drainage ways or storm sewers outside the subdivision, if necessary, as determined by the City.

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2. Capacity, grade and materials shall be by a design approved by the City. Design of drainage within the subdivision shall take into account the location, capacity and grade necessary to maintain unrestricted flow from areas draining through the subdivision and to allow extension of the system to serve such area. In addition to normal drainage design and construction, provisions shall be made to handle any drainage from preexisting subsurface drain tile. It shall be the design engineer's duty to investigate the location of drain tile and its relation to public improvements and building construction.

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E. Sanitary Sewers. Sanitary sewers shall be installed to serve the subdivision and to connect the subdivision to existing mains. In the event it is impractical to connect the subdivision to the city sewer system, the commission may authorize the use of septic tanks if lot areas are adequate, considering the physical characteristics of the area. The commission may require the subdivider to install and seal sewer lines to allow for future connection to the city system.

F. Water System. Water lines and fire hydrants serving the subdivision and connecting the subdivision to city mains shall be installed to the satisfaction of the supervisor of the water department and the Fire Marshal.

EXPLANATION OF PROPOSED CODE CHANGES

Chapter 16.66 p.1

The changes here may seem extensive, but in reality they describe a process that no longer occurs. The process for subdivisions is now clearly described in the Type III procedure section of the code contained in Chapter 16.89, and staff believes this language is no longer needed. The process here was appropriate for Canby in the old days...

SUBDIVISIONS - PLANNING COMMISSION ACTION

Sections:

- 16.66.010 Submittal of tentative plat.
- 16.66.020 Public hearing.
- 16.66.030 Notification of decision.
- 16.66.040 Distribution of copies.
- 16.66.050 Effect of approval.

16.66.010 Submittal of tentative plat.
| (Ord. 740 Section 10.4.40(c)(8)(a), 1984)

16.66.020 Public hearing.
| (Ord. 740 section 10.4.40(C)(8)(b), 1984)

16.66.030 Notification of decision.
| (Ord. 740 section 10.4.40 (C)(8)(c), 1984)

16.66.040 Distribution of copies.
| (Ord. 740 section 10.4.40 (C)(8)(d), 1984)

16.66.050 Effect of approval.
| (Ord. 740 section 10.4.40(C)(8)(e), 1984)

Deleted: Tentative plats shall be submitted to the commission for review and determination that the proposal will be compatible with the Comprehensive Plan and the requirements of this title. The commission may require such dedication of land and easements and may specify such conditions or modifications to the tentative plat as are deemed necessary to carry out the intent of the Comprehensive Plan and this title.

Deleted: Within forty days from the first regular commission meeting following submission of a tentative plat of a subdivision, the commission shall conduct a public hearing on the proposal and shall review the plat and the reports of appropriate officials and agencies. The commission may approve the tentative plat as submitted or as it may be modified. If the commission does not approve the plat, it shall express its disapproval and its reasons therefore. Action of the commission shall be based upon pertinent findings of fact.

Deleted: Upon action by the commission, the applicant shall be notified in writing of the decision reached and the steps which must be taken before the lots can be transferred or utilized for separate development.

Deleted: One copy of the tentative plat, clearly marked approved, modified or denied shall be retained in an appropriate file and one copy returned to the applicant.

Deleted: Approval of the tentative plat shall mandate approval of the final plat if there is no change in the plat of the subdivision and if the subdivider complies with the requirements of this division and all conditions of approval set by the commission.

EXPLANATION OF PROPOSED CODE CHANGES

Chapter 16.68 p.1

16.68.010 - Deletion of City Engineer as described above.

16.68.020 – This section of code allows the Commission to grant extensions to the subdivision recording period. As with some of the changes proposed above, staff suggests delegating this authority to staff. We know of no reason that the Commission would need to review these routine requests.

SUBDIVISIONS FINAL PROCEDURES AND RECORDATION**Sections:**

- 16.68.010** Responsibilities of applicant.
- 16.68.020** Submittal of subdivision plat.
- 16.68.030** Information required on plat.
- 16.68.040** Information to accompany plat.
- 16.68.050** Technical plat review.
- 16.68.060** Planning Commission approval.
- 16.68.070** Filing of final plat.

16.68.010 Responsibilities of applicant.

Following the action of the city in approving or conditionally approving a tentative plat for a subdivision, the applicant shall be responsible for the completion of all required improvements, or the posting of adequate assurances in lieu thereof, to the satisfaction of the city, prior to transfer of title of any of the lots involved. (Ord. 740 section 10.4.40(C)(9)(a), 1984)

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16.68.020 Submittal of subdivision plat.

Within one year after approval of the tentative plat, the subdivider shall cause the subdivision or any part thereof to be surveyed and a plat prepared in conformance with the tentative plat, as approved. The subdivider shall submit the original hardboard drawing, a Mylar copy, and any supplementary information to the city. If the subdivider wishes to proceed with the subdivision after the expiration of the one-year period following the approval of the tentative plat, he must formally request an extension of time, in writing, stating the reasons therefore. The City shall review such requests and may, upon finding of good cause, allow a time extension of not more than six additional months, provided that the request for the time extension is properly filed before the end of the one-year approval period. (Ord. 740 section 10.4.40(C)(9)(b), 1984)

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16.68.030 Information required on plat.

