



**PLANNING COMMISSION**  
**Meeting Agenda**  
**Monday – December 10, 2012**  
**7:00 PM**

**City Council Chambers – 155 NW 2<sup>nd</sup> Avenue**

**Commissioners Dan Ewert (Chair), Randy Tessman (Vice-Chair),  
Sean Joyce, Charles Kocher, John Proctor, Misty Slagle and Tyler Smith**

---

**CALL TO ORDER**

**2. CITIZEN INPUT ON NON-AGENDA ITEMS**

**3. PUBLIC HEARING –**

- a. Consider a request from City Staff for approval of a text amendment for numerous proposed Canby Land Development and Planning Ordinance edits. (**Text Amendment, TA 12-03**) Staff: Angie Lehnert, Associate Planner

**4. NEW BUSINESS – None**

**5. FINAL DECISIONS - None**

**6. MINUTES**

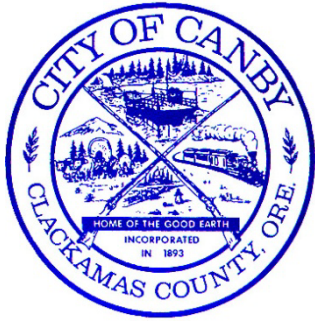
- a. November 13, 2012 Special Planning Commission Meeting Minutes.

**7. ITEMS OF INTEREST/REPORT FROM STAFF**

**8. ITEMS OF INTEREST/GUIDANCE FROM PLANNING COMMISSION**

**9. ADJOURNMENT**

*The meeting location is accessible to persons with disabilities. A request for an interpreter for the hearing impaired or for other accommodations for person with disabilities should be made at least 48 hours before the meeting at 503-266-7001. A copy of this agenda can be found on the City's web page at [www.ci.canby.or.us](http://www.ci.canby.or.us). City Council and Planning Commission Meetings are broadcast live and can be viewed on OCTS Channel 5. For a schedule of the playback times, please call 503-263-6287*



# City of Canby

---

## TEXT AMENDMENT STAFF REPORT

FILE #: TA 12-02

**APPLICANT:** City of Canby

**APPLICATION TYPE:** Text Amendment (Type IV)

**CITY FILE NUMBER:** TA 12-02

### I. OVERVIEW

This text amendment proposes numerous Canby *Land Development and Planning Ordinance* edits, including:

- Clarifying the duties of the Planning Director in 16.05
- Clarifying code interpretations made by the Planning Director in 16.05
- Correcting grammatical errors and confusing language
- Modifying multi-family design standards in 16.21, including revising the design review menu so that is more legible, easier to comply with, and by adding some additional design options to the table
- Making minor modifications and clarifications to the Downtown Overlay Zone, 16.41
- Modifying screening requirements in the Downtown Overlay Zone, 16.41
- Clarifying automobile sign and temporary sign standards in 16.42
- Clarifying lighting standards in 16.43
- Clarifying application and review procedures in 16.46, 16.49, and 16.89
- Clarifying that establishment of the Site and Design Review Board is optional and that the Planning Commission serves as the Site and Design Review Board when no separate Site and Design Review Board is appointed (Chapter 16.49)
- Clarifying design review standards in 16.89, including revising the design review menu so that is more legible, easier to comply with, and by adding some additional design options to the table
- Clarifying landscaping requirements in 16.49 to give more flexibility to planning applicants
- Altering the membership requirement of the Historic Review Board so that fewer members are required (Chapter 16.110)
- Omitting outdated solar access/balance standards; new technology has rendered solar layout standards obsolete. In addition, staff has found that these standards are impractical, encourage inefficient use of land, and that administering these standards is cumbersome and counterproductive.

### II. ATTACHMENTS

- Proposed text amendments

III. **APPLICABLE CRITERIA & FINDINGS**

Major approval criteria used in evaluating this application were the following Chapters from the *City of Canby's Land Development and Planning Ordinance* (Zoning Code):

- 16.88 General Standards & Procedures
- 16.89 Application and Review Procedures

Excerpts from the code are highlighted below in **gray**, with findings and discussion after the citations. If not discussed below, other standards from the Code are either met fully, not applicable, and/or do not warrant discussion.

**16.88 General Standards and Procedures**

---

**16.88.160 Amendments to text of title.**

**A. Authorization to Initiate Amendments.** *An amendment to the text of this title may be initiated by the City Council, by the Planning Commission or by the application of a property owner or his authorized agent. The Planning Commission shall, within forty days after closing the hearing, recommend to the City Council, approval, disapproval, or modification of the proposed amendment.*

**Findings:** The city has initiated amendments to the text of the *Canby Land Development and Planning Ordinance*. The Canby Planning Commission shall make a recommendation to approve or deny this application to the Canby City Council after their public hearing. The City Council shall also conduct a public hearing before making a final decision on these proposed Text Amendments.

**D. Standards and Criteria.** *In judging whether or not this title should be amended or changed, 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;*

*Applicable Comprehensive plan Elements and goals:*

**Urban Growth Element**

*Goals:*

- 1) *To preserve and maintain designated agricultural and forest lands by protecting them from urbanization.*
- 2) *To provide adequate urbanizable area for the growth of the city, within the framework of an efficient system for the transition from rural to urban land use.*

**Land use element**

*Goal: to guide the development and uses of land so that they are orderly, efficient, aesthetically pleasing, and suitably related to one another.*

**Environmental concerns element**

*Goals:*

- To protect identified natural and historical resources.*
- To prevent air, water, land, and noise pollution.*
- To protect lives and property from natural hazards.*

**Transportation element**

Goal: To develop and maintain a transportation system which is safe, convenient and economical.

**Public facilities and services element**

Like other cities, Canby must be able to provide adequate public facilities and services to support the community’s growth and quality of life

**Economic element**

Goal: to diversify and improve the economy of the city of Canby

**Housing element**

Goal: to provide for the housing needs of the citizens of Canby

**Energy conservation element**

Goal: to conserve energy and encourage the use of renewable resources in place of non-renewable resources.

**Findings:** The proposed text amendment does not conflict with the policies of the Comprehensive Plan, including the elements and goals listed above.

- 2. A public need for the change;
- 3. Whether the proposed change will serve the public need better than any other change which might be expected to be made;
- 4. Whether the change will preserve and protect the health, safety and general welfare of the residents in the community;

**Findings:** The proposed edits are needed in improve the development process in Canby and clarify the requirements of the Code. The proposed changes therefore serve the public need and do not affect the Code’s protection of Canby’s health, safety, and general welfare.

5. Statewide planning goals.

**Findings:** This proposal in not in conflict with statewide planning goals. The Oregon Department of Land Conservation and Development (DLCD) was notified of this proposal and have not commented.

**16.88.190 Conformance with Transportation System Plan and Transportation Planning Rule**

**A.** A proposed comprehensive plan amendment, zone change or land use regulation change, whether initiated by the city or by a private interest, shall be reviewed to determine whether it significantly affects a transportation facility, in accordance with the Transportation Planning Rule (OAR 660-012-0060). 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. As measured at the end of the planning period identified in the adopted plan:
  - a. 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
  - b. Would reduce the performance of the facility below the minimum acceptable performance standard identified in the Transportation System Plan;

- c. *Would worsen the performance of a facility that is otherwise projected to perform below the minimum acceptable performance standard identified in the Transportation System Plan.*

**Findings:** The proposed text amendment does not conflict with the above standards.

#### ***16.89 Application and Review Procedures***

---

**Findings:** This Text Amendment application is Type IV process, with final approval required by City Council by Ordinance. Therefore, the Planning Commission will make a recommendation to City Council on their recommendation (approval or denial) of this application. Notice of this application was given to interested parties. Notice of public hearing was also posted at the Development Services Building, City Hall, and published in the *Canby Herald*. All public hearing, application requirements, and Type IV application procedures are being met.

#### **IV. Decision**

Based on the application submitted and the facts, findings, and conclusions of this report, staff advises that the Planning Commission recommend **approval** to the Canby City Council of Text Amendment File# TA 12-02.

## 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.** Generally, the Planning Director and/or the Planning Commission are authorized to make interpretations and/or determinations that specific standards of this Ordinance are not applicable and/or are impractical when applied to certain proposals.

For more complex interpretations, The Planning Director is authorized to issue or decline to issue a requested interpretation and shall advise the applicant and any other person who requested a written copy of the decision 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. The decision shall become effective 10 days after delivery/ mailing, unless an appeal is filed. Any such appeal shall be processed as described in Chapter 16.89.

~~**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). (Ord. 1237, 2007)~~

**CD. Public Notice.** For more complex interpretations, Notice of the Planning Director's decision shall be sent to all property owners and residents within 200 feet of the subject property. (Ord. 1237, 2007)

**DE.** Interpretations On File. For more complex interpretations, the Planning Director shall keep all code interpretations on file. (Ord. 1080, 2001)

- g.** The radio frequency range in megahertz and the wattage output of the equipment.
- h.** A description of the type of service offered (voice, data, video, etc.) and the consumer receiving equipment.
- i.** Identification of the provider and backhaul provider, if different.
- j.** A facilities maintenance regimen.
- k.** The zoning and comprehensive plan designation of the proposed site.
- l.** The FAA determination.
- m.** The distance from the nearest WTS facility.

**2.** WTS providers whose proposals conforms with the provisions of subsection (C)(2) and (C)(3) of this section (16.08.120) shall submit, in addition to the requirements of 16.49.035 and/or 16.50.020 of the Land Development and Planning Ordinance, the following additional information:

- a.** Items 1-14 in **section (E)** ~~subsection (5)(a)~~ above.
- b.** Alternatives for locating/relocating support structures within 250 feet of the proposed site.
- c.** Photo simulations of the proposed WTS facility from the four cardinal compass points and/or abutting right-of-way, whichever provides the most accurate representation of the proposed facility from a variety of vantage points.
- d.** An engineer's statement demonstrating the reasons why the WTS facility must be located at the proposed site (service demands, topography, dropped coverage, etc.).
- e.** An engineer's statement demonstrating the reasons why the WTS facility must be constructed at the proposed height.
- f.** Verification of good faith efforts made to locate or design the proposed WTS facility to qualify for a less rigorous approval process (building permit and/or building permit and site and design review approval).

**F.** Private amateur radio (HAM) antennas, their support structures, and direct to home satellite receiving antennas are exempt from this section (16.08.120), but shall otherwise comply with the applicable provisions of the underlying zoning district in which they are located to the extent that such provisions comply with Federal Communications Commission policy. (Ord. 981 section 19, 1997)



**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; Ord. 1237, 2007)

**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:

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 **Director** ~~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.

**11.8.** One-Way Ingress or Egress – Way Ingress or Egress – When approved through the site and design review process, one-way ingress or egress may be used to satisfy the requirements of subsection (H), (I) and (J). However, the hard surfaced pavement of one-way drives shall not be less than twelve (12) feet for multi-family residential, commercial or industrial uses.

**12.9.** Maximum driveway widths and other requirements except for single-family dwellings [see subsection (d) below]:

- a. Unless otherwise herein provided, maximum driveway widths shall not exceed forty (40) feet.
- b. No driveways shall be constructed within five (5) feet of an adjacent property line, except when two (2) adjacent property owners elect to provide joint access to their respective properties as provided by subsection 2.
- c. There shall be a minimum distance of forty (40) feet between any two (2) adjacent driveways on a single property.
- d. The minimum distance between two driveways on one single-family residential lot shall be thirty (30) feet. There is no minimum setback distance between a driveway and the property line for driveways on single-family residential lots.

**13.10.** Distance Between Driveways and Intersections- Except for single-family dwellings [see subsection (f) below] the minimum distance between driveways and intersections shall be as provided below. Distances listed shall be measured from the stop bar at the intersection:

- a. At the intersection of any collector or arterial streets, driveways shall be located a minimum of fifty (50) feet from the intersection.
- b. At the intersection of two (2) local streets, driveways shall be located a minimum of thirty (30) feet from the intersection as provided, the driveway shall be constructed as far from the intersection as possible, while still maintaining the five (5) foot setback between the driveway and property line.
- c. If the subject property is not of sufficient width to allow for the separation between driveway and intersection as provided, the driveway shall be constructed as far from the intersection as possible, while still maintaining the five (5) foot setback between the driveway and property line.
- d. In the case of existing flag lots, it shall be at the discretion of the Site and Design Review Board to determine the best location for driveways.
- e. When considering a public facilities plan that has been submitted as part of site and design review plan in accordance with this ordinance, the city Public

**16.21.070 Multi-family design standards.**

**A.** For design review applications for multi-family dwellings (three or more units) or for development that contain 3 or more units on a single lot located in any zone, the menu in Table 16.21.070 shall apply. This menu replaces the general menu contained in Chapter 16.49 for such applications.

**B.** A design review application for multi-family dwellings shall be considered to be compatible if

1. At least five of the Design Elements for Street Facing Facades are achieved.
2. a minimum of 70 percent of the total possible points from the Design Menu are accumulated for the whole development;
3. 15 percent of the points used to meet (2) above are from the LID category; and,
4. the applicant has received a minimum of one point in each applicable category.

**C.** Those elements that are not applicable to a project shall not be counted toward the total possible points. (Ord. 1338; 2010)

**Table 16.21.070 Multi-Family Design Menu**

As part of review of multi-family developments, the following menu shall be used as part of the review. In order to "pass" this table Required for approval: 60-70% of total possible points shall be earned, (10-15% of the total possible points which must be from LID elements)

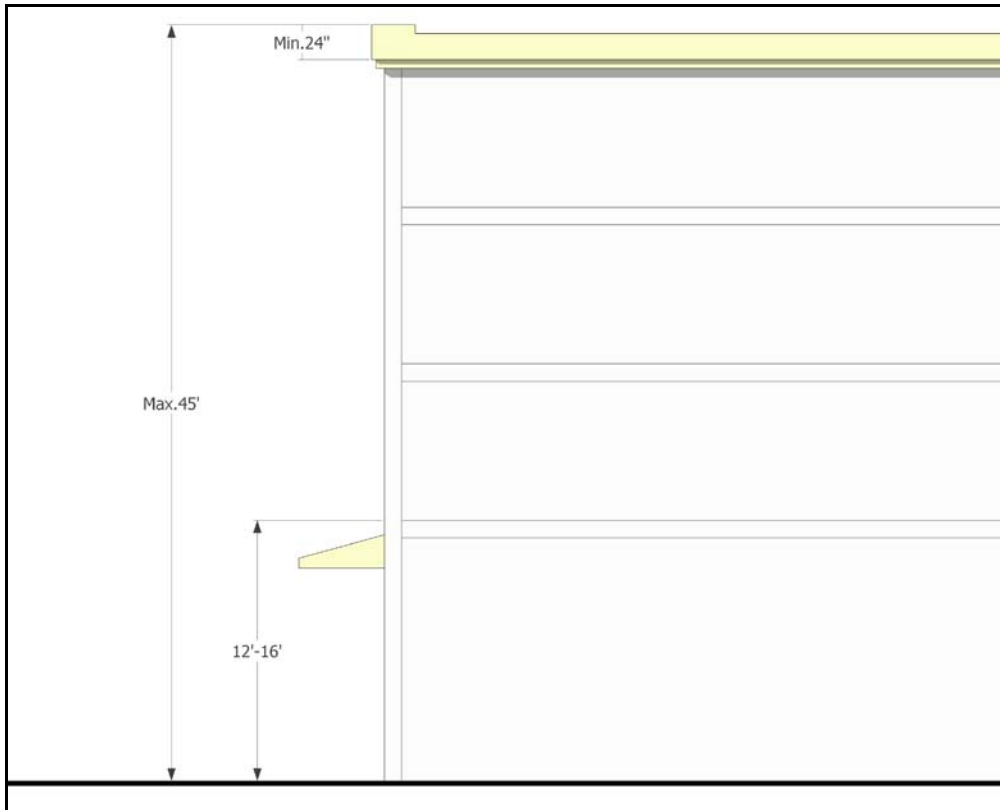
Design Criteria	Possible Points				
	0	1	2	3	4
<b>Parking</b>					
Screening of parking and/or loading facilities from public right-of-way	Not screened	Partially screened	Fully screened	-	-
Parking lot lighting provided	No	Yes	-	-	-
Parking location (behind building is best)	Front	Side	Behind	-	-
Number of parking spaces provided (% of minimum required)	>120%	101-120%	100%	1	1
<b>Tree Retention</b>					
Percentage of trees retained For trees outside of building footprint and parking/access areas (3 or more trees)	No arborist report or follows <10% of arborist report	Follows 10-50% of arborist report	Follows 51-75% of arborist report	Follows >75% of arborist report	-
Replacement of trees removed (percent of those recommended for retention in arborist report)	<50%	≥50%	-	-	-
<b>Building Orientation to the Street</b>					
Primary entrances face the street	Not street-facing	Entrance breezeway faces street	All entrances face the street	-	-

<b>Design Criteria</b>	<b>Possible Points</b>				
Site's frontage has buildings within 25 feet of front lot line. (Full points may be given when courtyards are adjacent to the frontage.)	0-25% of street frontage	26-50% of street frontage	≥51% of street frontage	-	-
<b>Screening of Storage Areas and Utility Boxes</b>	<b>0</b>	<b>1</b>	<b>2</b>	<b>3</b>	<b>4</b>
Trash storage is screened from view by solid wood fence, masonry wall or landscaping.	No	Yes	-	-	-
Trash storage is located away from adjacent property lines.	0 - 10 feet from adjacent property	11 - 25 feet from adjacent property	>25 feet from adjacent property	-	-
Utility equipment is screened from view.	Not screened	Partially screened	Fully screened	-	-
<b>Prevention of Monotonous and Incompatible Design</b>	<b>0</b>	<b>1</b>	<b>2</b>	<b>3</b>	<b>4</b>
Horizontal length of all buildings is a maximum of 120 feet.	101 - 120 feet	81 - 100 feet	≤80 feet	-	-
Roofs have a gable, hip or gambrel form, minimum pitch of 3 to 12 with at least 6-inch overhang.	No	Yes	-	-	-
A minimum of 15% of street façade areas contains windows or doors. All windows provide trim, recess, or other method of providing shadowing.	No	Yes	-	-	-
Garages are located to minimize their visual impact.	Front of building	Side of building	Back of building	-	-
Exterior design features include offsets, balconies, projections, window reveals, or similar elements to break up large building expanses.	Less than one design feature within every 30 feet of longest façade.	One design feature within every 30 feet of longest façade.	Two or more design features within every 30 feet of longest façade.	-	-
<b>Private Open Space and Landscaping</b>	<b>0</b>	<b>1</b>	<b>2</b>	<b>3</b>	<b>4</b>
Private open space provided in addition to what is required for the base zone.	No additional open space.	Patios or balconies (at least 48 square feet) provided for 50% of units.	Patios or balconies (at least 48 square feet) provided for 51-100% of units.	Sport court, tot lot, pool or community room is provided.	-
Number of non-required trees provided.	-	At least one tree per 500 square feet of landscaping.	-	-	-

Design Criteria	Possible Points				
Amount of grass (less grass is better) (% of total landscaped area)	>50%	25-50%	<25%	1	1
<b>Street and Block Framework</b>	<b>0</b>	<b>1</b>	<b>2</b>	<b>3</b>	<b>4</b>
Multi-family developments 8 acres or larger are developed as a series of complete blocks bounded by a network of public or private streets with sidewalks and street trees.	No blocks or network.	10-50% of units are along a street with sidewalks, street trees, and on-street parking.	51-100% of units are along a street with sidewalks, street trees, and on-street parking.	-	-
<b>Low Impact Development (LID)</b>	<b>0</b>	<b>1</b>	<b>2</b>	<b>3</b>	<b>4</b>
Use of pervious paving materials (% of total paved area)	<10%	-	10-50%	51-75%	>75%
Provision of park or open space area for public use	None	-	Open Space (Generally not for public use)	-	Park (public or privately owned for public use)
Use of drought tolerant species in landscaping (% of total plants)	<25% drought tolerant	-	25-50% drought tolerant	51-75% drought tolerant	>75% drought tolerant
Provision of additional interior parking lot landscaping (% of minimum required)	100%	101-110%	111-120%	>120%	-
Provision of an eco-roof or rooftop garden (% of total roof area)	<10%	-	-	10-50%	>50%
Parking integrated within building footprint (below-grade, structured parking, or tuck-under parking) (% of total on-site parking)	<10%	-	-	10-50%	>50%
Disconnecting downspouts from city stormwater facilities (existing buildings only)	None	Some downspouts disconnected	All downspouts disconnected	-	-
Shared parking with adjacent uses or public parking structure (% of total required parking spaces)	None	<50%	≥50%	-	-
Provision of rain gardens/bioretention areas for stormwater runoff (% of total landscaped area)	None	-	10-50%	51-75%	>75%
<b>Total Possible Points = 57 = 67 60%=40 points (rounding down), 10%=7 points (rounding up)</b>					

\*Drought tolerant species per Metro's list.  
(Ord. 1338, 2010)

**Figure 15** Building Height Limitations (continued)



**3. Screening.** All exterior garbage collection areas, recycling collection areas and mechanical equipment shall be screened with a site obscuring fence, landscaping on all sides, wall, other enclosure, or architectural element per the requirements below (see Figure 16 for examples of good screening design). All existing non-conforming/non-screened exterior garbage collection areas, recycling collection areas and mechanical equipment shall be brought into conformance if the city and property owner can reach a solution.

**a. Location.** Wherever possible, locate screened areas away from the street away from public view. Shared garbage/recycling collection areas are encouraged.

**b. Materials.** Materials used to construct screening structures shall be consistent and compatible with the exterior materials on adjacent buildings located on the same lot as the screened area or located on a contiguously-owned abutting lot, and shall be consistent with the material requirements of Section 16.41.070.E and 16.41.070.F.

**c. Buffering.** Screening structures shall be buffered from surrounding areas on all sides with landscaping or other buffering elements.

**d. Rooftop structures.** Rooftop mechanical structures shall be screened and not visible from any visible public right-of-way at the same elevation as, or lower

Standards	Applicability
2. Building entries and doors	
a. Orientation. All buildings shall have a prominent entry oriented to and directly connected to the sidewalk. When buildings are set back from the sidewalk, a direct, perpendicular connection between the building and the sidewalk is required. Additional entries may be provided and serve as principal entries (e.g., oriented to parking areas to the side or rear of buildings) and treatment of these entrances with awnings, lighting, signage, etc. is required. (See Figure 36)	CC, TC
b. Transparency. The street-facing building entry door on all buildings should be comprised of at least 40% transparent glass. The entry door includes any flanking or transom windows. (See Figure 37)	CC, TC, OHC
c. Flanking or transom windows. Commercial and mixed-use building doors shall include flanking glass windows on either side of the principal door and/or clerestory/transom windows. (See Figure 38).	CC, TC, OHC
d. Design features. Commercial and mixed-use building entries must comply with at least x of the following: (1) Recessed entries. If recessed, principal entries shall be recessed a minimum of 3 feet into the building façade (see Figure 39). (2) Awnings or canopies. These may be used to provide weather protection and a visual element and meet standards (see Figure 40). (3) Architectural features. Principal entries may be reinforced with prominent architectural features such as towers, turrets, increased heights, articulated parapets, large storefront windows and doors, or entry awnings (see Figure 41). (4) Decorative features. Entries may be reinforced through the use of decorative exterior light fixtures (i.e., wall sconces) or decorative features (see Figure 42). (5) Engaged columns or piers may be used to reinforce and highlight entries (see Figure 43). (6) Use of blade signs.	CC: x=3; TC: x=2; OHC: x=2

Standards	Applicability
<p>on center. (See Figure 48). For the purpose of this standard, an architectural bay is defined as the zone between the centerlines of two columns. Applicants are encouraged (but not required) to divide the ground floor into an odd (rather than even) number of architectural bays.</p>	
<p>b. Height of bays. For large single-story buildings (greater than 6,000 square feet), taller than 16 feet, design and decorative elements required in sections 3, 4 and 5 will extend to the top of the ground floor (i.e., just below the roof, cornice or parapet).</p>	OHC
<p>c. Design elements. Each architectural bay within a commercial or mixed-use building shall incorporate at least x of the following elements (see Figure 49):</p> <ol style="list-style-type: none"> <li>(1) Engaged columns or piers.</li> <li>(2) Transom windows over doorways.</li> <li>(3) Storefront cornice or beltcourse</li> <li>(4) Canopies, awnings, or overhangs provided along a minimum of 50 percent of the overall street-facing building length.</li> <li>(5) Storefront frieze or sign band.</li> <li>(6) Bulkheads.</li> </ol>	CC: x=3; TC: x=2; OHC: x=2
<p>d. Decorative accents. Each architectural bay within a commercial or mixed-use building shall incorporate at least x of the following elements (See Figure 50):</p> <ol style="list-style-type: none"> <li>(1) Projecting window sills (12 to 24 feet above grade).</li> <li>(2) Horizontal and vertical window mullions.</li> <li>(3) Building lighting (minimum of 2 lights), including wall sconces, pendants, gooseneck fixtures, or lighting recessed into awnings. Wall-mounted fluorescent lights and internally lit awnings are not permitted.</li> <li>(4) Medallions (minimum of 2).</li> <li>(5) Projecting or blade signs (8 to 12 foot clearance from bottom of sidewalk).</li> </ol>	CC: x=3; TC: x=2; OHC: x=2





Standards	Applicability
<p>face a street.</p> <p>(1) Horizontal bands or other changes in pattern or material shall be a minimum of 8 inches high (the length of a standard brick), and must project a minimum of 3/4 to one inch from the building face.</p> <p>(2) Changes in building massing and form may also be used to differentiate a building's base, middle, and top. This may include architectural setbacks or projections, measuring a minimum of 3 inches (see Figure 52).</p>	
<p>2. Ground floor design elements</p>	
<p>a. The ground floor of the building shall range from 12 feet to 16 feet in height and shall be broken up into three distinct areas – a base/bulkhead, middle, and top (See Figure 53). This requirement applies to all street facing facades and the side of the building on which the primary entrance is located if it does not face a street.</p>	<p>CC, TC; (commercial and mixed use buildings only)</p>
<p>b. Ground floor “bulkhead/base”. The “base” of the ground floor facade extends from the top of the finished grade or sidewalk to the bottom of the window sill. It shall contain at least x of the following elements (See Figure 54): This requirement applies to all street facing facades and the side of the building on which the primary entrance is located if it does not face a street.</p> <p>(1) Projected window sills, 12 to 24 inches above.</p> <p>(2) Bulkhead (the area directly below the projected window sill) should typically be constructed of concrete, brick, or stone. This element serves to anchor the facade to the ground, and with the exception of the entry door, this element usually extends the length of the elevation.</p>	<p>CC: x=2; TC: X=1; (commercial and mixed use buildings only)</p>
<p>c. Ground floor “middle”. The middle of the ground floor is typically comprised of storefront windows and shall contain at least x of the following elements (see Figure 55): This requirement applies to all street facing facades and the side of the building on which the primary entrance is located if it does not face a street.</p> <p>(1) Integrated horizontal and vertical window mullions.</p> <p>(2) Window plant box (minimum of one pair).</p>	<p>CC: x=2; TC: x=1; (commercial and mixed use buildings only)</p>

be displayed for more than 12 months.

**e.** On property that has received tentative subdivision or partition approval from the City, from the time of that approval until issuance of a building permit for construction on the last lot, one temporary sign no taller than 8 feet in height, and not exceeding 32 square feet in area, may be displayed on a site less than 4 acres in size. If the site is greater than 4 acres in size, two temporary signs no taller than 8 feet in height, and not exceeding 64 square feet each, may be displayed.

**f.** Banner or Balloon Signs Allowed Twice Per Year for no Longer Than 30 Days Each Occurrence. On a lot used for a permitted or conditional use other than a single-family dwelling, one banner sign or balloon sign may be displayed up to 30 consecutive days only twice during a calendar year. A banner sign may not exceed 50 square feet in size. A balloon sign may not exceed 80 cubic feet in size. Temporary banner and balloon signs do not require a sign permit, but must be registered with the Planning Department, specifying the sign-owner's Canby business license number (if applicable), the start and stop dates, sign area and proposed location of each temporary banner or balloon sign. Temporary banner and balloon signs regulated by this subsection shall display a weatherproof label from the City that such sign is registered. Temporary banner and balloon signs displayed beyond dates provided to the City shall be in violation of this code.



**5. Temporary Signs Allowed in Commercial and Industrial Zones (C-R, C-1, C-2, C-C, C-M, M-1, M-2).**

**a.** One or more temporary signs no taller than 5 feet in height, and not exceeding 15 4-square feet in area each, may be displayed on a lot during the period from 120 days before a public election or the time the election is called, whichever is earlier, to five days after the public election.

**b.** One temporary sign no taller than 8 feet in height, and not exceeding 32 square feet in area, may be displayed on a lot during the time the property, or building or dwelling thereon, is for sale or lease, provided that the sign is removed within 14 days after the sale or lease is completed.

**c.** One temporary sign no taller than 8 feet in height, and not exceeding 32 square feet in area, may be displayed on a lot during the time that construction activities are occurring on site, provided that the sign is removed within 7 days of the completion of the construction activities. If the site has frontage on more than one street, one additional sign of the same size may be displayed facing the second street frontage, provided the signs are not visible simultaneously from either street. In no case shall such sign be displayed for more than 12 months.