In addition to that required for the tentative plat or otherwise specified by law, the following information shall be shown on the plat:

- A. Date, north point and scale of drawing;
- B. Legal description of the tract boundaries;
- C. Name and address of the owner or owners, subdivider, engineer or surveyor, and land planner or landscape architect;
- D. Tract boundary lines, right-of-way lines of streets and lot lines with dimensions, bearings or deflection angles and radii, arcs, points or curvature and tangent bearings. All

EXPLANATION OF PROPOSED CODE CHANGES

Chapter 16.68 p.3

Three more areas deleting reference to the City Engineer, as described above.

The following data shall accompany the final plat:

A. A preliminary title report issued by a title insurance company in the name of the owner of the land, showing all parties whose consent is necessary and their interest in the premises;

B. Sheets and drawings showing the following:

1. Traverse data including the coordinates of the boundary of the subdivision and ties to section corners and donation land claim corners, and showing the error of closing, if any,

2. The computation of distances, angles, and courses shown on the plat,

3. Ties to existing monuments, proposed monuments, adjacent subdivisions, street corners and state highway stationing;

C. A copy of any deed restrictions applicable to the subdivision;

D. A copy of any dedication requiring separate documents;

E. A certificate by the city engineer that the subdivider has complied with the requirements for bonding or otherwise assured completion of required improvements; and

F. A certificate of the subdivider of the total cost or estimate of the total cost for the development of the subdivision in accordance with the provisions and requirements of this title or any other ordinance or regulation of the city relating to subdivision development. This certificate is to be accompanied by a final bid estimate of the subdivider's contractor, if there is a contractor engaged to perform the work, and the certificate of the total cost estimate must be first approved by the city engineer. (Ord. 740 section 10.4.40(C)(9)(d), 1984; Ord. 1111 section 3, 2003)

16.68.050 Technical plat review.

A. Upon receipt by the city, the plat and other data shall be reviewed to determine that the subdivision, as shown, is substantially the same as it appeared on the approved tentative plat and that there has been compliance with provisions of the law and of these regulations.

~~Deleted: by the City Engineer who shall examine them~~

B. The City may make such checks in the field as are desirable to verify that the plat is sufficiently correct on the ground, and ~~their~~ representatives may enter the property for this purpose.

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C. If the City determines that full conformity has not been made, the City shall advise the subdivider of the changes or additions that must be made and shall afford the subdivider an opportunity to make the changes or additions. (Ord. 740 section 10.4.40(C)(9)(e), 1984)

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EXPLANATION OF PROPOSED CODE CHANGES

Chapter 16.68 p.4

16.68.060 - For practical and legal reasons, staff stopped requiring applicants to get the signature of the Planning Commission chair on final plats years ago (perhaps 10+?). The code revision suggested here formalizes this process. Staff will, of course, continue to ensure that all relevant conditions and details are attended to prior to signing of the final plat.

16.68.070 – The same change continued.

16.68.060 Planning Commission approval.

Approval of the plat shall be indicated by the signatures of the ~~Planning Director or their lesionees~~. After the plat has been approved by all city and county officials, one reproducible copy of all data (plat face, dedications, certificates, approvals), one copy of all plat data in a "dxf" digital format, and one copy of recorded restrictive and protective covenants shall be returned to the City Planner. (Ord. 899 section 5, 1993; Ord. 740 section 10.4.40(C)(9)(f), 1984)

16.68.070 Filing of final plat.

Approval of the plat by the city, as provided by this division, shall be conditioned on its prompt recording. The subdivider shall, without delay, submit the plat to the county assessor and the county governing body for signatures, as required by Oregon Revised Statutes Chapter 92. The plat shall be prepared as provided by Oregon Revised Statutes Chapter 92. Approval of the final plat shall be null and void if the plat is not recorded within six months of the date of the signature of the ~~Planning Director~~. (Ord. 740 section 10.4.40(C)(9)(g), 1984)

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Deleted: . A. If the City Engineer determines that the final plat is in full conformance with the approved tentative plat and other regulations, he shall so advise the chairperson of the commission. The chairperson of the commission may then sign the plat without further action by the commission. If the final plat is not in full conformance, or if the City Engineer elects, he shall submit the plat to the full commission. If the final plat is referred to the chairperson for signature without submission to the commission, the chairperson may elect to submit the plat to the commission for further review. When submitted to the commission, approval of the final plat shall be by a majority of those present. If the plat is signed without further review by the commission, the action shall be reported to the commission by the chairperson at the next regular meeting. In the absence of the chairperson, his duties and powers with respect to action on final plats shall be vested in the vice chairperson.¶
¶
- B.
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EXPLANATION OF PROPOSED CODE CHANGES

Chapter 16.84 (Annexations) p.2

Annexation timelines have been very tight for us in the past couple of years, particularly with changes in state and county rules regarding elections. Staff is proposing to add an extra month to the process. This should give the City the time we need to move applications through the Planning Commission and Council process.

Additionally, we are proposing to eliminate the distinction between major and minor annexations. This was originally created to simplify the process for small annexations, but in reality the required process is the same for any sized annexation and the distinction serves no purpose.

The Planning Commission discussed a variety of changes to annexation procedures at a workshop in December 2006; these will be addressed as part of a separate code proposal.

The regulations and requirements of Oregon Revised Statutes Chapter 222 are adopted by reference and made a part of this division. (Ord. 740 section 10.6.20, 1984)

16.84.030 Filing procedure.

Whenever an application for annexation is filed, it shall be reviewed in accordance with the following procedures:

A. Application Filing Deadlines. Application deadlines are established to permit public hearings by both the Planning Commission and the City Council in time to meet state and county requirements for submitting ballot information for these election dates. Application deadlines are as follows:

1. ~~Regular annexation dates are in May and November. Annexations must be filed with the City before 5:00 p.m. on the last working day in August for a ballot election in May and the last working day in February for a ballot election in November. Incomplete applications may result in missing these planned election dates, at the City's discretion.~~

2. Annexations can be scheduled for a special election provided that all costs associated with the special election are covered by the applicant. Special elections will be scheduled by the City Council following the required City Council hearing on the application.

B. Application Submittal. Application procedures shall be as described in Chapter 16.89. (Ord. 899 section 6, 1993; Ord. 740 section 10.6.30, 1984; Ord. 981 section 36, 1997; Ord. 1019 section 18-20, 1999; Ord. 1080, 2001)

16.84.040 Standards and criteria.

A. When reviewing a proposed annexation of territory, the commission shall give ample consideration to the following standards and criteria:

1. Annexation shall be in keeping with prioritization categories, as designated on the adopted maps showing growth phasing (Urban Growth Element of the Comprehensive Plan). Areas designated as Type A urbanization lands shall be annexed prior to those areas shown as Type B, etc. Annexation which is not in keeping with the phased growth concept shall only be permitted when the following findings are made:

- a. Appropriateness of the annexation in terms of timing for city growth and development;
- b. There will be some special benefit to the city overall as a result of the annexation which would not occur if the phased growth pattern was followed;
- c. The annexation will result in no adverse impacts on the city's planned provision of public facilities and services.

The burden of proving the appropriateness of the annexation is greatest for those proposals which are least in keeping with the phased growth concept;

~~Deleted: Determinations of Annexation Type. The planning director shall determine whether an application is for a major or minor annexation as follows:~~

~~1. Major Annexation. An annexation shall be considered major if one or more of the following exist:~~

- ~~a. More than one property is involved;~~
- ~~b. City services do not abut the site;~~
- ~~c. The land is vacant and the request involves more than 1 district designation; or~~
- ~~d. The land is developed with more than one type of existing land use and more than one district designation is needed or requested.~~

~~However, if the planning director determines measuring the physical, environmental and related social effects of the proposal will be similar in difficulty to that of a minor annexation, a major annexation can follow the time line for minor annexation.~~

~~2. Minor Annexation. Any annexation not meeting the description provided above for a major annexation is considered a minor annexation. In general an annexation is considered minor if measurement of the physical, environmental and related social effects is easier than with a major annexation.~~ ... [1]

~~Deleted: Annexation elections are scheduled for May and November. Special elections may be scheduled outside of May or November if paid for by the applicant.~~

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~~Deleted: A minor annexation must be filed with the Community Services Department before 5:00 p.m. on the last working day in October for a ballot election in May and the l~~ ... [2]

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EXPLANATION OF PROPOSED CODE CHANGES

Chapter 16.84 p.3

B. – Elimination of distinction between major and minor annexations, continued from above.

2. Analysis of the need for additional property within the city limits shall be provided. The analysis shall include the amount of developable land (within the same class of zoning - low density residential, light industrial, etc.) Currently within the city limits; the approximate rate of development of those lands; and how the proposed annexation will affect the supply of developable land within the city limits. A supply of developable residential land to provide for the anticipated population growth over the following three years is considered to be sufficient;
3. Smaller non-farm land shall be considered a priority for annexation over larger farm land;
4. Access shall be adequate to the site;
5. Adequate public facilities and services shall be available to service the potential (or proposed) development;
6. Compliance with other applicable city ordinances or policies;
7. Compliance of the application with the applicable sections of Oregon Revised Statutes Chapter 222. (In other words, a triple majority type application must contain proof that a triple majority does, in fact, exist, etc.);
8. Risk of natural hazards which might be expected to occur on the subject property shall be identified;
9. Urbanization of the subject property shall not have a significant adverse effect on specially designated open space, scenic, historic or natural resource areas;
10. Economic impacts which are likely to result from the annexation shall be evaluated in light of the social and physical impacts. The overall impact which is likely to result from the annexation and development shall not have a significant adverse effect on the economic, social and physical environment of the community, as a whole.

B. If the proposed annexation involves property beyond the city's Urban Growth Boundary, or if the annexation is proposed prior to the acknowledgment of compliance of the city Comprehensive Plan by the state Land Conservation and Development Commission (LCDC), the proposal shall be reviewed for compliance with the Statewide Planning Goals. (Ord. 740 section 10.6.40, 1984; Ord. 981 section 37, 1997)

16.84.050 Consideration of applications.

A. Upon receipt of an application, staff shall review the completeness of the application. After accepting the application as complete, staff shall schedule a public hearing to be held by the Planning Commission.

B. The commission shall conduct a public hearing to evaluate the proposed annexation and determine the appropriate zoning designation upon annexation. Following the close of the public hearing, the commission shall forward its recommendation concerning the

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¶

1. **Major Annexations.** The commission shall conduct its hearing in the first half of January for applications filed in September, and in the first half of July for applications filed in March.¶

¶

2. **Minor Annexations.** The commission shall conduct its public hearing in the second half of January for applications filed in October, and in the second half of July for applications filed in April.¶

¶

EXPLANATION OF PROPOSED CODE CHANGES

Chapter 16.84 p.4

C. – This change allows the Council to review the Planning Commission's recommendations on annexations without public hearings. This could be utilized on small annexations if desired or in cases when we have severe timeline problems. The Council currently has this ability on other Type IV procedures, such as zone changes or comprehensive plan amendments.