**d.** One temporary sign not exceeding 32 square feet in area may be displayed on a lot during the period of a charitable fundraising event being conducted on the site where the sign is displayed. The sign shall not be displayed more than 7 days

<b>Table 7. Canby Industrial Area Overlay Zone (I-O)</b>		
8 percent of the building elevation area of the secondary frontage, up to a maximum of 60 square feet.		
<b><u>Marquee Sign</u></b>		
<b>A. Use on site: all uses.</b>		
Size: not allowed.	Maximum Height: n/a.	Location/Number: n/a.
<b><u>Window Sign</u></b>		
<b>A. Use on site: all uses.</b>		
Size: maximum 15 percent of total window area.	Maximum Height: determined by height of window.	Location/Number: Only allowed in ground floor or 2nd floor windows.

(Ord 1299, 2008; Ord. 1339, 2010)

**16.42.060 Automobile service station sign standards.**

The purpose of service station sign requirements is to control sign clutter for service stations so the traveling public can clearly identify the service station and the services and goods it offers.

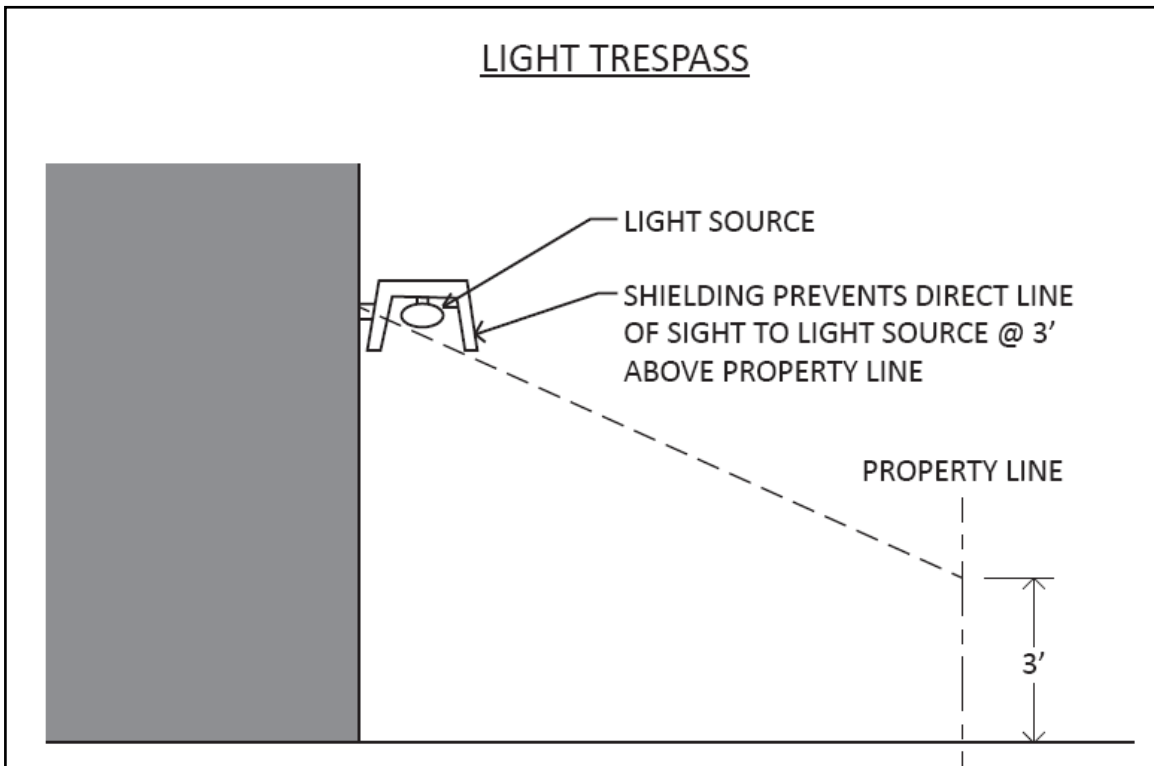
**A.** No sign other than detailed in this Section shall be displayed on a lot on which an automobile service station is located. In the event that a conflict exists between this Section and the sign standards set forth in other sections of this Chapter, the standards in this section shall prevail.

1. Permitted signage includes one of the following options:
  - a. One pole sign **or monument sign**, and one wall sign, and window signs, and temporary signs; or
  - b. Two wall signs, and window signs, and temporary signs.

N. Spill Light. Lighting from a lighting installation that falls outside of the boundaries of the property on which the installation is sited.

O. Temporary Lighting. Lighting installed with temporary wiring and operated for less than 60 days in any calendar year.

**Figure 16.43.1: Light Trespass**



**16.43.030 Applicability.**

The outdoor lighting standards in this section apply to the following:

- A. New uses, buildings, and major additions or modifications:
  - 1. For all proposed new land uses, developments, buildings, and structures that require a building permit, all outdoor lighting fixtures shall meet the requirements of this Code.
  - 2. All building additions or modifications of fifty (50) percent or greater in terms of additional dwelling units, gross floor area, or parking spaces, either with a single addition or cumulative additions subsequent to the effective date of this provision, shall meet invoke the requirements of this Code for the entire property, including previously installed and any new outdoor lighting.

**B.** Minor additions. Additions or modifications of less than fifty (50) percent to existing uses, **in terms of additional dwelling units, gross floor area, or parking spaces,** as defined in Section A(2) above, and that require a building permit, shall require the submission of a complete inventory and site plan detailing all existing and any proposed new outdoor lighting. Any new lighting on the site shall meet the requirements of this Code with regard to shielding and lamp type **for all new lighting.** The total outdoor light output after the modifications are complete shall not exceed that on the site before the modification, or that permitted by this Code, whichever is larger.

**16.43.040 Lighting Zones.**

**A.** Zoning districts designated for residential uses (R-1, R-1.5 and R-2) are designated Lighting Zone One (LZ 1). All other zoning districts are designated Lighting Zone Two (LZ 2).

**B.** The designated Lighting Zone of a parcel or project shall determine the limitations for lighting as specified in this ordinance.

**Table 16.43.040 Lighting Zone descriptions**

Zone	Ambient Illumination	Representative Locations
LZ 1	Low	Rural areas, low-density urban neighborhoods and districts, residential historic districts. This zone is intended to be the default for residential areas.
LZ 2	Medium	High-density urban neighborhoods, shopping and commercial districts, industrial parks and districts. This zone is intended to be the default condition for commercial and industrial districts in urban areas.

**16.43.050 Exempt Lighting.**

The following luminaires and lighting systems are exempt from the requirements of this Section.

**A.** Externally illuminated signs in conformance with provisions in section 16.42.040 of this code.

- B.** Internal lighting for signs in conformance with provisions in section 16.42.040 of this code.
- C.** Temporary lighting for theatrical, television, and performance events.
- D.** Lighting in swimming pools and other water features governed by Article 680 of the National Electrical Code.
- E.** Code-required exit signs.
- F.** Code-required lighting for stairs and ramps.
- G.** Lighting required and regulated by the Federal Aviation Administration, U.S. Coast Guard, or other federal, state, or county agency.
- H.** Interior lighting.
- I.** Temporary lights for emergency public or private utility maintenance or public safety.
- J.** Lighting fixtures existing prior to this ordinance not exceeding 30 watts.

#### **16.43.060 Prohibited Light and Lighting.**

- A.** All outdoor light sources, except street lights, shall be shielded or installed so that there is no direct line of sight between the light source or its reflection at a point 3 feet or higher above the ground at the property line of the source. Light that does not meet this requirement constitutes light trespass. Streetlights shall be fully shielded. However, the applicant is permitted to have some unshielded lighting if wattages are within the limits of Table 16.43.070 below.
- B.** The following lighting systems are prohibited from being installed or used except by special use permit:
  - 1.** Aerial Lasers.
  - 2.** "Searchlight" style lights.
  - 3.** Other very intense lighting, defined as having a light source exceeding 300 watts.

**16.43.070 Luminaire Lamp Wattage, Shielding, and Installation Requirements.**

**A.** All outdoor lighting shall comply with the limits to lamp wattage and the shielding requirements in Table 16.43.070 per the applicable Lighting Zone. These limits are the upper limits. Good lighting design will usually result in lower limits.

**B.** The city may accept a photometric test report, **lighting plan**, demonstration or sample, or other satisfactory confirmation that the luminaire meets the requirements of the shielding classification.

**C.** Such shielded fixtures must be constructed and installed in such a manner that all light emitted by the fixture complies with the specification given. This includes all the light emitted by the fixture, either directly from the lamp or by a diffusing element, or indirectly by reflection or refraction from any part of the fixture. Any structural part of the fixture providing this shielding must be permanently affixed.

**D.** All canopy lighting must be fully shielded. However, indirect upward light is permitted under an opaque canopy provided that no lamp or vertical element of a lens or diffuser is visible from beyond the canopy and such that no direct upward light is emitted beyond the opaque canopy.

**E.** Landscape features shall be used to block vehicle headlight trespass while vehicles are at an external point of service (i.e. drive-thru aisle).

**F. E.** All facade lighting must be restricted to the facade surface. The margins of the facade shall not be illuminated. Light trespass is prohibited. ~~The sides of commercial buildings without a customer entrance shall not be lit.~~

**Table 16.43.070 – Luminaire Maximum Wattage and Required Shielding**

<b>Lighting Zone</b>	<b>Fully Shielded</b>	<b>Shielded</b>	<b>Partly Shielded</b>	<b>Unshielded</b> (Shielding is highly encouraged. Light trespass is prohibited.)
LZ 1	150	60	None Permitted	Low voltage landscape lighting and temporary holiday lighting.
LZ 2	450	100	60	Landscape and facade lighting 100 watts or less; ornamental lights of 60 watts or less.

F. The Planning Department may modify or waive the requirements of this section where the characteristics or layout of abutting properties would make a development of a unified or shared access and circulation system impractical. (Ord. 1043 section 3, 2000)

**16.46.050 Nonconforming access features.**

Legal access connections in place as of April 19, 2000 that do not conform with the standards herein are considered nonconforming features and shall be brought into compliance with applicable standards under the following conditions:

A. When new access connection permits are requested; or

B. Change in use or enlargements or improvements that will significantly increase trip generation. (Ord. 1043 section 3, 2000)

**16.46.060 Amount of access points.**

In the interest of promoting unified access and circulation systems, the number of access points permitted shall be the minimum number necessary to provide reasonable access to these properties, not the maximum available for that frontage. All necessary easements, agreements, and stipulations shall be met. This shall also apply to phased development plans. The owner and all lessees within the affected area are responsible for compliance with the requirements of this ordinance and both shall be cited for any violation. (Ord 1043 section 3, 2000)

**16.46.070 Exception standards.**

A. An exception may be allowed from the access spacing standards if the applicant can provide proof of unique or special conditions that make strict application of the provisions impractical. Applicants shall include proof that:

1. Indirect or restricted access cannot be obtained;
2. No engineering or construction solutions can be reasonably applied to mitigate the condition; and
3. No alternative access is available from a street with a lower functional classification than the primary roadway.

B. Access Management Plan Required. An applicant requesting an access exception **may be required to** ~~must~~ submit an access management plan. The access management plan shall explain the need for the modification and demonstrate that the modification maintains the classified function and integrity of the facility. An access management plan shall be prepared and certified by a traffic or civil engineer registered in the State of Oregon. An access management plan shall at minimum contain the following:

1. The minimum study area shall include the length of the site's frontage plus the distance of the applicable access spacing standard, measured from each property line or access point(s), whichever is greater. For example, a property



2. Discourage monotonous, unsightly, dreary and inharmonious development.
3. Promote the city's natural beauty and visual character and charm by insuring that structures, signs and other improvements are properly related to their sites, and to surrounding sites and structures, with due regard to the aesthetic qualities of the natural terrain and landscaping, and that proper attention is given to exterior appearances of structures, signs and other improvements.
4. Protect and enhance the city's appeal to tourists and visitors and thus support and stimulate business and industry and promote the desirability of investment and occupancy in business, commercial and industrial properties.
5. Stabilize and improve property values and present blighted areas and thus increase tax revenue.
6. Achieve the beneficial influence of pleasant environments for living and working on behavioral patterns and thus decrease the cost of governmental services.
7. Foster civic pride and community spirit so as to improve the quality and quantity of citizen participation in local government and in community growth, change and improvement.
8. Sustain the comfort, health, tranquility and contentment of residents and attract new residents by reason of the city's favorable environment and thus promote and protect the peace, health, and welfare of the city.
9. Determine the appropriate yard setbacks, building heights, minimum lot sizes and sign sizes, when authorized to do so by city ordinance.
10. Encourage the use of Low Impact Development (LID) techniques to manage stormwater through the use of natural features, protect native vegetation, preserve and create open space, and minimize impervious surfaces. (Ord. 848, Part I, section 1, 1991, Ord. 1338; 2010)

**C.** Alternatives for how the Design Review Board or a Design Review Committee is organized give the City the flexibility to use several options, including a Design Review Board that consists of Planning Commission members only, or a Board with a broader representation that can be expanded when appropriate. Provisions also allow for creation of a Design Review Committee which would be strictly advisory in nature. (Ord 1296, 2008)

**16.49.020 Establishment of the Site and Design Review Board.**

**A.** **The City may establish a** ~~There is hereby established~~ a Site and Design Review Board whose members, terms of office and manner of transacting business shall be as prescribed in the following subsections:

1. The Board shall be responsible for reviewing and commenting upon the following applications which may be directed to it through the development process: those portions of proposed site and design review plans which pertain to architectural features, applications concerning historic structures and sign applications under the following circumstances:

- a. Where the applicant has elected not to go through an administrative (Type II) review process;
- b. Where the proposal does not meet the City's administrative (Type II) architectural design standards;
- c. Where administrative (Type II) design review standards do not exist for the project; or
- d. Where an administrative (Type II) design review decision has been appealed.

If no Site and Design Review Board is established, the Planning Commission is responsible for reviewing all applicable land use applications and is responsible for the above duties of the Site and Design Review Board.

2. Other duties. The City Council may, by order, direct the Board to review and comment on other matters which the Council determines are or may be within the Board's areas of expertise.

3. Qualifications of members. The Board shall consist of at least four and up to seven members of the Canby City Planning Commission, and one member from the City Council pro-tem (temporary) non-voting; and up to four additional individuals who represent interests or expertise related to development, architectural design, business or other viewpoints related to the design and development process. These provisions allow the Board to consist of Planning Commission members only, if desired.

4. Appointment and term. Members of the Planning Commission shall be appointed as required by section 16.06.030. Non-Planning Commission members shall be appointed by the City Council.

5. Vacancies and removal. Vacancies on the Design Review Board or removal of Design Review Board members shall be governed by section 16.06.030.

6. 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 if the Planning Commission Chairperson serves on the Design Review Board. If the Planning Commission Chairperson does not serve on the Board, a Design Review Board Chairperson will be selected by a majority of Design Review Board members.

4. Appointment and term. Members of the Design Review Committee shall be appointed by the City Council, considering recommendations of the Planning Director.

5. Vacancies and removal. Vacancies on the Design Review Committee and removal of Design Review Committee members shall be approved by the City Council.

6. Meetings and records. The committee shall hold regular meetings, which shall conform with all legal requirements of the Oregon public meetings law. Site and design review applications will be reviewed as a regular agenda item.

7. Rules. The committee may adopt and amend rules to govern the conduct of its business, consistent with the provisions of this Code and Oregon public meetings law. (Ord 1296, 2008)

**16.49.030 Site and design review plan approval required.**

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

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

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.

B. The following are exempt from site and design review (but still may require a site plan review and/or building permit):

1. 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.
2. Alterations or remodeling that do not change the exterior of the building.

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

4. Commercial and industrial accessory structures under 500 square feet.

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

6. Temporary Vendor activity permitted pursuant to Section 16.08.140.

7. 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. However, parking lot and paving projects in excess of 2,500 square feet of impervious surface require site plan 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.

8. Single family or two-family dwellings and their accessory structures, and any alterations or remodeling thereof.

9. Minor public facilities.

10. Approved Public Art Murals as defined in CMC Chapter 2.80.020.

C. 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.

D. 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. 1315, 2009; Ord. 1237, 2007; Ord. 1080, 2001; Ord. 1019 section 2, 1999; Ord. 981 sections 52&53, 1997; Ord. 955 section 23, 1996; Ord. 890 section 43, 1993; Ord. 848, Part III, section 1, 1991; Ord. 1341, 2011)

#### **16.49.035 Application for Site and Design Review**

A. For site and design review projects in the Downtown Canby Overlay Zone, applicants may choose one of the following two processes:

1. Type II – If the applicant meets all applicable site and design review standards set forth in Chapters 16.41 and 16.49; the applicant shall submit a Type II application for approval pursuant to the approval criteria set forth in 16.49.040-2; or

2. Type III – If the applicant proposes the use of alternative methods or materials to meet the intent of the site and design review standards set forth in ~~Section Chapter~~ 16.41.070, the applicant shall submit a Type III application for approval pursuant to the approval criteria set forth in 16.49.040. ~~3.~~ The applicant must still meet all applicable requirements of Chapter 16.49.

**B.** All other projects subject to site and design review approval pursuant to Section 16.49.030 are subject to the Type III procedural requirements set forth in Chapter 16.89. The applicant shall submit a Type III application for approval pursuant to the approval criteria set forth in 16.49.040-1. (Ord 1296, 2008)

#### **16.49.040 Criteria and standards.**

**A.** In review of a Type III Site and Design Review Application ~~described in Section 16.49.035-B,~~ the Board shall, in exercising or performing its powers, duties or functions, determine whether there is compliance with the following: ~~A through D, and with Criteria 4, 5, and 6 below::~~

1. 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

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

3. 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.

4. The proposed development incorporates the use of LID best management practices whenever feasible based on site and soil conditions. LID best management practices include, but are not limited to, minimizing impervious surfaces, designing on-site LID stormwater management facilities, and retaining native vegetation.

5. The Board shall, in making its determination of compliance with **this Ordinance** ~~subsections B through D above,~~ **shall** use the matrix in Table 16.49.040 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 **with the standards of Table 16.49.040,** ~~in regards to subsections B, C, and D above,~~ if the following conditions are met:

a. The development accumulates a minimum of ~~70~~ **60** percent of the total possible number of points from the list of design criteria in Table 16.49.040; and

b. At least **10** ~~45~~ percent of the points used to comply with (a) above must be from the list of LID Elements in Table 16.49.040. (Ord. 1338, 2010).

**B.** In review of a Type II Site and Design Review Application described in Section 16.49.035.A.1, the Planning Director shall, in exercising his powers, duties or functions, determine whether there is compliance with the DCO site and design review standards. ~~set forth in 16.41.070.A through F, and with Criteria 4, 5, and 6 below.~~

**C.** In review of a Type III Site and Design Review Application ~~described in Section 16.49.035.A.2,~~ the Board shall, in exercising or performing its powers, duties or functions, determine whether there is compliance with the INTENT of the ~~DCO site~~ and **the** design review standards set forth in **this Ordinance.** ~~16.41.070.A.1, 16.41.070.B.1, 16.41.070.C.1, 16.41.070.D.1, 16.41.070.E.1, and 16.41.070.F.1, and with Criteria 4, 5, and 6 below.~~

**D.** The Board shall, in making its determination of compliance with the above requirements, be guided by the objectives and standards set forth in this **Ordinance** ~~section.~~ 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. 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..

**E.** 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.

**F.** 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; Ord 1237, 2007, Ord 1296, 2008)

**Table 16.49.040 Site Design Review Menu**

As part of Site and Design Review, the following menu shall be used as part of the review. In order to “pass” this table ~~Required for approval:~~ **60-70%** of total possible points shall be earned, ~~(10-15% of which the total possible points must be from LID elements)~~

Design Criteria	Possible Points				
	0	1	2	3	4
<b>Parking</b> Screening of parking and/or loading facilities from public right-of-way	Not screened	Partially screened	Fully screened	-	-

Design Criteria	Possible Points				
Parking lot lighting provided	No	Yes	-	-	-
Parking location (behind building is best)	Front	Side	Behind	-	-
Number of parking spaces provided (% of minimum required)	>120%	101-120%	100%	-	-
<b>Screening of Storage Areas and Utility Boxes</b>	<b>0</b>	<b>1</b>	<b>2</b>	<b>3</b>	<b>4</b>
Trash storage is screened from view by solid wood fence, masonry wall or landscaping.	No	Yes	-	-	-
Trash storage is located away from adjacent property lines.	0 - 10 feet from adjacent property	11 - 25 feet from adjacent property	>25 feet from adjacent property	-	-
Utility equipment, including rooftop equipment, is screened from view.	Not screened	Partially screened	Fully screened	-	-
<b>Access</b>	<b>0</b>	<b>1</b>	<b>2</b>	<b>3</b>	<b>4</b>
Distance of access to nearest intersection.	≤70 feet	71 - 100 feet	>100 feet	-	-
Pedestrian walkways from public street/sidewalks to building entrances.	One entrance connected.	-	Walkways connecting all public streets/sidewalks to building entrances. All entrances connected.	-	-
Pedestrian walkways from parking lot to building entrance.	No walkways	Walkway next to building only	Walkways connecting all parking areas to building entrances. No more than one undesignated crossing of access drive.	-	-
<b>Tree Retention</b>	<b>0</b>	<b>1</b>	<b>2</b>	<b>3</b>	<b>4</b>
Percentage of trees retained For trees outside of building footprint and parking/access areas (3 or more trees)	No arborist report or follows <10% of arborist report	Follows 10-25-50% of arborist report	Follows 51-75% of arborist report	Follows >75% of arborist report	-
Replacement of trees removed (percent of those recommended for retention in arborist report)	<50%	≥50%	-	-	-
<b>Signs</b>	<b>0</b>	<b>1</b>	<b>2</b>	<b>3</b>	<b>4</b>
Dimensional size of sign (% of maximum permitted)	>75%	50-75%	<50%	-	-
Similarity of sign color to building color	Not similar	Somewhat similar	Similar	-	-
Pole sign used	Yes	No	-	-	-
Location of sign	>25 feet from driveway entrance	Within 25 feet of driveway entrance	-	-	-
<b>Building Appearance</b>	<b>0</b>	<b>1</b>	<b>2</b>	<b>3</b>	<b>4</b>

Design Criteria	Possible Points					
Style (similar to surroundings)	Not similar	Somewhat similar (1 or 2 points possible depending on level of similarity)			-	-
Color (subdued and similar to surroundings is better)	Neither	Similar or subdued	Both	-	-	
Material (concrete, wood and brick are best)	Either 1 or 2 points may assigned at the discretion of the Site and Design Review Board					
Size of building (smaller is better)	>20,000 square feet	≤20,000 square feet	-	-	-	
Provision of public art (i.e. murals, statues, fountains, decorative bike racks, etc.)	No	;	;	;	Yes	
<b>Landscaping</b>	<b>0</b>	<b>1</b>	<b>2</b>	<b>3</b>	<b>4</b>	
Number of non-required trees provided	-	At least one tree per 500 square feet of landscaping.	-	-	-	
Amount of grass (less grass is better) (% of total landscaped area)	>50%	25-50%	<25%	-	-	
Location of shrubs	Foreground	Background	-	-	-	
<b>Low Impact Development (LID)</b>	<b>0</b>	<b>1</b>	<b>2</b>	<b>3</b>	<b>4</b>	
Use of pervious paving materials (% of total paved area)	<10%	-	10-50%	51-75%	>75%	
Provision of park or open space area for public use	None	-	Open space (Generally not for public use)	-	Park (public or privately owned for public use)	
Use of drought tolerant species* in landscaping (% of total plants)	<25% drought tolerant	-	25-50% drought tolerant	51-75% drought tolerant	>75% drought tolerant	
Provision of additional interior parking lot landscaping (% of minimum required)	100%	101-110%	111-120%	>120%	-	
Provision of an eco-roof or rooftop garden (% of total roof area)	<10%	-	-	10-50%	>50%	
Parking integrated within building footprint (below-grade, structured parking, or tuck-under parking) (% of total on-site parking)	<10%	-	-	10-50%	>50%	
Disconnecting downspouts from city stormwater facilities (existing buildings only)	None	Some downspouts disconnected	All downspouts disconnected	-	-	
Shared parking with adjacent uses or public parking structure (% of total required parking spaces)	None	<50%	≥50%	-	-	



Design Criteria	Possible Points				
Provision of rain gardens/bioretention areas for stormwater runoff (% of total landscaped area)	None	-	10-50%	51-75%	>75%
*Drought tolerant species per Metro's list.					
Total Possible Points = 64 <b>71</b> , 60%=42.6 points, 10%=7.1 points					

(Ord 1296, 2008; Ord 1338, 2010)

**16.49.050 Conditions placed on site and design review approvals.**

**A.** A site and design review approval may include restrictions and conditions. These restrictions and conditions shall be reasonably conceived to:

1. Protect the public from the potentially deleterious effects of the proposal; and/or
2. Fulfill the need for services created, increased or in part attributable to the proposal; and/or
3. Further the implementation of the requirements of the Canby Municipal Code.

**B.** The following types of conditions **may be** ~~are specifically contemplated by subsection (1) of this section,~~ and the listing below is intended to be illustrative only and not to be construed as a limitation of the authority granted by this section.

1. Development Schedule. A reasonable time schedule may be placed on construction activities associated with the proposed development, or any portion thereof.
2. Dedications, Reservation. Dedication or reservation of land, or fee in lieu thereof for park, open space purposes, rights-of-way, bicycle or pedestrian paths, green way, riverbank or easements; the conveyance of title or easements to a homeowners' association.
3. Construction and Maintenance Guarantees. Security from the property owners in such an amount that will assure compliance with approval granted.
4. Plan Modification. Changes in the design or intensity of the proposed development, or in proposed construction methods or practices, necessary to assure compliance with this ordinance.
5. Off-Site Improvements. Improvements in public facilities, including public utilities, not located on the project site where necessary to assure adequate capacity and where service demand will be created or increased by the proposed development. The costs of such improvements may be paid for in full while allowing for recovery of costs from users on other development sites, or they may be pro-rated to the proposed development in proportion to the service demand projected to be created on increases by the project. If determined appropriate by the city based on specific site conditions, off-site roadway improvements may be

required to accommodate bicycle and pedestrian travel consistent with the TSP and applicable sections of this code.

**6. Other Approvals.** Evaluation, inspections or approval by other agencies, jurisdictions, public utilities or qualified consultants may be required for all or any part of the proposed development.

**7. Access Limitation.** The number, location and design of street accesses to a proposed development may be limited or specified where necessary to maintain the capacity of streets to carry traffic safely, provided that sufficient access to the development is maintained. (Ord. 890 section 44, 1993; Ord. 848, Part III, section 3, 1991; 1340, 2011)

**8. Screening.** The Planning Commission may require additional screening with landscaping, decorative fencing, decorative walls, or other means in order to screen outdoor storage areas, rooftop/ground mechanical equipment, garbage/recycling areas, or other visual clutter.

#### **16.49.055**

(Ord. 1019 section 4, 1999; del. by Ord. 1111, 2003)

#### **16.49.060 Time limit on approval.**

Site and Design Review Board approvals shall be void after twelve (12) months unless:

**A.** A building permit has been issued and substantial construction pursuant thereto has taken place, as defined by the state Uniform Building Code; or

**B.** The Planning Department finds that there have been no changes in any ordinances, standards, regulations or other conditions affecting the previously approved project so as to warrant its resubmittal. (Ord. 848, Part III, section 4, 1091)

#### **16.49.065 Bicycle and pedestrian facilities.**

Developments coming under design review shall meet the following standards:

**A.** The internal walkway system shall be extended to the boundaries of the property to adjoining properties developed or zoned for commercial, public, or multi-family uses. The walkway shall connect to an existing walkway system on adjoining property or be located so as to provide for development of a logical connection in the future when the adjoining property is developed or redeveloped.

**B.** On-site facilities shall be provided to accommodate safe and convenient pedestrian and bicycle access within new subdivisions, multi-family developments, planned development, shopping centers, and commercial districts, and connecting to adjacent residential areas and neighborhood activity centers. Residential developments shall include streets with sidewalks and accessways.

**C.** For new office parks and commercial development:

1. At least one sidewalk connection between the proposed development and each abutting commercial or office property shall be provided. One connection shall also be provided to each neighborhood.
2. Walkways shall be provided to the street for every 300 feet of developed frontage.
3. Walkways shall be direct with minimal driveway crossings.
4. Walkways shall be linked to the internal circulation of the building.
5. Walkways shall be at least five feet wide and shall be raised, or have different paving materials when crossing driveways or other vehicle maneuvering areas. (Ord. 1043 section 3, 2000)

**D.** Use of permeable surfacing materials for walkways is encouraged whenever site and soil conditions make it feasible. Permeable surfacing includes, but is not limited to, paving blocks, turf blocks, and porous asphalt. All permeable surfacing shall be designed, constructed, and maintained in accordance with the Canby Public Works Design Standards. (Ord. 1339, 2010)

**E.** Developments that abut the Molalla Forest Road multi-use path shall provide a pedestrian/bicycle access to the path. The city may determine the development to be exempt from this standard if there is an existing or planned access to the path within 300 feet of the development. (Ord. 1340, 2011)

**16.49.070 Landscaping provisions, Authority and intent.**

The purpose of this section is to establish standards for landscaping within the City of Canby in order to enhance the environmental and aesthetic quality of the city:

- A.** By encouraging the retention and protection of existing trees and requiring the planting of trees in new developments;
- B.** By using trees and other landscaping materials to temper the effects of the sun, wind, noise and air pollution;
- C.** By using trees and other landscaping materials to define spaces and uses of the specific areas;
- D.** Through the use of trees and other landscaping materials as a unifying element within the urban environment; and

~~— **E.** By considering solar access conditions. (Ord. 848, Part IV, section 1, 1991)~~

**16.49.080 General provisions for landscaping.**

- A.** The standards set forth in this section are minimum standards for landscaping.
- B.** The purpose of these landscaping standards is to provide uniform standards for

the development and maintenance of the landscaping of private property and public rights-of-way. The purpose of landscaping is to improve the livability of residential neighborhoods, enhance the customer attraction of commercial areas, increase property values, improve the compatibility of adjacent uses, provide visual separation and physical buffers between incompatible adjacent land uses, provide visual relief from the expanse of parking lots, screen undesirable views, contribute to the image and appeal of the overall community, and mitigate air and noise pollution.