D./E. – The code language proposed for deletion is very dated and not needed. It refers to a previous entity that reviewed boundary changes in the metropolitan area.

annexation to the City Council. The commission's recommendation shall include findings that specify how the proposal has or has not complied with the above review criteria (16.84.040). The commission shall specify such consideration as findings in support of its decision and recommendation.

C. Upon receipt of the commission's recommendation the matter shall be set for ~~review by~~ the City Council following the procedures outlined in Division VIII. The City Council shall review all proposals prior to the city application deadline for submitting measures to the voters in May or November. The City Council shall only set for an election those annexations that are consistent with the above review criteria (16.84.040). The City Council shall specify such considerations as findings in support of its decision to schedule an annexation for an election.

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D. The City Council's decision to submit an annexation to the electorate is the last discretionary decision in the process. Certifying the election after votes are counted is not a discretionary decision.

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E. The council's decision not to set an election for the annexation (a decision of denial), or the results of the election is the final action in the city's review of an annexation application. (Ord. 740 section 10.6.50, 1984; Ord. 981 section 38, 1997)

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~~Deleted: If a regional authority is empowered to make final decisions for annexations in the Canby area, the council's recommendation for denial or the election results shall be viewed as a recommendation to that body which will be regarded as the official position of the city. If no such regional authority exists, either t~~

16.84.060 Legal Advertisement of Pending Election.

After City Council review and approval, the city administrator shall cause a legal advertisement describing the proposed annexation and pending election to be published in at least one newspaper of general circulation in the city. The advertisement shall be placed at least 14 days prior to the election. The size of the advertisement shall be determined by the City Administrator, but shall not be less than one-half of a full page. The advertisement shall contain: a description of the location of the property, the size of the property, its current zoning and zoning upon annexation, a general description of the land use intended, a description of any Comprehensive Plan text or Map amendment of Zoning Ordinance text or Map amendment that is required; and a description of the positive and negative effects contained in the staff report, as well as the findings upon which the City Council based its decision. (Ord. 981 section 39, 1997)

16.84.070 Election Procedures.

A. Pursuant to ORS 222.130(1), the statement of chief purpose in the ballot title for a proposal for annexation shall contain a general description of the boundaries of each territory proposed to be annexed. The description shall use streets and other generally recognized features. Notwithstanding ORS 250.035, the statement of chief purpose shall not exceed 150 words. The ballot title wording shall be prepared by the City Attorney.

B. Pursuant to ORS 222.130(2), the notice of an annexation election shall be given as provided in ORS 254.095 and 254.205, except that in addition the notice shall contain a map indicating the boundaries of each territory proposed to be annexed.

C. Pursuant to ORS 222.11(7), two or more proposals for annexation of territory may be voted upon simultaneously; however, each proposal shall be stated separately on the ballot and voted on separately. (Ord. 981 section 40, 1997)

EXPLANATION OF PROPOSED CODE CHANGES

Chapter 16.84 p.5

The language proposed for deletion, similar to that on the last page, is outdated and no longer applicable.

16.84.080 Setting of Boundaries and Proclamation of Annexation.

If the annexation is approved by the electorate, the City Council, by resolution or ordinance, shall set the final boundaries of the area to be annexed by a legal description and proclaim the annexation (ORS 222.170(3)). (Ord. 981 section 41, 1997)

16.84.090 Exceptions.

The City Council may authorize an exception to any of the requirements of this chapter. An exception shall require a statement of findings that indicates the basis for the exception. Exceptions may be granted for reasons including, but not limited to: identified health hazards, limited development potential, or administrative error. An exception to referring an annexation application that meets the approval criteria to an election cannot be granted except as provided in the Oregon Revised Statutes. (Ord. 981 section 42, 1997)

Deleted: For annexation applications received prior to 1/1/99: if the annexation is approved by the electorate, the City Council, by resolution, shall recommend to the Portland Metropolitan Local Area Government Boundary Commission, the final boundaries of the area to be annexed by a legal description. For annexation applications received after 1/1/99: i

EXPLANATION OF PROPOSED CODE CHANGES

Chapter 16.86 p.1

D. – This minor change allows the Planning Commission to approve either smaller or larger streets than our standard in particular circumstances. Previously the Commission could only increase right-of-way requirements. The Northwood subdivision is an example of a project needing more flexibility; the one-way streets in this project did not fit into our standard designs.

Division VII. - STREET ALIGNMENTS

Chapter 16.86

REGULATIONS

Sections:

- 16.86.010 Purpose.**
- 16.86.020 General provisions.**
- 16.86.030 Street widening.**
- 16.86.040 Recommended roadway standards.**
- 16.86.050 Reduced roadway width standards.**

16.86.010 Purpose.

This chapter is intended to insure that adequate space is provided in appropriate locations for the planned expansion, extension, or realignment of public streets. Further, it is intended to allow for the safe utilization of streets once developed. This section is to be used in conjunction with other general ordinances of the city which affect public improvements, roads, highways, etc. (Ord. 740 section 107.10, 1984)

16.86.020 General provisions.

A. The street circulation map of the Comprehensive Plan shall be used to determine which streets are to be arterials, collectors, and neighborhood connectors. Based upon this, new arterial street rights-of-way shall be between sixty and eighty feet in width, depending upon the previously determined plan for each such street. New collector street rights-of-way shall have a minimum width of sixty feet. New neighborhood connectors shall have a minimum right-of-way width of sixty feet. All new streets shall comply with the roadway standards shown in Section 16.86.040.