These standards are also intended to facilitate Low Impact Development (LID) techniques through the retention of existing native vegetation and mature, healthy trees, to the extent feasible. Additional LID related goals of this chapter are to: reduce erosion and storm water runoff; preserve and promote urban wildlife habitats; reduce the amount of carbon dioxide in the air; shade and reduce the temperature of adjacent waterways; and enhance the streetscapes along the city's public rights-of-way with an emphasis on trees and LID stormwater facilities.

**C.** The minimum area requirement for landscaping for developments coming under design review shall be the percentage of the total land area to be developed as follows. **Parking lot landscaping area is included in calculating the following landscape areas:**

1. Fifteen (15) percent for all industrial and commercial zones (except the Downtown-Commercial zone, but including the Commercial-Residential zone).
2. Seven and one-half (7.5) percent for the Downtown-Commercial zone.
3. Thirty (30) percent for all residential zones.

**D.** LID stormwater management facilities, such as rain gardens and bioretention areas, may be counted toward the minimum landscaping requirement when they are located on private property. LID facilities in the public right-of-way cannot be counted toward the minimum landscaping requirement. The integration of LID stormwater management facilities within required landscaping must be approved by the city and shall comply with the design and construction standards set forth in the Canby Public Works Design Standards.

**E.** Trees and other plant materials to be retained shall be identified on the landscape plan. The Site and Design Review Board encourages the retention, to the extent practicable, of existing healthy trees and vegetation.

**F.** During the construction process:

1. The owner or the owner's agent shall provide above and below ground protection for existing trees and plant materials identified to remain.
2. Trees and plant materials identified for preservation shall be protected by chain link fencing placed around the tree, at the drip line.

3. If it is necessary to fence within the drip line, such fencing shall be specified by a qualified arborist, nurseryman or landscape architect.

4. Neither top soil storage nor construction material storage shall be located within the drip line of trees designated to be preserved.

5. Where site conditions make necessary grading, building, paving, trenching, boring, digging, or other similar encroachment upon a preserved tree's drip line area, such grading, paving, trenching, boring, digging or similar encroachment shall only be permitted under the direction of a qualified arborist, nurseryman or landscape architect. Such direction must assure that the health needs of trees within the preserved area can be met.

6. Tree root ends shall not remain exposed.

**G.** Landscaping under preserved trees shall be compatible with the retention and health of said trees.

**H.** 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.

**I.** 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.~~

**J.** All trees and plant materials shall be healthy, disease-free, damage-free, well-branched stock, characteristic of the species. The use of tree and plant species native to the Pacific Northwest is encouraged. Any new **street** tree planted must be included on the city's list of approved tree species.

**K.** Landscaping **methods should be guided by** ~~shall be installed in accordance with the provisions of the most recent edition of the Sunset Western Garden Book.~~

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

access, and aesthetics. Trees shall not be cited as a reason for applying for or granting a variance on placement of signs.

**B. Application.** Parking lot landscaping standards shall apply to any surface passenger vehicle parking area of ten (10) spaces or more, or to any paved vehicular use area 3,500 square feet or larger on the same tax lot or on contiguous tax lots under common ownership. Any paved vehicular area which is used specifically as a utility storage lot or a truck loading area shall be exempt from landscaping requirements within a parking lot.

**C. Landscaping Within a Parking Lot.**

1. Area within a parking lot shall include the paved parking and maneuvering area, as well as any paved area within ten (10) feet of any exterior face of curb surrounding the paved parking and maneuvering area.
2. Each interior landscaped area shall be a minimum of six (6) feet wide, unless the area is added to the required perimeter landscaping.
3. The use of LID best management practices in parking lots is encouraged whenever site and soil conditions make it feasible. Such practices include, but are not limited to, permeable surfacing materials, and integrating LID stormwater management facilities into the required landscaping areas.

**D. Computing Minimum Area Required to be Landscaped Within a Parking Lot.** Minimum area required to be landscaped within a parking lot shall be as follows:

1. Fifteen (15) percent for all residential, industrial, and commercial zones (except as provided below in subsections B and C).
2. Five (5) percent for the Downtown-Commercial Zone for any off-street parking spaces provided.
3. Ten (10) percent for the Core Commercial (CC) sub-area of the Downtown Canby Overlay Zone for any off-street parking spaces provided.

**E.** All parking areas with more than 16 spaces shall include landscape islands to break up the parking area into rows of not more than 8 contiguous parking spaces.

1. Landscape islands shall have a minimum area of 48 square feet and a minimum width of six (6) feet.
2. Landscape islands shall contain at least one tree that meets the standards in subsection (F) (6) below.
3. Landscape islands may be counted toward the minimum parking lot landscaping requirements.

**F. Criteria for Trees in Parking Lots.** Deciduous, evergreen and/or shade trees shall meet the following criteria:

1. Reach a mature height of **approximately** forty (40) feet. Trees must be **approximately** ~~at least two-inch (2")~~~~three-inch (3")~~ caliper at the time of planting.
2. Cast moderate to dense shade in summer.
3. Be long lived, i.e., **live to be over approximately** ~~over~~ sixty (60) years.
4. Do well in an urban environment:
  - a. Be pollution tolerant; and
  - b. Be tolerant of direct and reflected heat.
5. Require little maintenance:
  - a. Be mechanically strong;
  - b. Be insect and disease resistant; and
  - c. Require little pruning.
6. Be resistant to drought conditions.
7. Be barren of fruit production.

**G. Perimeter of Parking and Loading Areas:**

1. Screening of parking and loading areas is required. Within three (3) years of planting, screening shall be of such height and density as to shield vehicle headlights from head-on visibility.
2. In addition, one (1) deciduous, evergreen and/or shade tree shall be planted every forty (40) feet, minimum, along the required setback of the vehicular use area.

**H. Irrigation System or Available Water Supply Required.** Landscaped areas shall be provided with automatic irrigation systems or a readily available water supply with at least one (1) outlet located within **approximately** 150 feet of all plant materials to be maintained. (Ord. 890 section 49, 1993; Ord. 848, Part IV, section 6, 1990, Ord 1296, 2008; Ord. 1338, 2010)

**16.49.130 Revegetation in unlandscaped areas.**

**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/ <b>Site Plan Review</b>	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 <b>Chapter Section-16.05.020</b>		
Lot Line Adjustment**	II	400 n/a	No
Modification, <b>Minor and Major</b>	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 n/a	No
Partition, Major	III	200	No
Planned Unit Development	III	200	Yes
Sign Permit (non-SDR)	I	n/a	No
Sign Permit – Discretionary Monument Sign or A-Frame Sign Permit (16.42.040)	II	100	No
Site and Design Review – Type II	II	100	No
Site and Design Review – Type III	III	500	Yes
<del>Site Plan Review</del>	I	n/a	No
Temporary Permit (16.44.090)	See Chapter 16.44		
Temp. Hardship Permit (16.44.100)	II	100	No



evidence submitted during the period the record was left open. If such a request is filed, the hearings body shall reopen the record as follows:

- i. When the hearings body re-opens the record to admit new evidence or testimony, any person may raise new issues which relate to that new evidence or testimony.
- 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 **may** 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.

**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:

1. The following have legal standing to appeal:

- 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.

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.

3. The City Council shall overturn the decision of the Planning Commission only when one or more of the following findings is **are** 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

4. In cases involving attorneys, the prevailing attorney shall **should** 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.

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.

information, the application shall be deemed complete for the purposes of processing on the 31<sup>st</sup> day after first acceptance of the application.

**E.** The City shall take final action on permit applications which are subject to this chapter, including resolution of all appeals, within 120 days from the date the application is deemed complete. Any exceptions to this rule shall conform to the provisions of ORS 227.178. This 120-day rule does not apply to legislative comprehensive plan and text amendment applications as defined under ORS 227.178.

**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.

**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 ~~Director Commission~~ will review intermediate modifications ~~as new business items~~. If the ~~Planning Director Commission~~ approves an intermediate 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.~~

**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.

## Division IX. – SOLAR ACCESS REQUIREMENTS

### Chapter 16.90

#### SOLAR ACCESS DEFINITIONS

#### Sections:

**16.90.010 Definitions.**

**16.90.020 Figures.**

#### **16.90.010 Definitions.**

The definitions to be used in this section are in addition to Chapter 16.04, Definitions. In the case of similar or identical terminology, the definitions in this chapter shall govern for Division IX, Solar Access Requirements.

- A. Crown Cover.** The area within the drip line or perimeter of the foliage of a tree.
- B. Development.** Any short plat, partition, subdivision or planned unit development that is created under the city's land division or zoning regulations.
- C. Exempt tree or vegetation.** The full height and breadth of vegetation that the Planning Director has identified as solar friendly that are listed and kept on file in city Hall; and any vegetation listed on a plat map, a document recorded with the plat, or a solar access permit as exempt.
- D. Front lot line.** For purposes of the solar access regulations, a lot line abutting a street. For corner lots, the front lot line is that with the narrowest frontage. When the lot line abutting a street is curved, the front lot line is the chord or straight line connecting the ends of the curve. For a flag lot, the front lot line is the shortest lot line adjoining the pole portion of the lot, excluding the unbuildable portion of the pole (see Figure 1).
- E. Non-exempt tree or vegetation.** Vegetation that is not exempt.
- F. Northern lot line.** The lot line that is the smallest angle from a line drawn east-west and intersecting the northern most point of the lot, excluding the pole portion of a flag lot. If the north line adjoins an undevelopable area other than a required yard area, the northern lot line shall be at the north edge of such undevelopable area. If two lot lines have an identical angle relative to a line drawn east-west, or if the northern lot line is less than 35 feet, then the northern lot line shall be a line 35 feet in length within the lot parallel with and at a maximum distance from the front lot line (see Figure 2).

**G. North-south dimension.** The length of a line beginning at the mid-point of the northern lot line and extending in a southerly direction perpendicular to the northern lot line until it reaches a property boundary (see Figure 3).

**H. Protected solar building line.** A line on a plat or map recorded with the plat that identifies the location on a lot where a point two feet above may not be shaded by structures or non-exempt trees (see Figure 10).

**I. Shade.** A shadow cast by the shade point of a structure or vegetation when the sun is at an altitude of 21.3 degrees and an azimuth ranging from 22.7 degrees east and west of true south.

**J. Shade point.** The part of a structure or non-exempt tree that casts the longest shadow onto the adjacent northern lot(s) when the sun is at an altitude of 21.3 degrees and an azimuth ranging from 22.7 degrees east and west of true south; except a shadow caused by a narrow object such as a mast or whip antenna, a dish antenna with a diameter of 3 feet or less, a chimney, utility pole, or wire. The height of the shade point shall be measured from the shade point to either the average elevation at the front lot line or the elevation at the midpoint of the front lot line. If the shade point is located at the north end of a ridge line of a structure oriented within 45 degrees of a true north-south line, the shade point height computed according to the preceding sentence may be reduced by 3 feet. If a structure has a roof oriented within 45 degrees of a true east-west line with a pitch that is flatter than 5 feet (vertical) in 12 feet (horizontal) the shade point will be the eave of the roof. If such a roof has a pitch that is 5 feet in 12 feet or steeper, the shade point will be the peak of the roof (see Figures 4 and 5).

**K. Shade reduction line.** A line drawn parallel to the northern lot line that intersects the shade point (see Figure 6).

**L. Shadow pattern.** A graphic representation of an area that would be shaded by the shade point of a structure or vegetation when the sun is at an altitude of 21.3 degrees and an azimuth ranging between 22.7 degrees east and west of true south (see Figure 12).

**M. Solar feature.** A device or combination of devices or elements that does or will use direct sunlight as a source of energy for such purposes as heating or cooling of a structure, heating or pumping of water, and generating electricity. Examples of a solar feature include a window or windows that contain(s) at least 20 square feet of glazing oriented within 45 degrees east and west of true south, a solar greenhouse, or a solar hot water heater. A solar feature may be used for purposes in addition to collecting solar energy, including, but not limited to serving as a structural member or part of a roof, wall, or window. A south-facing wall without windows and without other features that use solar energy is not a solar feature for purposes of this ordinance.

**N. Solar gain line.** A line parallel to the northern property line(s) of the lot(s) south of and adjoining a given lot, including lots separated only by a street, that intersects the solar feature on that lot (see Figure 7).

**O. South or South Facing.** True south, or 20 degrees east of magnetic south.

**P. Sunchart.** One or more photographs that plot the position of the sun between 10:30 am and 1:30 pm on January 21, prepared pursuant to guidelines issued by the Planning Director. The sunchart shall show the southern skyline through a transparent grid on which is imposed solar altitude for a 45-degree and 30 minute northern latitude in 10-degree increments and solar azimuth from true south in 15-degree increments.

**Q. Undevelopable area.** An area that cannot be used practicably for a habitable structure, because of natural conditions, such as slopes exceeding 20% in a direction greater than 45 degrees east or west of true south, severe topographic relief, water bodies, or conditions that isolate one portion of a property from another portion so that access is not practicable to the unbuildable portion; or man-made conditions, such as existing development which isolates a portion of the site and prevents its further development; setbacks or development restrictions that prohibit development of a given area of a lot by law or private agreement; or existence or absence of easements or access rights that prevent development of a given area.

**16.90.020 Figures.**

(See following six pages) (Ord. 866, section 1, 16.90, 1991)

Figure 3

NORTH-SOUTH DIMENSION OF THE LOT

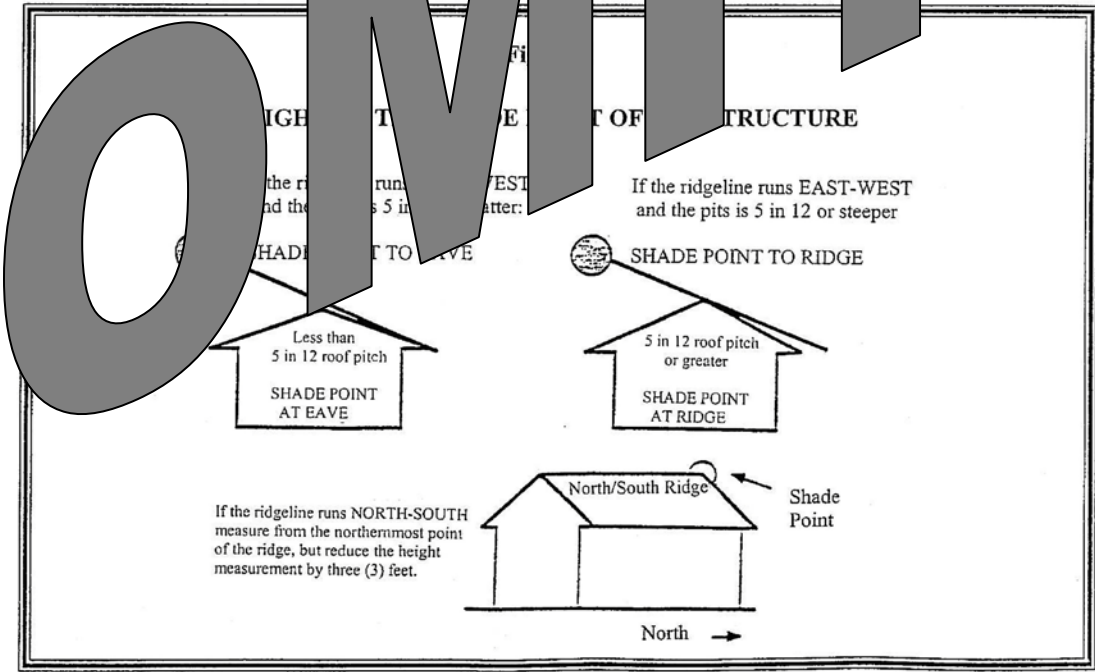
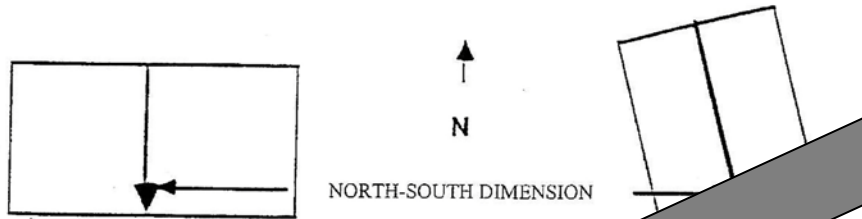
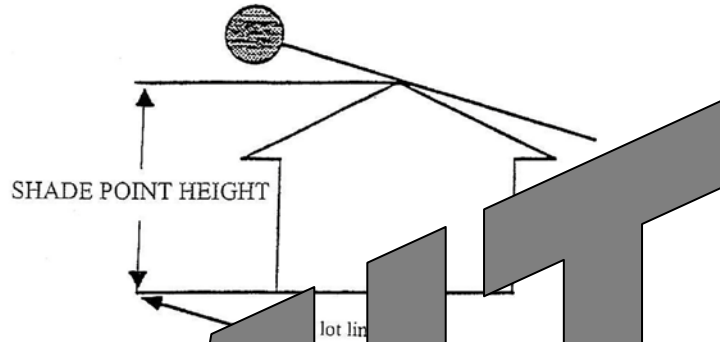




Figure 5

SHADE POINT HEIGHT

Measure to average grade at the front lot line



OMMIT

F 5  
REVISION LINE

Shade Revision Line measured to Shade Point from Northern Lot Line

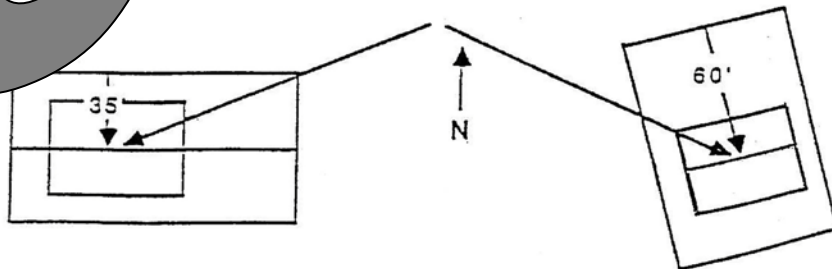


Figure 7

SOLAR GAIN LINE

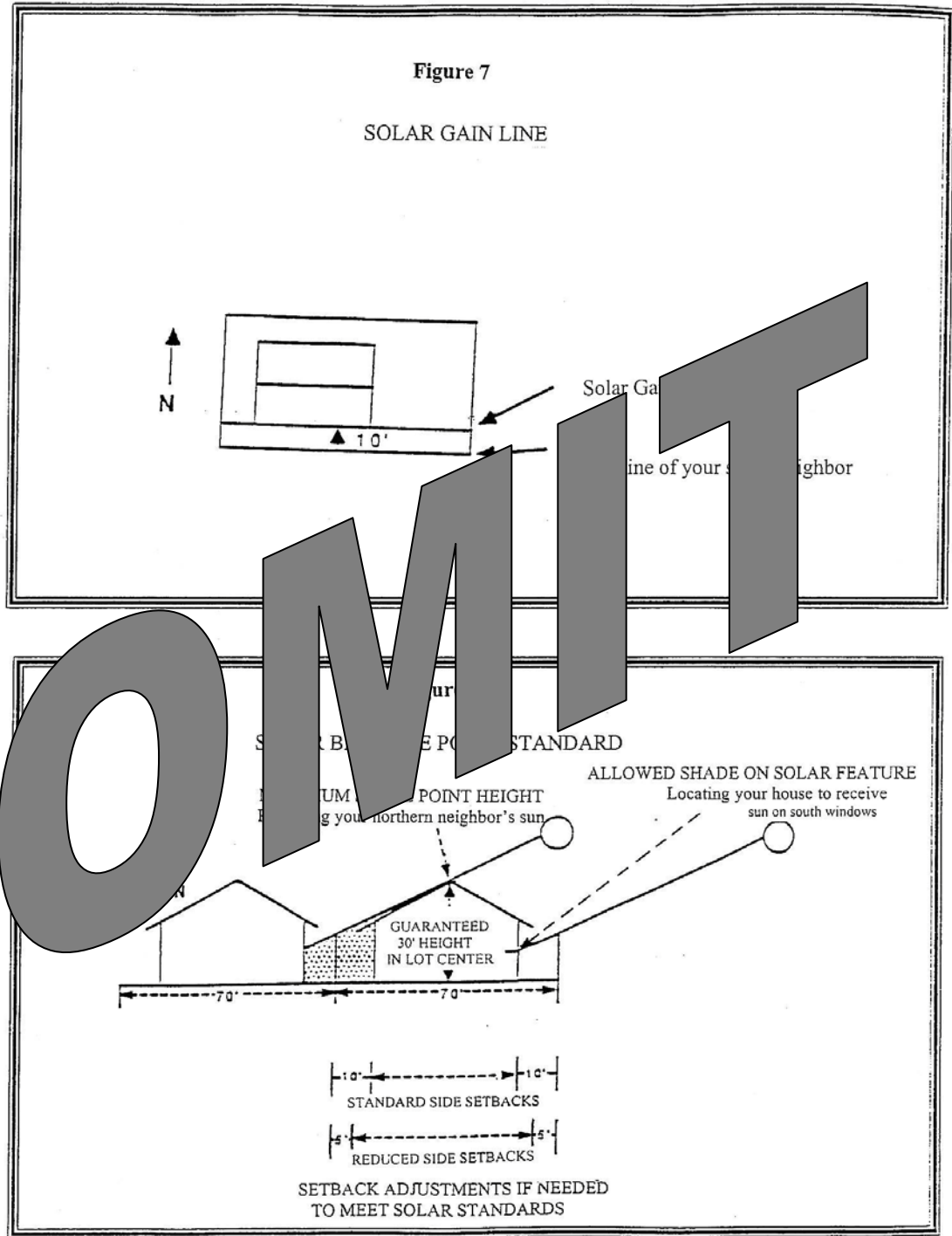
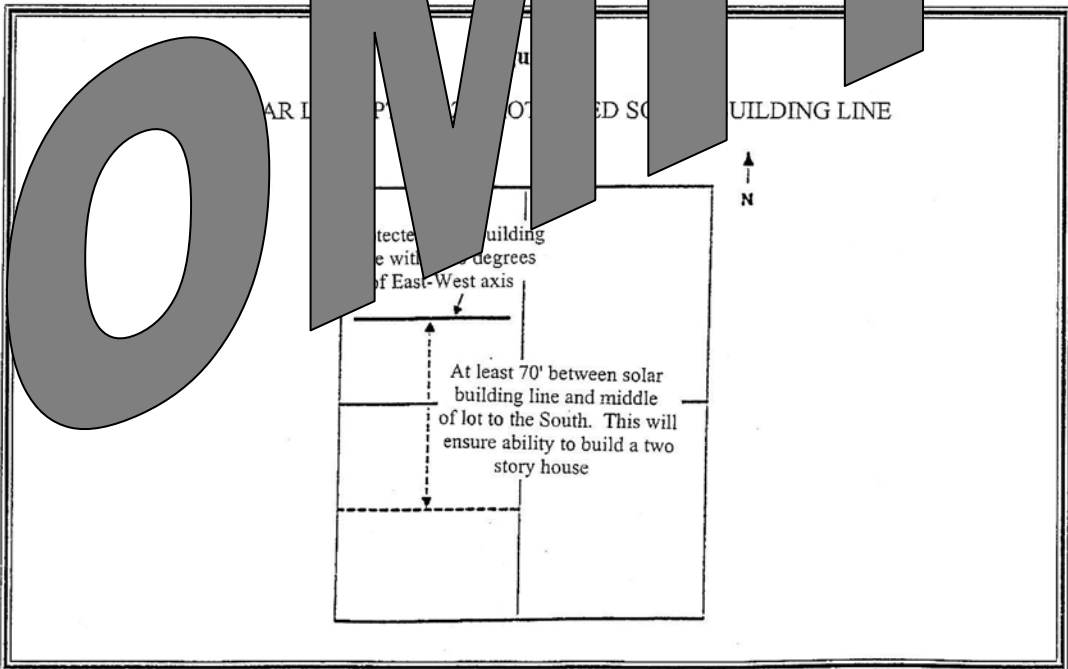
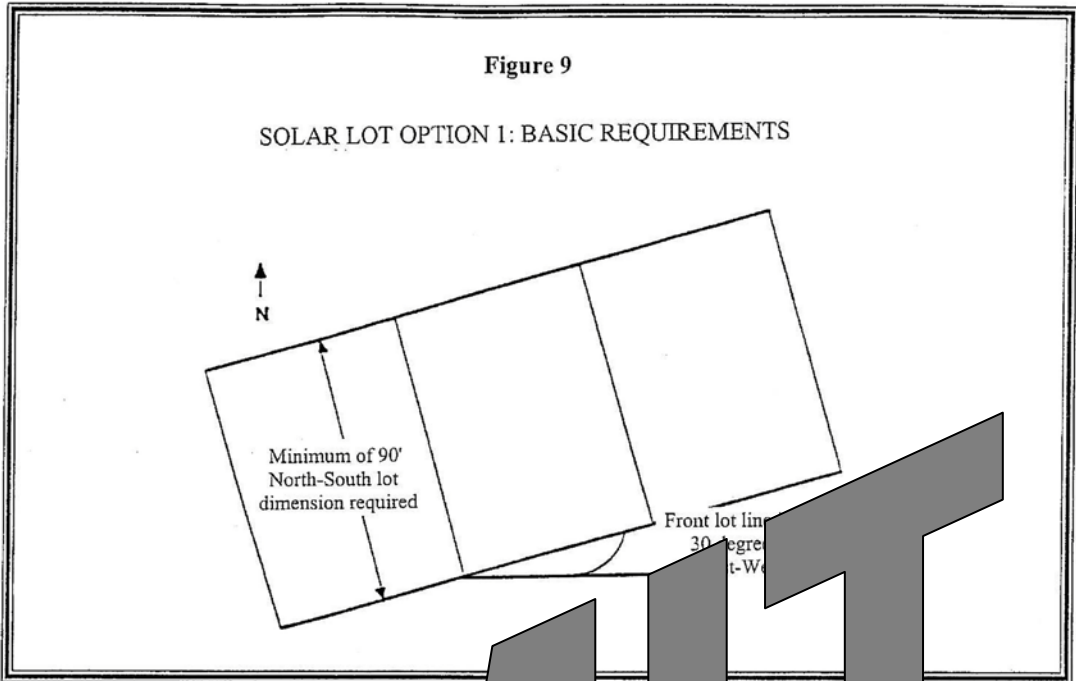


Figure 9

SOLAR LOT OPTION 1: BASIC REQUIREMENTS



OMMIT

## Chapter 16.100

### SOLAR BALANCE POINT STANDARDS

#### Sections:

- 16.100.010 Purpose.**
- 16.100.020 Applicability.**
- 16.100.030 Solar site plan required.**
- 16.100.040 Maximum shade point height standard.**
- 16.100.050 Exemption from the maximum shade point height standard.**
- 16.100.060 Adjustments to the maximum shade point height standard.**
- 16.100.070 Analysis of allowed shade on solar feature.**
- 16.100.080 Solar balance point.**
- 16.100.090 Yard setback adjustment.**
- 16.100.100 Review process.**

#### **16.100.010 Purpose.**

The purposes of this ordinance are to promote the use of solar energy, to minimize shading of structures by structures and accessory structures and, where applicable, to minimize shading of structures by trees. Decisions related to this ordinance are intended to be ministerial.

#### **16.100.020 Applicability.**

This ordinance applies to an application for a building permit for all structures in the R- 1, R-1.5, and R-2 zones and all single family detached structures in any zone, except to the extent the approval authority finds the applicant has shown that one or more of the conditions listed in sections 16.100.050 or 16.100.060 exists, and exemptions or adjustments provided for therein are warranted. In addition, non-exempt vegetation planted on lots subject to the provisions of section 16.95.060 of the Solar Access Ordinance for New Development shall comply with the shade point height standards as provided in sections 16.100.040 and 16.100.050 of this chapter.

#### **16.100.030 Solar site plan required.**

An applicant for a building permit for a structure subject to this ordinance shall submit a site plan that shows:

- A.** The maximum shade point height allowed under section 16.100.040;
- B.** If the maximum shade point height is adjusted pursuant to section 16.100.040, the average elevation of the rear property line;
- C.** The location of the shade point, its height relative to the average elevation of the front lot line or the elevation at the midpoint of the front lot line, and its orientation

relative to true south; and, if applicable,

D. The solar balance point for the structure as provided in section 16.100.080.

**16.100.040 Maximum shade point height standard.**

The height of the shade point shall comply with either subsection A or B below.