B. New local residential streets shall have a minimum right-of-way width of forty feet. Existing local residential streets shall have a minimum right-of-way width of fifty feet unless a forty-foot width is specified in section 16.86.030.

C. New streets intended to serve commercial and industrial areas shall have a minimum right-of-way width of fifty feet.

D. The Planning Commission shall have the authority to ~~modify~~ right-of-way requirements where warranted because of anticipated traffic volumes, anticipated truck traffic, planned bicycle or pedestrian paths, or other unique conditions.

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E. The city engineer shall be responsible for establishing appropriate alignments for all streets. Street surface widths and specific design details shall also be the responsibility of

EXPLANATION OF PROPOSED CODE CHANGES

Chapter 16.88 p.2

16.88.060 – Continuing the proposed changes regarding plat adoption, this section removes a requirement for the city engineer and Planning Commission chair to sign plats.

16.88.090 – These sections are proposed for relocation to the relevant sections of code, as described above.

The Building Official may issue temporary permits for buildings to be used for a construction office, storage incidental to construction of buildings on the property and for signs advertising a subdivision or tract of land or the lots therein. Such permits shall be issued for a specific time period and shall include a signed statement from the applicant agreeing to remove the structure or sign at the completion of that period. (Ord. 740 section 10.8.10(C), 1984)

16.88.050 Business license review.

Applications for a business license shall be reviewed for compliance with these regulations. The administrative procedure established by the city administrator for review of business license applications shall be followed in order to assure that business operators are made aware of code requirements such as sign regulations, parking standards, and land use regulations. No business license shall be issued until it is found that the proposed business will comply with the requirements of this code. Except, however, that a change in the type of business in an area zoned for industrial use need not meet complete parking requirements unless required to do so as a part of a discretionary hearing process conducted by the commission or City Council. (Ord. 740 section 10.8.10(D), 1984)

16.88.060 Council acceptance of dedicated land.

No property shall be considered to be dedicated to the city unless first accepted as such by the council, or shown as such on a legally recorded subdivision plat which has been signed by the City. The Planning Commission is empowered to accept dedication of land for public street purposes in a subdivision only, with all other dedications being the responsibility of the council. The applicant shall be responsible for furnishing adequate title insurance for any such land to be dedicated, unless this requirement is waived by the council for good cause. (Ord. 740 section 10.8.10(E), 1984)

16.88.070

(Ord. 740 section 10.8.10(F), 1984; repealed by Ord. 981 section 12, 1997)

16.88.080 Administration and enforcement.

A. Purpose. Recognizing the need for fair and impartial administration and the importance of strict enforcement of these regulations, it is the intent of the council in adopting these regulations that all reasonable means of enforcement be utilized and maximum allowable penalties be sought for willful violations.

B. Duty. It shall be the duty of the City Planner, with assistance from other city staff, to administer and enforce this title. (Ord. 740 section 10.8.20 (A) and (B), 1984)

16.88.090 Revocation of conditional use permits and variances.

(Ord. 740 section 10.8.20(C), 1984; Ord. 955 section 31, 1996; renum. to....)

16.88.100 Interpretation.

The provisions of this title shall be held to be the minimum requirements fulfilling its objectives. (Ord. 740 section 10.8.20(D), 1984)

16.88.110 Penalties and civil remedies.

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Deleted: . A. Automatic Revocation. All conditional use permits and variances shall be automatically revoked if not exercised within one year from the date of approval, or such additional time as is specified by the granting body at the time of approval. Conditional use permits and variances shall not be deemed exercised until the use of the property permitted by the conditional use permit or variance has actually commenced or, in the event that such use involves the construction of a building, that all required permits for said building have been obtained.¶

¶

. B. Revocation for Noncompliance. Any conditional use permit or variance may be revoked by the council for noncompliance with conditions set forth in the original approval, after first holding a public hearing and giving written notice of such hearing to the grantee.¶

¶

. C. Extension of approval. A one-time extension will be allowed if applied for no later than ninety (90) days prior to the expiration of the original approval. A request for extension must:¶

. 1. Not change the original application.¶

¶

. 2. Explain specifically why an extension is needed.¶

¶

. 3. Be approved by the Planning Commission during a public hearing.¶

¶

. 4. The cost of notification [newspaper/adjacent owners/interested parties] must be borne by the applicant.¶

¶

An extension shall not be granted for more than one (1) year.

EXPLANATION OF PROPOSED CODE CHANGES

Chapter 16.88 p.6

C. – Another change already described above; this code reference is no longer applicable and needs to be updated.

1. The remainder of the Comprehensive Plan of the city, as well as the plans and policies of the county, state, or any local school or service districts which may be affected by the amendments;

2. Whether all required public facilities and services exist, or will be provided concurrent with the anticipated development of the area. (Ord. 740 section 10.8.80, 1984; Ord. 981 section 16, 1997; Ord. 1080, 2001)

16.88.190 Conformance with Transportation System Plan

A. A plan or land use regulation amendment significantly affects a transportation facility if it:

1. Changes the functional classification of an existing or planned transportation facility;
2. Changes standards implementing a functional classification system;
3. Allows types or levels of land use that would result in levels of travel or access that are inconsistent with the functional classification of a transportation facility; or
4. Would reduce the level of service of the facility below that minimum acceptable level identified in the Transportation System Plan.