**A. Basic Requirement.**

1. The height of the shade point shall be less than or equal to the height specified in Table A, or computed using the following formula. The height of the shade point shall be measured from the shade point to either the average elevation at the front lot line or the elevation at the midpoint of the front lot line. If necessary interpolate between the 5 foot dimensions listed in Table A.

$$H = \frac{(2 \times \text{SRL}) - N + 150}{5}$$

Where:

H = the maximum allowed height of the shade point (see Figures 4 and 5);

SRL = shade reduction line (the distance between the shade point and the northern lot line, see Figure 6); and

N = the north-south lot dimension, provided that a north-south lot dimension more than 90 feet shall use a value of 90 feet for this section.

2. Provided, the maximum allowed height of the shade point may be increased one foot above the amount calculated using the formula or Table A for each foot that the average grade at the rear property line exceeds the average grade at the front property line.

**B. Performance Option.** The proposed structure, or applicable non-exempt vegetation, will shade not more than 20 percent of the south-facing glazing of existing habitable structure(s) or, where applicable, the proposed structure or non-exempt vegetation comply with section 16.95.030(B) and (C) of the Solar Access Ordinance for New Development. If section 16.95.030(B), Protected Solar Building Line, is used, non-exempt trees and the shade point of structures shall be set back from the protected solar building line 2.5 feet for every 1 foot of height of the structure or of the mature height of non-exempt vegetation over 2 feet.

**16.100.050 Exemption from the maximum shade point height standard.**

The City Planner shall exempt a proposed structure or non-exempt vegetation from sections 16.100.030 and 16.100.040 of this chapter if the applicant shows that one or more of the conditions in this section exist, based on plot plans or plats, corner elevations or other topographical data, shadow patterns, sun charts or photographs, or other substantial evidence submitted by the applicant.

**A. Pre-existing shade.** The structure or applicable non-exempt vegetation will shade an area that is shaded by one or more of the following:

1. An existing or approved building or structure;

2. A topographic feature; or

3. A non-exempt tree that will remain after development of the site. It is assumed a tree will remain after development if it: is situated in a building setback required by local law; is part of a developed area or landscaping required by local law, a public park or landscape strip, or legally reserved open space; is in or separated from the developable remainder of a parcel by an undevelopable area or feature; or is on the applicant's property and not affected by the development. A duly executed covenant also can be used to preserve trees causing such shade.

**B. Slope.** The site has an average slope that exceeds 20 percent in a direction greater than 45 degrees east or west of true south based on a topographic survey by a licensed professional land surveyor or USGS or other officially recognized topographic information.

**C. Insignificant benefit.** The proposed structure or non-exempt vegetation shades one or more of the following:

1. An undevelopable area;

2. The wall of an unheated space, such as a typical garage;

3. Less than 20 square feet of south-facing glazing; or

4. An undeveloped lot, other than a lot that was subject to the Solar Access Ordinance for New Development, where:

a. There are at least four single family detached or attached homes within 250 feet of the lot within the same subdivision or a phase of the subdivision; and

b. A majority of the homes identified in subsection 4.a. above have an average of less than 20 square feet of south-facing glazing.

**D. Public Improvement.** The proposed structure is a publicly owned improvement.

**16.100.060 Adjustments to the maximum shade point height standard.**

The City Planner shall increase the maximum permitted height of the shade point determined using section 16.100.040 to the extent it finds the applicant has shown one or more of the following conditions exist, based on plot plans or plats, corner elevations or other topographical data, shadow patterns, suncharts or photographs, or other substantial evidence submitted by the applicant.

**A. Physical conditions.** Physical conditions preclude development of the site in a manner that complies with section 16.100.040, due to such things as a lot size less than 3000 square feet, unstable or wet soils or a drainage way, public or private easement, or right-of-way.

**B. Conflict between the Maximum Shade Point Height and Allowed Shade on the Solar Feature Standards.** A proposed structure may be sited to meet the solar

balance point standard described in section 16.100.080 or be sited as near to the solar balance point as allowed by section 16.100.080, if:

1. When the proposed structure is sited to meet the maximum shade point height standard determined, using section 16.100.040, its solar feature will potentially be shaded, as determined using section 16.100.070; and
2. The application includes a form provided for that purpose by the city that:
  - a. Releases the applicant from complying with section 16.100.040 and agrees that the proposed structure may shade an area otherwise protected by section 16.100.040.
  - b. Releases the city from liability for damages resulting from the adjustment; and
  - c. Is signed by the owner(s) of the properties that would be shaded by the proposed structure more than allowed by the provisions of section 16.100.040.
3. Before the city issues a permit for a proposed structure for which an adjustment has been granted pursuant to section 16.100.060(B), the applicant shall file the form provided for in subsection B.2 above in the office of the county recorder with the deeds to the affected properties.

**16.100.070 Analysis of allowed shade on solar feature.**

- A. An applicant may, but is not required to, perform the calculations in or comply with the standards of section 16.100.070.
- B. Applicants are encouraged to design and site a proposed habitable structure so that the lowest height of any solar feature(s) will not be shaded by buildings or non-exempt trees on lot(s) to the south. The applicant should complete the following calculation procedure to determine if solar feature(s) of the proposed structure will be shaded. To start, the applicant should choose which of the following sources of shade originating from adjacent lot(s) to the south to use to calculate the maximum shade height at the north property line:
  1. Existing structure(s) or non-exempt trees; or
  2. The maximum shade that can be cast from future buildings or non-exempt trees, based on Table C. If the lot(s) to the south can be further divided, then the north-south dimension is assumed to be the minimum lot width required for a new lot in that zone.
- C. The height of the lowest point of any solar feature of the proposed structure is calculated with respect to either the average elevation or the elevation at the midpoint of the front lot line of the lot to the south.

D. The applicant can determine the height of the shadow that may be cast upon the applicant's solar feature by the source of shade selected in subsection B by using the following formula or Table B.

$$\text{SFSH} = \text{SH} - (\text{SGL}/2.5)$$

Where:

SFSH = the allowed shadow height on the solar feature (see Figure 8)

SH = the height of the shade at the northern lot line of lot(s) to the south as determined in subsection B

SGL = the solar gain line (the distance from the solar feature to the northern lot line of adjacent lot(s) to the south (see Figure 7)

E. If the allowed shade height on the solar feature calculated in subsection D is higher than the lowest height of the solar feature calculated in subsection C, the applicant shall be encouraged to consider changes to the house design or location which would make it practical to locate the solar feature so that it will not be shaded in the future.

**16.100.080 Solar balance point.**

If a structure does not comply with the maximum shade point height standard in section 16.100.040 and the allowed shade on a solar feature standard in section 16.100.070, then the solar balance point of the lot shall be calculated (see Figure 8). The solar balance point is the location on the lot where a structure would be an equal distance between the locations required by the maximum shade point height standard and the allowed shade on a solar feature standard.

**16.100.090 Yard setback adjustment.**

The city shall grant an adjustment to the side, front and/or rear yard setback requirement(s) as indicated below if necessary to build a proposed structure so it complies with either the shade point height standard in section 6.100.040, the allowed shade on a solar feature standard in section 16.100.070, or the solar balance point standard in section 16.100.080 as provided herein (see Figure 8). This adjustment is not intended to encourage reductions in available solar access or unnecessary modification of setback requirements, and shall apply only if necessary for a structure to comply with the applicable provisions of this chapter.

**A. R-1 Zone:**

1. A front yard setback may be reduced to not less than 19 feet on the side with the driveway and 12 feet in other locations.
2. A rear yard setback may be reduced to not less than 10 feet.
3. A side yard setback may be reduced to not less than 5 feet.

**B. R-1.5 Zone:**

1. A front yard setback may be reduced to not less than 19 feet on the side with the driveway and 12 feet in other locations.



2. A rear yard setback may be reduced to not less than 10 feet.
3. A side yard setback may be reduced to not less than 5 feet.

**C. R-2 Zone:**

1. A front yard setback may be reduced to not less than 19 feet on the side with the driveway and 12 feet in other locations.
2. A rear yard setback may be reduced to not less than 10 feet.
3. A side yard setback may be reduced to not less than 5 feet.

**16.100.100 Review process.**

Compliance with Chapter 16.100 shall be determined by the City Planner in conjunction with an application for a building permit. (Ord. 866 section 1, 16.100, 1991)

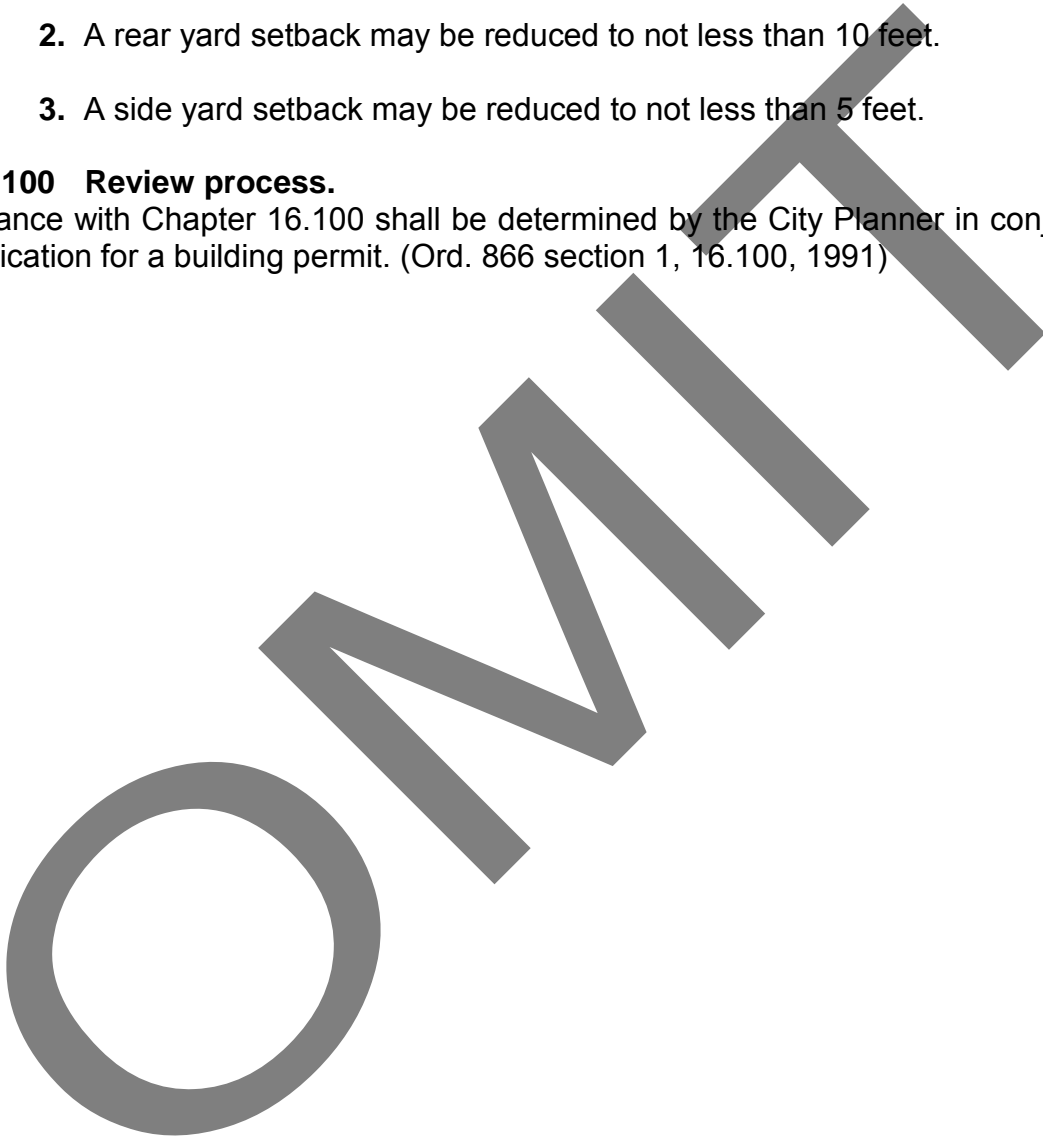
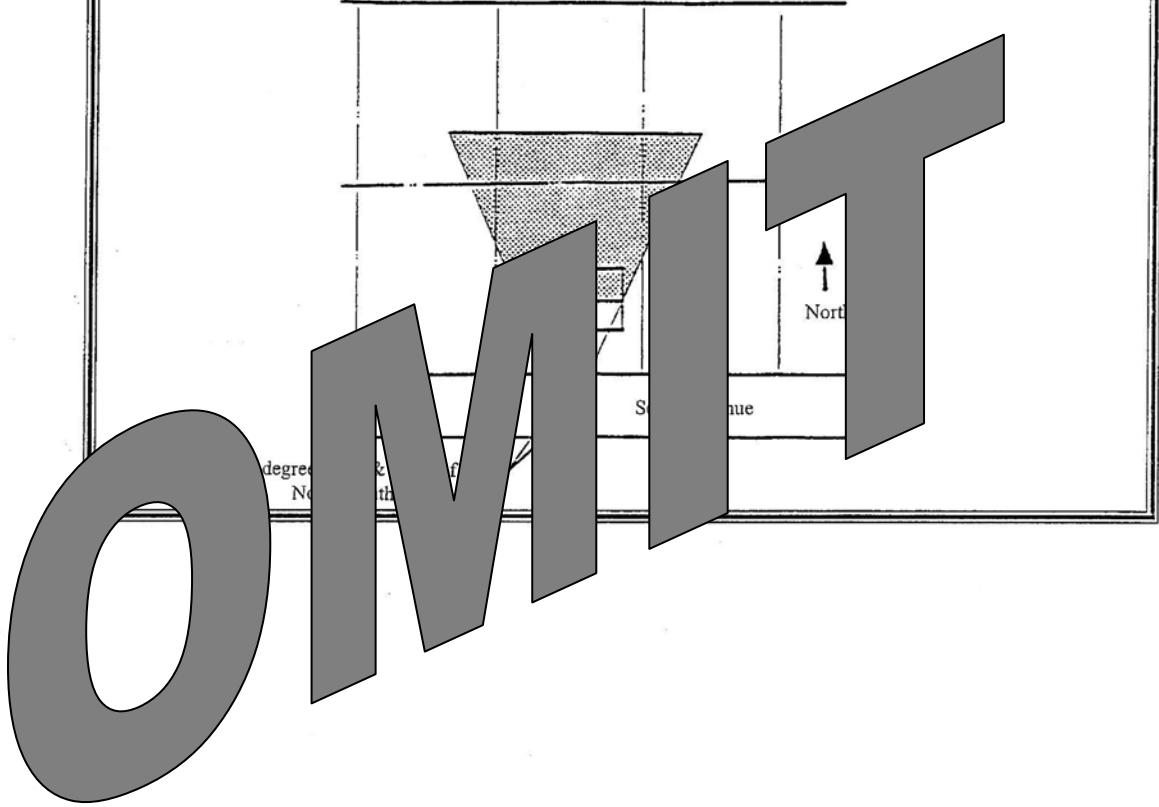


Figure 11

SHADOW PATTERN



## Chapter 16.95

### SOLAR ACCESS STANDARDS FOR NEW DEVELOPMENT

#### Sections:

- 16.95.010 Purpose.
- 16.95.020 Applicability.
- 16.95.030 Design standard.
- 16.95.040 Exemptions from design standard.
- 16.95.050 Adjustment to design standard.
- 16.95.060 Protection from future shade.
- 16.95.070 Application.
- 16.95.080 Process.