B. Amendments to the comprehensive plan and land use regulations which significantly affect a transportation facility shall assure that allowed land uses are consistent with the function, capacity, and performance standards (e.g., level of service, volume to capacity ratio, etc.) of the facility identified in the Transportation System Plan. This shall be accomplished by one of the following:

1. Limiting allowed land uses to be consistent with the planned function of the transportation facility;
2. Amending the Transportation System Plan to ensure that existing, improved, or new transportation facilities are adequate to support the proposed land uses consistent with the requirement of the Transportation Planning Rule; or
3. Altering land use designations, densities, or design requirements to reduce demand for automobile travel and meet travel needs through other modes.

C. A Traffic Impact Study may be required ~~by the City~~. (Ord. 1043, section 3, 2000)

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EXPLANATION OF PROPOSED CODE CHANGES

Chapter 16.89 (Application and review procedures) p. 3

The changes to this table implement proposals regarding application procedures that have been described above.

TABLE 16.89.020
Land Use and Development Application Procedures

Application Type	Process Type	Notice Radius (Feet)	Neighborhood Meeting Required
Access permit to public street	I	n/a	No
Amendments to Zoning Map	IV	500	Yes
Annexation, Minor and Major	IV	500	Yes
Appeals	III	200	No
Building Permit	I	n/a	No
Comprehensive Plan Amendment	IV	500	Yes
Conditional Use Permit	III	500	No
Condominium Construct. (less than 6 units)*	I	n/a	No
Interpretation	See Section 16.05.020		
Lot Line Adjustment**	II	100	No
Modification	See Section 16.89.090		
Non-Conforming Structure/Use	II	100	No
Parking Lot/Paving projects	I	n/a	No
Partition, Minor and Major	III	200	No
Planned Unit Development	III	200	Yes
Sign Permit (non-SDR)	I	n/a	No
Site and Design Review	III	500	Yes
Site Plan Review	I	n/a	No
Temporary Permit (16.44.000)	See Chapter 16.44		
Temp. Hardship Permit (16.44.100)	II	100	No
Subdivision	III	500	Yes
Text Amendment	IV	500	Yes
Variance, Minor	II	200	No
Variance, Major	III	200	No

NOTES: * See also Chapter 16.78

** See also Chapter 16.58.

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EXPLANATION OF PROPOSED CODE CHANGES

Chapter 16.89 p.5

a. – This small change would require appellants to file their appeals within ten days of our notice rather than 14, similar to what many other cities require. We've been having problems making the 120-day timeline work and are trying to find time where we can. This change would sometimes allow us to move up Council hearing dates, as the Council and Commission meeting dates are offset.

E. Notice of Decision.

1. Within five days of making a final decision on a Type II application, a notice of decision shall be sent to:

- a. All owners of real property and, if the owner's address is different from the site address, all residents of property, within the distance prescribed in Table 16.89.020;
- b. Any person who submits a written request to receive notice; and
- c. Any governmental agency which is entitled to notice under an intergovernmental agreement entered into with the City.

2. The notice of decision shall include information on the application, the City's decision, and a statement explaining how an appeal of the decision may be filed.

F. Effective Date. A Type II decision is final for purposes of appeal when it is mailed by the City.

G. Appeal. A Type II decision may be appealed to the Planning Commission as follows:

1. The following persons have legal standing to appeal a Type II decision:

- a. The applicant;
- b. Any person who was mailed notice of the decision; and
- c. Any other person who participated in the proceeding by submitting written comments.

2. Procedure.

- a. A Notice of Appeal shall be filed in writing, on forms provided for the purpose by the Planning Director, within 10 days of the date the Notice of Decision was mailed.
- b. The Notice of Appeal shall be accompanied by all required information and fees.
- c. An appeal of a Type II decision shall be made following the Type III public notice procedures, as described in Section 16.89.050.D.
- d. The appeal shall be limited to the specific issues raised during the written comment period unless the hearings body allows additional evidence or testimony concerning any other relevant issue. The hearings body may allow additional evidence if it determines that such evidence is necessary to resolve the case. The purpose of this requirement is to limit the scope of Type II appeals by encouraging persons to submit specific concerns in writing during the comment period. Only in

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EXPLANATION OF PROPOSED CODE CHANGES

Chapter 16.89 p. 6

H. – This small change would clarify how staff interpretations may be appealed to the Planning Commission. Right now the appeal process on such decisions is unclear.

extraordinary circumstances should new issues be considered by the hearings body on appeal of a Type II decision.

3. The decision of the Planning Commission regarding an appeal of a Type II decision is the final decision of the City unless appealed to the City Council. An appeal to the City Council shall follow the same notification and hearing procedures as for the appeal of the staff decision.

H. Any decision or interpretation of this title made by staff that is not a Type II decision may be appealed to the Planning Commission without fee, provided that such appeal is filed in writing within ten days of the staff decision. Such appeals shall be heard as a new business item. The Planning Commission's decision on such appeals may be appealed to the City Council following the Type III public notice procedures, as described in Section 16.89.050.D. (Ord. 1080, 2001)

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16.89.050 Type III Decision.

A. Pre-application conference. A pre-application conference may be required by the Planning Director for Type III applications.

B. Neighborhood meetings. As directed in Table 16.89.020, the applicant may be required to present their development proposal at a neighborhood meeting before the City accepts the application as complete. See Section 16.89.070.

C. Application requirements. Type III applications shall be made on forms provided by the Planning Director. The application shall be accompanied by all required information and fees.

D. Public notice.

1. At least 20 days prior to a public hearing on a Type III decision or a Type II appeal decision, the Planning Director shall mail notice meeting the requirements of state law to:

- a. All owners of real property and, if the owner's address is different from the site address, all residents of property, within the distance prescribed in Table 16.89.020;
- b. The appointed chair of any neighborhood association whose boundaries include the subject property;
- c. Any person who submits a written request to receive notice; and
- d. Any governmental agency which is entitled to notice under an intergovernmental agreement entered into with the City.
- e. For appeals, the appellant and all persons who provided testimony.

EXPLANATION OF PROPOSED CODE CHANGES

Chapter 16.89 p.9

a. - Right now our code is not clear on who will be sent our notice of decision (and thus, who has the ability to appeal decisions). This text change implements standard procedure for most cities – those who submit written or oral testimony to the hearing body are part of the record.

ii. An extension of the hearing or record granted pursuant to this subsection is subject to the limitations of ORS 227.178 (120-day rule), unless the continuance or extension is requested or agreed to by the applicant.

iii. If requested by the applicant, the City shall allow the applicant at least seven days after the record is closed to all other persons to submit final written arguments in support of the application, unless the applicant expressly waives this right. The applicant's final submittal shall be part of the record but shall not include any new evidence.

F. Decision process.

1. Approval or denial of a Type III decision or appeal of a Type II decision shall be based on standards and criteria located in the code.
2. The hearings body shall issue a final written order containing findings and conclusions that approve, approve with conditions, or deny the application.
3. The written decision shall explain the relevant criteria and standards, state the facts relied upon in rendering the decision, and justify the decision according to the criteria, standards, and facts.
4. In cases involving attorneys, the prevailing attorney shall prepare the findings, conclusions, and final order. Staff shall review and, if necessary, revise, these materials prior to submittal to the hearings body.

G. Notice of Decision.

1. The written findings shall be sent to:
 - a. Any person who submits a written request to receive notice, provides written comments during the application review period, or provides written or oral testimony in the public hearing;
 - b. The applicant and owner of the subject property;
 - c. Any governmental agency which is entitled to notice under an intergovernmental agreement entered into with the City.
2. The written findings shall include information on the application, the City's decision, and a statement explaining how an appeal of the decision may be filed.

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H. Effective Date. A Type III decision is final for purposes of appeal when it is mailed by the City.

I. Appeal. The Planning Commission's decision on a Type III decision or Type II appeal may be appealed to the City Council as follows:

EXPLANATION OF PROPOSED CODE CHANGES

Chapter 16.89 p.10

d. - Overeager text amendments a number of years ago eliminated the Council's ability to "call up" Planning Commission decisions, which most City Councils have. This addition provides the Council with this ability.

a. - Similar to a change noted above, this requires written notice of appeal to be filed within 10 days of our notice of decision rather than 14.

c. - This section should refer to the "public hearing process" rather than the "written comment period."

J. - Any Planning Commission should be able to be appealed to the Council; this language ensures that this ability exists. Right now the code is a bit cloudy on which decisions can be appealed.

1. The following have legal standing to appeal:

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- a. The applicant;
- b. Any person who was mailed notice of the decision;
- c. Any other person who participated in the proceeding by testifying or submitting written comments; and
- d. The City Council, on its own motion.

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2. Procedure.

- a. A Notice of Appeal shall be filed in writing, on forms provided for the purpose by the Planning Director, within 10 days of the date the Notice of Decision was mailed.
- b. The Notice of Appeal shall be accompanied by all required information and fees.
- c. The appeal shall be limited to the specific issues raised during the comment period and public hearing process unless the hearings body allows additional evidence or testimony concerning any other relevant issue. The hearings body may allow additional evidence if it determines that such evidence is necessary to resolve the case. The purpose of this requirement is to limit the scope of appeals by encouraging persons to be involved in the public hearing. Only in extraordinary circumstances should new issues be considered by the hearings body on an appeal.

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3. The City Council shall overturn the decision of the Planning Commission only when one or more of the following findings is made:

- a. That the Commission did not correctly interpret the requirements of this title, the Comprehensive Plan, or other requirements of law;
- b. That the Commission did not observe the precepts of good planning as interpreted by the Council; or
- c. That the Commission did not adequately consider all of the information which was pertinent to the case.

4. The Council's action on an appeal shall be governed by the same general regulations, standards, and criteria as apply to the Commission in the original consideration of the application.

~~J. Any decision of the Planning Commission may be appealed to the City Council unless otherwise specified in this Title. Such appeals will be processed using the Type III procedures unless otherwise specified in this Title.~~

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EXPLANATION OF PROPOSED CODE CHANGES

Chapter 16.89 p. 11

K. – This section is a little confusing right now and the language proposed should make crystal clear that any decision the Council makes is the City's final decisions (this distinction is important for folks that want to file appeals with LUBA).

K. The decision of the City Council regarding a Type IV decision, ~~appeal of a Planning Commission decision, or any other process contained within this title,~~ is the final decision of the City. (Ord. 1080, 2001; Ord. 1111 section 5, 2003)

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16.89.060 Type IV decision.

For certain applications, the City Council makes a final decision after a recommendation by the Planning Commission. These application types are referred to as Type IV decisions.

A. Pre-application conference. A pre-application conference may be required by the Planning Director for Type IV applications.

B. Neighborhood meetings. The applicant may be required to present their development proposal at a neighborhood meeting (see Section 16.89.070). Table 16.89.020 sets the minimum guidelines for neighborhood review but the Planning Director may require other applications to go through neighborhood review as well.

C. Application requirements. Type IV applications shall be made on forms provided by the Planning Director. The application shall be accompanied by all required information and fees.