#### 16.95.010 Purpose.

The purposes of the Solar Access Ordinance for new development are to ensure that land is divided so that structures can be oriented to maximize solar access and to minimize shade on adjoining properties from structures and trees.

#### 16.95.020 Applicability.

The solar design standard in section 16.95.030 shall apply to applications for a development to create lots in the R-1, R-1.5 and R-2 zones, and for single family detached dwellings in any zone, except to the extent the approval authority finds that the applicant has shown one or more of the conditions listed in section 16.95.040 and 16.95.050 exist, and exemptions or adjustments provided for therein are warranted.

#### 16.95.030 Design standard.

At least 80 percent of the lots in a development subject to this ordinance shall comply with one or more of the options in this section, provided a development may, but is not required to use the options in subsections 16.95.030(B) or 16.95.030(C) to comply with section 16.95.030.

A. Basic Requirement (see Figure 9). A lot complies with section 16.95.030 if it:

1. Has a north-south dimension of 90 feet or more; and
2. Has a front lot line that is oriented within 30 degrees of a true east-west axis.

B. Protected Solar Building Line Option (see Figure 10). In the alternative, a lot complies with section 16.95.030 if a solar building line is used to protect solar access as follows:

1. A protected solar building line is designated on the plat or in documents recorded with the plat; and
2. The protected solar building line is oriented within 30 degrees of a true east-west axis; and
3. There is at least 70 feet between the protected solar building line and the middle of the north-south dimension of the lot to the south, measured along a line perpendicular to the protected solar building line; and
4. There is at least 45 feet between the protected solar building line and the northern edge of the buildable area of the lot, or habitable structures are situated so that at least 80 percent of their south-facing wall will not be shaded by structures or non-exempt vegetation.

**C. Performance Option.** In the alternative, a lot complies with section 16.95.030 if:

1. Habitable structures built on that lot will have their long axis oriented within 30 degrees of a true east-west axis, and at least 80 percent of their ground floor south wall will be protected from shade by structures and non-exempt trees using appropriate deed restrictions; or
2. Habitable structures built on that lot will orient at least 32 percent of their glazing and at least 500 square feet of their roof area to face within 30 degrees east or west of true south, and that glazing and roof areas are protected from shade by structures and non-exempt trees using appropriate deed restrictions.

**16.95.040 Exemptions from design standard.**

A development is exempt from section 16.95.030 if the Planning Commission finds the applicant has shown that one or more of the following conditions apply to the site. A development is partially exempt from section 16.95.030 to the extent the Planning Commission finds the applicant has shown that one or more of the following conditions apply to a corresponding portion of the site. If a partial exemption is granted for a given development, the remainder of the development shall comply with section 16.95.030.

- A. Slopes.** The site, or a portion of the site for which the exemption is sought, is sloped 20 percent or more in a direction greater than 45 degrees east or west of true south, based on a topographic survey by a licensed professional land surveyor or USGS or other officially recognized topographic information.
- B. Off-site shade.** The site, or a portion of the site for which the exemption is sought, is within the shadow pattern of off-site features, such as, but not limited to structures, topography, or non-exempt vegetation, which will remain after development occurs on the site from which the shade is originating.

1. Shade from an existing or approved off-site dwelling in a single family residential zone and from topographic features is assumed to remain after development of the site.

2. Shade from an off-site structure in a zone other than a single family residential zone is assumed to be the shadow pattern of the existing or approved development thereon or the shadow pattern that would result from the largest structure allowed at the closest setback on adjoining land, whether or not that structure now exists.

3. Shade from off-site vegetation is assumed to remain after development of the site if the trees that cause it are situated in a required setback, or they are part of a developed area, public park, or legally reserved open space; or they are in or separated from the developable remainder of a parcel by an undevelopable area or feature; or they are part of landscaping required pursuant to local law.

4. Shade from other off-site sources is assumed to be shade that exists or that will be cast by development for which applicable local permits have been approved on the date a complete application for the development is filed.

**C. On-site shade.** The site, or a portion of the site for which the exemption is requested, is:

1. Within the shadow pattern of on-site features such as, but not limited to structures and topography which will remain after the development occurs; or

2. Contains non-exempt trees at least 30 feet tall and more than 6 inches in diameter measured 4 feet above the ground which have a crown cover over at least 80 percent of the site, or the relevant portion. The applicant can show such crown cover exists using a scaled survey or an aerial photograph. If granted, the exemption shall be approved subject to the condition that the applicant preserve at least 50 percent of the crown cover that causes the shade that warrants the exemption. The applicant shall file a note on the plat or other documents in the office of the county recorder, binding the applicant to comply with this requirement. The city shall be made a party to any covenant or restriction created to enforce any provision of this ordinance. The covenant or restriction shall not be amended without written city approval.

**D. Completion of phased subdivision.** The site is part of a phased subdivision none of which was subject to the Solar Access Ordinance for New Development, and the site and the remainder of the unplatted portion of the phased subdivision contain no more than 20 percent of the lots in all phases of the subdivision.

#### **16.95.050 Adjustments to design standards.**

The Planning Commission shall reduce the percentage of lots that must comply with section 16.95.030 to the minimum extent necessary if it finds the applicant has shown it would cause, or is subject to, one or more of the following conditions:

**A. Adverse impacts on density and cost or amenities.**

1. If the design standard in section 16.95.030(A) is applied, either the resulting density is less than that proposed, or on-site site development costs (e.g. grading,

water, storm drainage and sanitary systems, and road) and solar-related off-site site development costs are at least 5 percent more per lot than if the standard is not applied. The following conditions, among others, could constrain the design of a development in such a way that compliance with section 16.95.030(A) would reduce density or increase per lot costs in this manner. The applicant shall show which, if any of these or other similar site characteristics, apply in an application for a development.

- a. The portion of the site for which the adjustment is sought has a natural grade that is sloped 10 percent or more and is oriented greater than 45 degrees east or west of true south, based on a topographic survey of the site by a professional land surveyor or USGS or other officially recognized topographic information.
- b. There is a significant natural feature on the site, identified as such in the Comprehensive Plan or development ordinance, that prevents given streets or lots from being oriented for solar access, and it will exist after the site is developed.
- c. Existing road patterns must be continued through the site or must terminate on-site to comply with applicable road standards or public road plans in a way that prevents given streets or lots in the development from being oriented for solar access.
- d. An existing public easement or right-of-way prevents given streets or lots in the development from being oriented for solar access.

2. If the design standard in section 16.95.030(A) applies to a given lot or lots, significant development amenities that would otherwise benefit the lot(s) will be lost or impaired. Evidence that a significant diminution in the market value of the lot(s) would result from having the lot(s) comply with section 16.95.030(A) is relevant to whether a significant development amenity is lost or impaired.

**B. Impacts of existing shade.** The shadow pattern from non-exempt trees cover over at least 80 percent of the lot, and at least 50 percent of the shadow pattern will remain after development of the lot. The applicant can show the shadow pattern using a scaled survey of non-exempt trees on the site or using an aerial photograph.

1. Shade from non-exempt trees is assumed to remain if: the trees are situated in a required setback, or they are part of an existing or proposed park, open space, or recreational amenity; or they are separated from the developable remainder of their parcel by an undevelopable area or feature, or they are part of landscaping required pursuant to local law; and they do not need to be removed for a driveway or other development.

2. Also, to the extent the shade is caused by on-site trees or off-site trees on land owned by the applicant, it is assumed to remain if the applicant files, in the office of

the county recorder, a covenant binding the applicant to retain the trees causing the shade on the affected lots.

**16.95.060 Protection from future shade.**

Structures and non-exempt vegetation must comply with the Solar Balance Point provisions in Chapter 16.100 on all lots in a development subject to the Solar Access Ordinance for New Development, including lots for which exemptions or adjustments to the Solar Access Ordinance for New Development have been granted.

The applicant shall file a note on the plat or other documents, in the office of the county recorder, binding the applicant and subsequent purchasers to comply with the future shade protection standards in section 16.95.060. The city shall be made a party of any covenant or restriction created to enforce any provision of this ordinance. The covenant or restriction shall not be amended without written city approval.

**16.95.070 Application.**

An application for approval of a development subject to this ordinance shall include:

**A.** Maps and text sufficient to show the development complies with the solar design standard of section 16.95.030, except for lots for which an exemption or adjustment from section 16.95.030 is requested, including at least:

1. The north-south lot dimension and front lot line orientation of each proposed lot.
2. Protected solar building lines and relevant building site restrictions, if applicable.
3. For the purpose of identifying trees exempt from section 16.95.060, a map showing existing trees at least 30 feet tall and over 6 inches in diameter at a point 4 feet above grade, indicating their height, diameter and species, and stating that they are to be retained and are exempt.
4. Copies of all private restrictions relating to solar access.

**B.** If an exemption or adjustment to section 16.95.030 is requested, maps and text sufficient to show that given lots or areas in the development comply with the standards for such an exemption or adjustment in section 16.95.040 or 16.95.050, respectively.

**16.95.080 Process.**

Compliance with Chapter 16.95 shall be determined by the approval authority in conjunction with an application for a major or minor partition (Chapter 16.60) or subdivision (Chapter 16.62 and 16.64). (Ord. 866 section 1, 16.95, 1991)

1. For the purpose of this ordinance, the decisions regarding alterations to Historic Landmarks and recommendations for designation of Historic Landmarks or Districts, shall be accomplished by a City of Canby Historic Review Board.

2. Appointment and Composition. The City Council shall appoint **three (3) to five (5)** ~~seven (7)~~ individuals with a demonstrated positive interest, knowledge, or competence in historic preservation. To the extent possible, individuals chosen to serve on the Historic Review Board shall represent the disciplines listed in *The Secretary of the Interior's Proposed Historic Preservation Qualification Standards*. A majority of Board members shall reside or work inside Canby's Urban Growth Boundary.

3. Terms of Service. The members of the Historic Review Board shall be appointed for three (3) years, and may be reappointed or removed at the discretion of the City Council. In the first appointment **one (1)** ~~four (4)~~ members shall be appointed for three (3) years, **and at least one (1)** ~~three (3)~~ members shall be appointed for two (2) years, **and at least one (1) member shall be appointed for one (1) year.** (Ord. 905, 1994; Ord. 1061, 2000)

#### **16.110.030 Historic Review Board – Powers and Duties**

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

1. Adopt rules to govern its deliberations and decisions, including a method to record its proceedings.
2. Carry out the duties described for it in this ordinance and assist the Planning Director, Planning Commission and Canby City Council on historic preservation matters.
3. Maintain and update an inventory of historic resources within the city, as provided under section 16.110.035.
4. Review and render decisions on all historic landmark and historic district applications, as provided under section 16.110.045.
5. Review and make recommendations on application of the Historical Protection Overlay Zone, as provided under section 16.110.045.
6. Review and render decisions on proposals to alter the exterior of a Historic Landmark subject to the procedures and criteria set forth in section 16.110.080.
7. Review and render decisions on all proposed new construction on property where a Historic Landmark is located, or within a Historic District, subject to the procedures and criteria set forth in section 16.110.080.
8. Review all requests for demolition of a historic landmark or contributing resource, as provided under section 16.110.075.



**MINUTES**  
**PLANNING COMMISSION**

November 13, 2012  
City Council Chambers – 155 NW 2<sup>nd</sup> Avenue

---

**PRESENT:** Commissioners Dan Ewert, Charles Kocher, Misty Slagle, Tyler Smith and Randy Tessman

**ABSENT:** Commissioners Sean Joyce and John Proctor

**STAFF:** Bryan Brown, Planning Director, Matilda Deas, Senior Planner, and Laney Fouse, Planning Staff

**OTHERS:** Charles L. Burden

**1. CALL TO ORDER**

Planning Commission Chair Dan Ewert called the meeting to order at 7:00 pm.

**2. CITIZEN INPUT ON NON-AGENDA ITEMS: None**

**3. PUBLIC HEARING**

Matilda Deas, Senior Planner entered her staff report into the record. She said the Plan was prepared with public and agency participation and input from the Gateway Plan Advisory Committee as well as interested citizens. Ms. Deas explained that the plan would amend sections of the Comprehensive Plan, the Transportation System Plan and the Land Development and Planning Ordinance.

A PowerPoint presentation explained the project's purpose and goals of building upon improvements proposed for the City under the Transportation System Plan Update, Canby Downtown Plan, NW 1<sup>st</sup> Avenue Redevelopment Concept Plan and Downtown Design Standards; identify and develop design concepts for 4 gateways unique to Canby; establish street design and downtown style streetscape standards for the corridor to support pedestrian, bicycle and transit mobility, and provide a public involvement process offering multiple opportunities for meaningful citizen input throughout the process, stakeholders interviews and information flyers.

Commissioner Smith questioned the wording in the Canby OR 99E Corridor and Gateway Design Plan and thought they had amended Guiding Principle Objective 5a.

Chair Ewert asked about future plans for increasing the turning radius at Elm Street.

**MOTION:**

Commissioner Smith moved to recommend the City Council to approve the Text Amendment (CPA 12-02/TA 12-03) as prepared in staff report to amend the Comprehensive Plan and the Transportation System Plan for the Canby OR 99E and Gateway Design Plan with Guiding Principle Objective 5a amended to read, "Provide transportation options that reduce transportation impacts on the environment and cultural resources." Commissioner Slagle seconded, Motion passed: 5/0.

1. NEW BUSINESS – None
2. MINUTES

**MOTION:**

Commissioner Kocher moved to approve the Oct. 22, 2012 minutes as written. The motion was seconded by Commissioner Smith. **The motion passed 3/0 with 2 abstentions.**

3. ITEMS OF INTEREST/REPORT FROM STAFF
  - a. Canceling Regular November 26 Planning Commission meeting with the next meeting on Dec. 10, 2012
  - b. Code amendments – some minor and some maybe not so minor.
  - c. Visioning meeting – Cutsforth Town Hall on November 15, 2012
  - d. Final decision approving Allegro Dance Studio made
4. ITEMS OF INTEREST/GUIDANCE FROM PLANNING COMMISSION - None
5. ADJOURNMENT: 7:48 pm