D. Public notice and hearings. The public notice and hearings process for the Planning Commission's review of Type IV applications shall follow that for Type III applications, as provided in subsections 16.89.050.D and 16.89.050.E.

E. Decision process.

1. Approval or denial of a Type IV decision shall be based on the standards and criteria located in the code.

2. The hearings body shall issue a final written order containing findings and conclusions recommending that the City Council approve, approve with conditions, or deny the application.

3. The written decision shall explain the relevant criteria and standards, state the facts relied upon in rendering the decision, and justify the decision according to the criteria, standards, and facts.

4. In cases involving attorneys, the prevailing attorney shall prepare the findings, conclusions, and final order. Staff shall review and, if necessary, revise, these materials prior to submittal to the hearings body.

F. City Council proceedings:

1. Upon receipt of the record of the Planning Commission proceedings, and the recommendation of the Commission, the City Council shall conduct a review of that record and shall vote to approve, approve with conditions, or deny the recommendation of the Planning Commission.

EXPLANATION OF PROPOSED CODE CHANGES

Chapter 16.89 p.12

E. – We have had several instances in which attendees have questioned an applicant's summary of the neighborhood meeting. Staff proposed code that would require video recordings of these meetings in order to increase accountability. The Planning Commission on 2/12 had a lengthy discussion of the purpose and format of neighborhood meetings, and ended up replacing this recommendation with language that allows either side to record the meeting.

2. The City Council may question those individuals who were a party to the public hearing conducted by the Planning Commission if the Commission's record appears to be lacking sufficient information to allow for a decision by the Council. The Council shall hear arguments based solely on the record of the Commission.

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. If the Council elects to conduct such hearings, it may do so in joint session with the Planning Commission or after receiving the written record of the Commission. (Ord. 1080, 2001)

16.89.070 Neighborhood Meetings.

A. Applicants are encouraged to meet with adjacent property owners and neighborhood representatives prior to submitting their application in order to solicit input, identify issues, and exchange information about the proposed meeting.

B. The Planning Commission or Planning Director may require an applicant to hold a meeting in the neighborhood prior to accepting an application as complete. A neighborhood meeting is required for some application types, as shown in Table 16.89.020, unless this requirement is waived by the Planning Director.

C. At least two weeks prior to the neighborhood meeting, the applicant shall mail notice of the meeting to:

1. The appointed chair and all active members of any neighborhood association in whose boundaries the application lies; and
2. All of those who would receive notice of the application's public hearing before the Planning Commission.

D. The meeting shall be held in a fully accessible location approved by the City.

E. ~~Following a required neighborhood meeting, applicants shall prepare a written summary of pertinent issues raised and shall prepare a detailed response to each issue. This material shall be submitted to the Planning Department in electronic format at least two weeks before the initial public hearing.~~

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~~F. Applicants or attendees may make audio or video recordings of the neighborhood meeting if desired. (Ord. 1080, 2001; Ord. 1111 section 5, 2003)~~

16.89.080 Application Requirements and Completeness.

A. Submittal. Applications for land use and development permits shall be filed on forms provided by the purpose by the Planning Director. The application shall be made with all required information and fees.

EXPLANATION OF PROPOSED CODE CHANGES

Chapter 16.89 p.14

Our “new” (2003) modification process has in general been working pretty well, but there have been kinks and confusion at times. The proposed changes listed below address the issues staff is aware of:

16.89.090 – In judging what process to use, staff would like to be able to consider the age of the original application. With older projects we know whether the use has been working well or poorly, which may influence what process type is chosen for a specific request. Also a clarification is proposed that “impact” on public service provision is part of the review criteria.

B. – Staff would also like to be able to modify who gets notice of amendments for modifications to older applications. When Fred Kahut recently proposed a modification to his ten-year old design review, we had to send notice to many people – and got a high proportion of those letters back because so many people had moved. It would have been more appropriate to send notice to current neighbors rather than previous hearing participants.

Staff also recommend attributing the cost of any public hearings required to the applicant.

Finally, staff recommends clearly giving the Planning Commission the ability to require modifications to be processed as major, rather than intermediate, modifications. This situation arose recently on the Kimco (Tofte) modification request.

C. – The original code language was not clear about how major modifications should be processed. Staff believes they should be processed just as the original applications were (that is, a major modification to a Subdivision would have to follow the notice, neighborhood meeting, and other requirements of a regular subdivision application).

D. – Clarifying what criteria are to be used in processing modification requests.

Believe it or not, that is it! THE END.....for now.

F. Standards and criteria. Approval or denial of a complete application shall be based upon the standards and criteria that were applicable at the time the application was first accepted. (Ord. 1080, 2001)

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 date of the original application, the impact on neighboring properties, and the impact on public service provision. Modifications shall be processed as indicated in subsections A through D below. Modification applications shall be made on forms provided for the purpose by the Planning Director.

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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. The Planning Director may waive the requirement to notice those with standing in cases when the final decision date on the original application was more than five years prior to the modification application date. The individuals noticed may obtain a public hearing on the issue by filing a request in writing within ten days of the notice mailing date. Any additional costs of such hearings shall be paid by the modification applicant. Hearing notice shall follow the requirements of the procedure type of the original application. The Planning Commission may require any Intermediate Modification to be processed as a Major Modification, using the decision criteria in section 16.89.090.

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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. Major modifications shall be processed using the procedure type of the original application.

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D. Modification criteria. Modification applications shall be evaluated based on the criteria pertaining to the original application being modified. (Ord. 1111, 2003)

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